

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

WAYNE R. GRAY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
NOVELL, INC.,	)	
THE SCO GROUP, INC., and	)	Case No. 8:06-cv-01950-JSM-TGW
X/OPEN COMPANY LIMITED,	)	
	)	
Defendants.	)	
_____	)	

**NOVELL, INC.'S JOINDER IN X/OPEN'S OPPOSITION TO PLAINTIFF'S MOTION TO DECLASSIFY THE 1996 SCO-NOVELL-X/OPEN CONFIRMATION AGREEMENT**

Defendant Novell, Inc. ("Novell") respectfully joins in X/Open's Opposition to Plaintiff's Motion to Declassify the 1996 SCO-Novell-X/Open Confirmation Agreement ("X/Open's Opposition"), filed on June 4, 2007.

As set forth in X/Open's Opposition, and contrary to Plaintiff's implications, counsel for Plaintiff has been in possession of the Confirmation Agreement on an attorneys' eyes only basis for quite some time. Novell agreed to the production of the Confirmation Agreement to Plaintiff, provided only that he agree not to disclose the agreement to third parties or use it for purposes other than this litigation due to the agreement's confidential nature. Such terms are not onerous, extraordinary, unreasonable or "highly restrictive" – they are standard terms in stipulated protective orders, used to protect the confidential nature of documents. Indeed, Novell would not object to a protective order allowing Gray to see and use the Confirmation Agreement, under the foregoing standard restrictions, with a provision permitting Gray to move the Court for

permission to disclose or use the agreement for purposes beyond those allowed in the protective order upon a showing of good cause.

For the foregoing reasons, and those discussed in X/Open's Opposition, Novell respectfully requests that the Court deny Plaintiff's Motion to Declassify the 1996 SCO-Novell-X/Open Confirmation Agreement.

DATED: June 4, 2007

/s/ E. Colin Thompson  
Fredrick McClure  
fredrick.mcclure@dlapiper.com  
Florida Bar No. 0147354  
E. Colin Thompson  
colin.thompson@dlapiper.com  
Florida Bar No. 0684929  
DLA PIPER US LLP  
101 East Kennedy Blvd., Suite 2000  
Tampa, FL 33602  
T: (813) 229-2111  
F: (813) 229-1447

and

Thomas R. Karrenberg (admitted *pro hac vice*)  
tkarrenberg@aklawfirm.com  
John P. Mullen (admitted *pro hac vice*)  
jmullen@aklawfirm.com  
Heather M. Sneddon (admitted *pro hac vice*)  
hsneddon@aklawfirm.com  
ANDERSON & KARRENBERG  
700 Chase Tower  
50 West Broadway  
Salt Lake City, UT 84101  
**Attorneys for Defendant Novell, Inc.**

**CERTIFICATE OF SERVICE**

I hereby certify that on the 4<sup>th</sup> day of June, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing to David Lee Partlow, George R. Coe, Karen C. Dyer, William Cooper Guarrant, Jr., Mark Sommers, Evan A. Raynes, Fredrick H. L. McClure, E. Colin Thompson, Thomas R. Karrenberg, John P. Mullen, and Heather M. Sneddon.

/s/ E. Colin Thompson