

254

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International Business Machines Corporation*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

THE SCO GROUP, INC.,

Plaintiff/Counterclaim-Defendant,

-against-

INTERNATIONAL BUSINESS MACHINES
CORPORATION,

Defendant/Counterclaim-Plaintiff.

Civil No. 2:03CV-0294 DAK

Honorable Dale A. Kimball

Magistrate Judge Brooke C. Wells

DECLARATION OF STEVEN M. SABBATH

I, Steven M. Sabbath, declare as follows:

1. I joined The Santa Cruz Operation, Inc. as Vice President, Legal Affairs, in 1991. The Santa Cruz Operation, Inc. changed its name to Tarantella, Inc. in connection with the sale of its Server Software and Professional Services Divisions to Caldera International, Inc., which is now known as The SCO Group, Inc. ("Plaintiff"), on May 7, 2001. I refer to Tarantella, Inc. as "Santa Cruz" at times on or prior to May 7, 2001 and as "Tarantella" at times after May 7, 2001. I served as Senior Vice President of Law and Corporate Affairs & Secretary of Tarantella until November 2003.

2. This declaration is submitted in connection with the lawsuit entitled The SCO Group, Inc. v. International Business Machines Corporation, Civil Action No. 2:03CV-0294 DAK (D. Utah 2003). Except as stated otherwise, this declaration is based upon personal knowledge.

3. In Section I of this declaration, I describe my roles and responsibilities regarding UNIX operating systems. In Section II, I describe the December 1995 acquisition by Santa Cruz of certain UNIX assets from Novell, Inc. ("Novell") and Novell's continuing rights following the acquisition. In Section III, I describe my understanding of an amendment, which modified certain UNIX license agreements, entered into by Santa Cruz, Novell and International Business Machines Corporation ("IBM") in 1996. In Section IV, I describe certain provisions of an amendment, also entered into in 1996, to the asset purchase agreement between Santa Cruz and Novell relating to the December 1995 acquisition. Finally, in Section V, I describe a joint development agreement and a related confidentiality agreement entered

into by Santa Cruz and IBM in 1998, and the effect of an attempt by Santa Cruz to assign the joint development agreement to Plaintiff in 2001.

I. Roles and Responsibilities Regarding UNIX

4. I joined Santa Cruz as Vice President, Legal Affairs, in 1991. Between 1993 and 1997, I served as Vice President, Law and Corporate Affairs, and Secretary. I was named Senior Vice President, Law and Corporate Affairs, and Secretary in January 1998. I remained with Santa Cruz following the sale of its Server Software and Professional Services Divisions to Plaintiff on May 7, 2001, at which time Santa Cruz was renamed Tarantella, Inc. I served as Senior Vice President of Law and Corporate Affairs & Secretary of Tarantella until November 2003. I was the principal in-house attorney with respect to the matters described in this declaration.

5. In the summer of 1995, I was involved in negotiating the purchase by Santa Cruz of certain UNIX assets from Novell. On September 19, 1995, Santa Cruz entered into an Asset Purchase Agreement with Novell (the "Asset Purchase Agreement"), a true and correct copy of which is attached hereto as Exhibit 1. In December 1995, Santa Cruz acquired certain UNIX related assets from Novell pursuant to the Asset Purchase Agreement, as amended by Amendment No. 1 thereto ("Amendment No. 1"), a true and correct copy of which is attached hereto as Exhibit 2. However, as is described in more detail below, Novell retained certain rights with respect to the UNIX System V licensing business following the transaction.

6. In 1996, I was involved in negotiating an amendment (“Amendment No. X”), a true and correct copy of which is attached hereto as Exhibit 3, to the following UNIX license agreements with IBM:

- the Software Agreement (Agreement Number SOFT-00015) dated February 1, 1985;
- the Sublicensing Agreement (Agreement Number SUB-00015A) dated February 1, 1985;
- the Substitution Agreement (Agreement Number XFER-00015B) dated February 1, 1985;
- the letter agreement dated February 1, 1985; and
- Software Agreement Supplement 170, as amended by a letter agreement dated on or about January 25, 1989.

I refer to these agreements, as amended, and together with any other Supplements that pertain to prior versions or releases of UNIX System V Release 3.2 (“SVR3.2”), as the “Related Agreements.”

7. In 1997 and 1998, I was involved in negotiating a Joint Development Agreement (the “JDA”) and a Confidential Disclosure Agreement (the “CDA”) with IBM relating to a project known as “Project Monterey,” which involved the development of a UNIX operating system designed to operate on a new 64-bit Intel architecture referred to as “IA-64.” True and correct copies of the JDA and the CDA are attached hereto as Exhibits 4 and 5, respectively.

8. In 2001, I was involved in the sale of Santa Cruz’s Server Software and Professional Services Divisions to Plaintiff. As is described in more detail below, Santa Cruz attempted to assign the JDA to Plaintiff in connection with the sale on May 7, 2001. IBM was notified of this attempted assignment in a letter dated June 6, 2001, a true and correct copy of which is attached hereto as Exhibit 6 (the

“June 6, 2001 Letter”). However, the assignment was not effective because IBM did not consent to the assignment. In fact, IBM objected to the assignment and terminated the JDA, in accordance with its terms, in a letter dated June 19, 2001, a true and correct copy of which is attached hereto as Exhibit 7 (the “June 19, 2001 Letter”).

II. Novell’s Continuing Rights

9. In the summer of 1995, I was involved in negotiating the purchase by Santa Cruz of certain UNIX assets from Novell. Novell had two principal UNIX businesses. The first was the legacy business of licensing UNIX System V software to other UNIX system vendors, who may use, modify and distribute the software, in object code format, under the terms of license agreements. The second was the UnixWare business, which developed, manufactured and distributed to end users (either directly or through third parties), in object code format, products derived from UNIX System V under the brand name “UnixWare.”

10. Initially, Santa Cruz was interested in purchasing both of these businesses. However, the royalty stream associated with the UNIX System V software licensing business led to a total valuation for both businesses that Santa Cruz could not afford. Therefore, Santa Cruz proposed that Novell retain the legacy UNIX System V licensing business and Santa Cruz purchase only the UnixWare business. Under this proposal, Santa Cruz would administer the collection of royalties under the UNIX System V license agreements and pass through these royalties to Novell for a fee. To that end, Section 4.16(a) of the Asset Purchase Agreement provides that Novell generally receives any royalties payable under the UNIX System V license agreements, including

the Related Agreements, and Novell pays Santa Cruz a 5% administrative fee for its services in collecting these royalties.

11. Under the Asset Purchase Agreement, Novell retained significant UNIX related assets following the sale. For example, Schedule 1.1(b) of the Asset Purchase Agreement provided that much of the UNIX System V intellectual property would not be transferred to Santa Cruz by listing the following items as "Excluded Assets":

V. Intellectual Property:

- A. All copyrights and trademarks, except for the trademarks UNIX and UnixWare.
- B. All Patents.

12. In addition, Section 4.16(b) of the Asset Purchase Agreement included the following language providing that Novell would have the right, at its sole discretion, to amend, modify, supplement or waive any rights under, or assign any rights to, the UNIX System V license agreements, including the Related Agreements, in any manner or respect:

[Santa Cruz] shall not, and shall not have the authority to, amend, modify or waive any right under or assign any SVRX License without the prior written consent of [Novell]. In addition, at [Novell's] sole discretion and direction, [Santa Cruz] shall amend, supplement, modify or waive any rights under, or shall assign any rights to, any SVRX License to the extent so directed in any manner or respect by [Novell]. In the event that [Santa Cruz] shall fail to take any such action concerning the SVRX Licenses as required herein, [Novell] shall be authorized, and hereby is granted, the rights to take any action on [Santa Cruz's] own behalf.

Since Novell would be retaining the right to receive the royalties under the UNIX System V licenses, it was agreed that Novell also would retain certain rights to control the contractual relationships with the licensees. One of the reasons for this was to ensure

that actions by Santa Cruz (or its successors) could not adversely affect Novell's ability to realize the economic benefits flowing from these license agreements.

13. Amendment No. 1, executed in connection with the closing of the transaction, made changes to many sections of the Asset Purchase Agreement and to the schedules attached to the Asset Purchase Agreement. Although Amendment No. 1 made several changes to Section 4.16, it did not impose any new limits on Novell's ability, at its sole discretion, to amend, modify, supplement or waive any rights under, or assign any rights to, the legacy UNIX System V license agreements in any manner or respect. Furthermore, I am not aware of any provision in the Asset Purchase Agreement, or any amendment thereto, that imposed on Novell any obligation to preserve the confidentiality of the UNIX System V source code for the benefit of Santa Cruz.

14. I have been advised that: (1) Plaintiff purports to have terminated IBM's rights under the Related Agreements; (2) Novell sent a letter to Plaintiff dated June 9, 2003, a copy of which is attached hereto as Exhibit 8, stating that Plaintiff had no right to terminate IBM's license rights and directing Plaintiff to waive any purported right Plaintiff may claim to terminate the Related Agreements or to revoke any rights thereunder; (3) Plaintiff failed to comply with this direction; (4) Novell sent a letter to Plaintiff and to IBM dated June 12, 2003, a copy of which is attached hereto as Exhibit 9, waiving on behalf of Plaintiff any purported right Plaintiff claimed to terminate the Related Agreements or to revoke any rights thereunder; and (5) Novell sent a letter to Plaintiff dated October 7, 2003, a copy of which is attached hereto as Exhibit 10, directing Plaintiff to waive any purported right Plaintiff may claim to require IBM to treat code developed by IBM, or licensed by IBM from a third party, which IBM incorporated

in AIX but which itself does not contain proprietary UNIX code supplied by AT&T under the license agreements between AT&T and IBM, itself as subject to the confidentiality or use restrictions of the agreements between AT&T and IBM, as amended. I do not know and I do not believe that anything would refresh my recollection as to whether Novell's actions are consistent with the language of Section 4.16(b) of the Asset Purchase Agreement.

III. IBM's Irrevocable, Fully Paid-Up and Perpetual Rights

15. On April 26, 1996, Novell, acting on its own behalf and on the behalf of Santa Cruz, and IBM entered into an amendment to the Related Agreements (the "April 1996 Amendment"), a true and correct copy of which is attached hereto as Exhibit 11. Among other things, the April 1996 Amendment (1) provided that "IBM will have the irrevocable, fully paid-up, perpetual right to exercise all of its rights under the Related Agreements," (2) relaxed the confidentiality restrictions in the Related Agreements and (3) permitted IBM to redistribute UNIX System V source code to customers and contractors for limited purposes.

16. Santa Cruz objected to the April 1996 Amendment. In an effort to resolve our concerns, I had a number of discussions with representatives of Novell, including Lawrence A. Bouffard, Christopher Hogan and A. Allison Lisbonne, Esq. (now known as A. Allison Amadia). I discussed the April 1996 Amendment with Alok Mohan, the Chief Executive Officer of Santa Cruz.

17. On or about May 21, 1996, Mr. Bouffard of Novell sent to William Sandve, Jr. of IBM a letter (the "May 21 Letter"), a copy of which is attached hereto as Exhibit 12, attaching revisions to the April 1996 Amendment proposed by Santa Cruz.

We had requested changes to Paragraph 1 of the April 1996 Amendment, but I do not recall requesting any changes to the “irrevocable, fully paid-up, perpetual” language in that paragraph. We proposed, among other things, to impose right-to-use fees on IBM contractors and customers who were provided licensed source code. We also sought to prohibit IBM employees who may have retained intangible information in the form of ideas, concepts, know-how or techniques after having access to licensed source code from making any attempt to preserve such information by reducing it to writing or otherwise memorializing it.

18. Novell generally negotiated separately with IBM and with Santa Cruz in an effort to resolve our concerns. These negotiations culminated in the execution of Amendment No. X (which replaced the April 1996 Amendment) by Novell, Santa Cruz and IBM in October 1996. As reflected in Amendment No. X, IBM was unwilling to agree to our proposal to impose fees on IBM contractors and customers who are provided licensed source code. However, IBM was willing to limit its right to provide contractors and customers with copies of licensed source code to a specified number of copies. Ultimately it was agreed that the number of copies would be limited to 50 copies at any one point in time. IBM also agreed to record-keeping, audit and other similar provisions related to the 50-copy limitation.

19. Amendment No. X, like the April 1996 Amendment, provides that “IBM will have the irrevocable, fully paid-up, perpetual right to exercise all of its rights under the Related Agreements” I do not know and I do not believe that anything would refresh my recollection as to what was intended by this language, which was negotiated between IBM and Novell in connection with the April 1996 Amendment. We

were more concerned with limiting IBM's right to provide contractors and customers with copies of licensed source code than we were with preserving the termination rights in the Related Agreements.

20. Amendment No. X, like the April 1996 Amendment, permits IBM employees to actually refer to the licensed source code while they are working on other projects. As a result of Amendment No. X, IBM employees could refer to the licensed documents and materials, including source code, while they were developing or providing products or services. Therefore, after the execution of Amendment No. X, IBM was subject to diminished confidentiality restrictions.

IV. Amendment No. 2 to the Asset Purchase Agreement

21. On the same day that we executed Amendment No. X, Santa Cruz and Novell entered into Amendment No. 2 to the Asset Purchase Agreement, a true and correct copy of which is attached hereto as Exhibit 13. As discussed above, Santa Cruz had objected to the April 1996 Amendment effecting a royalty buy-out transaction with IBM, leading to the negotiation of Amendment No. X. Santa Cruz wished, among other things, to establish a process for managing future royalty buy-outs.

22. Section B of Amendment No. 2 sets forth the agreed process for managing "any potential transaction which concerns a buy-out of any such licensee's royalty obligations" Since a royalty "buy-out" had already been effected with IBM pursuant to Amendment No. X, the process set forth in Amendment No. 2 would not apply to any subsequent potential transaction with IBM.

23. Furthermore, since the process set out in Amendment No. 2 applies only in the context of a royalty buy-out, Novell has the right, at its sole discretion, to

direct Plaintiff to amend, modify, supplement or waive any rights under, or assign any rights to, any "SVRX Licenses," as defined in the amended Asset Purchase Agreement, without complying with the process set out in Amendment No. 2 (and, if Plaintiff fails to do so, to take such action on Plaintiff's behalf), so long as such amendment, modification, supplement or waiver does not effect a buy-out of a licensee's royalty obligations. (If the process set out in Amendment No. 2 were applicable, Paragraph B.5 would be applicable, which states that Amendment No. 2 "does not give Novell the right to increase any SVRX licensee's rights to SVRX source code, nor does it give Novell the right to grant new SVRX source code licenses." Paragraph B.5 also provides that "Novell may not prevent [Santa Cruz] from exercising its rights with respect to SVRX source code in accordance with the [Asset Purchase Agreement].") I understand that AT&T Technologies, Inc. entered into SVRX Licenses with Sequent Computer Systems, Inc. ("Sequent"), and that Sequent was later merged into IBM. I do not claim to understand the implications of the transaction between IBM and Sequent. However, assuming the Sequent SVRX Licenses remain in effect, with IBM as a party by virtue of the merger, Novell has the right, at its sole discretion, to direct Plaintiff to amend, modify, supplement or waive any rights under, or assign any rights to, the Sequent SVRX Licenses (and, if Plaintiff fails to do so, to take such action on Plaintiff's behalf) without complying with the process set out in Amendment No. 2, so long as such amendment, modification, supplement or waiver does not effect a buy-out of the royalty obligations under the Sequent SVRX Licenses. (If the process set out in Amendment No. 2 were applicable, Paragraph B.5 would apply, as described above.)

24. Amendment No. 2 also revised Schedule 1.1(b) of the Asset Purchase Agreement. Schedule 1.1(b) of the Asset Purchase Agreement, as originally executed on September 19, 1995, provided that certain UNIX System V intellectual property would not be transferred to Santa Cruz by listing the following items as "Excluded Assets":

V. Intellectual Property:

- A. All copyrights and trademarks, except for the trademarks UNIX and UnixWare.
- B. All Patents.

Amendment No. 1, executed on December 6, 1995 in connection with the closing of the transaction, made changes to Schedule 1.1(b) but did not change the above provision excluding certain intellectual property from the transferred assets. In negotiating Amendment No. X and Amendment No. 2, I negotiated with Novell to amend Section V, Subsection A, of Schedule 1.1(b). Amendment No. 2 revised this section to read as follows:

All copyrights and trademarks, except for the copyrights and trademarks owned by Novell as of the date of this Agreement required for [Santa Cruz] to exercise its rights with respect to the acquisition of UNIX and UnixWare technologies. However, in no event shall Novell be liable to [Santa Cruz] for any claim brought by any third party pertaining to said copyrights and trademarks.

25. The language in Amendment No. 2 created an exception to the pre-existing arrangement, pursuant to which Novell had retained its UNIX copyrights and trademarks. Pursuant to Amendment No. 2, copyrights and trademarks would be transferred to the extent "required for [Santa Cruz] to exercise its rights with respect to the acquisition of UNIX and UnixWare technologies."

26. As discussed above, the fundamental business deal reflected in the Asset Purchase Agreement was that Santa Cruz would acquire Novell's UnixWare business and Novell would effectively retain the legacy UNIX System V licensing business. My understanding was that the language in Amendment No. 2 quoted above was intended to implement this business deal with respect to copyrights and trademarks. So far as I know, neither Santa Cruz nor Novell ever identified the specific copyrights or trademarks for which a transfer of ownership was "required" for Santa Cruz to exercise its rights with respect to the acquisition of UNIX and UnixWare technologies. I do not know whether Novell ever executed an instrument of assignment to transfer ownership of specific copyrights or trademarks to Santa Cruz, nor do I know whether such an instrument was required in order to effect the transfer.

27. Furthermore, I do not know what copyrights, if any, Novell owned with respect to UNIX source code or object code. I do not have any specific recollection of performing due diligence to determine what source code or object code copyrights Novell owned, or whether Novell had acquired copyrights with respect to the source code or object code in connection with its acquisition of UNIX System Laboratories, Inc. ("USL") in 1993. Although we managed certain UNIX related trademarks following the acquisition, so far as I know Santa Cruz never registered any copyrights with respect to UNIX System V source code or object code following the acquisition.

28. As is discussed on page 12 of Santa Cruz's Form 10-K for the fiscal year ended September 30, 1996 (the fiscal year in which Santa Cruz acquired certain UNIX assets from Novell), a true and correct copy of which is attached hereto as Exhibit 14, although Santa Cruz generally took steps to protect its intellectual property,

we “believe[d] that trademark and copyright protections [were] less significant to [Santa Cruz’s] success than other factors, such as the knowledge, ability, and experience of [Santa Cruz’s] personnel, name recognition, and ongoing product development and support.” I believe that Santa Cruz assigned little, if any, of the value of the acquisition to any copyrights that it might have acquired from Novell.

29. It is my understanding, based upon my review of Plaintiff’s amended complaint, that Plaintiff claims to have acquired all right, title and interest in and to UNIX System V operating system source code, software and sublicensing agreements, together with copyrights, additional licensing rights in and to UNIX System V, and claims against all parties breaching such agreements. I understand that Plaintiff also claims to control the right of all UNIX vendors to use and distribute UNIX System V. I believe that these claims are incorrect. As described above in relation to the Related Agreements and Amendment No. 2, Novell retained certain rights under the UNIX System V licensing agreements, as well as certain UNIX System V intellectual property as described above.

V. Project Monterey and the Purported Assignment to Plaintiff

30. Santa Cruz and IBM entered into the JDA with respect to Project Monterey on October 23, 1998. Section 17.0 of the JDA provided that the parties generally did not have an obligation of confidentiality under the JDA. If the parties desired to exchange confidential information, it was to be handled under “the Agreement for the Exchange of Confidential Information (‘AECI’) #4997AU6595.” Although the actual title of the CDA is “Confidential Disclosure Agreement,” and it was originally

numbered AUS970557, it is in fact the agreement referred to in Paragraph 17.0 of the JDA. Santa Cruz and IBM did exchange confidential information under the CDA.

31. For example, pursuant to Supplement No. 4998PKM02 dated November 13, 1998, as amended by a letter agreement dated December 18, 1998, true and correct copies of which are attached hereto as Exhibits 15 and 16, Santa Cruz disclosed to IBM, among other things, its "Gemini 64 and Unixware 7 in source code and object code form, and associated documentation regarding the architecture and design of [Santa Cruz's] port of Unixware 7 to Intel's IA64 Merced processor." Pursuant to these same supplements, IBM disclosed to Santa Cruz, among other things, its "AIX 4.3.2 Base Operating System and Monterey IA64 in source code and object code form, associated documentation and technical documentation." I understand that Plaintiff alleges that IBM breached its obligations under the CDA, but I have no knowledge of any such breach by IBM.

32. Santa Cruz and IBM worked together on Project Monterey until we sold our Server Software and Professional Services Divisions to Plaintiff in May 2001. I was personally involved in the sale of Santa Cruz's Server Software and Professional Services Divisions to Plaintiff. We wanted to assign the JDA to Plaintiff, and Plaintiff wanted to acquire our rights under the JDA, in connection with the sale.

33. Santa Cruz and Plaintiff both knew that the JDA could not be assigned to Plaintiff without IBM's consent. This is because Section 22.12 of the JDA provides that "[n]either party may assign, or otherwise transfer, its rights or delegate any of its duties or obligations under [the JDA] without the prior written consent of the other party." This restriction is subject to certain exceptions, but none of the exceptions were

applicable in the case of the sale by Santa Cruz to Plaintiff. Santa Cruz disclosed to IBM that it was considering a possible transaction with Plaintiff. Although I had no reason to believe that IBM would withhold its consent, Santa Cruz did not obtain IBM's prior written consent to the assignment of the JDA to Plaintiff.

34. The sale to Plaintiff was consummated on May 7, 2001. After the purported assignment, Tarantella (formerly known as Santa Cruz) sent the June 6, 2001 Letter to IBM, asserting that Plaintiff had accepted assignment of the JDA. However, IBM did not acquiesce in the assignment. Instead, IBM objected to the assignment and properly terminated the JDA in the June 19, 2001 Letter.

35. Under Section 15.2 of the JDA, IBM had the right to terminate the JDA "immediately upon the occurrence of a Change of Control of [Santa Cruz] which IBM in its sole discretion determines will substantially and adversely impact the overall purpose of the cooperation set forth by [the JDA] and applicable Project Supplements or will create a significant risk or material and adverse exposure of IBM's confidential and/or technical proprietary information (which is subject to, and to the extent of, confidentiality restrictions)"

36. A "Change of Control" under Section 15.2 of the JDA included a transfer of "more than half the equity, capital or business assets" of Santa Cruz. As discussed above, Santa Cruz sold its Server Software and Professional Services Divisions to Plaintiff on May 7, 2001. Financial information regarding these divisions was included in financial statements filed with the Securities and Exchange Commission as part of Tarantella's Form 10-K for the fiscal year ended September 30, 2001, a true and correct copy of which is attached hereto as Exhibit 17. I participated in the preparation of

the Form 10-K and I signed it as Senior Vice President of Law and Corporate Affairs & Secretary of Tarantella. Based on Note 16 of the financial statements included in the Form 10-K, the Server Software and Professional Services Divisions accounted for approximately 95% of Santa Cruz's total revenues in fiscal 1999 and 92% in fiscal 2000, the two full fiscal years preceding the sale. Furthermore, the Server Software division was the only division of Santa Cruz that generated operating income in either of the two full fiscal years preceding the sale. Since the sale to Plaintiff clearly involved more than half of Santa Cruz's business assets, the transaction constituted a Change of Control and IBM had the right to terminate the JDA.

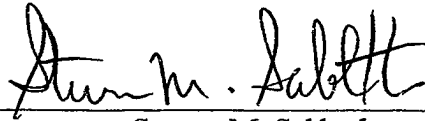
37. So far as I know Santa Cruz delivered to Plaintiff all physical materials relating to Project Monterey, including the source code, object code and related materials for the Santa Cruz Gemini 64 and UnixWare 7 operating systems and the IBM AIX 4.3.2 Base Operating System and Monterey IA64. I do not know whether Plaintiff used any of the confidential information provided to Santa Cruz by IBM, such as the IBM AIX 4.3.2 Base Operating System and Monterey IA64, but so far as I know Plaintiff did not have any right under the JDA to do so.

38. Paragraph 5 of the CDA provides that neither party may assign or otherwise transfer its rights under the CDA without the prior written consent of the other party, and that any attempt to do so is void. So far as I know, Santa Cruz never obtained IBM's written consent to transfer its rights under the CDA to Plaintiff. I do not know whether IBM has any confidentiality obligation with respect to confidential information provided to IBM by Santa Cruz under the CDA.

39. I declare under penalty of perjury that the foregoing is true and correct.

Executed: December 22, 2003.

Boulder Creek, California



Steven M. Sabbath

ASSET PURCHASE AGREEMENT
BY AND BETWEEN
THE SANTA CRUZ OPERATION, INC.
AND
NOVELL, INC.

Dated as of September 19, 1995

TABLE OF CONTENTS

Page

ARTICLE I

	THE ACQUISITION	1
1.1	Purchase of Assets	1
1.2	Payments	2
1.3	Transfer of Customers	3
1.4	Non-Assignment of Certain Items	4
1.5	Transitional Contracts	4
1.6	License Back of Assets	5
1.7	Closing	5

ARTICLE II

	REPRESENTATIONS AND WARRANTIES OF SELLER	6
2.1	Organization, Standing and Power	6
2.2	Authority	6
2.3	Financial Statements	7
2.4	Compliance with Law	7
2.5	No Defaults	8
2.6	Litigation	8
2.7	Absence of Certain Changes	8
2.8	Agreements	8
2.9	Tax Returns and Reports	9
2.10	Technology	10
2.11	Title to Properties; Absence of Liens and Encumbrances	11
2.12	Governmental Authorizations and Licenses	12
2.13	Environmental Matters	12
2.14	Customers	12
2.15	Proprietary Information and Inventions and Confidentiality Agreements	12
2.16	Inventory	13
2.17	Investment Intent	13
2.18	Reliance Upon Seller's Representations	13
2.19	Receipt of Information	13
2.20	Accredited Investor	13
2.21	Restricted Securities	14
2.22	Legends	14
2.23	No Implied Representations	14

ARTICLE III

	REPRESENTATIONS AND WARRANTIES OF BUYER	14
3.1	Organization, Standing and Power	15
3.2	Authority	15
3.3	Capitalization	16
3.4	SEC Documents; Buyer Financial Statements	16
3.5	Compliance with Law	17
3.6	No Defaults	17
3.7	Litigation	17
3.8	Absence of Certain Changes	17
3.9	Agreements	18
3.10	Tax Returns and Reports	18
3.11	Technology	19
3.12	Governmental Authorizations and Licenses	19
3.13	Environmental Matters	19
3.14	Proprietary Information and Inventions and Confidentiality Agreements	19
3.15	Status of Shares	19
3.16	No Implied Representations	19

ARTICLE IV

	CERTAIN COVENANTS	19
4.1	Conduct of Business of Seller	20
4.2	Conduct of Business of Buyer	20
4.3	No Solicitation	21
4.4	Access to Information	21
4.5	Confidentiality	21
4.6	Expenses	21
4.7	Public Disclosure	22
4.8	Consents	22
4.9	Commercially Reasonable Efforts	22
4.10	Notification of Certain Matters	22
4.11	Delivery of Schedules	22
4.12	Additional Documents and Further Assurances	23
4.13	Treatment of Employees of the Business	23
4.14	Tax Returns	23
4.15	Bulk Sales	24
4.16	SVRX Licenses	24
4.17	Audited Financials	25
4.18	Development of Merged Product	25
4.19	License of Networking Services	25

ARTICLE V

	CONDITIONS TO THE ACQUISITION	25
5.1	Conditions to Obligations of Each Party to Effect the Acquisition	25
5.2	Additional Conditions to Obligations of Seller	26
5.3	Additional Conditions to the Obligations of Buyer	27

ARTICLE VI

	CERTAIN CORPORATE GOVERNANCE MATTERS	27
6.1	Nomination of Director to Buyer's Board of Directors	27
6.2	Right to Maintain	28
6.3	Right of First Refusal on Change of Control	28
6.4	Registration Rights	31
6.5	Standstill Agreement	38
	Standstill	38
	Exceptions to Standstill Provision	39
(c)	Notice of Securities Purchases and Sales	39
(d)	Acts in Concert with Others	39
(e)	Restrictions on Transfer of Securities	39
	Buyer's Right of First Refusal	40

ARTICLE VII

	TERMINATION, AMENDMENT AND WAIVER	42
7.1	Termination	42
7.2	Effect of Termination	43
7.3	Amendment	43
7.4	Extension; Waiver	43

ARTICLE VIII

	INDEMNIFICATION	44
8.1	Survival of Representations, Warranties and Agreements	44
8.2	Indemnification	44
8.3	Procedure for Indemnification with Respect to Third-Party Claims	44

ARTICLE IX

	GENERAL PROVISIONS	45
9.1	Notices	45
9.2	Survival	46

9.3	Interpretation	47
9.4	Counterparts	47
9.5	Entire Agreement	47
9.6	Severability	47
9.7	Other Remedies	47
9.8	Governing Law	47
9.9	Rules of Construction	47

INDEX OF EXHIBITS

<u>Exhibit</u>	<u>Description</u>
Exhibit S.1.(c)	Form of Proposed Operating Agreement, including <u>Exhibit A</u> and <u>Exhibit B</u> thereto and Eiger Development.

INDEX OF SCHEDULES

Schedule 1.1(a)	Assets
Schedule 1.1(b)	Excluded Assets
Schedule 1.1(c)	Assumed Liabilities
Schedule 1.2(b)	Royalties relating to UnixWare product
Schedule 6.3(a)	Change of Control Parties

ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (the "Agreement") is made and entered into as of September 19, 1995 by and between The Santa Cruz Operation, Inc., a California corporation ("Buyer") and Novell, Inc., a Delaware corporation ("Seller").

RECITALS

A. Seller is engaged in the business of developing a line of software products currently known as Unix and UnixWare, the sale of binary and source code licenses to various versions of Unix and UnixWare, the support of such products and the sale of other products which are directly related to Unix and UnixWare (collectively, the "Business").

B. The Boards of Directors of each of Seller and Buyer believe it is in the best interests of each company and their respective stockholders that Buyer acquire certain of the assets of, and assume certain of the liabilities of Seller comprising the Business (the "Acquisition").

C. In connection with the Acquisition Buyer will issue to Seller 6,127,500 shares of Common Stock of Buyer (the "Shares").

D. In connection with the acquisition by Seller of the Shares, Buyer and Seller desire to set forth certain agreements with respect to the governance of Buyer following the closing of the Acquisition.

NOW, THEREFORE, in consideration of the covenants, promises and representations set forth herein, and for other good and valuable consideration, the parties agree as follows:

ARTICLE I

THE ACQUISITION

1.1 Purchase of Assets.

(a) Purchase and Sale of Assets. On the terms and subject to the conditions set forth in this Agreement, Seller will sell, convey, transfer, assign and deliver to Buyer and Buyer will purchase and acquire from Seller on the Closing Date (as defined in Section 1.7), all of Seller's right, title and interest in and to the assets and properties of Seller relating to the Business (collectively the "Assets") identified on

Schedule 1.1 (a) hereto. Notwithstanding the foregoing, the Assets to be so purchased shall not include those assets (the "Excluded Assets") set forth on Schedule 1.1 (b):

(b) Assumption of Liabilities. At the Closing, Buyer shall assume those obligations and liabilities of Seller set forth on Schedule 1.1(c) hereto (collectively, the "Assumed Liabilities").

(c) Liabilities Not Assumed. Other than the Assumed Liabilities, Buyer shall not assume, nor shall Buyer or any affiliate of Buyer be deemed to have assumed or guaranteed, any other liability or obligation of any nature of Seller, or claims of such liability or obligation, whether accrued, matured or unmatured, liquidated or unliquidated, fixed or contingent, known or unknown arising out of (i) acts or occurrences related to any of the Assets, prior to the Closing Date, or (ii) any other liability or obligation of Seller which is not an Assumed Liability (collectively, the "Unassumed Liabilities"). Seller will remain responsible for all Unassumed Liabilities.

1.2 Payments.

(a) Consideration for Assets: Stock. On the terms and subject to the conditions set forth in this Agreement, as full payment for the transfer of the Assets by Seller to Buyer, at the Closing Buyer shall assume the Assumed Liabilities and issue to Seller 6,127,500 shares of fully paid and nonassessable shares of Common Stock of Buyer (the "Shares" or the "Purchase Price").

(b) Royalties. Buyer agrees to collect and pass through to Seller one hundred percent (100%) of the SVRX Royalties as defined and described in Section 4.16 hereof. Seller agrees to pay Buyer an administrative fee of five percent (5%) of the SVRX Royalties. Seller and Buyer further acknowledge and agree that Seller is retaining all rights to the SVRX Royalties notwithstanding the transfer of the SVRX Licenses to Buyer pursuant hereto, and that Buyer only has legal title and not an equitable interest in such royalties within the meaning of Section 541(d) of the Bankruptcy Code. For purposes of administering the collection of SVRX Royalties, the parties acknowledge that the royalties shall continue to be recognized as royalties by Seller on an ongoing basis and the parties shall take such commercially reasonable steps as may be necessary to effectuate the foregoing for financial accounting and tax purposes. In addition, Buyer agrees to make payment to Seller of additional royalties retained by Seller in respect of the transfer of UnixWare and on account of Buyer's future sale of UnixWare products. The amounts and timing of additional royalties to be paid in connection with Buyer's sale of the UnixWare products are identified in detail on Schedule 1.2(b) hereto. Seller shall be entitled to conduct periodic audits of Buyer concerning all royalties and payments due to Seller hereunder or under the SVRX Licenses, provided that Seller shall conduct such audits after reasonable notice to Buyer and during normal business hours and shall not be entitled to more than two (2) such audits per year. The cost of

any such audit shall be borne by Seller, unless such audit reveals a payment shortfall in excess of 5% of amounts due hereunder in which case the cost of such audit shall be borne by Buyer.

(c) Allocation of Purchase Price. Within 45 days following the Closing Buyer shall prepare and deliver to Seller, subject to Seller's approval, an allocation of the Purchase Price plus any other consideration properly allocable among the Assets (the "Allocation"). The parties agree that all tax returns and reports (including Internal Revenue Service ("IRS") Form 8594) and all financial statements shall be prepared in a manner consistent with (and the parties shall not otherwise take a position inconsistent with) the Allocation unless required by the IRS or state taxing authority. The Allocation shall be prepared in a manner consistent with Section 1060 of the Internal Revenue Code of 1986, as amended (the "Code"), and the income tax regulations promulgated thereunder.

(d) Transfer Taxes. Buyer shall pay and promptly discharge when due the entire amount of any and all sales and use tax ("Sales Taxes") imposed or levied by reason of the sale of the Assets to Buyer. The parties shall cooperate with each other to the extent reasonably requested and legally permitted to minimize any such Sales Taxes.

13 Transfer of Customers.

(a) Transfer of Customers.

(i) Intent. It is the intent of parties hereto that all of the Business and all of Seller's backlog, if any, relating to the Business be transferred to Buyer. Accordingly, all parties agree to facilitate the transfer of customers of the Business from Seller to Buyer following the Closing.

(ii) Purchase Order Data. Seller shall make available to Buyer, upon request (A) a list of all outstanding written customer orders, purchase orders and other customer commitments from the current customers of the Business (the "Current Customers"), (B) the names of all current Customers, and (C) data regarding Seller's standard cost of sales for the items covered by such orders, and shall provide upon request such other information as is (AA) relevant to profitability on such items, (BB) available to Seller without incurring undue effort or expense and (CC) requested by Buyer.

(iii) Transfer of Orders: Assignments. Prior to the Closing, Seller and Buyer agree to cooperate with each other in conducting joint contacts with the Current Customers (as appropriate) for the purpose of attempting to obtain such customers' consent to transfer orders from Seller to Buyer (or to issue new orders to

Buyer for the same or similar items) and to assign Seller's rights and benefits under the contracts included in the Assets to Buyer as of the Closing.

(iv) Assumption of Obligation. To the extent that an order is transferred or assigned to Buyer or that Buyer accepts a new purchase order from a Current Customer, Buyer agrees to assume and perform all obligations thereunder.

1.4 Non-Assignment of Certain Items. Notwithstanding anything to the contrary in this Agreement, to the extent that the assignment or license hereunder of any of the Assets shall require the consent of any other party (or in the event that any of the Assets shall be nonassignable), neither this Agreement nor any action taken pursuant to its provisions shall constitute an assignment or license or an agreement to assign or license such Assets if the requisite consents are not obtained and such assignment or license or attempted assignment or license would constitute a material breach or result in the loss or diminution thereof; provided, however, that Seller shall, at its own expense, use reasonable commercial efforts to obtain all third party consents necessary to assign or license the Assets to Buyer, and Seller hereby consents to Buyer using such efforts as it deems necessary or appropriate to effect the same. In the event that notwithstanding the efforts of Seller and Buyer all assignments or licenses needed to assign or license the Assets to Buyer cannot be provided to Buyer, Seller shall negotiate an alternative assignment or license as to such Assets so as to afford Buyer, to the extent practicable, the same or similar benefits and rights as if such assignment or license had occurred.

1.5 Transitional Contracts. The parties acknowledge that it may not be practical or advisable to assign or terminate certain contracts (such as Seller's Master License Agreements ("MLAs")) pursuant to which Seller has granted third parties rights to sell, distribute, obtain support and/or maintain Seller's UnixWare products (such contracts to be referred to hereinafter collectively as the "Transitional Contracts"). In such cases, Seller and Buyer will use diligent efforts to transition such business (concerning the Business only) and the customer relationship relating to such business to Buyer such that any new agreements concerning the Business will be entered into by, and support and maintenance will be provided by, Buyer, except where Buyer is unable to do so. In any event, Buyer shall be entitled to the revenue and benefits received by Seller reasonably attributable to support or maintenance of the products pursuant to the Transitional Contracts (even if prepaid before Closing) net of Seller's identifiable direct expenses of support and maintenance related specifically thereto and documented to Buyer. Seller may retain such units of inventory of products as it deems reasonably necessary solely to satisfy customers under Transitional Contracts in accordance with this paragraph if Buyer is unable to do so. Following the Closing, Seller shall not enter into any new Transitional Contracts nor extend the term of any existing contract. Except for revenue from MLAs, Buyer and Seller shall negotiate a mutually acceptable arrangement to afford Buyer the benefits of ongoing licenses which are intended to be assigned

hereunder as part of the Assets but which cannot be assigned due to third party objections.

1.6 License Back of Assets. Concurrent with the Closing, Buyer shall execute a license agreement under which it shall grant to Seller a royalty-free, perpetual, worldwide license to (i) all of the technology included in the Assets and (ii) all derivatives of the technology included in the Assets, including the "Eiger" product release (such licensed back technology to be referred to collectively as "Licensed Technology"). Seller agrees that it shall use the Licensed Technology only (i) for internal purposes without restriction or (ii) for resale in bundled or integrated products sold by Seller which are not directly competitive with the core products of Buyer and in which the Licensed Technology does not constitute a primary portion of the value of the total bundled or integrated product. The license agreement shall include reasonable provisions concerning Buyer's obligation to provide documentation and support for the Licensed Technology. The license agreement shall also provide Seller with an unlimited royalty-free, perpetual, worldwide license to the Licensed Technology upon the occurrence of a Change of Control of Buyer described in Section 6.3(c) hereof. In the event of a Change of Control of Seller (as defined in Section 6.6 hereof), the license granted pursuant to the license agreement shall be limited to Seller's products either developed or substantially developed as of the time of the Change of Control.

1.7 Closing.

(a) Closing. Unless this Agreement is earlier terminated pursuant to Article VII, the closing of the transactions contemplated by this Agreement (the "Closing") shall be held at the offices of Wilson, Sonsini, Goodrich & Rosati, 650 Page Mill Road, Palo Alto, California 94304, at 10:00 a.m. on the date which is two business days following satisfaction or waiver of the last of the conditions to Closing as set forth in the Article IV hereof, or on such other time and/or date as the parties agree (the actual date on which the Closing occurs is referred to herein as the "Closing Date").

(b) Delivery. At the Closing:

(i) Buyer shall deliver to Seller an instrument of assumption of liabilities by which Buyer shall assume the Assumed Liabilities as of the Closing;

(ii) Buyer shall deliver to Seller a certificate or certificates representing the Shares;

(iii) Seller shall deliver to Buyer all bills of sale, endorsements, assignments, consents to assignments to the extent obtained and other instruments and documents as Buyer may reasonably request to sell, convey, assign, transfer and deliver to Buyer Seller's title to all the Assets; and

(iv) Seller and Buyer shall deliver or cause to be delivered to one another such other instruments and documents necessary or appropriate to evidence the due execution, delivery and performance of this Agreement.

(c) Taking of Necessary Action: Further Action. If, at any time after the Closing Date, any further action is necessary or desirable to carry out the purposes of this Agreement the parties agree to take, and will take, all such lawful and necessary and/or desirable action.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF SELLER

Except as described with reasonable particularity in the Seller Disclosure Schedule (which shall cross-reference to the particular section below to which such description applies) delivered by Seller to Buyer simultaneously with the execution of this Agreement, as such Seller Disclosure Schedule may be updated and/or amended pursuant to Section 4.11 hereof (the "Seller Disclosure Schedule"), Seller represents and warrants to Buyer that:

2.1 Organization, Standing and Power. Seller is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation, and has all requisite corporate power and authority to own, operate and lease its properties and to carry on its business as now being conducted. Seller is duly qualified as a foreign corporation and is in good standing in each jurisdiction in which the failure to so qualify reasonably would be expected to have a material adverse effect on the Business Condition of the Business. (As used in this Agreement, "Business Condition" with respect to any corporate entity, group of corporate entities or the Business shall mean the business, financial condition, results of operations and assets of such corporate entity, group of corporate entities or the Business, as the case may be.) Seller has made available to Buyer complete and correct copies of the Certificate of Incorporation and Bylaws of Seller, as amended to the date hereof.

2.2 Authority. Seller has all requisite corporate power and authority to enter into this Agreement and, to consummate the transactions contemplated hereby. The execution and delivery of this Agreement, the performance by Seller of its obligations hereunder and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action on the part of Seller, and have been approved by the Board of Directors of Seller. No other corporate proceeding on the part of either Seller is necessary to authorize the execution and delivery of this Agreement by Seller or the performance of Seller's obligations hereunder or the consummation of the transactions contemplated hereby. This Agreement has been duly executed and delivered by Seller and constitutes a legal, valid and binding

obligation of Seller enforceable against Seller in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally and except that the availability of equitable remedies is subject to the discretion of the court before which any proceeding therefor may be brought. Subject to satisfaction or waiver of the conditions set forth in Article V the execution and delivery of this Agreement does not, and the consummation of the transactions contemplated hereby will not, conflict with or result in any violation of any statute, law, rule, regulation, judgment, order, decree, or ordinance applicable to Seller, or its properties or assets that, individually or in the aggregate, reasonably would be expected to have a material adverse effect on the Business Condition of the Business, or conflict with any provision of the Certificate of Incorporation or Bylaws of Seller or result in any breach or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancellation or acceleration of any obligation or to loss of a material benefit under, or result in the creation of a lien or encumbrance on any of the properties or assets of Seller pursuant to any agreement, contract, note, mortgage, indenture, lease, instrument, permit, concession, franchise or license to which Seller is a party or by which Seller or its properties or assets may be bound that would reasonably be expected, either individually or in the aggregate, to have a material adverse effect on the Business Condition of the Business). No consent, approval, order or authorization of, or registration, declaration or filing with, any court, administrative agency, commission, regulatory authority or other governmental authority or instrumentality, domestic or foreign (a "Governmental Entity"), is required by or with respect to Seller in connection with the execution and delivery of this Agreement or the consummation by Seller of the transactions contemplated hereby, except for (i) the filing of a pre-merger notification report under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), (ii) those required to be made or obtained by Buyer or any of its affiliates, (iii) such consents, approvals, orders, authorizations, registrations, declarations and filings as would not have a material adverse effect on the ability of Seller to transfer the Assets to Buyer at the Closing.

2.3 Financial Statements. Seller has furnished Buyer with unaudited financial information concerning the Business as of July 31, 1995 (the foregoing financial information is referred to collectively as the "Business Financial Information"). The Business Financial Information has been prepared in accordance with generally accepted accounting principles consistently applied (except as may be indicated in the notes thereto) and fairly present, in all material respects, the financial position of the Business as at the dates thereof and the results of operations for the periods then ended. There has been no material change in Seller's accounting policies during such periods relating to the Business.

2.4 Compliance with Law. Seller has conducted the Business so as to comply in all material respects with all laws, rules and regulations, judgments, decrees or orders of any Governmental Entity applicable to its operations except where the failure so to comply reasonably would not be expected to have a material adverse effect on the

Business Condition of the Business. As of the date hereof, there are no judgments or orders, injunctions, decrees, stipulations or awards (whether rendered by a court or administrative agency or by arbitration) against Seller with any continuing effect that reasonably would be expected to have a material adverse effect on the Business Condition of the Business. To the knowledge of Seller, there is no investigation by any Governmental Entity with respect to Seller pending against Seller which is reasonably likely to have a material adverse effect on the Business Condition of the Business.

2.5 No Defaults. To the knowledge of Seller, Seller is not, nor has it received written notice that it would be with the passage of time, (i) in violation of any provision of its Certificate of Incorporation or Bylaws or (ii) in default or violation of any term, condition or provision of (A) any judgment, decree, order, injunction or stipulation applicable to the Business or (B) any agreement, note, mortgage, indenture, contract, lease or instrument, permit, concession, franchise or license to which Seller is a party (with respect to the Business) or by which the Business may be bound, in any such case in a manner that reasonably would be expected to have a material adverse effect on the Business Condition of the Business.

2.6 Litigation. There is no action, suit, proceeding, claim or governmental investigation pending or, to the knowledge of Seller, threatened, against Seller that reasonably would be expected to have a material adverse effect on the Business Condition of the Business. There is no action, suit, proceeding, claim or governmental investigation pending against Seller as of the date hereof that in any manner challenges or seeks to prevent, enjoin, alter or materially delay any of the transactions contemplated hereby.

2.7 Absence of Certain Changes. Since July 31, 1995, Seller has conducted the Business in the ordinary course and, except for the execution, delivery and performance of this Agreement or as required hereby, there has not occurred: (a) any material adverse change in the Business Condition of the Business; (b) any entry into any material commitment or transaction by Seller relating to the Business, other than in the ordinary course of business; (c) any damage, destruction or loss, whether covered by insurance or not, materially and adversely affecting the Business Condition of the Business; (d) any acquisition or disposition of a material amount of property or assets of Seller relating to the Business outside of the ordinary course of business; (e) any transfer or grant by Seller of a right under any Seller Intellectual Property Rights (as defined in Section 2.10 hereof), other than those transferred or granted in the ordinary course of business.

2.8 Agreements. With respect to the Business, Seller is not a party to, and the Business is not subject to:

- (a) Any union contract or any employment contract or arrangement providing for future compensation, written or oral, with any officer,

consultant, director or employee which is not cancelable by Seller on 30 days' notice or less without penalty or obligation to make payments related to such termination, other than (A) (in the case of employees other than executive officers of Seller) such agreements as are not materially different from standard arrangements offered to employees generally in the ordinary course of business consistent with Seller's past practices and (B) such agreements as may be imposed or implied by law;

(b) Any plan, contract or arrangement, the obligations under which exceed \$100,000, written or oral, providing for bonuses, pensions, deferred compensation, severance pay or benefits, retirement payments, profit-sharing, or the like;

(c) As of the date hereof, any existing OEM agreement, distribution agreement, volume purchase agreement, or other similar agreement in which the annual amount paid or received by Seller during the twelve-month period ended July 31, 1995 exceeded \$1,500,000 or pursuant to which Seller has granted most favored nation pricing provisions or exclusive marketing rights related to any product, group of products or territory to any person;

(d) Any lease or month-to-month tenancy for real or personal property in which the amount of payments which Seller is required to make on an annual basis exceeds \$100,000;

(e) Any contract containing covenants purporting to limit Seller's freedom to compete in any line of business in any geographic area; or

(f) Any license to a third party involving Seller Intellectual Property Rights (as such term is defined in Section 2.10 hereof) source or binary code which includes a right to sublicense such source or binary code without additional payment.

Each agreement, contract, mortgage, indenture, plan, lease, instrument, permit, concession, franchise, arrangement, license and commitment listed in the Seller Disclosure Schedule pursuant to this Section is valid and binding on Seller, and is in full force and effect, and Seller has not breached any provision of, nor is it in default under the terms of, any such agreement, contract, mortgage, indenture, plan, lease, instrument, permit, concession, franchise, arrangement, license or commitment except for such failures to be valid and binding or in full force and effect and such breaches or defaults as reasonably would not be expected to have a material adverse effect on the Business Condition of the Business.

2.9 Tax Returns and Reports.

(a) Definition of Taxes. For the purposes of this Agreement, "Tax" or "Taxes" refers to any and all federal, state, local and foreign taxes, assessments

and other governmental charges, duties, impositions and liabilities relating to taxes, including taxes based upon or measured by gross receipts, income, profits, sales, use and occupation, and value added, ad valorem, transfer, franchise, withholding, payroll, recapture, employment, excise and property taxes, together with all interest, penalties and additions imposed with respect to such amounts and any obligations under any agreements or arrangements with any other person with respect to such amounts and including any liability for taxes of a predecessor entity.

(b) Tax Returns and Audits. Except as reasonably would not be expected to have a material adverse effect on the Business Condition of the Business:

(i) Seller has timely filed all federal, state, local and foreign returns, estimates, information statements and reports ("Returns") relating to Taxes required to be filed by it, except such Returns which are not material to the Business, and has paid all Taxes shown to be due on such Returns or is contesting them in good faith.

(ii) Seller has withheld with respect to its employees all federal and state income taxes, FICA, FUTA and other Taxes required to be withheld.

(iii) Seller has not been delinquent in the payment of any Tax nor is there any Tax deficiency outstanding, proposed or assessed against Seller, nor has Seller executed any waiver of any statute of limitations on or extending the period for the assessment or collection of any Tax.

(iv) No audit or other examination of any Return of Seller is presently in progress, nor has Seller been notified of any request for such an audit or other examination.

(v) None of the Assets are treated as "tax-exempt use property" within the meaning of Section 168(b) of the Code.

(vi) Seller is not, and has not been at any time, a "United States real property holding corporation" within the meaning of Section 897(c)(2) of the Code.

2.10 Technology. To the knowledge of Seller, as of the date hereof, Seller owns, co-owns or is licensed or otherwise entitled to use rights to all patents, trademarks, trade names, service marks, copyrights, mask work rights, trade secret rights, and other intellectual property rights and any applications therefor, and all maskworks, net lists, schematics, technology, source code, know-how, computer software programs and all other tangible information or material, that are used in the Business as currently conducted (the "Seller Intellectual Property Rights").

The Seller Disclosure Schedule lists, as of the date hereof, (i) all patents, registered copyrights, trademarks, service marks, mask work rights, and any applications therefor, included in the Seller Intellectual Property Rights; (ii) the jurisdictions in which each such Seller Intellectual Property Right has been issued or registered or in which an application for such issuance and registration has been filed, including the respective registration or application numbers; and (iii) which, if any, of such products have been registered for copyright protection with the United States Copyright Office and any foreign offices. The Seller Disclosure Schedule also sets forth a list of license agreements which, to Seller's knowledge, constitutes all license agreements under which Seller licenses as licensee the intellectual property rights of third parties relating to technology or software which is incorporated in existing products of the Business for which products Seller has received revenues in excess of \$2,000,000 in the twelve-month period ended July 31, 1995. To Seller's knowledge, Seller is not in material violation of any such license agreement.

With respect to the Business, Seller is not a party to nor is the Business subject to (i) any joint venture contract or arrangement or any other agreement that involves a sharing of profits with other persons other than the payment or receipt of royalties by Seller; (ii) any agreement pursuant to which Seller was obligated to make payment of royalties in the twelve-month period ended July 31, 1995 of \$1,000,000 or more; or (iii) any agreement pursuant to which Seller utilizes the intellectual property rights of others in any products currently marketed by Seller and which is either non-perpetual or terminable by the licensor thereunder in the event of the Acquisition and which, if terminated, reasonably would be expected to have a material adverse effect on the Business Condition of the Business.

No claims with respect to the Seller Intellectual Property Rights have been communicated in writing to Seller (i) to the effect that the manufacture, sale or use of any product of the Business as now used or offered by Seller infringes on any copyright, patent, trade secret or other intellectual property right of a third party or (ii) challenging the ownership or validity of any of the Seller Intellectual Property Rights, any or all of which claims reasonably would be expected to have a material adverse effect on the Business Condition of the Business. To the knowledge of Seller, as of the date hereof, all patents and registered trademarks, service marks and registered copyrights held by Seller in connection with the Business are valid and subsisting except for failures to be valid and subsisting that reasonably would not be expected to have a material adverse effect on the Business Condition of the Business. Seller does not know of any unauthorized use, infringement or misappropriation of any of the Seller Intellectual Property Rights by any third party that reasonably would be expected to have a material adverse effect on the Business Condition of the Business.

2.11 Title to Properties; Absence of Liens and Encumbrances.

(a) The Seller Disclosure Schedule sets forth a list of all real property owned or, as of the date hereof, leased by Seller for use in connection with the Business and the aggregate annual rental or mortgage payment or other fees payable under any such lease or loan.

(b) Seller has good and valid title to, or, in the case of leased properties and assets, valid leasehold interests in, all of the tangible properties and assets, real, personal and mixed, which are material to the conduct of the Business, free and clear of any liens, charges, pledges, security interests or other encumbrances, except for such of the foregoing as (A) are reflected in the Seller Financial Statements, or (B) arise out of taxes or general or special assessments not in default and payable without penalty or interest or the validity of which is being contested in good faith by appropriate proceedings, or (C) such imperfections of title and encumbrances, if any, which are not substantial in character, amount or extent, and which do not materially detract from the value, or interfere with the present use, of the property subject thereto or affected thereby.

2.12 Governmental Authorizations and Licenses. Seller is the holder of all licenses, authorizations, permits, concessions, certificates and other franchises of any Governmental Entity required to operate the Business, the failure to hold which reasonably would be expected to have a material adverse effect on the Business Condition of the Business (collectively, the "Licenses"). The Licenses are in full force and effect. There is not now pending, or to the knowledge of Seller is there threatened, any action, suit, investigation or proceeding against Seller before any Governmental Entity with respect to the Licenses, nor is there any issued or outstanding notice, order or complaint with respect to the violation by Seller of the terms of any License or any rule or regulation applicable thereto, except in any such case as reasonably would not be expected to have a material adverse effect on the Business Condition of the Business.

2.13 Environmental Matters. To Seller's knowledge, Seller has at all relevant times with respect to the Business been in material compliance with all environmental laws, and has received no potentially responsible party ("PRP") notices or functionally equivalent notices from any governmental agencies or private parties concerning releases or threatened releases of any "hazardous substance" as that term is defined under 42 U.S.C. 9601(14).

2.14 Customers. The Seller Disclosure Schedule sets forth each customer of the Business that paid Seller royalties and licensee fees in an aggregate amount in excess of \$1,000,000 during the twelve-month period ended July 31, 1995.

2.15 Proprietary Information and Inventions and Confidentiality Agreements. To the knowledge of Seller, each employee, consultant, and officer of Seller (exclusively with respect to the Business) has executed a proprietary information and inventions and confidentiality agreement, copies of which have been made available

to counsel to Buyer, and it is Seller's policy that such agreements be executed by each new employee, consultant, officer and director of Seller in the ordinary course of Seller's business.

2.16 Inventory. The Seller Disclosure Schedule sets forth the estimated amount of UnixWare inventory (as defined thereon), including pre-paid royalties, that was held by Seller's resellers as of the date of this Agreement.

2.17 Investment Intent. The purchase of the Shares pursuant to this Agreement is for the account of Seller for the purpose of investment and not with a view to or for sale in connection with any distribution thereof within the meaning of the Securities Act of 1933, as amended (the "Securities Act") and the rules and regulations promulgated thereunder, and that Seller has no present intention of selling, granting any participation in, or otherwise distributing the same. By executing this Agreement, Seller further represents that it does not have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participations to such person or to any third person, with respect to any of the Shares.

2.18 Reliance Upon Seller's Representations. Seller understands that the Shares are not registered under the Securities Act on the ground that the sale provided for in this Agreement and the issuance of the Shares hereunder is exempt from registration under the Securities Act pursuant to section 4(2) thereof, and that Buyer's reliance on such exemption is predicated on Seller's representations set forth herein. Seller realizes that the basis for the exemption may not be present if, notwithstanding such representation, Seller has in mind merely acquiring the Shares for a fixed or determinable period in the future, or for a market rise, or for sale if the market does not rise. Seller presently does not have any such intention.

2.19 Receipt of Information. Seller believes it has received all the information it considers necessary or appropriate for deciding whether to purchase the Shares. Seller further represents that it has had an opportunity to ask questions and receive answers from Buyer regarding the terms and conditions of the offering of the Shares and the business, properties, prospects and financial condition of Buyer and to obtain additional information (to the extent Buyer possessed such information or could acquire it without unreasonable effort or expense) necessary to verify the accuracy of any information furnished to it or to which it had access. The foregoing, however, does not limit or modify the representations and warranties of the Buyer in Article III of this Agreement or the right of Seller to rely thereon.

2.20 Accredited Investor. Seller is an "accredited investor" within the meaning of Securities and Exchange Commission ("SEC") Rule 501 of Regulation D, as presently in effect.

2.21 Restricted Securities. Seller understands that the Shares may not be sold, transferred, or otherwise disposed of without registration under the Securities Act or an exemption therefrom, and that in the absence of an effective registration statement covering the Shares or an available exemption from registration under the Securities Act, the Shares must be held indefinitely. In particular, Seller is aware that the Shares may not be sold pursuant to Rule 144 promulgated under the Securities Act unless all of the conditions of that Rule are met.

2.22 Legends. To the extent applicable, each certificate or other document evidencing any of the Shares shall be endorsed with the legends set forth below, and Seller covenants that, except to the extent such restrictions are waived by Buyer, Seller shall not transfer the shares represented by any such certificate without complying with the restrictions on transfer described in the legends endorsed on such certificate:

(a) The following legend under the Securities Act:

"THE SHARES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE SOLD, TRANSFERRED, ASSIGNED, PLEDGED, OR HYPOTHECATED ABSENT AN EFFECTIVE REGISTRATION THEREOF UNDER SUCH ACT OR COMPLIANCE WITH RULE 144 PROMULGATED UNDER SUCH ACT, OR UNLESS THE COMPANY HAS RECEIVED AN OPINION OF COUNSEL, SATISFACTORY TO THE COMPANY AND ITS COUNSEL, THAT SUCH REGISTRATION IS NOT REQUIRED."

2.23 No Implied Representations. It is the explicit intent of each party hereto that Seller is not making any representation or warranty whatsoever, express or implied, except those representations and warranties of Seller contained in this Agreement or in the Seller Disclosure Schedule.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF BUYER

Except as described with reasonable particularity in the Buyer Disclosure Schedule (which shall cross-reference to the particular section below to which such description applies) delivered by Buyer to Seller simultaneously with the execution of this Agreement, as such Buyer Disclosure Schedule may be updated and/or amended pursuant to Section 4.11 hereof (the "Buyer Disclosure Schedule"), and except as

disclosed in Buyer's SEC Documents (as defined in Section 3.4), Buyer represents and warrants to Seller that:

3.1 Organization, Standing and Power. Buyer is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation, and has all requisite corporate power and authority to own, operate and lease its properties and to carry on its business as now being conducted. Buyer is duly qualified as a foreign corporation and is in good standing in each jurisdiction in which the failure to so qualify would reasonably be expected to have a material adverse effect on the Business Condition of Buyer. Buyer has made available to Seller complete and correct copies of the Certificate of Incorporation and Bylaws of Buyer, as amended to the date hereof.

3.2 Authority. Buyer has all requisite corporate power and authority to enter into this Agreement and, to consummate the transactions contemplated hereby. The execution and delivery of this Agreement, the performance by Buyer of its obligations hereunder and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action on the part of Buyer, and have been approved by the Board of Directors of Buyer. No other corporate proceeding on the part of either Buyer is necessary to authorize the execution and delivery of this Agreement by Buyer or the performance of Buyer's obligations hereunder or the consummation of the transactions contemplated hereby. This Agreement has been duly executed and delivered by Buyer and constitutes a legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally and except that the availability of equitable remedies is subject to the discretion of the court before which any proceeding therefor may be brought. Subject to satisfaction or waiver of the conditions set forth in Article V, the execution and delivery of this Agreement does not, and the consummation of the transactions contemplated hereby will not, conflict with or result in any violation of any statute, law, rule, regulation, judgment, order, decree, or ordinance applicable to Buyer, or its properties or assets that, individually or in the aggregate, reasonably would be expected to have a material adverse effect on the Business Condition of Buyer, or conflict with any provision of the Certificate of Incorporation or Bylaws of Buyer or result in any breach or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancellation or acceleration of any obligation or to loss of a material benefit under, or result in the creation of a lien or encumbrance on any of the properties or assets of Buyer pursuant to any agreement, contract, note, mortgage, indenture, lease, instrument, permit, concession, franchise or license to which Buyer is a party or by which Buyer or its properties or assets may be bound that would reasonably be expected to have a material adverse effect on the Business Condition of Buyer. No consent, approval, order or authorization of, or registration, declaration or filing with, any Governmental Entity is required by or with respect to Buyer in connection with the execution and delivery of this Agreement or the consummation by

Buyer of the transactions contemplated hereby, except for (i) the filing of a pre-merger notification report under the HSR Act, (ii) those required to be made or obtained by Seller or any of its affiliates, (iii) filings following the Closing under federal and state securities laws relating to issuance of the Shares; and (iv) such consents, approvals, orders, authorizations, registrations, declarations and filings as would not have a material adverse effect on the ability of Buyer to issue the Shares to Seller and assume the Assumed Liabilities at the Closing.

3.3 Capitalization. The authorized capital stock of Buyer consists of 100,000,000 shares of Common Stock, no par value, and 20,000,000 shares of Preferred Stock, no par value, of which there were issued and outstanding as of the close of business on September 18, 1995, 30,791,674 shares of Common Stock and no shares of Preferred Stock. There are no other outstanding shares of capital stock or voting securities of Buyer other than shares of Buyer Common Stock issued after September 18, 1995 upon the exercise of options issued under the Buyer's Amended and Restated 1987 Stock Option Plan (the "Buyer Stock Option Plan"). All outstanding shares of the Common Stock of Buyer have been duly authorized, validly issued, fully paid and are nonassessable and free of any liens or encumbrances other than any liens or encumbrances created by or imposed upon the holders thereof. As of the close of business on September 18, 1995, Buyer has reserved 9,663,665 shares of Common Stock for issuance to employees, directors and independent contractors pursuant to the Buyer Stock Option Plan and the Buyer Employee Stock Purchase Plan, of which 5,256,108 shares are subject to outstanding, unexercised options. Other than this Agreement, there are no other options, warrants, calls, rights, commitments or agreements of any character which Buyer is a party or by which it is bound obligating Buyer to issue, deliver, sell, repurchase or redeem, or cause to be issued, delivered, sold, repurchased or redeemed, any shares of the capital stock of Buyer, or obligating Buyer to grant, extend or enter into any such option, warrant, call, right, commitment or agreement. The shares of Buyer Common Stock to be issued pursuant to this Agreement will be duly authorized, validly issued, fully paid, and non-assessable.

3.4 SEC Documents; Buyer Financial Statements. Buyer has made available to Seller a true and complete copy of each statement, annual, quarterly and other report, and definitive proxy statement filed by Buyer with the Securities and Exchange Commission ("SEC") since September 30, 1993 (the "Buyer SEC Documents"), which are all the documents (other than preliminary material) that Buyer was required to file with the SEC since such date. As of their respective filing dates, the Buyer SEC Documents complied in all material respects with the requirements of the Securities Exchange Act of 1934 (the "Exchange Act") or the Securities Act of 1933 (the "Securities Act"), as the case may be, and none of the Buyer SEC Documents contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances in which they were made, not misleading. The financial statements of Buyer included in the Buyer SEC Documents (the "Buyer Financial Statements") comply as to form in all

material respects with applicable accounting requirements and with the published rules and regulations of the SEC with respect thereto, have been prepared in accordance with generally accepted accounting principles (except as may be indicated in the notes thereto or, in the case of unaudited statements, as permitted by Form 10-Q of the SEC) and fairly present the consolidated financial position of Buyer and its consolidated subsidiaries at the dates thereof and the consolidated results of their operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal, recurring audit adjustments). Since September 30, 1994, there has been no material change in Buyer's accounting policies except as described in the notes to Buyer's Financial Statements.

3.5 Compliance with Law. Buyer has conducted its business so as to comply in all material respects with all laws, rules and regulations, judgments, decrees or orders of any Governmental Entity applicable to its operations except where the failure so to comply reasonably would not be expected to have a material adverse effect on the Business Condition of Buyer. As of the date hereof, there are no judgments or orders, injunctions, decrees, stipulations or awards (whether rendered by a court or administrative agency or by arbitration) against Buyer with any continuing effect that reasonably would be expected to have a material adverse effect on the Business Condition of Buyer. To the knowledge of Buyer, there is no investigation by any Governmental Entity with respect to Buyer pending against Buyer which is reasonably likely to have a material adverse effect on the Business Condition of Buyer.

3.6 No Defaults. To the knowledge of Buyer, Buyer is not, nor has received written notice that it would be with the passage of time, (i) in violation of any provision of its Certificate of Incorporation or Bylaws or (ii) in default or violation of any term, condition or provision of (A) any judgment, decree, order, injunction or stipulation applicable to Buyer or (B) any agreement, note, mortgage, indenture, contract, lease or instrument, permit, concession, franchise or license to which Buyer is a party or by which Buyer may be bound, in any such case in a manner that reasonably would be expected to have a material adverse effect on the Business Condition of Buyer.

3.7 Litigation. There is no action, suit, proceeding, claim or governmental investigation pending or, to the knowledge of Buyer, threatened, against Buyer which reasonably would be expected to have, a material adverse effect on the Business Condition of Buyer. There is no action, suit, proceeding, claim or governmental investigation pending against Buyer as of the date hereof which in any manner challenges or seeks to prevent, enjoin, alter or materially delay any of the transactions contemplated hereby.

3.8 Absence of Certain Changes. Since June 30, 1995, Buyer has conducted its business in the ordinary course and, except for the execution, delivery and performance of this Agreement or as required hereby, there has not occurred: (a) any material adverse change in the Business Condition of Buyer; (b) any entry into any

material commitment or transaction by Buyer, other than in the ordinary course of business; (c) any damage, destruction or loss, whether covered by insurance or not, materially and adversely affecting the Business Condition of Buyer; or (d) any acquisition or disposition of a material amount of property or assets of Buyer outside of the ordinary course of business.

3.9 Agreements. Each agreement, contract, mortgage, indenture, plan, lease, instrument, permit, concession, franchise, arrangement, license and commitment that is an Exhibit to Buyer's most recent Form 10-Q is valid and binding on Buyer, and is in full force and effect, and Buyer has not breached any provision of, nor is it in default under the terms of, any such agreement, contract, mortgage, indenture, plan, lease, instrument, permit, concession, franchise, arrangement, license or commitment except for such failures to be valid and binding or in full force and effect and such breaches or defaults as reasonably would not, be expected to have a material adverse effect on the Business Condition of Buyer.

3.10 Tax Returns and Reports. Except as reasonably would not be expected to have a material adverse effect on the Business Condition of Buyer:

(i) Buyer has timely filed all federal, state, local and foreign returns, estimates, information statements and reports (Returns) relating to Taxes required to be filed by it, except such Returns which are not material to Buyer, and has paid all Taxes shown to be due on such Returns or is contesting them in good faith.

(ii) Buyer has withheld with respect to its employees all federal and state income taxes, FICA, FUTA and other Taxes required to be withheld.

(iii) Buyer has not been delinquent in the payment of any Tax nor is there any Tax deficiency outstanding, proposed or assessed against Buyer, nor has Buyer executed any waiver of any statute of limitations on or extending the period for the assessment or collection of any Tax.

(iv) No audit or other examination of any Return of Buyer is presently in progress, nor has Buyer been notified of any request for such an audit or other examination.

(v) None of Buyer's assets are treated as "tax-exempt use property" within the meaning of Section 168(h) of the Code.

(vi) Buyer is not, and has not been at any time, a "United States real property holding corporation" within the meaning of Section 897(c)(2) of the Code.

3.11 Technology. To the knowledge of Buyer, as of the date hereof, Buyer owns, co-owns or is licensed or otherwise entitled to use rights to all patents, trademarks, trade names, service marks, copyrights, mask work rights, trade secret rights, and other intellectual property rights and any applications therefor, and all maskworks, net lists, schematics, technology, source code, know-how, computer software programs and all other tangible information or material, that are used in its business as currently conducted (the "Buyer Intellectual Property Rights").

3.12 Governmental Authorizations and Licenses. Buyer is the holder of all licenses, authorizations, permits, concessions, certificates and other franchises of any Governmental Entity required to operate its business, the failure to hold which reasonably would be expected to have a material adverse effect on the Business Condition of Buyer (collectively, the "Buyer Licenses"). The Buyer Licenses are in full force and effect. There is not now pending, or to the knowledge of Buyer is there threatened, any action, suit, investigation or proceeding against Buyer before any Governmental Entity with respect to the Buyer Licenses, nor is there any issued or outstanding notice, order or complaint with respect to the violation by Buyer of the terms of any Buyer License or any rule or regulation applicable thereto, except in any such case as reasonably would not be expected to have a material adverse effect on the Business Condition of Buyer.

3.13 Environmental Matters. To Buyer's knowledge, Buyer has at all relevant times been in material compliance with all environmental laws, and has received no PRP notices or functionally equivalent notices from any governmental agencies or private parties concerning releases or threatened releases of any "hazardous substance" as that term is defined under 42 U.S.C. 9601(14).

3.14 Proprietary Information and Inventions and Confidentiality Agreements. To the knowledge of Buyer, each employee, consultant, and officer of Buyer has executed a proprietary information and inventions and confidentiality agreement, copies of which have been made available to counsel to Seller, and it is Buyer's policy that such agreements be executed by each new employee, consultant, officer and director of Buyer in the ordinary course of Buyer's business.

3.15 Status of Shares. When issued to Seller at the Closing, the Shares will be duly authorized, validly issued, fully paid and nonassessable, free and clear of any and all liens and encumbrances of any kind, except as may be imposed by Seller.

3.16 No Implied Representations. It is the explicit intent of each party hereto that Buyer is not making any representation or warranty whatsoever, express or implied, except those representations and warranties of Buyer contained in this Agreement or in the Buyer Disclosure Schedule.

ARTICLE IV

CERTAIN COVENANTS

4.1 Conduct of Business of Seller. During the period from the date of this Agreement and continuing until the earlier of the termination of this Agreement and the Closing Date, Seller agrees (except to the extent that Buyer shall otherwise consent in writing), to carry on the Business in the usual, regular and ordinary course in substantially the same manner as heretofore conducted, including sales of products in a manner and on terms consistent with past practices, to pay or perform other obligations when due, and use all reasonable efforts consistent with past practice and policies to preserve intact the Business, keep available the services of its present officers and key employees and preserve their relationships with customers, suppliers, distributors, licensors, licensees, and others having business dealings with it, all with the goal of preserving unimpaired the Business at the Closing Date. Except as contemplated by this Agreement, Seller shall not, with respect to the Business, without the prior written consent of Buyer (which shall be given, or reasonably withheld, within one business day after receipt of written request therefor) (a) enter into any commitment or transaction not in the ordinary course of business; or (b) enter into any strategic alliance or joint marketing arrangement or agreement.

4.2 Conduct of Business of Buyer. During the period from the date of this Agreement and continuing until the earlier of the termination of this Agreement and the Closing Date, Buyer agrees (except to the extent that Seller shall otherwise consent in writing), to carry on its business in the usual, regular and ordinary course in substantially the same manner as heretofore conducted, to pay or perform other obligations when due, and use all reasonable efforts consistent with past practice and policies to preserve intact its business, keep available the services of its present officers and key employees and preserve their relationships with customers, suppliers, distributors, licensors, licensees, and others having business dealings with it, all with the goal of preserving unimpaired its business at the Closing Date. Except as contemplated by this Agreement, Buyer shall not, without the prior written consent of Seller (which shall be given, or reasonably withheld, within one business day after receipt of written request therefor) (a) enter into any commitment or transaction not in the ordinary course of business; (b) enter into any strategic alliance or joint marketing arrangement or agreement; (c) declare or pay any dividends or make any other distributions (whether in cash, stock or property) in respect of any of its capital stock, or split, combine or reclassify any of its capital stock or issue or authorize the issuance of any other securities in respect of, in lieu of or in substitution for shares of capital stock of Buyer, or repurchase, redeem or otherwise acquire, directly or indirectly, any shares of its capital stock (or options, warrants or other rights exercisable therefor); (d) except for the issuance of shares of capital stock of Buyer upon exercise or conversion of options granted to employees, issue, deliver or sell or authorize or propose the issuance, delivery

or sale of, or purchase or propose the purchase of, any shares of its capital stock or securities convertible into, or subscriptions, rights, warrants or options to acquire, or other agreements or commitments of any character obligating it to issue any such shares or other convertible securities; or (e) cause or permit any amendments to its Certificate of Incorporation or Bylaws.

4.3 No Solicitation. Until the earlier to occur of (i) the Closing Date and (ii) the date of termination of this Agreement pursuant to its terms, as the case may be, Seller will not (nor will Seller permit any of Seller's officers, directors, agents, representatives or affiliates to) directly or indirectly, take any of the following actions with any party other than Buyer and its designees: solicit, encourage, initiate or participate in any negotiations or discussions with respect to, any offer or proposal to acquire all or any portion of the Business. Until the earlier to occur of (i) the Closing Date and (ii) the date of termination of this Agreement pursuant to its terms, as the case may be, and except to the extent the Board of Directors of Buyer believes (after consultation with outside legal counsel) it necessary to comply with its fiduciary duties, Buyer will not (nor will Buyer permit any of Buyer's officers, directors, agents, representatives or affiliates to) directly or indirectly or indirectly take any of the following actions with any party other than Seller and its designees: solicit, encourage, initiate or participate in any negotiation or discussions with respect to, any offer or proposal to acquire all or any portion of the business of Buyer.

4.4 Access to Information. Seller and Buyer shall each afford the other and its accountants, counsel and other representatives, reasonable access during normal business hours during the period prior to the Closing Date to (a) all of its properties, books, contracts, commitments and records, and (b) all other information concerning the business, properties and personnel (subject to restrictions imposed by applicable law) of it as the other may reasonably request (it being understood that access to information concerning Seller shall pertain only to the Business).

4.5 Confidentiality. Each of the parties hereto hereby agrees to keep such information or knowledge obtained in any investigation pursuant to Section 4.4 confidential; provided, however, that the foregoing shall not apply to information or knowledge which (a) a party can demonstrate was already lawfully in its possession prior to the disclosure thereof by the other party, (b) is generally known to the public and did not become so known through any violation of law or this Agreement, (c) became known to the public through no fault of such party, (d) is later lawfully acquired by such party from other sources, (e) is required to be disclosed by order of court or government agency with subpoena powers or (f) which is disclosed in the course of any litigation between any of the parties hereto.

4.6 Expenses. Whether or not the Acquisition is consummated, all fees and expenses incurred in connection with the Acquisition including, without limitation, all legal, accounting, financial advisory, consulting and all other fees and expenses of

third parties ("Third Party Expenses") incurred by a party in connection with the negotiation and effectuation of the terms and conditions of this Agreement and the transactions contemplated hereby, shall be the obligation of the respective party incurring such fees and expenses.

4.7 Public Disclosure. Buyer and Seller shall issue a joint press release with respect to the subject matter of this Agreement.

4.8 Consents. Seller shall use commercially reasonable efforts to obtain all necessary consents, waivers and approvals under any of the contracts of the Business as may be required in connection with the Acquisition so as to transfer to Buyer all rights of Seller thereunder as of the Closing.

4.9 Commercially Reasonable Efforts. Subject to the terms and conditions provided in this Agreement, each of the parties hereto shall use its commercially reasonable efforts to take promptly, or cause to be taken, all actions, and to do promptly, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations; to consummate and make effective the transactions contemplated hereby, to obtain all necessary waivers, consents and approvals and to effect all necessary registrations and filings, and to remove any injunctions or other impediments or delays, legal or otherwise, in order to consummate and make effective the transactions contemplated by this Agreement.

4.10 Notification of Certain Matters. Seller shall give prompt notice to Buyer, and Buyer shall give prompt notice to Seller, of (i) the occurrence or non-occurrence of any event, the occurrence or non-occurrence of which is likely to cause any representation or warranty of Seller or Buyer, respectively, contained in this Agreement to be untrue or inaccurate at or prior to the Closing Date and (ii) any failure of Seller or Buyer, as the case may be, to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it hereunder; provided, however, that subject to Section 4.11, the delivery of any notice pursuant to this Section shall not limit or otherwise affect any remedies available to the party receiving such notice.

4.11 Delivery of Schedules. It is understood that the Seller Disclosure Schedule and the Buyer Disclosure Schedule may not be complete as of the date hereof. Because of this, the parties agree that until 5:00 California time on October 15, 1995, Seller and Buyer shall each be permitted to amend its respective Disclosure Schedule so as to qualify the representations and warranties of such party contained in this Agreement (as each may be so amended, the "Subsequent Seller Disclosure Schedule" and the "Subsequent Buyer Disclosure Schedule", respectively). It is further understood that, to the extent that this Agreement is not terminated pursuant to Section 7.1 (d) or 7.1(e) after delivery of any such Subsequent Disclosure Schedule, the representations and warranties in this Agreement of the party delivering such Subsequent Disclosure

Schedule shall be qualified in their entirety by the modified or supplemented disclosures contained therein.

4.12 Additional Documents and Further Assurances. Each party hereto, at the request of another party hereto, shall execute and deliver such other instruments and do and perform such other acts and things as may be necessary or desirable for effecting completely the consummation of this Agreement and the transactions contemplated hereby.

4.13 Treatment of Employees of the Business. Following the execution and delivery of this Agreement and prior to Closing, the person(s) responsible for the hiring of Buyer's personnel and the person(s) responsible for the hiring of Seller's personnel shall agree upon an employee benefits package (the "Benefits Package") which in their mutual opinion shall be sufficiently enticing to attract and retain a number of existing employees of the Business as new employees of Buyer. The Benefits Package shall credit Seller's employees who become employees of Buyer with all years of service accrued by such employee with Seller or any predecessor of Seller or the Business. Buyer shall offer employment consistent with the terms of the Benefits Package to any of the employees of the Business it shall so choose. Seller will use reasonable commercial efforts to assist Buyer to encourage such employees to become employees of Buyer and to support an orderly and successful transition. Except as may be agreed between Buyer and Seller in accordance with the preparation of the Benefits Package, Buyer shall not be required to assume any obligation of Seller with respect to liabilities relating to such employees, including without limitation, obligations for accrued vacation time, severance arrangements, workers' compensation or any liability for any insurance, medical or other welfare benefits, other than under Buyer's plans. In addition, all welfare or benefit claims relating to the period prior to midnight on the Closing Date shall be the responsibility of Seller. Buyer agrees to have completed all hiring of employees pursuant to this Section 4.13 prior to February 29, 1996.

Seller's employees shall continue to be employees of Seller through the Closing and through the Closing Seller shall continue in force all employee benefits and salaries in place as of the date of this Agreement, subject to such changes as may occur in the ordinary course of Seller's business.

Seller agrees to use its reasonable commercial efforts to support the transition of the Business to Buyer, including without limitation, cooperation between Seller's sales and field service personnel and Buyer's sales and field service personnel to help assure an orderly transition of customer accounts.

4.14 Tax Returns. Seller shall be responsible for and pay when due (i) all of Seller's Taxes attributable to or levied or imposed upon the Assets relating or pertaining to the period (or that portion of any period) ending on or prior to the Closing Date, except for Sales Taxes, if any, which are the responsibility of Buyer pursuant to

Section 1.2(d) hereof, and (ii) all Taxes attributable to, levied or imposed upon, or incurred in connection with the Seller's business operations, other than the Business, following the Closing Date.

