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

NOVELL, INC.,

Plaintiff,

-v-

MICROSOFT CORPORATION,

Defendant.

MICROSOFT'S PROPOSED
SUPPLEMENTAL JUROR
QUESTIONNAIRE

Civil No. 2:04 CV 1045
Honorable J. Frederick Motz

Microsoft Corporation ("Microsoft"), by and through its undersigned counsel, hereby respectfully submits its proposed Supplemental Juror Questionnaire, a copy of which is attached hereto as Attachment A. Attachment A contains all questions proposed both by defendant

Microsoft and plaintiff Novell, Inc. (“Novell”). Microsoft has provided Attachment A in this comprehensive form to assist the Court in resolving the differences between the parties.

Microsoft and Novell have agreed upon many of the proposed questions. Microsoft does not object to any of Novell’s newly proposed questions (Questions 18, 19, 37 and 38.) Novell, however, objects to a number of the questions Microsoft would like to present to the panel (Questions 9, 21, 22, 23, 29, 36, 49, 50, 57, 58, 63, 64, 69, and 70).

For the Court’s reference and convenience, attached hereto as Attachment B is a copy of Microsoft’s proposed Supplemental Juror Questionnaire, which shows by highlights Microsoft’s questions to which Novell objects, and underlines the four questions newly proposed by Novell – to which Microsoft does not object. In other words, those questions that are not highlighted are accepted and agreed upon by both parties.

Given the high profile of the parties to this action and Novell’s damages claim of several billions of dollars exclusive or trebling, this case warrants a thorough and complete juror questionnaire with the opportunity for the parties to learn about the backgrounds, attitudes and potential biases of the jurors who will decide the case. Microsoft’s questions to which Novell objects seek to do that, and they are neither intrusive to the jury nor otherwise inappropriate. By way of reference and example of the practice in this District, and as discussed with the Court, attached are two juror questionnaires from recent, high profile trials in the District of Utah. (*See* Attachment C, juror questionnaire used at trial in the prosecution of Brian David Mitchell (charged with kidnapping Elizabeth Smart) before Judge Dale A. Kimball that includes 88 questions; and Attachment D, juror questionnaire used at trial in the prosecution of Tim DeChristopher before Judge Dee Benson that includes 66 questions.) Microsoft’s Proposed

Supplemental Juror Questionnaire has been carefully drafted consistent with those questionnaires and to ensure the selection of fair and impartial jurors.

Dated: September 15, 2011

Respectfully Submitted,

/s/ James S. Jardine

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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of September, 2011, I caused and true and correct copy of the foregoing MICROSOFT'S PROPOSED SUPPLEMENTAL JUROR QUESTIONNAIRE to be filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

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