

APPENDIX A

In addition to rebuttal witnesses whom SCO may determine to call, SCO intends to present the following witnesses and deposition designations at trial, and expects the witnesses' testimony to include the following points, along with such additional issues as may arise during trial:

1. Jean Acheson. Ms. Acheson was formerly the Controller and Revenue Manager of SCO, Santa Cruz, and Novell, and in that capacity was responsible for remitting to Novell royalties that SCO received under "SVRX Licenses." Ms. Acheson will testify that it was always her understanding that the licenses for which SCO was obligated to remit royalties to Novell were only the royalty-bearing licenses, and that SCO's UNIX division was profitable.
2. Christine Botosan. Dr. Botosan is a Professor of Accounting at the University of Utah and has a PhD in Business Administration from the University of Michigan. She also is a Chartered Accountant in good standing with the Canadian Institute of Chartered Accountants. For over two decades, Dr. Botosan has taught and published in the area of financial accounting. Dr. Botosan will testify that she estimated SCO's lost revenue as a result of Novell's slander by analyzing multiple internal and independent projections of SCOSource revenue that were created in the lull between Novell's first retraction of its slander (in June 2003) and its next public slander (in December 2003), and before the forecasters recognized the impact that Novell's statements. Dr. Botosan will also testify that Novell's slander was a substantial cause of the SCOSource program not achieving its projected earnings.
3. Bill Broderick. Mr. Broderick has been the Contracts Manager or Director of Software Licensing at Novell and SCO, and was originally a Manager of Sales Operations at UNIX Systems

Labs (“USL”), as the UNIX and UnixWare business was sold from each of those predecessor companies and ultimately to SCO. Mr. Broderick will testify that in 1995 Novell announced to its employees that it was selling the UNIX business; that during his participation on the transition team that was created after Novell sold the UNIX and UnixWare business to SCO, it was never suggested that Novell had retained ownership of the UNIX or UnixWare copyrights; that during the transition team meetings Novell engineers reported they were changing copyright notices on UNIX code sold under the APA, to reflect SCO as the copyright holder of that code; that SCO’s course of performance since late 1995 has reflected the company’s view and understanding that it owns the copyrights; that the term “SVRX license,” under the customary usage at SCO, refers only to royalty-bearing binary licenses; and that if Novell has the broad waiver rights it claims, Novell could easily preclude SCO from operating even the basics of its UnixWare licensing business.

4. Ed Chatlos. Mr. Chatlos was a senior business executive and the lead negotiator for Novell on the Asset Purchase Agreement. He will testify that in 1995 he always intended for Novell to transfer the UNIX and UnixWare copyrights to SCO and that Novell would retain waiver rights only with respect to the royalty-bearing licenses that Novell had sold to SCO.

5. Gervaise Davis. Mr. Davis is an expert in the area of software licensing. He will testify that in order to exercise its rights with respect to its acquisition of the UNIX and UnixWare technologies it acquired under the amended APA, SCO either would have to own the UNIX and UnixWare copyrights or else have a license to use the copyrighted material in those technologies; that an implied license is not a practical or viable means by which a licensee could operate an entire software business involving a complex set of copyrighted works, and in Mr. Davis’s

extensive experience with industry practices he has never come across such a license for such activities; and that if SCO does not have a license under the amended APA, SCO's ownership of the UNIX and UnixWare copyrights is required for SCO to exercise its rights with respect to its acquisition of the UNIX and UnixWare technologies.

6. Robert Frankenberg. Mr. Frankenberg was the Chief Executive Officer of Novell in 1995 and the first half of 1996. He will testify that he always intended for Novell to transfer the UNIX and UnixWare copyrights to SCO, and that during the course of a dispute between Novell and SCO in 1996, he never understood or believed that Novell had the right to direct SCO to waive its rights with respect to Software and Sublicensing Agreements, or otherwise retain any rights over the UNIX source code.

7. Larry Gasparro. Mr. Gasparro was formerly a sales executive at SCO. Mr. Gasparro has testified at deposition that he lost many potential lucrative sales of SCOsource licenses because of Novell's public claims to own the UNIX and UnixWare copyrights.

