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DISTRICT OF UTAH
Clerk

Attorneys for Plaintiff The SCO Group, Inc.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

<p>THE SCO GROUP, INC., a Delaware corporation, Plaintiff, vs. NOVELL, INC., a Delaware corporation, Defendant.</p>	<p>MOTION TO REMAND Civil No.: 2:04CV00139 Judge Dale A. Kimball</p>
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Plaintiff The SCO Group ("SCO") respectfully moves this Court for an order remanding this case to Utah Third Judicial District Court.¹ The grounds for this Motion are as follows:

¹ Novell has filed a Motion to Dismiss SCO's Compliant. This Court should not address Novell's Motion until it has addressed and ruled on SCO's Motion to Remand. See *In re Bear River Drainage District*, 267 F.2d 849 (10th Cir. 1959) (when a district court is faced with a motion to remand and a motion to dismiss, the court should "rule first on the motion to remand" and if granted send "the motion to dismiss back to state court").

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5 day of March 2004, I caused to be mailed a true and correct copy of the foregoing via first class U.S. Mail, postage prepaid, to the following:

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