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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  
G. GERVAISE DAVIS III**

Judge Ted Stewart

AND RELATED COUNTERCLAIMS.

This matter is before the Court on “Novell, Inc.’s *Daubert* Motion to Disqualify G. Gervaise Davis III” (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. Mr. Davis’ field of expertise is not relevant to the case at hand.
2. Mr. Davis’ proposed opinion testimony regarding the existence of a license goes to an issue of law reserved for the Court.
3. Mr. Davis’ proposed opinion testimony regarding whether SCO requires a license would not assist the trier of fact.

ORDER

Novell Inc.’s *Daubert* Motion to Disqualify G. Gervaise Davis III is GRANTED. Mr. Davis’ testimony and expert report will be precluded from presentation at trial and Mr. Davis 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  
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Attorneys for Defendant Novell, Inc.