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Attorneys for Plaintiff, The SCO Group, Inc.

**IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF UTAH**

<p>THE SCO GROUP, INC., by and through the Chapter 11 Trustee in Bankruptcy, Edward N. Cahn,</p> <p style="text-align: center;">Plaintiff/Counterclaim-Defendant,</p> <p>vs.</p> <p>NOVELL, INC., a Delaware corporation,</p> <p style="text-align: center;">Defendant/Counterclaim-Plaintiff.</p>	<p>SCO'S MOTION IN LIMINE NO. 2 TO PRECLUDE REFERENCES AND EVIDENCE CONCERNING REVERSED RULINGS</p> <p>Civil No. 2:04 CV-00139</p> <p>Judge Ted Stewart</p>
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Plaintiff, The SCO Group, Inc. (“SCO”), respectfully moves for an order in limine to preclude the parties and their representatives from referring to or introducing evidence concerning the now-reversed summary judgment rulings regarding copyright ownership and contract waiver rights previously entered in this matter.

ARGUMENT

In an order dated August 10, 2007, this Court (Kimball, J.) granted Novell’s motions for summary judgment on the issues of (i) Novell’s alleged ownership of the UNIX and UnixWare copyrights pursuant to the Asset Purchase Agreement (“APA”), and the amendments thereto, at issue in this litigation, and (ii) Novell’s alleged “waiver” rights pursuant to the APA, under which Novell claims (among other things) the right unilaterally and at its unfettered discretion to direct SCO to waive any and all of its rights pursuant to “SVRX Licenses” as that term is used in the APA. SCO Group, Inc. v. Novell, Inc., Civil No. 2:04CV139DAK, 2007 WL 2327587 (D. Utah. Aug. 10, 2007), rev’d in part, 578 F.3d 1201 (10th Cir. 2009). On August 24, 2009, however, the Tenth Circuit Court of Appeals reversed those rulings. SCO Group, Inc. v. Novell, Inc., 578 F.3d 1201 (10th Cir. 2009).

The Tenth Circuit’s reversal thus makes moot the summary judgment analyses and rulings that Novell owns the disputed copyrights and that Novell had the contractual right to wave SCO’s claims against IBM. There is no relevance for the jury to learn that the District Court previously made such rulings, because they were reversed by the Court of Appeals and could only serve to mislead the jury. Rule 401 defines “relevant evidence” as “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Telum, Inc. v.

E.F. Hutton Credit Corp., 859 F.2d 835 (10th Cir. 1988). Those prior rulings and analyses do not have any bearing on or relevance to the issues for the jury to decide.

Accordingly, SCO requests that the Court enter an order in limine preventing the parties and their representatives and witnesses from referencing, or eliciting or offering evidence respecting, those reversed rulings.

DATED this 8th day of February, 2010.

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CERTIFICATE OF SERVICE

I, Edward Normand, hereby certify that on this 8th day of February, 2010, a true and correct copy of the foregoing **SCO'S MOTION IN LIMINE NO. 2** was filed with the Court and served via electronic mail to the following recipients:

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