

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

XINUOS, INC.,

Plaintiff,

-against-

INTERNATIONAL BUSINESS MACHINES  
CORPORATION and RED HAT, INC.,

Defendants.

CASE NO. 7:22-cv-09777-CS

**JOINT STIPULATION OF VOLUNTARY DISMISSAL OF  
COUNTS II – V OF THE COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), Plaintiff Xinuos, Inc. (“Plaintiff”) and Defendants International Business Machines Corporation and Red Hat, Inc. (together, “Defendants”), by their undersigned counsel, hereby stipulate to the dismissal with prejudice of Counts II through V of Plaintiff’s Complaint in the above-captioned action (ECF No. 1).

Nothing in this Stipulation is intended to affect Plaintiff’s rights of appeal with respect to entry of summary judgment against Plaintiff on its copyright claim (Count I), and Plaintiff expressly reserves all such rights.

Each party shall bear its own costs, expenses, and attorneys’ fees associated with Counts II through V resolved by this Joint Stipulation of Dismissal.

The parties agree that the case shall now be closed and that the Clerk of Court should enter final judgment.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

CROWELL & MORING LLP

By: /s/ Molly A. Jones

Mark A. Klapow  
mklapow@crowell.com  
CROWELL & MORING LLP  
1001 Pennsylvania Ave. NW  
Washington, D.C. 20004  
T: (202) 624-2500  
F: (202) 628-5116

Warrington Parker III  
wparker@crowell.com  
Molly A. Jones  
mojones@crowell.com  
CROWELL & MORING LLP  
3 Embarcadero Center, 26<sup>th</sup> Floor  
San Francisco, CA 94111  
T: (415) 986-2800  
F: (415) 986-2827

*Attorneys for Plaintiff Xinuos, Inc.*

CRAVATH, SWAINE & MOORE LLP

By: /s/ David R. Marriott

David R. Marriott  
dmarriott@cravath.com  
Michael J. Zaken  
mzaken@cravath.com  
CRAVATH, SWAINE & MOORE LLP  
Two Manhattan West  
375 Ninth Avenue  
New York, NY 10001  
T: (212) 474-1000  
F: (212) 474-3700

*Attorneys for Defendants International Business  
Machines Corp. and Red Hat, Inc.*