4.15 Bulk Sales. Buyer hereby agrees to waive the requirement, if any, that Seller comply with any bulk transfer law which may be applicable to the transactions contemplated by this Agreement; provided, that Seller agrees to indemnify and hold harmless Buyer with respect to any noncompliance with such laws and Buyer's waiver with respect thereto.

4.16 SVRX Licenses.

(a) Following the Closing, Buyer shall administer the collection of all royalties, fees and other amounts due under all SVRX Licenses (as listed in detail under item VI of Schedule 1.1(a) hereof and referred to herein as "SVRX Royalties"). Within 45 days of the end of each fiscal quarter of Buyer, Buyer shall deliver to Seller or Seller's assignee 100% of any SVRX Royalties collected in the immediately preceding quarter. Buyer shall diligently seek to collect all such royalties, funds and other amounts when due (and shall investigate and perform appropriate auditing and enforcement under such licenses at Buyer's cost including auditing two (2) SVRX licensees identified by Seller during each quarter in which SVRX Royalties are collected). In consideration of such activities described in the preceding sentence, Seller shall pay to Buyer within 5 days of receipt of SVRX Royalties from Buyer as set forth in the preceding sentence, an administrative fee equal to 5% of such SVRX Royalties.

(b) Buyer shall not, and shall not have the authority to, amend, modify or waive any right under or assign any SVRX License without the prior written consent of Seller. In addition, at Seller's sole discretion and direction, Buyer shall amend, supplement, modify or waive any rights under, or shall assign any rights to, any SVRX License to the extent so directed in any manner or respect by Seller. In the event that Buyer shall fail to take any such action concerning the SVRX Licenses as required herein, Seller shall be authorized, and hereby is granted, the rights to take any action on Buyer's own behalf. Buyer shall not, and shall have no right to, enter into future licenses or amendments of the SVRX Licenses, except as may be incidentally involved through its rights to sell and license the Assets or the Merged Product (as such term is defined in the proposed Operating Agreement, attached hereto as Exhibit 5.1(c) or future versions thereof of the Merged Product.

(c) Seller further covenants that immediately following the Closing Date neither it, nor any of its officers, directors or employees shall (i) take any material action designed to promote the sale of SVRX products or (ii) provide material compensation to any employee designed and intended to incentivize such employee to promote the sale of SVRX products, except for actions incidental to unrelated business activities of Seller.

4.17 Audited Financials. The parties shall work diligently together to prepare audited financial statements relating to the Business as may be required for Buyer's financial reporting requirements under the federal securities laws. The costs associated with preparation of any required audited financial statements shall be shared equally between Seller and Buyer.

4.18 Development of Merged Product. Following the Closing, Buyer shall diligently and vigorously market, sell and promote the Business. In addition, Buyer shall use its commercially reasonable efforts to complete the Merged Product (as such term is defined in the proposed Operating Agreement) by a date not later than December 31, 1997 to be agreed upon by Buyer and Seller. Buyer shall be entitled to modify the specifications of the Merged Product provided that any modification is previously reviewed by the Architecture Board described in Section 3(e) of the proposed Operating Agreement, and (i) does not impact upon the anticipated migration of Seller's customers to the Merged Product, or (ii) eases the anticipated migration of the Merged Product to the White Box Product (as such term is defined in the proposed Operating Agreement). Notwithstanding the foregoing, without the prior written approval of the Architecture Board, Buyer shall not change the specifications of the Merged Product such that the Merged Product will not include the "NetWare Services" specification set forth on Exhibit A of the proposed Operating Agreement.

4.19 License of Networking Services. Seller and Buyer acknowledge that Eiger contains, and future releases of UnixWare and/or Eiger will continue to contain, substantial networking services which form a part of and are currently sold in conjunction with Seller's product known as NetWare (the NetWare portion of such products to be referred to hereinafter as the "NetWare Portion"). Prior to the Closing Date, Seller and Buyer shall enter into a license agreement with respect to the NetWare Portion, such agreement to be on customary terms to be negotiated in good faith by Seller and Buyer.

ARTICLE V

CONDITIONS TO THE ACQUISITION

5.1 Conditions to Obligations of Each Party to Effect the Acquisition. The respective obligations of each party to this Agreement to effect the Acquisition shall be subject to the satisfaction at or prior to the Closing Date of the following conditions:

(a) No Injunctions or Restraints: Illegality. No temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or other legal restraint or prohibition preventing the consummation of the Acquisition shall be in effect, nor shall any proceeding brought by an administrative agency or commission or other governmental authority or instrumentality, domestic or foreign, seeking any of the foregoing be pending, nor shall

there be any action taken, or any statute, rule, regulation or order enacted, entered, enforced or deemed applicable to the Acquisition, which makes the consummation of the Acquisition illegal.

(b) The waiting period under the Hart-Scott-Rodino Antitrust Improvement Act shall have expired.

(c) The parties shall have entered into a mutually satisfactory Operating Agreement. Because certain terms contained herein are defined in the proposed Operating Agreement, a non-binding form of the proposed Operating Agreement is attached hereto as of the date hereof for definitional purposes only; notwithstanding the foregoing, Seller and Buyer have agreed upon the terms of Exhibit A and Exhibit B of the proposed Operating Agreement and the terms set forth in Exhibit 5.1(c) regarding Eiger development, and will accordingly be bound thereby.

5.2 Additional Conditions to Obligations of Seller. The obligations of Seller to consummate and effect this Agreement and the transactions contemplated hereby shall be subject to the satisfaction at or prior to the Closing Date of each of the following conditions, any of which may be waived, in writing, exclusively by Seller:

(a) Representations, Warranties and Covenants. The representations and warranties of Buyer in this Agreement (as may be modified by the Subsequent Buyer Disclosure Schedule) shall be true and correct in all material respects on and as of the Closing Date as though such representations and warranties were made on and as of such time, and Buyer shall have performed and complied with all covenants, obligations and conditions of this Agreement required to be performed and complied with by it in all material respects as of the Closing Date.

(b) Certificate of Buyer. Seller shall have been provided with a certificate duly executed on behalf of Buyer to the effect that, as of the Closing Date:

(i) all representations and warranties made by Buyer in this Agreement are true and complete in all material respects;

(ii) all covenants, obligations and conditions of this Agreement to be performed by Buyer on or before such date have been so performed in all material respects; and

(iii) there are no pending negotiations with respect to any offer to acquire all or any portion of the business of Buyer.

(c) Legal Opinion. Seller shall have received a legal opinion from legal counsel to Buyer, in form and substance reasonably satisfactory to Seller, relating to due authority, execution, validity and similar matters.

(d) No Material Adverse Change. There shall not have occurred any material adverse change in the Business Condition of Buyer between the date of this Agreement and the Closing Date.

5.3 Additional Conditions to the Obligations of Buyer. The obligations of Buyer to consummate and effect this Agreement and the transactions contemplated hereby shall be subject to the satisfaction at or prior to the Closing Date of each of the following conditions, any of which may be waived, in writing, exclusively by Buyer:

(a) Representations, Warranties and Covenants. The representations and warranties of Seller in this Agreement (as may be modified by the Subsequent Seller Disclosure Schedule) shall be true and correct in all material respects on and as of the Closing Date as though such representations and warranties were made on and as of such time and Seller shall have performed and complied with all covenants, obligations and conditions of this Agreement required to be performed and complied with by it as of the Closing Date in all material respects.

(b) Certificate of Seller. Buyer shall have been provided with a certificate executed on behalf of Seller by its Chief Executive Officer to the effect that, as of the Closing Date:

(i) all representations and warranties made by Seller in this Agreement are true and complete in all material respects; and

(ii) all covenants, obligations and conditions of this Agreement to be performed by Seller on or before such date have been so performed in all material respects.

(c) Legal Opinion. Buyer shall have received a legal opinion from legal counsel to Seller, in form and substance reasonably satisfactory to Buyer, relating to due authority, execution, validity and similar matters.

(d) No Material Adverse Changes. There shall not have occurred any material adverse change in the Business Condition of the Business between the date of this Agreement and the Closing Date.

ARTICLE VI

CERTAIN CORPORATE GOVERNANCE MATTERS

6.1 Nomination of Director to Buyer's Board of Directors. As of the Closing and thereafter until such time as Seller together with its affiliates shall cease to own more than 5% of the outstanding shares of Common Stock of Buyer (the "Threshold

Date") and except as set forth further below, Buyer shall cause one individual designated by Seller (the "Seller Designee") to be nominated for election to the Board of Directors of Buyer, which Seller Designee shall be a Senior Executive Officer or outside board member of Seller and reasonably acceptable to Buyer. In the event that the Seller Designee shall be elected as a director of Buyer, but shall cease to serve as a director of Buyer prior to the Threshold Date, Seller shall have the right to designate another individual to fill the vacancy created by such cessation in order to serve as a member of the Board of Directors of Buyer. The right to nomination for election to Buyer's Board of Directors as set forth in this Section 6.1 shall terminate in the event that Seller's core products become directly competitive with Buyer.

6.2 Right to Maintain.

(a) Until the earlier to occur of (i) Threshold Date; (ii) Seller's core products becoming competitive with Buyer's core products or (iii) the expiration of three years from the date of this Agreement, in the event (including a public offering), Buyer desires to sell and issue shares of its capital stock or rights, options or other securities exercisable for or convertible into shares of its capital stock (directly or indirectly) and whether or not such right or option is immediately exercisable or convertible, then Buyer shall first notify Seller of the material terms of the proposed sale and shall permit Seller to acquire, at the time of consummation such proposed issuance and sale and on such terms as are specified in Buyer's notice to Seller, such number of the shares of capital stock or other securities of Buyer proposed to be issued as would be required to enable Seller to maintain its voting and ownership rights in Buyer following such issuance, on a percentage basis, at a level maintained by it immediately prior to such proposed issuance. Seller shall have ten (10) days after the date of any such notice to elect by notice to Buyer to purchase such shares or securities on such terms and at the time the proposed sale is consummated.

(b) The rights set forth in Section 6.2(a) shall not apply to (i) the issuance of shares or grant of options to purchase shares of Common Stock under Buyer's employee stock purchase and stock option plans, net of repurchases or cancellations and (ii) bona fide business acquisitions.

6.3 Right of First Refusal on Change of Control.

(a) First Refusal Right.

(i) Until the earlier of (i) Threshold Date and (ii) three (3) years from the Closing Date, in the event Buyer's Board of Directors has approved an intention to merge with, sell shares representing 50% or more of the voting power of Buyer to, or sell all or substantially all of Buyer's assets to any of the six (6) parties identified by Seller in Schedule 6.3(a) hereof, Buyer shall deliver a notice (an "Acquisition Notice") to Seller, which Acquisition Notice shall be kept confidential by

Seller, setting forth the proposed material terms of the merger, sale or acquisition, including the structure and price terms of the merger, sale or acquisition, the name and address of the party proposed to acquire or merge with Buyer and the date on or about which such sale or merger is proposed to be made (the date of such an Acquisition Notice being an "Acquisition Notice Date"). Seller shall have the right of first refusal to acquire or merge with Buyer on the terms set forth in the Acquisition Notice (subject to the valuation provisions of Section 6.3(b) below), as provided in this Section. If the terms in the Acquisition Notice contemplate a tax-free reorganization then Seller's right of first refusal may only be exercised if Seller proposes a tax-free reorganization.

(ii) Seller shall have until ten (10) days after the later of (i) receipt of an Acquisition Notice and (ii) the date Seller receives notice of the completion of the appraisal of any items included as part of the proposed consideration specified in the Acquisition Notice that are subject to valuation pursuant to Section 6.3(b), to elect by notice to Buyer to acquire or merge with Buyer on the terms set forth in the Acquisition Notice. If Seller notifies the Buyer within such time period of its election to so acquire or merge with Buyer, a closing with respect to such acquisition or merger shall be held at the principal office of Buyer (or at such other place as may be agreed upon by Buyer and Seller) on a date and at a time which are mutually agreeable to Buyer and Seller, but in no event later than the later to occur of (i) forty-five (45) days after receipt by Buyer of such notice of Seller's election and (ii) five (5) days after the receipt of any governmental consent or approval necessary for the consummation of such transaction, including, but not limited to, any such approval or consent required under the ERM Act.

(iii) In the event Seller elects not to exercise the foregoing right of first refusal, Buyer shall have six (6) months to sell Buyer on the same material terms as are set forth in the Acquisition Notice. If Buyer proposes to sell to or merge with one of the identified parties on terms more favorable to such party than those set forth in the notice, or proposes to sell to or merge with one of the identified parties after the six (6) month period, it shall first notify Seller and Seller shall have another opportunity to exercise its right of first refusal.

(b) Appraisal Procedure.

(i) Whenever the terms of a proposed sale or merger include forms of consideration other than cash or securities which are traded on a National Exchange (as defined below), Seller shall have the option to exercise its first refusal right under this section by paying the "Appraised Value" in cash of such proposed non-cash consideration. "Appraised Value" shall mean the fair saleable value of such non-cash consideration as of the Acquisition Notice Date, and shall be determined in the manner set forth in clause (ii) below. If an item of consideration constitutes securities which are traded on a National Exchange (as defined below), the value of such items shall be the average of the closing prices of such securities on such exchange during

(with reference to the principal trading market if such securities are traded on more than one National Exchange) each day within the fifteen (15) trading days on such National Exchange prior to the applicable Acquisition Notice Date. If the terms of the proposed sale or merger include securities which are traded on a National Exchange in a tax free reorganization, then Seller's right granted under this Section 6.3 may only be exercised by Seller paying in its own securities where the value is determined on the same basis as set forth in this Section 6.3(b)(ii). If the transaction specified in the Acquisition Notice is a taxable transaction and the form of consideration is in securities traded on a National Exchange, then Seller shall have the option of paying in cash in its own securities where the value is determined on the same basis as set forth in this Section 6.3(b)(ii).

For purposes of this provision, "National Exchange" means the New York Stock Exchange, the American Stock Exchange, the Midwest Stock Exchange, the Pacific Stock Exchange or the National Market System of the National Association of Securities Dealers, Inc.

(ii) The determination of "Appraised Value" shall be made by an investment banking firm or other qualified consultant of nationally recognized standing, in accordance with this provision. Buyer and Seller shall endeavor to mutually agree upon the investment banking firm or other qualified consultant to undertake such determination. In the event Buyer and Seller fail to so agree within five (5) business days after the Acquisition Notice Date, within two (2) business days after such failure each of Buyer and Seller shall choose one such investment banking firm or other qualified consultant and within five (5) business days after such failure, the respective chosen firms shall be required to choose a third such investment banking firm or other qualified consultant to make such determination of the Appraised Value; and the determination of such third investment banking firm or other qualified consultant of the Appraised Value shall be binding. The investment banking firm or other qualified consultant selected pursuant hereto to make the determination of the Appraised Value shall be required to make such determination within twenty (20) business days after its selection. Buyer shall pay all costs and fees of up to the three such investment banking firms or other qualified consultants, and shall cooperate fully with the investment banking firm or other qualified consultant selected to make such determination by promptly providing such information as is requested by such firm.

(c) Expansion of Seller's Rights Relating to the Licensed Technology upon a Change of Control. Until two (2) years from the Closing Date, in the event Buyer has merged with, sold shares representing 50% or more of the voting power of Buyer to, sold all or substantially all of Buyer's assets to, or engaged voluntarily in any other change of control transaction with, any party identified by Seller on Schedule 6.3(a) hereof, or in the event any party identified by Seller on Schedule 6.3(a) hereof, shall acquire shares representing 50% or more of the voting power of Buyer,

Seller shall automatically have unlimited, royalty-free, perpetual rights to the Licensed Technology.

6.4 Registration Rights.

(a) Seller Demand Rights.

(i) Request for Registration. In case at any time from and after the Closing Buyer shall receive from Seller a written request that Buyer effect any registration with respect to all or a part of the Shares (or any securities issued or issuable in respect of the Shares; collectively, the "Registrable Securities"), provided that the number of Shares (or other securities) designated by Seller to be included in such registration would result in an anticipated aggregate offering price of at least \$5,000,000, Buyer will as soon as practicable, use its reasonable commercial efforts to effect such registration (including, without limitation, the execution of an undertaking to file pre-effective and post-effective amendments and supplements, appropriate qualification under the applicable blue sky or other state securities laws and appropriate compliance with exemptive regulations issued under the Securities Act and any other governmental requirements or regulations) as may be so requested and as would permit or facilitate the sale and distribution of all or such portion of Registrable Securities as are specified in such request; provided, that Buyer shall not be obligated to take any action to effect any such registration after Buyer has effected two registrations pursuant to a request by Seller hereunder. A registration proceeding pursuant to this section which is subsequently withdrawn prior to effectiveness of a registration statement under the Securities Act shall not be considered an effected registration, qualification or compliance for purposes of the two demand registrations to which Seller is entitled.

Subject to the foregoing, Buyer shall file a registration statement covering the Registrable Securities so requested or otherwise elected to be registered as soon as practicable, but in any event within sixty (60) days, after receipt of the request of Seller, provided that Buyer shall have the right to defer such registration for a period of up to ninety (90) days following the receipt of such a request if in the opinion of the Board of Directors of Buyer, it would be seriously detrimental to Buyer for a registration statement to be filed.

(ii) Underwriting. If Seller intends to distribute the Registrable Securities covered by its request by means of an underwriting, it shall so advise Buyer as a part of its request made pursuant to Section 6.4(a)(i). Buyer shall enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such underwriting by Seller, which underwriter or underwriters shall be reasonably acceptable to Buyer.

(b) Company Registration.

(i) Notice of Registration. If at any time or from time to time after the Closing Buyer shall determine to register any of its securities for its own account (other than a registration relating solely to employee stock option or purchase plans or relating solely to a Rule 145 transaction), Buyer will:

(A) promptly give to Seller written notice thereof (which shall include a list of the jurisdictions in which Buyer intends to attempt to qualify such securities under the applicable blue sky or other state securities laws); and

(B) include in such registration (and any related qualification under blue sky laws or other compliance), and in any underwriting involved therein, all the Registrable Securities specified in a written request or requests, made within thirty (30) days after the date of such written notice from Buyer to Seller, except as set forth in Section 6.4(b)(ii).

(ii) Underwriting. If the registration of which Buyer gives notice is for a registered public offering involving an underwriting, Buyer shall so advise Seller as a part of the written notice given pursuant to Section 6.4(b)(i)(A). In such event the right of Seller to registration pursuant to Section 6.4(b) shall be conditioned upon Seller's participation in such underwriting and the inclusion of Seller's Registrable Securities in the underwriting to the extent provided herein. If Seller proposes to distribute its securities through such underwriting it shall (together with Buyer and other holders distributing their securities through such underwriting) enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such underwriting by Buyer. Notwithstanding any other provision of this Section, if the managing underwriter determines that marketing factors require a limitation of the number of shares to be underwritten, the underwriter may limit the number of Registrable Securities to be included in the registration and underwriting but in no event shall (i) the amount of Registrable Securities of Seller included in the offering be reduced below twenty-five percent (25%) of the total amount of securities included in such offering or (ii) notwithstanding (i) above, any shares being sold by a shareholder exercising a demand registration right similar to that granted in Section 6.4(a) and granted by Buyer prior to the date of this Agreement be excluded from such offering, and in such situation Seller's shares may be completely excluded from registration. Buyer shall advise Seller of any such limitations, and the number of Registrable Securities that may be included in the registration. If Seller disapproves of the terms of any such underwriting, it may elect to withdraw therefrom by written notice to Buyer and the underwriter. Any Registrable Securities excluded or withdrawn from such underwriting shall not be included in such registration.

(iii) Notwithstanding anything to the contrary in this Section 6.4(b), Buyer shall not be obligated to effect any registration of securities under this Section 6.4(b) pursuant to a registration statement covering any of its securities to be issued in connection with mergers, acquisitions, exchange offers, dividend reinvestment plans or stock option or other employee benefit plans.

(c) Expenses of Registration.

(i) Subject to Sections 6.4(c)(ii) and 6.4(c)(iii), all expenses incurred in connection with any registration pursuant to Section 6.4(a) or 6.4(b), including, without limitation, all registration, filing and qualification fees, printing expenses, fees and disbursements of counsel for Buyer, expenses of complying with state securities or Blue Sky laws (including fees of counsel for Buyer and counsel for the underwriters), accountants' fees and expenses incident to or required by any such registration, expenses incident to the listing of securities on any exchange in which the Registrable Securities are to be listed, expenses of any special audits incidental to or required by such registration.

(ii) Buyer shall not be required to pay for expenses of any registration proceeding begun pursuant to Section 6.4(a), the request of which has been subsequently withdrawn by Seller, in which case, such expenses shall be borne by Seller; provided that Seller shall not be required to pay (a) for the cost of normal salaries of Buyer that would have been performed in any event, and (b) for the time of any executives or other personnel of Buyer involved in the preparation of the registration statement; and provided further, however, that if at the time of such withdrawal, Seller shall have learned of a material adverse change in the Business Condition of Buyer from that known to Seller at the time of its request, then Seller shall not be required to pay any of such expenses.

(iii) Notwithstanding anything to the contrary elsewhere in this Section 6.4(c), all underwriters' discounts, commissions, or applicable stock transfer and documentary stamp taxes (if any) relating to the sale of Registrable Securities shall be borne by the seller of the Registrable Securities in all cases.

(d) Registration Procedures.

(i) In the case of each registration effected by Buyer pursuant to Section 6.4, Buyer will keep Seller advised in writing as to the initiation of each registration and as to the completion thereof. At its expense (except as otherwise provided in Section 6.4(c) above) Buyer will:

(A) keep such registration effective for a period of six months or until Seller has completed the distribution described in the registration statement relating thereto, whichever first occurs;

(B) furnish such number of prospectuses and other documents incident thereto as Seller from time to time may reasonably request; and

(C) notify Seller, (1) when a prospectus or any prospectus supplement or post-effective amendment has been filed, and, with respect to the registration statement or any post-effective amendment, when the same has become effective; (2) of any request by the SEC or any other federal or state governmental authority during the period of effectiveness of the registration statement for amendments or supplements to the registration statement or related prospectus or for additional information relating to the registration statement, (3) of the issuance by the SEC or any other federal or state governmental authority of any stop order suspending the effectiveness of the registration statement or the initiation of any proceedings for that purpose, (4) of the receipt by Buyer of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Registrable Securities for sale in any jurisdiction or the initiation of any proceeding for such purpose; or (5) of the happening of any event which makes any statement made in the registration statement or related prospectus or any document incorporated or deemed to be incorporated therein by reference untrue in any material respect or which requires the making of any changes in the registration statement or prospectus so that, in the case of the registration statement, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, and that in the case of the prospectus, it will not contain any untrue statement of a material fact or omit to state any material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(e) Buyer may, upon the happening of any event (x) of the kind described in clauses (2), (3), (4), or (5) of Section 6.4(d)(1)(C) or (y) that, in the judgment of Buyer's Board of Directors, renders it advisable to suspend use of the prospectus due to pending corporate developments, public filings with the SEC or similar events, suspend use of the prospectus on written notice to Seller, in which case Seller shall discontinue disposition of Registrable Securities covered by the registration statement or prospectus until copies of a supplemented or amended prospectus are distributed to Seller or until Seller is advised in writing by Buyer that the use of the applicable prospectus may be resumed. Buyer shall use its reasonable efforts to ensure that the use of the prospectus may be resumed as soon as practicable. Buyer shall use every reasonable effort to obtain the withdrawal of any order suspending the effectiveness of the registration statement, or the lifting of any suspension of the qualification (or exemption from qualification) of any of the securities for sale in any jurisdiction, at the earliest practicable moment. Buyer shall prepare as soon as practicable a supplement or post-effective amendment to the registration statement or a supplement to the related prospectus or any document incorporated therein by reference or file any other required document so that, as thereafter delivered to the purchasers of the Registrable Securities being sold thereunder, such prospectus will not contain an

untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

(f) Indemnification.

(i) Buyer will indemnify and hold harmless Seller, each of its officers and directors, and each person controlling Seller, with respect to which a registration has been effected pursuant to this Section 6.4 and each underwriter, if any, and each person who controls any underwriter of the Registrable Securities held by or issuable to Seller, against all claims, losses, damages, costs, expenses and liabilities whatsoever (or actions in respect thereof) arising out of or based on any untrue statement (or alleged untrue statement) of a material fact contained in any registration statement, preliminary or final prospectus contained therein or any amendment or supplement thereto, or based on any omission (or alleged omission) to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, or any violation by Buyer of the Securities Act or any state securities law or of any rule or regulation promulgated under the Securities Act or any state securities law applicable to Buyer and relating to action or inaction required of Buyer in connection with any such registration, and will reimburse Seller, each of its officers and directors, and each person controlling Seller, each such underwriter and each person who controls any such underwriter, for any legal and any other expenses as reasonably incurred in connection with investigating or defending any such claim, loss, damage, cost, expense, liability or action, provided that Buyer will not be liable in any such case to the extent that any such claim, loss, damage, cost, expense, or liability arises out of or is based on any untrue statement or omission based upon written information furnished to Buyer by an instrument duly executed by Seller or any underwriter and stated to be specifically for use therein.

(ii) Seller will, if Registrable Securities held by or issuable to Seller are included in the securities as to which such registration is being effected, indemnify and hold harmless Buyer, each of its directors and officers who sign such registration statement, each underwriter, if any, of Buyer's securities covered by such registration statement, each person who controls Buyer within the meaning of the Securities Act against all claims, losses, damages, costs, expenses and liabilities whatsoever (or actions in respect thereof) arising out of or based on any untrue statement of a material fact contained in any such registration statement, preliminary or final prospectus contained therein or any amendment or supplement thereto, incident to any such registration, or based on any omission (or alleged omission) to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, or any violation by Seller of the Securities Act or of state securities laws or any rule or regulation promulgated under the Securities Act or any state securities law applicable to Seller and relating to action or inaction required of Seller in connection with any such registration and will reimburse Buyer, such directors, officers, persons or

underwriters for any legal or any other expenses as reasonably incurred in connection with investigating or defending any such claim, loss, damage, cost, expense, liability or action, in each case to the extent, but only to the extent, that such untrue statement or omission is made in such registration statement, prospectus, in reliance upon and in conformity with written information furnished to Buyer by an instrument duly executed by Seller and stated to be specifically for use therein; provided, however, that the foregoing indemnity agreement is subject to the condition that, insofar as it relates to any such untrue statement or omission made in the preliminary prospectus but eliminated or remedied in the amended prospectus on file with the SEC at the time the registration statement becomes effective or the amended prospectus filed with the SEC pursuant to Rule 424(b) (the "Final Prospectus"), such indemnity agreement shall not inure to the benefit of Buyer, any underwriter or any Holder, if there is no underwriter, if a copy of the Final Prospectus was not furnished to the person or entity asserting the loss, liability, claim or damage at or prior to the time such action is required by the Securities Act.

(iii) Each party entitled to indemnification under this Section 6.4(e) (the "Indemnified Party") shall give notice to the party required to provide indemnification (the "Indemnifying Party") promptly after such Indemnified Party has actual knowledge of any claim as to which indemnity may be sought, and shall permit the Indemnifying Party to assume the defense of any such claim or any litigation resulting therefrom, provided that counsel for the Indemnifying Party, who shall conduct the defense of such claim or litigation, shall be approved by the Indemnified Party (whose approval shall not unreasonably be withheld), and the Indemnified Party may participate in such defense at such party's expense. No Indemnifying Party, in the defense of any such claim or litigation, shall, except with the consent of each Indemnified Party, consent to entry of any judgment or enter into any settlement which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Party of a release from all liability in respect to such claim or litigation. If any such Indemnified Party shall have been advised by counsel chosen by it that there may be one or more legal defenses available to such Indemnified Party which are different from or additional to those available to the Indemnifying Party, the Indemnifying Party shall not have the right to assume the defense of such action on behalf of such Indemnified Party and will promptly reimburse such Indemnified Party and any person controlling such Indemnified Party for the reasonable fees and expenses of any counsel retained by the Indemnified Party, it being understood that the Indemnifying Party shall not, in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances, be liable for the reasonable fees and expenses of more than one separate firm of attorneys for such Indemnified Party or controlling person, which firm shall be designated in writing by the Indemnified Party to the Indemnifying Party.

(g) Contribution. If the indemnification provided for in Section 6.4(e) is unavailable or insufficient to hold harmless an Indemnified Party thereunder, then each Indemnifying Party thereunder shall contribute to the amount paid

or payable by such Indemnified Party as a result of the losses, claims, damages, costs, expenses, liabilities or actions referred to in Section 6.4(e)(i) or (ii), as the case may be in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party on the one hand and the Indemnified Party on the other in connection with statements or omissions which resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Indemnifying Party or the Indemnified Party and the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent such untrue statements or omission. The Parties hereto agree that it would not be just and equitable if contributions pursuant to this Section 6.4(f) were to be determined by pro rata or per capita allocation or by any other method of allocation which does not take account of the equitable considerations referred to in the first sentence of this Section 6.4(f). The amount paid by an Indemnified Party as a result of the losses, claims, damages or liabilities referred to in the first sentence of this Section 6.4(f) shall be deemed to include any legal or other expenses reasonably incurred by such Indemnified Party in connection with investigating or defending any action or claim which is the subject of this Section 6.4(f). Promptly after receipt by an Indemnified Party of notice of the commencement of any action against such party in respect of which a claim for contribution may be made against an Indemnifying Party under this Section 6.4(f), such Indemnified Party shall notify the Indemnifying Party in writing of the commencement thereof if the notice specified in Section 6.4(e)(iii) has not been given with respect to such action; provided that the omission so to notify the Indemnifying Party shall not relieve the Indemnifying Party from any liability which it may have to any Indemnified Party otherwise under this Section 6.4(f), except to the extent that the Indemnifying Party is actually prejudiced by such failure to give notice. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

(h) Information by Holder. Seller shall furnish to Buyer such information regarding Seller and the distribution proposed by Seller as Buyer may reasonably request in writing and as shall be required in connection with any registration referred to in this Section 6.4.

(i) Rule 144 Reporting. With a view to making available to Seller the benefits of certain rules and regulations of SEC which may permit the sale of Registrable Securities to the public without registration, Buyer agrees to:

(i) make and keep public information available, as those terms are understood and defined in Rule 144 under the Securities Act, at all times after ninety (90) days after the effective date of the first registration filed by Buyer which involves a sale of securities of Buyer to the general public;

(ii) file with the SEC in a timely manner all reports and other documents required of Buyer under the Securities Act and the Exchange Act; and

(iii) furnish to Seller so long as it owns any Registrable Securities forthwith upon request a written statement by Buyer that it has complied with the reporting requirements of said Rule 144 (at any time after ninety (90) days after the effective date of said first registration statement filed by Buyer), and of the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements), a copy of the most recent annual or quarterly report of Buyer, and such other reports and documents so filed by Buyer as may be reasonably requested in availing Seller of any rule or regulation of the SEC permitting the selling of any such securities without registration.

(j) Transfer of Registration Rights. Any registration rights granted by Buyer under this Section 6.4 may be assigned by Seller in connection with the sale by Seller of any Registrable Securities, to a transferee or assignee, who, after such assignment or transfer, holds at least 500,000 shares or all remaining shares of Buyer held prior thereto by Seller, and following such assignment, the assignee shall be entitled to all rights of Seller under this Section 6.4, provided that such assignee agrees in writing to be bound to the obligations of Seller under this Section 6.4.

(k) Termination of Registration Rights. All registration rights provided hereunder shall terminate upon the earlier to occur of (a) the tenth anniversary of the Closing and (b) such time as Seller is able to sell all of its Registrable Securities under Rule 144 during any two successive, three-month periods.

(l) Future Grants of Registration Rights. Buyer agrees for the benefit of Seller that it will not grant registration rights with respect to any of its securities upon terms more favorable to the holders of such securities than those contained herein.

6.5 Standstill Agreement.

(a) Standstill. Notwithstanding any other provision of this Agreement, subject to the exceptions set forth in Section 6.5(b), without the approval of the Board of Directors of Buyer (whether by written consent of the directors or pursuant to a resolution duly adopted by the directors at a meeting of the Board of Directors), Seller (which shall include any affiliate of Seller for purposes of this Section 6.5) shall not, after the Closing Date, acquire "beneficial ownership" (which, for purposes of this Section 6.5, shall have the meaning set forth in Rule 13d-3 of the Exchange Act) of any securities of Buyer entitled to vote with respect to the election of any directors of Buyer ("Voting Securities"), any security convertible into, exchangeable for, or exercisable for, or that may become any Voting Securities or any other right to acquire Voting Securities

(such Voting Securities and rights to acquire Voting Securities are collectively referred to herein as "Securities").

(b) Exceptions to Standstill Provision.

(i) Seller may acquire Securities without regard to the limitations set forth in Section 6.5(a) in accordance with the provisions of Section 6.2 or Section 6.3 hereof; and

(ii) Seller may, after written notice to Buyer, acquire Securities without regard to the limitations set forth in this Section 6.5 if a bona fide tender or exchange offer is made by any person or 13D Group to acquire Securities that, if added to the Securities (if any) already owned by such person or 13D Group, would represent ownership of Securities greater than fifty percent (50%) of Buyer's then outstanding Securities; provided, however, that Seller shall only be permitted to take such actions and make such offers as may be considered to be of the same nature and type of action or offer and directed to the same person or persons and within the same time period and for the same resulting amount of Securities as that which is being taken by such person or 13D Group; and provided further, that Seller may only acquire that amount of Securities that, when added to the amount of Securities already owned by Seller, shall not exceed the amount of Securities acquired or to be acquired (assuming any offers to purchase have been consummated) by such person or 13D Group. In proceeding with any action or offer permitted under this subsection 6.5(b)(ii), Seller shall be permitted to offer more favorable terms than those terms offered by such person or 13D Group, so long as such terms are substantially consistent with an offer of the same nature and type of consideration as that which is being proposed by such person or 13D Group.

(c) Notice of Securities Purchases and Sales. Seller shall advise Buyer as to its plans to acquire or dispose of beneficial ownership of Securities, or rights thereto, reasonably in advance of any such action.

(d) Acts in Concert with Others. Seller shall not join a partnership, limited partnership, syndicate or other group, or otherwise act in concert with any third person, for the purpose of acquiring, holding, voting or disposing of Securities, or rights thereto.

(e) Restrictions on Transfer of Securities. Seller shall not dispose of beneficial ownership or voting control of Securities or any right thereto, except: (i) in accordance with the provisions of Section 6.7 hereof; (ii) to Buyer or any person or group approved by Buyer; (iii) pursuant to a bona fide public offering registered under the Securities Act (in which Seller does not have the ability to select the purchasers), including any offering pursuant to the registration rights granted in Section 6.4 hereof; (iv) pursuant to Rule 144 under the Securities Act; (v) in transactions not

described in (i), (ii), (iii) or (iv) hereof so long as such transactions do not, directly or indirectly, result in any person or group owning or having the right to acquire beneficial ownership of Securities with aggregate voting power of five percent (5%) or more of the aggregate voting power of all outstanding Securities (assuming the conversion, exchange and/or exercise of all convertible, exchangeable and exercisable securities); or (v) in response to an offer to purchase or exchange for cash or other consideration any Securities that (a) is made by or on behalf of Buyer, or (b) is made by another person or group to all holders of Securities and is not opposed by the Board of Directors of Buyer within the time such Board is required, pursuant to regulations under the Exchange Act, to advise Company shareholders of such Board's position on such offer.

6.6 Buyer's Right of First Refusal

(a) First Refusal Right

(i) In the event Seller proposes to sell any Securities, other than in a transaction described in Sections 6.5(e)(ii)-(v), Seller shall deliver a written notice to Buyer setting forth the terms of the proposed sale, including the name of the proposed purchaser and the date on or about which such sale is proposed to be completed. Buyer shall have the right of first refusal to acquire such Securities on the terms set forth in such notice (subject to the valuation provisions of Section 6.7(b) below), as provided in this Section.

(ii) Buyer shall have until twenty (20) days after the receipt of such a notice to elect by notice to Seller to acquire all or any portion of such Securities proposed to be sold by Seller on the terms set forth in such notice. If Buyer notifies Seller within such time period of its election to acquire any of such Securities, a closing with respect to such acquisition shall be held at the principal office of Buyer (or at such other place as may be agreed upon by Buyer and Seller) on a date and at a time which are mutually agreeable to Buyer and Seller, but in no event later than ten (10) days after receipt by Seller of such notice of Buyer's election.

(iii) In the event Buyer elects not to exercise the foregoing right of first refusal, Seller shall have ninety (90) days to sell such Securities on the same terms as are set forth in such notice. If Seller proposes to sell such Securities on terms different than those set forth in the notice, or proposes to sell such Securities after the ninety (90) day period, Seller shall first notify Buyer of such proposed sale, and Seller shall have another opportunity to exercise its right of first refusal under this Section.

(b) Appraisal Procedure

(i) Whenever the terms of a proposed sale of Securities include forms of consideration other than cash or securities which are traded on a National Exchange (as defined below), Seller shall have the option to exercise its first

refusal right under this section by paying the "Appraised Value" in cash of such proposed non-cash consideration. "Appraised Value" shall mean the fair saleable value of such non-cash consideration as of the date of the notice delivered pursuant to Section 6.7(a)(i) (the "First Offer Notice Date"), and shall be determined in the manner set forth in Section 6.7(b)(ii) below. If an item of consideration constitutes securities which are traded on a National Exchange (as defined below), the value of such items shall be the average of the closing prices of such securities on such exchange during (with reference to the principal trading market if such securities are traded on more than one National Exchange) each day within the fifteen (15) trading days on such National Exchange prior to the First Offer Notice Date.

For purposes of this provision, "National Exchange" means the New York Stock Exchange, the American Stock Exchange, the Midwest Stock Exchange, the Pacific Stock Exchange or the National Market System of the National Association of Securities Dealers, Inc.

(ii) The determination of "Appraised Value" shall be made by an investment banking firm or other qualified consultant of nationally recognized standing, in accordance with this provision. Buyer and Seller shall endeavor to mutually agree upon the investment banking firm or other qualified consultant to undertake such determination. In the event Buyer and Seller fail to so agree within five (5) business days after the First Offer Notice Date, within two (2) business days after such failure each of Buyer and Seller shall choose one such investment banking firm or other qualified consultant and within five (5) business days after such failure, the respective chosen firms shall be required to choose a third such investment banking firm or other qualified consultant to make such determination of the Appraised Value; and the determination of such third investment banking firm or other qualified consultant of the Appraised Value shall be binding. The investment banking firm or other qualified consultant selected pursuant hereto to make the determination of the Appraised Value shall be required to make such determination within twenty (20) business days after its selection. Buyer shall pay all costs and fees of up to the three such investment banking firms or other qualified consultants, and shall cooperate fully with the investment banking firm or other qualified consultant selected to make such determination by promptly providing such information as is requested by such firm.

(c) Change of Control. For purposes of this Agreement, a "Change of Control" with respect to one party shall be deemed to have occurred whenever (i) there shall be consummated (1) any consolidation or merger of such party in which such party is not the continuing or surviving corporation, or pursuant to which shares of such party's common stock would be converted in whole or in part into cash, other securities or other property, other than a merger of such person in which the holders of such party's common stock immediately prior to the merger have substantially the same proportionate ownership of common stock of the surviving corporation immediately after the merger, or (2) any sale, lease, exchange or transfer (in one

transaction or a series of related transactions) of all or substantially all the assets of such party, or (ii) the stockholders of such party shall approve any plan or proposal for the liquidation or dissolution of such party, or (iii) any party, other than such party or a subsidiary thereof or any employee benefit plan sponsored by such party or a subsidiary thereof or a corporation owned, directly or indirectly, by the stockholders of such party in substantially the same proportions as their ownership of stock of such party, shall become the beneficial owner of securities of such party representing greater than fifty percent (50%) of the combined voting power of then outstanding securities ordinarily (and apart from rights accruing in special circumstances) having the right to vote in the election of directors, as a result of a tender or exchange offer, open market purchases, privately negotiated purchases or otherwise, or (iv) at any time after the date of this Agreement, individuals who at the date hereof constituted the Board of Directors of such party shall cease for any reason to constitute at least a majority thereof, unless the election or the nomination for election by such party's stockholders of each new director was approved by a vote of at least two-thirds of the directors then still in office who were directors at the date hereof, or (v) any other event shall occur with respect to such party that would be required to be reported in response to Item 6(e) (or any successor provision) of Schedule 14A of Regulation 14A promulgated under the Exchange Act.

ARTICLE VII

TERMINATION, AMENDMENT AND WAIVER

7.1 Termination Except as provided in Section 7.2 below, this Agreement may be terminated and the Acquisition abandoned at any time prior to the Closing Date:

- (a) by mutual consent of Seller and Buyer;
- (b) by Buyer or Seller if: (i) the Closing has not occurred by February 29, 1996; (ii) there shall be a final nonappealable order of a federal or state court in effect preventing consummation of the Acquisition; or (iii) there shall be any statute, rule, regulation or order enacted, promulgated or issued or deemed applicable to the Acquisition by any Governmental Entity that would make consummation of the Acquisition illegal;
- (c) by Buyer if it is not in material breach of this Agreement and there has been a material breach of any representation, warranty, covenant or agreement contained in this Agreement on the part of Seller and such breach has not been cured within five (5) business days after written notice to Seller (provided that, no cure period shall be required for a breach which by its nature cannot be cured);
- (d) by Buyer at any time prior to November 1, 1995, if as a result of its due diligence review of the Business subsequent to the date of this Agreement it

discovers a fact or condition existing on the date of this Agreement and not disclosed to Buyer prior to or on the date of this Agreement that Buyer reasonably determines has a material adverse effect on the Business Condition of Seller;

(e) by Seller at any time prior to November 1, 1995 if as result of its due diligence review of Buyer subsequent to the date of this Agreement it discovers a fact or condition existing on the date of this Agreement not disclosed to Seller prior to or on the date of this Agreement that Seller reasonably determines has a material adverse effect on the Business Condition of Buyer;

(f) by Seller if it is not in material breach of this Agreement and there has been a material breach of any representation, warranty, covenant or agreement contained in this Agreement on the part of Buyer and such breach has not been cured within five (5) business days after written notice to Buyer (provided that, no cure period shall be required for a breach which by its nature cannot be cured).

7.2 Effect of Termination. In the event of termination of this Agreement as provided in Section 7.1, this Agreement shall forthwith become void and there shall be no liability or obligation on the part of Buyer or Seller, or their respective officers, directors or shareholders, provided that each party shall remain liable for any breaches of this Agreement prior to its termination.

7.3 Amendment. This Agreement may be amended by the parties hereto at any time by execution of an instrument in writing signed on behalf of each of the parties hereto.

7.4 Extension; Waiver. At any time prior to the Closing Date, Buyer on the one hand, and Seller, on the other, may, to the extent legally allowed, (i) extend the time for the performance of any of the obligations of the other party hereto, (ii) waive any inaccuracies in the representations and warranties made to such party contained herein or in any document delivered pursuant hereto, and (iii) waive compliance with any of the agreements or conditions for the benefit of such party contained herein. Any agreement on the part of a party hereto to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party.

ARTICLE VIII

INDEMNIFICATION

8.1 Survival of Representations, Warranties and Agreements. Notwithstanding any investigation conducted at any time with regard thereto by or on behalf of either party, no representation or warranty by Seller shall survive the closing of this Agreement and no claim may be brought by any party with respect thereto other than the representation made by Seller in Section 2.10, including any schedules thereto, which shall survive the execution, delivery and performance of this Agreement, and be subject to the provisions of Section 8.2 below, until the first anniversary of the Closing Date.

8.2 Indemnification. Seller hereby agrees to indemnify and hold harmless Buyer against any and all losses, liabilities, damages, demands, claims, suits, actions, judgments or causes of action, assessments, costs and expenses, including, without limitation, interest, penalties, attorneys' fees, any and all out-of-pocket expenses incurred in investigating, preparing or defending against any litigation, or any claim whatsoever, and any and all amounts paid in settlement of any claim or litigation, but only to the extent that the aggregate of the foregoing exceeds \$250,000, (collectively "Damages") asserted against, resulting to, imposed upon, or incurred or suffered by Buyer, directly or indirectly, as a result of or arising from any inaccuracy in or breach of the representation and warranty made by Seller in Section 2.10, including schedules thereto ("Identifiable Claims"). Seller's indemnity obligation pursuant to this Article VIII shall in no event exceed, either individually or in the aggregate, \$5,000,000.

8.3 Procedure for Indemnification with Respect to Third-Party Claims.

(a) If Buyer determines to seek indemnification under this Article VIII with respect to Identifiable Claims (the party seeking such indemnification hereinafter referred to as the "Indemnified Party" and the party against whom such indemnification is sought is hereinafter referred to as the "Indemnifying Party") resulting from the assertion of liability by third parties, the Indemnified Party shall give notice to the Indemnifying Party within thirty (30) days of the Indemnified Party becoming aware of any such Identifiable Claim or of facts upon which any such Identifiable Claim will be based; the notice shall set forth such material information with respect thereto as is then reasonably available to the Indemnified Party. In case any such liability is asserted against the Indemnified Party, and the Indemnified Party notifies the Indemnifying Party thereof, the Indemnifying Party will be entitled, if it so elects by written notice delivered to the Indemnified Party within twenty (20) days after receiving the Indemnified Party's notice, to assume the defense thereof with counsel reasonably satisfactory to the Indemnified Party. Notwithstanding the foregoing, (i) the Indemnified Party shall also have the right to employ its own counsel in any such case, but the fees and expenses of

such counsel shall be at the sole, unreimbursable expense of the Indemnified Party unless the Indemnified Party does not assume control or the Indemnified Party shall reasonably determine that there is a conflict of interest between Buyer and Seller with respect to such Identifiable Claim, in which case the fees and expenses of such counsel will be borne by the Indemnifying Party, (ii) the Indemnified Party shall not have any obligation to give any notice of any assertion of liability by a third party unless such assertion is in writing, and (iii) the rights of the Indemnified Party to be indemnified hereunder in respect of Identifiable Claims resulting from the assertion of liability by third parties shall not be adversely affected by its failure to give notice pursuant to the foregoing unless, and, if so, only to the extent that, the Indemnifying Party is prejudiced thereby. With respect to any assertion of liability by a third party that results in an Identifiable Claim, the parties hereto shall make available to each other all relevant information in their possession material to any such assertion.

(b) In the event that the Indemnifying Party, within thirty (30) days after receipt of the aforesaid notice of an Identifiable Claim, fails to assume the defense of the Indemnified Party against such Identifiable Claim, the Indemnified Party shall have the right to undertake the defense, compromise or settlement of such action on behalf of and for the account and risk of the Indemnifying Party.

(c) Notwithstanding anything in this Section to the contrary, (i) if there is a reasonable probability that an Identifiable Claim may materially and adversely affect the Indemnified Party, other than as a result of money damages or other money payments, the Indemnified Party shall have the right to participate in such defense, compromise or settlement and the Indemnifying Party shall not, without the Indemnified Party's written consent (which consent shall not be unreasonably withheld), settle or compromise any Identifiable Claim or consent to entry of any judgment in respect thereof unless such settlement, compromise or consent includes as an unconditional term thereof the giving by the claimant or the plaintiff to the Indemnified Party a release from all liability in respect of such Identifiable Claim.

ARTICLE IX

GENERAL PROVISIONS

9.1 **Notices.** All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally or by commercial delivery service, or mailed by registered or certified mail (return receipt requested) or sent via telecopy (with acknowledgment of complete transmission) to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

(a) if to Buyer, to:
The Santa Cruz Operation, Inc.
400 Encinal Street
P.O. Box 1900
Santa Cruz, CA 95061-1900
Attention: Legal Department
Telecopy No.: (408) 427-5474

with a copy to:

Brobeck, Phleger & Harrison
Two Embarcadero Place
2200 Geng Road
Palo Alto, CA 94303
Attention: Edward M. Leonard
Telecopy No.: (415) 496-2921

(b) if to Seller, to:

Novell, Inc.
122 East 1700 South
Provo, Utah 84606
Attention: David R. Bradford, Esq.
Telecopy No.: (801) 228-7077

with a copy to:

Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, California 94304
Attention: Larry W. Sonsini
Telecopy No.: (415) 496-4084

9.2 Survival. The representations and warranties contained in Section 2 and Section 3 hereof except for the representation of Seller set forth in Section 2.10 shall not survive the closing of the sale of assets and issuance of stock contemplated by this Agreement; provided, however, that the foregoing provision shall not eliminate the rights and remedies of the parties hereto in the case of a willful fraud by the other party provided that the agreed party shall establish all elements of the existence of such fraud by clear and convincing evidence.

9.3 Interpretation. When a reference is made in this Agreement to Schedules or Exhibits, such reference shall be to a Schedule or Exhibit to this Agreement unless otherwise indicated. The words "include," "includes" and "including" when used herein shall be deemed in each case to be followed by the words "without limitation." The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

9.4 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party, it being understood that all parties need not sign the same counterpart.

9.5 Entire Agreement. This Agreement, and the Schedules and Exhibits hereto: (a) constitute the entire agreement among the parties with respect to the subject matter hereof and supersede all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof; (b) are not intended to confer upon any other person any rights or remedies hereunder, unless expressly provided otherwise; and (c) shall not be assigned by operation of law or otherwise except as otherwise specifically provided.

9.6 Severability. In the event that any provision of this Agreement or the application thereof, becomes or is declared by a court of competent jurisdiction to be illegal, void or unenforceable, the remainder of this Agreement will continue in full force and effect and the application of such provision to other persons or circumstances will be interpreted so as reasonably to effect the intent of the parties hereto. The parties further agree to replace such void or unenforceable provision of this Agreement with a valid and enforceable provision that will achieve, to the extent possible, the economic, business and other purposes of such void or unenforceable provision.

9.7 Other Remedies. Except as otherwise provided herein, any and all remedies herein expressly conferred upon a party will be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such party, and the exercise by a party of any one remedy will not preclude the exercise of any other remedy.

9.8 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California regardless of the laws that might otherwise govern under applicable principles of conflicts of laws thereof.

9.9 Rules of Construction. The parties hereto agree that they have been represented by counsel during the negotiation and execution of this Agreement and, therefore, waive the application of any law, regulation, holding or rule of


construction providing that ambiguities in an agreement or other document will be construed against the party drafting such agreement or document.

IN WITNESS WHEREOF, Buyer and Seller have caused this Agreement to be signed by their duly authorized respective officers, all as of the date first written above.

THE SANTA CRUZ OPERATION, INC.

By: 
Name: Alck Meigs
Title: Chief Executive Officer

NOVELL, INC.

By: 
Name: Robert J. Frankenberg
Title: Chairman of the Board
President and Chief Executive Officer

Schedule 1.1(a)

Assets

(Page 1 of 4)

- I. All rights and ownership of UNIX and UnixWare, including but not limited to all versions of UNIX and UnixWare and all copies of UNIX and UnixWare (including revisions and updates in process), and all technical, design, development, installation, operation and maintenance information concerning UNIX and UnixWare, including source code, source documentation, source listings and annotations, appropriate engineering notebooks, test data and test results, as well as all reference manuals and support materials normally distributed by Seller to end-users and potential end-users in connection with the distribution of UNIX and UnixWare, such assets to include without limitation the following:

UNIX Source Code Products

- A. UnixWare 2.0 as described in the UnixWare 2.0 Licensing Schedule and those products listed as "prior" products on such schedule (includes source code updates where appropriate - i.e. UnixWare product family).
- B. UNIX SVR4.1 ES as described in the UNIX SVR4.1 ES Licensing Schedule and those products listed as "prior" products on such schedule
- C. UNIX SVR4.0MP as described in the UNIX SVR4.0 MP Licensing Schedule and those products listed as "prior" products on such schedule.
- D. Ancillary SVRx Products (a final list of which shall be developed by the parties prior to the Closing)

Binary Product Releases

- A. UnixWare 2.01 Product Family as described by the Novell UnixWare 2.01 Part/Price List
- B. UnixWare 2.0.x update releases
- C. UnixWare 1.1 Product Family as described by the Novell UnixWare 1.1 Part/Price List
- D. UnixWare 1.1.x - update releases

Products Under Development

- A. UnixWare 2.1 (Eiger) - contains NetWare UNIX Client and Server capabilities
- B. UnixWare 2.1 Oracle Parallel Server (OPS)
- C. UnixWare 2.03 - maintenance update under development
- D. UnixWare 2.0.x/2.1 Enhanced Mode Merge
- E. UnixWare 2 Internet Server

Schedule 1.1(a)

Assets

(Page 2 of 4)

Other Technology

- A. UnixWare system/HBA/etc. Test/Certification Suites Used by Novell Labs
 - B. UnixWare "OS Branding" Test Suites
 - C. UnixWare "OS Compatible" Requirements
 - D. Gaede Performance Test suite
 - E. ARTUS, Bart, Buster Internal UNIX Test suites and test harnesses
 - F. UnixWare Training/Education Courseware
 - G. Requirements, Design, and Test Specifications for UnixWare 2
 - H. Technical Support Update Manager
 - I. Marketing collateral/information in electronic form
 - J. ODI Transmogrification software
- II. All of Seller's claims arising after the Closing Date against any parties relating to any right, property or asset included in the Business.
- III. All of Seller's rights pertaining to UNIX and UnixWare under any software development contracts, licenses and any other contracts to which Seller is a party or by which it is bound and which pertain to the Business (to the extent that such contracts are assignable), including without limitation:
- A. Joint Development with third parties:
 - 1. In-Process development agreements
 - 2. Past development agreements with on-going pricing discounts
 - 3. Past development agreements without ongoing pricing discounts
 - 4. Joint development agreements in which Seller didn't get full rights to the code developed.
 - B. Third party software license agreements - Those agreements in which Seller pays per copy fees for technology/products which are shipped with or to be used with UNIX System and/or UnixWare.
 - C. Joint marketing agreements - Marketing programs with customers.
 - D. End user MLA agreements - Agreements to allow end users to copy binary products for internal use only. Associated with these agreements are support requirements.
 - E. UNIX-only VAR agreements - UNIX Masters VARs

Schedule 1.1(a)

Assets

(Page 3 of 4)

- F. Support agreements - End user support agreements (i.e., TMAC, NALCOMIS)
 - G. Microsoft agreement (Xenix Agreement) - Xenix compatibility and per copy fee agreement. Seller will agree to discuss with SCO Seller's interpretation of this agreement.
 - H. Microsoft Agreement (Extra-Ordinary Discount) - Microsoft's additional discount beyond 80%.
 - I. Strategic Relationship Agreements (i.e. MTA, ECPA, MBA, etc.)
 - J. Out-sourced development (i.e., India) - Development agreements with third parties (Wipro and HCL) and India Development Center. IDC is a Seller subsidiary.
 - K. Out-sourced Support Agreements
 - L. Software and Sublicensing Agreements - This includes the source code and sublicensing agreements that Seller has with its OEM, End User and Educational customers. The total number of these agreements is approximately 30,000.
 - M. OEM Binary Licensing Agreements - OEM distribution of UnixWare with Seller's agreement to include some OEM added value into future releases of UnixWare.
- IV. All copies of UNIX and UnixWare, wherever located, owned by Seller.
- V. Intellectual property - Trademarks UNIX and UnixWare as and to the extent held by Seller (excluding any compensation Seller receives with respect of the license granted to X/Open regarding the UNIX trademark).
- VI. All contracts relating to the SVRX Licenses listed below:
- UNIX System V Release 4.2 MP, Intel386 Implementation
 - #UNIX System V Release 4.2 MP International Edition, Intel386 Implementation
 - UNIX System V Release 4.2, Intel386 Implementation
 - #UNIX System V Release 4.2 International Edition, Intel386 Implementation
 - UNIX System V Release 4.1 ES, Intel386 Implementation
 - #UNIX System V Release 4.1 ES International Edition, Intel386 Implementation

Schedule 1.1(a)

Assets

(Page 4 of 4)

- UNIX System V Release 4.0 MP, Intel386 Implementation
- #UNIX System V Release 4.0 MP International Edition, Intel386 Implementation
- UNIX System V Release 4.0 MP, Intel386 Version 4 Implementation
- #UNIX System V Release 4.0 International Edition, Intel386 Version 4 Implementation
- UNIX System V Release 4.0, Intel386 Version 3 Implementation
- #UNIX System V Release 4.0 International Edition, Intel386 Version 3 Implementation
- UNIX System V Release 4.0, Intel386 Version 2 Implementation
- #UNIX System V Release 4.0 International Edition, Intel386 Version 2 Implementation
- UNIX System V Release 4.0, Intel386 Version 1 Implementation
- #UNIX System V Release 4.0 International Edition, Intel386 Version 1 Implementation
- UNIX System V/386 Release 3.2 and #UNIX System V/386 Release 3.2 International Edition
- UNIX System V Release 3.2 and #UNIX System V Release 3.2 International Edition
- UNIX System V Release 3.1 and #UNIX System V Release 3.1 International Edition
- UNIX System V Release 3.0 and #UNIX System V Release 3.0 International Edition
- All prior releases and versions of UNIX System V Release 2.1
- #All prior releases and versions of UNIX System V Release 2.1 International Editions
- All prior releases and versions of UNIX System V Release 2.0
- #All prior releases and versions of UNIX System V Release 2.0 International Editions
- All prior UNIX System releases and versions preceding UNIX System V Release 2.0
- #All prior UNIX System releases and versions preceding UNIX System V Release 2.0 International Editions

VII. Such office furniture and personal computers or work stations as may be currently used by the employees of Seller hired by Buyer pursuant to Section 4.15 hereof.

Schedule I.1(b)
Excluded Assets
(Page 1 of 2)

- I. Any asset not listed on Schedule I.1(a), including without limitation any asset which pertains to NetWare which is not listed on Schedule I.1(a)
- II. NetWare Operating System and Services
- III. TUXEDO Transaction Processing
- IV. Licensed technology, including:
 - A. NetWare and other Novell code contained in UnixWare 2.01 and Eiger:
 - 1. ODI Software contained in NetWare and UnixWare LAN Drive Test Kit
 - 2. Nprinter (for printing from NetWare to UnixWare Server)
 - 3. NUC (NetWare UNIX Client - for print, etc. from UnixWare to NetWare Server)
 - 4. TNVT, Host Presenter (Terminal Emulation to Log into UnixWare Server from NetWare Client)
 - 5. MHS Gateway (Mail Gateway)
 - 6. IPX/SPX (Re-Write of Native 4.1)
 - 7. ODI (Networking driver protocol; version 3.3 of assembly Spec and 1.0 of C Spec)
 - 8. Xconsole (Log-in to NetWare console)
 - 9. UnixWare TSA (SMS is back-up and restore, TSA is the 'agent' needed to do this)
 - 10. Some NetWare Client APIs
 - 11. DR-DOS
 - 12. Host Presenter (*Binary only*)
 - 13. TNVT (*Binary only*)
 - 14. criptor (*Binary only*)
 - 15. NetWare NLM (*Binary only*)
 - B. NetWare code contained in Eiger Only:
 - 1. NDS APIs
 - 2. NWS (Incl. NetWare File, Print and Directory Services)
 - C. NetWare 4.1 for UnixWare

Schedule 1.1(b)
Excluded Assets
(Page 2 of 2)

- V. Intellectual Property:
 - A. All copyrights and trademarks, except for the trademarks UNIX and UnixWare.
 - B. All Patents
- VI. Existing Master License Agreements with end users which include, in addition to other products of Seller, integrated delivery of UnixWare.
- VII. All accounts receivable or rights to payment concerning the Assets arising prior to the Closing Date.
- VIII. All right, title and interest to the SVRx Royalties, less the 5% fee for administering the collection thereof pursuant to Section 4.16 hereof.

Schedule 1.1(c)

Assumed Liabilities

1. All obligations, whether existing on the date hereof or arising hereafter, under the assigned contracts listed on Schedule 1.1(a).
2. All obligations relating to the Business which arise subsequent to the Closing Date.
3. Obligation of product support and customer service concerning UnixWare and Eiger.

SCHEDULE 1.2(b)

Buyer shall make payments of the royalties in accordance with the structure set forth below.

(a) Royalty-Bearing Products. Royalties shall be paid on sales of the following products by Buyer (the "Royalty-Bearing Products"):

(i) UnixWare

(ii) Eiger

(iii) MXU

(iv) White Box

(v) any derivative, upgrades, updates or new releases of (i) through (iv) above.

(b) Amount of Royalties. Concurrent with the execution of this Agreement, Seller has delivered to Buyer a business plan provided by Seller to Buyer on September 11, 1995 including an annual forecast by Seller of the potential estimated market for UnixWare, Eiger, MXU and White Box (the "Plan"). The amount of royalties shall be as follows:

(i) Royalties on UnixWare, Eiger, MXU and derivatives ("UW Products"):

(a) No royalties shall be payable in connection with any of the UW Products until Buyer shall have shipped or licensed, in any year, 40% of the units contemplated by the Plan for such year;

(b) Buyer shall pay royalties equal to \$50.00 per net unit in connection with each and every net unit of UW Products shipped or licensed by Buyer over and above 40% and less than 70% of the total units contemplated by the Plan for such year;

(c) Buyer shall pay royalties equal to \$60.00 per net unit in connection with each and every net unit of UW Products shipped or licensed by Buyer over and above 70% of the total units contemplated by the Plan for such year.

(ii) Royalties on White Box:

(a) No royalties shall be payable in connection with any of the White Box units until Buyer shall have shipped or licensed 50% of the White Box units contemplated by the Plan for such year.

(b) Buyer shall pay royalties equal to \$20.00 per net unit in connection with each and every net unit of White Box product shipped or licensed by Buyer over and above 50% of the total units contemplated by the Plan for such year.

(iii) Net Units shall mean total gross shipments minus returns and evaluation and demonstration units (on which revenue is not received).

(c) Termination of Royalty Obligations. The royalty obligations set forth in subsection (b) above will terminate (i) after Buyer shall have made aggregate cumulative payments to Seller equal to such amount which has a total net-present value of \$ 84,000,000 (determined as of the date of Closing) or (ii) December 31, 2002, whichever is sooner. A discount rate of 15% will be used to calculate the net present value.

(d) Annual Cap; Carryover Provisions. In the event that Buyer's net shipments and licenses of UW Products shall reach or exceed 130% of the units contemplated by the Plan for such year, Buyer shall not have royalty obligations in connection with such shipments or licenses over such 130% threshold (the "Annual Cap"). In the event that the actual sale and license of units of UW Products fail to reach 40% of the Plan for any given year as contemplated by (b)(i) above, then 30% of the Plan units for such year may be carried forward and added to the following year solely for the purposes of determining the Annual Cap on royalties for such subsequent year.

(e) Protective Provisions. In the event that the pricing of royalties set forth herein shall cause Buyer to become unprofitable or substantially non-competitive in the marketplace, management of Buyer and Seller will meet to negotiate a mutually acceptable adjustment so as to support the economic viability of Buyer.

(f) SVRx Converted Units. The parties agree that SCO will have the opportunity to convert existing SVRx-based customers to a UnixWare derived product, thus depriving Seller of the economic benefit of the SVRx licenses. The process for determining if a customer is validly converted is as follows:

The conversion of an SVRx customer to UnixWare will validly occur and result in the UnixWare based revenue flowing to SCO, without giving rise to a continued obligation to make payment to Seller of royalties due under the SVRx licenses, only if the following are true (note: if the customer continues to sell their SVRx based product separately, then these SVRx revenues continue to flow to Novell):

(i) The customer ships a binary copy of a Golden Master of UnixWare, Eiger, MXU or White Box, or

(ii) The product is derived from a source version of UnixWare, Eiger, MXU or White Box and (i) none of the original SVRx code provided by Novell to the customer, under the SVRx license, is included in the new product or (ii) Buyer shall demonstrate to Seller's reasonable satisfaction that an insignificant amount of original SVRx code is so included and the adoption of UnixWare is so substantial as to constitute a valid conversion.

In addition, an SVRx customer can be defined as having converted to UnixWare only if one of the above is satisfied and only if support is provided for NDS (client/server where appropriate) in the resulting product.

Schedule 6.3(a)

The proposed merger with or sale of shares representing 50% or more of the voting power of Buyer to any of the following parties, or any affiliates or successors to the business thereof, would give rise to the respective rights and obligations contained in Section 6.3(a) of the Agreement:

Sun Microsystems

Microsoft

Hewlett-Packard

IBM

Digital

Fujitsu

EXHIBIT 5.1(c)

Eiger Development

(a) Prior to the Closing Date, Seller shall use its reasonable commercial efforts to continue development of the Eiger product (as such term is defined in the Operating Agreement) in accordance with the development schedule previously furnished to Buyer.

(b) After the Closing Date, Seller shall contribute to Buyer a portion of the direct development costs associated with development of the Eiger product as follows:

(i) Seller shall contribute to Buyer 50% (fifty percent) of such direct development costs until such contribution reaches an aggregate of \$2.5 million (Two Million Five Hundred Thousand Dollars).

(ii) Once an aggregate of \$5 million (Five Million Dollars) is spent by Buyer on the development of the Eiger product, including the Seller contribution described in (i) above, Seller shall contribute to Buyer 25% (twenty-five percent) of such additional direct development costs until such additional contribution equals \$2.5 million (Two Million Five Hundred Thousand Dollars).

(iii) Except for the foregoing, Seller shall have no obligations to Buyer whatsoever respecting the development of the Eiger product.

(iv) Buyer shall provide Seller with such evidence of direct expenditures on the development of the Eiger product as Seller may reasonably request before any Seller contributions are made.

(v) Any such contributions shall be made quarterly in arrears upon written notice by Buyer of the expenditure of sums as to which Seller agrees to contribute its aforementioned percentages.

SELLER DISCLOSURE SCHEDULE

For convenience, section numbers refer to the Asset Purchase Agreement dated as of September 19, 1995 between Seller and The Santa Cruz Operation, Inc. However, the disclosure herein of any information which is relevant in connection with more than one section of such agreement shall be deemed adequate in all respects notwithstanding the fact that such information is disclosed herein only with reference to one section.

Section 2.6

Claims and threatened litigation:

Seller has been put on notice of a possible infringement of Unisys patent 4,558,302, covering the so-called LZW data-compression algorithm.

Section 2.8(c)

(i) Contracts under which Seller paid \$1,500,000 or more in Business related royalties, additional license fees and revenue sharing during the period 8/1/94 - 7/31/95:

(1) February 7, 1987 Development and License Agreement now in effect between Seller and Microsoft Corporation

(2) March 8, 1993 International OEM Distribution Agreement now in effect between Seller and Locus Computing Corporation

(ii) Customers from whom Seller received \$1,500,000 or more in Business related royalties, additional license fees and revenue sharing during the period 8/1/94 - 7/31/95:

See Attachment A

(iii) Contracts now in existence in which Seller granted most favored nation pricing or exclusive marketing rights related to any Business related product, group of products, or territory:

See Attachment B

**Pursuant to various Software Agreements and Sublicensing Agreements administered by Seller's Licensing Organization.*

Section 2.8(f)

(f) Contracts containing rights for a customer to sublicense Business related source or binary code without additional payments to Seller:

(1) January 1, 1994 Software License and Distribution Agreement now in effect between Seller and Sun Microsystems, Inc.

(2) June 9, 1986 Sublicensing Agreement now in effect between Seller and Silicon Graphics, Inc.

Section 2.10

(i) Intellectual Property:

Attachment C to this Schedule contains the most current listing of pending and issued applications for trademarks covering products of the Business.

Attachment D to this Schedule contains a listing of pending and issued applications for patents covering products of the Business.

Attachment E to this Schedule contains a listing of Seller's copyright registrations covering product(s) relating to the Business.

(ii) Contracts under which Seller received Business-related revenues in excess of \$2,000,000 in the twelve month period ending 7/31/95:

See Attachment A

(iii) Contracts pursuant to which Seller was obligated to pay Business-related royalties of \$1,000,000 or more over the period 8/1/94-7/31/95:

See Attachment F

(iv) Contracts containing Business-related rights which are non-perpetual or which are terminable in the event of acquisition:

See Attachment G

(v) Claims of infringement:

See entry for Section 2.6 above

Section 2.11(a)

Real property and leases:

The Business (excluding outside sales and support activities conducted in the ordinary course) is primarily concentrated in a facility leased from Exxon Corporation in Florham Park, New Jersey. A copy of the current lease covering such facility is appended hereto as Attachment H. Other facilities in which relatively minor portions of the Business are conducted are located in San Jose, California, Orem, Utah and Provo, Utah.

Section 2.14

See Attachment A

Section 2.16

Estimated level of UnixWare software inventory as of October 11, 1995:

U.S. / Canada	\$1,516,860
International	750,700
<hr/>	
Total	\$2,267,560

ATTACHMENT A

Largest Volume OEM Customers of Seller

Sales Over \$2 Million

Microsoft
AT&T
Hewlett-Packard
Fujitsu
NEC
Siemens-Nixdorf
ICL
Digital Equipment
IBM
Silicon Graphics

Sales Over \$1.5 Million

Microsoft
AT&T
Hewlett-Packard
Fujitsu
NEC
Siemens-Nixdorf
ICL
Digital Equipment
IBM
Silicon Graphics

Hitachi
Motorola

Sales Over \$1 Million

Microsoft
AT&T
Hewlett-Packard
Fujitsu
NEC
Siemens-Nixdorf
ICL
Digital Equipment
IBM
Silicon Graphics

Hitachi
Motorola

Cray
Stratus
Tandem
Mitsubishi

Attachment B

Agreements* with Most Favored Customer Pricing or Exclusive

Marketing Rights for Business Products or Territories

- February 21, 1986 Territorial Software Distribution Agreement between AT&T Information Systems, Inc. and AT&T UNIX Pacific Co., Ltd.
- Joint Venture Contract between Shenzhen Comtec Software, Ltd., China National Computer Software & Technology Service Corporation, China Great Wall Computer Group Co., Langchao Electronic Information Industrial Group Corporation, Changjiang Computer Union Corporation (Group), Beijing Modern Information Development Center, Dascom (Holdings) Ltd., and UNIX System Technologies China Company, Ltd. for the Establishment of UNIX System Technologies Company, Ltd.
- Sales Agency Agreement between AUDILOG (France) and UNIX System Laboratories, Inc.
- Publication Agreement between UNIX System Laboratories, Inc. and Addison-Wesley Publishing Company, Inc.
- January 1, 1994 Software License and Distribution Agreement between Seller and Sun Microsystems, Inc.
- May 10, 1994 Trademark Relicensing Agreement between Seller and X/Open Company, Ltd.
- Publication Agreement dated December 17, 1986 between AT&T Information Systems Inc. and Prentice-Hall, Inc.

* Agreements originally entered into by one of Seller's predecessors in title are so identified.

