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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. 3 TO EXCLUDE REFERENCE TO NOVELL'S MONETARY JUDGMENT AGAINST SCO</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 reference to Novell’s monetary judgment against SCO in this case.

ARGUMENT

After this Court’s (Kimball, J.) entry of summary judgment against SCO in August 2007, the parties conducted a bench trial in April and May 2008 concerning Novell’s counterclaims against SCO. Novell, which initially sought approximately \$30 million in royalties to which it claimed it was entitled, obtained a judgment for approximately \$2.5 million. The Tenth Circuit Court of Appeals subsequently reversed the August 2007 entry of summary judgment and affirmed Novell’s monetary judgment. SCO Group, Inc. v. Novell, Inc., 578 F.3d 1201 (10th Cir. 2009). For the upcoming trial, references to and evidence of Novell’s monetary judgment against SCO is not relevant to any of the issues to be tried, under Rule 401 of the Federal Rules of Evidence. 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). No aspect of the monetary judgment that Novell obtained relates to or touches upon the questions the jury will now consider. The judgment does not have any bearing on or relevance to the issues for the jury to decide.

In addition, any probative value in such evidence would be substantially outweighed by the danger of unfair prejudice to SCO. The fact alone that Novell has obtained the judgment may improperly prejudice the jury.

Accordingly, SCO requests that the Court enter an order in limine precluding the parties and their representatives and witnesses from referencing, or eliciting or offering testimony respecting, the monetary judgment Novell previously obtained in this case.

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. 3** was filed with the Court and served via electronic mail to the following recipients:

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