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

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THE SCO GROUP, INC., a Delaware  
 corporation,

Plaintiff and Counterclaim-  
 Defendant

vs.

NOVELL, INC., a Delaware corporation,

Defendant and Counterclaim-  
 Plaintiff.

**DECLARATION OF DAVID E.  
 MELAUGH IN SUPPORT OF  
 NOVELL'S MOTION FOR SUMMARY  
 JUDGMENT ON ITS FOURTH CLAIM  
 FOR RELIEF**

*[REDACTED pursuant to the August 2,  
 2006 Stipulated Protective Order]*

Case No. 2:04CV00139

Judge Dale A. Kimball

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I, David E. Melaugh, declare as follows:

1. I am an attorney duly licensed to practice law in the State of California and an associate at the law firm of Morrison & Foerster LLP, counsel of record for Defendant and Counterclaim-Plaintiff Novell, Inc. ("Novell") in this action. I was admitted to practice before this Court *pro hac vice* by this Court's Order of July 30, 2004. The statements made herein are based on my personal knowledge.

2. I submit this declaration in support of Novell's motion for summary judgment on its fourth claim for relief.

3. As discussed below, some of the exhibits attached hereto include information that may be subject to the August 2, 2006 Stipulated Protective Order. Accordingly, the complete version of this declaration, which includes full and unredacted copies of all exhibits, is being filed under seal. A public version of this declaration, which deletes or redacts confidential documents and information, is also being submitted.

4. Attached as **Exhibit 1** is a true and correct copy of a presentation by SCO titled "SCOsource Announcement," dated December 11, 2002, as produced in this litigation at BATES Nos. SCO 1275727 to SCO 1275746. This exhibit is being filed under seal pursuant to the August 2, 2006 Stipulated Protective Order.

5. Attached as **Exhibit 2** is a true and correct copy of a press release by SCO titled "SCO Establishes SCOsource to License Unix Intellectual Property and Protect Linux," dated December 11, 2002, as produced in this litigation at BATES Nos. SCO 1270160 to SCO 1270163.

6. Attached as **Exhibit 3** is a true and correct copy of a presentation by Jay Petersen on "SCO System V for Linux Sales Guide – Internal Use Only," dated February 26, 2003, as

produced in this litigation at BATES Nos. SCO 1537786 to SCO 1537805. This exhibit is being filed under seal pursuant to the August 2, 2006 Stipulated Protective Order.

7. Attached as **Exhibit 4** is a true and correct copy of a draft letter from Darl McBride, dated May 12, 2003, as produced in this litigation at BATES Nos. SCO 164748 to SCO164749. 261. This exhibit is being filed under seal pursuant to the August 2, 2006 Stipulated Protective Order.

8. Attached as **Exhibit 5** is a true and correct copy of a letter from Darl McBride to Jack Messman, dated May 12, 2003, as produced in this litigation at BATES Nos. NOVTR 515 to NOVTR 516.

9. Attached as **Exhibit 6** is a true and correct copy of a letter from Darl McBride to Fortune 1000 Companies, dated May 12, 2003, as produced in this litigation at BATES Nos. SCON 24112 to SCON 24113.

10. Attached as **Exhibit 7** is a true and correct copy of a letter from Darl McBride to Keith Rattie, dated May 12, 2003, as produced by a third party in this litigation at BATES Nos. QC 69 to QC 70.

11. Attached as **Exhibit 8** is a true and correct copy of the "Declaration of Robert A. Marsh" submitted in the SCO v. IBM litigation, dated April 5, 2006, as produced in this litigation at BATES Nos. NOVTR 1826 to NOVTR 1878.

12. Attached as **Exhibit 9** is a true and correct copy of the Asset Purchase Agreement ("APA"), dated September 19, 1995, as produced in this litigation at BATES Nos. SCO 1185893 to SCO 1185990.

13. Attached as **Exhibit 10** is a true and correct copy of Amendment No. 1 to the APA, dated December 6, 1995, as produced in this litigation at BATES Nos. SCO 1186000 to SCO 1186017.

14. Attached as **Exhibit 11** is a true and correct copy of the Software License Agreement between Sun Microsystems, Inc. and The SCO Group, dated February 25, 2003, as produced in this litigation at BATES Nos. SCO 1287208 to SCO 1287221. This exhibit is being filed under seal pursuant to the August 2, 2006 Stipulated Protective Order.

