

EXHIBIT A

1 IN THE UNITED STATES DISTRICT COURT
2 DISTRICT OF UTAH, CENTRAL DIVISION

3

4 THE SCO GROUP, INC., a Delaware)
5 corporation,)
6 Plaintiff,)

7 vs.) Case No. 2:04-CV-139TS

8 NOVELL, INC., a Delaware)
9 corporation,)
10 Defendant.)

11 _____)
12 AND RELATED COUNTERCLAIMS.)
13 _____)

14

15 BEFORE THE HONORABLE TED STEWART
16 -----

17 March 9, 2010

18 Jury Trial

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24 REPORTED BY: Patti Walker, CSR, RPR, CP

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1 was present in their files. They say the amendment appears
2 to support SCO's claim that ownership of certain copyrights
3 for UNIX did transfer to SCO in 1996.

4 Now if that was the end of the story, it would be
5 bad enough, a slander made and published to the entire world
6 on the very day that SCO was announcing record earnings.
7 But this is far worse, because not long after the June 6th
8 retraction, Novell decided to retract the retraction and
9 resume a campaign of slander.

10 So, on May 28th, we had the initial statement. On
11 June 6th, there was a retraction. There were some letters
12 back and forth between the parties. August 4th, Novell says
13 that SCO's claimed ownership in the UNIX technologies must
14 be rejected and they go back to saying they own the
15 copyrights.

16 In October they go in to obtain copyright
17 registrations themselves on UNIX, and they told the
18 copyright office they retain all or substantially all of the
19 ownership of the copyrights in UNIX, including the U.S.
20 copyright registration referenced above.

21 Then in December of 2003, December 22nd, another
22 important date, as you'll learn, Novell goes public again,
23 says they have the copyrights, and starts a Web page where
24 it continues to assert ownership of the UNIX copyrights to
25 this very day.

1 In January of 2004, they launched their own
2 program for licensing UNIX users to protect them against
3 infringement that competes with SCO's program.

4 In March 2004, a Novell executive goes so far as
5 to stand up at a convention and flat out say, we still own
6 UNIX, even though that was a product that was sold to our
7 client's predecessor and now belongs to SCO.

8 So this is a campaign of slander, broadcast and
9 repeated to the world that continues to this very day.
10 Mr. Hatch will talk later about the effect that this had on
11 SCO's business. It depended on those UNIX copyrights.

12 Now how do we know it's a slander? You will hear
13 tremendous amount of evidence about that in this trial.
14 What is remarkable, though, is that this is a case where the
15 executives at the time of the sale, on both Novell's side
16 and Santa Cruz's side, agreed that the copyrights were sold.

17 Ladies and gentlemen, you're going to hear
18 testimony in this trial from ten witnesses on both the
19 Novell and the Santa Cruz side of the transaction which
20 indicate that the copyrights were sold by Novell to Santa
21 Cruz.

22 Our first witness, which you'll hear later today,
23 is Robert Frankenberg. He was the president and chief
24 executive officer of Novell. The number one guy at the
25 time. He will testify that it was the intent of Novell to

1 slander.

2 I think we're going to need to rerun that.

3 (Video clip played)

4 MR. SINGER: So here you have him publicly saying
5 flat out, we still own UNIX, we still own UNIX, even though
6 they have sold the company, they've told customers they've
7 sold the company, we have copyright registrations, and they
8 are continuing to slander in public.

9 Compare, if you will, what Mr. Stone said, we
10 still own UNIX, to what Novell told its customers in 1995
11 when the deal was done. In 1995, they say Novell
12 transferred to the Santa Cruz Operation its existing
13 ownership interest in UNIX system-based offerings, which are
14 defined as all releases of UNIX. And in 2003, their vice
15 chairman stands up and says, quote, we still own UNIX. That
16 was false, that was slander we believe you will find. And
17 to this day Novell, on their Web site, continues to
18 republish that slander. So there will be plenty of evidence
19 where you will be able to conclude that Novell acted
20 recklessly, intentionally and maliciously.

21 But there is something more. All of this was
22 timed to harm SCO to the max. Chris Stone, the man who
23 stood up at the 2004 conference and said we still own UNIX,
24 is also the Novell executive who talked to the press on May
25 28th, 2003, and said, here's the press release we're going

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March 10, 2010

Jury Trial
Volume II

1 by this correspondence, SCO has been well aware that Novell
2 continues to assert ownership of the UNIX copyrights.

3 Q. Mr. Thompson, are you aware of whether December 22nd,
4 2003 also was a date on which SCO was announcing its
5 earnings, this time for the period ending in December?

6 A. I don't remember the exact date, but it was in or near
7 this date.

8 Q. Are you aware of continued assertions of ownership to
9 UNIX copyrights by Novell to this very day?

10 A. Yes.

11 Q. Now, were you the person in charge of the sale of UNIX
12 to Santa Cruz?

13 A. Yes. I was given that charge by Bob Frankenberg.

14 Q. Based on your knowledge of that transaction, Mr.
15 Thompson, was the statement by Novell in May of 2003 that
16 they owned the UNIX copyrights true or false?

17 A. It is false. It is not consistent with the transaction
18 that we conducted.

19 Q. Based on your knowledge of that transaction, was the
20 statement by Novell on December 22nd, 2003 continuing to
21 assert ownership of the UNIX copyrights, was that true or
22 false?

23 A. I believe it is false.

24 MR. SINGER: Thank you.

25 That concludes my direct examination.