

1 IN THE UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 THE SCO GROUP, INC.,  
4 A DELAWARE CORPORATION,

5 Plaintiff,

6 vs.

Civil Action File No.  
CV-S-04-0237-RCJ-LRL

7 AUTOZONE, INC., A NEVADA  
8 CORPORATION,

9 Defendant.

10  
11  
12  
13 DEPOSITION

14 OF

15 JIM GREER

16 SEPTEMBER 24, 2004

ORIGINAL

17  
18  
19  
20  
21  
22 ALPHA REPORTING CORPORATION  
23 KORIAN NEAL, RPR, CCR  
24 100 North Main Building, The Lobby  
25 Memphis, Tennessee 38103  
(901) 523-8974

1 A. Then I was made I believe a director.

2 Q. Of what?

3 A. Of software systems.

4 Q. How long did you hold that?

5 A. I think I held that for about two years.

6 Q. Okay. And then what after that?

7 A. Briefly, I was a director of retail systems.

8 Q. Okay. And how long was that?

9 A. Perhaps, a year.

10 Q. And then what did you do?

11 A. Then I really reverted to a director of  
12 software systems.

13 Q. And how long were you in that position?

14 A. I think about a year.

15 Q. And then what position did you hold?

16 A. Senior technology advisor.

17 Q. And was that the final position you held?

18 A. Yes.

19 Q. And for how long did you hold that position?

20 A. The remainder of my tenure there. So two or  
21 three years.

22 Q. So was it during the time that you were senior  
23 technology advisor that you became involved in the  
24 migration of AutoZone's computer system from Unix based  
25 operating system to a Linux based operating system?

1 MR. STEWART: Object to form.

2 Q. (BY MR. STONE) You can answer.

3 A. Yes.

4 Q. Have you ever been a party in a lawsuit,  
5 either a plaintiff or a defendant?

6 A. Yes.

7 Q. What lawsuit?

8 A. I don't recall the specifics of it. I was --  
9 I was part of a defendant in a lawsuit regarding a  
10 boating accident that never actually went to trial.

11 Q. Have you ever been a plaintiff in a lawsuit  
12 before?

13 A. No.

14 Q. Have you ever been arrested?

15 A. Arrested? No.

16 Q. So I take it, then, you've never been  
17 convicted of a crime. Is that correct?

18 A. Correct.

19 Q. Okay. I want to ask you your understanding of  
20 some terms, because I'm going to ask you about them, and  
21 I want to make sure that I understand what your  
22 understanding of them is when we go through these  
23 questions. Okay?

24 A. Okay.

25 Q. What is your understanding of what a library

1 began your migration work from the SCO operating system  
2 to Linux operating system for AutoZone, had you looked  
3 at the SCO contracts?

4 A. Yes.

5 Q. Do you remember which ones you looked at?

6 A. No.

7 Q. Okay. After you began your migration work  
8 from Linux -- sorry -- from SCO operating system to  
9 Linux operating system, did you look at those contracts?

10 A. No.

11 Q. So whatever you knew about those contracts,  
12 you knew at the time you began the migration. Is that  
13 correct?

14 A. Whatever I knew, yes.

15 Q. And since that time, have you looked at those  
16 contracts?

17 A. No.

18 Q. Did you consult copyright counsel before  
19 beginning the work that you did on moving, transitioning  
20 AutoZone from SCO's Unix based operating system to a  
21 Linux based operating system?

22 A. No.

23 Q. Had you taken any copyright law courses in any  
24 of the schools that you attended prior to beginning your  
25 migration work?

1 A. No.

2 Q. Did you insure that the programmers that  
3 worked on the migration from SCO operating system to  
4 Linux operating system had not previously had access to  
5 the SCO operating system?

6 MR. STEWART: Object to form.

7 A. Please explain had access to.

8 Q. (BY MR. STONE) Well, worked with the binary  
9 code of the SCO operating system.

10 A. Worked with the binary code.

11 Q. Yes.

12 A. They had used the binary code. They had  
13 executed SCO applications.

14 Q. Had they created -- had any of the programmers  
15 that worked with you created applications to work with  
16 the SCO Open Server prior to working on the migration?

17 A. Yes. All.

18 Q. All of them had?

19 A. All of them had.

20 Q. Okay. Getting back to my original question,  
21 I'm trying to understand in sort of laymen's terms, as  
22 best I can, this revision control system and what was on  
23 it. So were there -- was there any portion of the SCO  
24 Open Server code on the revision control system?

25 MR. STEWART: Object to form. You can

1 Q. Have you ever heard of a UDK?

2 A. I have.

3 Q. What is a UDK?

4 A. In the context of SCO, I believe it is an  
5 acronym for Universal Development Kit.

6 Q. And was that something that AutoZone purchased  
7 from SCO?

8 A. I believe so.

9 Q. And do you understand that there was a license  
10 that went with that that put restrictions on what you  
11 could do with those products?

