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Attorneys for Defendant and Counterclaim-Plaintiff Novell, Inc.

IN THE UNITED STATES DISTRICT COURT**DISTRICT OF UTAH, CENTRAL DIVISION**THE SCO GROUP, INC., a Delaware
corporation,

Plaintiff,

vs.

NOVELL, INC., a Delaware corporation,

Defendant.

Case No. 2:04CV00139

[PROPOSED ORDER]**ORDER GRANTING NOVELL, INC.'S
DAUBERT MOTION TO DISQUALIFY
CHRISTINE A. BOTOSAN**

Judge Ted Stewart

AND RELATED COUNTERCLAIMS.

This matter is before the Court on “Novell, Inc.’s *Daubert* Motion to Disqualify Christine A. Botosan” (the “Motion”), filed in behalf of Defendant and counterclaim-Plaintiff Novell, Inc. (“Novell”) in the above-captioned action. The Court, having considered the arguments and submissions of the parties in connection with the Motion, and being fully advised in the premises, GRANTS the Motion, and finds and orders as follows:

FINDINGS

1. Dr. Botosan’s proposed opinion testimony regarding the quantification of damages is inadmissible under Federal Rule of Evidence (“Rule”) 702 because:
 - a. It is impermissibly based on inadmissible opinion hearsay;
 - b. It is not based on sufficient facts or data; and
 - c. It is not the product of reliable principles or methods.
2. Dr. Botosan’s proposed testimony regarding her event study is inadmissible:
 - a. Under Rules 402 and 702, because a decline in stock price is not a proper measure of damages in this case;
 - b. Under Rule 403, because its admission is likely to cause confusion and mislead the jury regarding causation and damages; and
 - c. Under Rule 702, because the adjusted R² and P-values for the underlying regression analysis (0.002639 and 0.084062, respectively) demonstrate that the study is not the product of reliable principles and methods.
3. Dr. Botosan’s proposed opinion testimony regarding causation is inadmissible under Rule 702 because:
 - a. The event study on which she bases her opinion is itself based on a statistically invalid model and a statistically insignificant regression;

- b. The opinion is derived by logically invalid reasoning; and
 - c. The opinion is based on insufficient facts and data.
4. Based on the foregoing findings, the Court further finds that Dr. Botosan's report is inadmissible.

ORDER

Novell Inc.'s *Daubert* Motion to Disqualify Christine A. Botosan is GRANTED. Dr. Botosan's testimony and expert reports will be precluded from presentation at trial and Dr. Botosan will not be permitted to testify.

Dated: _____

Hon. Ted Stewart
United States District Court Judge

Respectfully Submitted By:

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By: /s/ Sterling A. Brennan
Sterling A. Brennan

Attorneys for Defendant Novell, Inc.