15. Attached as **Exhibit 12** is a true and correct copy of Amendment No. 2 to the APA, dated October 16, 1996, as produced in this litigation at BATES Nos. SCO 1451873 to SCO 1451875.

16. Attached as **Exhibit 13** is a true and correct copy of the Release, License and Option Agreement between Microsoft Corporation and The SCO Group, dated April 30, 2003, as produced in this litigation at BATES Nos. SCO 1300033 to SCO 1300046. This exhibit is being filed under seal pursuant to the August 2, 2006 Stipulated Protective Order.

17. Attached as **Exhibit 14** is a true and correct copy of SCO's Supplemental Responses and Objections to Novell's Second and Third Sets of Interrogatories, served upon Novell in this action on July 12, 2007, with BATES Nos. NOVTR 4032 to NOVTR 4071, and attachments NOVTR 4238 and NOVTR 4241. Only excerpts from the exhibits are included. This exhibit is being filed under seal pursuant to the August 2, 2006 Stipulated Protective Order.

18. Attached as **Exhibit 15** is a true and correct copy of the Intellectual Property License Agreement between The SCO Group and Everyone's Internet, Ltd., dated December 13, 2004, as produced in this litigation at BATES Nos. NOV-PLA 451 to NOV-PLA 462. This exhibit is being filed under seal pursuant to the August 2, 2006 Stipulated Protective Order.

19. Attached as **Exhibit 16** is a true and correct copy of the Intellectual Property Compliance License Agreement for SCO UNIX Rights between The SCO Group and Computer Associates International, Inc., dated August 11, 2003, as produced in this litigation at BATES Nos. SCO 1443955 to SCO 1443962. This exhibit is being filed under seal pursuant to the August 2, 2006 Stipulated Protective Order.

20. Attached as **Exhibit 17** is a true and correct copy of the Corporate Intellectual Property Agreement between The SCO Group and HEB Grocery Company, dated July 30, 2004, as produced in this litigation at BATES Nos. SCO 1784207 to SCO 1784218. This exhibit is being filed under seal pursuant to the August 2, 2006 Stipulated Protective Order.

21. Attached as **Exhibit 18** is a true and correct copy of the Intellectual Property Compliance License Agreement for Linux between The SCO Group and Questar Corporation, dated January 16, 2004, as produced in this litigation at BATES Nos. SCO 1448558 to SCO 1448565. This exhibit is being filed under seal pursuant to the August 2, 2006 Stipulated Protective Order.

22. Attached as **Exhibit 19** is a true and correct copy of a letter from Richy Anderson to Jerry Wiener, dated April 30, 2004, as produced in this litigation at BATES Nos. SCON 114034 to SCON 114035. This exhibit is being filed under seal pursuant to the August 2, 2006 Stipulated Protective Order.

23. Attached as **Exhibit 20** is a true and correct copy of a Purchase Order, dated October 14, 2003, as produced in this litigation at BATES No. SCO 1448148. This exhibit is being filed under seal pursuant to the August 2, 2006 Stipulated Protective Order.

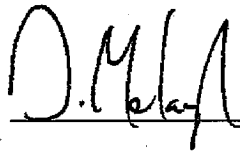
24. Attached as **Exhibit 21** is a true and correct copy of the The SCO Group, Inc.'s Intellectual Property License Agreement, as produced in this litigation at BATES Nos. SCON

114040 to SCON 114043. This exhibit is being filed under seal pursuant to the August 2, 2006 Stipulated Protective Order.

25. Attached as **Exhibit 22** is a true and correct copy of the Business Cooperation Agreement between The SCO Group and Cymphonix Corporation, dated March 24, 2005, as produced in this litigation at BATES Nos. SCO 1783775 to 1783788. This exhibit is being filed under seal pursuant to the August 2, 2006 Stipulated Protective Order.

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

Executed on this 21st day of December, 2007 in San Francisco, California.

A handwritten signature in dark ink, appearing to read "D. Melaugh", is written over a solid horizontal line.

David E. Melaugh

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 21st day of December, 2007, I caused a true and correct copy of the **DECLARATION OF DAVID E. MELAUGH IN SUPPORT OF NOVELL'S MOTION FOR SUMMARY JUDGMENT ON NOVELL'S FOURTH CLAIM FOR RELIEF** to be served to the following:

*Via CM/ECF:*

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/s/ Heather M. Sneddon