12 A. I'm not aware of the terms of that license.

13 Q. Is that the kit that you believed AutoZone  
14 programmers would use to create applications that would  
15 work on Open Server?

16 A. Yes.

17 Q. So looking back at Exhibit 2 here for a  
18 second, do you know whether or not you copied any of the  
19 libraries listed on Exhibit 2 either into an application  
20 or on to the system that was running Linux?

21 A. No. I did not copy any of these libraries on  
22 to the system running Linux.

23 Q. Well, would it be fair to say you don't  
24 know -- to the extent one of these libraries may be  
25 contained in those third-party applications, you don't

1 of -- the portions necessary became part of AutoZone  
2 applications.

3 Q. Now, did you review each of the AutoZone  
4 libraries that you ported to Linux to determine whether  
5 there was any SCO code in them?

6 A. Generally, I did not review line by line of  
7 the AutoZone libraries. Instead, I took an optimistic  
8 approach. I attempted to compile the library. And if  
9 the library compile succeeded, then I would attempt to  
10 use it and test the specific behavior.

11 Under Linux, the version of the compiler being used  
12 at the time, there were more informative warning  
13 messages and the like that were produced during  
14 compilation than we typically used under SCO. So I  
15 would attempt to resolve all of the warning and errors  
16 that I saw in the course of compiling the library before  
17 using it.

18 Q. So would one of these warning errors be that  
19 this is copyrighted code or something?

20 A. No. The warning might be that some particular  
21 syntax of the C programming language was being abused or  
22 the like. So this was more in terms of source code not  
23 complying to typically observed rules.

24 Q. So getting back to my question, you didn't go  
25 line by line through every AutoZone library to see if

1     there was any SCO code in it.   Correct?

2             A.     Correct.

3             Q.     And I take it you didn't go line by line  
4     through any of the AutoZone libraries to see if it had  
5     any links to SCO libraries in it?

6             A.     No.

7             Q.     How many applications that you ported to Linux  
8     used the ICBS module that you referred to before?

9             A.     By the time I finished the port, there were  
10    the two third-party applications.  Initially, there was  
11    an AutoZone application.  And I was able to find the  
12    source code to that application and convert it.  So my  
13    understanding currently is that there would be two  
14    applications that used or would use the IBCS  
15    functionality or whatever its current incarnation is.

16            Q.     All right.

17            A.     If they are being used.

18            Q.     Did you -- was it your understanding that the  
19    conversion that was going to occur for AutoZone stores  
20    would involve also the other subsidiaries that AutoZone  
21    owned?

22            A.     The purpose of the project I was involved in  
23    was to convert the AutoZone domestic stores.  There was  
24    substantially greater work involved in some of the other  
25    subsidiary or one of the other subsidiaries of the



1           A.    To my knowledge, some progress was made on  
2 that, yes. I don't know even the particulars of --

3           Q.    You don't know how many stores right now?

4           A.    I cannot tell you right now for instance if  
5 there are stores still running SCO Open Server or not in  
6 the domestic AutoZone store chain.

7           Q.    Would it be fair to say that at no time during  
8 this process that you were planning the migration, that  
9 you were performing the migration through the point of  
10 time that you left the company did you consult any  
11 copyright lawyer about issues of copyright with regard  
12 to the migration that you were doing?

13                   MR. STEWART: Object to form. You can  
14 answer.

15           A.    I did not.

16           Q.    (BY MR. STONE) What was Red Hat's involvement  
17 in the migration? Were there people from Red Hat that  
18 assisted you?

19           A.    Red Hat's involvement in the migration was  
20 twofold. In part, we had a -- we ended up signing a  
21 support agreement with Red Hat. Actually, threefold.  
22 So we had a support contract with Red Hat that provided  
23 us access to one of their support engineers. We also  
24 got training as part of that contract, which is how I  
25 went to the Red Hat certified engineering course, along

1 don't believe this is my document. No. This also  
2 discusses -- this discusses some other issues that I  
3 don't recall specifically.

4 Okay. I take that back. I believe this is my  
5 document.

6 Q. So is that a portion of what you were talking  
7 about of this spreadsheet that you were talking about?

8 A. Well, this was -- this was one of the  
9 spreadsheets. There was a different spreadsheet I had  
10 that discussed -- you know, was actually what I was  
11 using to create estimates or to try to calculate how  
12 much additional time was remaining.

13 MR. STONE: Well, we have asked for that  
14 in our document request, and I presume if you have it  
15 somewhere, you'll produce it to us?