TRADEMARK STATUS REPORT

TRADEMARK	COUNTRY	STATUS	CLASS	FILING DATE	REV. DATE	LOCATOR NO.
UNIK	Argentina	Registered	38	01/31/86	06/02/89	09062-1115156
UNIK	Argentina	Registered	42	06/09/86	07/04/89	09062-1115157
UNIK	Argentina	Registered	9	01/31/86	01/31/91	09062-1115158
UNIK	Australia	Registered	42	01/05/83	01/05/83	09062-1115159
UNIK	Australia	Registered	38	01/05/83	01/05/83	09062-1115160
UNIK	Australia	Registered	16	01/05/83	01/05/83	09062-1115161
UNIK	Australia	Registered	9	01/05/83	01/05/83	09062-1115162
UNIK	Australia	Registered	9, 38	06/13/84	01/17/89	09062-1115163
UNIK	Australia	Registered	9, 16, 37, 41, 42	01/19/81	06/04/83	09062-1115164
UNIK	Denmark	Registered	38, 42	02/01/83	01/19/87	09062-1115165
UNIK	Denmark	Registered	9, 16	03/08/86	02/01/83	09062-1115166
UNIK	Denmark	Registered	9	03/08/86	03/06/86	09062-1115167
UNIK	Bolivia	Registered	38	02/17/86	11/04/86	09062-1115168
UNIK	Bolivia	Registered	9	02/17/86	11/04/86	09062-1115169
UNIK	Brazil	Registered	38	01/29/86	08/25/87	09062-1115170
UNIK	Brazil	Registered	9	05/19/83	07/31/84	09062-1115171
UNIK	Brazil	Registered	9	01/29/86	08/25/87	09062-1115172
UNIK	Canada	Registered	9	01/29/86	04/24/87	09062-1115173
UNIK	Chile	Registered	9, 38	03/19/86	10/16/92	09062-1115174
UNIK	China	Registered	16	11/11/85	11/30/86	09062-1115175
UNIK	Colombia	Registered	38	02/28/86	04/12/89	09062-1115176
UNIK	Colombia	Registered	9	02/28/86	12/09/88	09062-1115177
UNIK	Costa Rica	Registered	9	10/27/86	05/22/88	09062-1115178
UNIK	Costa Rica	Registered	16	01/19/87	11/27/90	09062-1115179
UNIK	Croatia	Filed	9	09/27/92		09062-1115180
UNIK	Cyprus	Registered	9	08/02/90	09/23/92	09062-1115181
UNIK	Denmark	Registered	9, 30	05/29/84	03/11/88	09062-1115182
UNIK	Dominican Repub	Registered	20	03/07/86	08/15/86	09062-1115183
UNIK	Dominican Repub	Registered	22	05/07/88	08/15/88	09062-1115184
UNIK	Ecuador	Registered	9	03/05/86	09/02/86	09062-1115185
UNIK	Ecuador	Registered	38	03/05/86	09/19/86	09062-1115186
UNIK	Egypt	Registered	9	10/03/85	02/23/94	09062-1115187
UNIK	Egypt	Registered	42	01/08/85	11/12/86	09062-1115188
UNIK	El Salvador	Registered	9	08/22/86	01/12/89	09062-1115189
UNIK	Finland	Registered	9, 18	11/19/85	03/20/89	09062-1115190

ATTACHMENT C
Page 2 of 9

TRADEMARK STATUS REPORT

TRADEMARK	COUNTRY	STATUS	CLASS	FILING DATE	REG. DATE	LOCATOR NO.
UNIX	France	Registered	9, 38	10/25/84	10/26/84	09062-TM5190
UNIX	France	Registered	3, 16, 17, 21, 28, 30, 33	03/29/82	03/29/92	09062-TM5191
UNIX	Germany	Registered	9, 16, 37, 38, 42	11/27/90	07/30/91	09062-TM5192
UNIX	Germany	Registered	9, 16, 37, 38, 42	07/02/90	08/14/90	09062-TM5193
UNIX	Germany	Registered	9, 16, 42	03/21/83	11/17/83	09062-TM5194
UNIX	Greece	Registered	9	04/18/88	10/17/91	09062-TM5195
UNIX	Greece	Filed	38	11/17/92		09062-TM5196
UNIX	Guatemala	Registered	9	09/10/86	09/09/88	09062-TM5197
UNIX	Honduras	Registered	38	04/16/86	12/05/88	09062-TM5199
UNIX	Honduras	Registered	9	04/16/86	12/05/88	09062-TM5198
UNIX	Hong Kong	Registered	9	05/11/84	05/11/84	09062-TM5200
UNIX	Hong Kong	Registered	16	05/11/84	05/11/84	09062-TM5201
UNIX	Hungary	Registered	9	03/06/91	12/22/92	09062-TM5202
UNIX	Iceland	Registered	9	07/13/90	12/05/90	09062-TM5203
UNIX	India	Registered	9	08/08/85	08/08/85	09062-TM5205
UNIX	India	Registered	9	01/01/85	01/01/85	09062-TM5204
UNIX	Indonesia	Rejected	9	06/03/85		09062-TM5206
UNIX	Ireland	Registered	9	07/24/85	07/24/85	09062-TM5208
UNIX	Ireland	Registered	9	05/17/84	05/17/84	09062-TM5207
UNIX	Israel	Registered	42	10/22/87	10/22/87	09062-TM5212
UNIX	Israel	Registered	38	11/26/86	08/06/87	09062-TM5211
UNIX	Israel	Registered	16	01/27/83	06/25/87	09062-TM5210
UNIX	Israel	Registered	9	01/27/83	05/25/87	09062-TM5209
UNIX	Italy	Registered	9, 38	03/22/84	05/23/86	09062-TM5213
UNIX	Japan	Registered	9	02/13/85	05/08/92	09062-TM5214
UNIX	Japan	Filed	42	09/01/92		09062-TM5217
UNIX	Japan	Registered	11	12/26/89	01/31/95	09062-TM5482
UNIX	Japan	Registered	41		02/28/95	09062-TM5216
UNIX	Japan	Registered	26		01/29/93	09062-TM5215
UNIX	Jordan	Proposed		05/18/84		09062-TM5218
UNIX	Kanva	Filed	9			09062-TM5476
UNIX	Korea, South	Registered	39	09/13/94	11/09/83	09062-TM5219
UNIX	Liberia	Registered	N/A	03/19/83	03/10/86	09062-TM5220
UNIX	Liechtenstein	Registered	9, 38	03/10/86	10/31/91	09062-TM5221
UNIX	Macau	Registered	38	12/22/87	12/13/91	09062-TM5224

TRADEMARK STATUS REPORT

TRADEMARK	COUNTRY	STATUS	CLASS	FILING DATE	REQ. DATE	LOCATOR NO.
UNIX	Nazau	Registered	9	12/22/87	12/22/87	09062-TM5222
UNIX	Nazau	Published	16	06/17/86		09062-TM5223
UNIX	Malaysia	Registered	9	01/02/86		09062-TM5225
UNIX	Malta	Registered	9	07/31/85	07/31/85	09062-TM5226
UNIX	Mexico	Registered	35	07/15/85	06/12/87	09062-TM5229
UNIX	Mexico	Registered	9	07/15/85	06/24/87	09062-TM5227
UNIX	Mexico	Registered	9	07/23/85	10/28/85	09062-TM5228
UNIX	Mexico	Registered	9	03/20/86	03/20/86	09062-TM5230
UNIX	Mexico	Registered	9, 38	01/20/86	01/20/86	09062-TM5231
UNIX	Mexico	Registered	9, 16, 38	10/09/84	10/09/84	09062-TM5234
UNIX	New Zealand	Registered	16	06/28/82	06/28/82	09062-TM5232
UNIX	New Zealand	Registered	9	06/17/85	06/17/85	09062-TM5233
UNIX	New Zealand	Registered	9	08/06/86	06/03/87	09062-TM5235
UNIX	Nicaragua	Filed	9	03/21/86		09062-TM5236
UNIX	Nigeria	Registered	9, 38	05/11/84	12/22/87	09062-TM5237
UNIX	Norway	Filed	16	04/01/88		09062-TM5239
UNIX	Pakistan	Registered	9	04/01/86	04/01/86	09062-TM5238
UNIX	Pakistan	Registered	9	09/28/87	07/29/88	09062-TM5241
UNIX	Panama	Registered	9	04/28/86	02/27/87	09062-TM5240
UNIX	Panama	Registered	38	05/08/87	05/08/87	09062-TM5243
UNIX	Papua New Guinea	Registered	9	04/05/86	04/05/86	09062-TM5242
UNIX	Papua New Guinea	Registered	9	12/16/85	07/25/86	09062-TM5244
UNIX	Paraguay	Registered	16	11/17/86	10/07/87	09062-TM5245
UNIX	Paraguay	Registered	38	12/16/85	07/25/86	09062-TM5246
UNIX	Paraguay	Registered	9	12/23/85	04/24/86	09062-TM5247
UNIX	Paraguay	Registered	38	12/23/85	04/24/86	09062-TM5248
UNIX	Paraguay	Abandoned	38	05/29/89	05/29/89	09062-TM5249
UNIX	Paraguay	Registered	9	03/17/91	09/14/93	09062-TM5250
UNIX	Paraguay	Registered	9	01/29/86	07/22/91	09062-TM5251
UNIX	Paraguay	Registered	16	06/17/86		09062-TM5252
UNIX	Paraguay	Registered	38	01/29/86	07/22/91	09062-TM5253
UNIX	Paraguay	Registered	9	08/21/86	03/15/87	09062-TM5254
UNIX	Paraguay	Registered	9, 38	01/02/86	07/11/88	09062-TM5282
UNIX	Paraguay	Registered	9	06/25/85	06/27/85	09062-TM5255
UNIX	Paraguay	Proposed	9			09062-TM5256

ATTACHMENT C
Page 4 of 9

TRADEMARK STATUS REPORT

TRADEMARK	COUNTRY	STATUS	CLASS	FILING DATE	REG. DATE	LOCATOR NO.
UNIX	South Africa	Filed	16	02/07/86		09062-TM5257
UNIX	Spain	Filed	9	05/07/84		09062-TM5258
UNIX	Spain	Registered	38	05/07/84	05/06/85	09062-TM5259
UNIX	Sri Lanka	Registered	9	01/29/86	12/28/91	09062-TM5260
UNIX	Sudan	Filed	9	01/08/88		09062-TM5261
UNIX	Surinam	Registered	9	03/17/86	03/17/86	09062-TM5262
UNIX	Surinam	Registered	16	03/17/86	03/17/86	09062-TM5263
UNIX	Sweden	Registered	9, 16	10/24/83	12/11/87	09062-TM5264
UNIX	Sweden	Registered	9, 38	03/16/84	02/03/89	09062-TM5265
UNIX	Switzerland	Registered	9	03/15/84	05/31/85	09062-TM5266
UNIX	Syrian Arab	Registered	9, 38	09/02/86	09/19/91	09062-TM5267
UNIX	Taiwan	Registered	9, 38	04/26/83	02/01/84	09062-TM5268
UNIX	Taiwan	Abandoned	8	04/26/83	12/01/83	09062-TM5269
UNIX	Taiwan	Registered	56	04/26/83	11/01/83	09062-TM5270
UNIX	Taiwan	Registered	80	04/26/83	07/16/84	09062-TM5271
UNIX	Taiwan	Registered	94	11/28/83	07/01/84	09062-TM5272
UNIX	Tanganyika	Registered	9	09/13/86	11/13/86	09062-TM5273
UNIX	Thailand	Registered	8	07/16/85	05/12/86	09062-TM5274
UNIX	Thailand	Registered	8	01/09/86	08/21/86	09062-TM5275
UNIX	Tunisia	Registered	9	01/17/86	01/17/86	09062-TM5276
UNIX	Turkey	Registered	9	03/24/86	03/24/86	09062-TM5277
UNIX	United Arab Emi	Filed	9	03/19/95		09062-TM5278
UNIX	United Kingdom	Registered	9	06/24/83	06/24/83	09062-TM5279
UNIX	United Kingdom	Registered	16	06/24/83	06/24/83	09062-TM5280
UNIX	Uruguay	Registered	9, 16, 38	01/08/86	01/16/92	09062-TM5281
UNIX	Venezuela	Filed	25	09/26/85		09062-TM5283
UNIX	Vietnam	Registered	9, 38, 42	05/12/86	08/17/87	09062-TM5284
UNIX	Yugoslavia	Registered	9	08/02/90	04/08/92	09062-TM5285
UNIX	Zaire	Registered	9, 35, 38	02/10/86	02/10/86	09062-TM5286
UNIX	Zimbabwe	Registered	9	02/03/86	02/05/86	09062-TM5287
UNIX & DESIGN (NESTED CHEVRONS)	Australia	Filed	42			09062-TM5383
UNIX & DESIGN (NESTED CHEVRONS)	Australia	Filed	9	05/20/91		09062-TM5382
UNIX & DESIGN (NESTED CHEVRONS)	France	Registered	9, 16, 35, 42	06/24/91		09062-TM5384
UNIX & DESIGN (NESTED CHEVRONS)	India	Proposed	9		05/24/91	09062-TM5385

TRADEMARK STATUS REPORT

TRADEMARK	COUNTRY	STATUS	CLASS	FILING DATE	REG. DATE	LOCATOR NO.
UNIX & DESIGN (NESTED CHEVRONS)	Italy	Filed	9, 35, 38, 42	10/24/91		09062-TM5386
UNIX & DESIGN (NESTED CHEVRONS)	Spain	Filed	42	09/03/91		09062-TM5390
UNIX & DESIGN (NESTED CHEVRONS)	United Kingdom	Rejected	42	06/06/91		09062-TM5393
UNIX & DESIGN (NESTED CHEVRONS)	United Kingdom	Registered	16	06/06/91	06/06/91	09062-TM5392
UNIX & DESIGN (NESTED CHEVRONS)	United Kingdom	Registered	9	06/06/91	06/06/91	09062-TM5391
UNIX (KATAKANA VERSION)	Japan	Registered	41		03/31/95	09062-TM5417
UNIX (KATAKANA VERSION)	Japan	Filed	42	09/01/92		09062-TM5418
UNIX AND DESIGN (CRESTED WAVE)	Argentina	Filed	9	05/10/93		09062-TM5280
UNIX AND DESIGN (CRESTED WAVE)	Australia	Filed	9	04/02/93		09062-TM5289
UNIX AND DESIGN (CRESTED WAVE)	Austria	Abandoned	9, 42	04/19/93		09062-TM5280
UNIX AND DESIGN (CRESTED WAVE)	Azerbaijan	Proposed				09062-TM5291
UNIX AND DESIGN (CRESTED WAVE)	Belarus	Filed	9	02/03/93	02/03/93	09062-TM5292
UNIX AND DESIGN (CRESTED WAVE)	Belgium	Registered	9			09062-TM5293
UNIX AND DESIGN (CRESTED WAVE)	Bermuda	Proposed	9	02/02/93		09062-TM5294
UNIX AND DESIGN (CRESTED WAVE)	Bolivia	Filed	9	04/03/93		09062-TM5295
UNIX AND DESIGN (CRESTED WAVE)	Brazil	Published	9	03/09/93		09062-TM5297
UNIX AND DESIGN (CRESTED WAVE)	Canada	Abandoned	9	02/02/93	07/29/93	09062-TM5298
UNIX AND DESIGN (CRESTED WAVE)	Chile	Registered	9	04/29/93		09062-TM5298
UNIX AND DESIGN (CRESTED WAVE)	China	Filed	9	03/02/93		09062-TM5300
UNIX AND DESIGN (CRESTED WAVE)	Colombia	Registered	9			09062-TM5301
UNIX AND DESIGN (CRESTED WAVE)	Costa Rica	Proposed	9	03/18/93		09062-TM5302
UNIX AND DESIGN (CRESTED WAVE)	Croatia	Filed	9	02/12/93		09062-TM5310
UNIX AND DESIGN (CRESTED WAVE)	Denmark	Filed	9	03/04/93		09062-TM5303
UNIX AND DESIGN (CRESTED WAVE)	Dominican Repub	Registered	68	02/17/93	05/15/93	09062-TM5304
UNIX AND DESIGN (CRESTED WAVE)	Ecuador	Filed	9	03/29/93		09062-TM5305
UNIX AND DESIGN (CRESTED WAVE)	Egypt	Filed	9			09062-TM5305
UNIX AND DESIGN (CRESTED WAVE)	El Salvador	Proposed	9	04/01/93		09062-TM5306
UNIX AND DESIGN (CRESTED WAVE)	Estonia	Published	9	03/18/93		09062-TM5307
UNIX AND DESIGN (CRESTED WAVE)	Finland	Filed	9			09062-TM5308
UNIX AND DESIGN (CRESTED WAVE)	France	Proposed	9	04/29/93		09062-TM5309
UNIX AND DESIGN (CRESTED WAVE)	Georgia	Filed	9	02/10/93		09062-TM5310
UNIX AND DESIGN (CRESTED WAVE)	Germany	Registered	9, 16, 42	11/22/93		09062-TM5311
UNIX AND DESIGN (CRESTED WAVE)	Greece	Abandoned	9	07/12/93		09062-TM5312

ATTACHMENT C
Page 6 of 9

TRADEMARK STATUS REPORT

TRADEMARK	COUNTRY	STATUS	CLASS	FILING DATE	APP. UNTE	LOCATOR NO.
UNIX AND DESIGN (CRESTED HAVE)	Guatemala	Filed	42	09/17/93		09062-1115314
UNIX AND DESIGN (CRESTED HAVE)	Guatemala	Filed	9	09/17/93		09062-1115313
UNIX AND DESIGN (CRESTED HAVE)	Honduras	Proposed	9			09062-1115315
UNIX AND DESIGN (CRESTED HAVE)	Hong Kong	Abandoned	9	09/12/93		09062-1115316
UNIX AND DESIGN (CRESTED HAVE)	Hungary	Registered	9, 16, 42	02/17/93	09/20/93	09062-1115317
UNIX AND DESIGN (CRESTED HAVE)	Iceland	Registered	9	02/05/93	05/27/93	09062-1115318
UNIX AND DESIGN (CRESTED HAVE)	India	Filed	9	02/11/93		09062-1115319
UNIX AND DESIGN (CRESTED HAVE)	Indonesia	Proposed	9	02/09/93		09062-1115320
UNIX AND DESIGN (CRESTED HAVE)	Ireland	Filed	9	02/01/93		09062-1115322
UNIX AND DESIGN (CRESTED HAVE)	Israel	Filed	9, 42	03/29/93		09062-1115321
UNIX AND DESIGN (CRESTED HAVE)	Italy	Filed	9			09062-1115324
UNIX AND DESIGN (CRESTED HAVE)	Jamaica	Proposed	9			09062-1115324
UNIX AND DESIGN (CRESTED HAVE)	Japan	Filed	42	05/11/93		09062-1115327
UNIX AND DESIGN (CRESTED HAVE)	Japan	Filed	9	04/26/93		09062-1115325
UNIX AND DESIGN (CRESTED HAVE)	Japan	Filed	41	05/13/93		09062-1115329
UNIX AND DESIGN (CRESTED HAVE)	Kazakhstan	Proposed	39	02/23/93		09062-1115320
UNIX AND DESIGN (CRESTED HAVE)	Korea, South	Filed	9	03/09/93		09062-1115329
UNIX AND DESIGN (CRESTED HAVE)	Latvia	Filed	9	02/23/93		09062-1115330
UNIX AND DESIGN (CRESTED HAVE)	Liberia	Filed	9			09062-1115331
UNIX AND DESIGN (CRESTED HAVE)	Lichtenstein	Registered	9	09/13/93		09062-1115332
UNIX AND DESIGN (CRESTED HAVE)	Lithuania	Filed	9	03/19/93		09062-1115333
UNIX AND DESIGN (CRESTED HAVE)	Macau	Published	9	03/11/93		09062-1115334
UNIX AND DESIGN (CRESTED HAVE)	Malaysia	Filed	9	07/31/93	01/06/94	09062-1115335
UNIX AND DESIGN (CRESTED HAVE)	Malta	Registered	9			09062-1115336
UNIX AND DESIGN (CRESTED HAVE)	Mexico	Proposed	9			09062-1115337
UNIX AND DESIGN (CRESTED HAVE)	Moldova	Abandoned	9			09062-1115338
UNIX AND DESIGN (CRESTED HAVE)	Morocco	Registered	9	02/12/93	02/12/93	09062-1115339
UNIX AND DESIGN (CRESTED HAVE)	New Zealand	Filed	9	03/22/93	03/22/93	09062-1115340
UNIX AND DESIGN (CRESTED HAVE)	Nicaragua	Proposed	9			09062-1115342
UNIX AND DESIGN (CRESTED HAVE)	Nigeria	Registered	9	03/19/93		09062-1115344
UNIX AND DESIGN (CRESTED HAVE)	Norway	Published	9, 42	03/30/93		09062-1115345
UNIX AND DESIGN (CRESTED HAVE)	Pakistan	Filed	9			09062-1115346
UNIX AND DESIGN (CRESTED HAVE)	Panama	Proposed	9			09062-1115347
UNIX AND DESIGN (CRESTED HAVE)	Paraguay	Filed	9	02/10/93		09062-1115348

TRADEMARK STATUS REPORT

TRADEMARK	COUNTRY	STATUS	CLASS	FILING DATE	REG. DATE	LOCATION ID
UIIX AND DESIGN (CREATED HAVE)	Peru	Abandoned	9	02/25/93		09062-1115340
UIIX AND DESIGN (CREATED HAVE)	Poland	Abandoned	9	02/09/93		09062-1115349
UIIX AND DESIGN (CREATED HAVE)	Portugal	Filed	9	03/13/93		09062-1115350
UIIX AND DESIGN (CREATED HAVE)	Singapore	Filed	9	03/30/93		09062-1115351
UIIX AND DESIGN (CREATED HAVE)	Slovenia	Filed	9	04/22/93		09062-1115352
UIIX AND DESIGN (CREATED HAVE)	South Africa	Withdrawn	9	04/01/93		09062-1115353
UIIX AND DESIGN (CREATED HAVE)	Spain	Suspended	9	02/23/93		09062-1115354
UIIX AND DESIGN (CREATED HAVE)	Spain	Published	16	03/16/93		09062-1115355
UIIX AND DESIGN (CREATED HAVE)	Spain	Published	35	03/16/93		09062-1115356
UIIX AND DESIGN (CREATED HAVE)	Spain	Published	39	03/16/93		09062-1115357
UIIX AND DESIGN (CREATED HAVE)	Spain	Published	42	03/16/93		09062-1115358
UIIX AND DESIGN (CREATED HAVE)	Sri Lanka	Filed	9	05/28/93		09062-1115359
UIIX AND DESIGN (CREATED HAVE)	Sudan	Filed	9	10/25/93		09062-1115360
UIIX AND DESIGN (CREATED HAVE)	Sweden	Proposed	9		11/26/93	09062-1115361
UIIX AND DESIGN (CREATED HAVE)	Sweden	Registered	9	03/08/93		09062-1115362
UIIX AND DESIGN (CREATED HAVE)	Switzerland	Registered	9	03/31/93		09062-1115363
UIIX AND DESIGN (CREATED HAVE)	Syrian Arab	Registered	9	02/24/93		09062-1115364
UIIX AND DESIGN (CREATED HAVE)	Taiwan	Filed	9			09062-1115365
UIIX AND DESIGN (CREATED HAVE)	Tanzania	Proposed	9			09062-1115366
UIIX AND DESIGN (CREATED HAVE)	Thailand	Filed	9	03/31/93		09062-1115367
UIIX AND DESIGN (CREATED HAVE)	Tunisia	Proposed	9			09062-1115368
UIIX AND DESIGN (CREATED HAVE)	Turkey	Abandoned	9	06/17/93	06/17/93	09062-1115369
UIIX AND DESIGN (CREATED HAVE)	Ukraine	Filed	9	03/19/93		09062-1115370
UIIX AND DESIGN (CREATED HAVE)	United Arab Emi	Filed	9	06/17/93		09062-1115371
UIIX AND DESIGN (CREATED HAVE)	United Kingdom	Withdrawn	9	03/19/93		09062-1115372
UIIX AND DESIGN (CREATED HAVE)	Uruguay	Filed	9			09062-1115373
UIIX AND DESIGN (CREATED HAVE)	Uzbekistan	Filed	9	02/17/93		09062-1115374
UIIX AND DESIGN (CREATED HAVE)	Venezuela	Abandoned	9	06/30/93		09062-1115375
UIIX AND DESIGN (CREATED HAVE)	Vietnam	Proposed	9, 36, 42	03/19/93	11/22/93	09062-1115376
UIIX AND DESIGN (CREATED HAVE)	Yugoslavia	Registered	9	02/24/93		09062-1115377
UIIX AND DESIGN (CREATED HAVE)	Zaire	Filed	9, 16, 42	04/21/93		09062-1115378
UIIX AND DESIGN (CREATED HAVE)	Zimbabwe	Cancelled	9	02/11/93		09062-1115379
UIIX AND DESIGN (CREATED HAVE)	Zimbabwe	Cancelled	41	03/05/93	06/30/93	09062-1115380
UIIX AND DESIGN (CREATED HAVE)	Zimbabwe	Cancelled	41	03/05/93	06/30/93	09062-1115381

TRADEMARK STATUS REPORT

TRADEMARK	COUNTRY	STATUS	CLASS	FILING DATE	REG. DATE	MARK NO.
UNIX AND DESIGN (PERSON)	Austria	Registered	3, 16, 17, 21, 28, 30, 33	12/24/60	12/24/60	09062-1115101
UNIX AND DESIGN (PERSON)	Austria	Registered	3, 16, 17, 21, 28, 30, 33	05/29/61	05/29/61	09062-1115101
UNIX AND DESIGN (PERSON)	Denmark	Registered	3, 16, 17, 21, 28, 30, 33	12/24/60	12/24/60	09062-1115101
UNIX AND DESIGN (PERSON)	Denmark	Registered	3, 16, 17, 21, 28, 30, 33	05/29/61	05/29/61	09062-1115101
UNIX AND DESIGN (PERSON)	Egypt	Registered	3, 16, 17, 21, 28, 30, 33	12/24/60	12/24/60	09062-1115101
UNIX AND DESIGN (PERSON)	Egypt	Registered	3, 16, 17, 21, 28, 30, 33	05/29/61	05/29/61	09062-1115101
UNIX AND DESIGN (PERSON)	France	Registered	1, 2, 4, 15, 18, 20, 22-27 29, 31, 32, 34	06/10/86	06/10/86	09062-1115101
UNIX AND DESIGN (PERSON)	France	Registered	3, 16, 17, 21, 28, 30, 33	06/21/85	06/21/85	09062-1115101
UNIX AND DESIGN (PERSON)	International	Registered	3, 16, 17, 21, 28, 30, 33	12/24/60	12/24/60	09062-1115101
UNIX AND DESIGN (PERSON)	International	Registered	3, 16, 17, 21, 28, 30, 33	05/29/61	05/29/61	09062-1115101
UNIX AND DESIGN (PERSON)	Italy	Registered	3, 16, 17, 21, 28, 30, 33	05/29/61	05/29/61	09062-1115101
UNIX AND DESIGN (PERSON)	Italy	Registered	3, 16, 17, 21, 28, 30, 33	12/24/60	12/24/60	09062-1115101
UNIX AND DESIGN (PERSON)	Italy	Registered	3, 16, 17, 21, 28, 30, 33	05/29/61	05/29/61	09062-1115101
UNIX AND DESIGN (PERSON)	Monaco	Registered	3, 16, 17, 21, 28, 30, 33	12/24/60	12/24/60	09062-1115101
UNIX AND DESIGN (PERSON)	Monaco	Registered	3, 16, 17, 21, 28, 30, 33	05/29/61	05/29/61	09062-1115101
UNIX AND DESIGN (PERSON)	Morocco	Registered	3, 16, 17, 21, 28, 30, 33	12/24/60	12/24/60	09062-1115101
UNIX AND DESIGN (PERSON)	Morocco	Registered	3, 16, 17, 21, 28, 30, 33	05/29/61	05/29/61	09062-1115101
UNIX AND DESIGN (PERSON)	Portugal	Registered	3, 16, 17, 21, 28, 30, 33	12/24/60	12/24/60	09062-1115101
UNIX AND DESIGN (PERSON)	Portugal	Registered	3, 16, 17, 21, 28, 30, 33	05/29/61	05/29/61	09062-1115101
UNIX AND DESIGN (PERSON)	Spain	Registered	3, 16, 17, 21, 28, 30, 33	12/24/60	12/24/60	09062-1115101
UNIX AND DESIGN (PERSON)	Spain	Registered	3, 16, 17, 21, 28, 30, 33	05/29/61	05/29/61	09062-1115101
UNIX AND DESIGN (PERSON)	Switzerland	Registered	3, 16, 17, 21, 28, 30, 33	12/24/60	12/24/60	09062-1115101
UNIX AND DESIGN (PERSON)	Switzerland	Registered	3, 16, 17, 21, 28, 30, 33	05/29/61	05/29/61	09062-1115101
UNIX AND DESIGN (PERSON)	Switzerland	Registered	3, 16, 17, 21, 28, 30, 33	12/24/60	12/24/60	09062-1115101
UNIX AND DESIGN (PERSON)	Switzerland	Registered	3, 16, 17, 21, 28, 30, 33	05/29/61	05/29/61	09062-1115101
UNIX AND DESIGN (PERSON)	Tunisia	Registered	3, 16, 17, 21, 28, 30, 33	12/24/60	12/24/60	09062-1115101
UNIX AND DESIGN (PERSON)	Tunisia	Registered	3, 16, 17, 21, 28, 30, 33	05/29/61	05/29/61	09062-1115101
UNIX SYSTEM TECHNOLOGIES	France	Registered	9, 16, 38	10/05/92	10/05/92	09062-1115101
UNIX NAME	Germany	Registered	9, 16, 37, 38, 42	02/05/93	05/12/93	09062-1115101
UNIX NAME (STACKED)	Germany	Registered	9, 16, 37, 38, 42	04/01/93	06/17/93	09062-1115101
UNIXNAME	Germany	Registered	9, 16, 37, 38, 42	03/31/93	09/30/93	09062-1115101
UNIXNAME	Australia	Filed	9	07/01/94		09062-1115101
UNIXNAME	Bangladesh	Filed	9	09/17/94		09062-1115101

ATTACHMENT C

Page 9 of 9

TRADEMARK STATUS REPORT

TRADEMARK	COUNTRY	STATUS	CLASS	FILED DATE	REG. DATE	EXPIRES
UNIXWARE	Bangladesh	Filed	16	09/17/94		09062-1115415
UNIXWARE	China	Filed	9	07/19/94		09062-1115413
UNIXWARE	Danmark	Registered	9	09/26/93	06/24/94	09062-1115436
UNIXWARE	France	Proposed	9			09062-1115437
UNIXWARE	Germany	Registered	9, 16, 37, 38, 42	02/05/92	04/29/93	09062-1115438
UNIXWARE	Indonesia	Filed	9	01/26/93		09062-1115491
UNIXWARE	Italy	Filed	9	11/02/93		09062-1115439
UNIXWARE	Japan	Filed	9	03/13/93		09062-1115419
UNIXWARE	Kenya	Filed	9	12/10/93		09062-1115440
UNIXWARE	Malta	Filed	9	08/02/94		09062-1115412
UNIXWARE	New Zealand	Filed	9	09/23/92		09062-1115441
UNIXWARE	Norway	Published	9	12/28/92		09062-1115443
UNIXWARE	Spain	Published	42	12/28/92		09062-1115442
UNIXWARE	Spain	Suspended	9	09/10/93	04/29/94	09062-1115444
UNIXWARE	Sweden	Registered	9	09/22/93	09/22/93	09062-1115445
UNIXWARE	United Kingdom	Registered	9			
UNIX	United States	Registered	9	05/13/85	04/22/86	09062-1114023
UNIX	United States	Registered	9	06/24/85	05/06/86	09062-1114024
UNIX DESKTOP	United States	Registered	9	07/09/91		09062-1114025
UNIX FMS	United States	Abandoned	9	07/09/91		09062-1114026
UNIX LABS	United States	Abandoned	9	06/01/90		09062-1114027
UNIX LADS	United States	Abandoned	42	06/01/90		09062-1114028
UNIX LITE	United States	Abandoned	9	07/07/91		09062-1114029
UNIX NEWS	United States	Abandoned	9	05/14/90		09062-1114030
UNIX NEWS.2 AND DESIGN	United States	Registered	16	06/23/92	12/03/91	09062-1114031
UNIX UNIVERSITY	United States	Allowed	9	04/07/92		09062-1114035
UNIX UNIVERSITY	United States	Abandoned	41	06/04/93		09062-1114036
UNIX WINDOWS	United States	Abandoned	9	11/20/91		09062-1114037
UNIXWARE	United States	Abandoned	9	09/03/93		09062-1114038
UNIXWARE	United States	Suspended	9	09/03/93		09062-1114039
UNIXWARE	United States	Registered	9	09/03/93	07/19/94	09062-1114039

ATTACHMENT D

Page 1 of 2

**Seller's Patents and Patent Applications
Affecting the Business**

<u>Inventor/Country</u>	<u>Status</u>	<u>Serial/Patent No.</u>	<u>Date</u>
A. <u>Owned by Seller</u>			
1. Wong 1			
USA	Filed	07/814,854	12/30/91
Canada	Mailed		11/12/92
2. Raye 1			
USA	Patented	4,580,218	4/1/86
Italy	Patented	1,205,650	3/23/89
West Germany	Patented	0155284	11/22/90
Great Britain	Patented	0155284	11/22/90
France	Patented	0155284	11/22/90
Japan	Filed	503,182,84	3/5/94
3. Wehr 2			
USA		7/374,380	6/30/92
Unintentionally Abandoned To Be Revived			
Canada	Filed	2,018,319-5	6/5/90
Japan	Filed	170,411	6/29/90
Belgium	Filed	90306750.2	6/20/90
France	Filed	90306750.2	6/20/90
Great Britain	Filed	90306750.2	6/20/90
West Germany	Filed	90306750.2	6/20/90
Italy	Filed	90306750.2	6/20/90
Netherlands	Filed	90306750.2	6/20/90
Sweden	Filed	90306750.2	6/20/90
4. Alecci			
1-1-1	Abandoned	07/468,435	8/1/91
Alecci			
2-2-2	Continuation Under Rule 1.62 of Alecci 1-1-1	07/742,149	1/14/93

ATTACHMENT D
Page 2 of 2

Inventor/Country	Status	Serial/Patent No.	Date
Canada	Filed	2030438-3	11/21/90
Italy	Filed	90313205.8	12/5/90
Sweden	Filed	90313205.8	12/5/90
Spain	Filed	90313205.8	12/5/90
Germany	Filed	90313205.8	12/5/90
Great Britain	Filed	90313205.8	12/5/90
France	Filed	90313205.8	12/5/90
Japan	Filed	16791/91	1/18/91
5. Andrade			
1-1-1			
USA	Filed	07/524,182	3/29/90
Canada	Filed	20388433-9	3/22/91
Japan	Filed	089094	3/29/91
Germany	Filed	91302438.6	3/20/91
Italy	Filed	91302438.6	3/20/91
Great Britain	Filed	91302438.6	3/20/91
France	Filed	91302438.6	3/20/91
6. Doshi-Sahs			
1-1			
USA	Filed	08/280,307	1/26/94
7. R.C. Pike			
One-Half			
Undivided			
Interest with AT&T	Patented	4,555-775	11/26/85

*Note: Seller and AT&T believe the Pike Patent is being infringed by third parties and certain of such parties have alleged that said patent is invalid.

ATTACHMENT E

Page 1 of 3

Selling Copyrights in Product(s) of Business

TITLE OF THIS WORK	REGISTRATION NUMBER
SYSTEM V BINARY COMPATIBILITY SPECIFICATION	TX 2 824 712
UNIX® SYSTEM V BINARY INTERFACE: WE® 32000 Processor Supplement	TX 2 824 713
SYSTEM V APPLICATION BINARY INTERFACE Intel 386™ Processor Supplement	TXu 498 197
UNIX® SYSTEM V/386 RELEASE 4: Mouse Driver Administrator's Guide	TXu 455 747
UNIX SYSTEM V/386 RELEASE 4 Network User's and Administrator's Guide	TX 2-943-774
UNIX SYSTEM V/386 RELEASE 4 PC-Interface Administrator's Guide	TX 2-900-957
UNIX SYSTEM V/386 RELEASE 4 Programmer's Guide: SCSI Driver Interface	TX 2 902 863
UNIX SYSTEM V APPLICATION BINARY INTERFACE Motorola 83000 Processor Supplement	TX 2 902 556
UNIX SYSTEM V/386 RELEASE 4 MULTIBUS® Reference Manual	TX 2 902 542
UNIX® SYSTEM V RELEASE 4: Product Overview and Master Index	TX 2 902 862
UNIX® SYSTEM V RELEASE 4 PROGRAMMER'S GUIDE: XWIN™ Graphical Windowing System The X Toolkit	TX 2 902 861
UNIX® SYSTEM V RELEASE 4 Programmer's Guide: XWIN™ Graphical Windowing System Xlib-C Language Interface	TX 2-900-958
UNIX® SYSTEM V RELEASE 4 Programmer's Guide: XWIN™ Graphical Windowing System Addenda: Technical Papers	TX 2-9901-148
UNIX SYSTEM V/386 RELEASE 4 Integrated Software Development Guide	TX 2 931 646

ATTACHMENT E

Page 2 of 8

TITLE OF THIS WORK	REGISTRATION NUMBER
UNIX® SYSTEM V/386 RELEASE 4: Product Overview and Master Index	TX 2 925 901
UNIX® SYSTEM V RELEASE 4 PROGRAMMER'S GUIDE: X11/NeWS® Graphical Windowing System NeWS	TX 2-946-827
UNIX® SYSTEM V RELEASE 4 Programmer's Guide: X11/NeWS® Graphical Windowing System (Nt Technical Reference Manual	TX 2-900-956
UNIX® SYSTEM V RELEASE 4 PROGRAMMER'S GUIDE: X11/NeWS® Graphical Windowing System Server Guide	TX 2 902 864
UNIX® SYSTEM V RELEASE 4 PROGRAMMER'S GUIDE: X11/NeWS® Graphical Windowing System XVIEW™	TX 2 907 117
UNIX® SYSTEM SOFTWARE READINGS	TX 2 300 3-6
UNIX® SYSTEM V RELEASE 4 Programmer's Reference Manual Operating System API for Intel Processors	TX 3 218 268
UNIX® SYSTEM V RELEASE 4 User's Reference Manual/System Administrator's Reference Manual for Intel Processors <u>Commands m-z</u>	TX 3 221 656
UNIX® SYSTEM V RELEASE 4 Integrated Software Development Guide for Intel Processors	TX 3 221 657
UNIX SYSTEM V RELEASE 4 User's Reference Manual/System Administrator's Reference Manual for Intel Processors <u>Commands, a-l</u>	TX 3 227 639
UNIX® SYSTEM V RELEASE 4 Programmers Guide: Streams for Intel Processors	TX 3 318 286

ATTACHMENT E

Page 3 of 8

TITLE OF THIS WORK	REGISTRATION NUMBER
UNIX® SYSTEM V RELEASE 4 Device Driver Interface/Driver Kernel Interface Reference Manual for Intel Processors	TX 3 252 578
UNIX® SYSTEM V RELEASE 4 Master Index for Motorola Processors	TX 3 221 653
UNIX SYSTEM V RELEASE 4 Device Driver Interface/Driver Kernel Interface Reference Manual for Motorola Processors	TX 3 220 500
UNIX® SYSTEM V RELEASE 4 User's Reference Manual/System Administrator's Reference Manual for Motorola Processors <u>Commands a-1</u>	TX 3 220 531
UNIX® SYSTEM V UTILITIES RELEASE NOTES	TX 2 123 158
UNIX® SYSTEM V STREAMS PROGRAMMERS GUIDE	TX 2 123 157
UNIX® SYSTEM V STREAMS PRIMER	TX 2-120-499
UNIX® SYSTEM V PROGRAMMER'S GUIDE	TX 2-120-502
UNIX SYSTEM V/386 RELEASE 4 MULTIBUS® Installation and Configuration Guide	TX 2 902 541
UNIX SYSTEM V/386 RELEASE 4 Transport Application Interface Guide	TX 2 881 542
UNIX SYSTEM V/386 RELEASE 4 Device Interface/Driver Kernel Interface (DDI/DKI) Reference Manual	TX 2-883-255
UNIX SYSTEM V/386 RELEASE 4 Migration Guide	TX 2-890-470
UNIX SYSTEM V/386 RELEASE 4 System Administrator's Reference Manual	TX 2 881 545
UNIX SYSTEM V/386 RELEASE 4 PROGRAMMER'S REFERENCE MANUAL	TX 2-855-760

ATTACHMENT E

Page 4 of 8

TITLE OF THIS WORK	REGISTRATION NUMBER
UNIX SYSTEM V/386 RELEASE 4 User's Reference Manual	TX 2-890-471
UNIX SYSTEM V APPLICATIONS BINARY INTERFACE: <u>SPARC™ Processor</u> <u>Supplement</u>	TX 2 862 662
UNIX SYSTEM V APPLICATION BINARY INTERFACE: <u>Motorola 68000 Processor</u> <u>Family Supplement</u>	TX 2 870 036
UNIX® SYSTEM V RELEASE 4 User's Reference Manual	TX 2 820 791
UNIX® SYSTEM V RELEASE 4 USER'S GUIDE	TX 2 832 010
UNIX® SYSTEM V RELEASE 4 ANSI C TRANSITION GUIDE	TX 2 820 798
UNIX SYSTEM V RELEASE 3.2 SYSTEM ADMINISTRATOR'S GUIDE	TX 2 852 116
UNIX® SYSTEM V RELEASE 4 DEVICE DRIVER INTERFACE/DRIVER KERNEL INTERFACE (DDI/DKI) REFERENCE MANUAL	TX 2 820 792
UNIX® SYSTEM V RELEASE 4 PROGRAMMER'S GUIDE POSIC conformance	TX 2 820 885
UNIX® SYSTEM V RELEASE 4 PROGRAMMER'S GUIDE: Streams	TX 2 833 114
UNIX® SYSTEM V RELEASE 4 PROGRAMMER'S REFERENCE MANUAL	TX 2 832 009
UNIX® SYSTEM V RELEASE 4 NETWORK USER'S AND ADMINISTRATOR'S GUIDE	TX 2 832 008
UNIX® SYSTEM V RELEASE 4 SYSTEM ADMINISTRATOR'S REFERENCE MANUAL	TX 2 830 989

ATTACHMENT E

Page 5 of 8

TITLE OF THIS WORK	REGISTRATION NUMBER
UNIX® SYSTEM V RELEASE 4 PROGRAMMER'S GUIDE: Ansi C and Programming Support Tools	TX 2 820 849
UNIX® SYSTEM V RELEASE 4 PROGRAMMERS GUIDE: System and Application Packaging Tools	TX 2 825 383
UNIX® SYSTEM V RELEASE 4 MIGRATION GUIDE	TX 2 820 886
UNIX® SYSTEM V RELEASE 4 PROGRAMMER'S GUIDE: Character User Interface (FMLI and EIT)	TX 2 825 299
UNIX® SYSTEM V RELEASE 4 BSD/XENIX® COMPATIBILITY GUIDE	TX 2-878-051
UNIX® SYSTEM V RELEASE 4 PROGRAMMER'S GUIDE: Networking Interfaces	TX 2 838 315
SYSTEM V APPLICATION BINARY INTERFACE	TX 2 847 222
AT&T UNIX System V/386, Release 3.2 Utilities Release Notes	TX 2 454 845
AT&T UNIX SYSTEM V/386 Release 3.2 Streams Primer	TX 2 454 847
UNIX SYSTEM V/386 Release 3.2 User's Guide	TX 2-488-749
AT&T UNIX SYSTEM V/386: Programmer's Guide, Vol. II	TX 2 454 884
UNIX SYSTEM v/386 Release 3.2 Programmer's Reference Manual	TX 2 494 658
UNIX SYSTEM V/386 Release 3.2 Streams Programmer's Guide	TX 2 497 054
UNIX SYSTEM V/386: Network Programmer's Guide	TX 2 366 626

ATTACHMENT E

Page 6 of 8

TITLE OF THIS WORK	REGISTRATION NUMBER
UNIX® SYSTEM V/386: Programmer's Reference Manual	TX 2 373 759
UNIX® SYSTEM V/386: User's Guide, 2nd edition	TX 2-363-829
UNIX® SYSTEM V/386: User's Reference Manual	TX 2 365 627
UNIX® SYSTEM V/386: System Administrator's Reference Manual	TX 2-371-952
UNIX® SYSTEM V/386: Streams Programmer's Guide	TX 2-367-657
UNIX® SYSTEM V/386: Programmers' Guide	TX 2-400-593
UNIX® SYSTEM V/386: Streams Printer	TX 2 366 645
UNIX® SYSTEM V/386: System Administrator's Guide	TX 2 378 091
UNIX® SYSTEM V/386: Utilities Release Notes	TX 2 366 532
UNIX® SYSTEM V NETWORK PROGRAMMERS GUIDE	TX 2 117 799
UNIX® SYSTEM V: User's Guide, 2/E	TX 2 052 293
UNIX® SYSTEM V RELEASE 3.2: Framed Access Command Environment (FACE) User's Guide	TX 2 611 527
UNIX® SYSTEM V RELEASE 3.2: Form and Manu Language Interpreter (FMLI) Programmer's Guide	TX 2 605 294
UNIX® SYSTEM V RELEASE 3.2: Utilities Release Notes	TX 2-611-984
UNIX® SYSTEM V RELEASE 3.2: Programmer's Guide, Volume II	TX 2 595 940
UNIX® SYSTEM V RELEASE 3.2: System Administrator's Reference Manual	TX 2-611-860

ATTACHMENT E

Page 7 of 8

TITLE OF THIS WORK	REGISTRATION NUMBER
UNIX® SYSTEM RELEASE 3.2: User's Guide	TX 2-611-861
UNIX® SYSTEM V RELEASE 3.2: Programmer's Guide, Volume I	TX 2-611-862
UNIX® SYSTEM V BINARY COMPATIBILITY SPECIFICATION: WE® 32000 Processor Supplement	TX 2 824 711
UNIX® SYSTEM V RELEASE 4: OPEN LOOK™ Graphical User Interface Programmer's Reference Manual	TX 2-900-893
UNIX® SYSTEM V RELEASE 4: Programmer's Guide: OPEN LOOK™ Graphical User Interface	TM 2-900-966
UNIX® SYSTEM V RELEASE 4 OPEN LOOK™ GRAPHICAL USER INTERFACE USER'S GUIDE	TX 2-901-147
UNIX® SYSTEM V RELEASE 3.2: System Administrator's Guide	TX 2 611 530
UNIX® SYSTEM V RELEASE 3.2: Streams Programmer's Guide	TX 2 604 382
UNIX® SYSTEM V RELEASE 3.2: Programmer's Reference Manual	TX 2 605 292
UNIX SYSTEM V: Documentor's Workbench, <u>Reference Manual</u>	TX 2 986 119
UNIX SYSTEM V: Documentor's Workbench, <u>User's Guide</u>	TX 2 986 118
UNIX System V/386 Release 3.2 System Administrator's Guide	TX 2 454 792
AT&T UNIX System V/386 Release 3.2 Network Programmer's Guide	TX 2 454 346
THE UNIX™ SYSTEMS USER'S GUIDE	TX 1 788 418
UNIX® SYSTEM RELEASE 3.2: Programmer's Guide, Volume I	TX 2-611-862

ATTACHMENT E

Page 3 of 3

TITLE OF THIS WORK	REGISTRATION NUMBER
UNIX SYSTEM V/386: Programmer's Guide, Vol. II	TX 2 454 884
UNIX® SYSTEM V RELEASE 4 User's Reference Manual/System Administrator's Reference Manual for Motorola Processors <u>Commands m-z</u>	TX 3 218 267
UNIX® SYSTEM V RELEASE 4 System Files and Devices Reference Manual for Motorola Processors	TX 3 221 654
UNIX® SYSTEM V RELEASE 4 Programmer's Reference Manual: Operating System API for Motorola Processors	TX 3 221 655
Operating System Utility Programs	TXu 301 868
UNIX® Operating System Edition 5 and Instruction Manual	TXu 510 028
UNIX® Operating System Edition 6 and Instruction Manual	TXu 511 236
UNIX® Operating System Edition 32V and Instruction Manual	TXu 516 704
UNIX® Operating System Edition 7 and Instruction Manual	TXu 516 705

ATTACHMENT F

CERTAIN THIRD PARTY ROYALTY PAYMENTS

<u>THIRD PARTY VENDOR</u>	<u>PRODUCTS (OR COMPONENTS OF PRODUCT(S)) ON WHICH ROYALTY IS DUE</u>	<u>ROYALTY BASED ON</u>	<u>Royalties Paid 8/1/94 - 7/31/95</u>
(1) <u>Microsoft</u>	SVR3/SVR4/LW tpt hw of 386/486 PE, AS	binary units binary units	Over \$1.5 Million
(2) <u>Veritas</u>	Veritas products AS, ODM	source/binary revenue binary units	Over \$1.0 Million (< \$1.5)
(3) <u>OSF</u>	Motif product PE, AS, MOTIF KIT, SDK	source/binary units reference binary units binary units	\$1M commitment thru 1997 (buy-out)
(4) <u>Locus</u>	Locus Merge 3.1 PE, AS, ADVMRG, SRVMRG	binary units binary units	Over \$1.5 Million

Attachment G

Seller Contracts Containing Business-Related Rights

which are Terminable in the Event of Acquisition

- October 16, 1992 Master Purchase and License Agreement between Seller and Electronic Book Technologies, Inc.
- June 1, 1995 CDE/MOTIF PST Joint Development Agreement among Seller and Digital Equipment Corporation; Hitachi, Ltd.; International Business Machines Corporation; Fujitsu Limited; Open Software Foundation, Inc.; X Consortium, Inc. and Sun Microsystems, Inc.
- May 10, 1994 Trademark Relicensing Agreement between Seller and X/Open Company, Ltd.
- February 28, 1995 Software License Agreement between Seller and Atria Software, Inc.
- February 7, 1987 Development and License Agreement now in effect between Seller and Microsoft Corporation.

**REPRESENTATIONS AND WARRANTIES OF BUYER
DISCLOSURE SCHEDULE**

3.3 Capitalization
Series C Agreement between The Santa Cruz Operation, Inc. and Microsoft Corporation.

The Company is in the process of granting Hambrecht & Quist warrants to purchase 50,000 shares of Common Stock at \$7.75 per share as partial consideration for services provided to the Company pertaining to the subject transaction.

Also see 3.8 below.

3.7 Litigation

In August 1993, a securities class action lawsuit was filed in Superior Court of San Francisco, California and is now pending in the Superior Court of Santa Clara County, California against the Company, Douglas Michels, Lars Turndal, Dan Steimle, Lary Michels and the Company's underwriters. The lawsuit alleges violations of the Securities Act of 1933, pertaining to alleged misrepresentations and omissions in the Company's Registration Statement and Prospectus in connection with its initial public offering. In May 1994, the case was dismissed. The plaintiffs filed a notice of appeal in June 1994.

In February 1995, Micro-Quick Systems, Inc., a software dealer, commenced legal action against the Company in the California Superior Court in San Bernadino County seeking to recover unspecified damages in excess of \$1,000,000. Micro-Quick alleges the Company failed to deliver conforming product and failed to support said product.

In May 1995, an action was filed in the Superior Court of Santa Cruz County, California by a former employee against the Company and two current employees alleging sexual harassment, employment discrimination, breach of contract and related claims.

In August 1995, JSB Computer Systems, Ltd., a software vendor, filed a complaint against the Company in the Superior Court of Santa Cruz County, alleging breach of contract for failure to make appropriate payments under the contract. JSB seeks to recover unspecified damages in excess of \$100,000.

The Company does not believe any of these lawsuits individually or in the aggregate will have a material adverse impact on the Company.

3.8 Absence of Certain Changes

The Company has held and continues to hold informal discussions with Microsoft Corporation regarding the purchase by the Company of Microsoft's equity in the Company, in whole or in part. No commitments have been made by either party.

3.10 Tax Returns and Reports

(i) SCO is in compliance with all material filing requirements. Those filing requirements that SCO may not be in compliance with will not have a material adverse effect on the business condition of SCO. Returns in this latter category include an IXI Corporation California return for 9/93, possible Arizona and Tennessee income tax returns, various sales tax returns in the states of Washington, Wisconsin, Tennessee, etc. and business license returns in Washington and Fairfax County, Virginia.

(ii) SCO is in compliance with all employer tax requirements.

(iii) No material tax delinquencies are outstanding against SCO. The items mentioned in (i) above may give rise to delinquencies, but not of a material amount. See (iv) below for waivers of the statute of limitation.

(iv) SCO is undergoing an IRS audit for the fiscal years 9/90 and 9/91 and has extended the statute of limitations for those years to 12/31/95. The IRS auditor has advised that he will also audit 9/92, but this has not been officially confirmed. SCO is undergoing a Texas sales tax audit and nexus queries have been received from Tennessee, Wisconsin and Washington. None of the audits or queries are expected to have a material adverse effect on the business condition of SCO.

(v) None of SCO's assets are treated as "tax-exempt use property" within the meaning of IRC 168(h).

(vi) SCO is not, and has not been, a "US real property holding corporation" within the meaning of IRC 897(c)(2).

AMENDMENT NO 1
TO ASSET PURCHASE AGREEMENT

As of the effective date indicated below, the September 19, 1995 Asset Purchase Agreement (the "Agreement") between Novell, Inc. ("NOVELL") and The Santa Cruz Operation, Inc. ("SCO") is amended in the following respects.

A. In the Recitals, Paragraph A, line 4 is amended to read as follows:

- - other products ("Auxiliary Products") which are directly related to UNIX and UnixWare (collectively, the - -

B. In Section 1.1, the following new paragraph (d) is added:

- - (d) Right of First Refusal. The parties agree that, within a reasonable time after the Closing Date, they will enter into a separate agreement whereby Buyer will have a right of first refusal to purchase from Seller (i) all appropriate copies of publications relating to the Business and in the possession, custody or control of Seller's technical library located at its facility in Florham Park, New Jersey and (ii) physical assets, including lab equipment and financial accounting server(s), owned by Seller and used in the Business. Each such item will be valued at net book value as of November 1, 1995. Such right of first refusal shall be exercisable until (1) February 29, 1996 as to the financial accounting server(s) and (2) January 31, 1996 as to all other items. - -

C. In Section 1.2, paragraph (b):

(1) The following clause is added at the beginning of the first sentence ("Buyer agrees ... Section 4.16 hereof".):

- - Except as otherwise provided in paragraph (c) of this Section 1.2. - -

(2) Lines 14-15 are amended to read as follows:

-- The amounts of additional royalties to be paid in connection with Buyer's sale of the UnixWare products are identified in detail in Schedule 1.2(b) hereto. Seller --

D. Section 1.2(d), is amended in its entirety to read as follows:

-- (d) Asset Transfer and Transfer Taxes. Notwithstanding any other provision of this Agreement, the Assets shall remain the property of Seller until expeditiously delivered to Buyer in the manner and at the locations prescribed as follows in this Section 1.2(d), or as subsequently agreed in writing.

Seller shall deliver and Buyer shall accept source code, object code, related documentation and other software assets described in Schedule 1.1(a) (collectively referred to as "Software Assets") only at Seller's facility in Florham Park, New Jersey.

In the event that Seller subsequently discovers Software Assets outside of New Jersey contemplated by this Agreement which have not heretofore been delivered to Buyer in New Jersey, Seller shall consult with Buyer to determine if Seller may destroy such assets in place without delivery to Buyer, or transport them to New Jersey or another location specified by Buyer for delivery to Buyer.

Seller represents that to its knowledge software documentation previously delivered to Buyer for the purpose of due diligence is the property of Seller, and Buyer agrees that it will destroy or return possession to Seller in New Jersey before title passes to Buyer.

Seller and Buyer agree that the license that Seller is entitled to exercise after Closing pursuant to Section 1.6 hereof is a right not sold to Buyer and as such is a right retained by Seller.

Buyer shall pay and promptly discharge when due the entire amount of any and all sales and use taxes ("Sales Taxes") imposed or levied by reason of the sale of the Assets to Buyer. The parties shall cooperate with each other to the extent reasonably requested and legally permitted to minimize any such Sales Taxes. If Seller is obligated to pay any of such Sales Taxes, Buyer shall reimburse Seller on demand for the amount of such payment --

E. In section 1.2, the following new paragraphs (e) and (f) are added:

-- (e) Revenues to be Retained by Buyer. Subject to the last sentence of paragraph (a) of Section 4.16 hereof, Buyer shall be entitled to retain 100% of the following categories of SVRX Royalties collected by Buyer:

- (i) fees attributable to stand-alone contracts for maintenance and support of SVRX products listed under Item VI of Schedule 1.1(a) hereof;
- (ii) source code right to use fees under existing SVRX Licenses from the licensing of additional CPU's and from the distribution by Buyer of additional source code copies;
- (iii) source code right to use fees attributable to new SVRX licenses approved by Seller pursuant to Section 4.16(b) hereof; and
- (iv) royalties attributable to the distribution by Buyer and its distributors of binary copies of SVRX products, to the extent such copies are made by or for Buyer pursuant to Buyer's own licenses from Seller acquired before the Closing Date through Software Agreement No. SOFT-000302 and Sublicensing Agreement No. SCB-000302A.

(f) Monthly Reports. Within one (1) calendar month following each calendar month in which SVRX Royalties [and royalties from Royalty-Bearing Products as contemplated in Schedule 1.2(b) hereof] are received by Buyer, Buyer shall provide to Seller, in electronic file format, a report detailing all such royalties. Such monthly reports shall be separately broken down by revenue type (i.e., source code right to use fees, gross and net binary per copy fees, and support fees), by product, by customer, by quarterly period by which distribution occurs, and by country (if provided by customer) of distribution. Each such report shall also detail, with respect to the revenues reported, any third party payments attributable to such revenues, broken down by the identity of such third parties and the applicable payments to each. Buyer shall provide Seller with a single point of contact to discuss specific additional revenue and unit information (by customer) which, in Seller's judgment, are appropriate to supplement such monthly reports. Buyer shall also provide to Seller, on a monthly basis, a report that reconciles monthly revenues reported (and accounts receivable) to cash remittances actually made to Seller by Buyer. --

F. In Section 1.4, line 8 is amended to read as follows:

-- in the loss or diminution thereof; provided, however, that Seller shall, as soon as practicable after the Closing Date and at its own expense, --

G. In Section 1.6, lines 1-2 are amended to read as follows:

-- 1.6 Seller's Licenses to Assets. Concurrent with the Closing, Buyer and Seller shall enter into a license agreement providing Seller with a royalty free, perpetual --

H. In Section 4.13:

(i) In the first paragraph, lines 5-6 are amended to read as follows;

-- is comparable to that offered by Seller. The Benefits Package --

(2) The following new paragraphs are added at the end of the section:

-- For purposes of this Section 4.13, the term "Type 1 employee" means a person who (1) as of the effective date of this Agreement was employed by Seller in any technical, business or financial (but not sales) capacity in Seller's Operating System Division in Florham Park, New Jersey, Provo, Utah or San Jose, California or otherwise in connection with the Business and/or the Assets and (2) whose employment with Seller thereafter terminates under circumstances under which such employee is given severance benefits from Seller including payment ("Severance Payment") calculated for a prescribed interval ("Severance Period").

Buyer agrees that it will not knowingly offer employment to, or offer to hire as a contractor, any Type 1 employee until the Severance Period for such employee is completed.

In the event that for any reason Buyer offers employment to, or offers to hire as a contractor, any such employee before the end of the period contemplated in the preceding sentence, Buyer shall remit to Seller a prorated portion of such Severance Payment applicable to the period between February 1, 1996 and the date of such offer. Such remittance shall be made to Seller within ten (10) days after such employee commences work on behalf of Buyer.

Seller agrees that prior to February 1, 1996, it will provide to Buyer a list of persons who are Type 1 employees.

Notwithstanding the above and except for normal attrition of previously hired employees, Buyer agrees not to hire any Type 1 employee for a period of 150 days from February 1, 1996. If Buyer does then Buyer will remit to Seller the full Severance Payment made to such Type 1 employees. --

I. In Section 4.16, paragraph (a):

1. The second sentence ("Within 45 days . . . preceding quarter") is amended to read as follows:

-- Within one (1) calendar month following each calendar month in which SVRX royalties (and royalties from Royalty-Bearing Products) are received by Buyer [except for those SVRX Royalties to be retained in their entirety by Buyer pursuant to paragraph (e) of Section 1.2 hereof] Buyer shall remit 100% of all such royalties to Seller or Seller's assignee. Buyer shall also provide to Seller, within six (6) days following the calendar month in which such royalties are received, an estimate of the total amount of such royalties. --

2. In the last sentence ("In consideration . . . SVRX Royalties") the following is added at the end before the period:

-- together with a remittance sufficient to cover applicable third party payments, (if any) which are attributable to distributions giving rise to such SVRX Royalties (and royalties from Royalty-Bearing Products) and for which Buyer has assumed Seller's obligation of payment to such third party. --

J. In Section 4.16, paragraph (b), the last sentence ("Buyer shall not . . . Merged Product") is amended to read as follows:

-- Notwithstanding the foregoing, Buyer shall have the right to enter into amendments of the SVRX Licenses (i) as may be incidentally involved through its rights to sell and license UnixWare software or the Merged Product [as such latter term is defined in a separate Operating Agreement between the parties to be effective as of the Closing Date, a copy of which is attached hereto as Exhibit 5.1(c)], or future versions of the Merged Product, or (ii) to allow a licensee under a particular SVRX License to use the source

code of the relevant SVRX product(s) on additional CPU's or to receive an additional distribution, from Buyer, of such source code. In addition, Buyer shall not, and shall have no right to, enter into new SVRX Licenses except in the situation specified in (i) of the preceding sentence or as otherwise approved in writing in advance by Seller on a case by case basis. --

K. In Schedule I.1(a):

1. In Item I:

- (i) each occurrence of "UNIX and "UnixWare" is changed to read -- UNIX, UnixWare and Auxiliary Products --.
- (ii) line 3, before "technical" the word "appropriate" is added.
- (iii) line 5, before "engineering" the word "appropriate" is deleted.
- (iv) in the UNIX Source Code Products listing, the title is changed to "UNIX and UnixWare Source Code Products" and item D is amended to read as follows:

-- The following foreign versions of UnixWare software :

UnixWare 1.0 French

UnixWare 1.0 German

UnixWare 1.0 Italian

UnixWare 1.0 Spanish

UnixWare 1.1 French

UnixWare 1.1 German

UnixWare 1.1 Italian

UnixWare 1.1 Spanish

UnixWare 1.1 Japanese

UnixWare 1.1. Chinese

UnixWare 2.01 French

UnixWare 2.01 German

UnixWare 2.01 Italian

UnixWare 2.01 Spanish

UnixWare 2.01 Japanese

(v) in the Products Under Development listing, the following is added at the end:

-- F. Amadeus Software --

(vi) the following new listing is inserted between the Products Under Development listing and the Other Technology listing:

-- Auxiliary Products

[as listed in Attachment 1 to this Schedule I.1(a)] --

2. The following is added at the end of Item III:

-- N. Agreements for development and licensing of Amadeus Software. --

3. Item IV is changed to read:

-- All master copies of UNIX, UnixWare and Auxiliary Software owned by Seller, except as retained by Seller in connection with seller's licenses specified in Section 1.6 hereof. --

4. In Item VI:

(i) The first line is amended in its entirety to read as follows:

-- All contracts relating to the SVRX Licenses and Auxiliary Product Licenses (collectively "SVRX Licenses") listed below: --

(ii) The following is added to the list of SVR4 Licenses:

-- Auxiliary Products --

L. In Schedule 1.1(b), Item VII is amended to read as follows:

-- VII. All accounts receivable or rights to payment concerning the Assets arising prior to the Closing Date, subject to appropriate payments to Buyer in several situations involving (a) prepayments received by Seller prior to the Closing Date under its customer agreements which cover orders for licenses to and/or support for UnixWare products that remain unfulfilled as of the Closing Date or (b) any other rights to payments which accrued to Seller prior to the Closing Date under such agreements for such unfulfilled orders for UnixWare Products. Such situations are described in Attachment I to this Schedule 1.1(b). The parties agree to adapt more detailed procedures, where appropriate, to deal with such payments in each of such situations within ninety (90) days after the Closing Date.

M. In Schedule 1.2(b), paragraph (b), the first sentence is amended to read as follows:

-- (b) Amount of Royalties. Attachment 1 to this Schedule 1.2(b) represents Seller's annual forecast, as of the Closing Date, of the potential estimated market for units of Unix System V, UnixWare, Eiger, MXU and White Box software (the "Plan" or "Unit Plan"). --

N. In Exhibit 5.1(c) paragraph (b) is rewritten in its entirety as follows:

-- Commencing November 1, 1995. Seller shall be responsible for bearing a certain amount of the reasonable, auditable and fully burdened costs incurred on a combined basis by Buyer and Seller for the completion of the GA version of the Eiger product, as follows:

- (i) 100% of such costs incurred by SELLER from November 1, 1995 up to the Closing Date (estimated to be about \$2,600,000);
- (ii) 50% of the first \$5,000,000 of such costs incurred by both Companies after the Closing Date;
- (iii) 25% of the next \$10,000,000 of such costs incurred by both Companies after the Closing Date.

Buyer and Seller will separately maintain records of such costs incurred. On a calendar month basis after the Closing Date. Buyer and Seller will exchange information as to such development costs incurred in that month. Each party ("first party") will render payment to the other party for any amounts such first party is responsible for which are in excess of all amounts such first party has incurred. Each such payment shall be remitted by such first party within thirty (30) days after receipt from the other party of an invoice for such excess amount.

O. Attachments A, B and C to this Amendment No. 1 are incorporated as Attachment 1 to Schedule 1.1(a), Attachment 1 to Schedule 1.1(b), and Attachment 1 to Schedule 1.2(b), respectively.

All other terms and conditions of the Agreement shall remain in full force and effect.

The parties have executed this Amendment No. 1 through their duly authorized representatives on the respective dates indicated below. The effective date of this Amendment No. 1 shall be the later of such respective dates.

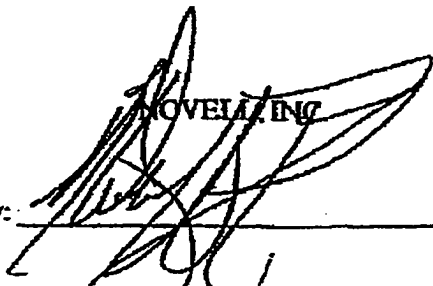
THE SANTA CRUZ OPERATION, INC.

By: 

Printed Name: Alok Mahan

Title: Chief Executive Officer

Date: December 6, 1995


NOVELL INC

Printed Name: R. Duff Thompson

Title: Senior Vice President - Corporate Development

Date: December 6, 1995

ATTACHMENT A

Listing of Auxiliary Products

Open Network Computing+

386 Implementation of UNIX System V Release 4
Multi-National Language Supplement

386 Implementation of UNIX System V Release 4
Multi-National Language Supplement

386 Implementation of UNIX System V Release 4
Multi-National Language Supplement

386 Implementation of UNIX System V Release 4
Multi-National Language Supplement

Application Source Verifier Release 2.0

Artus

C Compilation System for Motorola 68000

C Optimized Compilation System for UNIX System V
386/486

C++ Documents

C++ Language System Release 2.1

C++ Language System Release 3.0 and 3.0.1

C++ Language System Release 3.0.2

C++ Language System Release 3.0.3

C++ Object Interface Library Release 1.1

C++ Standard Components Release 2.0

C++ Standard Components Release 2.0.1

C++ Standard Components Release 3.0

C++ Standard Libraries Release 2.0

C++ Standard Libraries Release 3.0

C++ Standard Library Extension Release 1.0

C++LS 2.0

C++Translator .

CFRONT Release 1.2

Chinese System Messages Implementation of UNIX
System V Release 4 System Messages

Distributed Manager/Framework & Host Manager
Release 1.0

Distributed Manager/Framework & Host Manager
Technology Licensing Program 1

Distributed Manager/Framework & Host Manager U.I.

Early Access

Distributed Manager/Print Manager Release 1.0

Distributed Manager/Print Manager Technology

Licensing Program 1
Distributed Manager/Print Manager Technology
Licensing Program 1
Distributed Manager/Print Manager U.I. Early
Access
DM/SM-TLPI
Documentation Reproduction Provision - UNIX System
V Handbook
Documentation Reproduction Provision - UNIX System
V Programming Books
Documentation Reproduction Provision - UNIX System
V Reference Books
Documentation Reproduction Provision - UNIX System
V User_s and Administrator_s Books
European Supplement Release 3.2
European System Messages Release 3.2
French Application Environment 1.0/3b2
French System Messages Implementation of UNIX
System V Release 4 System Messages
French System Messages Implementation of UNIX
System V Release 4.1 Enhanced Security System
Messages
German Application Environment
German System Messages Implementation of UNIX
System V Release 4 System Messages
German System Messages Implementation of UNIX
System V Release 4.1 Enhanced Security System
Messages
Hindi System Messages Implementation of UNIX
System V Release 4 System Messages
Intel386 Microprocessor Implementation of VERITAS
File System (VxFS) Release 1.0
Intel386 Microprocessor Implementation of VERITAS
Visual Administrator Release 1.01
Intel386 Microprocessor Implementation of VERITAS
Volume Manager (VxVM) Release 1.01
Intel386 Microprocessor Implementation of VERITAS
Volume Manager (VxVM) Release 1.1
Intel386 Microprocessor Implementation of VERITAS
Volume Manager (VxVM) Release 1.1.1
Italian System Messages Implementation of UNIX
System V Release 4.1 Enhanced Security System
Messages
Italian System Messages Implementation of UNIX
System V Release 4 System Messages

Japanese Application Environment I/O Rel 1.0
Japanese Application Environment Release 2.0
Japanese Application Environment Release 2.0
Japanese Application Environment Release 2.1
Japanese Environment for SVR4.2
Japanese Extension Implementation of UNIX System V
Release 4.2
Japanese I/O Release 1.0
Japanese System Messages Implementation of UNIX
System V Release 4 System Messages
Japanese System Messages Implementation of UNIX
System V Release 4.1 Enhanced Security System
Messages
Japanese System Messages Release 3.2
Korean System Messages Implementation of UNIX
System V Release 4 System Messages
Optimizing C Compiler for Intel, Release 3.0
Spanish System Messages Implementation of UNIX
System V Release 4 System Messages
Spanish System Messages Implementation of UNIX
System V Release 4.1 Enhanced Security System
Messages
System V Release 2.0 Machine Readable
Documentation
System V Release 3.0 Documentation Reproduction
Provision
System V Release 3.1 Documentation Reproduction
Provision
System V Release 3.2 Documentation Reproduction
Provision
System V Verification Suite Release 2
System V Verification Suite Release 3
System V Verification Suite Release 4
UNIX System V French System Messages Release 3.2
UNIX System V German System Messages Release 3.2
UNIX System V Release 1.0 for 386 Multi-National
Language Supplement
UNIX System V Release 1.0 for Intel 386 Multi-
National Language Supplement
UNIX System V Release 3.2 386 Doc. Reproduction
Provision
UNIX System V Release 3.2 for Intel 386 Multi-
National Language Supplement
UNIX System V Release 3.2 for Intel 386 Multi-
National Language Supplement

UNIX System V Release 3.2 Multi-National Language Supplement
UNIX System V Release 4 European Language Supplement
UNIX System V Release 4 STREAMS-Based Korean Input/Output Subsystem
UNIX System V Release 4.0 386 Doc. Reproduction Provision
UNIX System V Release 4.0 386 Doc. Reproduction Provision
UNIX System V Release 4.0 i860 Doc. Reproduction Provision
UNIX System V Release 4.2 European Language Supplement, Version 1
UNIX System V Release 4.2 MP Japanese Extension
UNIX Time Sharing Operating System Phototypesetter and C Compiler Edition #7
USL Standard C Development Environment for the 860 Implementation of UNIX System V Release 4.0
Veritas File System (VxFS) Release 1.3 for UNIX System V Release 4.2
XWIN Graphical Windowing System Release 3.0
XWIN Graphical Windowing System Release 4.0
XWIN Graphical Windowing System Release 4.0i

ATTACHMENT B

Treatment of Certain Prepayments and Rights

to Payment Specified in Item VII of Schedule 1.1(b)

Situation 1 - where the Seller customer contract (other than in Situation 3) involves a prepayment and/or an accrued right to payment (collectively "prepayment") that applies to a mix of UnixWare and non-UnixWare products.

Seller will send a notice requiring the customer to specify in writing (i) whether it wants any of the prepayment to be allocated to the UnixWare products and (ii) if so, how much of such prepayment should be so allocated. The notice shall state that if the customer does not respond

within 30 days after the date of transmission by Seller, none of such prepayment shall apply to the UnixWare products. The notice shall also specify that any future prepayment under the contract in question will not apply to UnixWare products, and that orders for UnixWare products after the prepayment allocation is used up must be directed to Buyer.

If the customer elects a UnixWare allocation of \$100,000 or more, or makes a UnixWare allocation of an unspecified amount, Buyer will fulfill all of such customer's orders of UnixWare products against the unused prepayment allocation (or prepayment, if no allocation is made). Buyer will receive from Seller a payment reflecting a pro-rated portion of such prepayment allocation (or such prepayment). Such payment shall be deemed to be royalties received by Buyer for the UnixWare products in question.

If the customer allocates less than \$100,000 of the prepayment to UnixWare products in response to such notice, Buyer will fulfill all of such customer's orders for UnixWare products against the prepayment and will receive from Seller its actual and reasonable costs (including third party royalties assumed by Buyer under this Agreement) of such fulfillment plus a markup of five percent (5%).

Situation 2 - where Seller's customer's contract (other than in Situation 3) calls for prepayments applicable to UnixWare products only.

If the prepayment is \$100,000 or more, the roles of Seller and Buyer set forth in Situation 1 for an allocation of \$100,000 or more shall apply.

If the prepayment is less than \$100,000, the roles of Seller and Buyer set forth in Situation 1 for an allocation of less than \$100,000 shall apply.

Situation 3 - Seller's customer contracts with Siemens-Rolm, TMAC, Microport, Tatung and Sysorex.

These contracts involve prepayments that may apply either to a mix of UnixWare and non-UnixWare products (TMAC and Sysorex) or to UnixWare products alone. Irrespective of the type of allocation, the roles of Seller and Buyer set forth for a UnixWare allocation of \$100,000 or greater shall apply.

Execution Copy

For a period of up to sixty (60) days after the Closing Date Buyer and Seller will cooperate to attempt to identify additional ones of Seller's customers who have prepayments which could be allocated to UnixWare products in the amount of \$100,000 or more. For each of such additional customers so identified, the roles of Buyer and Seller shall be as mutually agreed.

ATTACHMENT C

Unit Plan

Table A below represents Seller's forecast of the rates of shipments, through all appropriate channels, of units of the following offerings of Unix System V, UnixWare, Eiger, MXU and White Box software:

- 0 Single user and multi-user versions
- 0 Upgrades to existing units
- 0 Processor upgrades
- 0 Other components, specifically:
 - Software developers kit
 - OnLine Data Manager
 - Locus Merge
- 0 All Units which Buyer receives payment for, directly or indirectly

Table A
Units (in thousands)

	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
SCO Shipments	216.40	216.40	216.40	216.40	216.40	216.40	216.40	216.40
UnixWare Binary - Indirect	57.50	99.10	131.50	107.00	39.20	0.00	0.00	0.00
UnixWare - OEM	10.10	35.50	55.60	68.10	68.10	49.30	34.50	0.00
MXU Binary - Indirect	0.00	0.00	43.80	160.40	282.60	334.40	305.30	201.30
MXU - OEM	0.00	0.00	13.90	45.40	91.90	148.00	186.50	233.20
WBOS Binary - Indirect	0.00	0.00	0.00	0.00	70.60	222.90	457.90	805.40
WBOS - OEM	0.00	0.00	0.00	0.00	10.20	49.30	124.40	233.20
SVRX converted units	0.00	33.80	69.80	108.40	149.50	193.30	239.90	289.60
SVRX remaining	<u>1072.00</u>	<u>1091.80</u>	<u>1112.00</u>	<u>1132.80</u>	<u>1153.60</u>	<u>1174.90</u>	<u>1196.50</u>	<u>1218.80</u>
Total Unix Software Units	1256.00	1476.60	1643.00	1838.30	2082.10	2388.50	2761.50	3197.90

INTERNATIONAL BUSINESS MACHINES CORPORATION
THE SANTA CRUZ OPERATION, INC.
NOVELL, INC.

Amendment No. X to Software Agreement SOFT-00015 as amended,
Sublicensing Agreement SUB-00015A as amended,
Software Agreement SOFT-00015 Supplement No. 170 as amended,
and Substitution Agreement XFER-00015B

This amendment ("Amendment No. X") is between International Business Machines Corporation, a New York corporation, with a place of business at Old Orchard Road, Armonk, New York 10504 ("IBM"), The Santa Cruz Operation, Inc. ("SCO") with a place of business at 400 Encinal Street, Santa Cruz, California 95061-1900, and Novell, Inc., a Delaware corporation, with a place of business at 2180 Fortune Drive, San Jose, California 95131 ("Novell"). This Amendment No. X becomes effective when executed by an authorized representative of Novell, SCO, and IBM (the "Effective Date").

RECITALS

AT&T Technologies, Inc. ("AT&T") and IBM entered into various software license agreements concerning the Software Product: UNIX System V, Release 3.2, which are Software Agreement SOFT-00015 as amended, Sublicensing Agreement SUB-00015A as amended, Software Agreement SOFT-00015 Supplement No. 170 as amended (or any other Supplements that pertain to prior versions or releases of the Software Product), and Substitution Agreement XFER-00015B (the "Related Agreements"). Novell acquired AT&T's rights under the Related Agreements. In an agreement between Novell and SCO dated September 19, 1995 (the "Asset Purchase Agreement"), SCO purchased, and Novell retained, certain rights with respect to the Related Agreements. In an effort to simplify the royalty requirements contained in the Related Agreements, the following modifications to the terms and conditions of the Related Agreements have been mutually agreed to by the parties. Capitalized terms in this Amendment will have the meanings assigned to them in this Amendment No. X. All capitalized terms not defined herein will have the meanings assigned to them in the Related Agreements and such defined terms in the Related Agreements appear in all capitalized letters.

AMENDMENT NO. X

Novell, SCO, and IBM agree as follows:

- 1 *No Additional Royalty.* Upon payment to SCO of the consideration in the section entitled "Consideration", IBM will have the irrevocable, fully paid-up, perpetual right to exercise all of its rights under the Related Agreements beginning January 1, 1996 at no additional royalty fee. However, if IBM requests delivery of additional copies of source code of the

Software Product, IBM will pay the fees listed under Section 1(b) of Soft-00015 Supplement No. 170. Notwithstanding the above, the irrevocable nature of the above rights will in no way be construed to limit Novell's or SCO's rights to enjoin or otherwise prohibit IBM from violating any and all of Novell's or SCO's rights under this Amendment No. X, the Related Agreements, or under general patent, copyright, or trademark law.

2 *Relief of 2.05(b) and 2.05(c) of SUB-00015A; Sublicensing of Software Products (Source).*

2.1 *Contractors.* Subject to the limitations set forth below in Section 3, Section 2.05(b) and the second sentence of Section 2.05(c) will not apply to contractors to whom IBM provides Software Products, provided that: (i) any use of such Software Products by such contractor is solely for Authorized Purposes in support of the contractor's distribution and support of Sublicensed Products; and (ii) if any such contractor is not a source code licensee for the relevant version of Software Product and previous releases, IBM will require such contractor to certify in writing to SCO, upon SCO's request, that any use by such contractor of such source code is as a contractor of IBM. For the purposes of this exemption, "Authorized Purpose" means making modifications to the Software Products, and furnishing such modifications to IBM and/or distribution of such modifications of Sublicensed Products in binary form by the contractor to customers directly or through other Distributors, provided that such modifications are not for purposes of adaptation of Sublicensed Products to other system manufacturers' hardware systems and are solely to: (i) adapt the Sublicensed Products to support unique hardware features or devices (e.g. specialized graphics, adapters, or displays) intended for use in vertical applications; or (ii) provide fixes to customers of the Sublicensed Product.

2.2 *Customers.* Subject to the limitations set forth below in Section 3, a customer to whom IBM provides a Software Product for use in support of the customer's use of the Sublicensed Product received from IBM directly or through IBM's Distributors shall be deemed to be a contractor of IBM if the customer's use of the Software Product otherwise complies with the requirements of paragraph 3 of the February 1, 1985 amendment to SOFT-00015. This Section 2.2 neither expands or restricts such customers' right, if any, to distribute Software Products or Sublicensed Products.

3 *Source Code Library.* The following Section 3 of this Amendment applies to activities contemplated by Section 2 of this Amendment only and does not apply to or obligate IBM with respect to activities described elsewhere in the Related Agreements. IBM may license a Software Product in source code form to an eligible contractor or customer for such contractor's or customer's use in accordance with Section 2 (hereinafter referred to

as "Source Copy") subject to the following terms and conditions:

- 3.1 IBM's right to license or otherwise provide to contractors and/or customers copies of Software Products pursuant to Section 2 of this Amendment shall be limited to 50 Source Copies at any one point in time. For purposes of calculating the number of copies outstanding: (i) in the event that IBM provides more than one Source Copy to a single customer or contractor, such additional Source Copy or copies will be applied against the 50 copy limitation; (ii) however, multiple Source Copies licensed for use on the same CPU or multiple Source Copies on different CPUs within a scalable parallel or multiprocessor complex contained in a series of co-located cabinets will be counted as one Source Copy; and (iii) when a contractor or customer has completed its use of a Source Copy, and either returns the Source Copy to IBM or provides IBM with certification as described below that the Source Copy has been destroyed, the number of Source Copies then outstanding will be reduced by one.
- 3.2 IBM will maintain pertinent records regarding IBM's issuance of Source Copies and the return or certified destruction of Source Copies by contractors and customers.
- 3.3 SCO has the right to Audit (see definition in 3.6 below) IBM's pertinent records, at SCO's expense. However, IBM will pay for the cost of such Audit if the Audit reveals IBM's licensing of the Source Copies materially violates the terms and conditions of this Amendment. In addition, IBM agrees that IBM's contracts with contractors and customers for Source Copies distributed pursuant to Section 2.1 and 2.2 of this Amendment will contain a provision which allows SCO to conduct an Customer/Contractor Audit (see definition in 3.6 below) of such customer and/or contractor.
- 3.4 If IBM management acquires actual knowledge that a contractor or customer is using the Source Copy in material violation of the applicable use restrictions contained in its license agreement with IBM, IBM will within a reasonable time, but in no event later than thirty days of acquiring such knowledge, notify SCO of such violation; further, IBM will, as IBM may elect, either: (i) take appropriate action to remedy the violation; or (ii) IBM will at SCO's expense cooperate with SCO in SCO's action to remedy the violation.
- 3.5 IBM will require all contractors and customers to whom IBM licenses a Source Copy to enter into an agreement with IBM in which such customer or contractor agrees: (a) to comply with the applicable use restrictions set forth in Section 2 above; (b) upon termination of the contractor's or customer's use of the Source Copy, the customer or contractor will return the Source Copy to IBM or cause its representative to certify in writing that the Source Copy has been destroyed.

3.6 For purposes of Amendment No. X, "Audit" will mean: an audit by an independent accounting firm chosen by SCO, the results of which, including the names of contractors and customers to whom IBM has licensed Source Copies, will remain confidential and only known to the selected independent auditor, unless such auditor concludes that there has been a material violation of the terms of this Amendment. In the event such auditor determines that there has been a material violation of the terms of this Amendment, the auditor may provide to SCO information the auditor reasonably determines necessary for SCO to enforce its rights under this Amendment. SCO's right to audit IBM shall be limited to one (1) Audit per year conducted during normal business hours and shall be contingent upon SCO reasonably and objectively believing that IBM has licensed Source Copies in material violation of the terms and conditions of this Amendment. For purposes of Amendment No. X, "Customer/Contractor Audit" will mean: an audit by an independent accounting firm chosen by SCO, the results of which will remain confidential and only known to the selected independent auditor, unless such auditor concludes that there has been a material violation of the terms of this Amendment. In the event such auditor determines that there has been a material violation of the terms of this Amendment, the auditor may provide to SCO information the auditor reasonably determines necessary for SCO to enforce its rights under this Amendment. SCO's right to audit an IBM customer or contractor shall be limited to one (1) Audit per year conducted during normal business hours and shall be contingent upon SCO reasonably and objectively believing that the IBM customer or contractor has used the Source Copies licensed from IBM pursuant to Sections 2.1 and/or 2.2 of this Amendment in material violation of the terms and conditions of this Amendment.

3.7 The following illustrations are intended to clarify and illustrate the relief provided in Subsection 2.1 of this Amendment.

Company A, sublicensee of the Sublicensed Product, is a general computer system manufacturing firm. IBM may distribute Source Copies to Company A for the Authorized Purpose.

However, IBM may not distribute Source Copies to Company A for purposes of making modifications to adapt the Sublicensed Products as a general operating system for Company A's general computer hardware system.

Notwithstanding the foregoing, IBM may distribute Source Copies to a development organization of Company A that produces unique hardware devices (e.g., specialized graphics, adapters, or displays) intended for use in vertical applications, for the purpose of adapting the Sublicensed Products to support such unique hardware devices.

4 **Consideration.** As consideration for the above modifications to the terms and conditions of the Related Agreements, IBM agrees to pay SCO a nonrefundable fee of \$10,125,000 per the following payment schedule: \$4,860,000 due on the Effective Date of this Amendment No. X (net 30 days); and \$5,265,000 due on January 1, 1997 (net 15 days).

5 **Authority.**

5.1 Novell represents and warrants to IBM that it has the unrestricted right and authority to enter into and execute this Amendment.

5.2 SCO represents and warrants to IBM that it has the unrestricted right and authority to enter into and execute this Amendment.

6 **Restriction on fully paid-up License.** For a period of five years from January 1, 1996, the royalty relief described in Section 1 of this Amendment No. X shall apply only to use or distribution of the Software Products and Sublicensed Products in the IBM operating system referred to currently as AIX, any prior version or releases of AIX and derivative or follow-on version to AIX on the Power or Power PC or Power2 architectures or derivative or follow-on architectures irrespective of the name of such versions. During such five year period, any IBM distribution of Software Products or Sublicensed Products not covered by the preceding sentence, shall be subject to a royalty pursuant to the Related Agreements, with such royalty to be calculated at the aggregate discount percentage (80% in the case of Sublicensed Products) in effect at the time of execution of this Amendment No. X. After such five year period, the royalty relief described in Section 1 of this Amendment No. X shall apply to any authorized use or distribution of the Software Products or Sublicensed Products. The second to last sentence of paragraph 9 of the February 1, 1985 amendment to SOFT-00015 is modified by deleting the words: "and employees of Licensee shall not refer to the physical documents and materials comprising Software Products subject to this Agreement when they are developing any such products or services or providing any such service."

7 Notwithstanding anything to the contrary in the Related Agreements, with respect only to Software Products and Sublicensed Products to which the paid up rights in Section 1 apply: (a) Designated CPUs are not required to be listed in a Supplement to SOFT-00015, and IBM may copy such Software Products as replacements or additions to Designated CPUs without notice to, or consent of, Novell or SCO; and (b) Section V of SUB-00015A shall not apply to such Sublicensed Products.

8 The Amendment dated April 26, 1996 between IBM, and Novell, on behalf of itself and SCO, is hereby replaced in its entirety. Except as modified herein, all other terms and conditions of the Related Agreements will remain in effect. This Amendment No. X does not give IBM any additional rights to distribute the Software Product in source code form other than as modified in Section 2 and 3 of this Amendment No. X.

9 **Confidentiality.** For a period of two (2) years, this Amendment No. X and the replaced amendment dated April 26, 1996 are confidential and each party will not issue press releases publicizing, and will use reasonable efforts not to otherwise disclose, the commercial and legal details of this Amendment No. X, the replaced amendment or their subject matters without the other parties' prior written approval. Notwithstanding the foregoing, each party shall be permitted to disclose to third parties non-financial information dealing with the commercial and legal details of this Amendment as part of a transaction authorized by this Amendment provided that such disclosure is subject to confidentiality terms consistent with the terms of this Agreement. Also, disclosure by any party of commercial and legal details of this Amendment shall not be restricted if such disclosure is:

9.1 in response to a valid order of a court or other governmental body or any political subdivision thereof; provided, however, that the party proposing to make such disclosure will first have made a reasonable effort to obtain a protective order requiring that the information so disclosed be used only for the purposes for which the order was issued; or

9.2 necessary to establish rights under this Amendment in a court or administrative proceeding.

10 **Indemnification; Limitations on Liability.**

10.1 Subject to the limitations on liability below, Novell agrees to indemnify and hold harmless IBM and IBM Subsidiaries from and against any and all losses, liabilities, judgments, and costs incurred as a result of any alleged or actual Novell breach of Novell's representation and warranty in Section 5.1 of this Amendment. Novell's indemnification of IBM shall be limited to the amount paid by IBM to SCO under this Amendment. In addition, provided that IBM has paid full consideration in accordance with this Amendment, Novell's indemnification to IBM shall also include the amount of any additional royalties paid to SCO by IBM if IBM would not have been obligated to pay such additional royalties absent such breach. Novell will defend at its sole expense any suits or proceedings related to the above indemnification provided that IBM gives Novell prompt notice and control of any claim of which it learns. Novell will have the right to choose legal counsel and IBM will have the right to participate in the defense of any such claim, provided that Novell will not be responsible for indemnifying IBM for the cost of IBM's attorney's fees. In no event will Novell be liable for any indirect, incidental, special, punitive or consequential damages, lost revenues, or profits, data, or use incurred by IBM however caused, no matter what theory of liability, even if Novell has been advised of the possibility of such damages.