8. Jeff Hunsaker. Mr. Hunsaker was a Senior Vice President at SCO in 2003 and 2004. He will testify that many potential licensees declined to enter into a SCOsource license because of Novell's public claims to own the UNIX and UnixWare copyrights; and that from his business perspective the ownership of the software copyrights is required for a company to run a business based on selling and licensing that software, and any "implied license" would be insufficient.

9. Philip Langer. Mr. Langer was formerly a sales executive at SCO. Mr. Langer has testified at deposition that that he lost many potential lucrative sales of SCOsource licenses because of Novell's public claims to own the UNIX and UnixWare copyrights.

10. Burt Levine. Mr. Levine was a member of Novell's in-house legal team in 1995. He has testified at deposition that in his work in helping to draft and mark up drafts of the Asset Purchase Agreement, he never intended or understood that Novell would retain any UNIX or UnixWare copyrights or would secure broad waiver rights with respect to Software and Sublicensing Agreements, or otherwise retain any rights over the UNIX source code.

11. Kim Madsen. Ms. Madsen was a senior paralegal on SCO General Counsel Steve Sabbath's in-house legal team in 1995 and 1996. She will testify that it was always her intent in 1995 for SCO to acquire the UNIX and UnixWare copyrights from Novell; that in helping Mr. Sabbath to negotiate Amendment No. 2 she intended for the Amendment to confirm the transfer of copyrights in 1995; that she never intended or understood that Novell secured any broad waiver rights; and that she intended for Amendment No. 2 to confirm that Novell had not acquired any such broad waiver rights.

12. John Maciaszek. Mr. Maciaszek has been a member of the UNIX and UnixWare licensing teams and Product Management at UNIX Systems Labs ("USL"), Novell, and SCO, serving in that capacity as the UNIX and UnixWare business was sold from each of those predecessor companies and ultimately to SCO. Mr. Maciaszek will testify that in 1995 Novell announced to its employees that it was selling the UNIX business and the UNIX intellectual property to SCO; that during his participation on the transition team that was created after Novell sold the UNIX and UnixWare business to SCO, it was never suggested that Novell had retained ownership of the UNIX or UnixWare copyrights; that SCO's course of performance since late 1995 has reflected the company's view and understanding that it owns the copyrights; that the term "SVRX license," under the customary usage at SCO, refers only to royalty-bearing licenses; that if Novell has the

broad waiver rights it claims, Novell could easily preclude SCO from operating even the basics of its UnixWare licensing business; and that in 1996 Novell acknowledged its limited waiver rights in the time leading up to and including the execution of Amendment No. 2.

13. Darl McBride. Mr. McBride was the Chief Executive Officer of SCO in 2002, 2003, and 2004. He will testify that he never asked Novell to “transfer” any copyrights to SCO in 2002 or 2003; that during his telephone conversation with Novell Chief Executive Officer Jack Messman on June 6, 2003, shortly after Mr. Messman had received a copy of Amendment No. 2 from SCO, Mr. Messman acknowledged that the Amendment supported SCO; that the UNIX division of SCO was profitable in 2002, 2003, and 2004; that the SCOsource program offered a UnixWare license that would give the licensee the right to use the UNIX-derived technology in Linux; that many prospective and valuable SCOsource licensees declined to enter into the license because of Novell’s public claims to own the UNIX and UnixWare copyrights; that the reason SCO did not publicly disclose the UNIX-derived technology in Linux of which SCO was aware in 2002, 2003, and 2004 was that such material was confidential; that SCO permitted third parties to view such UNIX-derived technology if they signed a non-disclosure agreement with SCO; and that SCO’s stock plummeted after Novell published its first slanderous statement even though SCO had reported record profits that same day. Mr. McBride will also testify to the discovery that Linux infringes SCO’s rights in UNIX and why SCO initiated litigation against IBM in March 2003.

