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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.

AND RELATED COUNTERCLAIMS.

Case No. 2:04CV00139

**NOVELL, INC.'S DAUBERT MOTION
TO DISQUALIFY DR. GARY PISANO**

Judge Ted Stewart

Defendant and counterclaim-plaintiff Novell, Inc. (“Novell”) respectfully moves the Court to disqualify Dr. Gary Pisano, a testifying expert retained by plaintiff and counterclaim-defendant The SCO Group, Inc. (“SCO”). Novell’s motion is made pursuant to Federal Rule of Evidence (“Rule”) 104(a), and on the grounds that (1) Dr. Pisano’s opinion regarding market penetration is inadmissible under Rule 702, because it is not based on sufficient facts or data and is not the product of reliable principles and methods reliably applied to the facts of this case; and (2) his opinion regarding the size of the potential market for SCOsource licenses is inadmissible under Rules 402, 403, and 702 because it is not relevant, is likely to confuse the issues and mislead the jury regarding damages, and will not assist the trier of fact.

Novell’s motion is supported by an accompanying memorandum of points and authorities. A proposed form of order is submitted herewith.

DATED: February 8, 2010

Respectfully submitted,

By: /s/ Sterling A. Brennan
WORKMAN NYDEGGER

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Counterclaim-Plaintiff Novell, Inc.