10.2 Subject to the limitations on liability below, SCO agrees to indemnify and hold harmless IBM and IBM Subsidiaries from and against any and all losses, liabilities, judgments, and costs incurred as a result of any alleged or actual SCO breach of SCO's representation and warranty in Section 5.2 of this Amendment. SCO's indemnification of IBM shall be limited to the amount paid by IBM to SCO under this Amendment. In addition, provided that IBM has paid full consideration in accordance with this Amendment, SCO's indemnification to IBM shall also include the amount of any additional royalties paid to SCO by IBM if IBM would have not been obligated to pay such additional royalties absent such breach. SCO will defend at its sole expense any suits or proceedings related to the above indemnification provided that IBM gives SCO prompt notice and control of any claim of which it learns. SCO will have the right to choose legal counsel and IBM will have the right to participate in the defense of any such claim, provided that SCO will not be responsible for indemnifying IBM for the cost of IBM's attorney's fees. In no event will SCO be liable for any indirect, incidental, special, punitive, or consequential damages, lost revenues, or profits, data, or use incurred by IBM however caused no matter what theory of liability, even if SCO has been advised of the possibility of such damages.

11 Except as modified herein, all other terms and conditions of the Related Agreements will remain in effect.

INTERNATIONAL BUSINESS
MACHINES

By: *[Signature]*
CECIL SCHNEIDER
(Print or Type Name)
SR. CONSULTANT HARDWARE SUPPORT
(Title)
10-17-96
(Date)

THE SANTA CRUZ OPERATION, INC.

By: _____

(Print or Type Name)

(Title)

(Date)

NOVELL, INC.

By: _____

(Print or Type Name)

10.2 Subject to the limitations on liability below, SCO agrees to indemnify and hold harmless IBM and IBM Subsidiaries from and against any and all losses, liabilities, judgments, and costs incurred as a result of any alleged or actual SCO breach of SCO's representation and warranty in Section 5.2 of this Amendment. SCO's indemnification of IBM shall be limited to the amount paid by IBM to SCO under this Amendment. In addition, provided that IBM has paid full consideration in accordance with this Amendment, SCO's indemnification to IBM shall also include the amount of any additional royalties paid to SCO by IBM if IBM would have not been obligated to pay such additional royalties absent such breach. SCO will defend at its sole expense any suits or proceedings related to the above indemnification provided that IBM gives SCO prompt notice and control of any claim of which it learns. SCO will have the right to choose legal counsel and IBM will have the right to participate in the defense of any such claim, provided that SCO will not be responsible for indemnifying IBM for the cost of IBM's attorney's fees. In no event will SCO be liable for any indirect, incidental, special, punitive, or consequential damages, lost revenues, or profits, data, or use incurred by IBM however caused no matter what theory of liability, even if SCO has been advised of the possibility of such damages.

11 Except as modified herein, all other terms and conditions of the Related Agreements will remain in effect.

INTERNATIONAL BUSINESS
MACHINES

By: _____

(Print or Type Name)

(Title)

(Date)

THE SANTA CRUZ OPERATION, INC.

By: Steven M. Sabbath

Steven M. Sabbath

(Print or Type Name)

Vice President, Law & Corporate Affairs

(Title)

16 October 1996

(Date)

NOVELL, INC.

By: _____

(Print or Type Name)

10.2 Subject to the limitations on liability below, SCO agrees to indemnify and hold harmless IBM and IBM Subsidiaries from and against any and all losses, liabilities, judgments, and costs incurred as a result of any alleged or actual SCO breach of SCO's representation and warranty in Section 5.2 of this Amendment. SCO's indemnification of IBM shall be limited to the amount paid by IBM to SCO under this Amendment. In addition, provided that IBM has paid full consideration in accordance with this Amendment, SCO's indemnification to IBM shall also include the amount of any additional royalties paid to SCO by IBM if IBM would have not been obligated to pay such additional royalties absent such breach. SCO will defend at its sole expense any suits or proceedings related to the above indemnification provided that IBM gives SCO prompt notice and control of any claim of which it learns. SCO will have the right to choose legal counsel and IBM will have the right to participate in the defense of any such claim, provided that SCO will not be responsible for indemnifying IBM for the cost of IBM's attorney's fees. In no event will SCO be liable for any indirect, incidental, special, punitive, or consequential damages, lost revenues, or profits, data, or use incurred by IBM however caused no matter what theory of liability, even if SCO has been advised of the possibility of such damages.

11 Except as modified herein, all other terms and conditions of the Related Agreements will remain in effect.

INTERNATIONAL BUSINESS
MACHINES

By: _____

(Print or Type Name)

(Title)

(Date)

THE SANTA CRUZ OPERATION, INC.

By: _____

(Print or Type Name)

(Title)

(Date)

NOVELL, INC.

By: James R. Tolonen

JAMES R. TOLONEN
(Print or Type Name)

10/16/96

(Title)

(Date)

Joint Development Agreement

Agreement Number 4998CR0349

This agreement, dated as of October 23, 1998 ("Effective Date"), and its attachments, which are incorporated by reference, ("Agreement") is entered into by and between The Santa Cruz Operation, Incorporated, a California corporation ("SCO") having an office for the transaction of business at 400 Encinal Street, Santa Cruz, California 95060, and International Business Machines Corporation, a New York corporation ("IBM") having an office for the transaction of business at 11400 Burnet Road, Austin Texas 78758.

Whereas, IBM and SCO believe that each company has complementary skills, experience and technology to extend and evolve existing UNIX operating systems designed to operate on the 32-bit and 64-bit Intel architecture platforms;

Whereas, pursuant to this Agreement, IBM and SCO desire to undertake specific development projects to design and further develop an IA-32 Product and IA-64 Product as further defined below. Through these projects the parties expect to enable innovative new open systems computer technologies and products more rapidly and efficiently than either party could achieve independently;

Whereas, each party expects to market products based on this development work and to work toward the goal of creating and participating in a high volume UNIX marketplace, bringing significant benefits to each party, its customers and the computer industry;

Now, therefore, in consideration of the mutual provisions contained herein, SCO and IBM (the "Parties") agree to the following terms and conditions.

1.0 Definitions:

1.1 "Code" shall mean computer or controller programming code. Unless specifically agreed otherwise, Code shall include Object Code and Source Code. Code shall include any Maintenance Modifications that one party may be obligated to deliver to the other party for use with Code.

"Object Code" shall mean Code, substantially or entirely in binary form, which is intended to be directly executable by a computer after suitable processing and linking but without the intervening steps of compilation or assembly.

"Source Code" shall mean Code, other than Object Code, and Documentation related to such Source Code, comments and procedural code, such as job control language, which may be printed out or displayed in human readable form.

1.2 "Deliverables" shall mean the Licensed Materials, Project Work, and Documentation under any Project Supplement. Deliverables shall be IBM Deliverables or SCO Deliverables or both, as the content requires.

1.3 "Derivative Work" shall mean a work which is based upon one or more pre-existing works, such as a revision, enhancement, modification, translation, abridgment, condensation,

expansion, compilation, or any other form in which such preexisting works may be recast, transformed, adapted, or included, and which, if prepared without authorization of the owner of the copyright in such preexisting work, would constitute a copyright infringement.

1.4 "Design Environment" shall mean the following items, information or data (including without limitation applicable Licensed SCO Materials or Licensed IBM Materials) used by the parties to design, develop, integrate, test or maintain and modify any Deliverable:

- (a) methodologies, standards, specifications, process formats and ground rules used for design, integration, test and maintenance;
- (b) "Design Tools" which comprise Code and Documentation of software tools, including without limitation, software tools for designing, coding, editing, assembling, translating, compiling, building, linking, performance measuring, monitoring, tuning and testing Deliverables.

1.5 "Design Environment Specification" shall mean the portion of the Project Work that may, as applicable, specify the content, architecture, functionality performance, size and structure, format, programming language, application binary interfaces, programming interfaces, user interfaces, other compatibility specifications, standards compliance, prerequisites, usability, quality, reliability, third party source (if applicable) and other characteristics of the Design Environment.

1.6 "Distributor" shall mean any third party (including, without limitation, agents, ISPs, OEMs, resellers, dealers, sales representatives or distributors) that is authorized by a party to this Agreement, their Subsidiaries or Distributors to license or distribute products of the respective party or third party products, with or without either party's logo. Distributors shall be chosen by either party and their Distributors, at their sole discretion.

1.7 "Documentation" shall mean all written or machine-readable materials related to Code including, but not limited, to user manuals, instructions, descriptions and any other written or electronically stored materials, and any applicable Enhancements and Maintenance Modifications thereto.

1.8 "Enhancements" shall mean changes, additions or improvements, other than Maintenance Modifications, to Code and/or to Documentation that improve functions, add new functions, or improve performance by changes to system design or coding.

1.9 "IA-32 Product" shall mean the UNIX operating system that is designed to run on Intel architecture and compatibles and which consists of SCO's UnixWare 7 with the addition of Licensed IBM Materials and any additional Project Work developed under this Agreement.

1.10 "IA-64 Product" shall mean the UNIX operating system that is designed to run on Intel architecture and compatibles and which consists of IBM's AIX operating system with the addition of Licensed SCO Materials and any additional Project Work developed under this Agreement.

1.11 "Invention" shall mean any idea, concept, know-how, technique, discovery or improvement conceived or first actually reduced to practice solely or jointly by one or more employees of either

party or jointly by one or more employees of the parties, in the course of performance of this Agreement.

1.12 "Licensed Independent Materials" shall mean any Code and Documentation of either party which is created by such party outside of the development activities of a Project Supplement, and any Enhancements and Maintenance Modifications thereto included in the Deliverables under a Project Supplement. Licensed Independent Materials may also include development tools owned by either party and provided pursuant to a Project Supplement.

1.13 "Licensed Materials" shall mean Licensed IBM Materials and Licensed SCO Materials which are included in the Deliverables under a Project Supplement but which are not Project Work.

"Licensed IBM Materials" shall mean any part or all of, IBM Licensed Independent Materials, IBM Third Party Materials, and IBM Related Written Materials.

"Licensed SCO Materials" shall mean any part of or all of, SCO Licensed Independent Materials, SCO Third Party Licensed Materials, and SCO Related Written Materials.

1.14 "Maintenance Modification" shall mean any modification or revision to Code or to Documentation, other than an Enhancement, that corrects an error or deficiency or provides any other incidental corrections .

1.15 "Product Roadmap" shall mean the schedule, sequence and description for developing new versions and new releases to the IA-32 Product and the IA-64 Product. A new version of the IA-32 Product and IA-64 Product shall occur when sufficient upgrades and enhancements to the functionality and performance of the IA-32 Product and IA-64 Product are added to such products such that the numerical designation is changed in accordance with the agreed-to Product Roadmap. Such numerical designation shall occur before a decimal point. A new release of the IA-32 Product and the IA-64 Product shall occur when interim Maintenance Modifications, product fixes and minor functional enhancements are added to the product such that the parties agree that a new numerical designation after a decimal point shall be added to the version numerical designation for the Product Roadmap.

1.16 "Project Supplement" shall mean the Project Supplement(s) executed by the parties and attached to the Agreement.

1.17 "Project Work" shall mean the Code, Documentation, and other items created by IBM or SCO or both, pursuant to a Project Supplement, and any Enhancements and Maintenance Modifications thereto. Project Work does not include any Licensed Materials.

"IBM Project Work" shall mean the Code, Documentation, and other items created by IBM pursuant to a Project Supplement and any Enhancements and Maintenance Modifications thereto.

"SCO Project Work" shall mean the Code, Documentation, and other items created by SCO pursuant to a Project Supplement and any Enhancements and Maintenance Modifications thereto.

1.18 "Project Work Specification" shall mean the Software Specifications and Design Environment Specifications.

1.19 "Related Written Materials" shall mean all written materials furnished hereunder by either party and any applicable Enhancements and Maintenance Modifications thereto, other than Documentation, including materials useful for demonstration and training, determining performance, productivity and economic justification or otherwise useful in designing (including design documentation), developing, testing, maintaining and marketing the Code and Documentation.

1.20 "Software Specifications" shall mean that portion of the Deliverables which specifies the content, architecture, functionality, performance, size and structure, format, programming language, programming interfaces, user interfaces, other compatibility specifications, standards compliance, prerequisites, usability, quality, reliability, third party source (if applicable) and other characteristics of the Code contained in the Deliverables.

1.21 "Subsidiary" is an entity during the time that more than 50% of its voting stock is owned or controlled, directly or indirectly, by another entity. If there is no voting stock, a Subsidiary is an entity during the time that more than 50% of its decision-making power is controlled, directly or indirectly, by another entity.

1.22 "Third Party Licensed Materials" shall mean either IBM Third Party Licensed Materials or SCO Third Party Licensed Materials.

"IBM Third Party Licensed Materials" shall mean any Code or Documentation licensed to IBM from a third party which IBM makes a part of the Licensed Materials, and any applicable Enhancements and Maintenance Modifications thereto.

"SCO Third Party Licensed Materials" shall mean any Code or Documentation licensed to SCO from a third party which SCO makes a part of the Licensed Materials, and any applicable Enhancements and Maintenance Modifications thereto.

2.0 Ownership and Licenses:

(a) Joint Ownership

All IBM and SCO jointly created Project Work shall be jointly owned by SCO and IBM, including ownership of associated copyrights or confidential information. Each party shall be free in all respects to exercise or dispose of any or all of its ownership rights in the jointly created Project Work without accounting to the other party.

(b) Sole Ownership

1. IBM (or its third party suppliers) retains sole ownership of IBM Project Work and IBM Licensed Materials.
2. SCO (or its third party suppliers) retains sole ownership of SCO Project Work and Licensed SCO Materials.

3. Nothing in this Agreement shall be deemed to transfer ownership of any portion of the Licensed Materials or each party's Project Work from one party (or its third party suppliers) to the other party. Subject to the terms, conditions, and licenses of the Agreement, the owning party shall be free in all respects to exercise or dispose of any or all of its ownership rights in such portions of the Licensed Materials or Project Work, without accounting to the other party.

(c) **License to SCO of Licensed IBM Materials and IBM Project Work**

1. The license grants contained in this section shall apply to all IBM Third Party Licensed Materials unless different terms for a specific item of IBM Third Party Licensed Materials are specified in a Project Supplement. Any such different license terms must, at a minimum, provide a worldwide, nonexclusive right and license consistent with the terms of the license grants contained in this section for the purpose of inclusion with, use and distribution of the IA-32 Product and the IA-64 Product. Any separate license grant for any item of the IBM Third Party Licensed Materials contained in a Project Supplement which is more limited than the license grants contained in this section must be applicable only to items which are separable from other code in the Deliverable.
2. Subject to Section (c) (1) above regarding third party or other restrictions, IBM hereby grants to SCO a worldwide, non-exclusive, royalty free (subject to the royalty provisions set forth below), perpetual and irrevocable (subject to Section 14.0, "Termination") right and license under IBM's and applicable third parties' copyrights, to the extent IBM has the right to grant such rights, and any trade secrets or confidential information in the Licensed IBM Materials and IBM Project Work which are included in the Deliverables to (i) prepare or have prepared Derivative Works, (ii) use, execute, reproduce, display and perform the Licensed IBM Materials and IBM Project Work and Derivative Works thereof, (iii) sublicense and distribute the Licensed IBM Materials and IBM Project Work and Derivative Works thereof either directly or through Distributors, in the form of Source Code, Object Code, Documentation, and/or in any other form whatsoever, and (iv) grant licenses, sublicenses, and authorizations to others (including without limitation SCO Subsidiaries, Distributors and any other third parties), on a non-exclusive basis that is equal to the scope of the licenses granted hereunder, limited only as specifically described in Section (e) below. The rights and licenses granted in this Section (c)(2), with respect to the IA-64 Product, shall be limited to use and distribution solely in connection with SCO products designed to operate on the Intel Architecture or with a single Special Purpose Processor. Designed to operate on the Intel Architecture shall mean designed to run on an Intel X86, Pentium, Pentium Pro, Merced or their successors or compatible microprocessors without recompiling. Special Purpose Processor means a processor that is (i) for a single pre-defined embedded special purposes application, and (ii) does not allow the end user to run the system as a General Purpose Computer System, either directly or indirectly. General Purpose Computer System means a commercially available system which is intended to be reprogrammable by the end user and is either (i) intended for primary use as a general purpose business computer, a personal computer, or a scientific/technical workstation; or (ii) part of a network configuration whose primary purpose is for executing general application programs supporting general business, personal or scientific/technical activities.

(d) **License to IBM** of Licensed SCO Materials and SCO Project Work

1. The license grants contained in this section shall apply to all SCO Third Party Licensed Materials unless different terms for a specific item of SCO Third Party Licensed Materials are specified in a Project Supplement. Any such different license terms must, at a minimum, provide a worldwide, nonexclusive right and license consistent with the terms of the license grants contained in this section for the purpose of inclusion with, use and distribution of the IA-32 Product and the IA-64 Product. Any separate license grant for any item of the SCO Third Party Licensed Materials contained in a Project Supplement which is more limited than the license grants contained in this section must be applicable only to items which are separable from other code in the Deliverable.
2. Subject to Section (d) (1) above regarding third party or other restrictions, SCO hereby grants to IBM a worldwide, non-exclusive, royalty free (subject to the royalty provisions set forth below), perpetual and irrevocable (subject to Section 14.0, "Termination") right and license under SCO's and applicable third parties' copyrights, to the extent SCO has the right to grant such rights, and any trade secrets or confidential information in the Licensed SCO Materials and SCO Project Work which are included in Deliverables to (i) prepare or have prepared Derivative Works, (ii) use, execute, reproduce, display and perform the Licensed SCO Materials and SCO Project Work and Derivative Works thereof, (iii) sublicense and distribute the Licensed SCO Materials and SCO Project Work and Derivative Works thereof either directly or through Distributors, in the form of Source Code, Object Code, Documentation, and/or in any other form whatsoever, and (iv) grant licenses, sublicenses, and authorizations to others (including without limitation IBM Subsidiaries, Distributors and any other third parties), on a non-exclusive basis that is equal to the scope of the licenses granted hereunder, limited only as specifically described in Section (e) below.

(e) **Source Code Sublicensing**

With respect to either party's Licensed Materials and Project Work contained in the IA-64 Product (as described in applicable Project Supplements), both parties rights to sublicense Source Code to third parties under the sections (c)(2) and (d)(2) above, shall be limited in the following manner:

When IBM sublicenses the IA-64 Product containing Licensed SCO Materials and/or SCO Project Work in Source Code form or when SCO sublicenses the IA-64 Product containing Licensed IBM Materials and/or IBM Project Work in Source Code form, the parties shall not grant the third party the right to further grant source sublicenses to the other party's Licensed Materials or Project Work. Further, when licensing such Source Code, both parties shall only grant the right to create Derivative Works required for the following purposes:

1. Maintenance and support;
2. Translation and localization;
3. Porting, optimization and extensions;
4. Any other Derivative Works agreed to by SCO and IBM.

3.0 Trademarks/Branding

The parties agree that they will designate a name or common set of trademarks to describe the family of UNIX operating system products developed and/or licensed under this Agreement. The parties will have a plan for such trademarks agreed to within a target date of 365 days from the Effective Date of this Agreement, but in any event such plan shall be agreed to and implemented before announcement of the IA-64 Product. In the event the parties are unable to agree on such trademarks, neither party shall be deemed in breach of this Agreement. Each party hereby grants to the other party a license to the necessary trademark(s) identified in such agreed to plan. The terms of such trademark license shall be fully described as part of the plan referenced herein.

4.0 Product Roadmap

A Product Roadmap for the IA-32 Product and the IA-64 Product will be agreed to no later than the time period associated with execution of Project Supplements A and B and will be attached hereto as Exhibit A. Any modifications to the Product Roadmap shall be handled in accordance with the Project Management process described in Section 8 below. The parties agree to commit the necessary resources to execute the agreed-to Product Roadmap.

5.0 Project Supplements and Development of Project Work:

5.1 Purpose and Effect of Project Supplements

The purpose of each Project Supplement is to set forth the parties required contributions to execute on the agreed-to Product Roadmap, including delivery and licensing of Licensed Materials, application of development resources, and delivery of the Project Work, and any variation from the application of the terms and conditions of this Agreement to such Licensed Materials or the Project Work. Project Supplements will be created which cover all development and integration of all contributions to the IA-32 Product and the IA-64 Product during the term of this Agreement. Unless mutually agreed otherwise in the Project Supplement, SCO agrees to reimburse IBM for development resources and technical support provided by IBM under the IA-32 Project Supplement according to the terms of such Project Supplement. The terms of such reimbursement will include the development rate of \$135,000.00 per person year and other terms as may be mutually agreed to in the Project Supplement. Additional Project Supplements may be created or amended to cover any other mutually agreed to development activities.

5.2 Content of Project Supplements

The initial Project Supplement A will address development of the IA-32 Product. The initial Project Supplement B will address development of the IA-64 Product. [The initial Project Supplements A and B are planned to be executed no later than 60 days after execution of this Agreement.] The parties agree to create a template which will serve as a checklist for determining the content of subsequent Project Supplements. Each Project Supplement shall generally contain a statement of purpose and description of the following for that project:

- a. the Deliverables, including the method and form of delivery and minimum delivery requirements;
- b. the Design Environment to be used for development of each Deliverable, including any development tools which are not Licensed Materials;
- c. assignment of development responsibilities between the parties for each item, including any development of test plans and completion criteria;
- d. planned schedule for completion and delivery of Deliverables, including any applicable milestones and checkpoints;

estimated development resources to be applied by each party to prepare the Deliverables assigned under the Project Supplement and to provide level 3 support and Maintenance Modifications;

- f. identification of any Licensed Materials, dependencies or third party encumbrances or prerequisite licenses;
- g. additional information or terms and conditions as may be mutually agreed;
- h. number, location and areas of development for development location(s);
- i. provision for written and oral progress reports; and
- j. acceptance standards for Deliverables and/or reports, including (i) documentation, specifications and standards, (ii) quality standards, (iii) performance specifications and (iv) usability and architecture requirements

6.0 Delivery of Licensed Materials

6.1 Deliveries of Licensed Independent Materials

As soon as reasonably possible after execution of any Project Supplement (unless otherwise stated in the Project Supplement), the licensor shall deliver to the licensee one copy of any Licensed Independent Materials specified in such Project Supplement, in the form as they then exist.

6.2 Access to and Delivery of Licensed Materials and Project Work

Subject to any third party restrictions identified and accepted in a Project Supplement, each party is entitled to full free and continuous access to all Licensed Materials and Project Work, both at the time of completion and while under development pursuant to a Project Supplement. IBM and SCO will provide electronic means for providing such access and for exchanging the Deliverables. In addition, upon request, the party responsible for developing a Deliverable that is under development shall promptly deliver a tangible copy to the requesting party. Each party may make such requests as frequently as

necessary to reasonably achieve its own development or product goals as set forth in a Project Supplement.

6.3 Offer and Delivery of Enhancements

During the term of the Agreement, each party shall, on an ongoing basis, provide to the other party Enhancements to Deliverables and the Design Environment as they are completed.

7.0 Acceptance of Deliverables

7.1 Payment of royalties or invoices will not be deemed acceptance of Deliverables, but rather such Deliverables will be subject to inspection, test and rejection. Each party's Deliverables may be tested by the receiving party in accordance with the process generally outlined in each Project Supplement, which may set forth the completion criteria, testing method, test period and test cases which apply to Deliverables under that Project Supplement (the "Acceptance Process"). Further details of the Acceptance Process for a particular Project Supplement may be established by the parties after execution of the Project Supplement on a schedule set forth in the Project Supplement.

7.2 The receiving party shall provide to the contributing party written notification of its acceptance or rejection of the contributing party's Deliverables. In the case of rejection or partial or conditional acceptance, such notification shall state the reasons for the receiving party's determination. In the event the contributing party does not cure the deficiencies stated in the notification, the receiving party may, at its reasonable sole option, cure the deficiencies in any such unacceptable Deliverables of the contributing party and make reasonable adjustments to the receiving party's royalty obligations under Section 12.0 Royalties based on a calculation of their non recurring engineering charges applied to cure such deficiencies.

8.0 Project Management

Overview: The purpose of this Project Management process is to describe the levels of project management, the authority of management at each level to make certain decisions under the applicable Project Supplement as well as across Project Supplements and the process by which those decisions will be made. As further described below, certain decisions will be made by the Technical Managers of each company named in each Project Supplement, subject to further escalation to the Project Managers. If the Project Managers are unable to agree on such matters, the matter may be further escalated to the Executive Level of management. If such Executive Level of management is unable to come to a resolution, the process described in 8.2(d) below shall apply.

8.1 Management Levels

Project Management for each Project Supplement will include three levels:

- (a) Executive Level
- (b) Project Level
- (c) Technical Level

The individuals assigned to the Technical Level of project management from SCO and IBM will be identified in the Project Supplement.

8.2 Executive Level Management

- a. The Executive Level management is the ultimate management level from which the overall projects are managed and directed. They broadly define the project goals, functional requirements, resources assigned to the projects, with specific scope where required. The Executive Level of management shall be as follows:

For IBM: John E. Kelly, III For SCO: Douglas L. Michels

- b. The Executive Level management sets the Product Roadmap, strategic direction, monitors results, and agrees to high-level project changes via an Executive Change Control Process, and makes the ultimate decisions to resolve project direction and contract interpretations. Executives will communicate with one another as required and will meet periodically to review status of the project. The timing of these executive meetings is expected to be quarterly and executives may be represented by an authorized substitute. At a minimum, executive review meetings will address:

1. Project Supplement status;
2. Schedule status and outlooks;
3. Action items from previous meetings; and
4. Project issues and disputes, if any.

- c. The Executives, or their authorized representatives must be present at an executive review meeting in order for program level decisions to be made. All decisions require mutual agreement of the Executives. The Executives are the decision makers on project level concerns. The following are areas reserved for decisions either through an executive review meeting or by these same Executives, or their authorized representatives, operating as part of the Executive Change Control Process, (described below):

- (i) changes to the Product Roadmap, after it has been placed under change control;
- (ii) changes to project schedule dates which exceed an amount specified by the Executive Level management;
- (iii) changes to required resources which exceed a percent specified by the Executive Level management of original estimate;
- (iv) changes to the assignment of work responsibilities between the parties;
- (v) confirmation that milestones and other schedule events and project checkpoints have been achieved;

- (vi) changes to the Change Control Processes described in Section 8.7 through 8.10 hereof; and
 - (vii) setting product requirement objectives
- (d) If, pursuant to the procedures set forth herein, the Executives are unable to reach the necessary agreement concerning a matter within their responsibility hereunder to decide, the following results shall occur and shall be binding upon the parties;
- (A) if the Executives are unable to agree to proposed changes in a Project Supplement, neither party is required to apply its development personnel under the affected Project Supplement. However, all other obligations under this Agreement remain unchanged.
 - (B) if the Executives are unable to agree to proposed changes in the Product Roadmap, neither party is required to apply any or all of its development personnel under any or all of the Project Supplements. However, all other obligations under this Agreement remain unchanged.
 - (C) if a party withdraws their development resources under subparts (A) and (B) above, the other party may make a reasonable royalty adjustment via a royalty credit against royalties payable under Section 12.0, Royalties, based on a reasonable assessment of the value of the development personnel withdrawn from the Project Supplement(s).
- (e) All reviews at the executive level will be completed only after concurrence of the executives, or their authorized representatives, is obtained.

8.3 Project Level Management

- (a) For Project Supplements, the Project Level management shall consist of one Project Manager appointed by each company as follows:
- For IBM: Gerry Hackett For SCO: Lisa Ozimek
- (b) The Project Managers will engage in the following activities:
- (i) overall Project Level leadership and project management for the applicable Project Supplement;
 - (ii) reviewing and tracking project accomplishments against the formal plan and schedule;
 - (iii) acting as primary senior management interface between IBM and SCO for the projects;
 - (iv) overall coordination with the Technical Manager of their company's participation in the projects, management guidance for their company's personnel, and ensuring that their company's project efforts and Deliverables

conform to the detailed Project Work Specification and other formal plans and schedules;

- (v) reviewing changes to the assignment of work responsibilities between the parties; and
- (vi) changes to the Change Control Processes described in Section 8.7 through 8.10 hereof.

8.4 Technical Level Management

- (a) The Technical Level management shall consist of a SCO-appointed Technical Manager and an IBM-appointed Technical Manager named in the Project Supplement;
- (b) The Project Managers, will provide guidance to the Technical Managers of both companies to ensure execution of the Project Supplement. This will clearly define the lines of technical management guidance, consistent with either IBM's or SCO's overall responsibility to ensure the successes of each project. The IBM and SCO Technical Managers will cooperate on a peer-level basis in order to define, implement, verify, review and track their cooperatively made joint schedules. The IBM and SCO Technical Managers will cooperate to ensure that the appropriate people in each company are each aware of, and can influence, any and all of the developments and proposed changes. All development activity at this level must be understood and agreed upon by the appropriate Technical Managers identified in the Project Supplement. In instances of unresolved disagreement, either the IBM or the SCO-appointed Technical Managers can escalate to the Project Level of Management for a review and decision.

8.5 Responsibilities of Each Level of Management

- (a) Executive Level management responsibilities include:
 - (i) overall executive review and resolution of issues as documented in Section 8.2 (c); and
 - (ii) provide guidance to Project Level management.
- (b) Project Level management responsibilities include:
 - (i) manage the overall implementation of a Project Supplement;
 - (ii) ensure overall consistency of all Project Work Specifications, schedules and plans;
 - (iii) act as an escalation point for Technical Managers;
 - (iv) ensure completion of all Deliverables identified in the Project Supplement.

- (v) assessing proposed changes and make recommendations to the executive level where appropriate;
 - (vii) meeting committed project key dates;
 - (viii) meeting project/product cost objectives;
 - (ix) participation in Executive Level reviews and decision meetings;
 - (x) managing work sharing between the parties;
 - (xi) managing inter-company issues and initiation and escalation to the Executive Level when necessary;
- (d) If a decision exceeds Project Level responsibilities, (slippage of key scheduled events, requirements for extra resources, etc.), notification will be made to the Executive Level.
- (e) Within the responsibilities of the Project Level, consensus will be reached for decisions and corrective actions, where possible. If no consensus can be reached, either Project Manager may take the initiative to escalate the dispute to the Executive level.
- (f) Technical Level responsibilities include:
- (i) initiation of detailed project design concepts and technical reviews;
 - (ii) work assignments of their respective personnel;
 - (iii) performance of the design implementations;
 - (iv) technical management of their respective development activities;
 - (v) coordination of relevant programming group activities;
 - (vi) preparation of design status reports;
 - (vii) participate in design and program reviews;
 - (viii) identification to the Project level any projected or actual deviations from the Project Work Specifications, acceptance criteria, costs, resources, schedules and definitions, and agreement terms and conditions;
 - (ix) document design results;
 - (x) produce data to verify compliance to specifications and targets;
 - (xi) report development status to the Project Managers;

- (xii) lead technical meetings
 - (xiii) proposing their company's formal detailed requests for Project Work Specifications and updates and reviewing the other company's proposals;
 - (xiv) proposing their company's desired design decisions and reviewing the other company's proposal;
 - (xv) proposing changes to the Project Work Specifications (after it has been placed under change control;
 - (xvi) verification of compliance to:
 - (A) Project Work Specifications
 - (B) performance targets
 - (C) standards; and
 - (xvii) establishing and managing a mutually agreed formal and informal communications process to include design reviews, status meetings, reports and necessary documentation.
- (g) If decisions exceed Technical Level responsibilities, Technical Managers will involve Project Level Management for resolution; and
 - (h) Within the responsibilities of the Technical Level, cooperation with various SCO, IBM, and joint work groups will be coordinated. Disagreements will be brought to the Project Level for resolution.

8.7 Change Control

- (a) All changes required relative to the Product Roadmap, and Deliverables per the Project Supplements may be made only in compliance with the with the formal Change Control procedure by the appropriate Change Control Processes (CCP), which are intended to enable the appropriate level of SCO and IBM management to mutually agree on each change. All documents related to the Agreement, are put under Change Control (base lines).
- (b) There are three levels of Change Control and at each level there is a Change Control Process. The three CCPs are:
 - (i) The Executive CCP;
 - (ii) The Project CCP; and
 - (iii) The Technical CCP.
- (c) The CCP's have the following functions:

- (i) provide a forum for review of proposed changes to the Product Roadmap and Deliverables defined in Project Supplements as described below;
- (ii) enable the appropriate representatives of each company to review, accept, reject or redo proposed changes within their authority;
- (iii) attempt to resolve disputes.

Disputes at any level can be escalated to any of the three CCPs.

8.8 Executive CCP

The Executive CCP is carried out by the Executive Level management. The Executive CCP is responsible for changes with deep impact on the business, plans, features, resource allocations and any item or action which exceeds the responsibilities of the Project CCP. The Executive CCP controls changes or resolves disputes for:

- (a) the Product Roadmap;
- (b) required resources and financial considerations;
- (c) work assignments between SCO and IBM;
- (d) schedule events and checkpoints; and
- (e) changes to the CCP.

Changes agreed to pursuant to this Executive CCP shall be memorialized by an amendment to this Agreement or the Project Supplement in accordance with the requirements of the Agreement.

8.9 Project CCP

The Project CCP is carried out by the Project Manager. The Project CCP is responsible for changes, within ranges specified by the Executive Level management, with impact on plans, functions and assignment of resources and for any action or item which exceeds the responsibilities of the Technical CCP. The Project CCP controls changes or resolves disputes for:

- (a) resources within a specified percentage of the program total;
- (b) tracking program schedule events and checkpoints; and
- (c) Project Supplements.

8.10 Technical CCP

The Technical CCP is comprised of the SCO and IBM Technical Managers. The Technical CCP is responsible for changes in software developments which do not impact overall product content, overall plans, or overall program schedules. The Technical CCP controls changes or resolves disputes for:

- (a) detailed design approaches;
- (b) detailed Code and Documentation related to the Deliverables;
- (c) details of the Design Environment; and
- (d) design level Project Work Specifications.

8.11 General Aspects of the Technical Management Process

- (a) Any decisions subject to the Executive CCP of Section 8.8, which pursuant to 8.8, requires an amendment to this Agreement, will be binding on the parties only when set forth in a definitive writing signed by authorized representatives of both parties. Any amendment to the terms of this Agreement must be by definitive writing specifying that it amends this Agreement signed by authorized representatives of both parties.
- (b) Changes to the Project Work Specifications, or Code and Documentation for the Deliverables, other than those that are subject to the Executive CCP of Section 8.8 and therefore require amendment of this Agreement, require formal advance written approval through the appropriate level of CCP. However, the express provisions of the Agreement take precedence over any such CCP approval.
- (c) In no event will any procedure set forth in this Section 8 be deemed to grant to one party the authority to act as an agent for the other party, to make any binding commitments or representations on behalf of the other party, to change any of the Product Roadmap or Project Supplements on behalf of the other party, or to change any of the provisions of the Agreement on behalf of the other party.
- (d) Each party may replace its management representative(s) at the Executive Level, Project Level and Technical Level by written notice to the other party.
- (e) SCO and IBM managers will be responsible in all cases to individually manage, pay, appraise and develop the careers of their respective company's personnel assigned to the projects, and procedures, compensation guidelines and the like for their respective companies with respect to their employees assigned to projects. The managers of one company shall not in any way manage or supervise employees of the other company participating in the project with respect to employment status, personnel practices, policies, salary administration, performance planning and review, or career development planning. Rather, they shall provide the appropriate team operational guidance, technical guidance and work environment to successfully execute the approved projects.

9.0 Distribution of UnixWare 7 and IA-32 Product

The following provisions will apply to IBM's distribution, in the form of Object Code, of the IA-32 Product as well as UnixWare 7 and any subsequent releases of UnixWare 7 ("hereinafter SCO Products"). Notwithstanding the foregoing, for the period of time from the Effective Date of the Agreement through June 30, 1999, the Agreement Number 094690 between IBM and SCO executed by the parties on February 23, 1995, shall apply to IBM's distribution of the UnixWare 7 products. IBM will have no right to distribute the SCO Products in the form of Source Code, provided, however, that IBM may, in any manner it sees fit and without royalty to SCO, distribute any Licensed IBM Materials contained in the SCO Products as well as any jointly created and jointly owned Project Work which is contained in the IA-32 Product in accordance with the licenses granted herein.

9.1 SCO Responsibilities

SCO will provide to IBM a golden master at no charge for the SCO Products beginning with the Effective Date of this Agreement, as well as for Enhancements and Maintenance Modifications as they are made generally available by SCO via SCO's Standard Support Library.

SCO will provide, free of charge, reasonable sales training in the form of "train the trainer" to IBM in the continental United States. Such training will be offered upon each new major release of SCO Product. Each Party will be responsible for any travel and living expenses of its own employees and representatives for such training.

For the term of this Agreement and continuing for two (2) years thereafter, SCO will offer IBM technical support (e.g. Engineering Services, TEAM Services, and the like) upon such terms and conditions and at such prices as are offered to SCO's OEM customers in general, subject to the provision below titled "Most Favored Customer."

9.2 IBM's Responsibilities

IBM agrees to remarket SCO Product(s) solely in conjunction with IBM computer systems which SCO acknowledges as "value add". However, IBM is authorized to provide the SCO Products to end users on a stand alone basis provided the total volume of the stand alone product does not exceed five percent (5%) of the total volume of a particular transaction.

All copies of the SCO Product Object Code and/or Documentation reproduced by IBM shall include the copyright notice of SCO and/or its suppliers, and all other proprietary markings as provided by SCO.

Prior to delivery to an End User, IBM shall assign a unique serial number activation key ("SNAK"), as provided by SCO, with each SCO Product. IBM may provide the same SNAK to an end user when a defective storage containing the SCO Product is replaced or to be replaced.

IBM will endeavor to provide SCO with sales out reports on a quarterly basis. Such reports shall include postal zip code or country code, if applicable.

9.3 Use of SCO Product Names and Trademarks

SCO hereby grants to IBM, IBM Subsidiaries, its and their successors, assigns, agents, and Distributors, a nonexclusive, irrevocable, royalty free right and license to use, in connection with the marketing of the SCO Products and/or Documentation, including any portions thereof only in accordance with SCO's trademark guidelines, as contained in the Attachment C entitled "SCO Trademark Guidelines".

9.4 License Fees

IBM will pay SCO license fees for the SCO Products in accordance with prices and discounts offered by SCO to its OEM customers in general, subject to the provision below titled "Most Favored Customer."

With respect to the SCO Products in the form of packaged product, SCO will invoice IBM upon shipment, and IBM will pay such invoice within thirty (30) days of receipt.

With respect to the SCO Products which are reproduced by IBM from the golden master, IBM will make payment of license fees in the same fashion as IBM will make payment for IA-64 Product which is reproduced, as set forth in this Agreement.

Notwithstanding the foregoing, any time after the first anniversary of this Agreement, IBM may request a review of the prices and discounts offered by SCO hereunder. In reviewing any such request SCO will consider the overall relationship between the parties, the marketing efforts made by IBM with respect to the SCO Products, and the volume of SCO Products distributed by IBM.

10.0 Third Party Licenses/Royalties

10.1 The provision of Licensed Materials from one party to the other may be subject to third party encumbrances other than prerequisite licenses. For example, the licensor's right to license such work to the licensee may be subject to license limitations or payment obligations imposed on the providing party by a third party, or the obligation to obtain a prerequisite license from a third party. Any such requirements will be specified in the applicable Project Supplement in the case of Licensed Materials, or written notice from the licensor before delivery of the affected materials in the case of Enhancements. To the extent such items are specified in a Project Supplement and accepted by the licensee, the licensee will comply with any applicable encumbrances, such as licensing restrictions, or payment or reimbursement of any royalties or other fees due to the third party. The parties intend that no fee shall be due the licensor from the licensee except such amount as is required to be paid to the third party. To the extent that one party has its own license to Third Party materials that is less restrictive in terms of licensing terms or license fees, that party may use the Third Party materials for the development of Deliverables to the extent that such party's use of the materials does not put the other party in default of any agreement that the other party may have for the same third party materials.

10.2 Minimizing Encumbrances

To the extent reasonable, the parties intend to minimize or avoid the use in Licensed Materials of Code, Documentation, or other materials that are subject to such third party encumbrances. If the licensor proposes to provide third-party Code or Documentation as part of its Licensed Materials, and the licensor is unable to provide it under terms at least as favorable to the licensee (in the licensee's judgment) as the licenses and other provisions of this Agreement without additional royalties or fees, then both parties must agree to such use.

10.3 Prerequisite Licenses

- a. Pursuant to 10.1 and 10.2 above, the delivery and licensing of Third Party Licensed Material from one party to the other pursuant to this Agreement may be subject to the requirement that the receiving party obtain certain prerequisite license(s) directly from third-party licensors rather than from the other party proposing inclusion of such materials through the Project Supplement.
- b. Where it is agreed to use such materials, prior to receipt from the providing party under this Agreement of any applicable portion of any third party Licensed Materials or Derivative Works thereof, the licensee must have obtained the listed prerequisite license(s) as required. Upon request from the providing party, the other party will provide written assurance of the existence of such license, and authorizes the other party to verify the existence of such license directly with the third-party licensor.
- c. Notwithstanding anything herein to the contrary, the party receiving Licensed Materials subject to a prerequisite license shall be entitled to use such Licensed Materials only to the extent of, and subject to all limitations in such prerequisite license. The provisions of this Section 10.0 shall only apply to third party Licensed Materials provided pursuant to this Agreement and shall in no way change the rights and obligations with respect to any materials licensed to IBM/SCO under any other IBM/SCO agreement.

11.0 Invention Rights

11.1 Ownership and License.

Each Invention, other than a Joint Invention, shall be the property of the party whose employees make the Invention (hereinafter "Owning Party"), subject to a license which the Owning Party hereby grants to the other party under each such Invention and any patent protection obtained therefor. The Owning Party shall promptly make a complete written disclosure to the other party of each such Invention submitted as an invention disclosure to the Owning Party's intellectual property law department, specifically pointing out the feature or concepts which it believes to be new or different.

11.2 Protection:

The Owning Party shall notify the other party promptly as to each country in which it elects to seek protection by obtaining patent rights, at its expense, and shall promptly provide the other party with a copy of each application so filed. Upon written request, the Owning Party will advise the other party of the status of any such application. If the Owning Party elects not to seek such protection on an Invention (other than a Joint

Invention) in any country or to seek such protection only in certain countries, it shall notify the other party, and the other party shall have the right to seek such protection, at its sole expense, on such Inventions in any country. If neither party elects to seek any such patent protection, the Owing Party shall have the right to publish such Invention after obtaining the prior approval of the other party. The non-Owning Party may publish with permission of the Owing Party. Title to all applications filed on such Invention and all patents issuing thereon shall vest in the Owing Party subject to a license under said patents hereby granted to the other party.

11.3 Joint Inventions.

Joint Inventions shall be jointly owned; title to all patents issued thereon shall be jointly owned; all expenses incurred in obtaining and maintaining such patents, except as provided hereinafter, shall be equally shared; and each party grants to the other party the unrestricted right to license third parties thereunder without accounting or further permission from the granting party. In the event that one party elects not to seek or maintain patent protection for any Joint Invention in any particular country or not to share equally in the expenses thereof with the other party, the other party shall have the right to seek or maintain such protection at its sole expense in such country and shall have full control over the prosecution and maintenance thereof even though title to any patent issuing therefrom shall be joint owned.

11.4 Assistance.

Each party shall give the other party all reasonable assistance in obtaining patent protection and in preparing and prosecuting any patent application filed by the other party, and shall cause to be executed assignments and all other instruments and documents as the other party may consider necessary or appropriate to carry out the intent of this Section.

11.5 Scope of Licenses.

All licenses granted to IBM and SCO under this Section 11.0 shall be worldwide, irrevocable (subject to Section 15.0, "Termination"), nonexclusive, non-transferable; shall include the right to make, have made, use, have used, lease, sell or otherwise transfer any apparatus, and to practice and have practiced any method. All such licenses shall include the right of the grantee to grant revocable or irrevocable sublicenses at grantee's discretion to its Subsidiaries and the right of such sublicensed Subsidiaries to correspondingly sublicense other Subsidiaries, of the same or lesser scope as granted here, without other permission or accounting. Except to the extent that royalties may be due under the Agreement, the licenses stated in this Section 11.0 shall be fully paid up.

11.6 No Implied Licenses.

Nothing contained in the Agreement shall be deemed to grant either directly or by implication, estoppel, or otherwise, any license under any patents or patent applications arising out of any other inventions of either party.

12.0 Royalties

12.1 Royalty Calculations

Each party shall pay royalties for the IA-64 Product as follows:

When either party licenses significant portions of the IA-64 Product, the parties will pay a percentage of revenue recorded for license fees by the parties for authorized copies of the IA-64 Product (or significant portions thereof), licensed to an end user by the parties, their Subsidiaries and its or their Distributors as follows:

For SCO's distribution of the IA-64 Product, for the period of time during which (i) SCO's total sales volume for the IA-64 Product represents less than forty (40) percent of their total volume of UNIX for Intel architecture platforms and (ii) SCO's cumulative royalties paid to IBM under this Agreement amount to less than Thirty Million dollars (\$30,000,000) (collectively, referred to as the "Initial Period"), SCO shall pay the following percentage of revenue recorded for license fees by SCO:

<u>Annual SCO IA-64 Volumes</u>	<u>Royalty Percentage</u>
less than 70% of Plan	14%
between 70 and 100% of Plan	16%
greater than 100% of Plan	18%

"Plan" shall mean the "SCO IA-64 Plan Volumes" in thousands for the following years:

<u>Year:</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
<u>Volumes:</u>	0	20	70	140

"SCO IA-64 Plan Volumes" shall not include any volumes associated with Special Purpose Processors.

For the period of time during which (i) SCO's total sales volume for the IA-64 Product represents forty (40) percent or greater of their total volume of UNIX for Intel architecture platform operating systems and (ii) SCO's cumulative royalties paid to IBM under this Agreement equals Thirty Million dollars (\$30,000,000) or more (collectively referred to as the "Subsequent Period"), SCO shall pay the following percentage of revenue recorded for license fees by SCO:

<u>Annual SCO IA-64 Volumes</u>	<u>Royalty Percentage</u>
less than 70% of Plan	10%
between 70 and 100% of Plan	11%
greater than 100% of Plan	13%

SCO agrees to provide IBM with plan volumes for years after 2003 if the Agreement is renewed in accordance with Section 14.0, below. IBM will review such plan volumes and determine their acceptability for the above purposes. If the Agreement is not renewed, SCO shall pay 14.6% percent of net revenue if at the time of expiration of the agreement, SCO is in the Initial Period. If at the time of expiration of the Agreement, SCO is in the Subsequent Period, SCO shall pay 10.3% of net revenue.

For IBM's distribution of the IA-64 Product, for the period of time during which IBM's cumulative royalties paid to SCO under this Agreement amount to less than Seven Million dollars (\$7,000,000) will be referred to as the "Initial Period". The period once IBM's cumulative royalties paid to SCO under this Agreement equals Seven Million dollars (\$7,000,000) or more will be referred to as the "Subsequent Period". For IBM's distribution of the IA-64 Product, IBM shall pay the following percentage of revenue recorded for license fees by IBM for licensing of the IA-64 Product:

During the Initial Period	During the Subsequent Period
6%	4%

At the point in time in which either party meets the criteria described in their respective "Subsequent Periods" above, both parties shall be entitled to percentages associated with their respective Subsequent Periods.

For IBM's distribution of the IA-64 Product, when IBM includes the IA-64 Product combined with other products or services, IBM will report and pay SCO the above percent of the revenue recorded for license fees by IBM and IBM Subsidiaries for the IA-64 Product licensed to an End User by IBM, IBM Subsidiaries or its or their Distributors, which license fee will be based on the proportionate value of the IA-64 Product to the IBM product, as reasonably determined by IBM taking into account, among other things, investment recoveries, return on investment, competitive considerations, etc.

For SCO's distribution of the IA-64 Product, when SCO includes the IA-64 Product combined with other products or services, SCO will report and pay IBM the above percent of the revenue recorded for license fees by SCO and SCO Subsidiaries for the IA-64 Product licensed to an End User by SCO, SCO Subsidiaries or its or their Distributors, which license fee will be based on the proportionate value of the IA-64 Product to the SCO product, as reasonably determined by SCO taking into account, among other things, investment recoveries, return on investment, competitive considerations, etc.

Minimum Royalties

During the Initial Period:

Annually, three (3) months following the end of each calendar year, IBM will calculate (based on its records of worldwide activity) the cumulative annual amount of all license fees that would have been paid to SCO under this Agreement during such calendar year if the minimum license fee of two (2) percent (2%) of the IBM lowest list price for a comparable license in effect during such annual period had been used to calculate quarterly license fees instead of the applicable percent of revenue rate.

Annually, three (3) months following the end of each calendar year, SCO will calculate (based on its records of worldwide activity) the cumulative annual amount of all license fees that would have been paid to IBM under this Agreement during such calendar year if the minimum license fee of 4.87 percent (4.87%) of the SCO lowest list price for a comparable license in effect during such annual period had been used to calculate quarterly license fees instead of the applicable percent of revenue rate.

During the Subsequent Period:

Annually, three (3) months following the end of each calendar year, IBM will calculate (based on its records of worldwide activity) the cumulative annual amount of all license fees that would have been paid to SCO under this Agreement during such calendar year if the minimum license fee of 1.33 percent (1.33%) of the IBM lowest list price for a comparable license in effect during such annual period had been used to calculate quarterly license fees instead of the applicable percent of revenue rate.

Annually, three (3) months following the end of each calendar year, SCO will calculate (based on its records of worldwide activity) the cumulative annual amount of all license fees that would have been paid to IBM under this Agreement during such calendar year if the minimum license fee of 3.43 percent (3.43%) of the SCO lowest list price for a comparable license in effect during such annual period had been used to calculate quarterly license fees instead of the applicable percent of revenue rate.

If the annual cumulative royalties paid or payable to the other party within such annual period is less than the calculated royalties due based on the above calculation, the party will pay the other party the difference in the next scheduled royalty payment.

Special Purpose Processor - Minimum Royalties:

Annually, three (3) months following the end of each calendar year, IBM will calculate (based on its records of worldwide activity) the cumulative annual amount of all license fees that would have been paid to SCO under this Agreement during such calendar year if the minimum license fee six dollars (\$6.00) for the Initial Period and four dollars (\$4.00) for the Subsequent Period for Special Purpose Processor was in effect during such annual period had been used to calculate quarterly license fees instead of the applicable percent of revenue rate.

Annually, three (3) months following the end of each calendar year, SCO will calculate (based on its records of worldwide activity) the cumulative annual amount of all license fees that would have been paid to IBM under this Agreement during such calendar year if the minimum license fee of fourteen dollars (\$14.00) for the Initial Period and ten dollars (\$10.00) for the Subsequent Period for Special Purpose Processor was in effect during such annual period had been used to calculate quarterly license fees instead of the applicable percent of revenue rate.

SEE P. 3 FOR SCO PART

If the annual cumulative royalties paid or payable to the other party within such annual period is less than the calculated royalties due based on the above calculation, the party will pay the other party the difference in the next scheduled royalty payment.

IBM will discuss with SCO reasonable requests for different minimum royalties in response to other new special business opportunities on a case by case basis.

Additional Royalties

Unless mutually agreed to in writing, the parties shall pay the additional percentage royalties as defined in the table below for distribution of the IA-64 Product into the other party's Specific

Channels. The parties will document the Specific Channels no later than six (6) months prior to the first customer ship of the IA-64 Product by either party.

The additional royalties shall be as follows:

First Six Months after First Customer Ship to a Specific Channel:	20%
Next Six Months:	15%
Second Year:	10%
After Second Year:	0%

"First Customer Ship" shall mean shipment under a volume supply agreement.

Minimum Royalties for Specific Channels:

During the Initial Period:

Annually, three (3) months following the end of each calendar year, IBM will calculate (based on its records of worldwide activity) the cumulative annual amount of all license fees that would have been paid to SCO under this Agreement during such calendar year if the minimum percent in the table below of the IBM lowest list price for a comparable license in effect during such annual period had been used to calculate quarterly license fees for the Specific Channel instead of the applicable percent of revenue rate above.

First Six Months After First Customer Ship to a Specific Channel:	8.67%
Next Six Months:	7.00%
Second Year:	5.33%
After Second Year:	2.00%

Annually, three (3) months following the end of each calendar year, SCO will calculate (based on its records of worldwide activity) the cumulative annual amount of all license fees that would have been paid to IBM under this Agreement during such calendar year if the minimum percent in the table below of the SCO lowest list price for a comparable license in effect during such annual period had been used to calculate quarterly license fees for the Specific Channel instead of the applicable percent of revenue rate.

First Six Months After First Customer Ship to a Specific Channel:	11.53%
Next Six Months:	9.87%
Second Year:	8.20%
After Second Year:	4.87%

During the Subsequent Period:

Annually, three (3) months following the end of each calendar year, IBM will calculate (based on its records of worldwide activity) the cumulative annual amount of all license fees that would have been paid to SCO under this Agreement during such calendar year if the minimum percent in the table below of the IBM lowest list price for a comparable license in effect during such annual

period had been used to calculate quarterly license fees for the Specific Channel instead of the applicable percent of revenue rate.

First Six Months After First Customer Ship to a Specific Channel:	8.00%
Next Six Months:	6.33%
Second Year:	4.67%
After Second Year:	1.33%

Annually, three (3) months following the end of each calendar year, SCO will calculate (based on its records of worldwide activity) the cumulative annual amount of all license fees that would have been paid to IBM under this Agreement during such calendar year if the minimum percent in the table below of the SCO lowest list price for a comparable license in effect during such annual period had been used to calculate quarterly license fees for the Specific Channel instead of the applicable percent of revenue rate.

First Six Months After First Customer Ship to a Specific Channel:	10.10%
Next Six Months:	8.43%
Second Year:	6.77%
After Second Year:	3.43%

If the annual cumulative royalties paid or payable to the other party within such annual period is less than the calculated royalties due based on the above calculation, the party will pay the other party the difference in the next scheduled royalty payment.

Notwithstanding the foregoing, neither party shall be required to pay the above additional royalties when the IA-64 Product is packaged as a solution with a computer system manufactured by or for the party with or without the party's logo.

The parties obligations to pay any additional royalties described above shall end on the earlier of the expiration of the initial term of the Agreement or upon termination of the Agreement except for those Specific Channels where either party was under the obligation to pay additional royalties at the time of such expiration or termination of the Agreement.

12.2 Payment Obligations

Royalties are paid against revenue recorded by the parties in a royalty payment quarter. In the U.S., a royalty payment quarter ends on the last business day of the calendar quarter.

Outside of the U.S., a royalty payment quarter is defined according to each party's current administrative practices. Payment will be made by the last day of the second calendar month following the royalty payment quarter. Each party will provide a statement summarizing the royalty calculation with each payment. All payments will be made in U.S. Dollars.

Payments based on foreign revenue will be converted to U.S. Dollars on a monthly basis at the rate of exchange published by Reuters Financial Service on approximately the same day each month.

Each party will be solely responsible for any taxes incurred by the party, directly or indirectly, associated with its performance of this Agreement.

12.3 Exceptions to Royalty Payment Obligations

Neither party shall pay the other a royalty for the Licensed Materials or Derivative Works used for:

- (a) internal use;
- (b) development, maintenance and support activities;
- (c) marketing demonstrations, customer testing or trial periods (including early support, prerelease, encrypted or locked sampler distributions not resulting in a license for full productive use, or other similar programs);
- (d) backup or archival purposes;
- (e) Documentation provided with, contained in, or derived from the Licensed Materials;
- (f) Maintenance Modifications or Enhancements (unless otherwise provided in a Project Supplement);
- (g) licensing for no fee (except for reimbursement of distribution costs) to third parties for non-commercial educational, charitable or research purposes;
- (h) returns, or copies destroyed by customers in lieu of returning for which the customer is credited.

When a party uses the Licensed Materials for the above purposes, that party will make their own copies of the Licensed Materials. If a party orders a significant quantity of the other party's Licensed Materials, the ordering party shall reimburse the other party for reasonable costs of media.

12.4 Most Favored Customer

Each party agrees that if, during the term of this Agreement, the fees charged to the other party, taken as a whole and not individually, are not as favorable as the fees charged by that party to any other similarly situated licensee with regard to the prices and other material terms and conditions provided to such other licensees, when considered collectively, then the party charging the more favorable fees to such licensees will give the other party notice of such other prices and other material terms and conditions and the opportunity to substitute all such terms and conditions that apply to such other licensee for the terms of this Agreement.

12.5 Records

Each party will maintain relevant records to support payments made to the other company. The records will be retained and made available for two (2) years from the date of the

related payment. If a party requests, the other party will make these records available to an independent certified public accountant chosen and compensated (other than on a contingency basis) by the requesting party. The parties will put such requests in writing, will provide the audited party 90 days prior notice, and will make such requests no more than once per year. The audit will be conducted during normal business hours at the audited party's office in such a manner not to interfere with the audited party's normal business activities. The auditor will sign a confidentiality agreement and will only disclose to the requesting party any amounts overpaid or underpaid for the period examined.

The cost of such audit will be borne by the requesting party unless such audit reflects an underpayment of more than 15% in the royalty payments reported due by the audited party over the period of time being audited, but in no event less than 1 year. In the event that the underpayment is greater than 15% the audited party will reimburse the requesting party for the cost of the audit.

13.0 Freedom to Market

Subject to the terms and conditions of this Agreement, both parties shall have full freedom and flexibility in the design and implementation of its marketing programs for any Deliverables, including, without limitation, the decision of whether to market or discontinue marketing any particular Deliverable, the selection of marketing channels, the timing and sequence of announcements and roll-out programs, the determination of pricing strategy, the specification of license terms, and the offering of such Deliverables in connection with or as part of other software products and systems and with any computer hardware equipment. Nothing in this Agreement shall be construed as an obligation, guarantee or commitment by either party that any Deliverable shall be announced or marketed, or that any marketing effort will be productive of any level of sales. The parties may agree to pursue specific marketing activities as outlined in a Marketing Supplement executed by authorized representatives of each party and attached to this Agreement. Notwithstanding the foregoing, IBM agrees to include the IA-32 Product in the IBM marketing programs outlined in Attachment A for a minimum period of one year from the Effective Date of the Agreement. IBM will identify an IBM contact responsible for the marketing programs outlined in Attachment A. The scope and contributed resources and expenditures for such IBM marketing programs shall be at IBM's sole discretion.

14.0 Term

The term of this Agreement shall be from the Effective Date and shall continue for a period of five (5) years, unless terminated as provided elsewhere in this Agreement or extended by mutual agreement between the parties.

15.0 Termination

Except as expressly provided in this Section 15.0, neither party will have the right to terminate this Agreement or any Project Supplements executed hereunder. This Agreement may only be terminated in accordance with the following:

15.1 Termination for Cause

In the event either party materially breaches or defaults on the terms and conditions of this Agreement, the non-breaching party shall attempt to resolve the problem through the Project Management process. If the parties are unable to reach a resolution through the Project Management process, the non-breaching party may at its option, exercise one of the following remedies:

- (i) Termination of this Agreement if the breach or default is of this Agreement or of a Project Supplement hereunder that is material to it, upon ninety (90) calendar days' written notices, unless the breaching party cures the breach within such ninety (90) day notice period provided however, that if the breach is such that it cannot reasonably be cured within ninety (90) days, then the breaching party must commence cure within ninety (90) days and proceed to cure with due diligence to avoid termination for breach.
- (ii) Termination of one or more Project Supplements, if the breach or default is of such Project Supplement, upon ninety (90) calendar days' written notice, unless the breaching party cures the breach within such ninety (90) day notice period provided however, that if the breach is such that it cannot reasonably be cured within ninety (90) days, then the breaching party must commence cure within such ninety (90) days and proceed to cure with due diligence to avoid termination for breach. Upon receipt of notice of such termination, the breaching party shall inform the non-breaching party of the extent to which performance has been completed through such date and shall deliver to the non-breaching party whatever work product then exists in a manner prescribed by the non-breaching party. The breaching party shall be paid or credited only for those royalties or other payments properly due to the breaching party from the non-breaching party pursuant to this Agreement subject, however, to a setoff, credit and/or payment to the non-breaching party, of damages or losses incurred by the non-breaching party.

15.2 Change of Control of SCO

Notwithstanding Section 15.1, IBM shall have the right to terminate this Agreement immediately upon the occurrence of a Change of Control of SCO which IBM in its sole discretion determines will substantially and adversely impact the overall purpose of the cooperation set forth by this Agreement and applicable Project Supplements or will create a significant risk or material and adverse exposure of IBM's confidential and/or technical proprietary information (which is subject to, and to the extent of, confidentiality restrictions) ("Information"). For purposes of this Agreement, control shall be deemed to be constituted by rights, contracts or any other means which, either separately or jointly and having regard to the consideration of fact or law involved, confer the possibility of exercising decisive influence (other than by an entity currently exercising such influence or any entity controlled by or controlling such entity) on SCO by:

1. owning more than half the equity, capital or business assets, or
2. having the power to appoint more than half of the members of the supervisory board, board of directors or bodies legally representing SCO, or
3. having the right to directly manage SCO's business activities.

Subject to a plan deemed adequate by IBM to protect its Information, the parties will agree to a wind-down period for activities under this Agreement in case of termination for Change of Control. Such wind-down period will take into consideration the party's outstanding commitments relating to this Agreement and will not be less than 6 months. Any New Entity (defined below) identified in Attachment B shall not be entitled to any benefit of licenses granted by IBM under this Agreement in relation to the IA-64 Product and shall not be entitled to receive any Information, (including during any wind-down period). "New Entity" means the entity assuming control as described in subparagraphs 1 through 3 above and all of such entity's then current subsidiaries and affiliates. IBM's right to the Project Work upon a Change of Control shall be in accordance with Section 15.4.

15.3 Bankruptcy or Insolvency

Notwithstanding Section 15.1 above, either party shall have the right to terminate this Agreement immediately if the other party becomes insolvent, files or has filed against it a petition under bankruptcy law, proposes any dissolution, liquidation, composition, financial reorganization or recapitalization with creditors, makes an assignment or trust mortgage for the benefit of creditors, or if a receiver trustee, custodian or similar agent is appointed or takes possession of any property or business. IBM's right to the Project Work upon the occurrence of one of the events described in this Section 15.3 as it relates to SCO, shall be in accordance with Section 15.4. SCO's right to the Project Work upon the occurrence of one of the events described in this Section 15.3 as it relates to IBM, shall be in accordance with Section 15.4.

15.4 Effect on Rights

- (a) Termination or expiration of this Agreement or of a Project Supplement by either party shall not act as a waiver of any breach of this Agreement or of the effected Project Supplement and shall not act as a release of either party from any liability for breach of such party's obligations under this Agreement.
- (b) Notwithstanding any provision in this Agreement to the contrary, licenses and sublicenses to end users granted by either party prior to the effective date of termination are irrevocable and shall survive the termination or expiration of this Agreement.
- (c) In the event of termination or expiration of this Agreement or a Project Supplement in accordance with Section 15.1 above, all licenses granted to the breaching party prior to termination shall remain in effect, subject to all terms and conditions applicable hereunder, including applicable payment provisions.
- (d) In the event of termination of this Agreement in accordance with Section 15.3 and/or Section 15.2 where such New Entity is a company identified in Attachment B, SCO shall promptly: (i) return to IBM or destroy all copies of the Project Work and the IBM Licensed Materials, in tangible or electronic form, including any IBM Third party Licensed Materials, in SCO's possession or control provided by IBM in connection with the IA-64 Product and (ii) provide IBM with a written statement

certifying that SCO has complied with the foregoing obligations. All licenses granted to SCO prior to termination in connection with the IA-64 Product shall also terminate.

- (e) In the event of termination of this Agreement in accordance with Section 15.2 where such New Entity is a company identified in Attachment B, and where IBM is still marketing and offering for licensing the IA-64 Product, IBM agrees to offer to such New Entity an object code license and distribution agreement based on IBM's reasonable standard terms for such distribution.

16.0 Notice and Right to Participate on Change of Control

16.1 Notice

During the term of the Agreement, if SCO receives an offer to merge with, sell shares representing 50% or more of the voting power of SCO, or sell all or substantially all of SCO's assets to any company such that the SCO Board of Directors either authorizes management to accept the offer or pursue further discussions with the offeror, prior to acceptance of any such offer or initiation of such discussions, SCO shall promptly upon such Board of Director's authorization, deliver a notice (an "Acquisition Notice") to IBM, which Acquisition Notice shall be kept confidential by IBM. The Acquisition Notice shall set forth the proposed material terms of the merger, sale or acquisition, including the structure and price terms of the merger, sale or acquisition, the name and address of the party proposed to acquire or merge with SCO and the date on or about which sale or merger is proposed to be made.

16.2 Right to Participate

Upon IBM's receipt of the Acquisition Notice, IBM shall be given a reasonable period of time not to exceed fifteen (15) days and opportunity to determine whether IBM wishes to submit its own proposal ("Acquisition Proposal"). In the event IBM submits to SCO an Acquisition Proposal, SCO agrees to give such Acquisition Proposal due consideration by the SCO Board of Directors. SCO further agrees to engage with IBM to discuss the terms of the Acquisition Proposal in good faith and IBM agrees to promptly make itself available for such discussions. If the Acquisition Proposal is not accepted by the SCO Board of Directors, SCO will promptly notify IBM before accepting the terms of any Acquisition Notice (including any later forms such Acquisition Notice may take).

17.0 Confidential Information

Except as expressly set forth in the Section entitled "Public Disclosure", neither Party has an obligation of confidentiality under this Agreement. Should the Parties desire to exchange confidential information, it shall be handled under an appropriate Supplement to the Agreement for the Exchange of Confidential Information ("AECI") #4997AU6595.

18.0 Public Disclosure

Each Party agrees to take reasonable measures not to disclose the terms of this Agreement without the express written consent of other Party, except as may be required by law or government rule or regulation, or to establish its rights under this Agreement; provided,

however that if one Party is seeking to disclose such information for reasons not requiring the other Party's written consent, then the disclosing Party shall limit disclosure to the extent required, shall allow the other Party to review the information to be disclosed prior to such disclosure, and shall apply, where available, for confidentiality, protective orders, and the like. For purposes of SCO's compliance with Securities and Exchange Commission ("SEC") rules or regulations, the foregoing obligations shall be satisfied by SCO providing IBM with timely notice of the content of the applicable disclosure documents, provided that such disclosure does not contain IBM Confidential Information, provided, however, that SCO shall consult with IBM on which information shall be redacted from any applicable disclosure documents. Such review under this Section shall not be construed to make reviewing Party responsible for the contents of the disclosure and disclosing Party shall remain solely responsible for such content.

19.0 Representations and Warranties

- 19.1 Each party represents and warrants that it is under no obligation or restriction, nor will it assume any such obligation or restriction, which would in any way interfere or be inconsistent with or present a conflict of interest concerning its performance under this Agreement.
- 19.2 Each party represents and warrants that, to the best of its knowledge, the Deliverables do not contain any harmful code. Each party shall enforce procedures to prevent negligent incorporation of such harmful code into Deliverables and shall promptly notify the other party of any knowledge or suspicion of any such incorporation of harmful code into Deliverables.
- 19.3 Both parties represent and warrant the originality of any work prepared hereunder, and that no portion of the materials prepared for or supplied to the other party under this Agreement, including the use or distribution of the materials, violates any copyright, patent, trademark, trade secret or similar intellectual property rights of any third party.
- 19.4 Both parties represent and warrant that they have or will obtain, prior to the commencement of work under this Agreement, appropriate agreements with their employees who will be involved or others whose services they may require in the performance under this Agreement, sufficient to enable them to comply with all the terms of this Agreement.
- 19.5 Each party represents and warrants that it shall comply with all obligations, duties and responsibilities set forth in this Agreement.
- 19.6 Except as provided herein, neither party makes any warranties nor assumes any liability in connection with this Agreement including but limited to the accomplishment, completion or correctness of any result of work effort under this Agreement. **EXCEPT AS PROVIDED HEREIN ALL INFORMATION, MATERIALS OR SERVICES FURNISHED BY IBM AND/OR SCO PURSUANT TO THIS AGREEMENT ARE ON AN "AS-IS" BASIS WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

20.0 Limitation of Liability

20.1 In no event shall either party be liable to the other for lost profits, lost savings, or other consequential, incidental or punitive damages resulting from breach of this Agreement even if advised in advance of the possibility of such losses or damages. The foregoing limitation shall not apply to any liabilities under Section 21.0, "Indemnification".

The entire liability of each party under this Agreement for actual damages for any cause whatsoever, regardless of the form of action, whether in contract or tort including negligence, shall be limited to Five Million Dollars (\$ 5,000,000). This limitation of liability will not apply to claims for royalties due under this Agreement, personal injury, copyright and/or patent infringement or damage to real or tangible personal property caused solely by the other party's negligence, or for any liabilities under Section 21.0, "Indemnification".

Except as may otherwise be provided in this Section, neither party shall be liable for any delays, losses or other damages which may result from the furnishing of any equipment, programs, publications, information or services to the other party under this Agreement.

21.0 Indemnification

21.1 Each party agrees to protect, defend, hold harmless and indemnify the other party, their Subsidiaries and their Distributors from and against any and all claims, actions, liabilities, losses, costs and expenses arising out of any actual or alleged: (A) infringement of any patent, trademark, trade name, copyright or mask work right or violation of any trade secret or other proprietary rights by the contributing party's Deliverables and related materials furnished to the other party hereunder; and/or (B) acts, failure to act, or negligence by the contributing party. The contributing party shall pay all damages, expenses, costs, including but not limited to reasonable attorney's fees resulting from all such claims or proceedings against the other party, their Subsidiaries and their Distributors and their successors and assigns, provided that such payment shall be contingent on: (i) notice by the other party to the contributing party in writing of such claim to enable the contributing party to defend or mitigate the same; (ii) cooperation by the other party with the contributing party in the defense thereof, of which the contributing party shall have control at the contributing party's expense; and (iii) the other party's obtaining the contributing party's prior written approval of any settlement by the other party of such matters (which approval shall not be unreasonably withheld). If, pursuant to any such claim, the other party's rights to the contributing party's Deliverables is restricted, the contributing party shall, at its sole option (i) procure for the other party the right to continue to use, sell and license the infringing Deliverables; or (ii) modify the infringing Deliverables, provided the functionality thereof is not substantially affected, so as to make it non-infringing; or (iii) replace the infringing Deliverables with non-infringing ones that comply with this Agreement; or (iv) require the other party, upon written notice, to return the infringing Deliverables for a full refund of all amounts paid by the other party under this Agreement.

21.2 Notwithstanding 21.1 above, the contributing party shall not have an obligation regarding any claim based on the following:

(a) recipient's modification of contributor's Deliverables, or recipient's use of a Deliverable in other than its operating environment as defined in the applicable Project Work Specification; or

(b) the combination, operation or use of a Deliverable by recipient with any product, data or apparatus that the contributing party did not provide.

22.0 General

22.1 Force Majeure

Neither party shall be held responsible for any delay or failure in performance under this Agreement arising out of causes beyond its control, or without its fault or negligence for as long as the cause exists and continues to prevent such performance. Such causes may include, but are not limited to: fires, strikes, freight embargoes, civil commotions, epidemics, quarantine restrictions, acts of God, acts of public enemy, acts of governmental or regulatory agencies, or national disasters.

22.2 Notices/Coordinators

All contractual communications between the parties under this Agreement, including legal notices, shall be carried out through or under the supervision of the following contract coordinators listed below. Any legal notice shall be sufficiently made or given on the date of mailing if sent to such party by facsimile transmission ("FAX") or by certified mail, postage prepaid, courier or express mail and addressed to the address set forth below.

For IBM: International Business Machines Corporation
M/S 4106
11400 Burnet Road
Austin, Texas 78758
Phone: 512-822-2604 FAX: 512-823-8712

For SCO: The Santa Cruz Operation, Inc.
Kimberlee Madsen
Law and Corporate Affairs
400 Encinal Street
Santa Cruz, California 95060
Phone: 831-427-7822 FAX: 831-427-5474

Each party may change the aforesaid coordinators and/or addresses at any time by written notice to the other party's contract coordinator.

22.3 Choice of Law/Venue

This Agreement shall be governed by, and the legal relations between the parties hereto shall be determined in accordance with, the substantive laws of the State of New York, without regard to the conflict of laws principles of such State, as if this Agreement was executed in and fully performed within the State of New York. Each party hereby waives

any right to a trial by jury in any dispute arising under or in connection with this Agreement, and agrees that any dispute hereunder shall be tried by a judge without a jury. Any legal or other action related to a breach of this Agreement must be commenced no later than two (2) years from the date of the breach in a court sited in the State of New York.

22.4 Headings

Headings used in this Agreement are for convenience of reference only and are not intended to be part of, or to affect the meaning or interpretation of, this Agreement.

22.5 Independent Contractors

Each party is acting solely as an independent company. This Agreement shall not be construed to establish any form of partnership, agency, franchise or joint venture of any kind between SCO and IBM, nor to constitute either party as a agent, employee, legal representative, or any other form of representative of the other. This Agreement shall not be construed to provide for any sharing of profits or losses between the parties.

Each party agrees that it has entered into, or will enter into, agreements with its employees, contractors, licensees or other applicable third parties, as necessary for it to comply with all of its obligations under this Agreement.

Each party acknowledges that it has not relied on any promises, inducements, representations or other statements made by the other party regarding the commercial viability, profitability or success in the marketplace of any products or services, and that each party's decision to enter into this Agreement is made independently from the other party.

22.6 Freedom of Action

Nothing in this Agreement shall be construed as: (1) prohibiting or restricting either party or their Subsidiaries from independently developing, having developed independently, acquiring, licensing, distributing or marketing products, services and other materials which are competitive in any form with the Deliverables, (2) except that deliverables are subject to Section 13.0, Freedom to Market, guaranteeing that either party or their Subsidiaries shall announce, market, or otherwise offer for sale or lease, any product or service or the success of its marketing efforts, if any, or (3) affecting either party's pricing of products or services. Each party is free to enter into similar agreements with other parties.

22.7 Compliance with Laws/Regulations

Each party will comply, at its own expense, with all statutes, regulations, rules, ordinances, and orders of any governmental body, department or agency which apply to or result from that party's obligations under this Agreement.

22.8 Workplace Safety

Both parties shall endeavor to provide a safe environment free from violence and threats of violence for all employees and contractors of the other party while such employees and contractors are on IBM or SCO premises. Each party has taken or will take appropriate preventative steps to ensure that anyone directly or indirectly employed by the other party who enters IBM or SCO premises does not have a background of violent behavior in the workplace and that such person is not employed by their subcontractors to perform work on the other party's premises.

22.9 Presence on Other Party's Premises

- (a) When the employees of SCO are present on the premises of IBM pursuant to the requirements of a Project Supplement under this Agreement, and when employees of IBM are present on the premises of SCO pursuant to the requirements of a Project Supplement under this Agreement, each host company shall, at no expense to the other, provide such employees of the other an office, telephone and secretarial support, as well as mutually agreed upon access to data processing equipment and telecommunication attachment therefor, to the extent any and all of the foregoing shall be required by the respective employees of SCO and IBM to carry out the obligations of a Project Supplement.
- (b) When present on the site of the other company, IBM and SCO employees assigned to the other company's site shall comply with all rules applicable to contractor personnel resident at or visiting such other company's site. Each company having employees of the other assigned to its premises hereunder shall provide the other company a set of documents setting forth all such rules applicable to contractor personnel resident at or visiting its premises.

22.10 Solicitation

To the extent permitted by law, during the term of this Agreement, each party agrees not to knowingly solicit for employment purposes the employees of the other party during the time such employees are performing work under this Agreement. Neither party shall make any payment or gift of any value to any employee of the other party assigned to a Project Supplement under this Agreement, without the employing party's prior written approval, nor shall either party make any representations that might cause an employee to believe that an employment relationship exists between such employee and the other party.

22.11 Amendment/Waiver

No amendment, modification or waiver of any provision of this Agreement shall be effective unless it is set forth in a writing which refers to the provisions so affected and is signed by an authorized representative of each Party. No failure or delay by either party in exercising any right, power or remedy will operate as a waiver of any such right, power or remedy.

22.12 Assignment

Neither party may assign, or otherwise transfer, its rights or delegate any of its duties or obligations under this Agreement without the prior written consent of the other party.

Notwithstanding the foregoing, either party may assign or otherwise transfer this Agreement, or delegate its duties and obligations under this Agreement, in whole or in part, to a Subsidiary. Further, IBM may assign or otherwise transfer this Agreement, or delegate its duties and obligations under this Agreement in connection with the sale or transfer of substantially all of the assets of a business unit of IBM, without the consent of SCO provided the assignee agrees in writing to assume all of the obligations of the transferring party under this Agreement, but IBM will promptly notify SCO of any such assignment or transfer. Notwithstanding the foregoing, IBM agrees that it will not assign or otherwise transfer this Agreement or delegate its duties and obligations under this Agreement to the entities listed in Attachment B.

22.13 Order of Precedence

In the event of an inconsistency, the order of precedence shall be:

- (a) this Agreement;
- (b) any Attachment(s) to this Agreement;
- (c) any Project Supplements to this Agreement;
- (d) any price, quantity, and delivery schedules contained in Purchase Order(s) issued hereunder (delete if no P.O.'s issued).

Any terms contained in any invoices, acknowledgments, shipping instructions or other forms issued under or in connection with this Agreement that are inconsistent with, different from or additional to the terms of this Agreement shall be void and of no effect.

22.14 Severability

If any provision of this Agreement is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining provisions shall not be affected or impaired.

22.15 Survival

Any provisions of this Agreement that by their nature extend beyond termination or expiration will survive in accordance with their terms. These include 2.0 (only as set forth in 15.4), 9.0, 10.0, 11.0, 12.0, 15.4, 17.0, 18.0, 19.0, 20.0, 21.0. These terms shall apply to either party's successors and assigns.

22.16 Former Employees

Each party shall make reasonable efforts to inform the other if and when it plans to assign a person to work with employees of the other party, who shall have been a former employee of the other party within 24 months, to work that is the subject of this Agreement. Each party reserves the right to approve or disapprove such an assignment.

22.17 Responsibility for Employees

IBM and SCO each shall be responsible for the selection, screening and proper documentation of its employees who will be assigned to work pursuant to this Agreement.

and Project Supplements hereunder. Each party shall bear all travel, living, moving salary, benefits and similar expenses involved in providing its employees to meet the requirements of this Agreement, unless otherwise agreed in writing.

22.18 Export of Technical Data

Neither party shall, nor shall either party authorize or permit its employees, agents or subcontractors to, export or re-export any Project Work, any Licensed Materials of the other party, or any process, product or service that is produced under this Agreement to any country, or representative of such country, specified as a prohibited destination in applicable United States federal, state and local laws, regulations and ordinances, including the Export Regulations of the U.S. Department of Commerce, the U.S. Department of Treasury and/or the U.S. State Department, without first obtaining applicable governmental approval.

22.19 Entire Agreement

The provisions of this Agreement, including any attachments, appendices, exhibits, and the agreements expressly incorporated herein by reference, constitute the entire agreement between the Parties and supersedes all prior intentions, proposals, understandings, communications and agreements, oral or written, relating to the subject matter of this Agreement. This Agreement will not be binding upon the parties until it has been signed by each party's authorized representative.

22.20 Counterparts


This Agreement may be signed by each party's respective duly authorized representative in one or more counterparts, each of which shall be deemed to be an original and all of which when taken together shall constitute one single agreement between the parties hereto.

22.21 Agreement Reproductions

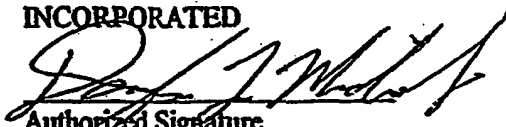
Any signed copy of this Agreement made by reliable means (e.g. photocopy or facsimile) is considered an original.