14. Jack Messman. Mr. Messman was the Chief Executive Officer of Novell in 2003 and 2004. He will be questioned about the set of statements upon which the sander of title claim is predicated. He will testify that Novell owns the UNIX and UnixWare copyrights; that in its public statements concerning the UNIX and UnixWare copyrights Novell intentionally stated that Novell

it owns them; and that Novell reversed itself over whether Amendment No. 2 supports SCO's claim of copyright ownership. He will also testify about Novell's decision to seek to waive SCO's rights against IBM. He will also testify that he decided to terminate Chris Stone's employment at Novell in 2004.

15. Doug Michels. Mr. Michels was Senior Vice President at SCO in 1995 and 1996. He will testify that he participated in the business negotiations of the Asset Purchase Agreement and was kept apprised of the discussion and negotiation of Amendment No. 2. He will testify that he always intended for SCO to acquire the UNIX and UnixWare copyrights from Novell; that he understood Amendment No. 2 to confirm SCO's ownership; that he never understood or believed that Novell had the right to direct SCO to waive its rights with respect to Software and Sublicensing Agreements, or otherwise retain any rights over the UNIX source code; that in his extensive experience in the software industry he has never heard of an acquisition of a software business without the associated copyrights; and that from his business perspective the ownership of the software copyrights required for a company to run a business based on selling and licensing that software, and any "implied license" would be insufficient.

16. Alok Mohan. Mr. Mohan was the Chief Executive Officer of SCO in 1995 and 1996. He has testified at deposition that it was always his intent in 1995 for SCO to acquire the UNIX and UnixWare copyrights from Novell; that he understood Amendment No. 2 to confirm the transfer of the copyrights in 1995; that he never intended or understood that Novell secured any broad waiver rights; and that during the course of the dispute between Novell and SCO in 1996, he never believed that Novell had the unilateral right to direct SCO to waive its rights with respect to Software and Sublicensing Agreements, or otherwise retain any rights over the UNIX source code.

17. Andy Nagle. Mr. Nagle is the Senior Director of Product Development at SCO and has served in similar capacities since SCO acquired the UNIX and UnixWare business from Novell. Mr. Nagle came over to SCO from Novell after the execution of the Asset Purchase Agreement, where he was responsible for overseeing the development of UnixWare on top of the prior releases of UnixWare and UNIX System V. Mr. Nagle will testify that UnixWare is the latest iteration of the UNIX System V operating system; that when licensing UnixWare it is necessary for SCO to license the prior releases of UnixWare and UNIX System V with the most recent release; that to build and operate a company based on an operating system, the company must make copies of the operating system and license to third parties the right to make copies and derivative works of the operating system; and that in 1995 Novell engineers changed the copyright notices to UNIX code Novell was transferring to SCO under the APA.

18. Maureen O’Gara. Ms. O’Gara was a reporter in the technology industry in 2003, and at that time had been a reporter in that field for over thirty years. She has testified at deposition that Chris Stone of Novell informed her in a conversation that Novell was timing its press release on May 28, 2003, to coincide with SCO’s earnings call that day and thus hurt SCO’s stock, and that Mr. Stone laughed as he leaked this information.

19. Mike Olson. Mike Olson was formerly the Chief Financial Officer of SCO. Mr. Olson will testify that SCO’s UNIX division was profitable, and that SCO reported record profits on the day Novell issued its first slanderous statement in 2003 claiming copyright ownership.

20. Greg Petit. Mr. Petit was formerly a sales executive at SCO. Mr. Petit has testified at deposition that that he lost many potential lucrative sales of SCOsource licenses because of Novell's public claims to own the UNIX and UnixWare copyrights.

21. Gary Pisano. Dr. Pisano is a Professor of Business Administration at Harvard Business School and holds a B.A. degree in economics (with distinction) from Yale University and a PhD in business administration from the University of California, Berkeley. For over two decades, Dr. Pisano has lectured, consulted, and published extensively in the strategy, operations, and technology areas, including technology licensing. Dr. Pisano will testify to these fundamental conclusions: (1) Novell's statements adversely impacted the SCOsource program; (2) the SCOsource program would have made an estimated amount of RTU sales between 2003 and 2007 without Novell's slander; and (3) SCO could not, if its ownership rights were vindicated after years of slander, recoup its losses by reviving the SCOsource program.

