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

THE SCO GROUP, INC., a Delaware
corporation,

Plaintiff,

vs.

NOVELL, INC., a Delaware corporation,

Defendant.

**NOVELL'S RULE 60(b) MOTION FOR
RELIEF FROM FINAL JUDGMENT**

(Oral Argument Requested)

Case No. 2:04CV00139

Judge Ted Stewart

Defendant and Counterclaim-Plaintiff Novell, Inc., pursuant to Rule 60(b) of the Federal Rules of Civil Procedure, hereby moves the Court for relief from a portion of the District Court's November 20, 2008 Final Judgment. Specifically, Novell asks the Court to set aside the portion of the Final Judgment determining that Novell was not entitled to royalties from the 2003 Microsoft Agreement and the Other SCOsource Licenses entered into by The SCO Group, Inc. because those licenses did not constitute a license of the copyrights of the UNIX System V operating system ("SVRX License").

The basis for that portion of the Final Judgment was the District Court's earlier summary judgment ruling that the UNIX copyrights were owned by Novell, not SCO. Based on that ruling, the District Court found that the portion of the Microsoft Agreement and the Other SCOsource Licenses that purported to release SCO's claims for infringement of UNIX System V copyrights could not constitute an SVRX License because SCO did not own those copyrights and hence had no rights to release.

On August 24, 2009, however, the Tenth Circuit reversed the District Court's summary judgment ruling on copyright ownership and remanded that issue for trial. Thus, the District Court's Final Judgment rejecting Novell's claim for SVRX royalties is based on a ruling that has now been vacated. As such, Novell is entitled to relief from that judgment under Rule 60(b)(5), which authorizes relief from a judgment that "is based on an earlier judgment that has been reversed or vacated." Fed. R. Civ. P. 60(b)(5).

The grounds for this motion are more fully set forth in the accompanying memorandum in support, the declaration of Grant L. Kim, and the papers on file with the Court.

DATED: December 22, 2009

ANDERSON & KARRENBURG

By: /s/ Heather M. Sneddon

Thomas R. Karrenberg
Heather M. Sneddon

-and-

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of December, 2009, I caused a true and correct copy of **NOVELL'S RULE 60(b) MOTION FOR RELIEF FROM FINAL JUDGMENT** to be served to the following:

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