In witness whereof, the parties hereto have caused this Agreement to be executed by their respective authorized representatives

INTERNATIONAL BUSINESS
MACHINES CORPORATION


Authorized Signature
John E. Kelly III
Printed Name
Vice President
Title
10/26/98

THE SANTA CRUZ OPERATION,
INCORPORATED


Authorized Signature
DOUGLAS L. MICHAELS
Printed Name
CEO
Title
October 26, 1998

Date

Date

Attachment A

I. IBM intends to engage in at least the following marketing activities to market, promote and sell the Unixware and the IA-32 Product on IBM systems in 1999 with a minimum cumulative funding of Five Million Dollars in the first year:

- * **Unix on Intel Awareness Campaign**
- * **Increased WW Business Show Presence**
- * **Enable Support Centers for UnixWare and IA-32 Product**
- * **ISV Recruitment (exclusive of payments from Intel/IBM ISV fund)**
- * **Training of Sales Reps (including direct and channels) and Geography personnel**
- * **Channel Strategy Programs (including development of Channel Solutions Offerings)**
- * **Netfinity Development and Programs**
- * **Expand SCO engagement with major IBM Segment Strategy (e.g., e-business)**
- * **Jointly Developed Business Propositions (e.g., Network Computing in Retail)**
- * **General Marketing/Communication material development**

II. Separate from the activities under I. above, IBM will make certain IBM middleware available for the UnixWare 7 and IA-32 Product platform based on IBM's own determination of commercial considerations. At a minimum, however, IBM plans to make the following middleware available for the IA-32 or UnixWare 7 Product:

- **MQ-series**
- **DB2**
- **eNetwork Directory**
- **Net.Data**
- **IBM Websphere**
- **Commserver**
- **Tivoli Management Software**
- **Network Station Manager**

Attachment B

Compaq Computer Corporation/Digital Equipment Corporation

Microsoft Corporation

Hewlett Packard Company

Sun Microsystems, Inc.

Attachment C

TRADEMARK AND LOGO USAGE GUIDELINES

Trademarks and service marks are the valuable intellectual property of The Santa Cruz Operation, Inc. Please treat them properly, in accordance with these guidelines. Contact the Law and Corporate Affairs Department to obtain the most current list of SCO, IXI and Visionware trademarks or if you have any usage questions.

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TRADEMARK AND LOGO USAGE GUIDELINES

TABLE OF CONTENTS:

Definition of Marks
The Santa Cruz Operation, Inc.
Trademark Symbols
Trademarks are Adjectives
Plural, Possessive, Hyphens & Slashes
Don't Shorthand
Ownership Footnote
Corporate Name
Use of the UNIX and SCO UnixWare Trademarks
Use of the SCO OpenServer Trademark

Use of the Tarantella Trademark
Use of SCO Trademarks and Logos by Third Parties
Third Party Obligations

List of SCO Trademarks
List of IXI Trademarks
List of Visionware Trademarks
IP review by Legal Department

INTRODUCTION

Definition of Marks

A trademark identifies the source or sponsor of a product and a service mark identifies services of one company from another company ("marks"). Marks may consist of a variety of words and symbols. For example, a design of a tree (aka logo), a number, a slogan (aka tag line), a sound and a smell can be trademarks. Marks promoted by good advertising and consistent product or service quality create a strong and distinct impression for a business in a particular industry.

The Santa Cruz Operation, Inc.

The Santa Cruz Operation, Inc. (SCO) owns a number of registered, unregistered trademarks, and service marks (including various corporate, product, and program logos). SCO trademarks are valuable company assets because they identify our products or services to current and potential customers. Our product, service and program names, when used properly, are protected by established trademark law. If trademarks are used incorrectly, or not at all, they can, over a period of time, fall into general public use and lose their protective value. This could damage the reputation of SCO by giving others the opportunity to adopt or misuse the names that should be uniquely associated with SCO products and services. Therefore, Please treat SCO's trademarks properly, in accordance with these Guidelines.

A list of SCO's, and its subsidiaries (DXI and Visionware) trademarks appear at the end of these Guidelines on page 6. Please refer to this list and the usage guidelines when preparing your web pages, videos, contests, posters, commercials, brochures, presentations, external correspondence, publications, marketing materials, packaging materials, manuals, ads, foils, slides, etc. (anything that could possibly be seen externally-see page 10 for more details). Please understand that this list changes frequently and all such prepared materials additionally require the Legal Department's review.

PROPER TRADEMARK USAGE

Trademark Symbols:

As discussed above, SCO's marks are used to identify SCO products or services. Some of the marks have been registered in the U.S.A. as well as other countries, and others are pending registration. Registered trademarks and registered service marks are denoted by the "®" symbol. Marks for which protection is claimed but not registered are denoted by the "TM" symbol. When a claimed mark refers to a service, the

mark is denoted by the "SM" symbol. These marks should be used consistently, and in such a way that they are easy to distinguish. The ®, TM, and SM symbols should run as superscript immediately after the trademark or service mark. If superscript is not available, use parentheses: (circle-R) or (TM) or (SM). SCO trademarks and service marks need only be denoted the first time they appear in a particular text or copy.

After the initial notation of a trademark symbol, the symbol need not appear with the product name again except for the following exception. If a trademark is used and noted with its proper trademark symbol, and then the trademark is again used by combining it with another trademark, the trademark should be cited again, unless the mark is part of the complete trademark.

EXAMPLE: Even if you used SCO® earlier in the text, now you must use SCO® UNIX® so that it does not seem like the complete mark is SCO UNIX vs. two separate trademarks. However, since "SCO OpenServer" is the complete name of the trademark and is not two separate trademarks, "SCO" does not get noted again with the ® symbol.

Trademarks are Adjectives:

Per Trademark Law, a trademark is an adjective modifying a generic noun for the product or service. **EXAMPLE:** "SCO® UnixWare® system" where "system" is the generic noun. However, because it is sometimes cumbersome to continually use a trademark as an adjective in certain marketing materials, we have developed the following as an alternative method. At the first occurrence of the trademark, use it as an adjective followed by a noun, and then qualify the trademark by putting it in parentheses and quotes so later uses of the mark may be used without a noun:

EXAMPLE: SCO OpenServer systems ("SCO OpenServer") is today's leading operating system. SCO OpenServer runs critical day-to-day business operations.

This alternative method is NOT to be used with the UNIX trademark.

Plural, Possessive, Hyphens & Slashes

In addition, a trademark should not be used in the plural form or as a possessive. Instead, the modifying noun should be used in the plural form or as a possessive. See the following examples:

INCORRECT USAGE: SCO UnixWare's

CORRECT USAGE: SCO UnixWare System's

Additionally, the trademark should not be used in a combination form using a hyphen or a slash with the modifying noun or another trademark. See the following examples:

INCORRECT: SCO UnixWare-compatible

SCO OpenServer/SCO UnixWare

CORRECT USAGE: SCO UnixWare System compatible

SCO OpenServer and SCO UnixWare Systems

Don't Shorthand

Trademarks should not be used in shorthand compatibility phrases such as "SCO compatible", etc. It is improper usage because it treats the trademark as a generic standard, rather than the trademark owner's specific product brand, and unfairly leverages off the owner's substantial and valuable goodwill. See the following examples:

CORRECT USAGE: XXXXXX runs applications compatible with SCO UnixWare System.

OR

XXXXXX is compatible with SCO UnixWare System.

Ownership Footnote

Whenever you use an SCO mark and certain third party marks, they should also be included in a footnote. For advertisements, packaging, etc. the footnote should be placed at the end of the piece. For brochures, manuals and other printed materials, the footnote should be placed either on the last page or on a copyright page (when used). You need only list those trademarks which are actually used in materials. The following is the order in which to list trademark footnotes.

1. SCO's trademarks
2. SCO's subsidiaries' trademarks (i.e. IXI Limited and Visionware Limited)
3. The UNIX footnote
4. Footnotes we are obligated by contract to list for third parties (see specific list on page 4 under title *Third Party Obligations*)
5. A generic footnote to cover other third party marks.

Here is a typical OWNERSHIP FOOTNOTE sample:

SCO, the SCO logos, The Santa Cruz Operation, SCO Open Server, SCO OpenServer, UnixWare, SCO WebTop, The Internet Way of Computing, and IWoC are trademarks or registered trademarks of The Santa Cruz Operation, Inc. in the U.S.A. and other countries. Wintif is a registered trademark of IXI Limited, a subsidiary of The Santa Cruz Operation, Inc. XVision, SuperVision, TermVison and SQL-Retriever are trademarks or registered trademarks of Visionware Limited, a subsidiary of The Santa Cruz Operation, Inc. UNIX is a registered trademark of The Open Group in the United States and other countries. Cheyenne and ARCserve are registered trademarks of Cheyenne Software, Inc. All other brand or product names are or may be trademarks of, and are used to identify products or services of, their respective owners.

CORPORATE NAME

The formal legal name of the parent corporation is The Santa Cruz Operation, Inc. "SCO" is acceptable in most instances, although the formal name must be used in most legal-type documents (e.g. government filings, lawsuits, legal contracts). In addition, it is important to understand the difference between a trade

name and a trademark. A trade name is the name under which a company does business. The Santa Cruz Operation or SCO are trade names when they refer to the company, and are trademarks when they are the brand name or part of a brand name of a product. Therefore, "SCO" and "The Santa Cruz Operation" are both trademarks and trade names. When they are used to describe the company, they are a trade name and do not require the ® symbol. However, if they are used to describe a product, they are a trademark and, at first occurrence should contain a ® symbol, and should be used as an adjective followed by a generic noun. For example:

TRADE NAME USAGE: SCO is the world leading supplier....

TRADEMARK USAGE: SCO® operating systems are installed worldwide.

USE OF THE UNIX® AND SCO® UNIXWARE® TRADEMARKS

The marks "UnixWare" and "SCO" are two separate registered trademarks owned by SCO. An ownership footnote stating that "SCO and UnixWare are registered trademarks of The Santa Cruz Operation, Inc." must appear in an appropriate area of the piece, such as at the end or on the copyright page. However, the underlying mark "UNIX" is owned by The Open Group. When initial reference is made to the UNIX mark, it should be footnoted as follows:

UNIX is a registered trademark of The Open Group in the United States and other countries.

USE OF THE SCO OPENSERVR TRADEMARK

"SCO OpenServer" and "SCO Open Server" are two different trademarks. Never use these trademarks without "SCO". "SCO OpenServer" describes Release 5 and "SCO Open Server" describes Release 3.0. Do not use "SCO OpenServer 5"; the word "Release" must be used in front of "5". In addition, an ownership footnote stating that "SCO OpenServer is a trademark of The Santa Cruz Operation, Inc." or "SCO Open Server is a trademark of The Santa Cruz Operation, Inc." must appear in an appropriate area of the piece, such as at the end or on the copyright page (see OWNERSHIP FOOTNOTE sample above).

USE OF THE TARANTELLA TRADEMARK

Tarantella is a new trademark. It is currently a trademark [™], however, SCO is in the process of registering the mark. Therefore, it is important to use the mark as an adjective, followed by a generic noun (e.g. software, product, technology, server, etc. "software" and product are currently the preferred nouns of the Tarantella product group).

USE OF SCO TRADEMARKS AND LOGOS BY THIRD PARTIES

SCO's trademarks may not be preceded or appended directly with the name of a third party company, product or service name. Licensees may, however, reference their company, product, or service by adding a preposition such as "from" or "for". EXAMPLE: SCO OpenServer System from Siemens, or SCO UnixWare System for Compaq Computer Systems.

Certain third parties are licensed to use certain SCO logos under special licensing agreements and must adhere to those rules contained in the licensing agreement. Third parties may not use SCO's trademarks in any manner that is potentially misleading to the public and which may confuse the public as to who owns the product.

In addition, these guidelines are not to be distributed externally. If you wish to send a list of our trademarks outside the Company, send the External Trademark List.

THIRD PARTY OBLIGATIONS

Trademark footnotes we are obligated by contract to include for third parties are as follows:

Adobe: The following notice is to be included whenever the mark "Adobe" is used:

Adobe is a trademark of Adobe Systems Incorporated and is registered in the U.S. Patent and Trademark Office.

ARCserve: The following notice is to be included whenever the mark "ARCserve" is used:

ARCserve is a registered trademark of Cheyenne Software, Inc.

Cheyenne: The following notice is to be included whenever the mark "Cheyenne" is used:

Cheyenne is a registered trademark of Cheyenne Software, Inc.

Java, Java Workshop, Java Studio, Sun, Sun Microsystems: The following notice is to be included whenever these marks are used, being sure to include the appropriate marks:

Sun, Sun Microsystems, Java, Java Workshop, and Java Studio are trademarks or registered trademarks of Sun Microsystems, Inc. in the United States and other countries, and are used under license.

MPX: The following notice is to be included on all appropriate packaging and marketing/sales literature:

MPX was developed by Corollary, Inc.

Netscape, Netscape Navigator, Netscape Communications Server, Netscape Commerce Server, Netscape Proxy Server, Netscape FastTrack Server, Netscape Enterprise Server, Netscape SuiteSpot, Netscape Catalog Server, Netscape News Server, Netscape Mail Server, and Netscape Navigator Gold: The following notice is to be included whenever any of these marks are used (list only marks used however):

Netscape, Netscape Navigator, Netscape Communications Server, Netscape Commerce Server, Netscape Proxy Server, Netscape FastTrack Server, Netscape Enterprise Server, Netscape SuiteSpot, Netscape Catalog Server, Netscape News Server, Netscape Mail Server, and Netscape Navigator Gold are trademarks or registered trademarks of Netscape Communications Corporation.

In addition, when making reference to Navigator Products or their functionality the following notice must be added in any advertising, marketing, technical or other materials:

"Netscape Navigator Included"

NFS: The following notice is to be included in all published documentation based, comprising, or including the documentation provided as part of the NFS product:

NFS was developed by Computer Associates, Inc. (formerly Lachman Associates, Inc. and Legent Corporation) based on LACHMAN SYSTEM V NFS. LACHMAN is a trademark of Computer Associates, Inc. NFS is a registered trademark of Sun Microsystems, Inc.

NonStop: The following notice is to be included whenever the mark "NonStop" is used:

NonStop is a registered trademark of Compaq Computer Corporation.

Oracle: The following notice is to be included whenever the mark "Oracle" is used:

Oracle is a registered trademark of Oracle Corporation, Redwood City, California.

RealNetworks: The following notice is to be included whenever any of these marks are used (list only marks used however):

Real bubble logo, RealNetworks, RealSystem, RealAudio, RealVideo, RealPlayer, Basic Server Plus, RealEncoder, and RealPublisher are trademarks or registered trademarks of RealNetworks, Inc.

Reliant: The following notice is to be included whenever the mark "Reliant" is used:

Reliant is a registered trademark of Siemens Pyramid Information Systems, Inc. (formerly Pyramid Technology Corporation).

TCP/IP: The following notice is to be included in all published documentation based, comprising, or including the documentation provided as part of the TCP/IP product:

TCP/IP was developed by Computer Associates, Inc. (formerly Lachman Associates, Inc. and Legent Corporation) based on LACHMAN SYSTEM V STREAMS TCP, a joint development of Lachman Associates and Convergent Technologies.

VP/ix: The following notice is to be included on all promotional materials, packaging and other written materials that contain the term "VP/ix":

VP/ix is a product developed and licensed by Phoenix Technologies, Ltd./Lachman Technology, Inc./Interactive Systems Corporation.

XRemote: The following notice is to be included whenever the mark "XRemote" is used:

XRemote is a registered trademark of Network Computing Devices, Inc.

LIST OF SCO TRADEMARKS

***Registered Trademarks**

DiSCOver®

Multiscreen®

ODT®

Open Desktop®

SCO®

SCO Logo(with tree design)®

The Santa Cruz Operation®

UnixWare®

VP/ix®

***Trademarks**

Business/21™

dbXira™

Internet Way of Computing™

IWoC™

Optimized for Internet Computing Logo™

Panner™

SCO ACE™

SCO CIFS Bridge™

SCO CUSA™

SCO Doctor™

SCO Doctor for Networks™
SCO Doctor Lite™
SCO Global Access™
SCO MPX™
SCO MultiView™
SCO Nihongo Open Server™
SCO OK™
SCO OK logo™
SCO Open Server™
SCO OpenServer™
SCO Portfolio™
SCO POS System™
SCO Premier Motif™
SCO TermLite™
SCO ToolWare™
SCOTopia™
SCO Vision2K™
SCO Vision97™
SCO VisionFS™
SCO Visual Tcl™
Skunkware™
Tarantella™
The Tarantella logo™
The Business Choice™
Zones™

***Service Marks**

APCSM
SoftCareSM
SoftTech

LIST OF IXI TRADEMARKS

***Registered Trademarks**

Wintif®

***Trademarks:**

DXI™

DXI logo™

X.desktop™

Deskworks™

DXI Panorama™

Deskterm™

DXI Desktop™

***Service Marks:**

X.trSM

LIST OF VISIONWARE TRADEMARKS

***Registered Trademarks:**

Devkit.Vision®

Esprit®

Kodon®

Super.Vision®

Term.Vision®

Visionware®

Visionware Direction®

Visionware logo®

Visionware SQL-Retriever®

Visionware Super.Vision®

XVision®

***Trademarks:**

Codon™

PC-Connect™

SQL-Retriever™

SuperVision™

TermVision™

Vision Builder™

XV Logo™

X-Visionware™

THESE PRINTED GUIDELINES ARE UPDATED INFREQUENTLY. CONTACT THE LAW AND CORPORATE AFFAIRS DEPARTMENT TO OBTAIN THE MOST CURRENT LIST OF SCO, IXI AND VISIONWARE TRADEMARKS.

MEMORANDUM

DATE: April 9, 1997

TO: SCO Employees

FROM: SCO Legal Department/Intellectual Property Workgroup

RE: When Should the Legal Department Perform an Intellectual Property Review?

Information is provided to the public in many forms, including, but not limited to the following materials:

surveys/questionnaires

cover letters

web pages/domain names

contest materials

press releases

newsletters

videos

presentations

guidelines

white papers

manuals

technical papers

media labels

packaging materials

artwork
banners
posters
datasheets
cds
annual report
inserts
postcards
commercials: tv, radio, etc. publications
collateral
brochures
slides/foils
handbooks
educational materials
demos
charts
mailings
price lists

These materials are protected under copyright, trademark, contractual and other similar rules and laws as discussed below.

Copyright Law:

Regardless of how you are providing valuable, proprietary information to the public, it is important to protect such information under copyright law. Copyright law protects the original works of its author(s) against the unauthorized copying, selling, distributing, licensing, and displaying by a third party. Use of a copyright notice (© 1997 The Santa Cruz Operation, Inc.) is often important because it provides notification to the public that copyright protection is claimed, and the notice entitles the copyright owner to recover certain damages. In addition, the term "All Rights Reserved" is required to avoid any possible problems under the Buenos Aires Convention. Therefore, SCO believes it is in its best interest to use copyright notices to provide copyright protection in its works. Please refer to the SCO Copyright Guidelines published by the Legal Department.

Advertising Compliance

Information provided to the public in any media must be true and accurate (especially use of numbers), and neither exaggerated nor misleading. You must be able to back up statements with some kind of proof. Therefore it is not advisable to use words such as "best", "fastest", "most reliable", "only", etc. unless one can prove such a claim. The rules regarding comparative advertising are complicated and must be complied with as well. Furthermore, written permission must be obtained when using names or quotes of third parties, regardless of where previously printed or the source. A copy of such written permission must

be provided to SCO Legal.

Trademarks/Logos

Materials will most likely contain trademarks and logos of SCO and/or a third party. SCO and its subsidiaries own a number of trademarks (including various corporate, product, and program logos). SCO trademarks are valuable company assets because they identify our products to current and potential customers. Our product, service and program names, when used properly, are protected by established trademark law. If trademarks are used incorrectly, or not at all, they can, over a period of time, fall into general public use and lose their protective value. This could damage the reputation of SCO by giving others the opportunity to adopt or misuse the names that should be uniquely associated with SCO products and services. Furthermore, to help protect SCO from potential lawsuits, etc., use of a third party's logos and trademarks must be used properly. Please refer to the SCO Trademark Guidelines published by the Legal Department.

Contractual Obligations

SCO has many contracts with other companies and individuals. Such contracts contain numerous types of intellectual property obligations which SCO is required to meet. Compliance with such obligations is extremely important so as to eliminate possible breaches by SCO, loss of contract rights, and lawsuits filed against SCO. For example, some of our contracts prohibit the use of a customer's name without its prior written permission.

Privacy and Data Protection

If you obtain information about others (e.g. information provided by filling in a form or by response email) it is important to comply with pertinent laws relating to use of that information. Sometimes you need to obtain consent of the individual/company to re-use the information. In addition, photos are often considered private and intellectual property, and written permission must be obtained prior to their publication. The Legal Department can provide sample permission letters. Privacy and data protection notices vary; they can cover items ranging all the way from those purporting to obtain complete freedom of use to those involving a promise of confidentiality.

Legislation/Court Rulings

Our state and federal laws change frequently, and it is important to keep current with such laws so as to ensure all materials meet the current intellectual property laws. In addition, court cases relating to intellectual property matters can affect the structure of the materials as well.

Disclaimers

Disclaimers for certain types of materials are important to use. These provide flexibility as well as protection. The Legal Department can draft the appropriate disclaimer.

*

CONFIDENTIAL DISCLOSURE AGREEMENT

This Agreement will provide protection for information to be exchanged between us which we do not wish to become public ("Information") while maintaining our ability to conduct our respective business activities. Each of us agrees that the following terms shall apply when one of us ("Discloser") discloses Information to the other ("Recipient") under this Agreement.

1. **Disclosure.** Each time one of us wishes to disclose specific information to the other, or wishes to engage in multiple disclosures relating to a specific subject matter, Discloser will issue a supplement to this Agreement ("Supplement") before disclosure. The Supplement will contain initial and final disclosure dates, a non-confidential description of the information to be disclosed and any additional or different terms and conditions. The Supplement must be signed by the Discloser and the Recipient.

Information may be disclosed by: (i) presentation; (ii) delivery; (iii) authorized access, such as to a data base; or (iv) any other express means. Information must be identified as confidential at the time of disclosure, and all materials containing information must have a restrictive marking. The Discloser shall not disclose any information not described in a signed Supplement or which Discloser does not have the right to disclose to the Recipient.

Disclosure may take place through the Discloser or its Related Companies. A Related Company is any corporation, company, or other entity which: (i) is controlled by a party hereto; (ii) controls a party hereto; or (iii) is under common control with a party hereto. For this purpose, "Control" means that more than fifty percent (50%) of the controlled entity's shares or ownership interest representing the right to make decisions for such entity are owned or controlled, directly or indirectly, by the controlling entity. An entity is considered to be a Related Company only so long as such ownership or control exists.

2. **Protection.** For two (2) years after the date of disclosure, the Recipient will use the same care and discretion to avoid disclosure of the Discloser's information as the Recipient uses with its own similar information which it does not wish to disclose. Subject to this obligation, the Recipient may use Discloser's information for any purpose.

3. **Exceptions.** The Recipient may disclose Discloser's information to: (i) its employees and contractors, and employees and contractors of its Related Companies, who have a need to know, and (ii) any other party with the Discloser's prior written consent. Upon request of the Recipient, the Discloser may make disclosures directly to such parties on behalf of the Recipient. Prior to any such disclosure or such request by Recipient, the Recipient must have an appropriate agreement with any such party sufficient to require the party to treat information in accordance with this Agreement. The Recipient may disclose information to the extent

required by law, but must give the Discloser reasonable prior notice to allow the Discloser an opportunity to obtain a protective order.

Notwithstanding the foregoing, no obligation shall apply to information that is: (i) already rightfully in the Recipient's possession or rightfully received by the Recipient without a nondisclosure obligation; (ii) developed independently by the Recipient; (iii) publicly available when received, or thereafter becomes publicly available through no fault of the Recipient; (iv) disclosed by the Discloser without a signed Supplement as required by Section 1; (v) disclosed by the Discloser to a third party without a nondisclosure obligation; or (vi) inherently disclosed by the Recipient in the use, distribution or marketing of any product or service.

4. **Disclaimer.** THE DISCLOSER PROVIDES INFORMATION SOLELY ON AN "AS IS" BASIS.

Neither this Agreement, nor any disclosure of information hereunder, in any way: (i) grants to either of us any right or license under any copyright, patent, mask work or trademark, now or hereafter owned or controlled by the other; (ii) obligates either of us to disclose or receive any information, perform any work, enter into any license, business engagement or other agreement; (iii) limits either of us from developing, manufacturing or marketing products or services which may be competitive with those of the other; (iv) limits either of us from assigning or reassigning its employees in any way; (v) creates any joint relationship or authorizes either of us to act or speak on behalf of the other; or (vi) limits either of us from entering into any business relationship with any other parties.

5. **General.** Neither of us may assign or otherwise transfer our rights or delegate our duties or obligations under this Agreement without the prior written consent of the other. Any attempt to do so will be void.

The Recipient must comply with all applicable United States and foreign export laws and regulations.

Only a written agreement signed by both of us can modify this Agreement.

Either of us may terminate this Agreement by providing one month's written notice to the other. Any provisions of this Agreement which by their nature extend beyond its termination remain in effect until fulfilled and apply to our respective successors and authorized assigns.

If there is a conflict between the terms of this Agreement and a Supplement, those of the Supplement will prevail.

This Agreement will be governed by the substantive law of the State of New York.

Any reproduction of this Agreement by reliable means will be considered an original of this Agreement.

This Agreement, including any Supplements, is the complete and exclusive agreement regarding our disclosures hereunder.

Agreed to:
INTERNATIONAL BUSINESS
MACHINES CORPORATION

By: Matthew A. VerBryck
Name: Matthew A. VerBryck Date: 10-15-97

Agreed to:
The Santa Cruz Operation, Inc.
Santa Cruz, CA 95061-1900

By: Ron Rasmussen
Name: Ron Rasmussen Date: 10-16-97

JUN 14 2001 12:11 PM
tarantella
425 Encinal Street
Santa Cruz CA 95060
United States
Tel: 831 425 7222
Fax: 831 458 4227
www.tarantella.com



June 6, 2001

Ronald A. Lauderdale, Esq.
Associate General Counsel
IBM
Route 100
Mail Drop 4201
Somers, New York 10589

Re: Joint Development Agreement No. 4998CR0349

Dear Ron:

On May 7, 2001, The Santa Cruz Operation, Inc. (which company name has been changed to Tarantella, Inc.) consummated the sale of its Server Software and Professional Services Divisions to Caldera International, Inc. headquartered at 240 West Center Street, Orem, Utah and operating in the United States as Caldera Systems, Inc. ("Caldera").

This is to inform you that Caldera has accepted assignment of the above-referenced agreement(s) and the accompanying rights and obligations pertaining to the product and service offerings described therein.

With respect to IBM's distribution of these products and services on or after May 7, 2001, all applicable fee payments associated with such agreements, letters of credit, detailed royalty reports and all other correspondence with respect to your reporting requirements and account status for such products should be sent to the following address:

Caldera Systems, Inc.
400 Encinal Street
Santa Cruz, CA 95061-1900
Attn: Steve Brown
(831) 427-7520

Additionally, effective immediately any such payments to be made by bank wire transfer should be directed to:

Bank One Utah, N.A.
80 West Broadway
Suite 300
Salt Lake City, UT 84101-2017

Beneficiary: Caldera Systems, Inc.
Account No: 60200 01000918
ABA No: 1211-00782

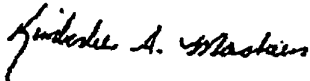
Or sent to Caldera's Lockbox:
Caldera Systems
P.O. Box 52672
Phoenix, AZ 85072-2672

Further, Caldera requests that your purchasing or accounting departments complete the attached multistate resale tax certificate and return it to:

Caldera Systems, Inc.
ATTN: Sales Tax
400 Encinal Street
Santa Cruz, CA 95061-1880

If you have not already been contacted, you will shortly be contacted by representatives of the Caldera organization responsible for your account to discuss further the matter of the assigned rights.

Sincerely,



Kimberlee A. Madsen
Director, Law & Corporate Affairs
Tarantella, Inc.

cc: Caldera Legal Dept.



Office of the Associate General Counsel

Route 100, P.O. Box 100, Somers, NY 10589

June 19, 2001

SENT VIA FAX

Kimberlee A. Madsen, Esq.
Director, Law & Corporate Affairs
Tarantella, Inc.
425 Encinal Street
Santa Cruz, CA 95060

Re: Joint Development Agreement No. 4998CR0349

Dear Kim:

Thank you for your letter dated June 6, 2001 informing me of the sale of Tarantella Inc.'s (Tarantella) Server Software and Professional Services Division to Caldera International, Inc. (Caldera). As I understand it, this division contains virtually all of the personnel and assets used to perform Tarantella's obligations under the Joint Development Agreement number 4998CR0349 (the Agreement) between IBM and Tarantella.

In your letter you say that Caldera has agreed to accept assignment of the Agreement. However, pursuant to Section 22.12 of the Agreement, such an assignment requires IBM's consent. IBM does not consent to the assignment of the Agreement to Caldera and IBM considers any attempt to assign the Agreement as ineffective.

Further, pursuant to Section 15.2 of the Agreement, IBM hereby exercises its right to terminate the Agreement. Of course, IBM will work with Tarantella to implement a wind-down period for activities under the Agreement, as required by Section 15.2. Although, it is my impression that there is only minimal activity, if any, occurring under the Agreement since Release 1 of the "IA-64 product" was made available.

As you know, certain provisions survive termination of the Agreement, including its licensing provisions and the obligation of the parties to pay royalties. If Tarantella would like to make any special arrangements regarding paying or receiving royalties, please have the appropriate business person contact Mr. Thomas Keith of IBM at 1503 LBJ Freeway, Dallas, Texas, 75234-6032 to discuss them.

Regards,

Ronald A. Lauderdale
Associate General Counsel

cc: Mr. Harrison Colter, Esq.
cc: Mr. Thomas Keith

Jack Messman
Chairman and CEO

Novell

June 9, 2003

Mr. Darl McBride
President and CEO
The SCO Group
355 South 520 West
Suite 100
Lindon, Utah 84042

**VIA FACSIMILE AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Re: IBM SVRX Licenses

Dear Mr. McBride:

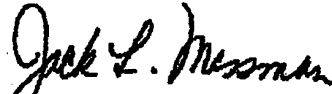
This letter is further to my letter of May 28, 2003 concerning SCO's campaign directed against the Linux community. SCO's response to that letter reinforces Novell's concerns. SCO continues to advance unsubstantiated charges, and to threaten actions that would potentially injure Novell, Novell's customers, and the industry in general.

Recently, SCO has reiterated its threat to terminate IBM's SVRX license. Pursuant to Amendment No. X, however, Novell and SCO granted IBM the "irrevocable, fully paid-up, perpetual right" to exercise all of the rights under the IBM SVRX Licenses that IBM then held. IBM paid \$10,125,000 for the rights under Amendment No. X. Novell believes, therefore, that SCO has no right to terminate IBM's SVRX Licenses, and that it is inappropriate, at best, for SCO to be threatening to do so.

Under Section 4.16(b) of the Asset Purchase Agreement Novell retains the right, at Novell's "sole discretion and direction," to require SCO to "amend, supplement, modify or waive any rights under, or . . . assign any rights to, any SVRX License to the extent so directed in any manner or respect by [Novell]." That section further provides that to the extent SCO "shall fail to take any action concerning the SVRX Licenses" as directed by Novell, Novell "shall be authorized, and is hereby granted, the rights to take any action on [SCO's] own behalf."

Accordingly, pursuant to Section 4.16(b) of the Asset Purchase Agreement, Novell hereby directs SCO to waive any purported right SCO may claim to terminate IBM's SVRX Licenses enumerated in Amendment X or to revoke any rights thereunder, including any purported rights to terminate asserted in SCO's letter of March 6, 2003 to IBM. Novell directs SCO to take this action by noon, MDT, June 12, 2003, and to notify Novell that it has done so by that time.

Sincerely,


Jack L. Messman

Cc: Mr. Ron Lauderdale
V.P., Assistant General Counsel
IBM

Jack Messman
Chairman and CEO

Novell.

**VIA FACSIMILE AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

June 12, 2003

Darl McBride
President and Chief Executive Officer
The SCO Group
355 South 520 West
London, UT 84042

Ronald A. Lauderdale, Esq.
Vice-President, Assistant General Counsel
International Business Machines Corporation
Maildrop 4201
Route 100
Somers, N.Y. 10589

Re: IBM SVRX Licenses

Gentlemen:

Reference is made to the following:

- Asset Purchase Agreement by and between The Santa Cruz Operation, Inc. and Novell, Inc. dated as of September 19, 1995, and more particularly to Section 4.16(b) of that agreement;
- Amendment No. X to Software Agreement SOFT-00015, *et seq.*, between International Business Machines Corporation, The Santa Cruz Operation, Inc., and Novell, Inc.;
- Letter dated March 6, 2003 from The SCO Group to International Business Machines Corporation; and
- Letter dated June 9, 2003 from Novell to The SCO Group regarding IBM SVRX Licenses.

In its June 9 letter to The SCO Group, Novell directed "SCO to waive any purported right SCO may claim to terminate IBM's SVRX Licenses enumerated in Amendment X or to revoke any rights thereunder, including any purported rights to terminate asserted in SCO's letter of March 6, 2003 to IBM." Novell directed SCO "to take this action by noon, MDT, June 12, 2003."

SCO has failed to take the action directed by Novell.

Darl McBride
June 12, 2003
Page Two

Accordingly, pursuant to Section 4.16(b) of the Asset Purchase Agreement, Novell, on behalf of The SCO Group, hereby waives any purported right SCO may claim to terminate IBM's SVRX Licenses enumerated in Amendment X or to revoke any rights thereunder, including any purported rights to terminate asserted in SCO's letter of March 6, 2003 to IBM.

Sincerely,

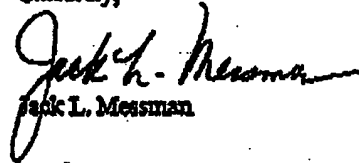

Jack L. Messman

EXHIBIT 10

Joseph A. LaSala, Jr.
Senior Vice President,
General Counsel and Secretary

Novell.

**VIA FACSIMILE AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Mr. Ryan Tibbitts
General Counsel
The SCO Group
355 South 520 West
London, UT 84042

Re: IBM Code Contributed to AIX

Dear Mr. Tibbitts:

I write further to the exchange of correspondence between Novell and SCO concerning SCO's campaign directed against the Linux community.

SCO appears to be taking the position that code developed by IBM, or licensed by IBM from a third party, which IBM incorporated in AIX but which itself does not contain proprietary UNIX code supplied by AT&T under the license agreements between AT&T and IBM ("IBM Code"), must nevertheless be maintained as confidential and may not be contributed to Linux.

For instance, at Forum 2003, SCO gave a presentation in which it asserted that particular code modules constitute "examples of significant infringing derivative works contributions to Linux 2.4/2.5 kernels." SCO concluded that over 1,500 files and more than a million lines of code were unlawfully copied from UNIX into Linux. It appears that SCO included IBM Code in its calculation.

The position that IBM Code must be maintained as confidential and subject to use restrictions is contrary to the agreements between AT&T and IBM, including Amendment X, to which Novell is a party. Section 2.01 of the Software Agreement, dated February 1, 1985, between AT&T Technologies, Inc. and IBM, states that:

AT&T grants to LICENSEE a personal, nontransferable and nonexclusive right to use in the United States each SOFTWARE PRODUCT identified in the one or more Supplements hereto, solely for LICENSEE'S own internal business purposes and solely on or in conjunction with DESIGNATED CPUs for such SOFTWARE PRODUCT. Such right to use includes the right to modify such SOFTWARE PRODUCT and to prepare derivative works based on such SOFTWARE PRODUCT, provided the resulting materials are treated hereunder as part of the original SOFTWARE PRODUCT.

Mr. Ryan Tibbitts
IBM
Page 2 of 3
October 7, 2003

A side letter clarifying the parties' understanding of the Software Agreement, also dated February 1, 1985, states (in paragraph A.2) that:

Regarding Section 2.01, we [AT&T] agree that modifications and derivative works prepared by or for you [IBM] are owned by you. However, ownership of any portion or portions of SOFTWARE PRODUCTS included in any such modification or derivative work remains with us.

The agreements between AT&T and IBM, as amended, including the side letter (the "Agreements"), thus provide for a straightforward allocation of rights: (1) AT&T retained ownership of its code from the Software Products ("AT&T Code"), and the Agreements' restrictions on confidentiality and use apply to the AT&T Code, whether in its original form or as incorporated in a modification or derivative work, but (2) IBM retained ownership of its own code, and the Agreements' restrictions on confidentiality and use do not apply to that code so long as it does not embody any AT&T Code.

To be sure, to the extent that a modification or derivative work embodies AT&T Code, the combined work consisting of AT&T Code and IBM Code constitutes "resulting material" that is subject to the Agreements. The IBM Code itself is, however, not "resulting material." Therefore, the IBM Code is not subject to the confidentiality obligations or use restrictions of the Agreements.

This outcome is consistent with other provisions of the Agreements. For example, the side letter (as amended by Amendment X) further provides (in paragraph 9) that:

Nothing in this agreement shall prevent LICENSEE from developing or marketing products or services employing ideas, concepts, know-how or techniques relating to data processing embodied in SOFTWARE PRODUCTS subject to this Agreement, provided that LICENSEE shall not copy any code from such SOFTWARE PRODUCTS into any such product or in connection with any such service.

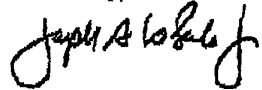
As reflected in this language, the focus of the Agreements was on protecting AT&T Code, not on restricting IBM Code just because it happened to be combined with AT&T Code in a modification or derivative work. Any other result would defy logic as well as the intent of the parties.

Mr. Ryan Tibbitts
IBM
Page 3 of 3
October 7, 2003

As you know, under Section 4.16(b) of the Asset Purchase Agreement Novell retains the right, at Novell's "sole discretion and direction," to require SCO to "amend, supplement, modify or waive any rights under, or . . . assign any rights to, any SVRX License to the extent so directed in any manner or respect by [Novell]." That section further provides that to the extent SCO "shall fail to take any action concerning the SVRX Licenses" as directed by Novell, Novell "shall be authorized, and hereby is granted, the rights to take any action on [SCO's] own behalf."

Accordingly, pursuant to Section 4.16(b) of the Asset Purchase Agreement, Novell hereby directs SCO to waive any purported right SCO may claim to require IBM to treat IBM Code itself as subject to the confidentiality obligations or use restrictions of the Agreements. Novell directs SCO to take this action by noon, MST, on October 10, 2003, and to notify Novell that it has done so by that time.

Sincerely,



Joseph A. LaSala, Jr.

cc: Mr. Darl McBride
Mr. Ron Lauderdale
Vice President, Assistant General Counsel
IBM

INTERNATIONAL BUSINESS MACHINES CORPORATION
THE SANTA CRUZ OPERATION, INC.

Amendment to Software Agreement SOFT-00015 as amended,
Sublicensing Agreement SUB-00015A as amended,
Software Agreement SOFT-00015 Supplement No. 170 as amended,
and Substitution Agreement XFER-00015B

This amendment ("Amendment") is between International Business Machines Corporation, a New York corporation, with a place of business at Old Orchard Road, Armonk, New York 10504 ("IBM") and Novell, Inc., a Delaware corporation, with a place of business at 2180 Fortune Drive, San Jose, California 95131 ("Novell") on behalf of itself and The Santa Cruz Operation, Inc. ("SCO"). This Amendment becomes effective when executed by an authorized representative of Novell, on behalf of SCO, and IBM (the "Effective Date").

RECITALS

AT&T Technologies, Inc. ("AT&T") and IBM entered into various software license agreements concerning the Software Product: UNIX System V, Release 3.2, which are Software Agreement SOFT-00015 as amended, Sublicensing Agreement SUB-00015A as amended, Software Agreement SOFT-00015 Supplement No. 170 as amended (or any other Supplements that pertain to prior versions or releases of the Software Product), and Substitution Agreement XFER-00015B (the "Related Agreements"). Novell acquired AT&T's rights under the Related Agreements. Except for all right, title and interest to the Software Product royalties (less an administration fee to SCO for administering the collection of such royalties), SCO purchased the Related Agreements in an Asset Purchase Agreement between Novell and SCO dated September 19, 1995 (the "SCO Agreement"). In the SCO Agreement, Novell has the right to amend the Related Agreements on behalf of SCO under certain circumstances applicable in this instance. In an effort to simplify the royalty requirements contained in the Related Agreements, the following modifications to the terms and conditions of the Related Agreements have been mutually agreed to by both parties. Capitalized terms in this Amendment will have the meanings assigned to them in this Amendment. All capitalized terms not defined herein will have the meanings assigned to them in the Related Agreements and such defined terms in the Related Agreements appear in all capitalized letters.

AMENDMENT

Novell, on behalf of SCO, and IBM agree as follows:

1. *No Additional Royalty.* Upon payment to SCO of the consideration in the section entitled "Consideration", IBM will have the irrevocable, fully paid-up, perpetual right to exercise all of its rights under the Related Agreements beginning January 1, 1996 at no additional royalty fee. However, if IBM requests delivery of additional copies of source code of the Software Product, IBM will pay the fees listed under Section 1(b) of Soft-00015

Supplement No. 170. Notwithstanding the above, the irrevocable nature of the above rights will in no way be construed to limit Novell's rights to enjoin or otherwise prohibit IBM from violating any and all of Novell's rights under this Amendment, the Related Agreements, or under general patent, copyright, or trademark law.

- 2 *Relief of Section 2.05 (b) and 2.05(c) of SUB-00015A.* Section 2.05(b) and the second sentence of Section 2.05(c) will not apply to contractors to whom IBM has provided Software Products, provided that: (i) any use of such Software Products by such contractor is for Authorized Purposes in support of the contractor's distribution and support of Sublicensed Products; and (ii) if any such contractor is not a source code licensee of Novell or SCO for the relevant version of Software Product and previous releases, IBM will require such contractor to certify in writing to SCO, upon SCO's request, that any use by such contractor of such source code is as a contractor of IBM. For the purposes of this exemption, "Authorized Purpose" means making modifications to the Software Products, and furnishing such modifications to IBM and/or distribution of such modifications in Sublicensed Products form by the contractor to customers directly or through other Distributors, provided that such modifications are not for purposes of adaptation of Sublicensed Products to other system manufacturers' hardware systems and are solely to: (i) adapt the Sublicensed Products to support unique hardware features or devices (e.g. specialized graphics, adapters, or displays) intended for use in vertical applications; or (ii) provide temporary fixes to customers of the Sublicensed Product.
- 3 *Customers.* A customer to whom IBM provides a Software Product for use in support of the customer's use of the Sublicensed Product received from IBM directly or through IBM's Distributors shall be deemed to be a contractor of IBM if the customer's use of the Software Product otherwise complies with the requirements of paragraphs 3 of the February 1, 1985 amendment to SOFT-00015 and provided that the customer has no right to distribute the Software Product.
- 4 *Consideration.* As consideration for the above modifications to the terms and conditions of the Related Agreements, IBM agrees to pay SCO a nonrefundable fee of \$10,125,000 per the following payment schedule: \$4,860,000 due on the Effective Date of this Amendment (net 30 days); and \$5,265,000 due on January 1, 1997 (net 15 days).
- 5 *Authority.* Novell represents and warrants to IBM that it has the unrestricted right and authority to enter into and execute this Amendment on behalf of SCO.
- 6 *Restriction on fully paid-up License.* For a period of five years from January 1, 1996, the royalty relief described in Section 1 of this Amendment shall apply only to use or distribution of the Software Products and Sublicensed Products in the IBM operating system referred to currently as AIX, any prior version or releases of AIX and derivative or follow-on version to AIX on the Power or Power PC or Power2 architectures or derivative or follow-on architectures irrespective of the name of such versions. During such five year period, any IBM distribution of Software Products or Sublicensed Products not covered by the preceding sentence, shall be subject to a royalty pursuant to the

Related Agreements, with such royalty to be calculated at the aggregate discount percentage (80% in the case of Sublicensed Products) in effect at the time of execution of this Amendment. After such five year period, the royalty relief described in Section I of this Amendment shall apply to any use or distribution of the Software Products or Sublicensed Products; provided that if the Software Product is distributed as AIX or follow-on versions to AIX, then such use or distribution shall be in accordance with the provisions of Section 2.05(b) and 2.05(c) of SUB-00015A, as amended herein. The second to last sentence of paragraph 9 of the February 1, 1985 amendment to SOFT-00015 is modified by deleting the words: "and employees of Licensor shall not refer to the physical documents and materials comprising Software Products subject to this Agreement when they are developing any such products or services or providing any such service."

- 7 Notwithstanding anything to the contrary in the Related Agreements, with respect only to Software Products and Sublicensed Products to which the paid up rights in Section I apply: (a) Designated CPUs are not required to be listed in a Supplement to SOFT-00015, and IBM may copy such Software Products as replacements or additions to Designated CPUs without notice to, or consent of, Novell or SCO; and (b) Section V of SUB-00015A shall not apply to such Sublicensed Products.
- 8 *Indemnification; Limitations on Liability.* Subject to the limitations on liability below, Novell agrees to indemnify and hold harmless IBM and IBM Subsidiaries from and against any and all losses, liabilities, judgments, and costs incurred as a result of any alleged or actual Novell breach of Novell's representations and warranty in Section 5 of this Amendment. Novell's indemnification of IBM shall be limited to the amount paid by IBM to SCO under this Amendment. In addition, provided that IBM has paid full consideration in accordance with this Amendment, Novell's indemnification of IBM shall also include the amount of any additional royalties paid to SCO by IBM if IBM would not have been obligated to pay such additional royalties absent such breach. Novell will defend at its sole expense any suits or proceedings related to the above indemnification provided that IBM gives Novell prompt notice and control of any claim of which it learns. Novell will have the right to choose legal counsel and IBM will have the right to participate in the defense of any such claim, provided that Novell will not be responsible for indemnifying IBM for the cost of IBM's attorney's fees. In no event will Novell be liable for any indirect, incidental, special, punitive or consequential damages, lost revenues, or profits, data, or use incurred by IBM however caused, no matter what theory

of liability, even if Novell has been advised of the possibility of such damages.

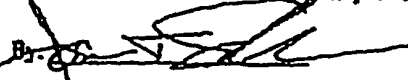
9 Except as modified herein, all other terms and conditions of the Related Agreements will remain in effect.

INTERNATIONAL BUSINESS
MACHINES

By: 

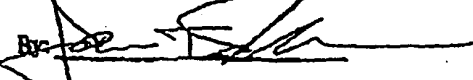
R. L. Lee
(Print or Type Name)
Manager, IBS
(Title) Contract Services
4/26/96
(Date)

NOVELL, INC., and on behalf of
THE SANTA CRUZ OPERATION, INC.

By: 

James T. Sullivan
(Print or Type Name)
VP Worldwide OEM Sales
(Title)
26 April 1996
(Date)

NOVELL, INC.

By: 

James T. Sullivan
(Print or Type Name)
VP Worldwide OEM Sales
(Title)
26 April 1996
(Date)

Novell, Inc.
2180 Foran Drive
San Jose, CA 95131
408-434-2300



May 21, 1996

Bill Sandvce
IBM Corp.
11400 Burnet Rd.
Austin, TX 78758

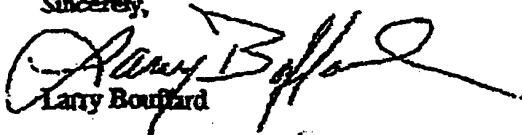
Dear Bill,

I would like to thank you for agreeing to the "stand-still" agreement while we attempt to resolve our differences with SCO. While we are sure Novell will prevail if SCO should pursue legal action, we would prefer to resolve the conflict more expeditiously. Attached is a copy of the changes SCO has requested. When you read them keep in mind that this is their "wish list". I know from meeting with SCO that many of their issues are actually wording, not intent changes, and are not unreasonable. Given what I know of the intent of our agreement I do not think we are as far off as a first reading of their requests might indicate.

Rather than sort through the issues via this letter, I am sending you SCO's letter for review prior to our meeting on Wednesday of this week. At that time I can help you understand what I believe are the substantive issues versus the "wish list" ones.

I look forward to our meeting and expect a timely resolution to this issue.

Sincerely,


Larry Bouffard

cc: Paul Vineis, Allison Lisbona, Chris Hogan

PRIVILEGED AND CONFIDENTIAL

(A) The first two sentences of Section 1 ("No Additional Royalty") are changed to read:

—Upon payment to SCO of the consideration in the Section entitled "Consideration" and subject to the provisions of this Amendment, IBM will have the irrevocable, fully paid up, perpetual right to exercise all of its rights under the Related Agreements, beginning January 1, 1996, to distribute Sublicensed Products specified in Section 6 below at no additional royalty fee. If IBM requests delivery of additional copies of the Software Product, IBM will pay the fees listed under Section 1(b) of SOFT-00015 Supplement No. 170. —

(B) Section 2 ("Relief of Section 2.05(b) and 2.05(c) of SUB-00015A") is changed to read as follows:

— Section 2.05(b) and the second sentence of Section 2.05(c) will not apply to contractors to whom IBM provides Software Products, provided that (i) any use of such Software Product is solely for Authorized Purposes in support of the contractor's distribution and support of Sublicensed Products; (ii) if any such contractor is not a source code licensee of Novell or SCO for the relevant version of Software Product and previous releases, IBM will require such contractor to certify in writing to SCO that any use by such contractor of such source code is as a contractor of IBM; and (iii) for each such contractor, IBM shall remit to SCO, on or before the date of providing the Software Product to such contractor ("Provision Date"), an initial right to use fee of \$25,000 for use by such contractor of the Software Product on an initial CPU and \$3000 for use on each additional CPU, and shall subsequently remit to SCO an annual renewal fee of \$10,000 on each anniversary of the Provision Date. Such \$3000 right to use fee for an additional CPU shall be waived for each such CPU which, before the date of this Amendment, was an ADDITIONAL DESIGNATED CPU of IBM under SOFT-00015.

For the purposes of this exemption, "Authorized Purpose" means making modifications to the Software Products and furnishing such modifications to IBM, and/or distribution of such modifications in binary (Sublicensed Products) form by the contractor to customers directly or through other distributors, provided that such modifications are not for purposes of adaptation of Sublicensed Products to hardware systems other than IBM computer systems carrying the IBM logo, and are solely to (i) adapt the Sublicensed Products to support unique hardware scanners or devices (e. g., specialized graphics, adapters, or displays) intended for use in vertical

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P.84

applications, or (ii) provide temporary fixes to customers of such Sublicensed Products. --

(C) Section 3 ("Customers") is changed to read as follows:

-- IBM may provide, to a customer who has received a copy of a Sublicensed Product from IBM directly or through IBM's Distributors, a copy of a Software Product solely for the customer's internal use in maintaining the Sublicensed Product, provided that (i) the customer has first undertaken in writing to comply with obligations regarding restrictions on disclosure and use of the Software Product that are no less stringent than SCO's own standard source code terms and conditions, and (ii) for each such customer, IBM shall remit to SCO, on or before the date of providing the Software Product to such customer ("Provision Date"), an initial right to use fee of \$15,000 for use by such customer of the Software Product on an initial CPU and \$3000 for use on each additional CPU, and shall subsequently remit to SCO an annual renewal fee of \$3000 on each anniversary of the Provision Date. Such \$3000 right to use fee for an additional CPU shall be waived for each such CPU which, before the date of this Amendment, was an ADDITIONAL DESIGNATED CPU of IBM under SOFT-00015. --

(D) Section 6 ("Restriction on Fully Paid Up License") is changed to read as follows:

-- The royalty relief described in Section 1 of this Amendment shall apply only to use or distribution of Sublicensed Products (i) in IBM UNIX operating systems, referred to currently as AIX, any prior version or release of AIX and derivative or follow-on version to AIX, that are certified as conforming to the Open Group UNIX Specification (UNIX 95 or a successor specification therein, as the case may be) in effect twelve months prior to IBM's first customer ship date for the applicable Sublicensed Product; (ii) on the Power or Power PC or Power2 architectures or derivative or follow-on architectures, irrespective of the names of such versions; and (iii) adapted for use on IBM computer systems carrying the IBM logo. Any IBM distribution of Sublicensed Products not covered by the preceding sentence shall be subject to a royalty pursuant to the Related Agreements, with royalty to be calculated at an aggregate discount percentage of 80%. The second to last sentence of paragraph 9 of the February 1, 1985 amendment to SOFT-00015 is modified by deleting the words "and employees of Licensee shall not refer to the physical documents and materials comprising Software Products subject to this Agreement when they are developing any such products or services or providing any such service" and replacing them with the following:

-- and employees of Licensee who may have retained intangible information in the form of ideas, concepts, know-how or techniques after having access

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P.05/07
P.05

to such code shall make no attempt to preserve such information by reducing it to writing or otherwise memorializing it--

(E) Section 7 is changed to read as follows:

-- Notwithstanding anything to the contrary in the Related Agreements, with respect only to (i) Sublicensed Products to which the paid up rights in Section I apply and (ii) Software Products, (a) Designated CPU's are not required to be listed in a Supplement to SOFT-00015, and IBM may copy such Software Products as replacements or additions to Designated CPU's without notice to, or consent of, Novell or SCO; and (b) Section V of SUB-00015A shall not apply to such Sublicensed Products. --

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** TOTAL PAGE.05 **

**AMENDMENT No. 2
TO THE ASSET PURCHASE AGREEMENT**

As of the 16th day of October, 1996, the September 19, 1995 Asset Purchase Agreement (the "Agreement") between Novell, Inc. ("Novell") and The Santa Cruz Operation, Inc. ("SCO") is amended in the following respects.

- A. With respect to Schedule 1.1(b) of the Agreement, titled "Excluded Assets", Section V, Subsection A shall be revised to read:

All copyrights and trademarks, except for the copyrights and trademarks owned by Novell as of the date of the Agreement required for SCO to exercise its rights with respect to the acquisition of UNIX and UnixWare technologies. However, in no event shall Novell be liable to SCO for any claim brought by any third party pertaining to said copyrights and trademarks.

- B. Except as provided in Section C below, and notwithstanding the provisions of Article 4.16, Sections (b) and (c) of the Agreement, any potential transaction with an SVRX licensee which concerns a buy-out of any such licensee's royalty obligations shall be managed as follows:

1. Should either party become aware of any such potential transaction, it will immediately notify the other in writing.
2. Any meetings and/or negotiations with the licensee will be attended by both parties, unless agreed otherwise. Novell's participation will be by personnel who are engaged in corporate business development.
3. Any written proposal to be presented to the licensee, including drafts and final versions of any proposed amendments to the SVRX licenses, will be consented to by both parties prior to its delivery to the licensee, unless agreed otherwise.
4. Prior to either parties' unilateral determination as to the suitability of any potential buy-out transaction, the parties will meet face to face and analyze the potential merits and disadvantages of the transaction. No such transaction will be concluded unless the execution copy of the amendment is consented to in writing by both parties, and either party will have the unilateral right to withhold its consent should it judge, for any reason whatsoever, the transaction to be contrary to its economic interests and/or its business plans and strategy.
5. This Amendment does not give Novell the right to increase any SVRX licensee's rights to SVRX source code, nor does it give Novell the right to grant new SVRX source code licenses. In addition, Novell may not prevent SCO from exercising its rights with respect to SVRX source code in accordance with the Agreement.

6. The parties agree that no member of Novell's sales force will receive a bonus, commission, quota attainment credit, or other type of sales incentive as a result of the buy-out of an SVRX license.

- C. Novell may execute a buy-out with a licensee without any approval or involvement of SCO, and will no longer be bound by any of the requirements stated in Section B. above, if (i) SCO ceases to actively and aggressively market SCO's UNIX platforms; or (ii) upon a change of control of SCO as stated in schedule 6.3(k) of the Agreement.
- D. Novell and SCO agree to indemnify and hold harmless the other from and against any and all losses, liabilities, judgments, and costs incurred ("Liability") if either causes the other to incur Liability under Section 10 of Amendment No. X to Software Agreement SOFT-00015 as amended, Sublicensing Agreement SUB-00015A as amended, Software Agreement SOFT-00015 Supplement No. 170 as amended, and Substitution Agreement XFER-00015B ("Amendment No. X").

In witness whereof, the parties have executed this Amendment No. 2 to be signed by their duly authorized representatives as of the date first written above.

THE SANTA CRUZ OPERATION, INC.

NOVELL, INC.

By: Steven M. Salobath

By: _____

Name: Steven M. Salobath

Name: _____

Title: Vice President Law & Corporate Affairs

Title: _____

6. The parties agree that no member of Novell's sales force will receive a bonus, commission, quota attainment credit, or other type of sales incentive as a result of the buy-out of an SVRX license.

C. Novell may execute a buy-out with a licensee without any approval or involvement of SCO, and will no longer be bound by any of the requirements stated in Section B. above, if (I) SCO ceases to actively and aggressively market SCO's UNIX platform; or (II) upon a change of control of SCO as stated in schedule 6.3(g) of the Agreement.

D. Novell and SCO agree to indemnify and hold harmless the other firm and against any and all losses, liabilities, judgments, and costs incurred ("Liability") if either causes the other to incur Liability under Section 10 of Amendment No. X to Software Agreement SOFT-00015 as amended, Sublicensing Agreement SUB-00015A as amended, Software Agreement SOFT-00015 Supplement No. 170 as amended, and Substitution Agreement XFER-00015B ("Amendment No. X").

In witness whereof, the parties have executed this Amendment No. 2 to be signed by their duly authorized representatives as of the date first written above.

THE SANTA CRUZ OPERATION, INC.

NOVELL, INC.

By: _____

By: James R. Tolman

Name: _____

Name: James R. Tolman

Title: _____

Title: SVP & CFO

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-K

X ANNUAL REPORT PURSUANT TO SECTION 13 OR 15 (d)
OF THE SECURITIES EXCHANGE ACT OF 1934

FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 1996

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15 (d)
OF THE SECURITIES EXCHANGE ACT OF 1934

FOR THE TRANSITION PERIOD FROM _____ TO _____

COMMISSION FILE NUMBER 0-21484

THE SANTA CRUZ OPERATION, INC.
(Exact name of registrant as specified in its charter)

CALIFORNIA
(State or other jurisdiction of
incorporation or organization)

94-2549086
(I.R.S. Employer
Identification No.)

400 ENCINAL STREET, SANTA CRUZ, CALIFORNIA
(Address of principal executive offices)

95060
(Zip Code)

Registrant's telephone number, including area code (408) 425-7222

Securities registered pursuant to Section 12(b) of the Act: NONE

Securities registered pursuant to Section 12(g) of the Act: COMMON STOCK

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Registrant became subject to such filing requirements on May 25, 1993 as a result of its initial public offering.

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

The aggregate market value of the voting stock held by non-affiliates of the registrant, based upon the closing sale price of the Common Stock on December 16, 1996 as reported on the Nasdaq National Market was approximately \$131,354,906. Shares of Common Stock held by each executive officer and director and by each person who owns 5% or more of the outstanding Common Stock have been excluded in that such persons may be deemed to be affiliates. This determination of affiliate status is not necessarily a conclusive determination for other purposes.

As of December 16, 1996, registrant had 36,405,225 shares of Common Stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the 1996 Annual Report to Shareholders are incorporated by reference into Parts I, II and IV.

Portions of the definitive Proxy Statement dated on or about January 24, 1997 to be delivered to shareholders in connection with the Annual Meeting of Shareholders to be held February 25, 1997 are incorporated by reference into Part III.

THE SANTA CRUZ OPERATION, INC.

FORM 10-K
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 1996
TABLE OF CONTENTS

	PAGE NUMBER
PART I	
Item 1. Business	1
Item 2. Properties	13
Item 3. Legal Proceedings	14
Item 4. Submission of Matters to a Vote of Security Holders	14
Executive Officers of the Registrant	14
PART II	
Item 5. Market for Registrant's Common Stock and Related Stockholder Matters	17
Item 6. Selected Financial Data	17
Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations	17
Item 8. Financial Statements and Supplementary Data	17
Item 9. Changes in and Disagreement with Accountants on Accounting and Financial Disclosures	17
PART III	
Item 10. Directors and Executive Officers of the Registrant	18
Item 11. Executive Compensation	18
Item 12. Security Ownership of Certain Beneficial Owners and Management	18
Item 13. Certain Relationships and Related Transactions	18
PART IV	
Item 14. Financial Statement Schedules and Reports on Form 8-K	19
Signatures	23

ITEM 1. BUSINESS

INTRODUCTION

The Santa Cruz Operation, Inc. (SCO or the Company) was incorporated in California in 1979 and shipped its first product, SCO(R) XENIX(R) System V, a packaged version of the UNIX(R) operating system, in 1983. In 1985, the Company introduced its first operating system for the 32-bit Intel(R) microprocessor environment, SCO XENIX 286, and followed with its SCO XENIX 386 in 1987. The Company first shipped its UNIX trademarked commercial product, SCO UNIX System V/386, for the Intel CPU-based platforms in 1989 and followed with an integrated, graphical version of this product, SCO Open Desktop(R), in 1990. In 1993, the Company introduced two families of systems software -- SCO OpenServer(TM) products, a complete line of advanced server and SCO Open Desktop products, a complete line of advanced workstation (client) operating systems. In 1995, SCO integrated these products into a single line, called the SCO OpenServer family. SCO also introduced its SCO Vision family of client-integration products, which integrate Windows(R) PC's with UNIX Servers from all major UNIX vendors. SCO also created a Layered Server Products division which has the mission of providing middleware that enhances the capabilities of SCO OpenServer Systems, as well as UNIX Servers from other vendors. In fiscal year 1996, SCO acquired the UnixWare(R) and UNIX System V Release 4 source-license business from Novell, Inc.

SCO's mission is to be the leading supplier of UNIX System software for business-critical environments. Business-critical servers built on Intel CPU-based hardware and controlled by SCO UNIX System software run the critical, day-to-day operations of large branch organizations in retail, finance, telecommunications and government, as well as corporate departments and small to medium-sized businesses of every kind. SCO products enable solutions providers and end-user customers to integrate technologies and products from different vendors to create these powerful, cost-effective servers. SCO has built an experienced, value-added worldwide distribution and support infrastructure to address the business needs of organizations implementing these solutions. SCO believes it is well positioned to capitalize on four key trends driving the information technology industry today: (1) the shift to the server-centric Internet Way of Computing(TM); (2) the improving price-performance characteristics of UNIX servers running on the Intel CPU-based platform; (3) the movement of business-critical applications from mainframes and minicomputers to Java(TM) system-based applets distributed across the Internet (and corporate intranets) via UNIX servers; and (4) the ongoing shift toward increased automation of business operations and use of information incorporating Internet technologies and UNIX servers to gain a competitive advantage.

INDUSTRY BACKGROUND

Traditionally, mainframes and minicomputers have formed the basis of enterprise computing in large, complex organizations. These organizations have generally used custom applications to perform business-critical tasks such as general accounting, inventory management, transaction processing, manufacturing control and branch management. These applications typically involve processing and managing large quantities of data and must provide continuous availability of data to many users, while ensuring data integrity and security. Despite their performance and functionality, these mainframe and minicomputer "legacy" systems are based on proprietary hardware and operating software architectures and are increasingly perceived to be difficult, time-consuming, and expensive to implement, maintain, and support. In addition, these systems provide limited interoperability with other information resources and systems commonly used in organizations today, provide limited user access to data maintained in these systems, and often use difficult, non-intuitive character-based user interfaces.

In the past ten years, Intel CPU-based computers have proliferated in both large and small organizations primarily as a result of steadily improving price-performance and the development of local-area networking software. The most recent generations of Intel processors, the i486 and Pentium(R) processors, together with declining costs for both system memory and data storage, have for the first time given PCs the power to process large volumes of business-critical data. These developments have accelerated the emergence of a new computing paradigm in which central processing on mainframes or minicomputers is being replaced by processing distributed between desktop PC or workstation "clients," which handle user interface and application logic, and Business Critical Servers responsible for shared access to enterprise data, business-critical applications, database management, and data security. This approach, in principle, combines the efficiency of desktop processing with access to enterprise-wide data and applications. However, the leading operating system for Intel CPU-based client PCs (Microsoft(R) MS-DOS(R), often used with the Microsoft Windows user interface or the newer Windows NT(R) workstation and server operating systems) and the leading networking operating system for PC-based local-area networks (Novell(R) NetWare(R)) do

4
not offer the performance, stability, scalability, data security, network connectivity, or support for heterogeneous clients (not only PCs, but also Xterminals, character-based terminals, UNIX workstations, PDAs, and the emerging class of network computers or NCs) required by many organizations for Business Critical Servers.

As a result, most PC-based networks offer only a limited version of client/server computing, in which the key functions of shared data access, database management, data security and business-critical applications are handled by mainframes and minicomputers acting as servers, or by microprocessor-based servers utilizing reduced-instruction set (RISC) architectures. Because of operating system and hardware limitations, as well as high hardware costs, these server strategies fail to capture the full price-performance benefits of client/server computing.

One of the problems of the PC-centric client/server model is the high cost of system administration, maintenance, and software updates. When businesses move to a server-centric model of client/server computing, as in The Internet Way of Computing, they can administer and update client software from the server, saving inordinate amounts of time and money. This is why SCO supports the server-centric Internet Way of Computing.

SCO bases its system software for Business Critical Servers on the UNIX System, which has been in use since the 1970's. The UNIX System is a 32-bit native multi-user, multitasking technology. Operating systems based on the UNIX System allow application programs to be separated from operating system tasks such as control of peripheral devices, communications, memory management and file management, thus providing a standardized protected environment in which the applications operate. The result is much higher reliability because multiple applications and users cannot interfere with each other and easier application development because many complex functions are handled by the operating system.

SCO believes, however, that UNIX technology is only the beginning of the solution, and that considerable value must be added to the basic technology in order to create a family of products that solve complex customer requirements for Business Critical Servers. Business and government organizations are increasingly demanding adherence to standards-based open systems to protect their computing investment and avoid reliance on a single vendor's hardware or software. For such customers, the proprietary implementations of the UNIX System that dominate the technical and scientific workstation market are unacceptable. These proprietary versions of UNIX systems run on hardware architectures that are expensive relative to PCs, are tied to the proprietary hardware of particular vendors and have failed to meet the increasing demand for hardware-independent, Intel CPU-based systems. Business and government organizations also require broad availability of third-party applications software so that they can use predefined solutions and, to the extent possible, avoid having to develop custom applications. When custom applications are required, these customers need a development environment and tools which enable such applications to be easily produced and implemented and run across multiple hardware architectures. Lastly, these customers require a high level of customer support in the form of consulting and training, as well as continual product enhancements to incorporate new technology and industry standards.

SCO has focused on Intel CPU-based computers because of their dominant position in the microprocessor-based computer market and their potential in the emerging client/server market. SCO's years of experience in supporting each successive generation of Intel processors has resulted in highly reliable and stable UNIX operating system products. The Company's extensive engineering capabilities and product enhancement programs support complex, networked Business Critical Servers across the full range of Intel microprocessors, including the Pentium and Pentium Pro processors. The Company's software is compatible with Intel CPU-based computers offered by virtually all of the major hardware vendors. Because SCO products support multiple processors and can execute several applications simultaneously, they are especially well suited for Business Critical Servers that provide data access and business-critical applications to users throughout the enterprise.

THE SCO SOLUTION

SCO brings the power of the UNIX System and the freedom of open systems to the Intel CPU-based server environment. Since introducing its first operating software in 1983, SCO has shipped over 2.1 million licenses to multi-user computer environments worldwide. The Company's innovations have included shipping a packaged version of the UNIX System in 1983, shipping a graphical, 32-bit UNIX operating system for Intel PCs in 1990 and shipping a packaged UNIX operating system for Intel CPU-based multiprocessing computers in 1993. The Company introduced a family of client-integration and layered server software in 1995. In 1996, the Company introduced its Internet family of server products. Based on its experience in the marketplace, the Company believes that its products support more Intel CPU-based computers, applications, networks, and peripherals than those of any other provider of UNIX System software.

Business Critical Servers running SCO software are especially designed to support networked applications running on traditional client/server architectures and on the new server-centric Internet/intranet architecture, enabling organizations ranging from small businesses to large corporations and government agencies to implement enterprise-wide computing solutions. SCO has developed significant expertise in implementing powerful and stable UNIX operating systems for Business Critical Servers, and has built a multi-tiered distribution channel of direct sales personnel, value-added resellers (VARs), original equipment manufacturers (OEMs) and distributors to reach and support thousands of end-user customers.

SCO BUSINESS CRITICAL SERVERS

Business Critical Servers running SCO system software combine the best qualities of standalone PCs (personal productivity, ease of use and price-performance value) with the traditional strengths of UNIX System servers (business-critical applications, data management, security, and network administration). SCO Business Critical Servers feature the following performance characteristics to meet customer requirements: 1) support for business-critical, transaction-based applications, 2) capabilities for providing a permanent, auditable history of operations, 3) top performance and scalability at the lowest cost, 4) support for multiple users performing multiple tasks, 5) high-level security, 6) reliability and manageability, 7) support for a wide range of client devices, including not only Microsoft Windows PC desktops and laptops, but also UNIX workstations, Xterminals, character-based terminals, PDAs, and the new network computers known as NCs, and 8) expert service and support.

STRATEGY

The Company's strategy is to continue providing the most reliable and robust system software for Business Critical Servers that run the critical day-to-day business operations of large and small organizations. The Company's future success will depend in large part on the continued growth of the UNIX System market for business and governmental organizations as well as the Company's ability to continue to license additional products and product enhancements to existing customers and to identify and market its products to new markets and customers. There can be no assurance that the Company will be able to sustain its revenue growth and profitability on a quarterly or annual basis. Key elements of SCO's strategy include:

FOCUS ON TARGET MARKETS

SCO focuses its products, industry relationships, distribution and support strategy on three key business opportunities: primary information systems for small and medium-sized businesses; replicated systems for use in distributed information systems in medium-sized and large organizations, including Fortune 1000 corporations; and business-critical enterprise systems for large and medium-sized businesses. Key targeted industries include retail, finance and banking, government, distribution, telecommunications, transportation and manufacturing.

INTEGRATING WINDOWS PCS AND DIVERSE CLIENTS WITH UNIX SERVERS

SCO intends to provide the best server for The Internet Way of Computing, which means providing the best server for a wide range of client devices, including not only Microsoft Windows PC desktops and laptops, but also UNIX workstations, Xterminals, character-based terminals, PDAs, and network computers or NCs. The goal of this strategy is to enable organizations to take full advantage of cost-effective client devices that can run the new Java-based applications and exchange information across the Internet and corporate intranets.

SCO continues also to support its Windows Integration strategy, which is to make it as easy to connect a network of Windows PCs to all major UNIX servers as it is to connect a standard data terminal. The four cornerstones of this strategy are solutions for: connectivity between SCO servers and Windows desktops; manageability of Windows desktops from SCO servers; the ability to take advantage of users' Windows skills by making SCO UNIX System applications appear and behave like those on Windows; and interoperability between Windows and UNIX System applications. SCO provides a full line of Windows Integration Products, called the SCO Vision Family.

SUPPORT A WIDE RANGE OF APPLICATIONS

Because purchase decisions are often driven by the availability of applications, SCO has positioned its products as a strategic platform for developers of business applications. Developers write software compatible with SCO's products because of SCO's leadership in the UNIX market for Intel CPU-based computers and its support for a wide range of hardware vendors. Applications written for the SCO environment run on over 2,700 computers and peripherals, and can be readily ported to proprietary UNIX systems, thus expanding the market opportunity for the developer. SCO places particular emphasis on ensuring that SCO Business Critical Servers provide optimal support for the leading client/server applications, the new Java system-based applications, and the leading relational database management systems. Major software vendors that offer application software for the SCO environment include Banyan, Borland, Computer Associates, Informix, Lotus, Microsoft, Oracle, Novell, Progress, and Sybase. In total, SCO UNIX Systems are supported by over 12,000 independent software vendors (ISVs), representing over 15,000 business-critical applications.

DELIVER COMPREHENSIVE SUPPORT SERVICES

SCO continues to expand its delivery of support services to meet the needs of customers using complex, multivendor computer systems. SCO also works closely with resellers and OEMs to offer channel-delivered support programs to meet the needs of customers in its target markets. SCO Services offerings include a range of telephone support options, a CD-based SCO Support Library, on-line services, and high-level consulting and engineering services. These flexible services give customers a choice of support plans and pricing models. SCO also offers comprehensive education and training programs for resellers and end users.

SUPPLY MIDDLEWARE FOR MULTIPLE HARDWARE PLATFORMS

Middleware products and technologies represent a class of system software that enhances the basic operating system. SCO's Layered Server Products division is tasked with providing middleware for SCO OpenServer Systems, as well as other UNIX servers.

PROVIDE TRUE OPEN SYSTEMS PRODUCTS

Because customers are increasingly reluctant to be restricted to a single computer vendor, the Company has designed its software products to support industry-accepted open systems standards. Open systems are those systems which conform to established industry standards such as XPG-4, Spec 1170, DCE and OSF/Motif (R) from The Open Group, POSIX(R) from IEEE, and Federal Information Processing Standard (FIPS) from the National Institute of Standards (NIST). SCO continuously works with standards organizations such as The Open Group to assure continued conformance to open systems standards. Industry standards may be established by organizations composed of vendors, by government agencies, by academic institutions, or by market acceptance. Industry standards typically are based on specifications which allow competing implementations. Because these standards are open, competitors can readily access the technology to include in their products. Industry standards offer the customer a cost-effective computing solution by providing a high degree of compatibility and interoperability among hardware, software, network and peripheral products. Based on published directories listing vendors and applications, the Company believes there are currently over 15,000 business critical software solutions compatible with SCO's products.

LEVERAGED RESEARCH AND DEVELOPMENT

SCO has developed extensive expertise in sourcing, enhancing and integrating third-party technologies to provide true open system software solutions. For example, the SCO Open Server Enterprise System seamlessly integrates open system technologies from over 15 different third-party software providers to produce a package that operates as one cohesive product. In this way, SCO leverages its engineering resources by building upon the technologies developed by the technical staffs at numerous other companies.

DISTRIBUTE PRODUCTS WORLDWIDE

In contrast to operating system software for standalone PCs and small networks, system software for Business Critical Servers requires sophisticated distribution and support. Over the past 11 years, SCO has developed a highly trained, multi-tiered, value-added distribution and support infrastructure. This worldwide network includes over 15,000 resellers and systems integrators, 100 distributors, and 30 OEMs. These parties implement and support specific solutions for corporate, government and smaller business customers by integrating SCO's products with those of other vendors. SCO and its distribution network work together to provide comprehensive support services ranging from engineering and consulting services to technical support and training and education.

EVANGELIZE TO DEVELOPERS AND EDUCATIONAL INSTITUTIONS

SCO maintains developer and reseller programs to assist independent software developers (ISVs) and channel partners in both the development and marketing of SCO Business Critical Servers. In 1996, SCO launched a series of Authorized Development Centers to assist ISVs in porting their existing applications to the Internet Way of Computing. SCO developer and reseller programs include joint marketing campaigns, information exchange, and special access to product updates, enhancements, and new releases. The Company has established a program to focus on the use of SCO products at schools and universities, and in 1996 made free copies of its UNIX server licenses available to non-commercial organizations.

EXECUTE GLOBAL STRATEGY

The Company's products are designed to support customers throughout the world, with local language versions available for Europe, Asia, and Latin America. SCO maintains sales and distribution offices throughout the world including those in the U.K., France, Germany, Italy, Denmark, Australia, Singapore, Japan, Canada, Hong Kong, China, Mexico, and throughout the U.S. In addition, the Company has established design and development centers in the U.K. and the U.S. to meet company-wide and local product development requirements. About half of the Company's total revenues are derived from international operations. International operations are subject to certain risks, including staffing and managing foreign operations, fluctuations in foreign currency exchange rates and regulatory requirements. A substantial portion of the Company's international net revenues are priced in the U.K. pound sterling, and operating results can vary with changes in the U.S. dollar exchange rate for such currency.

PRODUCTS AND PRODUCT ARCHITECTURE

PRODUCT ARCHITECTURE

SCO provides a family of products for Business Critical Servers, as well as for specialized business and development workstations used with Business Critical Servers in many client/server installations. These products are based on a UNIX System kernel to which SCO has added extensive capabilities. The Company's products include the following components: operating systems, networking, user interfaces, client integration software, middleware and development tools. Operating systems are the instructions which interact with the microprocessor in a computer, allowing it to perform basic functions such as displaying information, processing inputs and storing and retrieving data. Operating systems also provide a platform for running applications which perform useful functions for end users, including database access, communications services, spreadsheets, and various utilities. Networking systems support numerous third-party local and wide-area networking products to allow enterprise-wide distributed computing. SCO's user interfaces provide an easy-to-use graphical desktop environment that enables users to access an organization's entire computing environment. SCO's Client Integration software integrates client devices, such as Windows PCs and NCS, with UNIX servers. Middleware adds additional capabilities, such as networking, system and network management, software distribution and backups. Development tools enable developers and customers to develop and maintain applications on SCO systems.

The Company has structured its product families to take advantage of the modular nature of the overall architecture. Depending on their requirements, customers can purchase packages ranging from a basic multi-user host system to a comprehensive enterprise server system, all of which operate with the Company's development tools.

PRODUCTS

The Company offers four categories of products: (1) server products, (2) client-integration products, (3) layered server products, which include SCO's Internet Family of products, and (4) embedded software products, such as software for Point-of-Sale/Point-of-Service (POS) devices and computer telephony.

SCO UNIXWARE PRODUCTS

SCO UnixWare 2.1 Application Server provides multi-user application services to businesses that put high demands on system reliability, performance, security, and networking. Built on the latest release of System V UNIX (SVR4.2 MP), SCO UnixWare 2.1 is the most modern and advanced release of the UNIX operating system on the market. SCO UnixWare 2.1 Application Server was designed from the ground up to be a high-performance, multi-processing release of the UNIX operating system while maintaining compatibility with the millions of UNIX systems already deployed by SCO and other market leaders. As an applications server, SCO UnixWare 2.1 provides all of the facets of business critical computing -- including built-in security, reliability, and fault tolerance-- on a standard, cost-effective, and high-performance Intel single- or multi-processor hardware platform. It supports thousands of enterprise, commercial, and industrial-grade applications and has established performance records running leading database systems from Oracle, Sybase, and Informix.

One of the striking things about the SCO UnixWare system's consistent record breaking performance is that these records were not established on proprietary hardware from a single supplier, but on standard technology components from several vendors. With Intel's establishment of its MP Spec, hardware vendors can compete in developing increasingly high-performance systems that will automatically support the SCO UnixWare system.

With the SCO UnixWare 2.1 system providing an open, standards based operating platform, and numerous hardware manufacturers supporting an open SMP(TM) implementation, customers are assured of increasing performance, increasing value, and the luxury of choice.

SCO OPENSERVICES PRODUCTS

The SCO OpenServer system is today's leading UNIX server operating system for Intel processor-based platforms. Businesses use SCO OpenServer systems to simplify and speed business operations, better understand and respond to their customers' needs, and achieve a competitive advantage. SCO OpenServer systems are exceptional at running multi-user, transaction-based DBMS and business applications, communications gateways, mail and messaging servers in both host and client/server environments. SCO OpenServer Release 5 combines minicomputer-level reliability and availability with the Intel platform's exceptional price/performance, value and flexibility. Unlike other advanced operating systems, SCO OpenServer Systems revolutionize business productivity without obsoleting existing business critical systems, applications or data. Designed expressly for business critical computing, SCO OpenServer systems deliver what today's organizations are seeking - exceptional value and price/performance, extensible networking with existing LANs and WANs, easy integration with Windows desktops, built-in Internet access and services, simplified administration and management, and outstanding scalability for long term growth.

Base SCO OpenServer Operating Systems--

SCO OpenServer Enterprise System: The Enterprise System is a 32-bit, multi-user, multitasking X/Open(R) UNIX System-compliant operating system with integrated graphics, multi-protocol networking, Internet services, mail and messaging services, and remote systems administration and software management.

SCO OpenServer Host System: The Host System is a 32-bit, multi-user, multitasking, X/Open UNIX System-compliant operating system with integrated graphics and simple PC connectivity and mail and messaging services. It can be easily upgraded to the Enterprise System when client/server or networking capabilities are required.

