

MORRISON & FOERSTER LLP
Michael A. Jacobs, *pro hac vice*
Eric M. Acker, *pro hac vice*
Kenneth W. Brakebill, *pro hac vice*
Marc J. Pernick, *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 & KARRENBURG
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 Defendant & Counterclaim-Plaintiff Novell, Inc.

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

THE SCO GROUP, INC., a Delaware
corporation,

Plaintiff & Counterclaim-
Defendant,

v.

NOVELL, INC., a Delaware corporation,

Defendant & Counterclaim-
Plaintiff.

**JOINT STATEMENT REGARDING
JURY INSTRUCTIONS**

Case No. 2:04CV00139

Judge Dale A. Kimball

Pursuant to the Court's August 10, 2007 Memorandum Decision and Order, Defendant and Counterclaim-Plaintiff Novell, Inc. ("Novell"), by and through its counsel, and Plaintiff and Counterclaim-Defendant The SCO Group, Inc. ("SCO"), by and through its counsel, hereby submit the following joint statement regarding jury instructions:

Attached as Exhibit 1 are instructions as to which Novell and SCO were able to agree. Where the parties' proposed instruction involves a change to the Court's stock instruction, that change is noted in bold. If a stock instruction is not included in this list, the parties agree that such an instruction is not necessary in this matter.

Attached as Exhibit 2 is a chart conveying each party's proposed instruction on the substantive issues in the case, along with citation to authority for the proposed instruction.

The parties are not in agreement on the substantive instructions. As a threshold matter, the parties are divided on the effect of the Court's August 10 order on the instructions and the relative burdens of proof on apportionment.

The parties commit to working together to craft joint instructions after resolution of these threshold questions.

DATED: August 29, 2007

ANDERSON & KARRENBERG

/s/ Heather M. Sneddon

Thomas R. Karrenberg

John P. Mullen

Heather M. Sneddon

Attorneys for Novell, Inc.

(Signatures continue.)

DATED: August 29, 2007

BOIES, SCHILLER & FLEXNER

/s/ Edward J. Normand

Edward J. Normand

Attorneys for The SCO Group, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of August, 2007, I caused a true and correct copy of the foregoing **JOINT STATEMENT REGARDING JURY INSTRUCTIONS** to be served to the following:

Via CM/ECF:

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

Stuart H. Singer
William T. Dzurilla
Sashi Bach Boruchow
BOIES, SCHILLER & FLEXNER LLP
401 East Las Olas Blvd., Suite 1200
Fort Lauderdale, Florida 33301

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

Devan V. Padmanabhan
John J. Brogan
DORSEY & WHITNEY, LLP
50 South Sixth Street, Suite 1500
Minneapolis, Minnesota 55401

Via U.S. Mail, postage prepaid:

Stephen Neal Zack
BOIES, SCHILLER & FLEXNER LLP
100 Southeast Second Street, Suite 2800
Miami, Florida 33131

/s/ Heather M. Sneddon
