

UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

*Novell, Inc.*

v.

*Microsoft Corporation*

2:04-cv-01045-JFM  
Hon. J. Frederick Motz

**STIPULATION REGARDING BUSINESS  
RECORDS EXCEPTION TO THE HEARSAY RULE**

To streamline the pretrial process and avoid time-consuming disputes at trial about the admissibility of documentary evidence, plaintiff Novell, Inc. and defendant Microsoft Corporation hereby stipulate and agree as follows:

(1) Documents produced by either party to this action are presumed, and shall be deemed, to be records of regularly conducted business activity within the meaning of Rule 803(6) of the Federal Rules of Evidence, unless the party opposing admission of such a document into evidence shows that it does not satisfy the criteria of Rule 803(6).

(2) Embedded hearsay, or hearsay within hearsay, contained in a document that qualifies as a business record pursuant to this Stipulation, must separately satisfy an exception to the hearsay rule in order to be admissible into evidence, as provided in Rule 805 of the Federal Rules of Evidence.

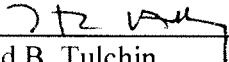
(3) Nothing in this Stipulation establishes the ultimate admissibility of any document apart from the Rule 803(6) hearsay rule exception, nor shall it be taken to mean that

either party accepts any characterization of a document other than that to which the parties have specifically agreed in this Stipulation.

Dated: July 21, 2011

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*Counsel for Microsoft Corporation*

SO ORDERED THIS \_\_\_\_ DAY OF JULY, 2011

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J. Frederick Motz  
United States District Judge