SCO OpenServer Desktop System: The Desktop System is an advanced, single-user operating system that delivers secure workstation capabilities and performance on cost-effective Intel platforms.

SCO LAYERED SERVER PRODUCTS

SCO Layered Server Products include The SCO Internet Family of products, plus SCO Advanced File and Print Server, SCO(R) ARCserve(R)/Open from Cheyenne(R), and SCO Doctor(TM).

The SCO Internet Family, featuring SCO Internet FastStart. The SCO Internet Family provides Internet access for corporate LANs. By using SCO FastStart as an Internet gateway, organizations can provide users with access to the vast resources of the Internet while providing advanced security; publish information for internal and external audience; create corporate intranets, and conduct electronic commerce.

The cornerstone of the SCO Internet Family is SCO Internet FastStart. SCO FastStart has everything needed to get up and running on the web quickly. It includes a single-user version of the SCO OpenServer Enterprise System, multi-line PPP, multi-homing support, Netscape Navigator(TM), and Netscape Communications Server(TM). Installation and configuration are made simple via a HTML-based tool that guides the installer painlessly through the entire install process. SCO FastStart supports TCP/IP, IPX/SPX(TM), NFS(R), NIS, DNS, PPP, SMTP, POP networking protocols and includes network install capability.

SCO Internet FastStart also includes SCO Doctor Lite, for enterprise-class performance monitoring and systems management, and the SCO ARCserve/Open Lite graphical backup system. For file and print services to Windows desktops, it includes a copy of SCO Advanced File and Print Server, which provides full Windows NT Server compatible file and print services. SCO FastStart, like all SCO servers, runs on the cost-effective and scalable Intel processor platform.

Additional SCO Internet Family Product Options -- For customers with existing SCO servers, or those who wish to extend the functionality of the SCO FastStart package, the SCO Internet Family also has a number of layered products. These include Netscape Commerce Server(TM), Netscape Communications Server, The Netscape Proxy Server(TM), Netscape Navigator, SCO Internet to NetWare Gateway, SCO Internet Security Package, and SCO PPP from Morning Star, and Oracle(R) WebServer 2.0.

SCO Advanced File and Print Server - Seamless Integration of UNIX Servers and Windows. The SCO Advanced File and Print Server, when used with SCO OpenServer Release 5, creates a UNIX system based network operating system that allows file and printer access to PC running Microsoft Windows 95, Windows NT, Windows 3.x, OS/2(R), and MS-DOS.

Fully backward compatible with LAN Manager Release 2.2, SCO Advanced File and Print Server is based on the newest Microsoft NT networking technology and is peer-to-peer compatible with Microsoft NT. Because Advanced File and Print Server is actually based on NT technology, the server appears to the desktop clients exactly as if it were an NT server.

SCO Advanced File and Print Server provides a highly integrated environment allowing PCs to access files and printers in the native Windows format while accessing mission-critical business applications running on the server. UNIX directories are accessed as Windows network drives and UNIX printers are accessed as if they were connected directly to the desktop PC.

SCO ARCserve/Open -- Multi-platform Network Backup and Restore. SCO ARCserve/Open is an easy-to-use, high-performance, comprehensive data management tool for enterprise networks. Developed by Cheyenne Software, the industry leader in backup and restore technology, SCO ARCserve/Open delivers a business critical data management system. SCO ARCserve/Open brings a unique combination of ease-of-use, automation, high performance, and reliability to the SCO platform. It provides the robust feature set that administrators require and the simplicity necessary for end-users to do their own backups.

Utilizing an intuitive Motif interface, SCO ARCserve/Open makes managing the backup of large servers and heterogeneous networks simple. Ease-of-use is enhanced by the Auto Pilot feature, which provides full automation of the data management process, including tape rotation. High throughput is provided by an efficient backup engine which optimizes performance of each tape drive, giving every ounce of performance your device can deliver. Even greater throughput is achieved with the Parallel Streaming feature, which supports simultaneous backup to multiple tape devices.

SCO Doctor -- Pro-Active Remote Systems Management. The SCO Doctor advanced systems management tool is the first to address the many UNIX system configurations in use today. SCO Doctor incorporates advanced process monitoring, accurate diagnosis and automatic problem correction. Notification of alerts can be communicated to the administrator via pop-ups on the Doctor console, the built-in pager support, or by e-mail notices. Alerts, in turn, invoke intelligent action programs to automatically correct the problem or notify the system administrator that intervention is required. It supports diverse network protocols. The Doctor agent collects data

from a variety of sources including the UNIX kernel, operating system configuration, the file system, standard UNIX performance monitoring commands and local utilities, as well as third party applications. SCO Doctor can be customized to meet a wide range of customer requirements. Views, reports, action programs, alerts, data collection subagents and file transfer programs can easily be customized using Tel scripting commands.

SCO Doctor for Networks(TM) systems management tool is an enhanced version of Doctor that can manage small networks or large installations of several thousand systems over a LAN or WAN. If required, support staff can use the "connect-back" capability of Doctor for Networks for live monitoring of the remote system and perform further diagnosis of problems via the simultaneous log-in facility. SCO Doctor Agent supports SNMP traps and provides extensive system query information through the Doctor enterprise MIB. Doctor for Networks supports everything from low-speed async dial-up modems to TCP/IP, PPP, SLIP and e-mail-enabled transports. It provides uncompromised operation over low-speed phone lines to ensure that the widest range of UNIX systems can, at last, "afford" to be managed. It includes a full-featured set of facilities for file transfer, remote command execution and remote login facilities. By incorporating powerful remote communications features, the need to purchase a separate communications product is eliminated.

SCO CLIENT-INTEGRATION PRODUCTS / THE SCO VISION FAMILY

The SCO Vision family includes powerful and extensible Windows to UNIX Systems integration products, providing a "best of both worlds" solution - the reliability and scalability of UNIX Systems and the plug-and-play ease of Microsoft Windows. These products are available and optimized for all Windows platforms, including 3.1, NT, and Windows 95.

SCO SuperVision - Remote Management of Windows Desktops

SCO(R) SuperVision(TM) gives system administrators the power to remotely manage, configure and control SCO Vision Family desktops on the corporate network. By allowing updates to all desktops in a single stroke, SCO SuperVision can dramatically cut the cost of managing and supporting large groups of Windows users. SCO SuperVision will manage both PC's directly connected to the network and those connected remotely over a modem link.

SCO VisionFS - Microsoft File and Print Services

SCO VisionFS(TM) provides Microsoft file and print services from any UNIX server (HP, Sun, IBM, Digital, SCO etc.) to Windows PCs. It makes a UNIX server appear like any other Windows machine on the network. No software has to be installed on the PC to allow access to files and printers on the UNIX server. Using the SCO VisionFS smart server approach delivers dramatic cost savings in installation, administration and maintenance of PCs, compared to NFS client solutions.

SCO TermVision - The Business Critical Terminal Emulator

SCO(R) TermVision(TM) is a powerful 32-bit terminal emulation package which presents UNIX character-based applications, files and services in Windows terms for Windows users. SCO TermVision increases efficiencies, flattens the learning curve and reduces administration overhead with a combination of highly configurable emulators, secure and intelligent communications, and facilities for remote administration.

SCO XVision - The Transparent PCX Server for Microsoft Windows

SCO(R) XVision(R) is the world's first transparent PC X server - designed so that all users see is Microsoft Windows. Using a transparent interface, SCO XVision can reduce the cost and need for training and support. Users can use XVision and Windows applications side by side without even knowing it.

SCO SQL-Retriever - ODBC Middleware for Simultaneous Access to Multiple Databases

SCO(R) SQL-Retriever(TM) is an Open Database Connectivity (ODBC) middleware product designed to provide simultaneous access to a range of UNIX databases. SCO SQL-Retriever also supports the Java Database Base Connectivity (JDBC) protocol, for full access to databases across Internet/intranet networks. With SCO SQL-Retriever users can link Windows spreadsheets, development tools, report writers or Windows databases with all popular UNIX databases. PC users can take advantage of Windows productivity tools to present their text-based databases with all popular UNIX databases. PC users can take advantage of Windows productivity tools to present their text-based database information in a more flexible way. Developers can use SCO SQL-Retriever to create distributed applications working with multiple hosts and databases without needing to buy proprietary database tools for each.

Premier Motif - The Business Critical Motif

Premier Motif is a complete service for Motif developers including software and support. SCO ensures that users invest their time in developing applications rather than debugging or developing Motif itself. Premier Motif has developed from over three years' experience as the world's leading third party Motif supplier. When Sun made the move to Motif it was Premier Motif they chose to license. Premier Motif focuses on providing the highest quality Motif libraries, refining and enhancing OSF/Motif and ensuring a robust and portable development base. SCO has taken OSF/Motif and added numerous bug fixes and enhancements, many not found in any other vendor's Motif implementation.

SCO EMBEDDED PRODUCTS

SCO's new Embedded Systems division is specifically dedicated to creating small-footprint operating systems and associated software for the point-of-sale/point-of-service (POS) markets, as well as a network-client operating systems for the emerging low-cost client devices (such as network computers or NCs) that will play an increasingly important role in The Internet Way of Computing.

SCO's POS sales continue to grow. The SCO POS solution -- a small, low-cost version of the SCO OpenServer system for the POS devices -- has enabled many retail outlets to integrate their front-counter POS systems with their in-store platforms (ISPs) and their business-critical UNIX servers at their corporate headquarters and distribution centers.

MARKETS

The Company targets three major market segments: (1) primary information systems for small and medium-sized businesses, (2) replicated systems for use in distributed information systems in medium-sized and large organizations, including Fortune 1000 Corporations, and (3) business-critical enterprise servers for large and medium-sized businesses.

The Company's products are used in a wide variety of applications, including commercial applications such as POS systems, customized computing systems for various vertical business areas and general business systems. Key targeted industries include retail, finance and banking, government, distribution, telecommunications, transportation and manufacturing. Sophisticated applications currently running on SCO Business Critical Servers include banking teller systems, reservation systems, customer service information systems and financial dealer trading systems.

SALES AND DISTRIBUTION

Over the past 10 years, SCO has developed a highly trained and diverse sales and distribution channel of over 6,600 resellers and systems integrators including 100 distributors and 30 OEMs. These channel partners are selected for their expertise and experience. Depending on the type of relationship with SCO, they may receive discounts off list prices. In some cases, the contractual arrangements require minimum purchases and are generally terminable by either party. The Company permits selected resellers to return products for stock balancing, provided a new equivalent order is received. In the event the Company reduced product prices, the Company's standard terms for these resellers provide credit for inventory ordered in the previous 60 days, which can be applied against future purchases. Customers may not return products for a refund. In the fourth fiscal quarter of 1995, the Company increased its provision for exchange of products in its international operations which adversely affected its operating results. Up to this point, stock balancing and exchanges had not created any material adverse impact on the Company's operating results. There can be no assurance, however, that stock balancing and exchanges in the future will not adversely affect the Company's operating results. The SCO sales and distribution channels focus on three major customer groups:

Small and Medium-Sized Businesses. SCO works with VARs and authorized resellers which develop and/or sell business solutions to small and medium-sized businesses.

Corporate Customers. In the U.S., and for selected customers across Europe, SCO has developed a major account team that builds and manages the relationships with customers in targeted industries as well as with the Company's channel partners who support these customers. In smaller markets this role is filled by major distributors. SCO provides direct support to major corporate customers. In addition, support is provided by OEMs who market SCO solutions on their hardware, systems integrators who develop project-specific solutions integrating SCO products with other vendors' products, and VARs who provide industry-specific, ready-to-use solutions.

Government Customers. In the U.S., SCO has a dedicated account team that manages the relationships with government agencies. Government sales outside the U.S. are managed by SCO regional management or by OEMs, major distributors or major resellers. SCO also works with federal system integrators who integrate products from various vendors and provide support services for complete projects.

CUSTOMER SUPPORT AND SERVICE

Because of the business-critical use of SCO's products, customer support and services have become essential to achieve a high level of customer satisfaction. The Company's services are designed to support its wide range of customers, from small and medium-sized businesses to large enterprises, both at the end user and reseller levels. The Company, through its worldwide customer support and service staff and its authorized third-party education, support and channel partners, offers a variety of support and services:

- * Technical Support includes a variety of support offerings including online support through the World Wide Web, a dial-up bulletin board and varying levels of telephone support for channel partners and corporate accounts;

- * Educational Services include courseware and instruction guides provided to approximately 140 Authorized Education Centers, which in turn provide training and education materials to both end users and resellers in local languages;

- * Consulting Services consist of direct assistance, including on-site technical personnel for extended assignment, and integration, implementation and deployment of applications on SCO platforms for branch automation and other large business environments;

- * Developer Services include technical advisory and support services as well as access to early product releases for application developers; and

- * Engineering Services consist of engineering personnel who assist OEMs to port and support SCO products on their hardware platforms.

The Company sells support services to end users on an annual contract or as-needed basis. Options are available so that customers can tailor the support solution to meet their specific needs. Electronic access is available through the World Wide Web, remote or local bulletin boards and through discussion groups on CompuServe and the Internet. Software updates, enhancements, and bug fixes are also available electronically. SCO also supports end users via Authorized Support Centers and Premier Service Centers. The Company also provides its support services to distributors, VARs, OEMs and integrators.

PRODUCT DEVELOPMENT

Since its inception, the Company has focused considerable resources on the development and integration of UNIX systems and open systems software technologies and standards for Intel CPU-based computers. SCO has developed skills in operating systems, user interfaces, networking, porting and applications software support. The Company's development strategy is based upon utilizing and building upon technologies it owns, such as UNIX Systems technologies as well as products already available in the marketplace. In December of 1995, SCO purchased the UNIX Systems technologies and business from Novell Corporation and is now a primary driving force behind this open systems platform.

SCO devotes considerable resources to ongoing product testing and quality assurance to support product reliability. The Company believes that its abilities to integrate product technologies, to incorporate a wide variety of standards into its products, and to continue to offer enhancements to its existing products are essential to maintaining its competitiveness in the marketplace. SCO has introduced development tools which allow developers to write applications which take advantage of the increased power of the ongoing Intel family of processors, including the Pentium and Pentium pro. In addition, the Company now offers localized versions of its core business critical servers, including SCO UnixWare products in English, French, Italian, German, Spanish, and Japanese, and SCO Open Server products in French, German, Chinese and Japanese.

SCO product development is comprised of four distinct development organizations. Each development organization has a specific focus and charter which directly aligns with SCO's over-arching strategic directions. These development organizations have the following focus:

1. The Platform Products Division has responsibility for the core operating systems and services including SCO UnixWare, SCO OpenServer, Gemini I and Gemini-64 products. This organization is also responsible for additional OS services such as SCO(R) Merge(TM), Virtual Disk Manager and On Line Data Manager (RAID subsystems), Development Systems and new technology development that are UNIX kernel-related such as clustering and NUMA support.

2. The Layered Server Products Division has responsibility for many layered server functions that extend the capabilities of the core operating systems. These services include file and print services, system management and backup services, and, most important, Internet services. The Layered Server Products Division sells Internet services as add-on products and also offers a fully integrated Internet Server called SCO Internet FastStart.

3. The Client Integration Division has responsibility for SCO's "Windows integration" and "any-client integration" products and services. SCO's strategy is to integrate almost any client with almost any UNIX server. This organization builds the SCO Vision family of products which includes SCO XVision, SCO TermVision, SCO SuperVision, SCO SQL-Retriever, and SCO VisionFS. New activities underway include project name "Tarantella" which extends SCO's "any-client" proposition to SCO's Internet Way of Computing strategy.

4. The Embedded Systems Division has responsibility for developing products for embedded client and server environments. Created in 1996, this division focuses its efforts on developing the Network Client Operating System to support SCO's strategy for The Internet Way of Computing, and the SCO Point of Service (POS) toolkit. This group is also exploring and evaluating "thin-servers" to address the need for vertically integrated server environments.

The market for the Company's products is characterized by rapidly changing technology, evolution of new industry standards, and frequent introductions of new products and product enhancements. The Company's success will depend upon its continued ability to enhance its existing products, to introduce new products on a timely and cost-effective basis to meet evolving customer requirements, to achieve market acceptance for new product offerings, and to respond to emerging industry standards and other technological changes. There can be no assurance that the Company will be successful in developing new products or enhancing its existing products or that such new or enhanced products will receive market acceptance. The Company's success also depends upon its ability to license from third parties and to incorporate into its products new technologies that become industry standards. There is no assurance that the Company will continue to obtain such licenses on favorable terms or that it will successfully incorporate such third-party technologies into its own products.

The Company anticipates new releases of many of its products in the fiscal year ending September 30, 1997. There is no assurance that such new releases will not be affected by technical problems or "bugs", as is common in the software industry. Furthermore, there can be no assurance that these or other future product introductions will not be delayed. Delays in the availability, or a lack of market acceptance, of new or enhanced products could have an adverse effect on the Company's business. There can be no assurance that product introductions in the future will not disrupt product revenues and adversely affect operating results.

COMPETITION

The market for Intel operating systems is very competitive and rapidly changing. The Company currently encounters significant competition from a limited number of direct competitors including IBM, Microsoft, and Sun Microsystems, which offer hardware-independent multi-user operating systems for Intel platforms, and from OEMs such as AT&T, DEC, Hewlett-Packard, IBM, Olivetti, Sun Microsystems and Unisys, which offer their own versions of the UNIX System on a variety of RISC and Intel CPU-based hardware. Many of these hardware competitors also offer SCO's system software products, either through direct OEM agreements or indirectly through the various distribution channels used by the Company. In addition, to the extent the Company's products penetrate the markets for larger and multiprocessor servers, SCO will increasingly face competition from IBM's AS/400, DEC's Alpha-based servers, and Sequent servers.

Competitive systems not based on Intel microprocessors are offered by DEC, Hewlett Packard, IBM, and Sun, among others. These systems are sold with operating system software which is based upon the UNIX System and offer many of the benefits of the Company's products. The Company also expects to receive increasing direct competition on the Intel platform from OEM versions of the UNIX System and from such hardware-independent operating systems as Microsoft Windows NT and Sunsoft's Solaris for Intel. The Company expects Microsoft Windows NT (server and workstation) to continue to offer significant and increasing competition to UNIX System products, including SCO products. Many of these competitors and potential competitors have significantly greater financial resources, more technical personnel and more extensive marketing and distribution capabilities than the Company. The major factors that affect the competitive market for the Company's products include product reliability, availability of user applications, compliance with industry standards, ease of use, networking capability, breadth of hardware compatibility, quality of support and customer services, product performance and price.

In addition, certain competitive products may have advantages compared to certain SCO products. Microsoft Windows NT has greater name recognition than the Company's products and is being designed to run on a greater range of processors. The Company's exclusive focus on operating systems may be a competitive disadvantage to

those competitors which offer a wider range of products. The Company may also be at a disadvantage relative to those competitors who have greater financial resources, larger technical staffs, and more extensive marketing and distribution capabilities. There can be no assurance that either existing or new competitors will not develop products that are superior to the Company's products for basic desktop and certain server applications for the UNIX System. If competition were to cause the Company to reduce its prices significantly, the Company's results of operations could be adversely affected. The Company's future success will depend in large part on the following conditions: the continued growth of the UNIX market for business and governmental organizations, the Company's ability to continue to license additional products and product enhancements to existing customers, and the ability to identify and market its products to new markets and customers. There can be no assurance that future competition will not have a material adverse effect on the Company's results of operations.

The Company's strategy is to offer products that conform to industry standards. Industry standards may be established by organizations composed of vendors, by government agencies, by academic institutions, or by market acceptance. Industry standards typically are based on specifications for which there can be competing implementations. Because standards are open (not proprietary), competitors can readily access the technology to include in their products, and SCO does not believe that offering products conforming to industry standards will provide SCO with a competitive advantage.

The Company's products are offered primarily for multi-user computer environments on Intel CPU-based computers. The market for MS-DOS and Windows on personal computers for personal productivity is substantially larger than the market for UNIX Systems on Intel CPU-based computers. Because the Company competes in a smaller market than the personal productivity market addressed by MS-DOS and Windows, the Company's potential for future growth will depend in part on the extent to which the UNIX market continues to grow. The existence of a number of different versions of UNIX operating systems may have adversely affected the growth of the UNIX market compared to alternative operating systems. However, the emergence of such technologies as the Internet, the World Wide Web, Java, network computers and the TCP/IP networking protocol as de facto industry standards has helped strengthen the position of UNIX system as an operating system that functions consistently across a broad range of hardware platforms and computing architectures such as HOST, Client/Server and now Internet Computing. In addition, SCO is working with The Open Group, a major international standards group, to support the implementation of standard application programming interfaces (APIs) that will support applications compatibility across different versions of UNIX system. To date, SCO and other major UNIX vendors have adopted varying schedules for compliance with these API specifications, and there can be no assurance this effort will be successful.

PROPRIETARY RIGHTS

The Company attempts to protect its software with a combination of copyright, trademark, and trade secret laws, employee and third-party nondisclosure agreements, license agreements, and other methods of protection. Despite these precautions, it may be possible for unauthorized third parties to copy certain portions of the Company's products or reverse engineer or obtain and use information the Company regards as proprietary. While the Company's competitive position may be affected by its ability to protect its intellectual property rights, the Company believes that trademark and copyright protections are less significant to the Company's success than other factors, such as the knowledge, ability, and experience of the Company's personnel, name recognition, and ongoing product development and support.

The Company's software products are generally licensed to end users on a "right-to-use" basis pursuant to a perpetual license. The Company licenses its products to end users primarily under "shrink-wrap" license (i.e., licenses included as part of the product packaging). Shrink-wrap licenses, which are not negotiated with or signed by individual end-user licensees, are intended to take effect upon opening of the product package. Certain provisions of such licenses, including provisions protecting against unauthorized use, copying, transfer, and disclosure of the licensed product, may be unenforceable under the laws of certain jurisdictions. In addition, the laws of some foreign countries do not protect the Company's intellectual property rights to the same extent as do the laws of the U.S.

As the number of software products in the industry increases and the functionality of these products further overlaps, the Company believes that software products will increasingly become subject to infringement claims. There can be no assurance that third parties will not assert infringement claims against the Company and/or against the Company's suppliers of technology. In general, the Company's suppliers have agreed to indemnify the Company in the event any such claim involves supplier-provided software or technology, but any such claim, whether or not involving a supplier, could require the Company to enter into royalty arrangements or result in costly litigation.

The Company depends on the availability of technology from third parties. Most of the software licensed by the Company is written to comply with industry standards and because the licensor is seeking to broaden its market it is made widely available on a non-exclusive basis by the licensor. As a result, this software is also readily available to competitors of the Company which want to incorporate such software into their products. SCO has several license agreements with Microsoft pursuant to which Microsoft has provided software technology to SCO, including XENIX. Microsoft has rights to terminate its licenses with SCO in the event of the acquisition of SCO by a competitor of Microsoft, which may affect any such acquisition. SCO believes that, if such an acquisition occurred and Microsoft canceled these licenses, SCO could obtain alternative technology from other sources and could incorporate such technology into SCO's products. However, the loss of any significant third-party license, including the Microsoft licenses, or the inability to license additional technology as required, could have a materially adverse effect on the Company's results of operations until such time as the Company could replace such technology.

EMPLOYEES

As of September 30, 1996, the Company had 1,188 employees, including 423 in product development, 524 in sales and marketing, 32 in customer support services, and 209 in finance, manufacturing and distribution services and administration.

The Company's success depends in part on its executive officers, none of whom are subject to long-term employment contracts. The loss of any current executive officer could adversely affect the Company's business. The success of the Company also depends in part on its ability to attract and retain qualified technical, managerial, and marketing personnel. Competition for such personnel is intense in the software industry and there can be no assurance that the Company will be successful in attracting and retaining such personnel.

ITEM 2. PROPERTIES

The Company is headquartered in Santa Cruz, California, where it leases administrative, sales and marketing, product development, manufacturing and distribution facilities. The Company leases additional facilities for administration, sales and marketing and product development in Mountain Heights Center, New Jersey and Watford, England. The leases for the Company's facilities expire at various dates through 2020. The Company has renewal options, at fair market value, under many of these leases and believes that in any event additional or alternative space adequate to serve the Company's foreseeable needs would be available on commercially reasonable terms.

The Company's field operations occupy leased facilities in 12 locations in the United States. In addition, the Company's subsidiaries and sales offices in France, Germany, Italy, Spain, Sweden, Denmark, Singapore, Australia, China and Mexico lease space for their operations. Worldwide, the Company leases property in 38 locations consisting of an aggregate of approximately 400,000 square feet. The Company believes that these facilities are adequate for its needs in the foreseeable future.

ITEM 3. LEGAL PROCEEDINGS

The Company currently has four lawsuits pending. In August 1993, a securities class action lawsuit was filed in Superior Court of San Francisco, California and is now pending in the Superior Court of Santa Clara County, California against the Company, one current employee, three former employees and the Company's underwriters. The lawsuit alleges violations of the Securities Act of 1993, pertaining to alleged misrepresentations and omissions in the Company's Registration Statement and Prospectus in connection with its initial public offering. In May 1994, the case was dismissed at the pleading stage. The plaintiffs filed a notice of appeal in June 1994. The appellate court reversed the decision of the lower court. Further appellate review was not granted by the U.S. Supreme Court and the case has been remanded to the Superior court for further proceedings and discovery. In February 1995, Micro-Quick Systems, Inc., a software dealer, commenced legal action against the Company in the Superior Court of San Bernadino County, California seeking to recover unspecified damages in excess of \$1million. Micro-Quick alleges the Company failed to deliver conforming product and failed to support said product. The Company filed a demurrer which was sustained by the court with leave to amend. An amended complaint was filed by the plaintiffs in June 1995 and a second demurrer was filed by the Company. In August 1995, the Court upheld Plaintiff's breach of contract claim, dismissing all other causes of action with leave to amend. An amended complaint was filed by the plaintiffs in September 1995 and a demurrer was filed by the Company in October 1995. The court overruled SCO's

demurrer with respect to the breach of express warranty, negligent misrepresentation and intentional misrepresentation. The court sustained the demurrer with leave to amend as to the remaining causes of action. Plaintiff failed to amend. In December 1995, an action was filed in the Superior Court of Santa Cruz County, California by a former employee against the Company alleging employment discrimination, wrongful termination and related claims. In September 1996, an action was filed in the Circuit Court of Cook County, Illinois by a former employee against the Company and one current employee alleging breach of contract regarding sales commission payments.

While the Company does not believe any of these lawsuits are meritorious or that they will either individually or in the aggregate have a material adverse impact on the Company's results of operations or financial condition, the resolution of the securities class action could result in a significant non-recurring charge that could adversely impact the Company's earnings per share in the fiscal quarter in which such resolution occurred.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

There were no matters submitted to a vote of security holders during the fourth fiscal quarter of 1996.

EXECUTIVE OFFICERS AND OFFICERS OF THE REGISTRANT

The executive officers and officers of the Company as of September 30, 1996 were as follows:

Name ----	Age ---	Position with the Company -----
EXECUTIVE OFFICERS:		
Alok Mohan	48	President, Chief Executive Officer and acting Chief Financial Officer
Douglas L. Michels	42	Executive Vice President, Chief Technical Officer
Edwin Adams	52	Senior Vice President and General Manager, The Americas
Ray Anderson	38	Senior Vice President, Client Integration Division
Scott McGregor	40	Senior Vice President, Products
Jack Moyer	47	Vice President, Human Resources
Steve Sabbath	49	Vice President, Law and Corporate Affairs and Secretary
Geoff Seabrook	48	Senior Vice President, EMEA
OFFICERS:		
Gary Horning	43	Vice President, Strategic Marketing
John Jarvis	52	Senior Vice President, International Planning and Business Development
Helene Mann-Bouchard	36	Vice President, Worldwide Customer Delivery Systems
David McCrabb	48	Vice President, Marketing and Channel Sales
Michael Tilson	44	Chief Information Officer
James Wilt	50	Vice President, Business Development

Mr. Mohan has served as President since December 1994 and as Chief Executive Officer since July 1995. In December 1994, he was elected as a director and assumed the position of President, Chief Operating Officer and Chief Financial Officer. Prior to this appointment, beginning in May 1994, Mr. Mohan served as Senior Vice President, Operations and Chief Financial Officer. Prior to joining the Company, Mr. Mohan was employed with NCR, where he served as Vice President and General Manager of the Workstation Products Division from January 1990 until July 1993 before assuming the position of Vice President of Strategic Planning and Controller, with responsibility for financial planning and analysis as well as worldwide reporting, from July 1993 to May 1994.

Mr. Michels has served as Chief Technical Officer since February 1993 and as a director of the Company since 1979. Mr. Michels has served as the Company's Executive Vice President since he co-founded the Company in 1979. Mr. Michels is one of the founders of Uniform, a UNIX user consortium, and served as its President from 1989 to 1990.

Mr. Adams was named Senior Vice President and General Manager, The Americas in December 1994, from May 1993 to December 1994, he served as the Company's as Vice President, The Americas, Field Operations. Mr. Adams served as Senior Vice President of Sales and Marketing for Telebit from June 1992 until May 1993. From October 1988 to June 1992, he served as Vice President of Marketing and Vice President of Sales for Oracle.

Mr. Anderson was named Senior Vice President and Managing Director, Client Integration Division in December 1994. Mr. Anderson was named Senior Vice President of SCO and Managing Director of IXI Limited when SCO acquired IXI Limited in February 1993. Mr. Anderson was a founder of IXI Limited and served as its Managing Director commencing in 1987.

Mr. McGregor was named as Senior Vice President, Products in February 1992. Between 1990 and 1992, he served as Vice President, Product Strategy and later served as Vice President and General Manager of the Products Business Unit. Prior to joining SCO, he was employed as Director of the Western Software Laboratory for Digital Equipment Corporation between 1985 and 1990.

Mr. Moyer was named Vice President, Human Resources in August 1995. Prior to joining the Company, Mr. Moyer served as Vice President, Human Resources for the following companies: Ore Ida Foods from 1992 to August 1995; Maspar Computer Corporation from November 1991 until November 1992; Businessland from January 1985 until November 1991. Mr. Moyer's senior human resources management experience also includes positions at National Micronetics, Inc. and National Semiconductor Corp.

Mr. Sabbath was named Vice President, Law and Corporate Affairs and Secretary in February 1993. Between 1991 and 1993, he served as Vice President, Legal Affairs. Prior to joining the Company, between February 1988 and January 1991, Mr. Sabbath was the Deputy General Counsel for Sun Microsystems, Inc., a manufacturer of UNIX system-based hardware and software.

Mr. Seabrook was named Senior Vice President, EMEA in January 1996. Since joining the Company in 1989, Mr. Seabrook has held a number of strategic positions. Prior to joining the Company, Mr. Seabrook served as Vice President International Operations at Century Data Inc.

Mr. Horning was named Vice President, Strategic Marketing in October 1995. Prior to joining the Company, Mr. Horning served as Vice President, Partnership Marketing for AT&T/GIS between June 1993 and October 1995 where he gained experience in product management, sales and strategic planning. From June 1989 until June 1993 he served as Assistant Vice President Product Line Management for AT&T/GIS (NCR).

Mr. Jarvis was named Senior Vice President, International Planning and Business Development in April 1996. Prior to this appointment, Mr. Jarvis served as Senior Vice President, Operations and Chief Financial Officer commencing in February 1995. He first joined SCO's subsidiary, The Santa Cruz Operation, Ltd., in April 1991. There he held the position of Vice President of Operations for the Company's European, Middle Eastern, and African regions. He was responsible for finance, manufacturing, information systems, and contract functions. In February 1993, Mr. Jarvis assumed the position of Vice President, Pacific Rim Field Operations, overseeing all sales and marketing support for the Company's business activities throughout Asia.

Ms. Mann-Bouchard joined the Company in 1984 and held various positions until December 1994 when she became Vice President, Worldwide Manufacturing Distribution and Information Services. In July 1995, Ms. Mann-Bouchard was named Vice President, Worldwide Customer Delivery Systems.

Mr. McCrabb was named Vice President, Marketing and Channel Sales in January 1995. Prior to joining the Company, Mr. McCrabb served as Vice President and General Manager for Applied Digital Data Systems, a wholly owned subsidiary of NCR, since February 1994. From November 1989 to February 1992, he served as Vice President, Sales and Marketing for Primary Access Corporation.

Mr. Tilson was named Chief Information Officer in July 1995. Previously, he served the Company as Senior Vice President, Services beginning in October 1991. From 1990 to 1991, he served as President, SCO Canada, Inc. Prior to joining SCO, he was President of HCR Corporation, a supplier of UNIX systems software and services. HCR was acquired by the Company in May 1990 and became SCO Canada, Inc.

Mr. Wilt has served as the Company's Vice President of Business Development since August 1991. Since joining the Company in 1983, Mr. Wilt has held a number of strategic positions both in the US and in Europe including that of Vice President, International. Mr. Wilt formerly held management positions in sales, marketing, and planning at Xerox, Honeywell and Amdahl.

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON STOCK AND RELATED STOCKHOLDER MATTERS

The following required information is filed as a part of the report:

The Company has not paid cash dividends on its common stock. The Company's common stock is traded over-the-counter and is quoted on the Nasdaq National Market under the symbol "SCOC". The following table sets forth the range of high and low closing sale prices for the Common Stock:

	Low Sale Price -----	High Sale Price -----
Fiscal 1995:		
First Quarter	8-3/8	11-1/2
Second Quarter	9-1/4	15
Third Quarter	7-1/2	14-5/16
Fourth Quarter	5-1/2	12-1/8
Fiscal 1996:		
First Quarter	5-5/8	8-3/8
Second Quarter	5-5/8	7-1/2
Third Quarter	6-5/8	8-7/8
Fourth Quarter	5-5/8	7-1/4

On September 30, 1996, there were approximately 9,200 holders of record of the Company's Common Stock.

ITEM 6. SELECTED FINANCIAL DATA

The information set forth on page 16 of the 1996 Annual Report to Shareholders is incorporated herein by reference.

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The information set forth on pages 17 through 21 of the 1996 Annual Report to Shareholders is incorporated herein by reference.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

The following financial statements and supplementary financial information for the Company and report of independent auditors set forth on pages 22 through 35 of the 1996 Annual Report to Shareholders are incorporated herein by reference.

- Consolidated Statements of Operations for each of the three years in the period ended September 30, 1996
- Consolidated Balance Sheets as of September 30, 1996 and 1995
- Consolidated Statements of Shareholders' Equity for each of the three years in the period ended September 30, 1996
- Consolidated Statements of Cash Flows for each of the three years in the period ended September 30, 1996
- Notes to Consolidated Financial Statements
- Report of Independent Accountants
- Quarterly Financial Information

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURES

None

PART III

ITEM 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT

Information with respect to Directors may be found under the caption "Election of Directors" of the Company's definitive Proxy Statement for the Annual Meeting of Shareholders to be held February 25, 1997 (the "Proxy Statement"). Such information is incorporated herein by reference. Information with respect to Executive Officers and Officers may be found on pages 14 through 16 hereof, under the caption "Executive Officers of the Registrant."

ITEM 11. EXECUTIVE COMPENSATION

The information set forth under the caption "Executive Compensation and Other Matters" of the Company's Proxy Statement is incorporated herein by reference.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The information set forth under the caption "Record Date and Principal Share Ownership" of the Company's Proxy Statement is incorporated herein by reference.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

The information set forth under the captions "Certain Transactions with Management" and "Compensation Committee Interlocks and Insider Participation" of the Company's Proxy Statement is incorporated herein by reference.

PART IV

ITEM 14. EXHIBITS, FINANCIAL STATEMENT SCHEDULES AND REPORTS ON FORM 8-K

(a) Documents filed as part of Form 10-K

1. Financial Statements

The financial statements of the Company as set forth under Item 8 of this report on Form 10-K are incorporated herein by reference.

2. Financial Statement Schedules

Schedule Number -----	Description -----	Page Number -----
II	Valuation and Qualifying Accounts	22

The independent auditors' report with respect to the above-listed financial statement schedules appears on page 21 of this report on Form 10-K. Financial statement schedules other than those listed above have been omitted since they are either not required, not applicable, or the information is shown in the financial statements or notes thereto.

3. Exhibit Listing

Exhibit Number -----	Description -----
2.0	Asset Purchase Agreement By and Between The Santa Cruz Operation, Inc. and Novell, Inc. (4)
3.1	Restated Articles of Incorporation of Registrant. (2)
3.2	Bylaws of Registrant, as amended. (5)
4.1	Specimen Common Stock Certificate of Registrant. (1)
10.1	Packaged Goods Product Agreement (contract #1292-8196) with Microsoft Corporation effective April 1, 1988 and amended December 19, 1989 and May 3, 1991. (1)
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10.12	Lease with Encinal Partnership No. 1 commencing May 1, 1991 (100 Pioneer Street). (1)
10.13	Lease with Encinal Partnership No. 1 commencing January 1, 1989 (425 Encinal Street). (1)
10.14	Lease with Wave Crest Development, Inc. commencing August 1, 1987 (440 Encinal Street). (1)
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10.18	Master Registration Rights Agreement as amended. (1)
10.19	1993 Stock Purchase Plan and Form of Stock Purchase Agreement. (3)
10.20	1994 Incentive Stock Option Plan and form of Incentive Stock Option Agreement. (3)
10.21	401(k) Plan, as amended. (1)
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10.24	1993 Director Stock Option Plan. (1)
10.25	Proxies granted to Mr. Lawrence Michels by Lee Richard Kaplan, Barbara Michels, David Michels, Dia Michels, Geri Snyder, Robert Spector, Hugh Spector, Franklin Spector and Shereen Spector on April 8, 1985. (1)
10.26	Proxy granted to Douglas Michels on April 18, 1985. (1)
10.28	Proxy granted to Lawrence Michels by Jordan Michels. (1)
10.32	Form of Letter Agreement with Lars H. Turndal. (1)
10.33	Lease with Pinn Brothers Properties commencing May 19, 1992 (320, 324 and 300 Encinal). (1)
11.1	Statement regarding computation of net profit (loss) per share.
13	Annual Report to Shareholders.
21.1	Subsidiaries of Registrant.
23.1	Consent of Independent Auditors.
27.1	Financial Data Schedule.

- (1) Incorporated by reference to Registration Statement 33-60548 on Form S-1.
- (2) Incorporated by reference to the Form 10-K filed on December 24, 1993.
- (3) Incorporated by reference to the Form 10-K filed on December 23, 1994.
- (4) Incorporated by reference to the Form 8-K filed on December 20, 1995.
- (5) Incorporated by reference to the Form 10-K filed on December 22, 1995.

(b) Reports on Form 8-K.

No reports on Form 8-K were filed during the last quarter of fiscal 1996.

INDEPENDENT AUDITORS' REPORT

The Board of Directors and Shareholders of The Santa Cruz Operation, Inc.:

Under date of October 25, 1996, we reported on the consolidated balance sheets of The Santa Cruz Operation, Inc. and subsidiaries as of September 30, 1996 and 1995, and the related consolidated statements of operations, shareholders' equity, and cash flows for each of the years in the three-year period ended September 30, 1996, as contained in the 1996 annual report to stockholders. These consolidated financial statements and our report thereon are incorporated by reference in the annual report on Form 10-K for the year 1996. In connection with our audits of the aforementioned consolidated financial statements, we also have audited the related financial statement schedule as listed in the accompanying index. This financial statement schedule is the responsibility of the Company's management. Our responsibility is to express an opinion on this financial statement schedule based on our audits.

In our opinion, such financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

/s/ KPMG Peat Marwick, LLP

KPMG Peat Marwick, LLP

San Jose, California
October 25, 1996

THE SANTA CRUZ OPERATION, INC.
SCHEDULE II/RULE 5-04
VALUATION AND QUALIFYING ACCOUNTS

YEARS ENDED SEPTEMBER 30, 1996, 1995 AND 1994
(In thousands)

DESCRIPTION	BALANCE AT BEGINNING OF PERIOD	CHARGED TO REVENUES OR EXPENSES	DEDUCTIONS	OTHER (1)	BALANCE AT END OF PERIOD
	-----	-----	-----	-----	-----
Year Ended September 30, 1996					
Allowance for returns	\$11,110	\$24,643	\$26,508	--	\$ 9,245
Allowance for doubtful accounts	2,285	635	1,035	--	1,885
	-----	-----	-----	-----	-----
Total allowance	\$13,395	\$25,278	\$27,543	--	\$11,130
	=====	=====	=====	=====	=====
Year Ended September 30, 1995					
Allowance for returns	\$ 4,904	\$27,015	\$20,853	\$ 44	\$11,110
Allowance for doubtful accounts	1,924	701	493	153	2,285
	-----	-----	-----	-----	-----
Total allowance	\$ 6,828	\$27,716	\$21,346	\$ 197	\$13,395
	=====	=====	=====	=====	=====
Year Ended September 30, 1994					
Allowance for returns	\$ 2,991	\$13,194	\$11,281	--	\$ 4,904
Allowance for doubtful accounts	1,366	721	163	--	1,924
	-----	-----	-----	-----	-----
Total allowance	\$ 4,357	\$13,915	\$11,444	--	\$ 6,828
	=====	=====	=====	=====	=====

(1) Adjustment for purchase of Visionware Limited

SIGNATURES

Pursuant to the requirements of Section 13 or 15 (d) of the Securities Exchange Act of 1934, the registrant has duly caused this Annual Report to be signed on its behalf by the undersigned, thereunto duly authorized.

THE SANTA CRUZ OPERATION, INC.

By: /s/ Alok Mohan

Alok Mohan
President, Chief Executive Officer
and Acting Chief Financial Officer
Date: December 23, 1996

By: /s/ Steven M. Sabbath

Steven M. Sabbath
Vice President,
Law and Corporate Affairs & Secretary
Date: December 23, 1996

KNOW ALL PERSONS BY THEIR PRESENCE, that each person whose signature appears below constitutes and appoints Steven M. Sabbath, his attorney-in-fact, with the power of substitution, for him in any and all capacities, to sign any amendments to this report on Form 10-K and to file the same, with exhibits thereto other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that said attorney-in-fact, or his substitute or substitutes, may do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated:

/s/ Alok Mohan

Alok Mohan
President, Chief Executive Officer and Director
and Acting Chief Financial Officer
Date: December 23, 1996

/s/ Douglas L. Michels

Douglas L. Michels
Executive Vice President, Chief Technical
Officer and Director
Date: December 23, 1996

/s/ Robert M. McClure

Robert M. McClure
Director
Date: December 23, 1996

/s/ Enzo Torresi

Enzo Torresi
Director
Date: December 23, 1996

/s/ Gilbert P. Williamson

Gilbert P. Williamson
Director
Date: December 23, 1996

/s/ Ronald Lachman

Ronald Lachman
Director
Date: December 23, 1996

/s/ Jean-Francois Heitz

Jean-Francois Heitz
Director
Date: December 23, 1996

/s/ Ninian Eadie

Ninian Eadie
Director
Date: December 23, 1996

/s/ R. Duff Thompson

R. Duff Thompson
Director
Date: December 23, 1996

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Printed for: Edmund L. Dawson

Company: TARANTELLA INC

Form Type: 10-K405 SEC File #: 000-21484

Document Type: EX-13

Description: ANNUAL REPORT TO SHAREHOLDERS

Received Date: 12/23/96

Received Time: 19:11:45

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<http://www.gsionline.com>

SELECTED FIVE YEAR FINANCIAL INFORMATION

(In thousands, except per share data)	Fiscal Year Ended September 30,				
	1996	1995	1994	1993	1992
Net revenues	\$207,890	\$199,329	\$184,068	\$178,243	\$163,720
Cost of revenues	51,904	53,479	51,953	52,292	61,300
Gross margin	155,986	145,850	132,115	125,951	102,420
Operating expenses	179,567	152,342	113,490	108,559	91,042
Operating earnings (loss)	(23,581)	(6,492)	18,625	17,392	11,378
Other income (expense):					
Interest income (expense), net	2,302	2,703	1,829	381	(1,015)
Other expense, net	(394)	(363)	(561)	(427)	(1,169)
Profit (loss) before income taxes	(21,673)	(4,152)	19,893	17,346	9,194
Income taxes	741	1,956	5,647	3,500	677
Net profit (loss)	\$ (22,414)	\$ (6,108)	\$ 14,246	\$ 13,846	\$ 8,517
Net profit (loss) per share	\$ (0.62)	\$ (0.20)	\$ 0.45	\$ 0.47	\$ 0.32
Weighted average shares outstanding	36,179	30,922	31,941	29,527	26,307

(In thousands)	September 30,				
	1996	1995	1994	1993	1992
Working capital	\$ 61,935	\$ 60,539	\$ 77,291	\$ 60,072	\$ 6,100
Total assets	166,807	131,870	138,574	111,276	60,009
Long-term obligations	9,332	7,521	1,084	1,898	2,073
Shareholders' equity	101,581	82,182	89,644	70,531	16,899

MANAGEMENT'S DISCUSSION AND ANALYSIS OF
FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Overview

SCO's mission is to be the leading supplier of UNIX System software for business-critical environments. SCO is the world's leading supplier of UNIX server and host systems, with a worldwide market share of over 37%, and a worldwide market share of over 78% of UNIX Systems on the Intel platform (source: IDC, 6/96). SCO sells and supports its products through a worldwide network of distributors, resellers, system integrators and OEMs.

SCO is committed to bringing The Internet Way of Computing to business-critical environments, because it can dramatically lower the total cost of computing and is ideal for supporting heterogeneous systems and networks. The Internet Way of Computing was built on UNIX System Technologies, and as the leading provider of UNIX servers, SCO will continue to enhance its product line to support the new generation of network computers and Java based business-critical applications.

In addition to historical information contained herein, this Discussion and Analysis may contain forward-looking statements that involve risks and uncertainties. The Company's actual results could differ materially. Readers are cautioned not to place undue reliance on these forward-looking statements, which reflect management's analysis only as of the date hereof. The Company undertakes no obligation to publicly release the results of any revision to these forward-looking statements, which may be made to reflect events or circumstances after the date hereof or to reflect the occurrence of unanticipated events.

Results of Operations

NET REVENUES

(in thousands)	1996	Change	1995	Change	1994
Net revenues	\$207,890	4%	\$199,329	8%	\$184,068

The Company's net revenues are derived from two primary sources, software licenses and fees for services which include engineering services, consulting, custom engineering, support and training.

Net revenues were \$207.9 million in fiscal 1996 as compared to \$199.3 million in fiscal 1995 and \$184.1 million in fiscal 1994, representing increases of 4% and 8% from fiscal 1995 to fiscal 1996 and from fiscal 1994 to fiscal 1995, respectively. Beginning in fiscal 1996, net revenues included revenues derived from UnixWare packaged product shipments and SVRX source license revenue related to the acquisition of the UNIX business from Novell, Inc. which occurred in December of 1995. Beginning in fiscal 1995, net revenues included revenues from Visionware Limited (Visionware) which was acquired in December of 1994 and complemented the Company's existing client integration product offerings. Revenue is net of a provision for estimated future returns for stock balancing and excess quantities above levels the Company deems appropriate in its distribution channel partners.

LICENSE REVENUES License revenues were \$189.0 million in fiscal 1996 as compared to \$177.5 million in fiscal 1995 and \$163.7 million in fiscal 1994, representing increases of 6% in fiscal 1996 over 1995 and 8% in fiscal 1995 over 1994. License revenues were approximately 91% of total net revenues for fiscal 1996 and 89% of total net revenues for both fiscal 1995 and 1994. The fiscal 1995 to 1996 license revenue increase was primarily attributable to unit volume increases (as opposed to price increases) of the Company's operating systems and layered products. The fiscal 1994 to 1995 license revenue increase was primarily attributable to unit volume increases of Visionware(R) products complementing the Company's client integration product offerings and, to a lesser extent, increased unit volume of operating systems. For the fiscal years ended September 30, 1996, 1995 and 1994, no single customer accounted for greater than 10% of the Company's license revenues.

SERVICE REVENUES Revenues from services were \$18.9 million in fiscal 1996 as compared to \$21.8 million in fiscal 1995 and \$20.3 million in fiscal 1994, and represented a decrease of 13% in fiscal 1996 over fiscal 1995 and an increase of 7% in fiscal 1995 over 1994. The decrease in service revenues in fiscal 1996 was primarily attributable to the Company's decision to transition responsibility for the support and training of its product offerings to its channel partners in the first half of fiscal 1996. As a result, support and training revenues recognized by the Company decreased in 1996. The increase in service revenues in fiscal 1995 was primarily attributable to increases in custom engineering revenues and an increase in support services related to the Company's installed base of products as well as the growth of this installed base.

MANAGEMENT'S DISCUSSION AND ANALYSIS (Continued)

COST OF REVENUES

(In thousands)	1996	Change	1995	Change	1994
Cost of revenues	\$51,904	(3)%	\$53,479	3%	\$51,953
Percentage of net revenues	25%		27%		28%

COST OF REVENUES The Company's overall cost of revenues as a percentage of net revenues can be affected by mix changes in net revenue contribution between licenses and services, mix changes in net revenue contribution between product families, mix changes in net revenue contribution between geographic regions and mix changes in net revenue contribution between channels of distribution, since both price and cost characteristics associated with these revenue streams can vary greatly. The Company can also experience fluctuations in cost of revenues as a percentage of revenues as net revenues increase or decrease since certain costs of revenues including technology, service, product assembly and distribution act as fixed costs within certain volume ranges.

COST OF LICENSE REVENUES Cost of license revenues include royalties paid to certain software vendors, product packaging, documentation and all costs associated with the acquisition of components, assembling of finished products, warehousing and shipping. Cost of license revenues as a percentage of license revenues decreased to 18% for fiscal 1996 from 19% in fiscal 1995 and 20% in fiscal 1994. Reduced third party royalty payments associated with the purchase of the UNIX business from Novell and the purchase of TCP/IP networking technology (both of which occurred in the first half of fiscal 1996) were primary factors in the reduced license costs in fiscal 1996. The balance of this improvement, both in fiscal 1996 and fiscal 1995, resulted from improved manufacturing overhead expense controls and a product mix shift from packaged products to licensed products, which do not include the costs associated with packaging, documentation and assembly.

COST OF SERVICE REVENUES Cost of service revenues include documentation, consulting, personnel related costs, including travel and lodging, associated with providing such services. Cost of service revenues as a percentage of service revenues increased to 94% in fiscal 1996 as compared to 91% in both fiscal 1995 and 1994. The fiscal 1996 increase in cost of services as a percentage of service revenues resulted primarily from incremental support costs for product offerings associated with the acquisition of the UNIX business from Novell.

RESEARCH AND DEVELOPMENT

(in thousands)	1996	Change	1995	Change	1994
Research and development	\$39,009	21%	\$32,208	15%	\$28,046
Percentage of net revenues	19%		16%		15%

The Company invests in research and development both for new products and to provide continuing enhancements to current products. Research and development expenses increased by 21% to \$39.0 million in fiscal 1996 from \$32.2 million in fiscal 1995. In fiscal 1995, research and development expenses increased 15% from the fiscal 1994 total expenditures of \$28.0 million.

Research and development expenses represented 19%, 16% and 15% of total net revenues in fiscal 1996, 1995 and 1994, respectively. The fiscal 1995 to 1996 increase in research and development spending was primarily attributable to increased personnel and facility costs associated with the acquisition of the UNIX business acquired from Novell. In addition, increased spending levels associated with the development and release of layered products (including SCO Doctor, SCO ARCserve/Open from Cheyenne and SCO Internet Family) also contributed to the fiscal 1996 increased product development spending. The fiscal 1994 to fiscal 1995 increase in research and development spending was primarily attributable to increased investment in new product releases including SCO OpenServer Release 5 and SCO XVision Version 6, increased spending to support the client integration products and localization efforts for the Company's current products.

To date, the Company has expensed all of its software development costs, as incurred, in compliance with Statement of Financial Accounting Standards No. 86, "Accounting for the Costs of Software to be Sold, Leased or Otherwise Marketed."

SALES AND MARKETING

(in thousands)	1996	Change	1995	Change	1994
Sales and marketing	\$79,359	(4)%	\$82,493	23%	\$66,855
Percentage of net revenues	38%		41%		36%

Sales and marketing expenses decreased by 4% to \$79.4 million in fiscal 1996 from \$82.5 million in fiscal 1995 and increased by 23% in fiscal 1995 from fiscal 1994 expenses of \$66.9 million. Sales and marketing expenses represented

MANAGEMENT'S DISCUSSION AND ANALYSIS (Continued)

38%, 41% and 36% of total net revenues in fiscal 1996, 1995 and 1994, respectively. The fiscal 1995 to fiscal 1996 decrease was primarily attributable to decreased project spending in both corporate and channel marketing as well as decreased sales personnel related costs in the United States and Europe. These decreases were partially offset by increased cooperative advertising expenses and by increased spending levels in Japan in order to support new products associated with the acquisition of the UNIX business from Novell. The fiscal 1994 to fiscal 1995 increase was primarily attributable to increased sales and marketing spending in support of the client integration product offerings and incremental marketing spending in support of the Company's release of OpenServer Release 5.

GENERAL AND ADMINISTRATIVE

(in thousands)	1996	Change	1995	Change	1994
General and administrative	\$22,836	17%	\$19,547	5%	\$18,589
Percentage of net revenues	11%		10%		10%

General and administrative expenses increased by 17% to \$22.8 million in fiscal 1996 from \$19.5 million in fiscal 1995 and by 5% in fiscal 1995 from \$18.6 million in fiscal 1994. General and administrative expenses represented 11% of total net revenues for fiscal 1996 and 10% for both fiscal 1995 and 1994. The increased spending in fiscal 1996 was primarily attributable to intangible assets amortization and personnel related costs associated with the purchase and assimilation of the UNIX business from Novell. See Note 13 of Notes to Consolidated Financial Statements. The spending increase in fiscal 1995 compared to fiscal 1994 was primarily attributable to increased personnel related costs to support the client integration product offerings and intangible assets amortization associated with the purchase of Visionware. See Note 13 of Notes to Consolidated Financial Statements.

NON-RECURRING CHARGES

(in thousands)	1996	Change	1995	Change	1994
Non-recurring charges	\$38,363	112%	\$18,094	-	-
Percentage of net revenues	18%		9%		-

Non-recurring charges were \$38.4 million representing 18% of total revenues in fiscal 1996. The charges, which primarily related to UnixWare products which had not yet reached technological feasibility, were incurred in the first fiscal quarter of 1996. Non-recurring charges of \$14.1 million, which primarily related to Visionware products which had not yet reached technological feasibility, were incurred in the first fiscal quarter of 1995. Additional non-recurring costs of \$4.0 million were incurred in the fourth fiscal quarter of 1995 related to severance and other personnel costs associated with the Company's restructuring of certain segments of its business operations. This restructuring resulted in a worldwide workforce reduction of approximately 8%.

OTHER INCOME (EXPENSE)

(In thousands)	1996	Change	1995	Change	1994
Interest income, net	\$2,302		\$2,703		\$ 1,829
Other expense, net	(394)		(363)		(561)
Total other income	\$1,908	(18)%	\$2,340	85%	\$1,268
Percentage of net revenues	1%		1%		1%

Other income and expense consists of interest income net of interest expense, foreign exchange gains and losses and other miscellaneous items. Net interest income was \$2.3 million, \$2.7 million and \$1.8 million for fiscal 1996, 1995 and 1994, respectively. The net interest income decrease in fiscal 1996 was primarily attributable to a decrease in the weighted average interest bearing balances maintained throughout the year. The net interest income increase in fiscal 1995 was primarily attributable to an increase in the weighted average interest bearing balances maintained throughout the year. Other expense was \$.4 million for fiscal 1996 and 1995, and \$.6 million for fiscal 1994. The fluctuation from period to period resulted primarily from intercompany transactions settled with the Company's U.K. subsidiary resulting in recognition of foreign exchange gains and losses.

INCOME TAXES

(in thousands)	1996	Change	1995	Change	1994
Income taxes	\$741	(62)%	\$1,956	(65)%	\$5,647
Percentage of net revenues			1%		3%
Effective income tax rate	(3)%		(47)%		28%

MANAGEMENT'S DISCUSSION AND ANALYSIS (Continued)

In fiscal 1996, 1995 and 1994, the Company's effective income tax rates were (3)%, (47)% and 28%, respectively. The fiscal 1996 rate reflects non-deductible, non-recurring charges related to the acquisition of the UNIX business and a change in the valuation allowance for deferred tax assets. The fiscal 1995 rate reflects non-deductible, non-recurring charges related to the acquisition of Visionware, while the fiscal 1994 effective income tax rate includes the change in the valuation allowance for deferred tax assets. For an analysis of income taxes, see Note 12 of Notes to Consolidated Financial Statements.

NET PROFIT (LOSS)

(in thousands)	1996	Change	1995	Change	1994
Net profit (loss)	\$ (22,414)	(267)%	\$ (6,108)	(143)%	\$ 14,246
Percentage of net revenues	(11)%		(3)%		8%

The Company reported a net loss of \$22.4 million and \$6.1 million in fiscal 1996 and 1995, respectively, and a net profit of \$14.2 million or 8% of total net revenues in fiscal 1994. The fiscal 1996 and fiscal 1995 net losses were primarily attributable to absolute increases in operating expenses and non-recurring charges which more than offset the increased gross margin levels as compared to fiscal 1994.

Factors That May Affect Future Results

The Company's future operating results may be affected by various uncertain trends and factors which are beyond the Company's control. These include adverse changes in general economic conditions and rapid or unexpected changes in the technologies affecting UNIX operating systems. The industry has become increasingly competitive and, accordingly, the Company's results may also be adversely affected by the actions of existing or future competitors, including the development of new technologies, the introduction of new products, and the reduction of prices by such competitors to gain or retain market share. The Company's results of operations could be adversely affected if it were required to lower its prices significantly.

The Company participates in a highly dynamic industry and future results could be subject to significant volatility, particularly on a quarterly basis. The Company's revenues and operating results may be unpredictable due to the Company's shipment patterns. The Company operates with little backlog of orders because its products are generally shipped as orders are received. In general, a substantial portion of the Company's revenues has been booked and shipped in the third month of the quarter, with a concentration of these revenues in the latter half of that third month. In addition, the timing of closing of large license contracts and the release of new products and product upgrades increase the risk of quarter to quarter fluctuations and the uncertainty of quarterly operating results. The Company's staffing and operating expense levels are based on an operating plan and are relatively fixed throughout the quarter. As a result, if revenues are not realized in the quarter as expected, the Company's expected operating results could be adversely affected, and such effect could be substantial and could result in an operating loss.

A substantial portion of the Company's revenues are derived from outside the United States. Trade sales to international customers represented 53%, 60% and 56% of total revenues for fiscal 1996, 1995 and 1994, respectively. A substantial portion of these international revenues are denominated in the U.K. pound sterling, and operating results can vary with changes in the U.S. dollar exchange rate for such currency. The Company's revenues can also be affected by general economic conditions in the United States, Europe and other international markets.

The Company experiences seasonality of revenues for both European and the U.S. federal government markets. European revenues during the quarter ending June 30 are historically lower or relatively flat compared to the prior quarter. This reflects a reduction of customer purchases in anticipation of reduced selling activity during the summer months. Sales to the U.S. federal government generally increase during the quarter ending September 30. This seasonal increase is primarily attributable to increased purchasing activity by the U.S. federal government prior to the close of its fiscal budget year. Additionally, net revenues for the first quarter of the fiscal year are typically lower than net revenues of the prior quarter.

The Company's results of operations could be adversely affected if it were to lower its prices significantly. In the event the Company reduced its prices, the Company's standard terms for selected distributors provide credit for inventory ordered in the previous 60 days, such credits to be applied against future purchases. Distributors may not return products for a refund.

MANAGEMENT'S DISCUSSION AND ANALYSIS (Continued)

The Company's effective tax rate is subject to change based on the Company's ability to realize deferred tax assets and as new tax legislation is enacted.

The Company continually evaluates potential candidates for acquisition. Such candidates are selected based on products or markets which are complementary to those of the Company's. The Company's operations and financial results could be significantly affected by such an acquisition.

The Company's operations and financial results could be significantly affected by international factors such as changes in foreign currency exchange rates. The Company's operating strategy and pricing take into account changes in exchange rates over time. However, the Company's results of operations may be significantly affected in the short term by fluctuations in foreign currency exchange rates.

The Company's policy is to amortize purchased software and technology licenses using the straight-line method over the remaining estimated economic life of the product including the period being reported on. Due to competitive pressures, it is possible that those estimates of anticipated future gross revenues, the remaining estimated economic life of the product, or both will be reduced significantly in the near future. As a result, the carrying amount of the Company's purchased software and technology licenses may be reduced materially in the near future and, therefore, could create an adverse impact on the Company's future reported earnings.

Liquidity and Capital Resources

The Company has financed its operations through combinations of net proceeds from the Company's initial public offering, bank borrowings, equipment lease lines and cash flow generated from operations. As of September 30, 1996, the Company's principal sources of liquidity included cash and short-term investments of \$54.8 million and an available \$15 million bank line of credit under which the Company had no outstanding borrowings. The Company does not believe it will require borrowing capacity greater than the amount available under this line of credit for at least the next twelve months. See Notes 2, 3 and 7 of Notes to Consolidated Financial Statements.

Working capital has been used to acquire capital equipment, products and technology, and to make facilities improvements. The Company's operating activities provided cash of \$27.6 million for fiscal 1996, \$3.3 million in fiscal 1995 and \$27.9 million in fiscal 1994. Cash provided by (used for) investing activity during fiscal 1996, 1995 and 1994 was \$(21.4) million, \$6.4 million and \$(58.5) million, respectively. In fiscal 1996, cash provided by operations was used to fund purchases of technology, property and equipment, and short-term investments. In fiscal 1995, proceeds from short-term investments were used to fund the purchase of Visionware, as well as the purchase of property and equipment. In fiscal 1994, proceeds from the Company's 1993 initial public offering and cash provided by operating activities funded short-term investments and the purchase of property and equipment. Cash provided by (used for) financing activities was \$(5.9) million, \$(5.6) million and \$.7 million for fiscal 1996, 1995 and 1994, respectively. In fiscal 1996 and fiscal 1995, proceeds from the sale of Common Stock were more than offset by the Company's stock repurchases and payments on capital lease obligations. In fiscal 1994, proceeds from the sale of Common Stock exceeded payments on capital lease obligations and its bank line of credit.

The Company believes that its existing cash and cash equivalents, short-term investments, funds generated from operations and available borrowing capabilities will be sufficient to meet its operating requirements through at least fiscal 1997.

CONSOLIDATED STATEMENTS OF OPERATIONS

(In thousands, except per share data)	Year Ended September 30,		
	1996	1995	1994
Net revenues:			
Licenses	\$ 189,032	\$ 177,534	\$ 163,744
Services	18,858	21,795	20,324
Net revenues	207,890	199,329	184,068
Cost of revenues:			
Licenses	34,135	33,688	33,542
Services	17,769	19,791	18,411
Total cost of revenues	51,904	53,479	51,953
Gross margin	155,986	145,850	132,115
Operating expenses:			
Research and development	39,009	32,208	28,046
Sales and marketing	79,359	82,493	66,855
General and administrative	22,836	19,547	18,589
Non-recurring charges	38,363	18,094	-
Total operating expenses	179,567	152,342	113,490
Operating earnings (loss)	(23,581)	(6,492)	18,625
Other income (expense):			
Interest income, net	2,302	2,703	1,829
Other expense, net	(394)	(363)	(561)
Profit (loss) before income taxes	(21,673)	(4,152)	19,893
Income taxes	741	1,956	5,647
Net profit (loss)	\$ (22,414)	\$ (6,108)	\$ 14,246
Net profit (loss) per share	\$ (0.62)	\$ (0.20)	\$ 0.45
Common and common equivalents used in computing net profit (loss) per share	36,179	30,922	31,941

See accompanying notes to consolidated financial statements.

CONSOLIDATED BALANCE SHEETS

(In thousands, except for share data)	September 30,	
	1996	1995
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 32,065	\$ 32,074
Short-term investments	22,766	14,816
Receivables, net	47,176	45,009
Deferred tax assets	6,152	3,896
Other current assets	9,670	6,911
Total current assets	117,829	102,706
Property and equipment, net	15,546	14,991
Purchased software and technology licenses	19,908	5,640
Other assets	13,524	8,533
Total assets	\$ 166,807	\$ 131,870
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities:		
Royalties payable	\$ 10,644	\$ 6,852
Trade accounts payable	12,755	10,207
Income taxes payable	3,369	31
Accrued expenses and other current liabilities	22,288	18,991
Deferred revenues	6,838	6,086
Total current liabilities	55,894	42,167
Other long-term liabilities	9,332	7,521
Shareholders' equity:		
Common stock, net of notes receivable, authorized 100,000,000 shares		
Issued and outstanding 37,105,892 and 30,844,003 shares	125,172	83,146
Cumulative translation adjustment	(297)	(84)
Accumulated deficit	(23,294)	(880)
Total shareholders' equity	101,581	82,182
Total liabilities and shareholders' equity	\$ 166,807	\$ 131,870

See accompanying notes to consolidated financial statements.

CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY

(In thousands)	Common Stock		Cumulative Translation Adjustment	Retained Earnings (Deficit)	Total Shareholders' Equity
	Shares	Amount			
BALANCES, SEPTEMBER 30, 1993	29,457	\$ 81,388	\$ (1,839)	\$ (9,018)	\$ 70,531
Issuance under stock option and purchase plans	1,129	2,876	-	-	2,876
Stock option income tax benefit	-	500	-	-	500
Translation adjustment	-	-	1,491	-	1,491
Net profit	-	-	-	14,246	14,246
BALANCES, SEPTEMBER 30, 1994	30,586	\$ 84,764	\$ (348)	\$ 5,228	\$ 89,644
Issuance under stock option and purchase plans	904	3,263	-	-	3,263
Common stock repurchases	(760)	(7,489)	-	-	(7,489)
Visionware purchase	114	1,075	-	-	1,075
Stock option income tax benefit	-	1,533	-	-	1,533
Translation adjustment	-	-	264	-	264
Net loss	-	-	-	(6,108)	(6,108)
BALANCES, SEPTEMBER 30, 1995	30,844	\$ 83,146	\$ (84)	\$ (880)	\$ 82,182
Issuance under stock option and purchase plans	823	2,734	-	-	2,734
Common stock repurchases	(689)	(4,744)	-	-	(4,744)
UNIX business purchase	6,128	43,773	-	-	43,773
Stock option income tax benefit	-	263	-	-	263
Translation adjustment	-	-	(213)	-	(213)
Net loss	-	-	-	(22,414)	(22,414)
BALANCES, SEPTEMBER 30, 1996	37,106	\$ 125,172	\$ (297)	\$ (23,294)	\$ 101,581

See accompanying notes to consolidated financial statements.

CONSOLIDATED STATEMENTS OF CASH FLOWS

(in thousands)	Year Ended September 30,		
	1996	1995	1994
CASH FLOWS FROM OPERATING ACTIVITIES:			
Net profit (loss)	\$ (22,414)	\$ (6,108)	\$ 14,246
Adjustments to reconcile net profit (loss) to net cash provided by operating activities -			
Depreciation and amortization	16,151	10,369	6,485
Fixed assets received in lieu of payment	-	(467)	(145)
Charge for purchased research and development	38,363	11,177	-
Changes in operating assets and liabilities, net of acquisitions -			
Receivables	(2,167)	(5,176)	(522)
Deferred tax assets	(1,842)	(4,673)	(1,650)
Other current assets	(336)	(226)	(795)
Royalties payable	5,002	(543)	976
Trade accounts payable	2,548	176	543
Income taxes payable	423	(4,350)	5,241
Accrued expenses and other current liabilities	(7,333)	1,318	1,969
Deferred revenue	(1,673)	(272)	839
Other long-term liabilities	588	575	233
Stock option income tax benefit	263	1,533	500
Net cash provided by operating activities	27,573	3,333	27,920
CASH FLOWS FROM INVESTING ACTIVITIES:			
Purchases of property and equipment	(4,874)	(9,940)	(4,998)
Purchases of software and technology licenses	(5,953)	(4,868)	(584)
Proceeds from short-term investments	15,514	57,647	89,300
Purchases of short-term investments	(23,464)	(20,851)	(140,913)
Purchase of Visionware	-	(13,675)	-
Changes in other assets	(2,658)	(1,960)	(1,314)
Net cash provided by (used for) investing activities	(21,435)	6,353	(58,609)
CASH FLOWS FROM FINANCING ACTIVITIES:			
Payments on capital leases, notes payable, and line of credit obligations	(3,924)	(1,353)	(2,141)
Net proceeds from sale of common stock	2,742	3,263	2,876
Repurchases of common stock	(4,752)	(7,489)	-
Net cash provided by (used for) financing activities	(5,934)	(5,579)	735
Effects of exchange rate changes on cash and cash equivalents	(213)	264	1,491
Change in cash and cash equivalents	(9)	4,371	(28,363)
Cash and cash equivalents at beginning of year	32,074	27,703	56,066
Cash and cash equivalents at end of year	\$ 32,065	\$ 32,074	\$ 27,703
SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION			
Cash paid during the period:			
Income tax payments	\$ 1,955	\$ 8,545	\$ 1,200
Interest payments	147	254	452
Non-cash transactions:			
Capital lease agreement	\$ 2,676	\$ 29	\$ 525
Networking technology buyout	8,205	-	-
Purchase of UNIX business	43,773	-	-

See accompanying notes to consolidated financial statements.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Note 1 - Summary Of Significant Accounting Policies

THE COMPANY SCO is a leading provider of UNIX system-based, open system software and has the largest installed base of such software for Intel processor-based computer systems. The Company's range of products enables business and government organizations of all sizes to integrate technologies and products from different vendors to create cost-effective, powerful networked information systems that perform highly complex, mission-critical business functions. SCO has built an experienced value-added distribution and development infrastructure to address and support the business needs of organizations implementing these solutions.

PRINCIPLES OF CONSOLIDATION The consolidated financial statements include the Company and its wholly and majority-owned subsidiaries. All significant intercompany transactions and balances have been eliminated. Investments in companies less than 20% owned are carried at cost.

USE OF ESTIMATES The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

RECLASSIFICATIONS Certain reclassifications have been made for consistent presentation.

CASH EQUIVALENTS AND INVESTMENTS The Company considers all highly liquid investments purchased with an original maturity of 90 days or less to be cash equivalents. Short-term investments include instruments with lives ranging from 91 days to three years. Until fiscal 1995, short-term investments were stated at cost which approximates market. In 1995, the Company adopted Statement of Financial Accounting Standards (SFAS) No. 115, "Accounting for Certain Investments in Debt and Equity Securities." Under the provision of SFAS No. 115, the Company classified its investments in certain debt and equity securities as available-for-sale. Such investments are recorded at fair market value, and unrealized gains and losses are reported as a separate component of shareholders' equity. As of September 30, 1996, unrealized gains or losses on such investments were not significant.

CONCENTRATIONS OF CREDIT RISK The Company generates a significant portion of its revenues through distributors of personal computer software in North America, Europe and the Pacific Rim. The Company performs ongoing credit evaluations of its customers and generally does not require collateral. The Company maintains reserves for potential credit losses. For the fiscal year ended September 30, 1996, no one customer's balance exceeded 10% of trade receivables.

INVENTORIES Inventories consist primarily of software documentation and storage media, which are stated at the lower of cost (first-in, first-out) or market. Inventories are included in other assets in the accompanying consolidated balance sheets.

PROPERTY AND EQUIPMENT Property and equipment are stated at cost and, except for capital lease and leasehold improvements, are depreciated using the straight-line method over the estimated useful lives of the assets, ranging from three to five years. Leasehold improvements and assets under capitalized leases are amortized using the straight-line method over the lesser of the remaining term of the lease or the estimated economic life of the asset.

PURCHASED SOFTWARE AND TECHNOLOGY LICENSES Purchased software consists of core intellectual property rights which the Company owns. Amounts capitalized are amortized using the straight-line method over the estimated lives of the products into which the software was incorporated. The estimated lives range from three to six years. Technology licenses represent payment streams for the rights to use and integrate third party technology into the Company's product offerings. Amounts capitalized are amortized pro ratably over the term of the contractual rights for the use of this technology, not exceeding five years.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

SOFTWARE DEVELOPMENT COSTS Statement of Financial Accounting Standard No. 86 provides for the capitalization of certain software development costs once technological feasibility is established. Capitalized costs are then amortized on a straight-line basis over the estimated product life, or on the ratio of current revenues to total projected product revenues, whichever is greater. Through September 30, 1996, the Company believes its process for developing software was essentially completed concurrent with the establishment of technological feasibility, and accordingly, no software development costs have been capitalized to date.

REVENUE RECOGNITION Revenue from sales of software and software documentation products is generally recognized upon product shipment provided that no significant vendor obligations remain and collection of the resulting receivable is deemed probable. For those agreements which provide the customer the right to multiple copies in exchange for a non-refundable fixed fee, revenue is recognized at delivery of the product master of the first copy. Revenue is deferred for estimated future returns for stock balancing and excess quantities above levels the Company deems appropriate in the distribution channels. Revenue from support contracts, including support bundled with software licenses, is recognized ratably over the term of the contract.

The Company has entered into agreements whereby it licenses products to original equipment manufacturers. These agreements generally provide for nonrefundable commitment fees which are recognized upon contract signing and product acceptance. Such commitment fees received prior to product acceptance are deferred.

The Company also provides contract engineering services, including the porting of system software, consulting, design and product review. Revenues from these services are recognized on the percentage-of-completion method unless refundable. If payments are refundable, revenues are deferred until customer acceptance.

The Company's existing revenue recognition policies comply with the provisions of the American Institute of Certified Public Accountants Statement of Position 91-1, "Software Revenue Recognition."

COOPERATIVE ADVERTISING The Company reimburses certain qualified customers for a portion of the advertising costs related to their promotion of the Company's products. The Company's liability for reimbursement is accrued at the time revenue is recognized as a percentage of the qualified customer's net revenue derived from the Company's products.

INCOME TAXES The Company records income taxes using an asset and liability approach that results in the recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been recognized in the Company's consolidated financial statements or tax returns. In estimating future tax consequences, all expected future events other than enactment of changes in tax laws or rates are considered.

NET PROFIT (LOSS) PER SHARE Net profit (loss) per share is computed based on weighted average number of common shares outstanding and dilutive common equivalent shares from the assumed exercise of stock options using the treasury stock method.

RECENT ACCOUNTING PRONOUNCEMENTS In March 1995, the Financial Accounting Standards Board issued SFAS No. 121, "Accounting for the Impairment of Long-Lived Assets to be Disposed Of." SFAS No. 121 will be effective for fiscal years beginning after December 15, 1995, and requires long-lived assets to be evaluated for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. The Company will adopt SFAS No. 121 in fiscal 1997 and does not expect its adoption to have a material impact on the Company's financial condition or on its consolidated statements of operations.

TRANSLATION ADJUSTMENTS All assets and liabilities denominated in foreign currencies are translated at the exchange rate on the balance sheet date. Revenues, costs and expenses are translated at average rates of exchange prevailing during the period. Translation adjustments are accumulated as a separate component of shareholders' equity. Gains and losses resulting from foreign currency transactions are included in the consolidated statements of operations.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Note 2 - CASH AND CASH EQUIVALENTS

(in thousands)	September 30,	
	1996	1995
Bank demand deposits	\$ 4,160	\$ 6,044
Certificates of deposit	676	2,091
Money market accounts	23,652	16,257
U.S. Treasury bills	-	496
Government agency bonds	-	1,738
Corporate bonds	3,577	5,448
	\$32,065	\$32,074

Note 3 - SHORT-TERM INVESTMENTS

(in thousands)	September 30,	
	1996	1995
U.S. Treasury bills	\$ 119	\$ 734
U.S. Treasury notes	3,462	1,899
Certificates of deposit	1,136	-
Government agency bonds	10,450	7,514
Corporate bonds	7,599	4,669
	\$22,766	\$14,816

At September 30, 1996, investments with maturity dates ranging from 91 days to 1 year totaled \$5.8 million, and investments with maturity dates ranging from 1 year to 3 years totaled \$16.9 million.

Note 4 - RECEIVABLES

(in thousands)	September 30,	
	1996	1995
Trade accounts receivable	\$ 58,306	\$ 58,404
Less allowance for returns and doubtful accounts	(11,130)	(13,395)
	\$ 47,176	\$ 45,009

Note 5 - PROPERTY AND EQUIPMENT

(In thousands)	September 30,	
	1996	1995
Computer and office equipment	\$ 34,284	\$31,478
Furniture and fixtures	7,245	6,883
Leasehold improvements	6,719	6,322

	\$ 48,248	\$ 44,683
Less accumulated depreciation and amortization	(32,702)	(29,692)
	-----	-----
	\$ 15,546	\$14,991
	=====	=====

Note 6 - PURCHASED SOFTWARE

	September 30,	
	-----	-----
	1996	1995
	-----	-----
(In thousands)		
Purchased software and technology licenses, at cost	\$ 23,128	\$ 7,792
Less accumulated amortization	(3,220)	(2,152)
	-----	-----
	\$ 19,908	\$ 5,640
	=====	=====

In March of 1996, the Company purchased a fully paid up license enabling it to integrate and distribute certain networking technology in perpetuity. Under the terms of the purchase agreement, consideration of \$9.0 million is due in three equal installments with the final payment due in March of 1998. One installment payment of \$3 million was made during fiscal 1996. The net present value of the remaining payments is included in purchased software and technology licenses in the Company's consolidated balance sheets and is being amortized over five years. Amortization expense of \$1.0 million is included in cost of license revenues in the Company's Consolidated Statements of Operations.

Note 7 - BANK LINE OF CREDIT

At September 30, 1996, the Company had \$15 million available under a domestic bank line of credit. The credit agreement provides that the Company may borrow an amount equal to 75% of eligible accounts receivable, subject to a total of \$15 million. The interest rate on the line of credit is the prime rate and borrowings against the line of credit are unsecured. The line of credit requires that the Company maintain certain financial ratios, all of which the Company was in compliance with as of September 30, 1996. The weighted average interest rate on borrowings made against the line of credit during fiscal 1996 was 8.5%.

Note 8 - ROYALTIES PAYABLE

Royalties payable represent obligations to pay authors of certain software products under licensing agreements. In 1996, two corporate shareholders accounted for \$7.6 million of the royalties payable balance and \$4.1 million of royalty expense. One of the aforementioned shareholders accounted for \$2.9 million of

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

the royalties payable balance as of September 30, 1995 and \$7.4 million and \$7.5 million of royalty expense for fiscal 1995 and fiscal 1994, respectively.

Note 9 - ACCRUED EXPENSES AND OTHER CURRENT LIABILITIES

(in thousands)	September 30,	
	1996	1995
Accrued wages, commission, bonuses	\$ 6,211	\$ 6,166
Accrued advertising	4,030	2,944
Accrued fringe benefits	2,075	1,947
Other accrued expenses	9,972	7,934
	\$22,288	\$18,991

Note 10 - COMMITMENTS

OPERATING LEASES The Company leases its facilities and certain equipment under non-cancelable operating leases that expire on various dates through fiscal 2020. The future minimum lease payments under operating leases are summarized as follows (in thousands):

Fiscal Year	As of September 30, 1996
1997	\$ 8,123
1998	6,506
1999	5,496
2000	5,377
2001	5,203
Thereafter	34,275
	\$64,980

Rent expense amounted to approximately \$8.2 million, \$7.4 million and \$6.9 million in fiscal 1996, 1995 and 1994, respectively.

Included in the Company's operating lease commitments are facilities leased from Encinal Partners, a partnership which includes both a Company Executive Vice President and a principal stockholder. The Company's Board of Directors has reviewed and approved the lease agreements and determined that the lease agreements entered into by the Company are conducted on an "arms-length" basis. The lease term of these facilities is between two and nine years. Rent expense for these facilities amounted to approximately \$1.4 million in both fiscal 1996 and 1995, and \$1.5 million in fiscal 1994.

CAPITAL LEASES The Company leases certain equipment under agreements which have been classified as capital leases. At September 30, 1996, the cost of such leased equipment was \$3.6 million and the accumulated amortization was \$1.4 million. The present value of the minimum lease payments as of September 30, 1996 was \$2.6 million, of which \$1.0 million represents a current liability and \$1.6 million represents a long-term liability. Future minimum lease payments, including interest of \$2.2 million, are \$1.1 million, \$9 million, and \$8 million for the fiscal years ending September 30, 1997, 1998 and 1999, respectively.

