

MORRISON & FOERSTER LLP
Michael A. Jacobs, *pro hac vice*
Eric M. Acker, *pro hac vice*
Kenneth W. Brakebill, *pro hac vice*
Marc J. Pernick, *pro hac vice*
David E. Melaugh, *pro hac vice*
425 Market Street
San Francisco, CA 94105-2482
Telephone: (415) 268-7000
Facsimile: (415) 268-7522

ANDERSON & KARRENBERG
Thomas R. Karrenberg, #3726
Heather M. Sneddon, #9520
700 Chase Tower
50 West Broadway
Salt Lake City, UT 84101
Telephone: (801) 534-1700
Facsimile: (801) 364-7697

Attorneys for Defendant and Counterclaim-Plaintiff Novell, Inc.

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

THE SCO GROUP, INC., a Delaware
corporation,

Plaintiff and Counterclaim-
Defendant,

v.

NOVELL, INC., a Delaware corporation,

Defendant and Counterclaim-
Plaintiff.

**NOVELL'S SUBMISSION
REGARDING ENTRY OF FINAL
JUDGMENT**

Case No. 2:04CV00139

Judge Dale A. Kimball

In its July 16, 2008 Order, the Court directed Novell “to file a brief within 15 days of this Order describing what, if any, prejudgment interest Novell seeks based on the amount awarded in this Order” and “to file within ten days from the date of this order a Final Judgment consistent with these Findings of Fact, Conclusions of Law, and Order, the court’s August 10, 2007 Memorandum Decision and Order, and the parties’ stipulations with respect to the disposition of certain causes of action.” (Docket No. 542 at 42, 43.)

On July 30, Novell informed the Court that Novell believes entry of Final Judgment is inappropriate given the pendency of claims subject to an arbitration-related stay and given the Bankruptcy Court’s reservation of issues pertaining to the entry of a constructive trust. (Docket No. 543.) Novell and SCO requested an extension of Novell’s filing deadlines until August 22 to meet and confer regarding final judgment, which the Court granted. (Docket No. 544.) The parties subsequently requested and were granted a further extension to August 29. (Docket Nos. 548, 549.)

As reflected in Novell’s unopposed request for prejudgment interest filed today, the parties have reached an agreement on the appropriate amount of prejudgment interest.

The parties have also reached an agreement as to the proper amount of the constructive trust. The parties anticipate taking this agreement to the Bankruptcy Court and expect resolution of trust-related issues in the near future. Novell will report to this Court any developments in that regard.

Notwithstanding the meeting and conferring, the parties have been unable to reach an agreement concerning the pendency of claims subject to an arbitration-related stay. These claims were stayed pending arbitration by this Court’s order. (Docket No. 139.) The claims were subsequently automatically stayed by the Bankruptcy Court. SUSE disputed the effect of that stay on the arbitration, but SCO successfully argued to the Bankruptcy Court that the automatic

stay should apply to stop the arbitration. The Bankruptcy Court later partially lifted the bankruptcy stay, but only as to the following issues:

(1) the amount of the royalties to which Novell is entitled from certain SCOSource licenses that the District Court determined to be SVRX Licenses and any additional licenses that are determined to be SVRX Licenses; and (2) whether SCO had the authority to enter into licensing agreements with Microsoft Corporation and Sun Microsystems.

In re: The SCO Group, Inc., No. 07-11337 (KG), Docket No. 233 (Bankr. D. Del. Nov. 27, 2007). These claims therefore remain stayed by order of both this Court and the Bankruptcy Court. Those stays and the underlying pendency of the claims to which they apply prevent entry of final judgment.

Novell understands that SCO may elect to file a motion advocating some particular disposition of those claims. Novell will evaluate and respond to any such motion once filed.

DATED: August 29, 2008

ANDERSON & KARREBERG

By: /s/ Heather M. Sneddon

Thomas R. Karrenberg
Heather M. Sneddon

-and-

MORRISON & FOERSTER LLP
Michael A. Jacobs, *pro hac vice*
Eric M. Acker, *pro hac vice*
Kenneth W. Brakebill, *pro hac vice*
Marc J. Pernick, *pro hac vice*
David E. Melaugh, *pro hac vice*

Attorneys for Defendant and
Counterclaim-Plaintiff Novell, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of August, 2008, I caused a true and correct copy of **NOVELL'S SUBMISSION REGARDING ENTRY OF FINAL JUDGMENT** to be served to the following:

Via CM/ECF:

Brent O. Hatch
Mark F. James
HATCH JAMES & DODGE, P.C.
10 West Broadway, Suite 400
Salt Lake City, Utah 84101

Stuart H. Singer
William T. Dzurilla
Sashi Bach Boruchow
BOIES, SCHILLER & FLEXNER LLP
401 East Las Olas Blvd., Suite 1200
Fort Lauderdale, Florida 33301

David Boies
Edward J. Normand
BOIES, SCHILLER & FLEXNER LLP
333 Main Street
Armonk, New York 10504

Devan V. Padmanabhan
John J. Brogan
DORSEY & WHITNEY, LLP
50 South Sixth Street, Suite 1500
Minneapolis, Minnesota 55401

Via U.S. Mail, postage prepaid:

Stephen Neal Zack
BOIES, SCHILLER & FLEXNER LLP
100 Southeast Second Street, Suite 2800
Miami, Florida 33131

/s/ Heather M. Sneddon