

EXHIBIT 16

In The Matter Of:

***THE SCO GROUP, INC. v.
INTERNATIONAL BUSINESS MACHINES CORPORATION***

***DARL McBRIDE
December 2, 2005***

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McBRIDE, DARL

<p style="text-align: right;">Page 201</p> <p>1 AT&T, to your knowledge, to -- to Novell?</p> <p>2 A. As I understand it from AT&T to Novell</p> <p>3 the majority of the assets went over to Novell when</p> <p>4 the assets transferred from Novell to Santa Cruz the</p> <p>5 binary code royalty stream in large part was not</p> <p>6 bought out by The Santa Cruz Operation, but rather</p> <p>7 what they were focussed on was the -- the intellectual</p> <p>8 property value of Unix going forward.</p> <p>9 Q. Would you agree that in each of the three</p> <p>10 transactions AT&T Novell, Novell Santa Cruz, Santa</p> <p>11 Cruz SCO, a -- a different set of Unix assets changed</p> <p>12 hands?</p> <p>13 A. Let's see, from AT&T to Novell, Novell to</p> <p>14 Santa Cruz. Definitely from Novell to Santa Cruz it</p> <p>15 was the property minus the royalty stream was the</p> <p>16 substantial difference in that transfer.</p> <p>17 Q. So you would agree that a different set</p> <p>18 of Unix assets changed hands in each of the three</p> <p>19 transactions?</p> <p>20 A. Yes, I -- I don't know that it's between</p> <p>21 the other -- the second one to the third one, but</p> <p>22 clearly between Novell to Santa Cruz I would agree</p> <p>23 with that.</p> <p>24 Q. And you would agree that in each instance</p> <p>25 some, but not all, of the Unix assets changed hands;</p>	<p style="text-align: right;">Page 203</p> <p>1 MR. SINGER: To the present or just to</p> <p>2 those three transactions?</p> <p>3 MR. MARRIOTT: To the present.</p> <p>4 THE WITNESS: So when you say "to the</p> <p>5 present."</p> <p>6 Q. BY MR. MARRIOTT: Well, I mean, simply</p> <p>7 put, you said that the AT&T transaction involved the</p> <p>8 sale of Unix assets for hundreds of millions of</p> <p>9 dollars. You then said that the Novell Santa Cruz</p> <p>10 transaction involved the sale of Unix assets for a</p> <p>11 hundred some million dollars. And then you said that</p> <p>12 the Santa Cruz Caldera transaction included the sale</p> <p>13 of assets somewhere in the order of \$100 million.</p> <p>14 A. Right.</p> <p>15 Q. It appears to me that the value of the</p> <p>16 Unix assets changing hands has declined over time. My</p> <p>17 question is, you know, has the value declined over</p> <p>18 time? Has it stayed the same? Has it increased?</p> <p>19 What's --</p> <p>20 A. I see where you're going, Mr. Marriott.</p> <p>21 So here's my view on the value of the</p> <p>22 Unix asset, if you will. The asset is worth a lot of</p> <p>23 money in the early '90s. In the mid '90s Santa Cruz</p> <p>24 Operation decides to invest a substantial amount of</p> <p>25 money. And I use the word "invest" because they</p>
<p style="text-align: right;">Page 202</p> <p>1 Is that right?</p> <p>2 A. No.</p> <p>3 Q. Okay. And why is that not right?</p> <p>4 A. Again, we'd have to go back and look at</p> <p>5 the purchase agreements of each of these as they went</p> <p>6 through. Here's what I -- my -- and again, being the</p> <p>7 CEO and the business person here at the table without</p> <p>8 sitting down looking at each contract, what my</p> <p>9 understanding is and my testimony would be is that in</p> <p>10 the early '90s substantially AT&T transferred Unix to</p> <p>11 Novell, sold it to Novell.</p> <p>12 And that in the '95 time frame Novell</p> <p>13 substantially transferred the Unix assets to Santa</p> <p>14 Cruz minus some royalty streams for preexisting binary</p> <p>15 code agreements.</p> <p>16 And that in the 2001 time frame Santa</p> <p>17 Cruz transferred substantially the Unix business to</p> <p>18 Caldera International.</p> <p>19 The legalities of what happened in each</p> <p>20 one of those moves, I'm not prepared today to sit down</p> <p>21 and testify what happened at each one of those</p> <p>22 transitions.</p> <p>23 Q. Do you have a view as to whether the</p> <p>24 value of the Unix assets has declined, stayed the</p> <p>25 same, or increased over time?</p>	<p style="text-align: right;">Page 204</p> <p>1 wanted to get a return on that investment so they went</p> <p>2 to buy Unix but they did not, as I understand it at</p> <p>3 the time, have enough money in their bank to -- to</p> <p>4 afford all of the assets that were there.</p> <p>5 Therefore, they focussed on purchasing</p> <p>6 the going forward asset base as opposed to the</p> <p>7 preexisting. In other words, you know, here's</p> <p>8 products that have shipped in the past, here's a</p> <p>9 royalty stream attached to that.</p> <p>10 As it goes into the future, the company</p> <p>11 that we have has a very strong opportunity on this</p> <p>12 going forward asset base, which was not just Unix but</p> <p>13 specifically the asset they bought in there was the</p> <p>14 Unix on Intel know-how and knowledge around not just</p> <p>15 what we developed on OpenServer but also on UnixWare.</p> <p>16 And as you look at the Unix on Intel</p> <p>17 marketplace from the late '90s to current state, what</p> <p>18 you see is a very interesting situation. You see the</p> <p>19 company that was the leader of Unix on Intel in the</p> <p>20 mid to late '90s, which was The Santa Cruz Operation,</p> <p>21 have its revenues go from over 200 million and then</p> <p>22 decline down to 40 some odd million.</p> <p>23 And at the same point in time the</p> <p>24 competitive product that comes in and picks up the</p> <p>25 slack that it eventually gets huge momentum in the</p>