SAVINGS PLANS The Company has a savings plan, which qualifies under section 401(k) of the Internal Revenue Code. Under the plan, participating U.S. employees may defer up to 25% of their pre-tax salary, but not more than the statutory limits. Beginning January 1995, the Company began a contribution matching program which is to be phased-in over the next three years. Under the terms of this program, the Company will match 50% of employee's contribution up to \$1,000 or 2% of employee's annual salary for 1995; up to \$2,000 or 4% of employee's annual salary for 1996; and up to \$3,000 or 6% of employee's annual salary for 1997 and thereafter. For the year ended September 30, 1996, the Company's total contribution towards the 401(k) plan amounted to \$5 million.

The Company also has a non-qualified executive deferred compensation plan which started in October of 1995. Under the terms of the plan, eligible officers and directors are permitted to defer a portion of their compensation. The liability for executive deferred compensation at September 30, 1996 was \$2 million.

In December 1995, the Company agreed to take responsibility for an employee pension plan as part of their UNIX business acquisition. Under the terms of the acquisition, the Company agreed to assume the liability associated with the pension plan for employees they retained. At September 30, 1996, the Company's liability under the pension plan was \$4 million.

Note 11 - SHAREHOLDER'S EQUITY

PREFERRED STOCK The Company is authorized to issue 20,000,000 shares of Preferred Stock, of which 930,000, 1,950,000, 5,500,000 and 850,000 were designated Series A, Series B, Series C and Series C-1 Preferred Stock, respectively. As of September 30, 1996, there were no shares of Preferred Series stock either issued or outstanding.

1993 EMPLOYEE STOCK PURCHASE PLAN The Company has an Employee Stock Purchase Plan (ESPP) for all eligible employees which is administered by the Board of Directors. Under the ESPP, shares of the Company's ESPP stock may be purchased at six-month intervals at 85% of the fair market value on the first or last day of each six-month period whichever is lower. Employees may purchase shares through payroll deductions of up to 10% of gross compensation during an offering period. During 1996, 1995 and 1994, employees purchased 317,722, 376,047 and 351,116 shares at an average per share price of \$5.47, \$5.67 and \$5.28, respectively. The number of shares reserved for issuance under the Purchase Plan increased by 500,000 shares in February 1996. As of September 30, 1996, 699,115 shares were reserved for future issuance.

1994 INCENTIVE STOCK OPTION PLAN As of September 30, 1996 and 1995, the Company had authorized 10,013,665 shares of Common Stock for issuance under the 1994 Incentive Stock Option Plan (the "Option Plan"), respectively. The Company's Board of Directors administers the Option Plan and determines the terms of the options granted under the Option Plan, including the exercise price, number of shares subject to each option and the exercisability thereof. In addition, the Company's stock committee is authorized to grant up to 20,000 shares to an individual employee or consultant under the terms of the Option Plan.

The exercise price of all incentive options granted under the Option Plan must be at least equal to the fair market value. Options granted under the Option Plan prior to January 31, 1996 generally become exercisable over a five-year period. Effective January 31, 1996, the vesting period for subsequent grants was changed to four years. The term of each option is ten years.

As of September 30, 1996 and 1995, 2,322,538 and 1,923,144 options were exercisable, respectively, under the Option Plan. The activity under the Option Plan for fiscal 1994, 1995 and 1996 is as follows:

(In thousands except per share price)	Options Outstanding	Per Share Price	Shares Available for Future Grants
OUTSTANDING AS OF SEPTEMBER 30, 1993			
Additional shares authorized	4,340	\$.04 - \$12.00	872
Granted	-		1,000
Exercised	2,525	5.12 - 9.12	(2,525)
Cancelled	(772)	.04 - 4.92	-
	(1,819)	1.25 - 12.00	1,819
OUTSTANDING AS OF SEPTEMBER 30, 1994			
Additional shares authorized	4,274	\$.04 - \$12.00	1,166
Granted	-		3,000
Exercised	2,700	6.19 - 13.94	(2,700)
Cancelled	(527)	.04 - 12.00	-
	(432)	1.25 - 13.63	432
OUTSTANDING AS OF SEPTEMBER 30, 1995			
Additional shares authorized	6,015	\$.04 - \$13.94	1,898
Granted	-		(1,235)
Exercised	1,235	5.63 - 8.25	-
Cancelled	(500)	.04 - 6.63	-
	(719)	1.25 - 13.63	719
OUTSTANDING AS OF SEPTEMBER 30, 1996			
	6,031	\$.04 - \$13.94	1,382

1993 DIRECTOR OPTION PLAN The Company's 1993 Director Option Plan (the "Director Plan") provides for the granting of nonstatutory stock options to nonemployee directors of the Company and is administered by the Board of Directors. In February of 1996, the number of shares available for issuance under the Director Plan was increased by 150,000 shares from 400,000 shares to 550,000 shares. As of September 30, 1996, there were 188,000 shares available for grant under the plan and options outstanding were 356,000 of which 145,000 were vested. During the fiscal year ended September 30, 1996, 6,000 options were exercised at a price of \$5.50. No options were exercised in prior periods.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

COMMON STOCK REPURCHASES The Company repurchases its common stock on the open market, both systematically and non-systematically. Under the systematic stock repurchase plan, shares of common stock are repurchased to help negate the dilutive effects of the Incentive Stock Option Plan and the Employee Stock Purchase Plan. For the fiscal years ended September 30, 1996 and 1995, the purchase and retirement of common stock under the systematic plan was 601,000 shares and 760,000 shares, respectively. Under the non-systematic repurchase plan, the Company may repurchase up to 2,000,000 shares of its common stock. During the fiscal year ended September 30, 1996, 88,000 shares were repurchased and retired under the non-systematic plan. Both the systematic and non-systematic plans have been approved for continuance into fiscal 1997.

Note 12 - INCOME TAXES

Profit (loss) before income taxes for fiscal 1996, 1995 and 1994 include foreign pretax profit (loss) of approximately \$2.2 million, \$(.9) million and \$9.5 million, respectively. The components of income taxes are as follows:

(in thousands)	Fiscal Year Ended September 30,		
	1996	1995	1994

Current:			
Federal	\$ 301	\$ 4,352	\$ 1,972
State	814	(390)	687
Foreign	1,205	1,134	4,138

Total current	2,320	5,096	6,797

Deferred:			
Federal	(1,684)	(3,751)	(1,000)
State	(568)	(928)	-
Foreign	410	6	(650)

Total deferred	(1,842)	(4,673)	(1,650)

Charge in lieu of income tax expense related to employee stock options	263	1,533	500

	\$ 741	\$ 1,956	\$ 5,647
=====			

Income taxes differ from the amount computed by applying the statutory federal income tax rate to profit (loss) before income taxes as follows:

(In thousands)	Fiscal Year Ended September 30,		
	1996	1995	1994

Statutory federal income tax (benefit) at 34%	\$(7,369)	\$(1,412)	\$ 6,764
State income tax (benefit), net of federal effect	162	(870)	794

Non-deductible purchased research and development	2,239	4,022	-

Foreign income taxed at different rates	577	778	938
Research credit	(258)	(400)	-
FSC benefit	(150)	(84)	-
Non-deductible expenses	121	96	-
Change in the total valuation allowance	5,398	(173)	(2,880)
Other, net	21	(1)	31
	-----	-----	-----
	\$ 741	\$ 1,956	\$ 5,647
	=====	=====	=====

The tax effect of temporary differences that give rise to significant portions of the deferred tax assets and deferred tax liabilities are presented as follows:

(In thousands)	Fiscal Year Ended September 30,		
	1996	1995	1994
	-----	-----	-----
Deferred tax assets:			
Accruals and reserve accounts	\$ 7,685	\$ 4,822	\$ 4,186
Property and equipment	142	988	-
Purchased software	8,117	-	-
Research credit	1,481	4,030	1,882
Other credits	-	683	287
	-----	-----	-----
Total gross deferred tax assets	17,425	10,523	6,355
Less valuation allowance	(9,598)	(4,200)	(4,373)
	-----	-----	-----
Net deferred tax assets	7,827	6,323	1,982
	-----	-----	-----
Deferred tax liabilities:			
Property and equipment	-	-	332
Purchased software	815	1,153	-
	-----	-----	-----
Total deferred tax liabilities	815	1,153	332
	-----	-----	-----
Net tax assets and liabilities	\$ 7,012	\$ 5,170	\$ 1,650
	=====	=====	=====

The net change in the total valuation allowance for the years ended September 30, 1996, 1995 and 1994 was an increase (decrease) of approximately \$5.4 million, \$(.2) million and \$(2.9) million, respectively.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

The Company's management believes the uncertainty regarding the timing of the realization of net deferred tax assets requires a valuation allowance.

The Company has unused research credit carry-forwards of approximately \$1.5 million for federal tax purposes as of September 30, 1996, which expire in fiscal years 2008 through 2011.

At September 30, 1996, the foreign subsidiaries of the Company had cumulative unremitted foreign earnings of approximately \$7.8 million. Had these earnings been repatriated during fiscal 1996, the incremental U.S. tax liability would not have been material after taking into account underlying foreign taxes and tax credit carry-forwards. The management intends to reinvest these earnings indefinitely.

Note 13 - ACQUISITIONS

VISIONWARE LIMITED In December 1994, the Company completed the acquisition of Visionware Limited ("Visionware") for \$13.7 million in cash and 114,342 shares of common stock. Non-recurring charges of \$14.1 million were incurred in fiscal 1995 for costs associated with the acquisition. Of the nonrecurring charges, \$11.2 million was related to non-tax deductible purchased research and development for Visionware products which had not yet reached technological feasibility. The remaining \$2.9 million related to redundant facilities and other one-time acquisition related charges. Intangibles of \$5.2 million, arising from the business acquisition, are amortized on the straight-line basis over estimated useful lives ranging from three to seven years. Amortization expense amounted to \$.9 million in fiscal 1996 and \$.7 million in fiscal 1995 and is included in general and administrative expenses in the Company's Consolidated Statements of Operations. The results of operations of Visionware have been included in the consolidated financial statements since December 1994. Visionware is engaged in the business of the development and distribution of PC connectivity software integrating PCs running Microsoft Windows with servers running UNIX applications.

UNIX BUSINESS In December 1995, the Company acquired certain assets related to the UNIX business including the core intellectual property from Novell. The consideration consisted of 6,127,500 newly issued shares of non-registered common stock and assumed liabilities totaling approximately \$9.3 million. Additionally, cash payments to Novell with a present value of \$84 million will be paid periodically by SCO to Novell provided certain unit volumes of UNIX system distribution is achieved. To date, distribution unit volume of UNIX systems has not reached levels which have required the Company to make cash payments to Novell. Such payments terminate at the end of the calendar year 2002. The acquisition has been accounted for using the purchase method of accounting and, therefore, the accompanying financial statements include the UNIX

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

business since the date of the acquisition. Non-recurring charges of \$38.4 million were incurred in fiscal 1996 for costs associated with the acquisition. The Company also purchased core intellectual property totaling \$5.8 million, software technology licenses totaling \$5.5 million and intangibles of \$1.7 million. Software technology licenses and intangibles are amortized as general and administrative expenses on the straight-line basis over their estimated useful lives, generally five years.

Note 14 - RELATED PARTY

In January 1995, the Company purchased 10% of one of its domestic distribution channel partner's preferred series stock in exchange for cash, product and equipment valued at \$1.0 million. In addition, the Company has loaned \$1.0 million to this partner. The loan matures on July 1, 1998, but may be converted at any time prior to maturity for an additional 10% of either the partner's preferred series stock or common stock. Interest on the outstanding borrowing is due and payable at the loan's maturity.

At September 30, 1996 and 1995, the Company had accounts receivable outstanding with the related party of \$1.6 million and \$1.7 million, respectively. Sales to the related party for fiscal years 1996 and 1995 were \$7.7 million and \$4.6 million, respectively.

Note 15 - INFORMATION BY GEOGRAPHIC AREA

(in thousands)	Fiscal Year Ended September 30,		
	1996	1995	1994
NET REVENUES:			
United States	\$ 125,759	\$ 111,530	\$ 109,542
Europe	80,603	87,799	74,526
Other international operations	1,528	-	-
Total net revenues	\$ 207,890	\$ 199,329	\$ 184,068
TRANSFERS BETWEEN GEOGRAPHIC AREAS:			
United States	\$ 16,894	\$ 23,807	\$ 18,772
Europe	916	945	5,798
Total transfers	\$ 17,810	\$ 24,752	\$ 24,570
OPERATING EARNINGS (LOSS):			
United States	\$ (29,017)	\$ (5,111)	\$ 8,119
Europe	2,864	121	8,360
Other international operations	120	(1,052)	1,977
Eliminations	2,452	(450)	169
Operating earnings (loss)	\$ (23,581)	\$ (6,492)	\$ 18,625
IDENTIFIABLE ASSETS:			
United States	\$ 135,040	\$ 108,078	\$ 107,163
Europe	31,930	33,280	34,689
Other international operations	3,860	5,310	4,499
Eliminations	(4,023)	(14,798)	(7,777)
Total assets	\$ 166,807	\$ 131,870	\$ 138,574

Intercompany sales between geographic areas are accounted for at prices representative of unaffiliated party transactions. "Other international operations" includes the Company's subsidiary in Japan.

REPORT OF INDEPENDENT AUDITORS

The Board of Directors and Shareholders of The Santa Cruz Operation, Inc.

We have audited the accompanying consolidated balance sheets of The Santa Cruz Operation, Inc. and subsidiaries as of September 30, 1996 and 1995, and the related consolidated statements of operations, shareholders' equity, and cash flows for each of the years in the three-year period ended September 30 1996. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of The Santa Cruz Operation, Inc. and subsidiaries as of September 30, 1996 and 1995, and the results of their operations and their cash flows for each of the years in the three-year period ended September 30, 1996, in conformity with generally accepted accounting principles.

KPMG Peat Marwick, LLP
San Jose, California

October 25, 1996

QUARTERLY FINANCIAL INFORMATION

(In thousands, except per share data)	THREE MONTHS ENDED							
	Sept. 30, 1996	June 30, 1996	Mar. 31, 1996	Dec. 31, 1995	Sept. 30, 1995	June 30, 1995	Mar. 31, 1995	Dec. 31, 1994
Net revenues:								
Licenses	\$50,162	\$49,404	\$46,291	\$ 43,175	\$41,935	\$45,856	\$47,115	\$42,628
Services	5,052	4,623	4,444	4,739	5,217	5,065	6,159	5,354
Net revenues	55,214	54,027	50,735	47,914	47,152	50,921	53,274	47,982
Cost of revenues:								
Licenses	9,152	9,506	7,770	7,707	8,318	9,300	8,106	7,964
Services	4,333	4,491	4,374	4,571	5,006	4,819	5,137	4,829
Total cost of revenues	13,485	13,997	12,144	12,278	13,324	14,119	13,243	12,793
Gross margin	41,729	40,030	38,591	35,636	33,828	36,802	40,031	35,189
Operating expenses:								
Research and development	11,071	10,617	9,376	7,945	8,051	8,406	8,300	7,451
Sales and marketing	20,386	19,575	19,676	19,722	20,609	22,386	20,665	18,833
General and administrative	5,901	5,961	6,044	4,930	5,097	4,915	5,168	4,367
Non-recurring charges	--	--	--	38,363	3,999	--	--	14,095
Total operating expenses	37,358	36,153	35,096	70,960	37,756	35,707	34,133	44,746
Operating earnings (loss)	4,371	3,877	3,495	(35,324)	(3,928)	1,095	5,898	(9,557)
Other income (expense):								
Interest income, net	646	547	480	629	527	673	604	899
Other income (expense), net	(90)	(16)	(94)	(194)	(207)	(82)	(143)	69
Profit (loss) before income taxes	4,927	4,408	3,881	(34,889)	(3,608)	1,686	6,359	(8,589)
Income taxes	855	1,102	970	(2,186)	(1,028)	481	1,764	739
Net profit (loss)	\$ 4,072	\$ 3,306	\$ 2,911	\$ (32,703)	\$ (2,580)	\$ 1,205	\$ 4,595	\$ (9,328)
Net profit (loss) per share	\$ 0.11	\$ 0.09	\$ 0.08	\$ (0.99)	\$ (0.08)	\$ (0.04)	\$ 0.14	\$ (0.30)
Weighted average shares outstanding	38,150	38,502	38,164	32,968	30,896	33,489	33,744	30,754

DIRECTORS AND OFFICERS

Directors

Ninian Badie
 Jean-Francois Beitz
 Ronald Lachman
 Robert McClure
 Doug Michels
 Alok Mohan
 R. Duff Thompson
 Enzo Torresi
 Gil Williamson

Corporate Officers

Alok Mohan*+
 President, Chief Executive Officer and acting
 Chief Financial Officer
 Ed Adams*+
 Senior Vice President and General Manager,
 The Americas
 Ray Anderson*+
 Senior Vice President, Client Integration Division
 Jim Clark*+
 Senior Vice President, Asia/Pacific Operations
 Gary Horning
 Vice President, Strategic Marketing
 John Jarvis
 Senior Vice President, International Planning
 and Business Development
 Helene Mann-Bouchard
 Vice President, Worldwide Customer Delivery
 Systems
 David McCrabb
 Vice President, Marketing and Channel Sales
 Scott McGregor*+
 Senior Vice President, Products
 Doug Michels*+
 Executive Vice President and
 Chief Technical Officer
 Jack Moyer*+
 Vice President, Human Resources
 Steve Sabbath*+
 Vice President, Law and Corporate Affairs
 and Secretary
 Geoff Seabrook*+
 Senior Vice President, EMEA
 Mike Tilson
 Chief Information Officer
 James Wilt
 Vice President, Business Development

Divisional Officers

Mick Adamson
 Regional Vice President, Pacific Rim
 Jeff Ait
 Vice President, Volume Solutions Business
 Sheila Baker
 Vice President, Segment Marketing
 Edmundo Costa
 Vice President, Channel Sales
 Gary Daniels
 Vice President, Platform Products Division
 Chris Flynn
 Regional Vice President, International and UK
 Niser Naabadi
 Vice President, The Americas, Western Area
 Mark Overgaard
 Vice President, Embedded Systems Division
 Antonio Privitera
 Regional Vice President, Italy
 Charlie Sciorra
 Vice President, The Americas, Eastern Area
 Craig Scobie
 Vice President, Project Region
 Mike Shelton
 Vice President, Enterprise Solutions Business
 Stefan Sjostron
 Regional Vice President, Central & Southern
 Europe and France
 Richard Treadway
 Vice President, Layered Server Products

*Elected by Board of Directors

+Executive Officer subject to the provisions of Section 16(b) of the
 Securities Exchange Act of 1934

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CONTRACTS

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P.02/04

Referenced Agreement No.: AUS970557
Supplement No.: 4998PKM02

CONFIDENTIAL DISCLOSURE AGREEMENT
SUPPLEMENT FOR DISCLOSURE

With respect to the Information identified below, the terms and conditions in the referenced Agreement, as modified by any terms and conditions identified below, shall apply to disclosures hereunder.

Discloser: IBM You

Initial disclosure date: Upon Mutual Execution

Final disclosure date: November 13, 1999

Non-confidential description of Information to be disclosed:

For IBM: AIX 4.3.2 Base Operating System in source code and object code form, and associated documentation.

For SCO: Gemini 64 and Unixware 7 in source code and object code form, and associated documentation regarding the architecture and design of SCO's port of Unixware 7 to Intel's IA64 Merced processor.

Additional or different terms and conditions (if any):

1. Definitions

1.1 "Evaluation" shall mean any or all of the following:

1.1.1 Copying, compiling, linking and executing the Licensed Programs and studying the Licensed Programs' externals (e.g. output messages, screens) and the results of the use or operation of the Licensed Programs, including but not limited to studying the Licensed Programs' usability, performance, characteristics, limitations, execution times or resource utilization while using the Licensed Programs in the ordinary and intended manner.

1.1.2 Studying the documentation.

1.2 "Licensed Programs" shall mean IBM's AIX 4.3.2 Base Operating System source code and/or object code and associated documentation and SCO's Gemini 64 and Unixware 7 source code and/or object code and associated documentation regarding the architecture and design of SCO's port of Unixware 7 to Intel's IA64 Merced processor.

2. Discloser grants to Recipient a royalty-free, fully paid-up, nonexclusive, nontransferable right and license to Evaluate the Licensed Programs and to copy the Licensed Programs to perform such Evaluation. Such Evaluation will take place on either IBM's premises or SCO's premises. In the event that the results of the Evaluation are disclosed to the ^{Discloser} Recipient, the Recipient shall have the right to use, copy and distribute those results without accounting to the Discloser.

3. Residuals

3.1 The term "Residuals" shall mean that information in non-tangible form which may be retained by Recipient's employees who have had access to the Confidential Information disclosed under this Agreement.

3.2 Recipient shall be free to use the Residuals of Confidential Information disclosed hereunder for any purpose including use in the development, manufacture, marketing and maintenance of its products and services.

4. ANY ADVICE, COUNSEL OR TECHNICAL SUPPORT PROVIDED BY EITHER PARTY IN CONJUNCTION WITH DISCLOSURES UNDER THIS SUPPLEMENT WILL BE PROVIDED ON AN "AS-IS" BASIS, WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Neither party shall be liable for any delays, losses or other damages which may result from the furnishing of such advice, counsel or technical support.

5. Disclosed Information continues to be subject to the referenced Agreement and this Supplement for a period of five (5) years after the Final Disclosure Date, therefore, for the purposes of this Supplement, the first sentence of Section 2 of the referenced Agreement is hereby deleted.

This Supplement and the referenced Agreement are the complete and exclusive agreement regarding disclosures hereunder.

Agreed to:
INTERNATIONAL BUSINESS
MACHINES CORPORATION

By Pam Malone

Name Pam Malone

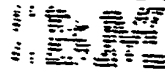
Date 11-13-98

Agreed to:
SANTA CRUZ OPERATIONS

By Steven M. Sabbath

Name Steven M. Sabbath

Date 11-13-98



International Business Machines Corporation

11400 Burnet Road
Austin, Texas 78758
512/823-0000

VIA FACSIMILE

December 18, 1998

Santa Cruz Operation, Incorporated
430 Mountain Avenue
Murray Hill, NJ 07974

Attention: Ms. Kimberlee Madsen

Subject: Revision of CDA Supplement Number 4998PKM02

Reference: IBM/SCO Confidential Disclosure Agreement (CDA)
Number AUS970557

The Non-confidential description of Information to be disclosed by IBM identified in Supplement Number 4998PKM02 to the referenced CDA is hereby modified as follows:

^{per}
For IBM: AIX 4.3.2 Base Operating System and Monterey IA64 in source code and object code form, associated documentation and technical documentation.

Other than the modification above, all terms and conditions of the foregoing Supplement shall remain in full force and effect.

If this change meets with your approval, please countersign in the space provided below and fax back to me at (512) 823-8712. If you have any questions or concerns, please contact me at (512) 838-3237. Thank you.

ACCEPTED AND AGREED TO:

International Business Machines Corporation
Austin, Texas 78758

By: Pam Malone

Name: Pam Malone

Date: 12-18-98

ACCEPTED AND AGREED TO:

Santa Cruz Operation, Incorporated
Murray Hill, NJ 07974

By: Steven M. Sabbath

Name: Steven M. Sabbath

Date: 12/18/98

=====

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-K

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15 (d) OF THE SECURITIES
EXCHANGE ACT OF 1934

FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2001

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15 (d) OF THE
SECURITIES EXCHANGE ACT OF 1934

FOR THE TRANSITION PERIOD FROM _____ TO _____

COMMISSION FILE NUMBER 0-21484

TARANTELLA, INC.
(Exact name of registrant as specified in its charter)

CALIFORNIA
(State or other jurisdiction of
incorporation or organization)

94-2549086
(I.R.S. Employer
Identification No.)

425 ENCINAL STREET, SANTA CRUZ, CALIFORNIA
(Address of principal executive offices)

95060
(Zip Code)

Registrant's telephone number, including area code (831) 427-7222

Securities registered pursuant to Section 12(b) of the Act: NONE

Securities registered pursuant to Section 12(g) of the Act:

PREFERRED SHARE PURCHASE RIGHTS COMMON STOCK, NO PAR VALUE

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Registrant became subject to such filing requirements on May 25, 1993 as a result of its initial public offering.

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to be contained to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

The aggregate market value of the voting stock held by non-affiliates of the registrant, based upon the closing sale price of the Common Stock on December 1, 2001 as reported on the Nasdaq National Market was approximately \$24,057,462. Shares of Common Stock held by each executive officer and director and by each person who owns 5% or more of the outstanding Common Stock have been excluded in that such persons may be deemed to be affiliates. This determination of affiliate status is not necessarily a conclusive determination for other purposes.

As of December 1, 2001, registrant had 40,117,488 shares of Common Stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the definitive Proxy Statement dated on or about to be delivered to shareholders in connection with the Annual Meeting of Shareholders to be held are incorporated by reference into Part III.

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TARANTELLA, INC.

FORM 10-K
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2001
TABLE OF CONTENTS

PART I	PAGE NUMBER

Item 1. Business	1
Item 2. Properties	9
Item 3. Legal Proceedings	9
Item 4. Submission of Matters to a Vote of Security Holders Executive Officers of the Registrant	9
PART II	
Item 5. Market for Registrant's Common Stock and Related Stockholder Matters	11
Item 6. Selected Financial Data	12
Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations	13
Item 8. Financial Statements and Supplementary Data	25
Item 9. Changes in and Disagreement with Accountants on Accounting and Financial Disclosures	55
PART III	
Item 10. Directors and Executive Officers of the Registrant	55
Item 11. Executive Compensation	55
Item 12. Security Ownership of Certain Beneficial Owners and Management	55
Item 13. Certain Relationships and Related Transactions	55
PART IV	
Item 14. Exhibits, Financial Statement Schedule and Reports on Form 8-K	56
Signatures	58

PART I

ITEM 1. BUSINESS

This report contains forward-looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934. The forward-looking statements involve risks and uncertainties. Actual results could differ materially from those projected in the forward-looking report and those described in other reports under the Securities Exchange Act of 1934. Readers are referred to the "Sales and Distribution", "Customer Support and Service", "Product Development", "Competition", "Management's Discussion and Analysis of Financial Condition and Results of Operations" and "Risk Factors" sections contained in this Annual Report on Form 10-K, which identify some of the important factors or events that could cause actual results of performances to differ materially from those contained in the forward-looking statements.

BACKGROUND

Tarantella, Inc. (Nasdaq: TTLA) (the Company), emerged as a standalone entity in May of this year from its origins as the Tarantella Division of The Santa Cruz Operation, Inc. (SCO).

On May 4, 2001, SCO completed the sale of its Server Software and Professional Services Divisions to Caldera Systems, Inc., retaining the Tarantella Division. A new company, Caldera International, was formed which combined the assets acquired from SCO with the assets of Caldera Systems. Upon the completion of the sale, The Santa Cruz Operation, Inc. changed its corporate name to Tarantella, Inc. and its Nasdaq trading symbol to TTLA, reflecting the new corporate focus.

NOTE: In order to simplify this business section, separations will be made between the current Tarantella company overview and the section regarding the prior SCO business.

TARANTELLA, INC.

INTRODUCTION

Tarantella, Inc. is a leading provider of Internet infrastructure software that enables web-based access to enterprise applications.

Headquartered in Santa Cruz, California, Tarantella has development sites in the US and UK and sales representatives in the US, UK, Germany, Australia, Mexico, Canada, Spain, Japan, Netherlands and Italy. Tarantella products are sold both directly and through a worldwide channel of enterprise class distributors, value-added resellers, systems integrators and computer manufacturers.

Tarantella's flagship product, Tarantella Enterprise 3 software, delivers secure web access to old or new applications, powers thin client deployments, enables remote access for mobile users and telecommuters, and provides a compelling alternative to traditional extranets and virtual private networks. Tarantella Enterprise 3 software gives the user a single point of access for multiple servers running on heterogeneous platforms and can be a powerful tool for continued business operation.

Tarantella software aligns with Information Technology (IT) business goals, provides a significant return on existing IT assets and complements other software products, providing managed and secure web access to enterprise mainframe, Windows, web, AS/400, Java(TM) technology, Linux, and UNIX applications.

VISION AND MISSION: Managed, Secure Access for the Enterprise

Tarantella's vision is to become the leading provider of managed, secure, web-based application access software for the Global 2000 companies.

CORPORATE STRATEGY

Tarantella's strategy is to focus on the application access needs of Global 2000 enterprises by making virtually any business application available to users securely through standard Internet and intranet architectures. Tarantella approaches this target market through the combination of a direct sales organization, channel partners and strategic alliances, seeking the broadest market acceptance for its products.

IMPORTANCE OF WEB-BASED APPLICATION ACCESS

Today's enterprises need secure and managed access to business critical systems for their employees, customers and partners -- from anywhere, any time. The number of mobile and remote workers continues to grow and more companies are merging, often requiring the quick need for diverse computer systems to work together. Workers are dispersed around the world, needing access to data that may be thousands of miles away. Real time is now synonymous with Internet time. The Internet has become ubiquitous and offers a cheap and reliable way for businesses to gain access to their data. This power, however, brings with it an urgent need for high level security and manageability.

Recent terrorist events in the US have also shown how quickly the enterprise can be brought to a halt when the workplace is disrupted. Disaster recovery plans for the data center are not enough; alternative access modes for users whose offices are no longer available must also be provided. Valuable corporate information kept on desktops is at risk and companies are increasingly realizing that a centralized, managed approach can be more cost effective and secure.

Today's global enterprises are decentralized organizations, needing remote and mobile access, flexible business continuance plans and ways to cut the high costs and risks of managing distributed desktop computers. Tarantella software compellingly addresses these needs.

ADVANTAGES OF THE TARANTELLA ENTERPRISE 3 SOLUTION

Tarantella Enterprise 3 web-based software leverages existing IT investment without the need for re-engineering. It offers a non-intrusive solution that can provide employees, customers and partners with managed, secure, local, remote, and mobile access to critical applications. Tarantella Enterprise 3 software simplifies administration and securely speeds access to Windows, web, Java(TM) technology, mainframe, AS/400, Linux and UNIX based systems and applications from client devices globally. Its proven centralized management architecture effortlessly scales to accommodate rapid corporate change, technological advancement and expanding remote access needs. Key software benefits are:

- Centralizes IT management - simplifies complex environments and provides a single user access point
- Manages people and their access to applications and data from a single place
- Deploys new applications instantly with a simple drag-and-drop management interface
- Reduces IT spending - protects investment and assets
- Provides greater productivity, requires less training and reduces demands on IT resources
- Requires no installation on clients or application servers

- Integrates new-era applications and systems with legacy, pre-web applications -- without re-engineering
- Accommodates rapid organizational change
- Enables alternative user access for business continuance
- Gives unprecedented scalability that enables growth, with the flexibility to unify diverse IT environments
- Has innovative architecture that allows remote users to achieve secure, dial-up connections at LAN-like performance
- Adds new mobile and wireless devices easily for quick access to corporate systems
- Extends the reach and life of legacy applications
- Gives partners, suppliers and customers secure access to corporate systems over the web, without installing costly extranets or Virtual Private Networks (VPNs).

TARGET MARKETS

Tarantella software is a horizontal network infrastructure solution, which may be used across all types and sizes of companies. Several target markets have, however, emerged in which the Tarantella value proposition is particularly compelling, including large financial institutions, government agencies (federal, local, defense departments), utilities, telecommunications, document publishing and large transportation enterprises.

These enterprises generally employ heterogeneous information systems architectures, are often geographically dispersed with remote access requirements, and are under operational pressures to reduce costs and optimize return on assets. These organizations typically depend on UNIX servers as a key part of their IT. The larger the company, the more diverse the applications platforms and the more widely distributed the user base is, the better fit there is for a Tarantella solution. It is the scalability and flexibility of the Tarantella solution that differentiates it from competitors who simply cannot scale to meet the demanding heterogeneous architectures of the largest enterprises.

PARTNERS

Tarantella understands the need for strong industry partners to augment the Tarantella enterprise value proposition. Sun Microsystems, Inc., for example, has become one of Tarantella's strongest allies. Tarantella Enterprise 3 is SunTone(SM) certified and was a featured technology in Sun's strategic Sun ONE launch. Additionally Tarantella and Sun have signed an agreement to jointly market Tarantella software with Sun iPlanet(TM) portal products and Sun's Sun Ray(TM) appliance organization is a founding member of Tarantella's Technology Alliance Group (TAG). Lastly, Tarantella has signed distribution agreements with some of the largest Sun distributors in the world--GE Access in the USA, Clarity in the UK and ICOS in Italy.

Tarantella has also partnered with IBM, becoming an Advanced IBM Business partner. IBM's thin client group was also a founder in our TAG program. Additionally, Computer Associates' iCan SP subsidiary has entered into a joint marketing agreement to offer Tarantella Enterprise 3 as part of its xSP solution set. Long standing SCO partner Compaq continues their relationship with Tarantella. These strategic relationships -- both new and ongoing -- provide Tarantella additional credibility and leverage in selling to the enterprise market.

CURRENT PRODUCTS

The Company offers the flagship Tarantella software products as well as the established Vision 2K Suite, as described below:

Tarantella Enterprise 3 The Tarantella Enterprise 3 solution instantly provides managed and secure access to enterprise mainframe, Windows, web, Java(TM) technology, UNIX, Linux and AS/400 applications. It leverages existing IT assets to provide cost savings, improved productivity and the flexibility to accommodate the rapid changes in today's organizations. Its proven centralized management effortlessly scales to accommodate rapid corporate change, technological advancement and expanding remote access needs. It can span global multi-site IT architectures, unifying and simplifying complexity and diversity in order to provide an enhanced level of business continuity through increased application and service availability.

Tarantella Enterprise 3 Starter for Linux

This application access software provides an easy entry point for smaller organizations wishing to extend the reach of applications and services over intranets and the Internet. It harnesses the power and reliability of Linux systems, the convenience of the Internet with the power of Tarantella technology, to provide application access from client devices anywhere. Its non-intrusive and flexible architecture applies the advanced, industry-proven Tarantella Enterprise 3 technology to smaller enterprise workgroups and departments, and sets the foundation for a low-maintenance, centralized IT strategy.

Vision2K UNIX integration products

Integrating the Windows and UNIX worlds, Tarantella's established Vision2K software suite extends the power and dependability of UNIX servers to the Windows desktop environment and provides character-based and GUI access to UNIX applications.

The Vision2K Suite consists of:

- VisionFS - server based file and print sharing
- XVision Eclipse - fast access to X applications
- TermVision - terminal emulation for Windows and the Internet
- SuperVision - centralized management of users
- TermLite - lightweight terminal emulator

SALES AND DISTRIBUTION

Tarantella's target customer set is the Global 2000 and government agencies worldwide. To reach those customers, the Company has developed a two pronged strategy utilizing both an extremely focused direct sales force and enterprise distribution channels which include value-added distributors and resellers, as well as systems integrators and independent software vendors (ISVs). Tarantella selects channel partners for their expertise, experience and access to the target market. In many cases, channel partners and Tarantella direct sales people work together on targeted accounts

In addition to the enterprise sales motion, Tarantella fulfills to small-to-medium businesses through the PartnerConnect program, with registered and associate partners primarily managed by value-added distributors.

CUSTOMER SUPPORT AND SERVICES

Because of the business-critical use of Tarantella products, customer support and services have become essential to achieving a high level of customer satisfaction. The Company's services are designed to support

customers ranging from small and medium-sized businesses to large enterprises, both at the end user and reseller levels. The Company, through its worldwide customer support and services staff and its authorized third-party education, support and channel partners, offers a variety of support programs and services:

Technical Support - includes a range of support offerings including on-line support through the World Wide Web and varying levels of telephone support for corporate accounts;

Educational Services - includes courseware and instruction guides provided to the worldwide Tarantella Learning Centers, which in turn provide training and education materials to both end users and resellers;

Developer Services - includes technical advisory and support services as well as access to early product releases for application developers.

The Company sells support services to end users on an annual contract basis. Options are available so that customers can tailor the support solution to meet their specific needs. Electronic access is available through the World Wide Web. Software updates, enhancements, and bug fixes are also available electronically. Tarantella also supports end users via Authorized Tarantella Service Providers. In addition, the Company provides its support services to distributors, VARs, OEMs and integrators.

PRODUCT DEVELOPMENT

Tarantella product development is comprised of one integrated organization with three sites located in Santa Cruz, California and Leeds and Cambridge, United Kingdom. The company has developed or acquired skills in complex Internet infrastructure areas including web-based technologies, communications, security, Java(TM) technology, virtual user interfaces, networking, and adaptive protocols. Furthermore, the heterogeneous nature of the product has led the group to develop strong links with application server vendors, including Microsoft, IBM, Sun and Oracle, and also to link with client vendors ranging from traditional desktop and complex workstation clients to wireless handheld devices from companies such as Nokia.

The company holds one patent and has another one that is pending.

Tarantella's patented, award-winning technology was designed from the beginning for the public Internet and enterprise intranets. The Tarantella Adaptive Internet Protocol (AIP) optimizes the tradeoffs between bandwidth and application performance to give users the best possible experience over any speed connection. In addition, Tarantella's innovative and non-invasive implementation requires no changes to applications or their servers.

The Tarantella architecture is based on a three-layer approach, whereby the Tarantella server sits in between the application layer (server) and the client layer (user). There is no need to make changes to any applications or existing servers to 'drop' Tarantella into the network and provide access to applications anywhere via existing client browsers.

Tarantella devotes resources to ongoing product testing and quality assurance to support product reliability. The Company believes that its ability to integrate product technologies, to incorporate a wide variety of standards into its products, and to continue to offer enhancements to its existing products are essential to maintaining its competitiveness in the marketplace.

COMPETITION

Tarantella's Enterprise software solutions compete against a range of point products from companies including Citrix, Hummingbird, GraphOn, and Attachmate. Additionally, Tarantella products can be used in place of, or to augment, VPN or extranet products.

Citrix is the market leader in providing remote access to Windows applications; Hummingbird is the same for UNIX and Attachmate for mainframes. GraphOn, on the other hand, is largely focused on providing web-enabling tools for ISVs.

Each of these point competitors is a formidable opponent in their own space. In contrast, Tarantella offers an integrated approach to all of these needs with manageability, scalability, and flexibility to meet enterprise requirements.

Tarantella installs on all major UNIX and Linux platforms and delivers Windows, UNIX, Linux, Mainframe and web-based applications in a secure managed environment. It is the scalability and flexibility of our solutions in heterogeneous and demanding architectures that differentiate Tarantella from competitors.

EMPLOYEES

As of September 30, 2001, the Company had 207 employees, including 58 in product development, 81 in sales and marketing, 11 in customer support services, and 57 in finance, manufacturing and distribution services and administration.

THE SCO BUSINESS

INTRODUCTION

The Santa Cruz Operation, Inc. (SCO) was founded in 1979 and began trading on the Nasdaq Stock Exchange (Nasdaq: SCOC) in 1993. SCO was a global developer and provider of server software for networked business computing and had 20 years of experience developing UNIX system, open system, and open source software. SCO owned the intellectual property for UNIX system technology.

Headquartered in Santa Cruz, California, SCO had sales representatives in more than 80 countries and SCO products were sold and distributed worldwide by more than 15,000 resellers, distributors, systems integrators and computer manufacturers.

COMPANY STRATEGY

SCO's business strategy was threefold: 1) to provide the leading UNIX server software for high-volume Intel processor-based servers; 2) to web-enable existing and new applications with server-based software across multiple platforms (see Tarantella section); and 3) to provide technical expertise to companies via its Professional Services organization.

TARGET MARKETS

The Company targeted three major market segments: 1) primary information systems for small and medium-sized businesses, 2) replicated systems for use in distributed information systems in medium-sized and large organizations, including Fortune 1000 Corporations, and 3) business-critical enterprise servers for large and medium-sized businesses. Key targeted industries included retail and telecommunications.

PRODUCTS

UnixWare 7

UnixWare 7 had been built from the ground up to support distributed network computing on cost-efficient, "enterprise-class" Intel processor-based servers. As an applications server, UnixWare 7 provided all of the facets of business critical computing, including built-in security, reliability, and fault tolerance on a standard, cost-effective, and high-performance Intel single- or multi-processor hardware platform.

UnixWare 7 NonStop Clusters

UnixWare 7 NonStop Clusters provided totally dependable access to business-critical data and applications. UnixWare 7 NonStop Clusters software linked individual "nodes" -- whole computers, each running its own copy of the operating system - such that they acted and appeared as a single system.

SCO OpenServer

The SCO OpenServer system was a leading UNIX server operating system for Intel processor-based platforms. SCO OpenServer systems were exceptional at running multi-user, transaction-based DBMS and business applications, communications gateways, mail and messaging servers in both host and client/server environments. SCO OpenServer Release 5 combined minicomputer-level reliability and availability with the Intel platform's exceptional price/performance, value and flexibility. Unlike other advanced operating systems, SCO OpenServer systems revolutionized business productivity without obsoleting existing business critical systems, applications or data. SCO OpenServer systems delivered extensive networking with existing LANs and WANs, easy integration with Windows desktops, built-in Internet access and services, simplified administration and management, and outstanding scalability for long term growth.

SALES AND DISTRIBUTION

SCO had developed a highly trained and diverse sales and distribution channel of over 15,000 resellers and distributors. SCO and its distribution network worked together to provide comprehensive support services ranging from engineering and consulting services to technical support and training and education. The SCO sales and distribution channels focused on three major customer groups.

Small and Medium-Sized Businesses (SMB). SCO worked with VARs and authorized resellers, which develop and/or sell business solutions to small and medium-sized businesses.

Corporate Customers. In the U.S., and for selected customers across Europe, SCO developed a major account team that built and managed the relationships with customers in targeted industries as well as with the Company's channel partners who supported these customers.

Government Customers. SCO also had a dedicated account team that managed the relationships with government agencies in the U.S., while Government sales outside the U.S. were managed by SCO regional management or by OEMs, major distributors or major resellers.

CUSTOMER SUPPORT AND SERVICES

SCO's services were designed to support its wide range of customers, from small and medium-sized businesses to large enterprises, both at the end user and reseller levels. SCO, through its worldwide Professional Services, customer support and services staff and its authorized third-party education, support and channel partners, offered a variety of support and services:

- Technical Support
- Educational Services
- Consulting Services
- Developer Services
- Engineering Services

The Company sold support services to end users on an annual contract or as-needed basis. Options were available so those customers could tailor the support solution to meet their specific needs.

PRODUCT DEVELOPMENT

Since its inception, SCO focused considerable resources on the development and integration of UNIX systems and open systems software technologies and standards for Intel processor-based computers. In December of 1995, SCO purchased the UNIX Systems technologies from Novell Inc., which have since transferred to Caldera International as part of the May 2001 transaction.

SCO devoted considerable resources to ongoing product testing and quality assurance. In addition, the Company offered localized versions of its core business critical servers in English, French, Italian, German, Spanish, Chinese and Japanese.

COMPETITION

The market for operating systems is very competitive and rapidly changing. The Company encountered significant competition from a limited number of direct competitors including Microsoft, Novell, IBM and Sun Microsystems, which offer hardware-independent multi-user operating systems for Intel platforms, and from OEMs such as Hewlett-Packard, IBM, Olivetti and Sun Microsystems, which offer their own versions of the UNIX System on a variety of RISC and Intel CPU-based hardware. Competition from companies selling versions of the Linux operating system also increased.

BRIEF HISTORY OF COMPANY PRODUCTS

- 1983 -- SCO XENIX System V, a packaged version of the UNIX operating system.
- 1989 -- SCO UNIX System V/386, its first UNIX trademarked commercial product for Intel processor based platforms.
- 1990 -- SCO Open Desktop, a graphical version of SCO UNIX System V/386.
- 1993 -- Acquired IXI Corporation -- visual user interface and client integration technology.
- 1994 -- Acquired Visionware, Ltd. -- Windows connectivity technologies.
- 1995 -- SCO OpenServer family, which integrated SCO OpenServer and SCO Open Desktop product lines.
- 1995 -- SCO Vision family of client-integration products, which integrate Windows PCs with UNIX servers from all major UNIX system vendors.
- 1995 -- SCO acquired the UnixWare product line and UNIX system technology from Novell, Inc.
- 1997 -- Tarantella web-enabling software launched.
- 1998 -- UnixWare 7 Operating System.
- 1999 -- Tarantella Enterprise II product released.
- 2000 -- Tarantella Enterprise 3 product released
- 2000 -- SCO entered into an agreement in which Caldera Systems would acquire assets from the SCO Server Software and Professional Services Divisions.
- 2001 -- SCO completes the partial sale of company assets to Caldera Systems, Inc. and changes its name to Tarantella, Inc.

ITEM 2. PROPERTIES

The Company occupies leased facilities in the United States, the United Kingdom, Germany, Spain, Italy and Japan, consisting of an aggregate of approximately 90,000 square feet. The Company believes that these facilities are adequate for its needs in the foreseeable future.

ITEM 3. LEGAL PROCEEDINGS

No material legal proceedings are pending to which the Company is a party or to which any property of the Company is subject.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

The Company held an annual meeting of shareholders on July 11, 2001. The following matters were approved by the shareholders by the votes indicated:

MATTER -----	NUMBER OF SHARES FOR -----	WITHHELD -----
ELECTION OF DIRECTORS:		
Ninian Eadie	34,594,582	1,127,706
Ronald Lachman	34,597,422	1,124,866
Robert M. McClure	34,590,907	1,131,381
Douglas L. Michels	29,512,887	6,209,401
Alok Mohan	34,506,536	1,133,907
R. Duff Thompson	34,588,381	1,133,907
Gilbert P. Williamson	34,582,730	1,139,558

OTHER MATTERS:	FOR -----	AGAINST -----	ABSTAIN -----
Amendment of the Company's 1994 Incentive Stock Option Plan share reserve by 1,500,000 shares	28,519,070	7,124,611	78,607
Amendment of the Company's 1993 Director Option Plan to increase the Plan share reserve by 100,000 shares	28,606,258	7,032,789	83,241
Amendment of the Company's 1993 Employee Stock Purchase Plan to increase the Plan share reserve by 250,000 shares	34,974,930	681,711	65,647
Ratification of Deloitte & Touche LLP as independent certified public accountants of the Company	35,482,426	148,496	91,366

EXECUTIVE OFFICERS OF THE REGISTRANT

The executive officers of the Company as of September 30, 2001 were as follows:

Name	Age	Position with the Company
----	---	-----
Douglas L. Michels	47	President and Chief Executive Officer
Randall Bresee	53	Senior Vice President and Chief Financial Officer
Steve Sabbath	54	Senior Vice President, Law and Corporate Affairs, and Secretary
Geoff Seabrook	53	Senior Vice President, Corporate Development

Mr. Michels was named President and Chief Executive Officer in April 1998. Mr. Michels is the principal architect of the Company's technology strategy and served as the head of product development between June 1997 and April 1998 and as Chief Technical Officer between February 1993 and June 1997. Mr. Michels has been a director of the Company since 1979 and served as the Company's Executive Vice President between 1979, when he co-founded the Company, and April 1998.

Mr. Bresee was named Senior Vice President and Chief Financial Officer in April of 2000. Prior to that he was Chief Financial Officer at bamboo.com, serving in the capacity from April 1999 to April 2000. Between January 1997 and April 1999 he was Vice President and Corporate Controller for SCO and between May 1996 and January 1997 he served as Americas Controller for SCO. Prior to joining SCO, Mr. Bresee served as Director of Finance for the Customer Support Division at Silicon Graphics Incorporated from May 1988 to May 1996.

Mr. Sabbath was named Senior Vice President, Law and Corporate Affairs, and Secretary in January 1998. Between 1993 and 1997, he served as Vice President, Law and Corporate Affairs, and Secretary and served as Vice President, Legal Affairs between 1991 and 1993. Prior to joining the Company, between February 1988 and January 1991, Mr. Sabbath was the Deputy General Counsel for Sun Microsystems, Inc., a manufacturer of UNIX system-based hardware and software.

Mr. Seabrook was named Senior Vice President, Corporate Development in April 1998. Since joining the Company in 1989, Mr. Seabrook has held a number of strategic positions, including Senior Vice President and General Manager, EMEA. Prior to joining the Company, Mr. Seabrook served as Vice President International Operations at Century Data Inc..

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON STOCK AND RELATED STOCKHOLDER MATTERS

The following required information is filed as a part of the report:

The Company has not paid cash dividends on its common stock. The Company's common stock is traded over-the-counter and is quoted on the Nasdaq National Market under the symbol "TTLA". The following table sets forth the range of high and low closing sale prices for the Common Stock:

	Low Sale Price	High Sale Price
	-----	-----
Fiscal 2000:		
First Quarter	11.25	34.63
Second Quarter	9.38	31.25
Third Quarter	4.19	8.94
Fourth Quarter	2.78	6.13
Fiscal 2001:		
First Quarter	1.06	4.25
Second Quarter	0.88	2.84
Third Quarter	1.23	2.20
Fourth Quarter	0.31	1.62

On December 1, 2001, there were approximately 23,000 holders of the Company's Common Stock.

ITEM 6. SELECTED FINANCIAL DATA

TARANTELLA, INC.
SELECTED FIVE YEAR FINANCIAL INFORMATION

	Fiscal Year Ended September 30,				
	2001	2000	1999	1998	1997
	(In thousands, except per share data)				
Net revenues	\$ 66,662	\$ 148,923	\$ 223,624	\$ 171,900	\$ 193,660
Cost of revenues	17,315	41,796	49,778	47,096	55,315
Gross margin	49,347	107,127	173,846	124,804	138,345
Operating expenses	83,724	158,360	157,473	138,397	154,939
Operating income (loss)	(34,377)	(51,233)	16,373	(13,593)	(16,594)
Other income (expense):					
Gain on Caldera transaction	53,267	--	--	--	--
Loss and Impairment of equity investment in Caldera	(27,066)	--	--	--	--
Interest income, net	1,118	1,679	1,942	2,261	2,291
Other income (expense), net	253	819	1,939	226	(866)
Income (loss) before income taxes	(6,805)	(48,735)	20,254	(11,106)	(15,169)
Income taxes	(1,070)	8,218	3,396	3,559	1
Net income (loss)	(5,735)	(56,953)	16,858	(14,665)	(15,170)
Comprehensive income (loss)	\$ (11,123)	\$ (51,875)	\$ 15,974	\$ (14,012)	\$ (14,234)
Earnings (loss) per share-basic	\$ (0.14)	\$ (1.59)	\$ 0.49	\$ (0.41)	\$ (0.41)
Earnings (loss) per share-diluted	\$ (0.14)	\$ (1.59)	\$ 0.46	\$ (0.41)	\$ (0.41)
Shares used in per share calculation-basic	39,831	35,720	34,232	35,817	36,628
Shares used in per share calculation-diluted	39,831	35,720	36,402	35,817	36,628
(In thousands)	2001	2000	1999	1998	1997
Cash, equivalents and short-term investments	\$ 14,100	\$ 26,446	\$ 62,844	\$ 51,076	\$ 51,711
Working capital	10,022	16,654	44,813	32,221	46,164
Total assets	35,591	82,202	139,284	131,189	146,665
Long-term liabilities	1,853	5,462	11,094	12,027	9,545
Shareholders' equity	20,794	31,202	70,338	60,135	81,462

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

OVERVIEW

Tarantella is a leading provider of Internet infrastructure software that enables web-based access to enterprise applications.

The Tarantella Enterprise 3 solution instantly provides managed and secure web access to enterprise mainframe, Windows, AS/400, Linux, and UNIX applications. It leverages existing IT assets to provide cost savings, improved productivity, and the flexibility to accommodate the rapid changes in today's organizations.

This Management's Discussion and Analysis of Financial Condition and Results of Operations includes forward-looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934. The forward-looking statements involve risks and uncertainties. Actual results could differ materially from those projected in the forward-looking statements as a result of certain factors, including those set forth in Item 1, those described elsewhere in this report and those described in other reports under the Securities Exchange Act of 1934. We caution you not to place undue reliance on these forward-looking statements, which speak only as of the date of this report.

RESULTS OF OPERATIONS

NET REVENUES

The Company's net revenues are derived from software licenses and fees for services, which include engineering services, consulting, custom engineering, support and training.

Net revenues were \$66.7 million in fiscal 2001, a decrease of 55% from \$148.9 million in fiscal 2000. In fiscal 2000, net revenues decreased by 33% from \$223.6 million in fiscal 1999. The decline in revenue performance in fiscal 2001 was worldwide across all geographies and is attributable to the sale of a significant portion of our business. The Company's revenues were also impacted by the general reduction in information technology ("IT") investments by companies for application server software and service initiatives. The fiscal 2000 decline in revenue performance was worldwide across most geographies and is attributable to delays in large project deals as well as customer delays due to Year 2000 issues and other market factors. The recovery of the customer channel from the impact of Year 2000 has been slower than expected. For the fiscal years ended September 30, 2001, 2000 and 1999, no single customer accounted for more than 10% of the Company's net revenues.

International revenues continue to be a significant portion of net revenues, comprising 52% of the revenues for fiscal 2001 and 54% and 56% for 2000 and 1999, respectively.

License Revenues. License revenues were \$58.3 million in fiscal 2001 as compared to \$133.5 million in fiscal 2000 and \$208.5 million in fiscal 1999, representing a decrease of 56% in fiscal 2001 over 2000 and a decrease of 36% in fiscal 2000 over 1999. License revenues were 87% of total net revenues for fiscal 2001 and 90% and 93% of total net revenues for fiscal 2000 and 1999, respectively. The fiscal 2001 decline in license revenues is attributed to fewer large project deals and other market factors and the sale of the server business to Caldera. The fiscal 1999 to 2000 license revenue decrease was due to customer delays due to Year 2000 issues and a slower than expected recovery of the sales channel from the impact of Y2K.

Services Revenues. Services revenues decreased to \$8.4 million in fiscal 2001, a decrease of 46% from the \$15.4 million in fiscal 2000. Revenue from services remained relatively constant in fiscal 2000 at \$15.4

million, a 2% increase over the \$15.2 million level of fiscal 1999. Services revenues were 13% of the total revenue for fiscal 2001, compared to 10% in the prior year. The decline in services revenues was primarily in the professional services area and is the result of re-focusing of the professional services division on the implementation of new strategies in conjunction with the sale of the professional services business to Caldera.

COST OF REVENUES

The Company's overall cost of revenues as a percentage of net revenues can be affected by mix changes in net revenue contribution between product families, geographic regions and channels of distribution, since both price and cost characteristics associated with these revenue streams can vary greatly. The Company can also experience fluctuations in gross margin as net revenues increase or decrease since certain costs of revenues including technology, services, product assembly and distribution act as fixed costs within certain volume ranges.

Cost of License Revenues. Cost of license revenues includes royalties paid to certain software vendors, amortization of acquired technologies, product packaging, documentation and all costs associated with the acquisition of components, assembling of finished products, warehousing and shipping. Cost of license revenues as a percentage of license revenues decreased to 14% in fiscal 2001 from 17% in fiscal 2000, and 15% in fiscal 1999. The 3% decrease from 2000 to 2001 was primarily due to the expiration of several technology obligations. Additionally, material costs continue to decline as a result of the increasing number of Internet orders. Also certain fixed costs such as technology and overhead declined. The 2% increase from 1999 to 2000 was due to the impact of having fixed costs over lower unit sale volume. These fixed costs include technology and overhead costs. This impact is partially offset by declining material costs resulting from the continuing growth of e-commerce business.

Cost of Services Revenues. Cost of services revenues includes documentation, consulting and personnel related expenses associated with providing such services. Costs of services revenues as a percentage of services revenues decreased to 107% from 126% in fiscal 2000, which in turn was a decrease from 128% in fiscal 1999. The improvement in cost of services revenues in Fiscal 2001 is primarily a result of reduced staffing levels in both the support and professional services organizations due to realignments of these organizations. The decrease in fiscal 2000 resulted from relatively constant costs as a percentage of higher fiscal 2000 revenues.

RESEARCH AND DEVELOPMENT

The Company invests in research and development both for new products and to provide continuing enhancements to current products. Research and development expenses decreased 54% to \$18.4 million in fiscal 2001 from \$39.7 million in fiscal 2000, which was a decrease of 6% from fiscal 1999 spending of \$42.4 million. Research and development expenses represented 28% of net revenues for fiscal 2001, 27% of net revenues for fiscal 2000, and 19% of net revenues for fiscal 1999. The decrease in research and development expenses in fiscal 2000 and 2001 can be attributed to lower labor costs driven by lower headcount as a result of a planned reduction in force. Fiscal 2001 spending was also favorably impacted by the sale of the Server Software and Professional Services divisions to Caldera.

SALES AND MARKETING

Sales and marketing expenses decreased 47% to \$46.9 million in fiscal 2001, compared to \$89.3 million for fiscal 2000 and \$98.5 million for fiscal 1999. Sales and marketing expenses represented 70% of net revenues in fiscal 2001, 60% in fiscal 2000 and 44% in fiscal 1999. The decrease in fiscal 2001 is due to lower labor costs as a result of the sale of the Server and Professional Services division to Caldera combined with reductions driven by lower headcount as a result of a planned reduction in force. The

decrease in fiscal 2000 is due to a decline in sales program costs that vary directly with revenue, including commissions and cooperative advertising. The increase as a percentage of revenue in both fiscal 2001 and fiscal 2000 is due to revenues declining faster than the company was able to reduce expenses.

GENERAL AND ADMINISTRATIVE

General and administrative expenses decreased 7% to \$17.3 million in fiscal 2001, compared with \$18.7 million in fiscal 2000 and \$16.6 million in fiscal 1999. General and administrative represented 26% of net revenues in fiscal 2001, 13% in fiscal 2000 and 7% in fiscal 1999. The significant increase in general and administrative expense as a percentage of revenue is due to fixed costs spread over much lower revenue as well as the payment of executive retention bonuses of \$2.1 million associated with the sale of the majority of the business to Caldera. The transfer of certain staff from other functions due to the creation of the Company's divisions drove the increase in fiscal 2000.

Allowance for doubtful accounts at the end of September 30, 2001 was \$2.3 million, or 36% of gross accounts receivable. At the end of September 30, 2000, allowance for doubtful accounts was \$3.2 million, or 12% of gross accounts receivable. The reason for the significant increase in allowance for doubtful accounts is because the Company retained all accounts receivable when they sold the server and professional services divisions to Caldera. All of the current allowance for doubtful accounts relates to sales of server products. The allowance for doubtful accounts balance of \$2.3 million at September 30, 2001 includes a \$0.7 million reserve for a customer that has declared bankruptcy.

RESTRUCTURING CHARGES

Restructuring charges of \$1.0 million were incurred in fiscal year 2001 that related to worldwide restructurings undertaken in the second and fourth quarters of fiscal 2001. The restructurings included a reduction in personnel of approximately 38 employees and elimination of non-essential facilities. As of September 30, 2001, all 38 positions have been eliminated, however there were cash payments of \$304,000 remaining. Of the \$1.0 million, the entire \$1.0 million charge related to cash expenditures. These reductions were made to align spending with lower than expected company revenues. The Company intends to partially sublet space in the Santa Cruz, California office. This space will be vacated and restored and subsequently sublet. The Company anticipated that the sub-lease would be completed within three months, however as of September 30, 2001 the space remained vacant.

Restructuring charges of \$10.7 million were incurred in fiscal year 2000 that related to worldwide restructurings undertaken in the second and fourth quarters of fiscal 2000, representing 7% of total net revenues for the fiscal year. The restructuring charges included a reduction in personnel of approximately 227 employees, write-off of certain acquired technologies, write-off of certain fixed assets, and elimination of non-essential facilities. Of the \$10.7 million, \$9.2 million related to cash expenditures and \$1.5 million related to non-cash charges. The restructuring charge included cash expenditures of \$7.3 million for severance costs and \$1.9 million for facilities costs. The non-cash charges related to disposals of fixed assets and write-off of technology. The disposal of fixed assets was comprised of computer equipment that was no longer in use due to the reduction of personnel. Losses on the disposal of these fixed assets were recorded against the restructuring charge. The amount of these charges was \$842,000. The technology write-off relates to technology that was no longer used in product development due to the reduction in development personnel. The Company restructured its business operations into three independent divisions, each with a separate management team and dedicated development, marketing and sales organizations - the Server Division, the Tarantella Division and the Professional Services Division. The Company believed this reorganization would create independent focused teams that could pursue revenue in their respective markets and was effective April 1, 2000. The Company believed that as a result of creating these independent, focused organizations the Company would be better able to control and measure the success of these businesses. As a result of the restructuring plans various regional offices in the United States, United Kingdom, Latin America and the Asia Pacific region were eliminated. The US regional facilities and the Watford, UK leases were vacated and restored, and subsequently sub-let or terminated. The remaining

international offices were vacated immediately. Of the facilities closed, the majority related to the Server Division while a minor portion related to the Corporate Division which is comprised primarily of the finance and General and Administrative functions of the Company's United Kingdom subsidiary. Reserves for any payments not made by the end of fiscal 2001 were released.

OTHER INCOME (EXPENSE)

Other income and expense consists of interest income net of interest expense, foreign exchange gains and losses, and realized gains and losses on investments, as well as other miscellaneous income and expense items. Net interest income decreased in fiscal 2001 to \$1.1 million compared to \$1.7 million for fiscal 2000 and \$1.9 million for fiscal 1999. Other income was \$0.3 million for fiscal 2001, \$0.8 million for fiscal 2000 and \$1.9 million for fiscal 1999. In January 2001, the Company sold 3,200,000 shares of its Rainmaker stock for \$1.00 per share, and received cash proceeds of \$3.2 million. The cost basis of the sale was \$1.1 million, and the Company realized a gain of \$2.1 million from this sale. In fiscal 2000 the Company recorded a gain on the sale of shares of Rainmaker stock of \$1.9 million, net of an other-than temporary decline in another investment position of \$0.7 million. The decrease in other income from fiscal 1999 to fiscal 2000 was due to gains from the partial liquidation of converted debentures of a domestic distribution channel partner of \$3.3 million, net of an other-than temporary decline in another investment position of \$1.0 million which were included in the fiscal 1999 results but did not recur in fiscal 2000. In fiscal 2001 there was a \$53.3 million gain included in other income for the sale of the server and professional services divisions to Caldera. There was also a charge taken for the impairment of the Caldera investment in the amount of \$22.5 million, net of the unamortized portion of negative goodwill. The fiscal 2001 results also include \$4.6 million for the loss from the equity investment in Caldera. This loss is net of \$0.7 million of negative goodwill related to the excess of net assets in Caldera over the value of the investment at the time of closing.

INCOME TAXES

In fiscal 2001, 2000 and 1999, the Company's effective income tax rates were 16%, (17)% and 17%. The fiscal 2001 tax benefit of \$1.1 million reflects a benefit of \$1.6 million due to the resolution of foreign audit issues and foreign income taxes of \$0.5 million. The fiscal 2000 tax primarily reflects the write off of deferred tax assets of \$7.8 million and foreign income taxes of \$0.5 million. The fiscal 1999 tax primarily reflects foreign income taxes.

NET INCOME (LOSS)

The Company reported a net loss of \$5.7 million in fiscal 2001 compared to net loss of \$57.0 million in fiscal 2000 and net income of \$16.9 million in fiscal 1999. Although revenues were significantly lower in fiscal 2001, the net losses decreased by 90% due to the net gain recorded for the Caldera transaction. The net loss in fiscal 2000 is primarily due to lower revenues, restructuring charges and the reduction of net deferred tax assets. The net income in fiscal 1999 was driven by strong revenue performance, which was directly related to the increasing importance of server-based computing as well as customers upgrading in preparation for Year 2000.

LIQUIDITY AND CAPITAL RESOURCES

Cash, cash equivalents and short-term investments were \$14.1 million at September 30, 2001, representing 40% of total assets. The decrease in cash and short-term investments of \$12.3 million 2001 is due to operating losses, lower revenues and a decrease in sales linearity, which resulted in lower cash collections. The Company's operating activities used cash of \$34.2 million during fiscal 2001, compared to \$41.6 million used for operating activities for fiscal 2000. Cash provided by investing activities was \$25.0 million in fiscal 2001 compared to cash provided from investing of \$19.5 million in fiscal 2000. The increase was

attributable primarily to the proceeds received from the Caldera transaction. Cash provided for financing activities was \$0.7 million for fiscal 2001 compared with \$9.9 million for fiscal 2000.

The company's days sales outstanding (DSO) at the end of fiscal 2001 was 87, an increase of 21 days from the end of fiscal 2000. The increase in DSO at the end of fiscal 2001 was due to a deterioration of sales linearity during the fourth quarter as well as increased delinquent accounts receivable. It is expected that DSO for Tarantella will not fluctuate significantly from the 87 days at the end of fiscal 2001. DSO are expected to remain at higher levels than prior years because a larger portion of the products are now sold directly to the customer and this type of sale does not have the even linearity seen in sales through distribution.

As of September 30, 2001, the Company had an equity investment in Rainmaker Systems having a fair market value of \$0.1 million and a cost basis of \$0.2 million. In January 2001, the Company sold 3,200,000 shares of its Rainmaker stock for \$1.00 per share, and received cash proceeds of \$3.2 million. The cost basis of the sale was \$1.1 million, and the Company realized a gain of \$2.1 million from this sale.

The Company has incurred net losses from operations of approximately \$5.7 million during fiscal 2001 and \$57.9 million during fiscal 2000 and revenues have declined from \$148.9 million in fiscal 2000 to \$66.7 million in fiscal 2001. For fiscal 2001 losses from operations were \$34.4 million, compared to \$51.2 million during fiscal 2000. The Company has an accumulated deficit of \$99.0 million as of September 30, 2001.

In connection with the transaction with Caldera, the Company entered into a Loan Agreement and a Secured Convertible Promissory Note effective January 8, 2001, with The Canopy Group for borrowings up to \$18.0 million. Draws on the financing agreement are repayable on December 31, 2001 and bear interest at a rate per annum of 10%. Draws are collateralized by the Company's tangible and intangible assets and are convertible into common stock at the option of the lender at the closing price of the Company's common stock on the date of issuance, subject to certain limitations. The unconverted principal is repayable in cash. The Company has not drawn on this line of credit.

The Company believes that, based on its current plans its existing cash and cash equivalents, short-term investments, funds generated from operations and available borrowing capabilities will be sufficient to meet its operating requirements through fiscal 2002, however additional financing may be required thereafter.

FACTORS THAT MAY AFFECT FUTURE RESULTS

Set forth below and elsewhere in this Report and in other documents the Company files with the SEC are risks and uncertainties that could cause actual results to differ materially from the results contemplated by the forward-looking statement in this Report.

COMPANY'S OPERATING RESULTS MAY FLUCTUATE IN FUTURE PERIODS

The results of operations for any quarter or fiscal year are not necessarily indicative of the results to be expected in future periods. The Company's operating results have in the past been, and will continue to be, subject to quarterly and annual fluctuations as a result of a number of factors, including but not limited to:

- Overall technology spending
- Changes in general economic conditions and specific market conditions in the Internet infrastructure industry
- Rapid technological changes that can adversely affect the demand for the Company's products
- Fluctuations in demand for the Company's products and services
- The public's perception of Tarantella and its products
- The long sales and implementation cycle for the Company's products

- General industry trends and the potential effects of price and product competition in the Internet infrastructure industry
- The introduction and acceptance of new technologies and products
- Reductions in sales to, or loss of, any significant customers
- The timing of orders, timing of shipments, and the ability to satisfy all contractual obligations in customer contracts
- The impact of acquired technologies and businesses
- The Company's ability to control spending and achieve targeted cost reductions
- The ability of the Company to generate cash adequate to continue operations
- The potential loss of key employees
- The Company's ability to attract and retain qualified personnel
- Adverse changes in the value of equity investments in third parties held by the Company
- The ability of the Company's customers and suppliers to obtain financing or to fund capital expenditures

As a consequence, operating results for a particular future period are difficult to predict.

THE COMPANY IS EXPOSED TO GENERAL ECONOMIC AND MARKET CONDITIONS

Any significant downturn in the Companies customers' markets, or domestic and global conditions, which result in a decline in demand for their software and services could harm the business. The terrorist attacks of September 11, 2001, the subsequent military response by the United States and future events occurring in response to, or in connection with the attacks may negatively impact the economy in general. In particular, the negative impacts of these events may affect the software industry. This could result in customers delaying or canceling orders for software. Any of these occurrences could have a significant impact on the Companies operating results, revenues and costs and may cause the market price of their common stock to decline or become more volatile.

The Company's future operating results may be affected by various uncertain trends and factors that are beyond the Company's control. These include adverse changes in general economic conditions and rapid or unexpected changes in the technologies affecting the Company's products. The process of developing new high technology products is complex and uncertain and requires accurate anticipation of customer needs and technological trends.

THE COMPANY DEPENDS ON THE DEVELOPMENT AND ACCEPTANCE OF NEW PRODUCTS IN A RAPIDLY CHANGING MARKET

The market for the Company's products is characterized by rapidly changing technology, evolution of new industry standards, and frequent introductions of new products and product enhancements. The Company's success will depend upon its continued ability to enhance its existing products, to introduce new products on a timely and cost-effective basis to meet evolving customer requirements, to achieve market acceptance for new product offerings, and to respond to emerging industry standards and other technological changes. There can be no assurance that the Company will be successful in developing new products or enhancing its existing products or that such new or enhanced products will receive market acceptance. The Company's success also depends upon its ability to license from third parties and to incorporate into its products new technologies that become industry standards. There can be no assurance that the Company will continue to obtain such licenses on favorable terms or that it will successfully incorporate such third-party technologies into its own products.

The Company anticipates new releases of products in the fiscal year ending September 30, 2002. There can be no assurance that such new releases will not be affected by technical problems or 'bugs', as is common in the software industry. Furthermore, there can be no assurance that these or other future product introductions will not be delayed. Delays in the availability, or a lack of market acceptance, of new or

enhanced products could have an adverse effect on the Company's business. There can be no assurance that product introductions in the future will not disrupt product revenues and adversely affect operating results.

THE COMPANY COMPETES IN THE HIGHLY COMPETITIVE INTERNET INFRASTRUCTURE MARKET

The industry has become increasingly competitive and, accordingly, the Company's results may also be adversely affected by the actions of existing or future competitors, including the development of new technologies, the introduction of new products, and the reduction of prices by such competitors to gain or retain market share. The Company's results of operations could be adversely affected if it were required to lower its prices significantly.

OPERATING RESULTS FOR A PARTICULAR QUARTER ARE DIFFICULT TO PREDICT

The Company participates in a highly dynamic industry and future results could be subject to significant volatility, particularly on a quarterly basis. The Company's revenues and operating results may be unpredictable due to the Company's shipment patterns. The Company operates with little backlog of orders because its products are generally shipped as orders are received. In general, a substantial portion of the Company's revenues have been booked and shipped in the third month of the quarter, with a concentration of these revenues in the latter half of that third month. In addition, the timing of closing of large license contracts and the release of new products and product upgrades increase the risk of quarter to quarter fluctuations and the uncertainty of quarterly operating results. The Company's staffing and operating expense levels are based on an operating plan and are relatively fixed throughout the quarter. As a result, if revenues are not realized in the quarter as expected, the Company's expected operating results and cash balances could be adversely affected, and such effect could be substantial and could result in an operating loss and depletion of the Company's cash balances. In such event, it may not be possible for the Company to secure sources of cash to maintain operations.

THE COMPANY'S REVENUES MAY BE AFFECTED BY THE SEASONALITY OF REVENUES IN THE EUROPEAN AND GOVERNMENT MARKETS

The Company experiences seasonality of revenues for both the European and the U.S. federal government markets. European revenues during the quarter ending June 30 are historically lower or relatively flat compared to the prior quarter. This reflects a reduction of customer purchases in anticipation of reduced selling activity during the summer months. Sales to the U.S. federal government generally increase during the quarter ending September 30. This seasonal increase is primarily attributable to increased purchasing activity by the U.S. federal government prior to the close of its fiscal year. Additionally, net revenues for the first quarter of the fiscal year are typically lower or relatively flat compared to net revenues of the prior quarter.

REVENUES MAY BE AFFECTED BY CHANGES IN THE MIX OF PRODUCTS AND SERVICES

The overall cost of revenues may be affected by changes in the mix of net revenue contribution between licenses and services, product families, geographical regions and channels of distribution, as the costs associated with these revenues may have substantially different characteristics. The Company may also experience a change in margin as net revenues increase or decrease since technology costs, services costs and production costs are fixed within certain volume ranges.

THE COMPANY'S OPERATIONAL RESULTS COULD BE AFFECTED BY PRICE VARIATIONS

The Company's results of operations could be adversely affected if it were to lower its prices significantly. In the event the Company reduced its prices, the Company's standard terms for selected distributors provide credit for inventory ordered in the previous 180 days, such credits to be applied against future purchases.

The Company, as a matter of policy, does not allow product returns for refund. Product returns are generally allowances for stock balancing and are accompanied by compensating and offsetting orders. Revenues are net of a provision for estimated future stock balancing and excess quantities above levels the Company believes are appropriate in its distribution channels. The Company monitors the quantity and mix of its product sales.

THE COMPANY IS DEPENDANT UPON INFORMATION RECEIVED FROM THIRD PARTIES IN ORDER TO DETERMINE INVENTORY AND RESERVES

The Company depends on information received from external sources in evaluating the inventory levels at distribution partners in the determination of reserves for the return of materials not sold, stock rotation and price protection. Significant effort has gone into developing systems and procedures for determining the appropriate reserve level.

THE COMPANY'S BUSINESS DEPENDS UPON ITS PROPRIETARY RIGHTS AND THERE IS A RISK THAT SUCH RIGHTS WILL BE INFRINGED

The Company attempts to protect its software with a combination of patent, copyright, trademark, and trade secret laws, employee and third party nondisclosure agreements, license agreements, and other methods of protection. Despite these precautions, it may be possible for unauthorized third parties to copy certain portions of the Company's products or reverse engineer or obtain and use information the Company regards as proprietary. While the Company's competitive position may be affected by its ability to protect its intellectual property rights, the Company believes that trademark and copyright protections are less significant to the Company's success than other factors, such as the knowledge, ability, and experience of the Company's personnel, name recognition, and ongoing product development and support.

PORTIONS OF THE COMPANY'S SHRINK WRAP AND/OR CLICK THROUGH LICENSES MAY NOT BE ENFORCEABLE IN CERTAIN JURISDICTIONS

The Company's software products are generally licensed to end users on a "right-to-use" basis pursuant to a perpetual license. The Company licenses its products to end users primarily under "shrink-wrap" or "click through" license (i.e., licenses included as part of the product packaging or electronic delivery). Shrink-wrap and click-through licenses, which are not negotiated with or signed by individual end-user licensees, are intended to take effect upon opening of the product package or agreeing to the terms electronically. Certain provisions of such licenses, including provisions protecting against unauthorized use, copying, transfer, and disclosure of the licensed product, may be unenforceable under the laws of certain jurisdictions. In addition, the laws of some foreign countries do not protect the Company's intellectual property rights to the same extent as do the laws of the U.S.

RISKS OF CLAIMS FROM THIRD PARTIES FOR INTELLECTUAL PROPERTY INFRINGEMENT COULD ADVERSELY AFFECT THE BUSINESS

As the number of software products in the industry increases and the functionality of these products further overlaps, the Company believes that software products will increasingly become subject to infringement claims. There can be no assurance that third parties will not assert infringement claims against the Company and/or against the Company's suppliers of technology. In general, the Company's suppliers have agreed to indemnify the Company in the event any such claim involves supplier-provided software or technology, but any such claim, whether or not involving a supplier, could require the Company to enter into royalty arrangements or result in costly litigation.

THE COMPANY DEPENDS UPON LICENSING ADEQUATE TECHNOLOGY FROM THIRD PARTIES

The Company depends on the availability of technology from third parties. Most of the software licensed by the Company is written to comply with industry standards and because the licensor is seeking to broaden its market it is made widely available on a non-exclusive basis by the licensor. As a result, this software is also readily available to competitors of the Company which want to incorporate such software into their products. The loss of any significant third-party license or the inability to license additional technology as required, could have a materially adverse effect on the Company's results of operations until such time as the Company could replace such technology.

TAX CARRYFORWARDS

As the Company utilizes its tax carryforwards and as new tax legislation is enacted, the Company's effective tax rate is subject to change.

THE COMPANY'S RESULTS OF OPERATIONS MAY BE AFFECTED BY FLUCTUATIONS IN FOREIGN CURRENCY EXCHANGE RATES

Substantial portions of the Company's revenues are derived from sales to customers outside the United States. Trade sales to international customers represented 52%, 54% and 56% of total revenues for fiscal 2001, 2000 and 1999, respectively. The Company's revenues can be affected by general economic conditions in the United States, Europe and other international markets. The Company's operating strategy and pricing take into account changes in exchange rates over time. However, the Company's results of operations may be significantly affected in the short term by fluctuations in foreign currency exchange rates.

THE CARRYING AMOUNT OF PURCHASED SOFTWARE AND TECHNOLOGY LICENSES MAY BE REDUCED DUE TO THE COMPANY'S AMORTIZATION POLICY

The Company's policy is to amortize purchased software and technology licenses using the straight-line method over the remaining estimated economic life of the product, or on the ratio of current revenues to total projected product revenues, whichever is greater. Due to competitive pressures, it is reasonably possible that those estimates of anticipated future gross revenues, the remaining estimated economic life of the product, or both will be reduced significantly in the near future. As a result, the carrying amount of the Company's purchased software and technology licenses may be reduced materially in the near future and, therefore, could create an adverse impact on the Company's future reported earnings.

THE COMPANY MAY MAKE FUTURE ACQUISITIONS WHERE ADVISABLE AND ACQUISITIONS INVOLVE NUMEROUS RISKS

The Company continually evaluates potential acquisition candidates. Such candidates are selected based on products or markets that are complementary to those of the Company's. Acquisitions involve a number of special risks, including the successful combination of the companies in an efficient and timely manner, the coordination of research and development and sales efforts, the retention of key personnel, the integration of the acquired products, the diversion of management's attention to assimilation of the operations and personnel of the acquired companies, and the difficulty of presenting a unified corporate image. The Company's operations and financial results could be significantly affected by such an acquisition.

THE COMPANY IS EXPOSED TO FLUCTUATIONS IN THE MARKET VALUES OF ITS PORTFOLIO OF INVESTMENTS

The Company is exposed to equity price risk regarding the marketable portion of equity securities in its portfolio of investments entered into for the promotion of business and strategic objectives. This risk increased significantly after the completion of the transaction with Caldera. The Company is exposed to fluctuations in the market values of portfolio investments. The Company maintains investment portfolio holdings of various issuers, types and maturities. These securities are generally classified as available for sale and consequently, are recorded on the balance sheet at fair value with unrealized gains or losses reported as a separate component of accumulated other comprehensive income, net of tax. Part of this portfolio includes minority equity investments in several publicly traded companies, the values of which are subject to market price volatility. The Company has also invested in several privately held companies, many of which can still be considered in the startup or development stages. These investments are inherently risky as the market for the technologies or products they have under development are typically in the early stages and may never materialize. The Company could lose its entire initial investment in these companies. The Company typically does not attempt to reduce or eliminate its market exposure pertaining to these equity securities.

THE COMPANY'S SUCCESS LARGELY DEPENDS UPON ITS ABILITY TO RETAIN AND RECRUIT KEY PERSONNEL

The Company's continued success depends to a significant extent on senior management and other key employees. None of these individuals is subject to a long-term employment contract or a non-competition agreement. Competition for qualified people in the software industry is intense. The loss of one or more key employees or the Company's inability to attract and retain other key employees could have a material adverse effect on the Company.

THE COMPANY'S STOCK PRICE MAY BE VOLATILE

The stock market in general, and the market for shares of technology companies in particular, have experienced extreme price fluctuations, which have often been unrelated to the operating performance of the affected companies. In addition, factors such as new product introductions by the Company or its competitors may have a significant impact on the market price of the Company's Common Stock. Furthermore, quarter-to-quarter fluctuations in the Company's results of operations caused by changes in customer demand may have a significant impact on the market price of the Company's stock. These conditions, as well as factors which generally affect the market for stocks of high technology companies, could cause the price of the Company's stock to fluctuate substantially over short periods.

