

February 27, 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](http://www.pogo.org/db/index.cfm)), a compilation of information from public resources regarding government contractors, including IBM. I have enclosed the findings relevant to IBM and am requesting verification or refutation of the data from you by March 10, 2006.

Any response would be greatly appreciated, as the accuracy of this information is in the best interest of all parties. Out of fairness to IBM, please be assured that any response received by POGO will be posted on the website along with the data.

Changes to the database include: the addition of more current instances, removal of Superfund cleanup costs, and removal of information that could not be verified with official documents. Additionally, pending cases will still be included, but this information will be kept separate from the resolved cases and will not be included in any totals.

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

Sincerely,

Kevin L. Phelps  
Project Director

Enclosure

## Instances

1.

Case name: Cooper et al., vs. the IBM Personal Pension Plan and IBM Corporation

Date: July 31, 2003

Misconduct type: Labor

Contract type: Non-Governmental

Court type: Civil

Amount: Approximately \$320 million – \$1.7 billion

Disposition: Partial 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.

### Documents to include:

IBM Press Release

<http://www.ithaca.edu/ithacan/cortaca/one.html>

Alliance IBM Frequently Asked Questions

<http://www.allianceibm.org/pensionlawsuitfaq.htm>

2.

Case Name: Compuware v. IBM

Date: March 12, 2002

Misconduct Type: Anti-Trust

Contract Type: 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.

### Documents to Include:

<http://www-03.ibm.com/press/us/en/pressrelease/7578.wss>

Pending case

Case Name: Caldera (SCO Group) v. IBM Corporation

Date: March 25, 2003

Misconduct Type: Anti-Trust

Contract Type: N/A

Court Type: Civil

Amount: N/A

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.

Documents to Include:

<http://ir.sco.com/ReleaseDetail.cfm?ReleaseID=103273>