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<p style="text-align: right;">Page 265</p> <p>1 note, but we have all kinds of problems with the 2 testimony that we received today and we can detail 3 them for you in a letter rather than take your time. 4 MR. SINGER: Well, I don't think on the 5 deposition record's the appropriate time, but I'm 6 happy to talk to you either after the deposition on 7 phone or by letter. 8 MR. MARRIOTT: So without any objection 9 we'll do it after the deposition. 10 MR. SINGER: Fine. 11 MR. MARRIOTT: So we're done for today. 12 THE VIDEOGRAPHER: This concludes the 13 deposition of Darl McBride on December 2nd, 2005. The 14 time is 5:39. 15 (There was a discussion held off the record.) 16 MR. SINGER: One other thing, at least on 17 the written record. We do designate this as a 18 confidential transcript. 19 (The deposition was recessed at 5:40 p.m.) 20 * * * 21 22 23 24 25</p>	<p style="text-align: right;">Page 267</p> <p>1 Reporter's Certificate 2 State of Utah) 3 County of Salt Lake) 4 5 I, Vickie Larsen, Certified Shorthand 6 Reporter, Registered Professional Reporter, and Notary 7 Public for the State of Utah, do hereby certify: 8 THAT the foregoing proceedings were taken 9 before me at the time and place set forth herein; that 10 the witness was duly sworn to tell the truth, the 11 whole truth, and nothing but the truth; and that the 12 proceedings were taken down by me in shorthand and 13 thereafter transcribed into typewriting under my 14 direction and supervision; 15 THAT the foregoing pages contain a true 16 and correct transcription of my said shorthand notes 17 so taken. 18 IN WITNESS WHEREOF, I have subscribed my 19 name and affixed my seal this 5th day of December, 20 2005. 21 22 Notary Public 23 24 My commission expires 25 August 27, 2006.</p>
<p style="text-align: right;">Page 266</p> <p>1 Deponent's Certificate 2 3 I, DARL McBRIDE, deponent herein, do 4 hereby certify and declare the within and foregoing 5 transcription to be my deposition in said action taken 6 on December 2, 2005; that I have read, corrected, and 7 do hereby affix my signature to said deposition. 8 9 DATED this ____ day of 10 _____, 2005. 11 12 _____ 13 Deponent 14) 15 STATE OF UTAH) ss. 16) 17 18 SUBSCRIBED AND SWORN to before me this 19 ____ day of _____, 2005. 20 21 Notary Public residing in _____ 22 My Commission Expires: _____ 23 24 25</p>	

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