

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)
) Chapter 11
The SCO Group, Inc., et al.,)
) Case No. 07-11337 (KG)
Debtors.) (Jointly Administered)
Ref. Docket No. 1141

Objection Deadline: August 16, 2010 at 4:00 p.m. (prevailing Eastern time)
Hearing: August 23, 2010 at 3:00 p.m. (prevailing Eastern time)

**RESERVATION OF RIGHTS OF NOVELL, INC. IN
RESPONSE TO THE DEBTORS' MOTION FOR AUTHORITY TO SELL**

Novell, Inc. ("Novell") hereby submits this reservation of rights in response to the Motion of the Chapter 11 Trustee for Order (1) Authorizing the Marketing, Auction and Sale of Substantially all of the Debtors' Software Business Assets Consistent with Form APA and Free and Clear of Liens, Claims and Encumbrances, (2) Authorizing Assumption, Assignment, and Sale of Certain Executory Contracts and Unexpired Leases, (3) Approving Bidding Procedures in Connection with Auction, (4) Establishing Sale Hearing Date and (5) Granting Related Relief (the "Motion") [dated and filed August 9, 2010].

I. THE MOTION AND THE FORM APA

1. The Motion seeks Court approval of the form of an asset purchase agreement (the "APA") for the sale of substantially all of the Debtors' property, with the exception of certain Excluded Assets.¹ The Motion also seeks approval of the procedures relating to the APA.

2. Pursuant to paragraphs 4-6 of the Motion and paragraphs 1.5 and 2.1(a)(ii) of the APA, the Debtors are planning to assume and assign all of the Debtors' Assumed Contracts. At this stage, the Debtors have not identified which specific contracts they plan to assume and assign to a Buyer. However, Novell believes that certain of its contracts with the Debtors would be subject to the Motion and APA and that the Debtors will seek to assume and assign such contracts at a later date.

¹ Terms not defined herein will have the meanings ascribed to them in the Motion.

3. In addition, pursuant to paragraph 2.2 of the APA, the Debtors plan to grant perpetual, non-exclusive, royalty-free licenses to use the Licensed Properties. Paragraph 1.34 of the APA defines Licensed Properties as “all copyrights and other Intellectual Property used by [the Debtors] in the Business that [the Debtors do] not own, *including the copyrights owned by Novell, Inc.*” (emphasis added). Therefore, the APA in its current form has the effect of granting one or more Novell licenses to the Buyer.

II. RESERVATION OF RIGHTS

4. Novell hereby reserves all rights regarding the Transaction because Novell has not, at this time, received adequate information from the Debtors regarding the contracts to be assumed pursuant to the APA. Should future disclosure of the Assumed Contracts identify contracts with Novell, the assumption and assignment of such contracts would be subject to Novell’s consent, as well as the cure of any outstanding defaults. Novell reserves the right to object to the assumption and assignment of any Assumed Contracts related to Novell.

5. In addition, to the extent the APA contemplates assumption and assignment of Novell’s licenses to Buyer without Novell’s consent, the APA may be objectionable in its current form. Novell believes that the Debtors may be prohibited from transferring licenses from Novell that relate to the Novell Santa Cruz APA unless the Debtors assume that agreement. To do so, the Debtors would have to cure any outstanding defaults. It is unclear at this time what such defaults would entail, but absent payment of outstanding amounts and cure of any non-monetary defaults, no Novell licenses may be assumed, assumed and assigned or otherwise transferred. Novell hereby reserves the right to object to the transfer of Licensed Properties set forth in the Motion and the APA.

6. Lastly, to the extent it is determined that the Debtors do not own certain of the Acquired Assets, the Debtors would be prohibited from selling such property. Novell hereby reserves the right to object to the Transaction on the basis that the Debtors do not have a property interest in certain of the Acquired Assets.

III. CONCLUSION

7. The Debtors are prohibited from assuming and assigning any Novell contract or license in the absence of Novell's consent, pursuant to 11 U.S.C. § 365(c) and applicable case law. To the extent it determines that there are open issues surrounding any subsequent attempt by the Debtors to assume and assign contracts or licenses, Novell may be forced to object to the Transaction. Accordingly, for the reasons set forth herein, Novell respectively reserves all rights regarding the Transaction until such time that it receives adequate information from the Debtors and/or a Buyer regarding the assets being sold pursuant to the APA.

Dated: August 16, 2010
Wilmington, Delaware

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Sean T. Greecher

James L. Patton (No. 2202)
Michael R. Nestor (No. 3526)
Sean T. Greecher (No. 4484)
The Brandywine Building
1000 West Street, 17th Floor
P.O. Box 391
Wilmington, Delaware 19899-0391
Telephone (302) 571-6600

-- and --

MORRISON & FOERSTER LLP
Adam A. Lewis
425 Market Street
San Francisco, California 94105-2482
Telephone (415) 268-7000

-- and --

MORRISON & FOERSTER LLP
Larren M. Nashelsky
1290 Avenue of the Americas
New York, New York 10104-0050
Telephone (212) 468-8000

Counsel for Novell, Inc. and SUSE GmbH