

FILED
U.S. DISTRICT COURT
2006 APR 10 P 4:17
DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

MORRISON & FOERSTER LLP
Michael A. Jacobs (pro hac vice)
Kenneth W. Brakebill (pro hac vice)
David E. Melaugh (pro hac vice)
425 Market Street
San Francisco, CA 94105-2482
Telephone: (415) 268-7000
Facsimile: (415) 268-7522

ANDERSON & KARRENBERG
Thomas R. Karrenberg, #3726
John P. Mullen, #4097
Heather M. Sneddon, #9520
700 Chase Tower
50 West Broadway
Salt Lake City, UT 84101
Telephone: (801) 534-1700
Facsimile: (801) 364-7697

Attorneys for Novell, Inc.

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

THE SCO GROUP, INC., a Delaware corporation,

Plaintiff and Counterclaim-Defendant,

vs.

NOVELL, INC., a Delaware corporation,

Defendant and Counterclaim-Plaintiff.

NOVELL, INC.'S MOTION TO STAY CLAIMS RAISING ISSUES SUBJECT TO ARBITRATION

Case No. 2:04CV00139

Judge Dale A. Kimball

Defendant and Counterclaimant Novell, Inc. ("Novell"), by and through its attorneys of record, respectfully moves the Court for an order staying proceedings on Plaintiff and Counterdefendant The SCO Group, Inc.'s ("SCO") claims pursuant to the Federal Arbitration Act, because SCO's claims raise issues that are subject to arbitration under the "UnitedLinux" contracts signed by SCO in May 2002.

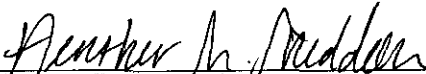
The Federal Arbitration Act, 9 U.S.C. § 3, requires the Court to stay proceedings on a suit involving "any issue referable to arbitration under an agreement in writing for such arbitration," provided that there has been no default in proceeding with the arbitration.

Four of the five claims in SCO's Second Amended Complaint ("Complaint") raise issues referable to arbitration under the UnitedLinux contracts signed by SCO in May, 2002. These issues include (1) whether the UnitedLinux contracts divest SCO of ownership of any copyrights in the UnitedLinux technology and (2) whether the UnitedLinux contracts preclude SCO from asserting copyright infringement claims against SUSE Linux, in view of the broad license conferred by those contracts, as well as the incorporation of the terms of any applicable open source licenses. The Court should stay proceedings on these four claims until these issues are decided in the ICC arbitration. If SuSE prevails in the arbitration, this will moot some of SCO's claims entirely, and will substantially reduce the scope of other claims. This court should also stay SCO's fifth claim because it is related to, and contingent on, SCO's other claims.

The grounds for this motion are more fully set forth in the supporting memorandum filed concurrently herewith.

DATED: April 10, 2006

ANDERSON & KARRENBERG



Thomas R. Karrenberg
John P. Mullen
Heather M. Sneddon

- and -

MORRISON & FOERSTER LLP
Michael A. Jacobs (pro hac vice)
Kenneth W. Brakebill (pro hac vice)

Attorneys for Novell, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of April, 2006, I caused a true and correct copy of the foregoing **NOVELL, INC.'S MOTION TO STAY CLAIMS RAISING ISSUES SUBJECT TO ARBITRATION** to be served via first class mail, postage prepaid, to the following:

Brent O. Hatch
Mark F. James
Mark R. Clements
HATCH JAMES & DODGE, P.C.
10 West Broadway, Suite 400
Salt Lake City, Utah 84101

Kevin P. McBride
1299 Ocean Avenue, Suite 900
Santa Monica, California 90401

Stephen N. Zack
Mark J. Heise
BOIES, SCHILLER & FLEXNER LLP
100 Southeast Second Street, Suite 2800
Miami, Florida 33131

Robert Silver
Edward J. Normand
BOIES, SCHILLER & FLEXNER LLP
333 Main Street
Armonk, New York 10504

