

November 16, 2006

International Business Machines Corporation
Attn: General Counsel's Office
New Orchard Rd.
Armonk, NY 10504

Dear General Counsel of IBM:

The Project On Government Oversight (POGO) is overhauling and renewing its Federal Contractor Misconduct Database (www.pogo.org/db/index.cfm), a compilation of information from public resources regarding government contractors, including IBM. On February 27, 2006, we sent you information regarding findings relevant to IBM, which I have enclosed for your reference. As of today, we have not received a response from your office.

A written response is certainly in the best interest of everyone involved. It is the best way for your company to go on record regarding this process and the instances identified; your letter will be posted in its entirety on the database. Several companies have already responded and have expressed appreciation for the opportunity to express their views. POGO would prefer to receive a response by November 30, 2006 to ensure it is included with the launch of our new database.

If you have any questions, I can be reached at (202) 347-1122. Thank you for your time and consideration.

Sincerely,

Scott Amey
General Counsel

Enclosure

Instances of Misconduct

1.

Compuware v. IBM (Copyright Infringement and Anti-Trust)

Date: 03/22/2005 (Date of Settlement)

Misconduct Type: Antitrust

Contracting Party: N/A

Court Type: Civil

Amount: \$400,000,000

Disposition: Settlement

Synopsis: In 2002, Compuware sued IBM for copyright infringement, unfair competitive acts, and other anti-trust abuses. Compuware alleged that IBM stole a computer code from them for use in IBM's File Manager and Fault Analyzer tools.

Document(s):

IBM Press release

2.

Cooper et al., vs. the IBM Personal Pension Plan and IBM Corporation (Pension Issues)

Date: 09/29/2004 (Date of Settlement)

Misconduct Type: Labor

Contracting Party: Non-Governmental

Court Type: Civil

Amount: \$320,000,000

Disposition: Settlement

Synopsis: In July of 2003, IBM and a collection of plaintiffs collectively known as "Cooper" reached a partial settlement concerning pension issues. The remainder of the decision was made in Illinois District court, which decided that several aspects of IBM's pension plan violated the Employees Retirement Income Security Act by discriminating against older employees. The settlement is originally set at \$320 million, however, a pending appeal could increase the settlement by an additional \$1.4 billion.

Document(s):

IBM Press release

Alliance IBM FAQ

3.

Unlawful Exports

Date: 07/31/1998 (Date of Fine)

Misconduct Type: Import/Export

Contracting Party: N/A

Court Type: Criminal

Amount: \$8,500,000

Disposition: Fine

Synopsis: “On July 31, a U.S. district judge in Washington D.C. imposed a criminal fine of \$8.5 million on IBM East Europe/Asia Ltd. for exporting computers to Arzamas-16, a Russian nuclear weapons laboratory, in violation of the International Emergency Economic Powers Act and the Export Administration Regulations.”

Document(s):
DOC Press Release

Pending Cases

Caldera (SCO Group) v. IBM Corporation (Unfair Competition Practices)

Date: 03/25/2003 (Date of Filing)

Misconduct Type: Antitrust

Contracting Party: N/A

Court Type: Civil

Amount: \$0

Disposition: Pending

Synopsis: The SCO Group, which owns the rights to the UNIX operating system, filed suit on March 25, 2003, alleging that IBM misappropriated trade secrets, incited unfair competition practices, and breached contract. The overall suit claims that IBM tried to devalue UNIX to benefit IBM’s Linux system.

Document(s):
Press Release