MORRISON & FOERSTER LLP
Michael A. Jacobs (pro hac vice)
Kenneth W. Brakebill (pro hac vice)
425 Market Street
San Francisco, CA 94105-2482
Telephone: (415) 268-7000
Facsimile: (415) 268-7522

ANDERSON & KARRENBERG
Thomas R. Karrenberg, #3726
John P. Mullen, #4097
Heather M. Sneddon, #9520
700 Chase Tower
50 West Broadway
Salt Lake City, UT 84101
Telephone: (801) 534-1700
Facsimile: (801) 364-7697

Attorneys for Defendant Counterclaim-Plaintiff Novell, Inc.

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.
	DECLARATION OF JAMES MCKENNA IN SUPPORT OF NOVELL'S OPPOSITION TO SCO'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON SCO'S FIRST, SECOND, AND FIFTH CAUSES OF ACTION AND FOR SUMMARY JUDGMENT ON NOVELL'S FIRST COUNTERCLAIM
	
	Case No. 2:04-CV-00139
	
	Judge Dale A. Kimball

I, James McKenna, declare as follows:

1.   I am the Firmwide Litigation Technology Manager for Morrison & Foerster LLP, counsel of record for Defendant and Counterclaim-Plaintiff Novell, Inc. ("Novell") in *The SCO Group, Inc. v. Novell, Inc.* From time to time, my responsibilities include assisting counsel in this action.

2.   I have seventeen years of experience in user support and information technologies. In my current position, I coordinate the information technology infrastructure at Morrison & Foerster LLP for litigation practice support. I am currently on the Board of Directors of the International Legal Technology Association.

3.   I submit this declaration in support of Novell's Opposition to SCO's Motion For Partial Summary Judgment on SCO's First, Second, and Fifth Causes of Action and for Summary Judgment on Novell's First Counterclaim. The statements made herein are based on my personal knowledge.

4.   I was given three CDs by the attorneys at Morrison & Foerster LLP, labeled as follows:

- "SCO UnixWare Release 2.1," denominated SCON0114233;

- "SCO UnixWare Release 2.1.3 Installation CD," denominated SCON0114234; and

- "SCO UnixWare Release 2.1.3 Supplemental CD," denominated SCON0114235.

5.   The SCO UnixWare Release 2.1 CD includes 129 separate files named "copyright." I saw the following:

- The document entitled "copyright" in what appears to be the main installation directory (\UnixWare\install) contains the following copyright notice:

1

> *(C) Copyright 1996 The Santa Cruz Operation, Inc. All rights reserved.*
> *Copyright 1984-1995 Novell, Inc. All Rights Reserved.*

- The document entitled "copyright" in what appears to be the documentation directory (\UWDOCS\INSTALL) contains the following copyright notice:

> *Copyright (c) 1994-1995 Novell, Inc. All rights reserved.*
> *(C) Copyright 1996 The Santa Cruz Operation, Inc. All rights reserved.*

6. The SCO UnixWare Release 2.1.3 Installation CD includes 173 separate files named "COPYRIGH." I saw the following:

- The document entitled "COPYRIGH" in what appears to be the main installation directory (\UNIXWAR0\INSTALL) contained the copyright notice:

> *(C) Copyright 1996 The Santa Cruz Operation, Inc. All rights reserved.*
> *Copyright 1984-1995 Novell, Inc. All Rights Reserved.*

- The document entitled "COPYRIGH" in what appears to be the main installation directory for the software update contained on the CD (UPDATE21\INSTALL) contains the following copyright notice:

> *(C) Copyright 1996-1997 The Santa Cruz Operation, Inc. All rights reserved.*
> *Copyright 1984-1995 Novell, Inc. All Rights Reserved.*

- The document entitled "COPYRIGH" in what appears to be the documentation directory (\UWDOCS\INSTALL) contains the following copyright notice:

> *Copyright (c) 1994-1995 Novell, Inc. All rights reserved.*
> *(C) Copyright 1996 The Santa Cruz Operation, Inc. All rights reserved.*

7. The SCO UnixWare Release 2.1.3 Supplemental CD contains eight disk images in the \IMAGES and \IMAGES\UW211 subdirectories. According to the README file on the CD, most of those are "boot diskette image[s]" in English and other languages.

8. The English language boot disk images contain the following text:

> *AUTOMSG=Automatic Boot Procedure*

> *BOOTMSG=Booting UnixWare...*

2

BOOTPROMPT=Entering BOOT interactive session... [? for help]

COPYRIGHT=Copyright 1996-1998 The Santa Cruz Operation, Inc. All Rights Reserved.
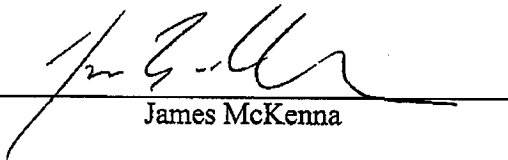
COPYRIGHT=Copyright 1984-1995 Novell, Inc. All Rights Reserved.

REBOOTMSG=Press any key to reboot...

STARTUPMSG=The system is coming up. Please wait.

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

Executed on this *11* day of May, 2007 in San Francisco, California.

_____
James McKenna

3

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of May, 2007, I caused a true and correct copy of the foregoing **DECLARATION OF JAMES MCKENNA** to be served to the following:

Via CM/ECF:

Brent O. Hatch
Mark F. James
HATCH JAMES & DODGE, P.C.
10 West Broadway, Suite 400
Salt Lake City, Utah 84101

Stuart H. Singer
William T. Dzurilla
Sashi Bach Boruchow
BOIES, SCHILLER & FLEXNER LLP
401 East Las Olas Blvd., Suite 1200
Fort Lauderdale, Florida 33301

David Boies
Edward J. Normand
BOIES, SCHILLER & FLEXNER LLP
333 Main Street
Armonk, New York 10504

Devan V. Padmanabhan
John J. Brogan
DORSEY & WHITNEY, LLP
50 South Sixth Street, Suite 1500
Minneapolis, Minnesota 55401

Via U.S. Mail, postage prepaid:

Stephen Neal Zack
BOIES, SCHILLER & FLEXNER LLP
100 Southeast Second Street, Suite 2800
Miami, Florida 33131

_____/s/ Heather M. Sneddon_____