

EXHIBIT 59

Catancio, Jeffrey E.

From: Ted Normand [TNormand@BSFLLP.com]
Sent: Monday, March 19, 2007 12:46 PM
To: Brakebill, Ken W.
Cc: Peter Gwynne; Melaugh, David E.
Subject: RE: Novell March 5 and March 8 Letters

Ken --

This is to confirm that SCO's response to the interrogatory at issue will include the information you identify, where SCO reserves the right to supplement the interrogatory response consistent with the completion of expert reports, and where Novell agrees that SCO's initial response to the interrogatory does not constitute a waiver or bar to SCO's expert theories or calculation of damages, and does not constitute a waiver of any privilege as to that work.

The same is true of SCO's Rule 30(b)(6) witness. Such testimony shall not constitute a waiver or bar to SCO's expert theories or calculation of damages, and does not constitute a waiver of any privilege as to that work.

As to timing, SCO proposes to respond to the interrogatory by April 4 and to produce a Rule 30(b)(6) witness to address the relevant topic by April 16, to give Novell the time (which we assume Novell wants) to review the interrogatory response prior to the Rule 30(b)(6) testimony.

Please let me know your views on the foregoing. Regards,

Ted

From: Brakebill, Ken W. [mailto:KBrakebill@mofo.com]
Sent: Monday, March 12, 2007 11:08 PM
To: Ted Normand
Cc: Peter Gwynne; Melaugh, David E.
Subject: RE: Novell March 5 and March 8 Letters

Ted:

Regarding Rog No. 15, we understand that SCO is now willing to provide a response. We understand that your experts may rely on additional new materials; we are also willing to defer the issue of "segregation" to expert discovery. For clarity, however, please confirm that SCO's response will include the factual predicates for its damages claims (i.e., any facts concerning the alleged damage, any facts concerning acts by Novell alleged to have caused that damage, and any facts concerning how these acts allegedly caused this damage), including any list of documents that SCO currently believes support its damages claims, as well as a list of people that SCO currently understands have knowledge of those claims. As far as damages amount, we believe that SCO is obligated to provide such information if SCO has already calculated or estimated it in any way. See, e.g., *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 650-52, n.1 (C.D. Cal. 1997); *Zapala v. IBP, Inc.*, 1995 U.S. Dist. LEXIS 6436, *5-*6 (D. Kan. May 10, 1995); *King v. E.F. Hutton & Co.*, 117 F.R.D. 2, 5-6 (D.D.C. 1987).

As to SCO's amended response to Rog No. 15, we request that SCO provide this information to Novell no later than the close of business a week from today.

Regarding Topic No. 23, we understand that SCO is now willing to designate a witness. So that there are no misunderstandings, however, please confirm that SCO's 30(b)(6) witness will be prepared to speak to: what the

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damage is/was to SCO; the specific acts or omissions by Novell that caused this damage; and why/how SCO believes these acts/omissions caused this damage. As to the issue of a specific damages amount, again, we believe that SCO is obligated to provide such testimony if SCO to date has come up with such an amount or estimation.

I look forward to hearing back from you.

-Ken

-----Original Message-----

From: Ted Normand [mailto:TNormand@BSFLLP.com]

Sent: March 12, 2007 10:54 AM

To: Brakebill, Ken W.; Melaugh, David E.

Cc: Peter Gwynne

Subject: Novell March 5 and March 8 Letters

Ken and David:

I write in response to Ken's March 5 letter and to David's March 8 letter. With respect to the March 5 letter, subject to Rule 26(a)(4) and to SCO's objections as to undue burden and the specific objections set forth below, we will respond to Novell's Interrogatory No. 15 and produce a Rule 30(b)(6) witnesses on Novell's Topic No. 23.

With respect to Interrogatory No. 15, the specific amount of the damages at issue falls within the purview of expert testimony, SCO is not obligated to segregate the specific amount of damages attributable to each Claim for Relief, and SCO's experts may rely on additional documents and material to inform their analyses, in addition to those documents that SCO will produce in response to the Interrogatory; and the identification of all persons with knowledge of the relevant facts is also subject to the foregoing objection. With respect to Novell's Topic No. 23, SCO will designate a witness to testify on the topic, but that witness testimony should not be viewed as a substitute for expert opinion and testimony, which will be presented and exchanged in accordance with the Court's scheduling order. The witness will testify generally on the nature of the impact on SCO's of Novell's acts and omissions, but will not testify regarding the specific amount of damages suffered by SCO. With respect to the March 8 letter, after a reasonable search of SCO's and Boies, Schiller & Flexner's files, SCO has produced all documents responsive to Novell Requests Nos. 2-5. Please tell us the basis for your belief that "SCO still has not made a full production" of responsive documents. In the mean time, in an abundance of caution, SCO will look again for responsive documents.

I further note that your letter appears to expand the scope of the requests at issue in at least two ways. First, you state that "Novell requested all documents concerning the declarations of Jim Wilt, Steven Sabbath, Ed Chatlos, and William Broderick." The requests at issue cannot reasonably be read to be so broad. Novell Requests Nos. 2-5 plainly seek only documents concerning specific declarations identified by date. Second, you state that those requests sought "all statements and communications by the declarant concerning the APA, and the declarant's files concerning the APA." In fact, Novell Requests Nos. 2-5 seek only documents "concerning" the specified declarations, "including, but not limited to" several subcategories of information. To the extent Novell now seeks documents unrelated to the specified declarations, such documents are plainly beyond the scope of those requests. In addition, as Messrs. Wilt, Sabbath, and Chatlos are not parties to this litigation, SCO does not know what statements, communications, or files (if any) they may have had "concerning the APA." To the extent SCO (including its counsel) does not have such documents in its possession, custody, or control, Novell would have had to have sought such documents directly from those third parties.

Please let me know if you would like to confer regarding the foregoing issues. Regards,

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Ted

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