

D. Trial

A jury trial has been demanded. The parties disagree on the amount of time the trial will take. Novell presently anticipates that the trial will last approximately two months. Microsoft believes the case can be tried in approximately five to six weeks.

E. Certification of Serious Settlement Negotiations

The parties certify that they met on June 4–5, 2009 to conduct serious settlement negotiations. A two-day mediation was held in New York City at the offices of Dickstein Shapiro LLP before Professor Eric Green. Despite diligent effort, the parties were unable to resolve their differences. The attendees for the parties were as follows:

For Novell	For Microsoft
Scott N. Semel – Novell	Richard J. Wallis – Microsoft
Ryan L. Richards – Novell	Steven J. Aeschbacher – Microsoft
James F. Lundberg – Novell	David B. Tulchin – Sullivan & Cromwell
Jeffrey M. Johnson – Dickstein Shapiro LLP	Steven L. Holley – Sullivan & Cromwell
R. Bruce Holcomb – Adams Holcomb LLP	Nuri G. Frame – Sullivan & Cromwell
Miriam R. Vishio – Dickstein Shapiro LLP	Suhana S. Han – Sullivan & Cromwell

F. Referral for Additional Settlement or ADR Conference

The parties do not believe referral to another judge of the Court for a settlement or other ADR conference would be helpful.

G. Election to Proceed Before Magistrate Judge

The parties have elected not to have a magistrate judge conduct any further proceedings in this case.

September 4, 2009

Respectfully submitted,

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