IF THE COMPANY FAILS TO BECOME EURO-COMPLIANT IN A TIMELY MANNER, IT MAY RESULT IN AN ADVERSE IMPACT ON THE COMPANY'S RESULTS OF OPERATIONS OR FINANCIAL POSITION

The Single European Currency (Euro) was introduced on January 1, 1999 with complete transition to this new currency required by January 2002. We have made and expect to continue to make changes to our internal systems in preparation for the transition to the Euro. Changes made to date include changing the operating currency of the European subsidiaries that are affected by the Euro from the national currency to the Euro, which became effective during fiscal 2001. We expect to complete the conversion of all financial aspects of these subsidiaries by December 31, 2001.

We further expect that use of the Euro may affect our foreign exchange activities and may result in increased fluctuations in foreign currency results. Any delays in our ability to be Euro-compliant could have an adverse impact on our results of operations or financial position.

RECENT ACCOUNTING PRONOUNCEMENTS

The Company adopted Statement of Financial Accounting Standard ("SFAS") No. 133, "Accounting for Derivative Instruments and Hedging Activities," as amended, at the beginning of its fiscal year 2001. The standard requires the Company to recognize all derivatives on the balance sheet at fair value. Derivatives that are not hedges must be adjusted to fair value through income. If the derivative is a hedge, depending on the nature of the hedge, changes in the fair value of derivatives will either be offset against the change in fair value of the hedged assets, liabilities or firm commitments through earnings, or recognized in other comprehensive income until the hedged item is recognized in earnings. During the year, the Company maintained certain derivatives related to warrants held by the Company in Ebiz, Inc., and warrants issued by the Company to underwriters of a private placement completed in the prior year. The fair value of the warrants were recorded at October 1, 2000 with adjustments recorded to income throughout the year based on the then current fair value. As of September 30, 2001, the fair value of both warrants was determined to be insignificant.

In June 2001, the Financial Accounting Standards Board ("FASB") issued SFAS No. 141, "Business Combinations." SFAS No. 141 addresses the initial recognition and measurement of goodwill and other intangible assets acquired in a business combination. SFAS No. 141 is applicable to business combinations beginning July 1, 2001. The adoption of this statement is not expected to have a material impact on the Company's financial position or results of operations.

In June 2001, the FASB issued SFAS No. 142, "Goodwill and Other Intangible Assets." SFAS No. 142 addresses the recognition and measurement of goodwill and other intangible assets subsequent to their acquisition. SFAS No. 142 also addresses the initial recognition and measurement of intangible assets acquired outside of a business combination whether acquired individually or with a group of other assets. Goodwill and intangible assets previously recorded on the Company's consolidated financial statements will be affected by the provisions of SFAS No. 142. SFAS No. 142 will be effective for the Company's fiscal year 2003. The adoption of this statement is not expected to have a material impact on the Company's financial position or results of operations.

In October 2001, the FASB issued SFAS No. 144, "Accounting for Impairment of Long-Lived Assets". SFAS No. 144 supersedes SFAS No. 121, "Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to be Disposed Of," and addresses financial accounting and reporting for the impairment or disposal of long-lived assets. This statement is effective for fiscal years beginning after December 15, 2001. Tarantella is required to adopt SFAS No. 144 on October 1, 2002. The adoption of this statement is not expected to have a material impact on the Company's financial position or results of operations.

In September of 2000, SFAS No. 140 was issued replacing SFAS No. 125, "Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities". This Statement provides accounting and reporting standards for transfers and servicing of financial assets and extinguishments of liabilities based on a financial-components approach that focuses on control. Under that approach, after a transfer of financial assets, an entity recognizes the financial and servicing assets it controls and the liabilities it has incurred, derecognizes financial assets when control has been surrendered, and derecognizes liabilities when extinguished. In addition, this statement requires certain disclosures regarding securitization of financial assets. This statement is effective for transfers and servicing of financial assets and extinguishments of liabilities occurring after March 31, 2001. The adoption of this statement did not have a material effect on the Company's consolidated financial statements.

In December 1999, the Securities and Exchange Commission ("SEC") issued Staff Accounting Bulletin ("SAB") No. 101, Revenue Recognition in Financial Statements, which provides guidance on the recognition, presentation and disclosure of revenue and financial statements filed with the SEC. SAB 101 outlines the basic criteria that must be met to recognize revenue and provides guidance for disclosures related to revenue recognition policies. The Company has adopted SAB 101 effective with the first quarter of fiscal 2001. The implementation of SAB 101 did not have a material effect on the financial position or results of operations of the Company.

ITEM 7A. QUANTITATIVE DISCLOSURES ABOUT MARKET RISK

MARKET-RATE SENSITIVE INSTRUMENTS AND RISK MANAGEMENT

The following discussion about the Company's risk-management activities includes "forward-looking statements" that involve risk and uncertainties. Actual results could differ materially from those projected in the forward-looking statements. We are exposed to market risk related to changes in interest rates, foreign currency exchange rates, and equity security price risk. We do not use derivative financial instruments for speculative or trading purposes.

The following tables summarize the financial instruments held by the Company at September 30, 2001 which are sensitive to changes in interest rates. In the past the Company used forward foreign exchange contracts to manage foreign exchange exposures associated with underlying assets, liabilities and anticipated transactions. Since the completion of the transaction in which the Company sold the Server Software and Professional Services divisions to Caldera International, the Company does not feel the foreign exchange risk is great enough to warrant the purchase of forward foreign exchange contracts.

In the normal course of business, the Company also faces risks that are either non-financial or non-quantifiable. Such risks principally include technology risk, country risk, credit risk and legal risk, and are not represented in the following tables.

INTEREST-RATE RISK

As of September 30, 2001 the Company had cash and equivalents of \$12.1 million, consisting of cash and highly liquid money market instruments with maturities of less than 90 days, and bank certificate of deposits of \$2.0 million. Because of the short maturities of these instruments, a sudden change in market interest rates would not have a material impact on the fair value of the portfolio. The company would not expect operating results or cash flows to be affected to any significant degree by the effect of a sudden change in market interest on our portfolio.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

TARANTELLA, INC.
CONSOLIDATED STATEMENTS OF OPERATIONS

(In thousands, except per share data)	Fiscal Years Ended September 30,		
	2001	2000	1999
Net revenues:			
Licenses	\$ 58,310	\$ 133,510	\$ 208,466
Services	8,352	15,413	15,158
Total net revenues	66,662	148,923	223,624
Cost of revenues:			
Licenses	8,346	22,366	30,450
Services	8,969	19,430	19,328
Total cost of revenues	17,315	41,796	49,778
Gross margin	49,347	107,127	173,846
Operating expenses:			
Research and development	18,439	39,673	42,376
Sales and marketing	46,940	89,313	98,525
General and Administrative	17,326	18,691	16,572
Restructuring charge	1,019	10,683	--
Total operating expenses	83,724	158,360	157,473
Operating income (loss)	(34,377)	(51,233)	16,373
Other income (expense):			
Gain on Caldera transaction	53,267	--	--
Loss and impairment of equity investment in Caldera	(27,066)	--	--
Interest income, net	1,118	1,679	1,942
Other income, net	253	819	1,939
Total other income	27,572	2,498	3,881
Income (loss) before income taxes	(6,805)	(48,735)	20,254
Provision for (benefit from) income taxes	(1,070)	8,218	3,396
Net income (loss)	(5,735)	(56,953)	16,858
Other comprehensive income (loss):			
Foreign currency translation adjustment	33	(539)	(884)
Unrealized gain (loss) on available for sale securities, net of tax of \$2,119 in fiscal 2000	(5,686)	3,498	--
Total other comprehensive income (loss)	(5,653)	2,959	(884)
Reversal of valuation allowance on deferred tax assets	--	2,119	--
Comprehensive income (loss)	\$ (11,388)	\$ (51,875)	\$ 15,974
Earnings (loss) per share:			
Basic	\$ (0.14)	\$ (1.59)	\$ 0.49
Diluted	\$ (0.14)	\$ (1.59)	\$ 0.46
Shares used in earnings (loss) per share calculation:			
Basic	39,831	35,720	34,232
Diluted	39,831	35,720	36,402

See accompanying notes to consolidated financial statements.

TARANTELLA, INC.
CONSOLIDATED BALANCE SHEETS

(In thousands)	September 30,	
	2001	2000
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 12,100	\$ 20,879
Short-term investments	2,000	5,567
Receivables, net of allowance for doubtful accounts of \$2.3 million and \$3.2 million in 2001 and 2000, respectively	4,098	24,269
Available-for-sale equity securities	101	7,119
Note receivable from Caldera	1,846	--
Other receivables	1,658	795
Prepays and other current assets	1,163	3,563
Total current assets	22,966	62,192
Property and equipment, net	2,232	14,842
Long-term portion of note receivable from Caldera	5,260	--
Equity investment in Caldera	4,010	--
Other assets	1,123	5,168
Total assets	\$ 35,591	\$ 82,202
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities:		
Trade accounts payable	\$ 802	\$ 5,521
Royalties payable	733	4,530
Income taxes payable	374	1,964
Accrued restructuring charges	344	5,964
Accrued expenses and other current liabilities	9,506	20,225
Deferred revenues	1,185	7,334
Total current liabilities	12,944	45,538
Long-term lease obligations	2	545
Long-term deferred revenues	91	1,397
Other long-term liabilities	1,760	3,520
Total long-term liabilities	1,853	5,462
Commitments and contingencies (note 10) Shareholders' equity:		
Preferred stock, authorized 20,000,000 shares; No shares issued and outstanding in 2001 and 2000	--	--
Common stock, no par value, authorized 100,000 shares; Issued and outstanding 40,117 and 39,436 shares in 2001 and 2000, respectively	119,919	118,940
Accumulated other comprehensive income	(166)	5,486
Accumulated deficit	(98,959)	(93,224)
Total shareholders' equity	20,794	31,202
Total liabilities and shareholders' equity	\$ 35,591	\$ 82,202

See accompanying notes to consolidated financial statements.

TARANTELLA, INC.
CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY

(In thousands)	Common Stock		Note, Receivable from Officer	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit	Total Shareholders' Equity
	Shares	Amount				
BALANCES, SEPTEMBER 30, 1998	35,049	\$ 112,064	\$ (92)	\$ 1,292	\$ (53,129)	\$ 60,135
Common stock issuance under stock option and purchase plans	1,721	7,107	--	--	--	7,107
Common stock repurchases	(2,424)	(14,034)	--	--	--	(14,034)
Interest on note	--	--	(5)	--	--	(5)
Stock option income tax benefit	--	1,161	--	--	--	1,161
Foreign currency translation	--	--	--	(884)	--	(884)
Net income	--	--	--	--	16,858	16,858
BALANCES, SEPTEMBER 30, 1999	34,346	\$ 106,298	\$ (97)	\$ 408	\$ (36,271)	\$ 70,338
Common stock issuance under stock option and purchase plans	2,574	12,523	--	--	--	12,523
Common stock repurchases	(759)	(12,786)	--	--	--	(12,786)
Private placement	3,275	12,769	--	--	--	12,769
Unrealized gain on investment	--	--	--	5,617	--	5,617
Repayment of note	--	--	97	--	--	97
Stock compensation expense	--	136	--	--	--	136
Foreign currency translation	--	--	--	(539)	--	(539)
Net loss	--	--	--	--	(56,953)	(56,953)
BALANCES, SEPTEMBER 30, 2000	39,436	\$ 118,940	\$ --	\$ 5,486	\$ (93,224)	\$ 31,202
Common stock issuance under stock option and purchase plans	681	1,176	--	--	--	1,176
Unrealized loss on investment	--	--	--	(5,686)	--	(5,686)
Stock compensation expense	--	61	--	--	--	61
Foreign currency translation	--	--	--	34	--	34
Warrants - Canopy Group	--	969	--	--	--	969
Warrants - Security Research	--	(1,227)	--	--	--	(1,227)
Net loss	--	--	--	--	(5,735)	(5,735)
BALANCES, SEPTEMBER 30, 2001	40,117	\$ 119,919	\$ --	\$ (166)	\$ (98,959)	\$ 20,794

See accompanying notes to consolidated financial statements.

TARANTELLA, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS

(In thousands)	Fiscal Years Ended September 30,		
	2001	2000	1999
CASH FLOWS FROM OPERATING ACTIVITIES:			
Net income (loss)	\$ (5,735)	\$ (56,953)	\$ 16,858
Adjustments to reconcile net income (loss) to net cash provided by (used for) operating activities -			
Depreciation and amortization	5,086	11,302	12,140
Deferred taxes	--	7,821	--
Stock option income tax benefit	--	--	1,161
Foreign currency exchange (gain) loss	82	(342)	20
Gain on sale of marketable security	(2,118)	(1,896)	(3,272)
Loss on disposal of property and equipment	1,559	--	--
Gain on Caldera transaction	(53,267)	--	--
Loss on equity investment in Caldera	4,581	--	--
Impairment of equity investment in Caldera	22,485	--	--
Realized loss on available-for-sale investments	675	--	--
Impairment of available-for-sale investments	2,503	672	1,000
Amortization of warrant and stock compensation expense	(439)	(136)	--
Changes in operating assets and liabilities-			
Receivables	11,475	7,309	(4,971)
Other current assets	(337)	1,959	2,545
Other assets	(279)	1,893	502
Trade accounts payable	(4,719)	(1,846)	(15)
Royalties payable	(1,139)	(2,695)	2,135
Income taxes payable	(646)	171	176
Accrued restructuring expenses	(5,620)	5,964	0
Accrued expenses and other current liabilities	(1,512)	(10,679)	4,158
Deferred revenues	(5,096)	(2,489)	(6,409)
Cash flows from other long-term liabilities	(1,760)	(1,701)	158
Net cash provided by (used for) operating activities	(34,221)	(41,646)	26,186
CASH FLOWS FROM INVESTING ACTIVITIES:			
Purchases of short-term investments	(33)	(12,088)	(28,654)
Sales of short-term investments and marketable securities	6,800	36,906	29,083
Purchases of property and equipment	(1,629)	(2,077)	(3,816)
Purchases of software and technology licenses	(894)	(999)	(2,633)
Changes in other assets	215	(2,268)	1,058
Proceeds from Caldera transaction	20,493	--	--
Net cash provided by (used for) investing activities	24,952	19,474	(4,962)
CASH FLOWS FROM FINANCING ACTIVITIES:			
Payments on capital lease obligations	(543)	(2,916)	(3,626)
Net proceeds from issuance of common stock	1,176	25,563	7,107
Repurchases of common stock	--	(12,786)	(14,034)
Net cash provided by (used for) financing activities	633	9,861	(10,553)
Effects of exchange rate changes on cash and cash equivalents	(143)	(493)	(746)
Change in cash and cash equivalents	(8,779)	(12,804)	9,925
Cash and cash equivalents at beginning of year	20,879	33,683	23,758
Cash and cash equivalents at end of year	\$ 12,100	\$ 20,879	\$ 33,683

See accompanying notes to consolidated financial statements.

TARANTELLA, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS (CONTINUED)

(In thousands)	Fiscal Years Ended September 30,		
	2001	2000	1999
SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION:			
Cash paid -			
Income taxes	\$ 1,238	\$ 218	\$ 3,319
Interest	317	344	544
Non-cash financing and investing activities -			
Warrants issued to Security Research	(1,227)	--	--
Warrants issued to Canopy	969	--	--
Unrealized gain (loss) on available-for-sale equity securities	(5,686)	5,617	--
Assets acquired under capital leases	--	20	1,978
Assets written off against restructuring reserve	586	923	--
Reconciliation of proceeds from Caldera transaction:			
Gain on Caldera transaction	53,267	--	--
Net assets sold	3,494	--	--
Discounted note receivable	(6,828)	--	--
Fair value of Caldera International common stock	(29,440)	--	--
Cash proceeds from Caldera transaction	\$ 20,493	\$ --	\$ --

See accompanying notes to consolidated financial statements.

TARANTELLA, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1 -- THE COMPANY

THE COMPANY Tarantella is a leading provider of Internet infrastructure software that enables web-based access to enterprise applications. The Tarantella Enterprise 3 solution instantly provides managed and secure Web access to enterprise mainframe, Windows, AS/400, Linux, and UNIX applications. It leverages existing IT assets to provide cost savings, improved productivity, and the flexibility to accommodate the rapid changes in today's organizations.

The Company was incorporated as The Santa Cruz Operation, Inc. (SCO) in California in 1979. On May 4, 2001, SCO completed the sale of its Server Software and Professional Services Divisions to Caldera Systems, Inc., retaining the Tarantella Division. A new company, Caldera International, was formed which combined the assets acquired from SCO with the assets of Caldera Systems. Upon the completion of the sale, The Santa Cruz Operation, Inc. changed its corporate name to Tarantella, Inc. and its Nasdaq trading symbol to TTLA, reflecting the new corporate focus.

NOTE 2 -- SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

BUSINESS RISKS AND UNCERTAINTIES The Company operates in the software industry, which is characterized by intense competition, rapid technological advances and evolving industry standards. Factors that could affect the Company's future operating results and cause actual results to vary materially from expectations include, but are not limited to, dependence on an industry that is characterized by rapid technological changes, fluctuations in end-user demands, evolving industry standards, competition, and risks associated with foreign currencies. Failure by the Company to anticipate or respond adequately to technological developments in its industry, changes in customer or supplier requirements or changes in industry standards could have a material adverse effect on the Company's business and operating results.

PRINCIPLES OF CONSOLIDATION The consolidated financial statements include the Company and its wholly-owned subsidiaries. All significant intercompany transactions and balances have been eliminated on consolidation.

USE OF ESTIMATES The preparation of financial statements in conformity with accounting principles generally accepted in the United States ("generally accepted accounting principles") requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Such estimates include the allowances for bad debt, product returns and certain accrued expenses and liabilities, and a valuation allowance for deferred tax assets. Actual results could differ from those estimates.

RECLASSIFICATIONS Certain prior year reclassifications have been made for consistent presentation.

CASH EQUIVALENTS AND SHORT-TERM INVESTMENTS The Company considers all highly liquid investments with an original maturity of 90 days or less at the date of acquisition to be cash equivalents. Short-term investments include instruments with lives ranging from 91 days to three years.

INVESTMENTS The Company classifies its investments in certain equity securities in publicly traded companies as available-for-sale. Such investments are recorded at fair market value, based on quoted market prices and unrealized gains and losses are included in other comprehensive income. As of September 30, 2001, unrealized losses on such investments were \$5.7 million. As of September 30, 2000, unrealized gains were \$3.5 million. The Company has investments in privately held companies which are classified as other assets. Realized gains and losses, which are calculated based on the specific

identification method, are recorded in operations as incurred. Investments in companies with less than 20% ownership are carried at the lower of cost or realizable value.

CREDIT RISK Financial instruments which potentially subject us to concentrations of credit risk consist primarily of cash equivalents, short-term investments and accounts receivable. Cash, cash equivalents and short-term investments consist primarily of cash accounts held at various banks, a money market fund held at several financial institutions and a certificate of deposit. We sell our products various organizations in different industries and geographies. Credit risk is further mitigated by our credit evaluation process and limited payment terms. We do not require collateral or other security to support accounts receivable. In addition, we maintain an allowance for potential credit losses.

PROPERTY AND EQUIPMENT Property and equipment are stated at cost and, except for assets recorded under capital lease and leasehold improvements, are depreciated using the straight-line method over the estimated useful lives of the assets, ranging from three to five years. Leasehold improvements and assets recorded under capitalized leases are amortized using the straight-line method over the lesser of the remaining term of the lease or the estimated economic life of the asset, ranging from one to ten years.

PURCHASED SOFTWARE AND TECHNOLOGY LICENSES Purchased software consists of core intellectual property rights owned by the Company. Technology licenses represent payments for the rights to use and integrate third party technology into the Company's product offerings. Amounts capitalized are amortized on a straight-line basis over the estimated product life, ranging from three to ten years, or on the ratio of current revenues to total projected product revenues, whichever results in greater amortization.

ACCOUNTING FOR LONG-LIVED ASSETS The Company reviews property and equipment and purchased software and technology licenses for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability is measured by comparison of its carrying amount to estimated future net cash flows the assets are expected to generate. If such assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying value of the asset exceeds the projected discounted future operating cash flows.

SOFTWARE DEVELOPMENT COSTS Statement of Financial Accounting Standards ("SFAS") No. 86 provides for the capitalization of certain software development costs once technological feasibility is established. Capitalized costs are then amortized on a straight-line basis over the estimated product life, or on the ratio of current revenues to total projected product revenues, whichever is greater. Through September 30, 2001, the Company believes its process for developing software was essentially completed concurrent with the establishment of technological feasibility, and accordingly, no software development costs have been capitalized to date.

At each balance sheet date the Company compares the unamortized balance of purchased software and technology with its net realizable value. Any amount by which the unamortized balance exceeds the net realizable value is written off. The net realizable value is calculated as the estimated future gross revenues from the product reduced by the estimated future costs of completing and disposing of that product, including the costs of performing the maintenance and customer support required to satisfy the Company's responsibility set forth at the time of the sale.

REVENUE RECOGNITION The Company's revenue is derived primarily from two sources, across many industries: (i) products license revenue, derived primarily from product sales to resellers and end users, including large scale enterprises and royalty revenue, derived primarily from initial license fees and ongoing royalties from product sales by source code OEMs; and (ii) services and support revenue, derived primarily from providing software updates, support and education and consulting services to end users.

The Company adopted the provisions of AICPA Statement of Position ("SOP") 97-2, Software Revenue Recognition, as amended. Product revenue is recognized upon shipment if evidence of an arrangement exists, the fee is fixed and determinable, collection of resulting receivables is probable and product returns

are reasonably assured. Sales to distributors, are recognized upon sale by the distributor to resellers or end users. Estimated product returns are recorded upon recognition of revenue from customers having rights of return, including exchange rights for unsold products and product upgrades.

Until May 2001, the Company sold two types of software product -- its UNIX based operating system software, which was sold under the Unixware and OpenServer names, and its application broker software sold under the Tarantella name. In May 2001, the Company sold the UNIX based business to Caldera Systems, Inc.

The Company sold Unixware and OpenServer products separately and as a result, contracts involving the sale of Unixware and OpenServer which contain multiple obligations (e.g. delivered and undelivered products, maintenance and other services), the Company allocated revenue to each component of the contract based on objective evidence of its fair value, which is specific to the Company. The fair value of each element is based on the price sold separately. The Company recognized revenue allocated to undelivered products when the criteria for product revenue set forth above was met.

For multiple element contracts involving the sale of its Tarantella product the Company uses the residual value method to allocate revenue to each component. The fair value of services and post contract support is determined based upon separate sales and renewal rates set forth in the contract, respectively.

The Company recognizes revenue from maintenance fees for ongoing customer support and product updates ratably over the period of the maintenance contract. Payments for maintenance fees are generally made in advance and are non-refundable. For revenue allocated to education and consulting services or derived from the separate sale of such services, the Company recognizes revenue as the related services are performed.

The Company recognizes product revenue from royalty payments upon receipt of quarterly royalty reports from OEMs (original equipment manufacturer) related to their product sales.

The Company performs ongoing credit evaluations of its customers' financial condition and does not require collateral. The Company maintains allowances for potential credit losses and such losses have been within management's expectations.

COOPERATIVE ADVERTISING The Company expenses advertising costs as incurred. The Company reimburses certain qualified customers for a portion of the advertising costs related to their promotion of the Company's products. The Company's maximum liability for reimbursement is accrued at the time revenue is recognized as a percentage of the qualified customer's net revenue derived from the Company's products. For 2001, 2000 and 1999, cooperative advertising expense totaled approximately \$1.6 million, \$7.8 million and \$10.5 million, respectively.

INCOME TAXES The Company records income taxes using an asset and liability approach that results in the recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been recognized in the Company's consolidated financial statements or tax returns. In estimating future tax consequences, all expected future events other than enactment of changes in tax laws are considered. When necessary, a valuation allowance is recorded to reduce tax assets to an amount whose realization is more likely than not. The provision for income taxes represents taxes payable for the current period, plus the net change in deferred tax amounts.

COMPUTATION OF EARNINGS (LOSS) PER SHARE Basic earnings (loss) per share is computed by dividing income available to common shareholders by the weighted average number of common shares outstanding for the period. Diluted earnings (loss) per share is computed by giving effect to all dilutive potential common shares that were outstanding during the period. For the Company, dilutive potential common shares consist of the incremental common shares issuable upon the exercise of stock options and warrants for all periods.

A reconciliation of the numerator and denominator used in the calculation of basic and diluted earnings (loss) per share is provided as follows (in thousands, except per share amounts):

(in thousands, except per share data)

	Fiscal Years Ended September 30,		
	2001	2000	1999
Basic:			
Weighted average shares	39,831	35,720	34,232
Net income (loss)	\$ (5,735)	\$ (56,953)	\$ 16,858
Earnings (loss) per share	\$ (0.14)	\$ (1.59)	\$ 0.49
Diluted:			
Weighted average shares	39,831	35,720	34,232
Common equivalent shares from stock options and warrants	--	--	2,170
Shares used in per share calculation	39,831	35,720	36,402
Net income (loss)	\$ (5,735)	\$ (56,953)	\$ 16,858
Earnings (loss) per share	\$ (0.14)	\$ (1.59)	\$ 0.46

	September 30,		
	2001	2000	1999
Options and warrants outstanding not included in computation of diluted earnings (loss) per share because the exercise price was greater than the average market price	8,978	1,583	3,190
Options and warrants outstanding not included in computation of diluted earnings (loss) per share because their inclusion would have been anti-dilutive	2,408	10,283	--

SEGMENT INFORMATION In 1999, the Company adopted SFAS No. 131, "Disclosures about Segments of an Enterprise and Related Information". SFAS No. 131 supercedes SFAS No. 14, "Financial Reporting for Segments of a Business Enterprise". Under the new standard the Company is required to use the "management" approach to reporting its segments. The management approach designates the internal

organization used by management for making operating decisions and assessing performance as the source of the Company's segments.

RECENT ACCOUNTING PRONOUNCEMENTS The Company adopted Statement of Financial Accounting Standard ("SFAS") No. 133, "Accounting for Derivative Instruments and Hedging Activities," as amended, at the beginning of its fiscal year 2001. The standard requires the Company to recognize all derivatives on the balance sheet at fair value. Derivatives that are not hedges must be adjusted to fair value through income. If the derivative is a hedge, depending on the nature of the hedge, changes in the fair value of derivatives will either be offset against the change in fair value of the hedged assets, liabilities or firm commitments through earnings, or recognized in other comprehensive income until the hedged item is recognized in earnings. During the year, the Company maintained certain derivatives related to warrants held by the Company in Ebiz, Inc., and warrants issued by the Company to underwriters of a private placement completed in the prior year. The fair value of the warrants were recorded at October 1, 2000 with adjustments recorded to income throughout the year based on the then current fair value. As of September 30, 2001, the fair value of both warrants was determined to be insignificant.

In June 2001, the Financial Accounting Standards Board ("FASB") issued SFAS No. 141, "Business Combinations." SFAS No. 141 addresses the initial recognition and measurement of goodwill and other intangible assets acquired in a business combination. SFAS No. 141 is applicable to business combinations beginning July 1, 2001. The adoption of this statement is not expected to have a material impact on the Company's financial position or results of operations.

In June 2001, the FASB issued SFAS No. 142, "Goodwill and Other Intangible Assets." SFAS No. 142 addresses the recognition and measurement of goodwill and other intangible assets subsequent to their acquisition. SFAS No. 142 also addresses the initial recognition and measurement of intangible assets acquired outside of a business combination whether acquired individually or with a group of other assets. Goodwill and intangible assets previously recorded on the Company's consolidated financial statements will be affected by the provisions of SFAS No. 142. SFAS No. 142 will be effective for the Company's fiscal year 2003. The adoption of this statement is not expected to have a material impact on the Company's financial position or results of operations.

In October 2001, the FASB issued SFAS No. 144, "Accounting for Impairment of Long-Lived Assets". SFAS No. 144 supersedes SFAS No. 121, "Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to be Disposed Of," and addresses financial accounting and reporting for the impairment or disposal of long-lived assets. This statement is effective for fiscal years beginning after December 15, 2001. Tarantella is required to adopt SFAS No. 144 on October 1, 2002. The adoption of this statement is not expected to have a material impact on the Company's financial position or results of operations.

In September of 2000, SFAS No. 140 was issued replacing SFAS No. 125, "Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities". This statement provides accounting and reporting standards for transfers and servicing of financial assets and extinguishments of liabilities based on a financial-components approach that focuses on control. Under that approach, after a transfer of financial assets, an entity recognizes the financial and servicing assets it controls and the liabilities it has incurred, derecognizes financial assets when control has been surrendered, and derecognizes liabilities when extinguished. In addition, this statement requires certain disclosures regarding securitization of financial assets. This statement is effective for transfers and servicing of financial assets and extinguishments of liabilities occurring after March 31, 2001. The adoption of this statement did not have a material effect on the Company's consolidated financial statements.

In December 1999, the Securities and Exchange Commission ("SEC") issued Staff Accounting Bulletin ("SAB") No. 101, Revenue Recognition in Financial Statements, which provides guidance on the recognition, presentation and disclosure of revenue and financial statements filed with the SEC. SAB 101 outlines the basic criteria that must be met to recognize revenue and provides guidance for disclosures related to revenue recognition policies. The Company has adopted SAB 101 effective with the first quarter of fiscal 2001. The implementation of SAB 101 did not have a material effect on the financial position or results of operations of the Company.

STOCK-BASED COMPENSATION The Company accounts for employee stock plans under the intrinsic value method prescribed by Accounting Principles Board Opinion ("APB") No. 25, "Accounting for Stock Issued to Employees" ("APB No. 25"), and Financial Accounting Standards Board Interpretation ("FASB") No. 44, "Accounting for Certain Transactions Involving Stock Compensation" (an Interpretation of APB No. 25) and has adopted the disclosure-only provisions of Statement of Financial Accounting Standards ("SFAS") No. 123, "Accounting for Stock-Based Compensation". The Company accounts for equity instruments issued to non-employees in accordance with the provisions of SFAS No. 123.

FOREIGN CURRENCY TRANSLATION The functional currency of the Company's foreign subsidiaries is the local foreign currency. All assets and liabilities denominated in foreign currencies are translated into U.S. dollars at the exchange rate prevailing on the balance sheet date. Revenues, costs and expenses are translated at average rates of exchange prevailing during the period. Translation adjustments resulting from translation of the subsidiaries' accounts are accumulated as a separate component of shareholders' equity. Gains and losses resulting from foreign currency transactions are included in the consolidated statements of operations and have not been significant.

HEDGING OF FOREIGN CURRENCY TRANSACTIONS In the past the Company utilized foreign currency forward exchange contracts to hedge foreign currency market exposures of underlying assets, liabilities and other obligations. The Company did not use forward exchange contracts for speculative or trading purposes. The Company's accounting policies for these instruments are based on the Company's designation of such instruments as hedging transactions. The criteria the Company uses for designating an instrument as a hedge include the instrument's effectiveness in risk reduction and one-to-one matching of forward exchange contracts to underlying transactions. Gains and losses on currency forward contracts that are designated and effective as hedges of firm commitments are deferred and recognized in income in the same period that the underlying transactions are settled. Gains and losses on currency forward contracts that are designated and effective as hedges of existing transactions are recognized in income in the same period as losses and gains on the underlying transactions are recognized and generally offset. Gains and losses on any instruments not meeting the above criteria would be recognized in income in the current period. The Company transacts business in various foreign currencies. At September 30, 2001 the Company had no foreign exchange contracts. At September 30, 2000, the Company had foreign exchange contracts, all having maturities of 90 days or less, to sell approximately \$9,000,000 in U.S. dollars.

The fair value of these contracts at September 30, 2000 was not significant. As of September 30, 2000 the following contracts were outstanding:

**Forward Contracts
September 30, 2000**

	Premium paid/ (Discount received)	Contract amount (In thousands)	Forward strike rate		Term of contract
Contract 1	2	\$ 1,250	1.50255	(GB Pound/US Dollar)	2 months
Contract 2	3	\$ 1,250	1.503025	(GB Pound/US Dollar)	2.5 months
Contract 3	5	\$ 1,000	1.4568	(GB Pound/US Dollar)	2 months
Contract 4	5	\$ 1,000	1.45705	(GB Pound/US Dollar)	2.5 months
Contract 5	5	\$ 1,000	1.4574	(GB Pound/US Dollar)	3 months
Contract 6	(27)	\$ 3,500	1.4391	(GB Pound/US Dollar)	2 months
Contract 7	(38)	\$(3,500)	1.46598	(US Dollar/GB Pound)	2.5 months

FAIR VALUE OF FINANCIAL INSTRUMENTS Carrying amounts of certain of the Company's financial instruments, including cash and cash equivalents, receivables, accounts payable, accrued payroll and other accrued liabilities, approximate fair value because of their short maturities. The fair values of investments are determined using quoted market prices for those securities or similar financial instruments. The fair value of other long-term liabilities approximates the carrying value due to the market interest rates that these obligations bear. A non-interest bearing \$8.0 million note receivable was received from Caldera in connection with the sale of the server and professional services divisions. The note is due in quarterly installments beginning August 1, 2002 and is secured by certain intellectual property sold to Caldera. The value of the note receivable at September 30, 2001 is as follows:

CALDERA NOTE RECEIVABLE

As of September 30, 2001			
	Short Term	Long Term	Total
Face Amount	2,000	6,000	8,000
Discount	154	740	894
Book Value	1,846	5,260	7,106

NOTE 3 - CASH AND CASH EQUIVALENTS

September 30,		
	2001	2000
(In thousands)		
Bank demand deposits	\$ 864	\$ 1,819
Money market accounts	11,236	19,060
	\$ 12,100	\$ 20,879

At September 30, 2001, all investments had original maturity dates of 90 days or less at the date of acquisition.

NOTE 4 - SHORT-TERM INVESTMENTS

September 30,		
	2001	2000
(In thousands)		
Bank certificates of deposit	\$ 2,000	\$ 3,100
Government agency bonds	--	971
Commercial paper	--	1,496
	\$ 2,000	\$ 5,567

NOTE 5 - RELATED PARTIES

	September 30,	
	2001	2000
	(In thousands)	
Net revenues		
License, third parties	\$ 52,527	\$ 118,877
License, related parties	5,783	14,633
Service, third parties	6,986	12,680
Service, related parties	1,366	2,733
Total net revenues	\$ 66,662	\$ 148,923
Receivables		
Receivables, third parties, net	\$ 3,709	\$ 22,917
Receivables, related parties, net	389	1,352
Total Receivables, net	\$ 4,098	\$ 24,269

NOTE 6 - PROPERTY AND EQUIPMENT

	September 30,	
	2001	2000
	(In thousands)	
Computer and office equipment	\$ 2,568	\$ 20,703
Furniture and fixtures	847	5,883
Leasehold improvements	1,673	8,143
Purchased software and technology licenses, at cost	1,082	31,588
	6,170	66,317
Less accumulated depreciation and amortization	(3,938)	(51,475)
	\$ 2,232	\$ 14,842

Depreciation and amortization expense was \$5.1 million, \$9.9 million and \$11.7 million during fiscal 2001, 2000 and 1999, respectively. During fiscal 2001 the Company sold net property and equipment of \$8.4 million to Caldera as part of the sale of the Server and Professional Services divisions.

NOTE 7 - LINE OF CREDIT

At September 30, 2001, the Company had available an \$18 million line of credit from the Canopy Group, under which the Company had no borrowings. The interest rate on this line of credit is 10% on amounts borrowed. The line of credit expires on December 31, 2001 and is secured by the assets of the Company. In connection with the line of credit, the Company issued a warrant to purchase 1,440,000 shares of common stock at an exercise price of \$1.5625 Per share. The warrant expires on January 8, 2003. The estimated fair value of the warrant, \$1.0 million, has been recorded as a deferred financing cost in other assets and is being amortized over the term of the agreement.

NOTE 8 - ROYALTIES PAYABLE

Royalties payable represent obligations to pay authors of certain software products under licensing agreements. Two corporate shareholders accounted \$0.6 million of royalty expense for fiscal 2000. At September 30, 2001 and September 30, 2000 no royalties were payable to corporate shareholders. There was no royalty expense for corporate shareholders in fiscal 2001.

NOTE 9 - ACCRUED EXPENSES AND OTHER CURRENT LIABILITIES

	September 30,	
	2001	2000
(In thousands)		
Accrued wages, commissions, bonuses	\$ 1,955	\$ 6,519
Accrued advertising	2,062	3,147
Accrued fringe benefits	668	1,374
Capital lease obligations	454	1,803
Customer deposits	811	761
Other payable - Caldera	657	--
Other accrued expenses	2,899	6,621
	\$ 9,506	\$ 20,225
	=====	=====

NOTE 10 -- COMMITMENTS AND CONTINGENCIES

LEASE COMMITMENTS Future minimum lease payments under non-cancelable operating leases (with initial or remaining lease terms in excess of one year) and future minimum capital lease payments as of September 30, 2001 were as follows:

(In thousands)	Capital Leases	Operating Leases
	-----	-----
Year Ending September 30,		
2002	\$ 9	\$ 1,212
2003	2	1,208
2004	--	1,206
2005	--	905
2006	--	--
Later years, through 2020	--	--
Total minimum lease payments	11	\$ 4,531
	=====	=====
Less amount representing interest	--	--
Present value of net minimum capital lease payments	.11	--
Less current installments of obligations under capital leases	9	--
	-----	-----
Obligations under capital leases, excluding current installments	\$ 2	--
	=====	=====

The cost of assets recorded under capital leases was \$35,260 and \$8.2 million at September 30, 2001 and 2000, respectively. Accumulated amortization on those dates was \$23,449 and \$6.1 million, respectively.

Rent expense amounted to approximately \$4.9 million, \$7.7 million and \$8.0 million in fiscal 2001, 2000, and 1999, respectively.

Included in the Company's operating lease commitments are facilities leased from Encinal Partners, a partnership which includes the Company President and Chief Executive Officer. The Company's Board of Directors has reviewed and approved the lease agreements and determined that the lease agreements entered into by the Company are equivalent to agreements that would be negotiated with an independent third party on an "arms-length" basis. The remaining lease term of this facility is four years. Rent expense for this facility amounted to approximately \$1.4 million in fiscal 2001, \$1.5 million in fiscal 2000, and \$1.4 million in fiscal 1999.

From time to time, the Company and its subsidiaries may experience claims in the ordinary course of business, including among others employee legal actions and alleged trademark infringements. Due to the nature of these matters, it is not possible to either determine the range of loss that may result from them or their ultimate resolution.

NOTE 11 - SHAREHOLDERS' EQUITY

PREFERRED STOCK The Company is authorized to issue 20,000,000 shares of Preferred Stock. As of September 30, 2001, there were no shares of Preferred Series stock either issued or outstanding.

1993 EMPLOYEE STOCK PURCHASE PLAN The Company has an Employee Stock Purchase Plan ("ESPP") for all eligible employees which is administered by the Board of Directors. Under the ESPP, shares of the Company's ESPP stock may be purchased at six-month intervals at 85% of the fair market value on the first or last day of each six-month period whichever is lower. Employees may purchase shares through payroll deductions of up to 10% of gross compensation during an offering period. During 2001, 2000, and 1999, employees purchased 670,591, 493,092, and 589,968 shares at an average per share price of \$1.72, \$4.31, and \$3.52, respectively. The number of shares reserved for issuance under the ESPP was increased by 250,000 shares in July 2001. As of September 30, 2001, 1,196,466 shares were reserved for future issuance.

1994 INCENTIVE STOCK OPTION PLAN As of September 30, 2001, the Company had authorized 21,513,665 shares of Common Stock for issuance under the 1994 Incentive Stock Option Plan (the "Option Plan"). The Company's Board of Directors administers the Option Plan and determines the terms of the options granted under the Option Plan, including the exercise price, number of shares subject to each option and the exercisability thereof. In addition, the stock option committee of the Company's Board of Directors is authorized to grant up to 50,000 shares to an individual employee or consultant under the terms of the Option Plan during a one-year period. In July 2001, the number of shares available for issuance under this plan was increased by 1,500,000 shares. As of September 30, 2001 there were 6.7 million shares available for issuance. On October 9, 2001, 4.1 million shares were granted, reducing the number of shares available for issuance to 2.6 million shares.

The exercise price of all incentive options granted under the Option Plan must be at least equal to the fair market value. Options granted under the Option Plan prior to January 31, 1996 generally become exercisable over a five year period. Effective January 31, 1996, the vesting period for subsequent grants was changed to four years. The term of each option is ten years.

1993 DIRECTOR OPTION PLAN The Company's 1993 Director Option Plan (the "Director Plan") provides for the granting of nonstatutory stock options to non-employee directors of the Company and is administered by the Board of Directors. In July 2001, the number of shares available for issuance under the Director Plan was increased by 100,000 shares. As of September 30, 2001 there were 1.0 million shares available for issuance.

A summary of the status of the Company's stock option plans as of September 30, 2001, 2000, and 1999, and changes during the years then ended is presented below:

(In thousands)	2001		2000		1999	
	Shares	Weighted-Average Exercise Price	Shares	Weighted-Average Exercise Price	Shares	Weighted-Average Exercise Price
Option and Director Plans						
Outstanding at beginning of year	11,866	\$ 6.60	11,491	\$ 5.25	10,349	\$ 4.80
Granted	3,930	1.90	4,164	10.10	3,009	6.50
Exercised	(11)	1.83	(2,081)	4.99	(1,131)	4.44
Cancelled	(6,822)	6.76	(1,708)	7.89	(736)	5.25
Outstanding at end of year	8,963	4.42	11,866	6.60	11,491	5.25
Options exercisable at end of year	4,276	5.44	4,821	\$ 5.24	4,480	\$ 5.08
Weighted-average fair value of options granted during the year		\$ 1.27		\$ 6.18		\$ 3.61

The following table summarizes information about stock options outstanding at September 30, 2001:

Range of Exercise Price	Outstanding	Weighted-Avg Remaining Contractual Life	Weighted-Avg Exercise Price	Exercisable	Weighted-Avg Exercise Price
\$ 0.40 - 0.40	40	9.9 years	\$ 0.40	--	--
1.28 - 1.90	2,712	9.5	1.70	221	1.68
2.11 - 3.13	1,502	8.6	2.68	471	2.70
3.22 - 4.75	1,457	6.8	4.16	977	4.21
4.88 - 7.00	2,174	5.4	5.50	2,085	5.46
7.69 - 10.18	607	7.9	9.16	286	9.14
11.75 - 16.31	405	7.6	15.27	211	14.39
17.88 - 18.50	65	8.2	18.49	25	18.49
31.25 - 31.25	1	8.3	31.25	--	31.25
\$ 0.40 - 31.25	8,963	7.7 years	\$ 4.42	4,276	\$ 5.44

PRO FORMA FAIR VALUE ACCOUNTING FOR STOCK-BASED COMPENSATION SFAS No. 123, "Accounting for Stock Based Compensation" requires pro forma information regarding net income and earnings per share as if the Company had accounted for its employee stock options and other stock-based compensation under the fair value method. The fair value of the options granted under the Option Plan and the Director Plan was estimated at the date of grant using a Black-Scholes option pricing model with the following weighted-average assumptions for 2001, 2000, and 1999: risk-free interest rate of 4.91% for 2001, 6.31% for 2000, and 5.27% for 1999; dividend yield of 0%; volatility factor of the expected market price of the Company's common stock of 87.5% for 2001, 75% for 2000 and 65% for 1999; an average turnover rate of 15% and a four year and five year expected life for options granted to employees and executives, respectively.

The fair value for the Employee Stock Purchase Plan rights were also estimated at the date of grant using a Black-Scholes option pricing model with the following assumptions for 2001, 2000, and 1999: risk-free interest rates of 4.74%, 5.07%, and 4.91%, respectively; dividend yield of 0%; volatility factor of 87.5% for 2001, 75% for 2000, and 65% for 1999; and six month expected life. The weighted average fair value of the ESPP rights granted in 2001, 2000, and 1999 was \$1.02, \$2.86, and \$1.31, respectively.

(In thousands, except per share price)	Fiscal Years Ended September 30,		
	2001	2000	1999
Pro forma net income (loss)	\$ (13,004)	\$ (67,423)	\$ 10,464
Pro forma earnings (loss) per share			
Basic	\$ (0.33)	\$ (1.89)	\$ 0.31
Diluted	\$ (0.33)	\$ (1.89)	\$ 0.29

The pro forma effects of applying SFAS No. 123 for recognizing compensation expense may not be representative of the effects on the reported net income or loss for future years because the options granted by the Company vest over several years and additional awards may be made in the future.

COMMON STOCK REPURCHASES The Company repurchases its common stock on the open market, both systematically and non-systematically. Under the systematic stock repurchase plan, shares of common stock are repurchased to help negate the dilutive effects of the Incentive Stock Option Plan and the Employee Stock Purchase Plan. For the fiscal years ended September 30, 2001, the company did not repurchase any shares under the systematic plan, while in fiscal years ended 2000, and 1999, the purchases and retirements of common stock under the systematic plan were 758,578 shares and 1,038,000 shares respectively. Under the non-systematic repurchase plan, the Company may repurchase up to 6,000,000 shares of its common stock. During the fiscal years ended September 30, 2001 and 2000, the company did not repurchase any shares under the non-systematic plan, while in fiscal years ended September 30, 1999, 1,386,000 were repurchased and retired under the non-systematic plan. Both the systematic and non-systematic plans have been approved for continuance into fiscal 2002.

SHAREHOLDER RIGHTS In September 1997, the Company adopted a Shareholder Rights Plan which provides existing shareholders with the right to purchase a partial share of preferred stock for each share of common stock owned by the shareholder in the event of certain changes in the Company's ownership. These rights may serve as a deterrent to certain takeover attempts not approved by the Company's Board of Directors. The rights expire in September 2007.

WARRANTS On September 22, 2000 the Company entered into a private placement agreement where the investors have subscribed for a total of 409,375 units at \$32 per unit. Each unit consists of 8 shares of common stock of the Company and a warrant to purchase either 2 additional shares of the Company's stock at \$3.75 per share or 1 share of Caldera common stock at \$6.50 per share. The total fair value of the Tarantella common stock plus either of the warrants was in excess of the \$32.00 received. The warrants have a two year life. Total proceeds from the private placement, net of issuance costs of \$331,000, were \$12.8 million.

When the transaction with Caldera was consummated, the Company assessed the fair value of the warrants in Caldera stock and reclassified \$1.2 million, the amount equal to this fair value, from equity to liabilities. In addition, the Company will continue to reassess the fair value of this liability for every reporting period until the warrants are exercised or expire. Any change in the fair value of this liability is recorded into the statements of operations.

Upon the initial issuance, the Company determined the fair value of the warrants using the Black-Scholes option pricing model. Upon the closing of the Caldera transaction the Company determined the fair value using a binomial valuation model and the following assumptions: a two year exercise period, a 100% volatility rate for Caldera, which is consistent with the rate disclosed in their financial statements, and a dividend rate of zero. Based on the assumptions above, the fair value of the warrants to purchase 439,375 shares as of September 30, 2001 was zero and as of September 30, 2000 was approximately \$697,000.

During fiscal 2001, in connection with a line of credit (see Note 7); the Company issued warrants to purchase 1,440,000 shares of common stock at an exercise price of \$1.5625 Per share. The warrant expires on January 8, 2003.

NOTE 12 -- INCOME TAXES

Income (loss) before income taxes for fiscal 2001, 2000 and 1999 include foreign pretax profit of approximately \$2.6 million, \$3.2 million and \$6.6 million respectively.

The components of income taxes are as follows:

(In thousands)	Fiscal Year Ended September 30,		
	2001	2000	1999
Current:			
Federal	\$ --	\$ (147)	\$ 500
State	--	20	20
Foreign	(1,070)	521	2,876
Total current	(1,070)	394	3,396
Deferred:			
Federal	--	6,289	--
State	--	139	--
Foreign	--	1,396	--
Total deferred	--	7,824	--
Total	\$ (1,070)	\$ 8,218	\$ 3,396

Income taxes differ from the amount computed by applying the statutory federal income tax rate to income (loss) before income taxes as follows:

(In thousands)	Fiscal Year Ended September 30,		
	2001	2000	1999
Statutory federal income tax (benefit) at 34%	\$ (2,314)	\$ (16,570)	\$ 6,887
State income tax (benefit), net of federal effect	--	159	247
Foreign taxes less related tax benefit, if any	(1,530)	(229)	669
Losses and expenses without tax benefit	2,774	17,034	--
Current utilization of losses	--	--	(4,407)
Net deferred tax asset charge	--	7,824	--
	<u>\$ (1,070)</u>	<u>\$ 8,218</u>	<u>\$ 3,396</u>

The tax effect of temporary differences that give rise to significant portions of the deferred tax assets and deferred tax liabilities are as follows:

(In thousands)	September 30,		
	2001	2000	1999
Deferred tax assets:			
Investment reserves	\$ 22,980	\$ --	\$ --
Accruals and reserve accounts	2,075	7,005	7,613
Property and equipment	1,972	931	1,641
Net operating loss carryforward	38,590	35,580	7,032
Research credit	10,120	9,299	7,602
Other credits	2,084	2,105	12,346
	<u>77,821</u>	<u>54,920</u>	<u>36,234</u>
Total gross deferred tax assets	77,821	54,920	36,234
Less valuation allowance	(77,821)	(52,801)	(26,885)
	<u>--</u>	<u>2,119</u>	<u>9,349</u>
Net deferred tax assets	--	2,119	9,349
Deferred tax liabilities:			
Unrealized investment gain	--	2,119	--
Amortization	--	--	1,525
	<u>--</u>	<u>2,119</u>	<u>1,525</u>
Total deferred tax liabilities	--	2,119	1,525
	<u>\$ --</u>	<u>\$ --</u>	<u>\$ 7,824</u>
Net tax assets and liabilities	--	--	7,824

The net change in the total valuation allowance for fiscal years 2001, 2000 and 1999 was an increase of approximately \$25.0 million, \$25.9 million and \$0.6 million, respectively. Subsequently recognized tax benefits relating to the valuation allowance for deferred tax assets at September 30, 2001 will be allocated to income tax benefit and additional paid in capital in the amounts of \$69.6 million and \$8.2 million respectively.

The Company's management believes the uncertainty regarding the timing of the realization of net deferred tax assets requires a valuation allowance.

At September 30, 2001, the Company has net operating loss carryforwards of approximately \$109.8 million which expire in fiscal years 2012 through 2021, and foreign tax and research credit carryforwards of approximately \$1.2 million and \$10.1 million respectively, which expire in fiscal 2002 through 2015. Additionally, the Company has other tax credits of approximately \$0.9 million that have no expiration date.

At September 30, 2001, the cumulative unremitted foreign earnings of the Company were not material. The Company intends to reinvest these earnings indefinitely.

NOTE 13 -- TRANSACTION WITH CALDERA SYSTEMS, INC.

On May 4, 2001, the Company consummated the sale of its Server Software and Professional Services Divisions to Caldera Systems, Inc. Under the terms of the transaction, Caldera Systems, Inc. acquired the assets of the server and professional services groups. A new company, Caldera International, was formed which combined the assets acquired from the Company with the assets of Caldera Systems. Upon the completion of the sale the Company is continuing to operate its Tarantella business, and accordingly, changed its corporate name to Tarantella, Inc. and NASDAQ trading symbol to TILA to reflect the new corporate name.

As consideration for the transaction, the Company received 16 million common stock shares of Caldera International (representing approximately 28.2% of Caldera International), \$23 million in cash (of which \$7 million was received on January 26, 2001) and a non-interest bearing promissory note in the amount of \$8 million that will be received in quarterly installments of \$2 million beginning the fifth quarter after the combination is completed. In addition, if the OpenServer line of business of the server and professional services groups generates revenues in excess of specified thresholds during the three-year period following the completion of the combination the Company will have earn-out rights entitling it to receive 45% of these excess revenues. The transaction was treated as a disposal of server and professional services groups and a gain of \$53,267,000 was recorded upon completion of the transaction. The Company accounts for its investment in Caldera International using the equity method of accounting.

As Tarantella retained a 28.2% interest in Caldera International, including the server and professional services groups, the Company did not recognize a gain on 100% of the sale of the server and professional services groups. Tarantella recorded a gain calculated at 71.8% of the fair value of the Caldera International stock received less 71.8% of SCO's basis in the assets of the server and professional services groups plus net cash consideration and the fair value of the note receivable at the date of closing as follows (dollars in thousands except per share amounts):

CONSIDERATION:

Fair value of Caldera International common stock (16 million at \$2.56 per share times 71.8%)	\$ 29,440
Cash consideration	23,000
Note receivable discounted to present value at 10% per annum	6,828
Net cash equivalents transferred	3,384
Expenses	(5,891)

	56,761
71.8% of net assets of server and professional services groups to be sold	(3,494)

Recognized gain	\$ 53,267
	=====

The gain calculation used \$2.56, the fair market value of Caldera International common on May 4, 2001, the closing date of the transaction.

The basis of Tarantella's investment in Caldera International was determined as follows (dollars in thousands):

Adjusted fair value of Caldera International common stock	\$ 29,440
Portion of investment in Caldera International with no step up in basis	1,371
Shares of Caldera Systems previously owned	250

Basis of investment	31,061
Tarantella's share in Caldera International's net assets after completion of the reorganization	39,600

Excess of net assets acquired over the value of the investment	\$ 8,539
	=====

The excess of net assets acquired over the value of the investment represents negative goodwill and is amortized over the estimated useful life of five years.

For the fourth fiscal quarter, the Company's operating results included 28.2% of the operating results of Caldera International, adjusted for amortization of 5 months of negative goodwill of approximately \$0.7 million. The net amount of the losses included were \$4.6 million. The Company also recorded an impairment of the investment, net of the remaining negative goodwill of \$7.8 million, in the amount of \$22.5 million. The impairment was recorded as the share price of Caldera International was significantly below the fair market value of Tarantella's and was deemed to be other than temporarily impaired.

NOTE 14 - RESTRUCTURING CHARGE

FISCAL 2001

During the second quarter of fiscal 2001, the Company announced and completed a restructuring plan, which resulted in a one-time charge of \$1.6 million, which when taken with an adjustment to a previously established restructuring reserve, resulted in the net charge of \$1.1 million. The Company has reduced its spending levels to align its operating expenses with the Company's revenues. The restructuring charge is related to the Tarantella division and included a reduction in personnel of 28 employees and a planned elimination and sublet of unused facilities. The entire \$1.6 million relates to cash expenditures.

The severance charges of \$1.5 million include the elimination of 16 positions in the United States, 4 positions in the United Kingdom, and 8 positions in various other geographies. The reductions in force affect the sales, marketing and general and administrative functions of the Company. As of September 30, 2001, all 28 positions have been eliminated and there are no remaining cash expenditures.

The Company intends to partially sublet space in the Santa Cruz, California office. This space will be vacated and restored and subsequently sublet. The Company anticipated that the sub-lease would be completed within three months, however as of September 30, 2001, the space remained vacant.

The fiscal 2001 second quarter restructuring charge is summarized as follows:

FISCAL 2001 SECOND QUARTER RESTRUCTURING ACCRUAL

(In Thousands)	Reduction in Force	Facilities	Total
Restructuring charge accrued	\$ 1,499	\$ 64	\$ 1,563
Payments/utilization of the accrual	(885)	0	(885)
Accrual at March 31, 2001	614	64	678
Payments/utilization of the accrual	(484)	0	(484)
Accruals at June 30, 2001	130	64	194
Payments/utilization of the accrual	(91)	(24)	(115)
Provision Adjustment	(39)	0	(39)
Accruals at September 30, 2001	\$ --	\$ 40	\$ 40

During the fourth quarter of fiscal 2001, the Company announced and completed a restructuring plan, which resulted in a one-time charge of \$0.5 million. The Company has reduced its spending levels to align its operating expenses with the Company's revenues. The restructuring charge includes a reduction in personnel of 10 employees and a planned elimination of offices in Singapore and Australia. The entire \$0.5 million relates to cash expenditures.

The severance charges of \$0.4 million include the elimination of 4 positions in the United States and 6 positions in the United Kingdom. The reductions in force affect the sales, marketing and general and administrative functions of the Company. As of September 30, 2001, all 10 positions have been eliminated, however there were cash payments of \$304,000 still to be paid.

The fiscal 2001 fourth quarter restructuring charge is summarized as follows:

(In Thousands)	Reduction in Force	Facilities	Total
Restructuring charge accrued	\$ 402	\$ 102	\$ 504
Payments/utilization of the accrual	(200)	--	(200)
Accrual at September 30, 2001	\$ 202	\$ 102	\$ 304

FISCAL 2000

During fiscal 2000, the Company recorded \$10.7 million in restructuring charges, including \$7.3 million of severance and benefits, \$1.9 million of facilities charges, \$0.7 million of technology charges and \$0.8 million of fixed asset disposals.

FISCAL 2000 SECOND QUARTER RESTRUCTURING PLAN

During the second quarter of fiscal 2000, the Company announced and completed a restructuring plan, which resulted in a charge of \$5.9 million. During fiscal 2001, the Company disposed of fixed assets related to this restructuring accrual. During the Company's fourth fiscal quarter 2001, certain facilities

were not vacated and costs were not incurred, however Caldera assumed the lease of these facilities subsequent to the completion of the sale of the Server and Professional Services divisions. Accordingly, the remaining reserves related to these facilities was adjusted. Additionally, the Company made payments on facilities costs related to this restructuring during fiscal 2001.

The fiscal 2000 second quarter restructuring charge is summarized as follows:

(In Thousands)	Reduction in Force	Facilities	Technology	Disposal of Fixed Assets	Total
Restructuring charge accrued	\$ 3,574	\$ 1,052	\$ 667	\$ 594	\$ 5,887
Payments/utilization of the accrual	(2,660)	(94)	(667)	(256)	(3,677)
Provision Adjustment	(914)	--	--	--	(914)
Accrual at September 30, 2000	--	958	--	338	1,296
Payments/utilization of the accrual	--	(75)	--	(4)	(79)
Accruals at December 31, 2000	--	883	--	334	1,217
Payments/utilization of the accrual	--	(169)	--	(334)	(503)
Accruals at March 31, 2001	--	714	--	--	714
Payments/utilization of the accrual	--	(97)	--	--	(97)
Accruals at June 30, 2001	--	617	--	--	617
Payments/utilization of the accrual	--	(39)	--	--	(39)
Provision Adjustment	--	(578)	--	--	(578)
Accruals at September 30, 2001	\$ --	\$ --	\$ --	\$ --	\$ --

FISCAL 2000 FOURTH QUARTER RESTRUCTURING PLAN

In the fourth quarter of fiscal 2000, in connection with management's plan to reduce operating expenses, the Company announced a further restructuring plan, which resulted in a one-time charge of \$4.8 million. During fiscal 2001 the Company made payments related to facilities costs and severance costs associated with this restructuring. Also during fiscal 2001, the Company disposed of certain fixed assets related to this restructuring. The Company recorded an adjustment to the fiscal 2000 fourth quarter restructuring provision of \$0.4 million in severance costs in the second quarter of fiscal 2001. The severance costs were adjusted to reflect changes to the estimated expenses as actual payments were made.

The fiscal 2000 fourth quarter restructuring charge is summarized as follows:

FISCAL 2000 FOURTH QUARTER RESTRUCTURING ACCRUAL

(In Thousands)	Reduction in Force	Facilities	Disposal of Fixed Assets	Total
Restructuring charge accrued	\$ 4,658	\$ 804	\$ 248	\$ 5,710
Payments/utilization of the accrual	(1,042)	--	--	(1,042)
Accrual at September 30, 2000	3,616	804	248	4,668
Payments/utilization of the accrual	(2,794)	(167)	(21)	(2,982)
Accruals at December 31, 2000	822	637	227	1,686
Payments/utilization of the accrual	(392)	(157)	(41)	(590)
Provision Adjustment	(430)	--	--	(430)
Accruals at March 31, 2001	--	480	186	666
Payments/utilization of the accrual	--	(480)	(186)	(666)
Accruals at June 30, 2001	--	--	--	--
Payments/utilization of the accrual	--	--	--	--
Provision Adjustment	--	--	--	--
Accruals at September 30, 2001	\$ --	\$ --	\$ --	\$ --

NOTE 15 -- INVESTMENTS

In November 1996, the Company purchased \$2.0 million of convertible debentures from a domestic distribution channel partner. In February 1999, the Company elected to convert, in its entirety, the debenture into shares of preferred stock. In January 2000 the Company redeemed 68,805 shares at their cost of \$2.181 per share. After the redemption the Company had 848,259 shares of preferred stock at a cost of \$1.85 million. On January 4, 2001 the channel distribution partner was purchased by Ebiz Enterprises, Inc., and the Company received 2,367,999 shares of Ebiz common stock.

In March 2000, the Company purchased \$2.0 million of preferred stock in a private Linux distribution company. On October 5, 2000 this company was purchased by Ebiz Enterprises, Inc. The Company received 2,208,749 shares of Ebiz common stock and 787,878 warrants to purchase shares.

As of September 30, 2001 the Company's ownership of Ebiz is approximately 14%, and the Company has the right to have one Board member. The Company accounts for the investment using the cost method as it is not deemed to exert significant influence. During the quarter ended June 30, 2001, the Company determined the decline in the fair value of its investment was other than temporary and thus required a permanent write-down of the investment.

At September 30, 2001, the Company had gross accounts receivable with Ebiz of \$1.1 million, however this amount is fully reserved as the company has declared bankruptcy and may not have the ability to pay. At September 30, 2000, the Company had net accounts receivable outstanding with this domestic distribution channel partner of \$1.0 million. Sales to this related party was \$2.0 million for fiscal 2001, \$5.3 million for fiscal 2000 and \$8.0 million for fiscal 1999. Sales in fiscal 2001 include product and services sold to the Company's channel distribution partner prior to its acquisition by Ebiz.

In January 1995, the Company purchased 10% of the preferred stock of Rainmaker Systems, Inc. ("Rainmaker"), another of the Company's domestic distribution partners, in exchange for cash, product and equipment valued at \$1.0 million. In addition, the Company loaned \$1.0 million to Rainmaker in exchange for convertible debentures. In February 1999, the Company exchanged the preferred stock and debentures for shares of Series D Convertible Participating Preferred Stock (the "Series D Preferred"). During fiscal

year 1999, the Company sold approximately 1,704,011 shares of Series D with a cost basis of \$0.6 million, and received cash proceeds of \$3.8 million. The Company's interest of ownership of Rainmaker before and after the sale was 15.3% and 10.3% respectively. On November 17, 1999, Rainmaker completed an initial public offering of its common stock, at which time, the shares of Series D Preferred held by the Company automatically converted into shares of Rainmaker's common stock on a one-for-one basis. At September 30, 2001, the Company held 505,767 shares of Rainmaker's common stock. The Company accounts for these shares as available-for-sale securities and records them at fair market value, based on quoted market prices with any unrealized gains or losses included as part of accumulated other comprehensive income. During fiscal 2001, the Company sold 3,200,000 shares of Rainmaker stock with a cost basis of \$1.1 million, and received cash proceeds of \$3.2 million. During fiscal 2000, the Company sold 307,692 shares of Rainmaker stock with a cost basis of \$0.1 million, and received cash proceeds of \$2.0 million.

At September 30, 2001 the Company did not have any accounts receivable for Rainmaker. At September 30, 2000, the Company had accounts receivable outstanding with Rainmaker for \$0.4 million. Sales to this related party were \$3.7 million for fiscal 2001, \$12.0 million for fiscal 2000 and \$16.8 million for fiscal 1999.

Unrealized gain (loss) on available-for-sale investments as of September 30, 2001 are as follows (in thousands):

	FMV	Cost	Impairment	Unrealized Gain/(Loss)
	-----	-----	-----	-----
Rainmaker	101	171	--	(70)
Ebiz	--	3,139	(3,139)	--
Total stock	101	3,310	(3,139)	(70)
Ebiz warrants	--	176	(176)	--
Total available-for-Sale Securities	\$ 101	\$ 3,486	\$ (3,315)	\$ (70)
	=====	=====	=====	=====

Rainmaker's common stock is traded on the NASDAQ National Market under the symbol "RMKR." The Company no longer has the right to appoint a member to the Board of Directors.

Ebiz's common stock is traded OTC under the symbol "EBIZ". The Company has a right to appoint one member to the board of directors, which has a total of 4 members.

NOTE 16 -- INDUSTRY AND GEOGRAPHIC SEGMENT INFORMATION

Beginning on May 4, 2001, with the sale of the Server Software and Professional Services divisions, the company discontinued managing the business by division or geographic segment. Prior to May 4, 2001, the Company reviewed performance on the basis of its three divisions - the Server Software Division, the Tarantella Division, and the Professional Services Division. Prior to fiscal 2000, the Company reviewed performance on the basis of geographical segments. The Company used analysis of segment revenues and gross margin in order to make preliminary decisions of resource allocation. No information on total assets by segment was ever reviewed. The accounting policies used by each segment complied with the policies used in the consolidated financial statements.

The following table presents information about reportable segments as well as information on long-lived assets by geography. Revenue is allocated to segments based on the location from which the sale is satisfied and long-lived asset information is based on the physical location of the asset.

(in thousands)	Fiscal Years Ended September 30,		
	2001	2000	1999
Net revenues:			
Server software division	\$ 52,342	\$ 135,433	\$ 210,954
Tarantella division	14,344	12,834	10,617
Professional services division	1,363	4,199	3,129
Corporate adjustments	(1,387)	(3,543)	(1,076)
Total net revenues	\$ 66,662	\$ 148,923	\$ 223,624
Gross margin:			
Server software division	38,446	100,120	168,091
Tarantella division	11,944	9,893	8,288
Professional services division	(718)	(1,899)	(2,533)
Corporate adjustments	(325)	(987)	--
Total gross margin	\$ 49,347	\$ 107,127	\$ 173,846
Operating income (loss):			
Server software division	\$ (3,591)	\$ (28,196)	\$ 26,987
Tarantella division	(24,480)	(18,656)	(6,889)
Professional services division	(2,766)	(4,381)	(3,725)
Corporate adjustments	(3,540)	--	--
Total operating income (loss)	\$ (34,377)	\$ (51,233)	\$ 16,373

(In thousands)	Fiscal Year Ended September 30,		
	2001	2000	1999
Net revenues:			
United States	\$ 31,920	\$ 68,622	\$ 97,587
Canada and Latin America	4,034	7,770	12,606
EMEA (1)	24,930	62,834	95,270
Asia Pacific	5,778	9,697	18,161
Total net revenues	\$ 66,662	\$ 148,923	\$ 223,624
Long-lived assets:			
United States	\$ 11,853	\$ 16,367	\$ 31,058
Canada and Latin America	13	3,234	122
EMEA (1)	663	168	5,234
Asia Pacific	97	241	155
Other international operations	--	--	50
Total long-lived assets	\$ 12,626	\$ 20,010	\$ 36,619

(1) Europe, Middle East, India and Africa

NOTE 17 -- EMPLOYEE BENEFIT PLAN

The Company maintains an employee savings plan, which qualifies under section 401(k) of the Internal Revenue Code. Under the plan, participating U.S. employees may defer up to 20% of their pre-tax salary, up to certain statutory limits. The Company matches 50% of employee contributions up to the lower of 6%

of the employee's annual salary or \$3,000. For fiscal 2001, 2000 and 1999, the Company's total contributions towards the 401(k) plan amounted to \$0.6 million, \$1.1 million and \$1.0 million, respectively.

NOTE 18 -- SUBSEQUENT EVENTS

On October 11, 2001 the Company announced that during the first quarter of fiscal 2002 they would lower their expense run-rate by 30% or \$3 million per quarter. In order to do this the company is reducing headcount by 53 people, consolidating operations in Santa Cruz to only a portion of the building the Company currently occupies and closing their office in Japan. As a result of these actions the Company will be recording a one-time charge of approximately \$2.2 million in the first quarter of fiscal 2002.

As part of the plan to reduce operating expense, the Company is executing a one-year compensation reduction plan. Executive officers cash compensation will be reduce by 30%, with the entire senior management team taking tiered reductions, with an average 20% reduction overall. Employees that were required to participate in this reduction in compensation were given discounted stock options, fully vested, equivalent to two shares for every dollar of cash compensation reduction. A total of 2.1 million shares were granted to 27 employees. The Company will record a \$579,000 charge in relation to this discounted grant. In addition to these shares, 2.0 million shares were granted to employees as part of an employee retention program.

INDEPENDENT AUDITORS' REPORT

To the Board of Directors and Shareholders' of
Tarantella, Inc.
Santa Cruz, CA

We have audited the accompanying consolidated balance sheet of Tarantella, Inc. (formerly The Santa Cruz Operation) and its subsidiaries (the "Company"), as of September 30, 2001, and the related statements of operations, shareholders' equity, and cash flows for the year ended September 30, 2001. Our audit also included the financial statement schedule for the year ended September 30, 2001 as listed in the Index at Item 14. These financial statements and financial statement schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, such consolidated financial statements referred to above present fairly, in all material respects, the consolidated financial position of the Company as of September 30, 2001, and the results of its operations and its cash flows for the year ended September 30, 2001 in conformity with accounting principles generally accepted in the United States of America. Also in our opinion, such financial statement schedule referred to above, when considered in relation to the basic consolidated financial statements taken as a whole presents fairly in all material respects the information set forth therein.

/s/ DELOITTE & TOUCHE LLP

San Jose, California
November 1, 2001

REPORT OF INDEPENDENT ACCOUNTANTS

To the Board of Directors and Shareholders of Tarantella, Inc.:

In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of Tarantella, Inc. and its subsidiaries at September 30, 2000, and the results of their operations and their cash flows for each of the two years in the period ended September 30, 2000 in conformity with accounting principles generally accepted in the United States of America. In addition, in our opinion, the financial statement schedule listed in the index appearing on page 55 present fairly, in all material respects, the information set forth therein when read in conjunction with the related consolidated financial statements. These financial statements and financial statement schedule are the responsibility of the Company's management; our responsibility is to express an opinion on these financial statements and financial statement schedule based on our audits. We conducted our audits of these statements in accordance with auditing standards generally accepted in the United States of America, which require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

/s/ PRICEWATERHOUSECOOPERS LLP

PricewaterhouseCoopers LLP

San Jose, California
October 23, 2000

The following tables present Tarantella's condensed operating results for each of the eight fiscal quarters for the period ended September 30, 2001. The information for each of these quarters is unaudited and has been prepared on the same basis as the audited consolidated financial statements included in this Form 10-K. In the opinion of management, all necessary adjustments, which consists only of normal and recurring accruals, have been included to fairly present the unaudited quarterly results. This data should be read together with Tarantella's consolidated financial statements and the notes to those statements included in this Form 10-K.

For periods prior to the sale of the server and professional services divisions to Caldera, the historical financial information may not be indicative of Tarantella's future performance.

TARANTELLA, INC.
QUARTERLY RESULTS OF OPERATIONS
(Unaudited)

	Fiscal Year Ended September 30, 2001				Fiscal Year Ended September 30, 2000			
	Q4	Q3	Q2	Q1	Q4	Q3	Q2	Q1
	(In thousands, except per share data)							
Net revenues	\$ 4,019	\$ 8,837	\$ 27,351	\$ 26,455	\$ 32,797	\$ 26,931	\$ 35,542	\$ 53,653
Cost of revenues	627	2,476	7,131	7,081	10,027	9,680	10,257	11,832
Gross margin	3,392	6,361	20,220	19,374	22,770	17,251	25,285	41,821
Operating expenses	9,414	18,449	28,831	27,030	36,884	35,849	45,914	39,713
Operating income (loss)	(6,022)	(12,088)	(8,611)	(7,656)	(14,114)	(18,598)	(20,629)	2,108
Other income (expense):								
Gain on Caldera transaction	--	53,267	--	--	--	--	--	--
Loss and impairment of equity investment in Caldera	(27,066)	--	--	--	--	--	--	--
Interest income, net	330	98	284	406	79	408	592	600
Other income (expense), net	(368)	(3,036)	3,071	586	(758)	(168)	908	837
Income (loss) before income taxes	(33,126)	38,241	(5,256)	(6,664)	(14,793)	(18,358)	(19,129)	3,545
Income taxes	(1,023)	154	(817)	616	5,986	882	680	670
Net income (loss)	(32,103)	38,087	(4,439)	(7,280)	(20,779)	(19,240)	(19,809)	2,875
Comprehensive income (loss)	\$(32,368)	\$ 36,466	\$(4,277)	\$(11,209)	\$(20,813)	\$(35,715)	\$(54,086)	\$ 58,739
Earnings (loss) per share-basic	\$ (0.80)	\$ 0.95	\$ (0.11)	\$ (0.18)	\$ (0.56)	\$ (0.54)	\$ (0.56)	\$ 0.08
Earnings (loss) per share-diluted	\$ (0.80)	\$ 0.95	\$ (0.11)	\$ (0.18)	\$ (0.56)	\$ (0.54)	\$ (0.56)	\$ 0.07
Shares used in per share calculation-basic	40,117	40,030	39,733	39,443	36,789	35,860	35,596	34,713
Shares used in per share calculation-diluted	40,117	40,077	39,733	39,443	36,789	35,860	35,596	41,258

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURES

On May 11, 2001 the Company changed its independent auditors from PricewaterhouseCoopers LLP to Deloitte and Touche LLP as previously reported on Form 8-K filed with the Securities and Exchange Commission on May 18, 2001 (File No 0-21484). There were no disagreements with any of the Company's independent accountants during the fiscal years ended September 30, 2001, 2000 and 1999.

PART III

ITEM 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT

Information with respect to Directors may be found under the caption "Election of Directors" of the Company's definitive Proxy Statement for the Annual Meeting of Shareholders to be held February 21, 2002 (the "Proxy Statement"). Such information is incorporated herein by reference. Information with respect to Executive Officers and Officers may be found on pages 10 through 11 hereof, under the caption "Executive Officers and Officers of the Registrant."

ITEM 11. EXECUTIVE COMPENSATION

The information set forth under the caption "Executive Compensation and Other Matters" of the Company's Proxy Statement is incorporated herein by reference.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The information set forth under the caption "Record Date and Principal Share Ownership" of the Company's Proxy Statement is incorporated herein by reference.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

The information set forth under the captions "Certain Transactions with Management" and "Compensation Committee Interlocks and Insider Participation" of the Company's Proxy Statement is incorporated herein by reference.

PART IV

ITEM 14. EXHIBITS, FINANCIAL STATEMENT SCHEDULE AND REPORTS ON FORM 8-K

(a) Documents filed as part of Form 10-K

1. Financial Statement Schedule

Schedule Number	Description	Page Number
II	Valuation and Qualifying Accounts	59

The independent auditors' reports with respect to the above-listed financial statement schedule appears on page 57 of this report on Form 10-K. Financial statement schedules other than those listed above have been omitted since they are either not required, not applicable, or the information is shown in the financial statements or notes thereto.

2. Exhibit Listing

Exhibit Number	Description
2.0	Asset Purchase Agreement By and Between The Santa Cruz Operation, Inc. and Novell, Inc. (4)
3.1	Restated Articles of Incorporation of Registrant. (2)
3.2	Bylaws of Registrant, as amended. (5)
4.1	Specimen Common Stock Certificate of Registrant. (1)
10.13	Lease with Encinal Partnership No. 1 commencing January 1, 1989 (425 Encinal Street). (1)
10.17	Form of Indemnification Agreement. (1)
10.18	Master Registration Rights Agreement as amended. (1)
10.19	1993 Stock Purchase Plan and form of Stock Purchase Agreement. (3) (8)
10.20	1994 Incentive Stock Option Plan and form of Incentive Stock Option Agreement. (3) (8)
10.21	401(k) Plan, as amended. (1) (8)
10.23	Revised 1993 Employee Stock Purchase Plan. (5) (8)
10.24	1993 Director Stock Option Plan. (1) (8)
10.34	Shareholders' Rights Agreement. (6)
10.35	Change-in-control agreement between the Company and certain key management. (7) (8)
10.36	Revised Employment Agreement with Alok Mohan.
21.1	Subsidiaries of Registrant.
23.1	Independent Auditors Consent.
23.2	Consent of Independent Accountants.

(1) Incorporated by reference to Registration Statement 33-60548 on Form S-1.

(2) Incorporated by reference to the Form 10-K filed on December 24, 1993.

(3) Incorporated by reference to the Form 10-K filed on December 23, 1994.

- (4) Incorporated by reference to the Form 8-K filed on December 20, 1995.
- (5) Incorporated by reference to the Form 10-K filed on December 22, 1995.
- (6) Incorporated by reference to the Form 8-A12G filed on September 18, 1997.
- (7) Incorporated by reference to the Form 10-K filed on December 23, 1998.
- (8) Designates management contracts or compensatory plans, contracts or arrangements.

(b) Reports on Form 8-K.

No reports on Form 8-K were filed during the last quarter of fiscal 2001.

SIGNATURES

Pursuant to the requirements of Section 13 or 15 (d) of the Securities Exchange Act of 1934, the registrant has duly caused this Annual Report to be signed on its behalf by the undersigned, thereunto duly authorized.

TARANTELLA, INC.

By: /s/ Randall Bresee

Randall Bresee
Senior Vice President,
Chief Financial Officer
Date: December 21, 2001

By: /s/ Steven M. Sabbath

Steven M. Sabbath
Senior Vice President,
Law and Corporate Affairs & Secretary
Date: December 21, 2001

KNOW ALL PERSONS BY THEIR PRESENCE, that each person whose signature appears below constitutes and appoints Steven M. Sabbath, his attorney-in-fact, with the power of substitution, for him in any and all capacities, to sign any amendments to this report on Form 10-K and to file the same, with exhibits thereto other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that said attorney-in-fact, or his substitute or substitutes, may do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated:

/s/ Douglas L. Michels

Douglas L. Michels
President, Chief Executive Officer
and Director
Date:

/s/ Alok Mohan

Alok Mohan
Chairman of the Board of Directors
Date:

/s/ Robert M. McClure

Robert M. McClure
Director
Date:

/s/ Gilbert P. Williamson

Gilbert P. Williamson
Director
Date:

/s/ R. Duff Thompson

R. Duff Thompson
Director
Date:

/s/ Ronald Lachman

Ronald Lachman
Director
Date:

/s/ Ninian Eadie

Ninian Eadie
Director
Date:

TARANTELLA, INC.
SCHEDULE II/RULE 5-04
VALUATION AND QUALIFYING ACCOUNTS

YEARS ENDED SEPTEMBER 30, 2001, 2000 AND 1999
(In thousands)

DESCRIPTION -----	BALANCE AT BEGINNING OF PERIOD -----	CHARGED TO REVENUES OR EXPENSES -----	DEDUCTIONS -----	BALANCE AT END OF PERIOD -----
Year Ended September 30, 2001				
Allowance for returns	\$ 2,330	\$ 2,408	\$ 3,818	\$ 920
Allowance for doubtful accounts	862	950	397	1,415
Total allowance	\$ 3,192	\$ 3,358	\$ 4,215	\$ 2,335
Year Ended September 30, 2000				
Allowance for returns	\$ 7,108	\$ (269)	\$ 4,509	\$ 2,330
Allowance for doubtful accounts	1,114	(19)	233	862
Total allowance	\$ 8,222	\$ (288)	\$ 4,742	\$ 3,192
Year Ended September 30, 1999				
Allowance for returns	\$10,637	\$ 9,505	\$13,034	\$ 7,108
Allowance for doubtful accounts	1,545	209	640	1,114
Total allowance	\$12,182	\$ 9,714	\$13,674	\$ 8,222

INDEX TO EXHIBITS

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10.36	Revised Employment Agreement with Alok Mohan.
21.1	Subsidiaries of Registrant.
23.1	Independent Auditors Consent.
23.2	Consent of Independent Accountants.

- (1) Incorporated by reference to Registration Statement 33-60548 on Form S-1.
- (2) Incorporated by reference to the Form 10-K filed on December 24, 1993.
- (3) Incorporated by reference to the Form 10-K filed on December 23, 1994.
- (4) Incorporated by reference to the Form 8-K filed on December 20, 1995.
- (5) Incorporated by reference to the Form 10-K filed on December 22, 1995.
- (6) Incorporated by reference to the Form 8-A12G filed on September 18, 1997.
- (7) Incorporated by reference to the Form 10-K filed on December 23, 1998.
- (8) Designates management contracts or compensatory plans, contracts or arrangements.