

Shaughnessy, Todd

From: Mark J. Heise [MHeise@BSFLLP.com]
Sent: Wednesday, September 24, 2003 2:39 PM
To: Shaughnessy, Todd
Subject: RE: SCO v. IBM

Todd,

Thanks for getting back to me.

On point 2, I was referring to the interrogatories that you identified. For this listing of witnesses, we should be able to exchange them by October 10. I also was referring to the ones we discussed during our recent conference calls for which you wanted better answers, i.e. number one and the ones that follow that are related to number one. Since we spoke, I have determined that we can identify the pertinent macros and functions that should satisfy your inquiry. At the outside, I would be able to get this information to you in a usable format within 30 days, although I would hope to do so sooner, perhaps even by the October 10 date you suggested. Let me know if that works for you.

On point 3, I was told we would get documents before that date, but if that is the best that you can do, then I will wait until Friday.

On your concerns regarding the production by SCO thus far, I have a few questions/observations. First, the log should be done by the end of the week. The person preparing it was sick and that has caused the delay. I sent the documents without the log so you would have them as soon as possible. Second, the licenses and related documents should go out this week or early next at the latest. Third, on the source code, I am a little confused about your objection. IBM defined source code and requested it in human readable format, which is what we produced. I don't know if by machine readable format you mean in binary format or something else. If you tell me what form you are looking for, I will be glad to go back to the client to see if they have it in that form and, if they do, will be glad to produce it in that manner. It might be helpful if you identified how you will be providing the requested AIX and Dynix source code.

Mark

Mark J. Heise
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-----Original Message-----

From: Shaughnessy, Todd [mailto:tshaughnessy@swlaw.com]

11/19/2003

Sent: Tuesday, September 23, 2003 8:13 PM
To: Mark J. Heise
Cc: Debra Weiss Goodstone; Dave Marriott
Subject: RE: SCO v. IBM

Mark,

In response to your questions:

(1) IBM will not agree to enlarge the time for adding parties and amending pleadings. We believe the existing scheduling order provides a reasonable time within which to do so.

(2) I assume you are referring to both parties agreement to supplement answers to interrogatories concerning names of employees with knowledge concerning various claims (SCO's answer to IBM interrogatory no. 10, and IBM's answer to SCO's interrogatory nos. 2, 4, and 5). We propose that the parties exchange supplemental responses containing names and subject matter of knowledge on October 10. Let me know if this works for you.

(3) As we explained, IBM will be making a rolling production of documents. You should receive the first installment by Friday, September 26.

Incidentally, we have now had a chance to look at the 46 CDs you sent to Dave Marriott. Although we have not yet received your source log, our review shows that these CDs contain nothing more than the source code for Unix System V and Unixware. In addition, the source code has not been provided in a machine readable format. As such, the documents provided are essentially meaningless. Please let me know (i) when we can expect to receive responsive documents (including copies of the license agreements and the other documents SCO has agreed to produce), and (ii) whether you intend to produce this code, as well as the other code we have requested, in a machine readable format.

Thanks.

Todd

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-----Original Message-----

From: Mark J. Heise [<mailto:MHeise@BSFLLP.com>]

11/19/2003

Sent: Tuesday, September 23, 2003 4:13 PM
To: Shaughnessy, Todd
Cc: Debra Weiss Goodstone
Subject: SCO v. IBM
Importance: High

Todd,

Where are we on the enlargement re adding parties and amendments?

What date are we looking at to exchange the supplemental information that we have discussed over the last few days?

When are we going to start getting documents from IBM?

Please call or write back at your earliest convenience.

Mark

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11/19/2003