

Appeal No. 10-4122

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

THE SCO GROUP, INC.,

Plaintiff-Appellant,

vs.

NOVELL, INC.,

Defendant-Appellee.

**On Appeal from the United States District Court
for the District of Utah
The Honorable Ted Stewart, Judge Presiding
(Case No. 2:04-CV-00139-TS)**

**APPELLEE'S UNOPPOSED MOTION FOR EXTENSION OF TIME TO
FILE APPELLEE'S BRIEF**

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Attorneys for Defendant-Appellee NOVELL, INC.

Appellee Novell, Inc. (“Novell”), pursuant to Fed. R. App. P. 27 and 10th Cir. R. 27.4, hereby moves for an enlargement of fourteen days time in which to file its Appellee’s Brief, and states in support the following:

1. One day prior to the date its brief was due, appellant The SCO Group, Inc. (“SCO”) sought and was granted an extension of time in which to file its Opening Brief, which Novell did not oppose. SCO’s Opening Brief was filed on September 9, 2010, and Novell’s Appellee Brief is currently due to be filed October 15, 2010. Novell has not sought a prior enlargement of time.

2. Appellee requires a brief 14-day extension of time for the following reasons:

A. This appeal arises after a full trial in the district court. Among other issues, appellant SCO Group challenges the sufficiency of evidence in a 3-week trial before a jury, as well as extensive findings of fact and conclusions of law issued by the district court. Examination of these issues will require review of the substantial record in this case; the appendix designated by the parties is 5200 pages.

B. Novell’s appellate counsel Deanne Maynard will present oral argument before the Supreme Court of the United States in *Ransom v. MBNA, America Bank, N.A.* on October 4, 2010. As the Supreme Court

calendar has been set for several months, it would not be possible to move this argument.

C. In addition, Ms. Maynard is counsel for appellant involved in the filing of an en banc reply brief in the Federal Circuit in *TiVo Inc. v. EchoStar Corp.*, No. 2009-1374, on October 12, 2010. No extension appears possible as the Federal Circuit has already set an argument date for the en banc case and had previously denied appellee an extension request.

D. Other counsel for Novell are similarly engaged in other appellate matters that cannot be moved, including an amicus brief to be filed in the Supreme Court of the United States in *Microsoft Corp. v. i4i Limited Partnership*, No. 10-290, on September 29, 2010; a reply brief to be filed in the Federal Circuit in *Qimonda AG v. ITC*, No. 2010-1270, on October 12, 2010; and a petition for rehearing en banc to be filed in the Ninth Circuit in *Greenwood v. CompuCredit Corp.*, No. 09-15906, on September 29, 2010.

3. Counsel for SCO has represented that it does not oppose this request.

Novell therefore moves for a 14-day enlargement of time for filing its Appellee Brief, from October 15, 2010 to October 29, 2010.

Dated: October 1, 2010

/s/ Sterling A. Brennan

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CERTIFICATE OF SERVICE

I, Sterling A. Brennan, hereby certify that on this 1st day of October, 2010, a true and correct copy of the foregoing **APPELLEE'S UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE APPELLEE'S BRIEF** was filed with the court and served via ECF and electronic mail to the following recipients:

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