

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

--oOo--

THE SCO GROUP, INC.,

Plaintiff/Counterclaim Defendant,

vs.

No. 2:04CV00139

NOVELL, INC.,

Defendant/Counterclaim Plaintiff,

_____ /

Videotaped Rule 30 (b)(6) Deposition of

AARON J. ALTER

Friday, April 27, 2007

Reported by:

Leslie Rockwood

CSR No. 3462

Job No. 193580B

13:16:12 1 of a day or that we copied him on everything. We'd get
13:16:17 2 feedback from him, is my recollection.

13:16:24 3 MR. NORMAND: I take it the nature of
13:16:28 4 Mr. Alter's discussions with Mr. Bradford is privileged
13:16:30 5 territory; is that right?

13:16:31 6 MR. PARNES: Well, I will assert the
13:16:34 7 privilege. Obviously, Counsel, to the extent there's a
13:16:38 8 waiver, we can talk about that. And I don't know what
13:16:41 9 discussions you all have had about waiving any
13:16:44 10 communications with David Bradford, for example. But I
13:16:47 11 need to assert it, and then I can let counsel waive it,
13:16:49 12 if he wants.

13:16:51 13 MR. BRAKEBILL: I'll state for the record
13:16:53 14 that we believe that there may be some discussions
13:16:55 15 between Mr. Bradford and Mr. Alter or Mr. Braham or
13:16:59 16 Wilson Sonsini that may not be privileged, and to the
13:17:02 17 extent that Mr. Bradford was operating in a business
13:17:05 18 capacity and no advice was being transmitted back and
13:17:09 19 forth, just for the record.

13:17:11 20 Q. BY MR. NORMAND: Let me ask if you have a
13:17:13 21 view as to whether during this time, the time leading up
13:17:18 22 to the execution of the APA, Mr. Bradford was acting in a
13:17:21 23 business capacity or a legal capacity for Novell?

13:17:29 24 A. So I don't have a specific recollection. I
13:17:40 25 would say that David -- David was the senior in-house

14:31:22 1 I think SCO was in a position to bargain for that which
14:31:25 2 it needed to conduct its business from the point of
14:31:29 3 acquisition forward.

14:31:34 4 Q. Do you have a view as to whether Santa Cruz
14:31:38 5 believed it was acquiring the UNIX and UnixWare
14:31:41 6 copyrights?

14:31:42 7 A. I don't have a view other than the plain
14:31:46 8 language of the exhibit that says it's excluded.

14:31:55 9 Q. What did Wilson Sonsini and Novell discuss in
14:31:59 10 1995 regarding the prospects of retaining intellectual
14:32:04 11 property in UNIX and UnixWare?

14:32:05 12 MR. PARNES: Well, I'll have to instruct not
14:32:07 13 to answer based on privilege. I don't know if you -- if
14:32:11 14 there's any waiver issue that you wanted to instruct us
14:32:15 15 on.

14:32:15 16 MR. BRAKEBILL: I would ask him whether he
14:32:18 17 knows, first of all, a foundational question and see
14:32:21 18 whether there's any issue of instruction.

14:32:25 19 THE WITNESS: I don't personally recall, and
14:32:27 20 while I am the Wilson designee here, I would suggest in
14:32:33 21 having read Tor's declaration that he was the primary
14:32:41 22 negotiator, and I believe he answers that question quite
14:32:45 23 specifically in his declaration.

14:33:08 24 Q. BY MR. NORMAND: Was there ever a time during
14:33:10 25 the negotiation of the APA that Novell intended to

14:33:14 1 transfer the UNIX and UnixWare copyrights to Santa Cruz?

14:33:19 2 MR. PARNES: I missed the question. Can you
14:33:30 3 read it back.

14:33:31 4 (The record was read by the reporter as
5 follows:

6 "QUESTION: Was there ever a time during the
7 negotiation of the APA that Novell intended
8 to transfer the UNIX and UnixWare copyrights
14:33:32 9 to Santa Cruz?")

