

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	Chapter 11
)	
The SCO GROUP, INC., <u>et al.</u> ,)	Case No. 07-11337 (KG)
)	(Jointly Administered)
)	
Debtors.)	Related Docket No. 779

**RED HAT, INC.'S PRELIMINARY RESPONSE TO
DEBTOR SCO GROUP, INC.'S
OBJECTION TO CLAIM OF RED HAT, INC.**

Red Hat, Inc. ("Red Hat"), by and through its undersigned attorneys, in response to Debtor SCO Group, Inc.'s Objection to Claim of Red Hat, Inc. (the "Objection"), hereby respectfully states as follows:

BACKGROUND

1. On or about August 4, 2003, Red Hat, Inc. began a lawsuit against The SCO Group, Inc. (the "Debtor") in the United States District Court for the District of Delaware, Civil Action No. 03-772 (the "Delaware Action"). Pursuant to its Complaint filed in the Delaware Action, Red Hat alleged the following claims against the Debtor: Count I – Declaratory Judgment of Noninfringement of Copyrights, 28 U.S.C. § 2201; Count II – Declaratory Judgment of No Misappropriation of Trade Secrets, 28 U.S.C. § 2201; Count III – False Advertising in Violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a); Count IV – Deceptive Trade Practices in Violation of 6 Del. C. § 2532; Count V – Unfair Competition; Count VI – Tortious Interference with Prospective Business Opportunities; and Count VII Trade Libel and Disparagement.

2. On September 14, 2007 (the “Petition Date”), the Debtor filed with this Court a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”).

3. On April 18, 2008, Red Hat filed a proof of claim (the “Red Hat Claim”) against the Debtor on account of the claims set forth in the Delaware Action. The Red Hat Claim also attached the Complaint in the Delaware Action.

4. On or about June 5, 2009, the Debtor filed its Objection. The Objection made only a couple of cursory factual allegations, and otherwise asserted a general denial of liability for the Red Hat Claim.

RESPONSE

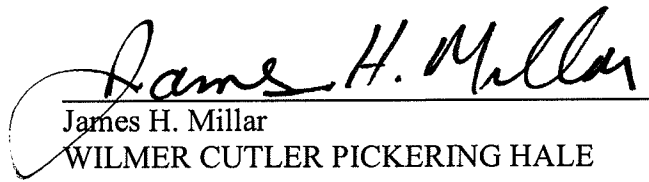
5. The Objection provides little more than a statement of the Debtor’s intention to contest the Red Hat Claim at some point in the future. Obviously, it provides no basis for the Court at this juncture to disallow the Red Hat Claim.

6. In addition, the Debtor has not provided an objection deadline or hearing date to start the procedural events attendant to claims litigation. Rather, the Debtor suggests that it intends to proceed by adversary proceeding. Thus, a response to the Objection is apparently not required at present to preserve Red Hat’s rights with respect to the Red Hat Claim.

7. Nevertheless, for the avoidance of doubt, Red Hat files this response to make clear its intent to pursue the Red Hat Claim if and when this matter moves forward. Red Hat should be given specific notice and an opportunity to participate in any proceedings that seek to disallow or in any way affect the Red Hat Claim.

Dated: June 23, 2009

Respectfully submitted,

A handwritten signature in black ink, reading "James H. Millar", is written over a horizontal line.

James H. Millar
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