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Attorneys for Defendant Novell, Inc.

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

THE SCO GROUP, INC., a Delaware
corporation,

Plaintiff,

vs.

NOVELL, INC., a Delaware corporation,

Defendant.

**DECLARATION OF MICHAEL
A. JACOBS IN SUPPORT OF
NOVELL, INC.'S MOTION FOR
CONTINUANCE**

Case No. 2:04CV00139

Judge Dale A. Kimball

Michael A. Jacobs, under penalty of perjury, declares the following:

1. I submit this declaration in support of Novell, Inc.'s Motion for Continuance. The statements made herein are based on my personal knowledge.

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2. I am an attorney duly licensed to practice law in the State of California and a partner in the law firm of Morrison & Foerster LLP, counsel of record for defendant Novell, Inc. ("Novell") in this action. I was admitted as lead counsel to practice before this Court *pro hac vice* by this Court's February 10, 2004 Order.


3. Since the engagement of Morrison & Foerster LLP as Novell's counsel in this action, I have served as Novell's lead counsel. To that end, I have overseen the preparation and filing of every pleading submitted by Novell in this matter, and I appeared before the Court on behalf of Novell to argue Novell's first Motion to Dismiss on May 11, 2004.

4. I am presently engaged as lead defense counsel in a civil case currently being tried in San Jose, California, *Lexar Media, Inc. v. Toshiba Corporation*, Santa Clara Superior Court No. CV812458. The trial was originally scheduled for February 7 through March 1, 2005. However, the trial is going longer than anticipated and the trial court's schedule has resulted in about a week of days on which trial could not occur. At this juncture, I anticipate that the trial will continue until March 23, 2005, and as a result, I will be unavailable for the scheduled March 8, 2005 hearing on Novell's Motion to Dismiss Amended Complaint in this action.

5. Upon determining that the trial in the San Jose case would be continuing beyond the scheduled hearing date on Novell's Motion to Dismiss Amended Complaint, I immediately contacted Novell's local counsel, Heather M. Sneddon, asking that she seek a stipulation from The SCO Group, Inc. to continue the hearing date.

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

Executed on this 26 day of February, 2005, in San Jose, California.


Michael A. Jacobs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 28, 2005, I caused a true and correct copy of the foregoing **DECLARATION OF MICHAEL A. JACOBS IN SUPPORT OF NOVELL, INC.'S MOTION FOR CONTINUANCE**, to be served as indicated below:

Via Hand-delivery, upon:

Brent O. Hatch
Mark R. Clements
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Via Facsimile and U.S. Mail, postage prepaid, upon:

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A handwritten signature in black ink, appearing to read "Michael A. Jacobs", is written over a horizontal line.