MAX D. WHEELER (3439)
MARALYN M. ENGLISH (8468)
SNOW, CHRISTENSEN & MARTINEAU
10 Exchange Place, 11th Floor
P.O. Box 45000
Salt Lake City, Utah 84145-5000
Telephone: (801) 521-9000
Facsimile: (801) 363-0400

JEFFREY M. JOHNSON (*admitted pro hac vice*)
PAUL R. TASKIER (*pro hac vice pending*)
JASON D. WALLACH (*pro hac vice pending*)
DICKSTEIN SHAPIRO LLP
1825 Eye Street, NW
Washington, DC 20006-5403
Telephone: (202) 420-2200
Facsimile: (202) 420-2201

R. BRUCE HOLCOMB (*admitted pro hac vice*)
ADAMS HOLCOMB LLP
1875 Eye Street, NW, Suite 810
Washington, DC 20006-5403
Telephone: (202) 580-8820
Facsimile: (202) 580-8821

Attorneys for Novell, Inc.

UNITED STATES DISTRICT COURT
for the District of Utah
Central Division

Novell, Inc.,	*	NOVELL'S RENEWED MOTION SEEKING
Plaintiff,	*	COLLATERAL ESTOPPEL
	*	
v.	*	
	*	
Microsoft Corporation,	*	Case No. 2:04-cv-01045-JFM
Defendant.	*	Hon. J. Frederick Motz

Plaintiff Novell, Inc. ("Novell") hereby renews its motion to preclude Microsoft Corporation ("Microsoft") from relitigating the Findings of Fact ("Findings") and Conclusions of Law ("Conclusions") of the United States District Court for the District of Columbia in the case *United States v. Microsoft Corp.*, 84 F. Supp. 2d 9 (D.D.C. 1999) (the "Government case"), that the United States Court of Appeals for the District of Columbia Circuit affirmed in *United States v. Microsoft Corp.*, 253 F.3d 34 (D.C. Cir. 2001). Following Novell's initial motion seeking collateral estoppel, this Court ruled that Microsoft was collaterally estopped from contesting Findings 2, 4, 6-10, 30, 31, 33-39, 144-145, 148, 159, and 239. *See* Order (Dec. 3, 2008). The Court deferred ruling upon whether it would grant preclusive effect to other Findings, whether the Findings and Conclusions from the Government case were material to the issues in this case, and what language the Court will include in the instructions to the jury regarding the Findings and Conclusions to which the Court gives preclusive effect.

Novell now moves the Court to preclude Microsoft from relitigating other Findings and Conclusions from the Government case, and for a determination that the Findings and Conclusions are material to the issues in this case. As Novell demonstrates in its memorandum in support of this motion and the accompanying exhibits and appendices, all of the Findings that Novell has asked the Court to preclude Microsoft from contesting are material to the issues in this case and were critical and essential to the affirmed judgment in the Government case. Microsoft, therefore, should be precluded from relitigating those Findings and Conclusions.

Dated: August 8, 2011

SNOW, CHRISTENSEN & MARTINEAU

By: */s/ Maralyn M. English*
Max D. Wheeler
Maralyn M. English

DICKSTEIN SHAPIRO LLP

Jeffrey M. Johnson
Paul R. Taskier
Jason D. Wallach

ADAMS HOLCOMB LLP

R. Bruce Holcomb

Attorneys for Novell, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of August, 2011, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

/s/ Maralyn M. English