14:33:32 10 MR. PARNES: You can answer to the extent it
14:33:34 11 doesn't reveal privileged communication, if you recall.

14:33:37 12 THE WITNESS: I don't recall.

14:33:37 13 Q. BY MR. NORMAND: Was there ever a time during
14:33:40 14 the negotiation of the APA that Novell communicated to
14:33:44 15 Santa Cruz that Novell intended to transfer the UNIX and
14:33:47 16 UnixWare copyrights?

14:33:50 17 A. Not that I'm aware of. But, I mean, I'm
14:33:56 18 assuming, I mean, this agreement has an integration
14:33:59 19 clause and sets out the understanding between the
14:34:02 20 parties. So...

14:34:22 21 Q. Do you know whether, in Mr. Braham's view,
14:34:26 22 there was a time during the negotiation of the APA when
14:34:30 23 Novell communicated to Santa Cruz that Novell intended to
14:34:34 24 transfer the UNIX and UnixWare copyrights?

14:34:48 25 THE WITNESS: Mark?

14:34:48 1 MR. PARNES: You can answer. I think he
14:34:50 2 asked whether you knew about Tor's understanding --

14:34:53 3 THE WITNESS: I don't know about Tor's
14:34:56 4 understanding in this specific regard.

14:34:58 5 Q. BY MR. NORMAND: So in order for you to speak
14:35:00 6 on behalf of the law firm in that respect, you'd need to
14:35:03 7 know Mr. Braham's views on that subject. Is that fair to
14:35:05 8 say?

14:35:05 9 A. Well, it would be fair to say, and also my
14:35:08 10 only -- I would just reiterate that the asset schedules
14:35:13 11 were negotiated, reviewed, there was an integration
14:35:17 12 clause. Everybody was represented by counsel. On its
14:35:21 13 face, it seems that the deal that was struck retained the
14:35:28 14 copyrights and trademarks and patents as intellectual
14:35:30 15 property on Schedule 1.1(b).

14:35:33 16 Q. Just to be fair, what I was trying to figure
14:35:36 17 out is if I could speak with you about if there ever was
14:35:39 18 a change in intent, how that unfolded. But I take it
14:35:43 19 that's not something you can speak to?

14:35:45 20 A. It's not something that I recall or am aware
14:35:48 21 of.

14:35:48 22 Q. You mentioned, I think near the beginning of
14:35:57 23 the testimony today, a term sheet. Do you recall using
14:36:00 24 that phrase?

14:36:01 25 A. Yes.

14:36:01 1 Q. Do you know whether according to the term
14:36:03 2 sheet, Novell would transfer the UNIX and UnixWare
14:36:10 3 copyrights to Santa Cruz?

14:36:14 4 A. I don't recall whether that was addressed in
14:36:16 5 the term sheet.

14:36:31 6 Q. Did Wilson Sonsini ever tell, other than
14:36:38 7 Mr. Bradford, anyone from Novell that the copyrights in
14:36:40 8 UNIX and UnixWare would not transfer?

14:36:43 9 MR. PARNES: I'll instruct not to answer on
14:36:46 10 the ground of attorney-client privilege.

14:36:52 11 Q. BY MR. NORMAND: Now, in the APA, did Novell
14:37:02 12 intend to give Santa Cruz the right to make copies of the
14:37:05 13 UNIX and UnixWare source code?

14:37:08 14 A. I can't imagine how they wouldn't. Without
14:37:22 15 looking at it, I would speculate that -- or tell you that
14:37:27 16 in order to run that business going forward, they would
14:37:29 17 have to have use of those assets. So I think the
14:37:33 18 distinction between ownership and use is one I would
14:37:41 19 draw.

14:37:52 20 Q. And just to cover the distinction, in the
14:37:55 21 view of the law firm, did the APA give Santa Cruz the
14:37:58 22 right to make copies of UNIX and UnixWare source code?

14:38:08 23 A. So I -- the making copies part, I don't -- if
14:38:14 24 you have the -- if you are able to use the software -- or
14:38:18 25 excuse me, the code, I would imagine that the ability to