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

THE SCO GROUP, INC., a Delaware
corporation,

Plaintiff and Counterclaim-
Defendant,

vs.

NOVELL, INC., a Delaware corporation,

Defendant and Counterclaim-
Plaintiff.

**NOVELL'S OPPOSITION TO SCO'S
MOTION FOR EXTENSION OF TIME
TO RESPOND TO NOVELL'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT ON ITS FOURTH
COUNTERCLAIM FOR RELIEF**

Case No. 2:04CV00139
Judge Dale A. Kimball
Magistrate Judge Brook C. Wells

Defendant and Counterclaim Plaintiff, Novell, Inc. ("Novell") hereby opposes The SCO Group Inc.'s ("SCO") Motion for Extension of Time to Respond to Novell's Motion for Partial Summary Judgment on its Fourth Counterclaim for Relief. Because the issues in this motion overlap directly with issues currently pending (and set for hearing) on summary judgment in the *SCO v. IBM* case, because SCO has had ample notice of its impending deadlines in the *SCO v. IBM* case, and because SCO has already sought and received delay in responding to Novell's motion, this Court should deny SCO's request for further delay.

Novell filed its Motion for Partial Summary Judgment on its Fourth Claim for Relief on December 1, 2006. This motion addresses a significant issue: whether the express terms of the 1995 Asset Purchase Agreement authorize Novell to direct SCO to waive its purported legal claims for alleged breaches of SVRX license agreements with IBM and with Sequent, and to take action on SCO's behalf when SCO refuses to so waive, where the plain language of the 1995 contract gives Novell "at its sole discretion and direction" the right to take such action concerning "any SVRX License." This issue is also raised in IBM's pending Motion for Summary Judgment on SCO's Contract Claim (filed September 29, 2006, PACER Nos. 832-1, 832-2), which is set for hearing during the first week of March 2007. The Court has recognized the overlapping issues in the *SCO v. IBM* and *SCO v. Novell* cases, even recently vacating the IBM trial date and noting that it "appears that judicial economy and the interests of all the parties will be best served by trying the Novell case—set to begin on September 17, 2007—prior to the [*SCO v. IBM*] action." Therefore, SCO's request for further delay should be denied so that Novell's motion can be expeditiously briefed and heard either parallel or prior to IBM's motion.

SCO has already sought, and received, delay in resolving this motion. On approximately December 7, 2006 -- or a week after Novell filed its summary judgment motion -- SCO contacted Novell to delay its response. Novell agreed to a courtesy extension that would extend SCO's opposition deadline from just after the holidays (January 3, 2007) to January 10, 2007, which was memorialized in a court order. Now, again, SCO seeks another delay. On the afternoon of January 8, 2007, SCO's counsel sent an e-mail to Novell's counsel stating that "SCO has determined that it would like an extension of a full week, until January 17" to respond to Novell's Motion for Partial Summary Judgment on its Fourth Claim for Relief. Less than two hours later, and without awaiting a response from Novell's counsel, SCO filed its instant motion.

SCO's proffer that its schedule is constrained due to a pending January 12 reply deadline in the *SCO v. IBM* case is insufficient. SCO has known of this deadline for three weeks; this deadline was the result of another extension. (*See SCO v. IBM: Order re Extension of Deadline*, Dec. 19, 2006, PACER No. 904 (pushing reply deadline from December 22 to January 12)). The resolution of Novell's important motion should not be delayed due to SCO's apparent inability to plan accordingly. Novell therefore respectfully requests that, under the circumstances, this Court deny SCO's motion to extend time

DATED: January 9, 2007

ANDERSON & KARRENBERG

/s/ Heather M. Sneddon

Thomas R. Karrenberg

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Heather M. Sneddon

-and-

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of January, 2007, I caused a true and correct copy of **NOVELL'S OPPOSITION TO SCO'S MOTION FOR EXTENSION OF TIME TO RESPOND TO NOVELL'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON ITS FOURTH COUNTERCLAIM FOR RELIEF** to be served to the following via CM/ECF:

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