16 MR. STEWART: We will.

17 Q. (BY MR. STONE) Okay. That's the only  
18 question I had about that for the moment.

19 A. Okay.

20 Q. Let's get back to Exhibit 1, if you've got it  
21 there.

22 A. Yes.

23 Q. This is the posting that you made on GROK web.  
24 Correct?

25 A. Correct.

1 Q. I just want to go through some of the  
2 statements you make and make sure I understand them.

3 A. Okay.

4 Q. It's correct that you participated, led in the  
5 design development and maintenance of many of AutoZone  
6 store systems?

7 A. Correct.

8 Q. Were you essentially the chief technical  
9 person responsible for the migration of AutoZone's  
10 operating system from a SCO Unix based system to Linux  
11 based system?

12 A. I was.

13 Q. Then you say, I initiated AutoZone transition  
14 to Linux?

15 A. Uh-huh (affirmative response).

16 Q. Do you mean by that that you were the one who  
17 suggested it, or do you mean that you actually did it?  
18 What do you mean by initiated it?

19 A. I did initiate it in the literal sense of  
20 beginning the porting activity, and I was the chief  
21 advocate of doing so.

22 Q. Then you say I directed the port of their  
23 existing store software base to Linux.

24 A. Correct.

5 Q. That's fairly self-explanatory. Port means

1 have those marked together.

2 There were certain errors in our applications that  
3 we uncovered during the course of the porting activity,  
4 and many of these were common. You know, they were --  
5 we had a fixed population of developers.

6 Q. Right.

7 A. Often times developers make the same mistake  
8 over and over again.

9 Q. Right.

10 A. And so we saw across our source code base some  
11 of the same errors of the kind. And so I, you know,  
12 would inform them, you know, if you begin to test the  
13 application and you see this behavior, here's some sorts  
14 of thing to look for. You know, when I fixed it, here's  
15 what I did to fix it.

16 Q. Were these rules written down in any one  
17 place, or were they sort of rules that you developed all  
18 along and communicated at different times?

19 A. They were developed across the time of  
20 porting, because typically we would run into a new  
21 problem. And I communicated those chiefly by e-mails  
22 or, you know, walking around and informing the  
23 developers here's a particular scenario, here's what  
24 needs to be done to correct this scenario.

25 Q. Would it be fair to say that the rules you're

1 talking about are rules relating to programming as  
2 opposed to rules relating to, you know, what copyrighted  
3 codes not to copy or things like that?

4 A. Correct.

5 Q. This was, you know, when you look at the  
6 source code, if it does this, do this, or you know, look  
7 out for this, that kind of thing. Is that right?

8 A. Correct.

9 Q. Okay. You had 35 AutoZone developers  
10 performing work for you?

11 A. I think at one point at the height of it, I  
12 had about 35 people working for me. I had staff that  
13 represented people would have worked on, you know, all  
14 of the applications in AutoZone store system. So I  
15 think at the height of it, yes.

16 Q. And you say much of which was trivial, given  
17 that our code did not generally rely on SCO's specific  
18 features, you're talking about the AutoZone applications  
19 there?

20 A. Right. AutoZone's applications tended not to  
21 exercise really the more sophisticated features that  
22 might be available in SCO, even SCO Open Server, for  
23 instance.

24 Q. It was fairly basic applications. Is that  
25 right?

1 file, you can periodically go through and delete things  
2 out of that file, out of that location.

3 Q. And then you go on to say there are only three  
4 executables that you be compiled for SCO in the Linux  
5 store. By the way, have you seen this e-mail before  
6 today?

7 A. I don't recall seeing this e-mail since, you  
8 know, any of this has been written. No.

9 Q. Okay. I mean, I guess you saw it at the time  
10 you wrote it.

11 A. Yeah. I saw it when I received it. But no, I  
12 haven't seen this e-mail since 2001.

13 Q. It says there's only three executables that  
14 you be compiled for SCO in a Linux store. Do you mean  
15 that must be compiled or that should be compiled?

16 A. I think I was mentioning that there were these  
17 three that I was aware of that at the time I had not  
18 compiled natively. Compx is the compression utility I  
19 mentioned before.

20 Q. Right.

21 A. Decompx is a decompression utility.

22 Q. Right.

23 A. Surprise. And drun was a utility for  
24 running -- it was kind of running a fourth generation  
25 language set of executables.

1 Q. Was drun another one of these third party  
2 executables?

3 A. I don't know its real providence. It was  
4 present at AutoZone when I started working there. We  
5 used to use a -- AutoZone developers chiefly used to  
6 write in an obscure kind of four GEL, three GEL type  
7 language. I've never seen it anywhere else. I've never  
8 met anyone who's ever heard of it, eve.

