EXHIBIT A - ADDITIONAL MISSTATEMENTS

The following is set forth in order to detail several additional misstatements made in SCO's Report.

1. AutoZone's Migration Process was Neither Ad Hoc nor Undertaken with Disregard for SCO's Alleged Copyright Rights

SCO's Report states that Bob Celmer testified that AutoZone developers were not "focused on protecting SCO's OpenServer copyright materials and were, instead, focused on the most efficient way to modify the binaries AutoZone created to work on OpenServer so that they would run on Linux." (SCO Report pg. 7-8.) This statement implies that AutoZone undertook the transition process with a careless disregard for the intellectual property of SCO, which is inaccurate. In fact, the entire transition was structured so that SCO's alleged proprietary materials would not be inappropriately copied or otherwise infringed as a result of the transition process. While it is true that AutoZone located some SCO materials that may have been copied in error, it is not true that the process was either __ad hoc__ or undertaken with disregard for SCO's alleged copyright rights.

SCO's specific misstatement is noteworthy in this instance, but the larger mischaracterization of AutoZone's transition process is of perhaps more importance. Mr. Celmer's actual testimony was that AutoZone's purpose was to change the *source code* for all of AutoZone's programs such that they could be recompiled to work on Linux, not to modify AutoZone's binaries to work on Linux as stated by SCO in its report. (Celmer Deposition 26:5-13.) This distinction is significant. By virtue of recompiling the *source code* for AutoZone's binaries to work on Linux, AutoZone instituted a process that was designed to result in absolutely no code from SCO being used either during or after the transition from Open Server to Linux. In order to appreciate the fundamental nature of this distinction, some discussion of basic software development in the context of transition between operating systems is necessary.

Source code is human readable code that is used to create software programs. SCO has not alleged that any of AutoZone's source code for its application programs (as opposed to the operating system on which those programs run) infringes SCO's purported copyrights, nor could

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they. Virtually all of such code is wholly original to AutoZone. SCO's allegations, however, appear to relate to the transformation of human-readable source code into executable code that a computer can understand. In order to create code that a computer can understand, the source code is run through a program called a compiler. This results in "object code," which is in binary form (i.e., strings of ones and zeros). After the program is transformed into object code by the compiler, the program is "linked" with any libraries that it needs. Libraries are repositories of software functions and routines that can be used by application developers to perform common tasks. Once compiled into object code and linked to the appropriate libraries, the resulting file (in binary, ones and zeros format) is the file that is executed when users of a particular program actually run that application on a computer. If this object code file is linked to the libraries by actually incorporating them into the object code (a method known as "static linking"), that file would necessarily contain libraries provided by the operating system (e.g., UNIX or Linux).

AutoZone's entire transition process was designed so that all of AutoZone's application programs were to have been recompiled under the Linux operating system without any reference to or reproduction of either SCO OpenServer libraries or, in fact, SCO code of any variety. As Mr. Celmer testified, all of the *source code* for AutoZone applications was intended to be recompiled entirely within a Linux environment with Linux libraries and without any reference to or use of SCO's libraries. (Celmer Deposition 26:5-13.) Mr. Celmer specifically stated that AutoZone's intent was not to modify binary application files compiled for use in connection with the OpenServer operating system. (Id.) SCO's statement in the SCO Report that AutoZone was working to modify binary files so that they would work on Linux represents a misstatement and, of more concern, a potential misunderstanding of the development process. The combination of this misstatement and SCO's overall mischaracterization of AutoZone's software transition process amply illustrates that conclusory statements by SCO to the effect that no regard was given to SCO's intellectual property rights are incorrect and unfounded.[1]

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[1] AutoZone is also somewhat surprised by SCO's statements as to the "*ad hoc*" nature of the transition process, since SCO previously represented to IBM in an interrogatory filed before the commencement of this lawsuit that AutoZone's migration occurred with "precision and

2. AutoZone is Licensed to Run OpenServer Compiled Programs on Its "Spirit" Server

SCO notes on Page 9 of the SCO Report that discovery revealed that OpenServer compiled programs were on AutoZone's server named "Spirit." In deposition testimony, Mr. Celmer stated that AutoZone initially ran the Spirit server on the OpenServer operating system under license from SCO until the server experienced a hardware failure. (Celmer Deposition 100:12 – 102:19.) When AutoZone restored the server after the failure, per Mr. Celmer's testimony, it decided to load the Linux operating system on the server. (Id.) Significantly, AutoZone had at that time and continues to have a license from SCO to use OpenServer on the Spirit machine through the more than 2900 end user licenses AutoZone has obtained from SCO.

Moreover, software AutoZone reloaded onto the Spirit server was intended to be a copy of the original software that was on the original Spirit machine. Thus, even if AutoZone had not been licensed to load the programs on the machine, AutoZone has the legal right to create a copy of a program for archival purposes. 17 U.S.C. § 117(a)(2). Because any OpenServer compiled program loaded onto the new Spirit server would likely not be able to run on that server (since it was now running the Linux operating system), the only possible reason for keeping programs compiled to run on OpenServer on the Spirit server was for archival purposes. Thus, AutoZone both had a license to copy the programs onto the Spirit server and a legal right to do so for archival purposes, even without the benefit of the license.

3. AutoZone is Licensed to Copy SCO Files onto Its Vision Server

SCO notes on page 10 of the SCO Report that AutoZone's developers copied numerous SCO files onto AutoZone's server named "Vision."[2] This statement is correct insofar as it goes,

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efficiency." SCO's Revised Supplemental Response to IBM's First and Second Set of Interrogatories, pg. 51 (Excerpt attached hereto as Exhibit E).

[2] SCO represents that "the precise number" of SCO files on the Vision computer "has not been disclosed in discovery." This is another misstatement. On October 27, 2004, AutoZone

however, SCO neglects to point out that Mr. Celmer also testified that the Vision server is running a properly licensed copy of SCO's OpenServer operating system. (Celmer Deposition 73:7 – 74:8.) The Vision server runs, and is intended to run application programs on the OpenServer operating system, and AutoZone's 30(b)(6) witness testified in response to questions from SCO during his deposition that AutoZone had a license from SCO to operate the OpenServer operating system on the Vision server. SCO's attempt to paint the presence of SCO files on this properly licensed machine as an unspecified violation of its legal rights is simply further evidence of convenient and artful omissions and the overreaching nature of many statements in the SCO Report.

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produced to SCO a listing of every file on the Vision computer. Letter from David Stewart dated October 27, 2004 (attached hereto as Exhibit B.)