

SNELL & WILMER L.L.P.
Alan L. Sullivan (3152)
Todd M. Shaughnessy (6651)
Amy F. Sorenson (8947)
15 West South Temple, Suite 1200
Salt Lake City, Utah 84101-1004
Telephone: (801) 257-1900
Facsimile: (801) 257-1800

CRAVATH, SWAINE & MOORE LLP
Evan R. Chesler (admitted pro hac vice)
David R. Marriott (7572)
Worldwide Plaza
825 Eighth Avenue
New York, New York 10019
Telephone: (212) 474-1000
Facsimile: (212) 474-3700

*Attorneys for Defendant/Counterclaim-Plaintiff
International Business Machines Corporation*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

THE SCO GROUP, INC.,
Plaintiff/Counterclaim-Defendant,

v.

INTERNATIONAL BUSINESS
MACHINES CORPORATION,
Defendant/Counterclaim-Plaintiff.

**IBM'S MOTION FOR LEAVE TO FILE
ADDITIONAL DECLARATIONS IN
SUPPORT OF MOTIONS FOR
SUMMARY JUDGMENT**

Civil No. 2:03CV-0294 DAK

Honorable Dale A. Kimball

Magistrate Judge Brooke C. Wells

Defendant/Counterclaim-Plaintiff International Business Machines Corporation (“IBM”) respectfully submits this motion for leave to file up to three additional declarations in support of IBM’s motions for summary judgment by no later than September 29, 2006.

The Court’s deadline for filing summary judgment motions is today, September 25, 2006, and IBM is filing motions addressing each of the claims brought by Plaintiff/Counterclaim Defendant The SCO Group, Inc. (“SCO”), as well as two of IBM’s counterclaims against SCO. Counsel for IBM had hoped to have by today signed copies of two additional declarations in support of those motions. Due to various logistical issues, counsel for IBM was unable to obtain the signed declarations today. Those declarations reinforce points made by other declarants and the submission of them would not affect the substance of IBM’s arguments in its summary judgment motions. They would be filed well in advance of SCO’s deadline for responding to IBM’s motions, and therefore not prejudice SCO in any way. We therefore respectfully request that the Court grant IBM leave to file up to two additional declarations in support of its summary judgment motions by no later than this Friday, September 29, 2006.

DATED this 25th day of September, 2006.

SNELL & WILMER L.L.P.

/s/ Todd M. Shaughnessy

Alan L. Sullivan

Todd M. Shaughnessy

Amy F. Sorenson

CRAVATH, SWAINE & MOORE LLP

Evan R. Chesler

David R. Marriott

*Attorneys for Defendant/Counterclaim-Plaintiff
International Business Machines Corporation*

Of Counsel:

INTERNATIONAL BUSINESS MACHINES CORPORATION

Alec S. Berman

1133 Westchester Avenue

White Plains, New York 10604

(914) 642-3000

Attorneys for Defendant/Counterclaim-Plaintiff

International Business Machines Corporation

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of September, 2006, a true and correct copy of the foregoing was electronically filed with the Clerk of the Court and delivered by CM/ECF system to the following:

Brent O. Hatch
Mark F. James
HATCH, JAMES & DODGE, P.C.
10 West Broadway, Suite 400
Salt Lake City, Utah 84101

Stephen N. Zack
Mark J. Heise
BOIES, SCHILLER & FLEXNER LLP
100 Southeast Second Street, Suite 2800
Miami, Florida 33131

and by U.S. Mail, postage pre-paid to:

Robert Silver
Edward Normand
BOIES, SCHILLER & FLEXNER LLP
333 Main Street
Armonk, New York 10504

/s/ Todd M. Shaughnessy