9 And much like one compiles C programs, you would  
10 run it to pay particular utility on these files. And it  
11 would produce kind of an executable format. And then  
12 you would use this drun utility to actually then execute  
13 those files.

14 And at the time, you know, in the beginning of the  
15 port, I didn't know whether there was another program  
16 where I did not know the source to it. And ultimately,  
17 I found the source to it in its companion program in the  
18 one that one uses to compile, in essence. And I chose  
19 to port drun, and I chose not to comport its companion  
20 utility to encourage people to move away from using  
21 that.

22 Q. So you recompiled drun?

23 A. Yeah. I ultimately found the source to drun  
24 and was able to compile it.

25 Q. So compx and dcompx are the two that we were

1 talking about earlier that are by a third party.

2 Correct?

3 A. Yeah. That's why I said, you know, in the  
4 beginning, I was aware of three programs. And then, you  
5 know, ultimately after I had installed that I found this  
6 source to drun, this utility. So compx and dcompx are  
7 third-party software.

8 Q. And that's the software that you didn't have  
9 the source code for?

10 A. Correct.

11 MR. STONE: Let's break for lunch.

12 (LUNCH BREAK)

13 MR. STONE: Let's mark that.

14 (WHEREUPON, THE ABOVE-MENTIONED  
15 DOCUMENT WAS MARKED AS EXHIBIT NO. 17,  
16 AND IS HERETO ATTACHED.)

17 Q. (BY MR. STONE) I'll show you what's been  
18 marked Exhibit 17 for identification. It's an e-mail  
19 dated August 27th, 2001. You see that?

20 A. I do.

21 Q. My question is about in the middle there. It  
22 says something about 99.44 percent of all of our  
23 programs don't have a separate SCO and Linux version.  
24 What does that mean?

25 A. I thin the 99 and 44 percent is my attempt at



1 A. Yes.

2 Q. And you believe as of the time you left, that  
3 there were these six stores running, or were there more  
4 than the six stores?

5 A. At the time I left, there were the six stores  
6 running.

7 Q. Okay.

8 A. I believe that's right.

9 Q. At the time that you were doing this, did you  
10 get contacted by any other engineers asking you about  
11 how you were converting from Unix to Linux?

12 A. I'm sorry. When you say other --

13 Q. I mean from other companies or not from  
14 AutoZone.

15 A. I don't -- I don't recall being asked by other  
16 engineers how we were performing work, no.

17 Q. Do you recall discussing that you were  
18 performing work with other engineers?

19 A. It may have come up. I'm not certain. It may  
20 have come up.

21 Q. Do you recall any specific conversations you  
22 had or people that you spoke to?

23 A. I don't recall any specifics, no.

24 Q. Have you spoken with any of the attorneys that  
25 represent IBM?

1           A.    I have spoken with one of the attorneys at  
2 IBM.

3           Q.    Who did you speak with?

4           A.    Gosh, his name is -- his name is Cook, but I  
5 can't really recall his name.

6           Q.    Did he tell you he was an in-house attorney or  
7 from a law firm?

8           A.    He did not identify whether he was in-house  
9 counsel or not.

10          Q.    Do you remember his first name?

11          A.    No. I'm sorry. I don't.

12          Q.    When did you speak to him?

13          A.    That was -- that would have been several  
14 months ago, this year but several months ago, around the  
15 time of my -- around the time of my posting to Groklaw.  
16 So earlier this year.

17          Q.    Around February of this year?

18          A.    Yes.

19          Q.    What did he say to you and did you say to him  
20 as best as you recall?

21          A.    I explained to him -- I asked him if he was  
22 aware that there was a online site called Groklaw. I  
23 told him that I had made a posting to that site. I  
24 explained that my post was in reference to one of the  
25 sections of a document describing a lawsuit between SCO

1 and IBM and said that I wanted to make sure he was aware  
2 of my statement. And he thanked me for telling him, and  
3 he asked for my contact information, and that was it.

4 Q. Did he call you or did you call him?

5 A. I called him.

6 Q. How did you get his number?

7 A. I got an e-mail with his phone number.

8 Q. Somebody sent you an e-mail with his phone  
9 number?

10 A. Yes.

11 Q. Who sent you an e-mail?

12 A. The person who runs the Groklaw site.

13 Q. PJ or something like that? Do you know her  
14 name?

15 A. I don't know her real name, her legal name.  
16 But, you know, she's called PJ.

17 Q. So she sent you an e-mail with the phone  
18 number for attorneys for IBM?

19 A. Yes.

20 Q. Do you still have that e-mail?

21 A. No. I don't believe I do. That was on a home  
22 machine that I've reformatted and reinstalled Linux on?

23 MR. STEWART: Can you take a look for it?

24 THE WITNESS: I can look.

25 MR. STONE: Yeah. We'll include that in