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Attorneys for Plaintiff  
The SCO Group, Inc.

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

THE SCO GROUP, INC.,  
a Delaware corporation,

Plaintiff,

v.

AUTOZONE, INC.,  
a Nevada corporation,

Defendant.

**STATEMENT OF BASIS FOR  
CLAIM FOR PRELIMINARY  
INJUNCTIVE RELIEF AND  
NATURE OF RELIEF**

Civil Action File No.

CV-S-04-0237-RCJ-LRL

Pursuant to the Court's Order dated August 6, 2004, the Plaintiff, SCO Group, Inc. ("SCO") hereby serves upon Defendant AutoZone, Inc. ("AutoZone") its Statement of Basis for Claim for Preliminary Injunctive Relief and Nature of Relief as follows:

1. In its August 6, 2004 Order, the Court stayed all discovery on SCO's claims in the above-referenced matter with the limited exception of discovery concerning AutoZone's migration from a Unix Operating System to a Linux Operating System. The

Court has permitted SCO to conduct limited expedited discovery on this issue in order to determine whether or not to file a motion for preliminary injunctive relief.

### Migration from Unix to Linux

2. SCO is informed and believes that AutoZone may have infringed SCO's copyrights in various SCO Software Products including, without limitation, SCO's OpenServer version of Unix. SCO is informed and believes that AutoZone's servers and other hardware were migrated from SCO's Software Products to the Linux Operating System. Santa Cruz Operations ("old SCO"), a predecessor in interest to SCO, provided consulting services on-site to AutoZone between 1998 and 2000 and became familiar with the hardware and software utilized by AutoZone in its business. Based upon SCO's employees' knowledge of the AutoZone System, SCO is informed and believes that AutoZone "copied"<sup>1</sup> certain copyrighted material contained in SCO's Software including, without limitation, SCO's static shared libraries during its transition to Linux. At least one of the versions of OpenServer utilized by AutoZone operates using static shared libraries. In order to cause Linux to function effectively with legacy applications previously designed for OpenServer Software, SCO believes that it is reasonably likely that AutoZone copied SCO's copyrighted material during the migration process in violation of its contracts with SCO and in violation of Federal Copyright laws. Specifically, SCO is informed and believes that AutoZone has infringed the following

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<sup>1</sup> The term "copying" as used herein includes verbatim copying of code or man pages, and copying where the resulting product is substantially similar to the original considering structure, sequence and organization, and other non-literal elements of the code. In addition to copying, SCO's rights may be violated by preparation of derivative works based on the original, gaining beneficial use of the copyrighted materials through interfaces or other means supplied by third parties, or any other act which interferes with the exclusive rights of the copyright owner protected under 17 U.S.C. §106.

SCO copyrights pertaining to code used in or with Open Server versions 5.0.2, 5.0.4 and 5.0.5: TX 5 750-268, TX 5 763-235, TX 2 611-860 and TX 2 605-292.

SCO is further informed and believes that it is reasonably likely that AutoZone has also improperly used and/or copied the following additional copyrighted code and manuals during and after the migration process:

- (a) Dynamic shared libraries;
- (b) Dynamic linking code;
- (c) Kernel optimization features;
- (d) Documentation pertaining to the above including, without limitation, manual pages.

This list is not exhaustive and SCO reserves the right to supplement it in accordance with the rules once SCO has had an opportunity to conduct discovery.

#### Potential Injunctive Relief

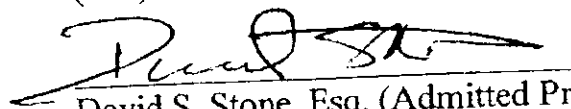
3. Under applicable law in this Circuit, any use of copyrighted materials i.e., source code and manuals, in a way that is inconsistent with exclusive rights of the copyright owner protected under 17 U.S.C.A §106, constitutes a prima facie copyright infringement. See, e.g., MAI Sys. Corp. v. Peak Computer, Inc., 991F.2d 511, 519 (9<sup>th</sup> Cir. 1993). Furthermore, irreparable harm is presumed and it is not a defense that the defendant could have paid a royalty. See Cadence Design Systems, Inc. v. Avant! Corp., 125 F.3d 824, 827 (9<sup>th</sup> Cir. 1997) (“It is well settled that availability of money damages does not rebut the presumption of irreparable harm in a copyright case”).

4. Pursuant to the Court's Order, SCO intends to conduct limited discovery into the above issues in order to determine whether or not, under the circumstances, an application for a Preliminary Injunction is warranted.

5. In the event SCO determines Preliminary Relief is warranted, SCO will seek a Preliminary Injunction enjoining AutoZone from using any of the copyrighted materials identified in its motion pending final resolution of this action.

Dated: August 30, 2004

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6 v. )

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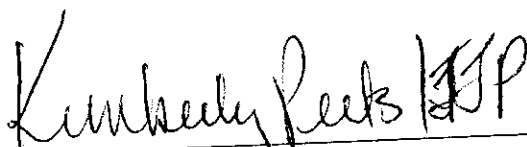
9 Defendant. )

Case Number: CV-S-04-0237-RCJ-(LRL)

10 RECEIPT OF COPY

11 RECEIPT OF COPY of the documents is hereby acknowledged this 30<sup>th</sup> day of August  
12 30, 2004:

13  
14 1. **STATEMENT OF BASIS FOR CLAIM FOR PRELIMINARY INJUNCTIVE  
15 RELIEF AND NATURE OF RELIEF**

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