22. Chris Sontag. Mr. Sontag was a Senior Vice President at SCO in 2002, 2003, and 2004. He will testify that in 2002 and 2003, before he had seen Amendment No. 2, he asked Novell only to "clarify" that SCO owns the UNIX and UnixWare copyrights; that the SCOsource program he helped to oversee in 2003 and 2004 concerned SCO's efforts to sell UnixWare licenses that would give licensees the right to use the UNIX-derived technology in Linux; that many potential SCOsource licensees declined to enter into the licensee because of Novell's public claims to own the copyrights; that the reason SCO did not publicly disclose the UNIX-derived technology in Linux of which SCO was aware in 2002, 2003, and 2004 was that such material was confidential; and that SCO permitted third parties to view such UNIX-derived technology if they signed a non-disclosure agreement with SCO.

23. Steve Sabbath. Mr. Sabbath was General Counsel of SCO in 1995 and 1996. He has testified at deposition that it was always his intent in 1995 for SCO to acquire the UNIX and UnixWare copyrights from Novell; that in negotiating Amendment No. 2 he intended for the Amendment to confirm the transfer of copyrights in 1995; that he never intended or understood that Novell secured any broad waiver rights; and that he intended for Amendment No. 2 to confirm that Novell had not acquired any broad waiver rights with respect to Software and Sublicensing Agreements, or otherwise retain any rights over the UNIX source code.

24. Chris Stone. Mr. Stone was a Senior Vice President at Novell in 2003 and 2004. Novell terminated his employment in 2004. Mr. Stone has testified at deposition that he agrees that Amendment No. 2 appears to support SCO's claim of copyright ownership; that in its public statements Novell intended to assert that it owns the UNIX and UnixWare copyrights; that when he publicly claimed in 2004 that Novell "own[s] UNIX," he was being "sarcastic"; and that Darl McBride, the Chief Executive Officer of SCO, never asked him to have Novell "transfer" any copyrights to SCO in 2002 or 2003.

25. Duff Thompson. Mr. Thompson was a Senior Vice President at Novell in 1995 and was charged by Novell CEO Robert Frankenberg to oversee Novell's divestiture of Novell's UNIX and UnixWare assets. He will testify that in 1995 he always intended for Novell to transfer the UNIX and UnixWare copyrights to SCO. He will further testify that he was a member of SCO's Board of Directors when SCO asserted its ownership of the UNIX and UnixWare copyrights in a dispute against Microsoft in the European Union, and Novell did not dispute the assertion.

26. Ryan Tibbitts. Mr. Tibbitts has been the General Counsel of SCO since 2003, and is now part of a management committee under the authority of SCO's Trustee and his outside advisors. Mr. Tibbitts will testify that the SCOSource program concerned SCO's efforts to sell UnixWare licenses that would give licensees the right to use the UNIX-derived technology in Linux; that many potential SCOSource licensees declined to enter into a SCOSource license because of Novell's public claims to own the copyrights; that the reason SCO did not publicly disclose the UNIX-derived technology in Linux of which SCO was aware in 2002, 2003, and 2004 was that such material was confidential; that SCO permitted third parties to view such UNIX-derived technology if they signed a non-disclosure agreement with SCO; that from his legal perspective the ownership of the software copyrights is required for a company to run a business based on selling and licensing that software, and any "implied license" would be insufficient. He will also testify about the loss of SCOSource business opportunities due to Novell's slander.

27. Jim Wilt. Mr. Wilt was a senior business executive and the lead negotiator for SCO on the Asset Purchase Agreement. He has testified at deposition that in 1995 he worked with Ed Chatlos of Novell in negotiating the basic terms of the deal, and that in the course of that work he always intended for SCO to acquire the UNIX and UnixWare copyrights from Novell.