

David B. Tulchin
Steven L. Holley
Sharon L. Nelles
Adam S. Paris
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, New York 10004
(212) 558-4000

Steven J. Aeschbacher (A4527)
MICROSOFT CORPORATION
One Microsoft Way
Redmond, Washington 98052
(425) 706-8080

James S. Jardine (A1647)
Justin T. Toth (A8434)
John Mackay (A6923)
RAY QUINNEY & NEBEKER
36 South State Street, Suite 1400
P.O. Box 45385
Salt Lake City, Utah 84145
(801) 532-1500

Attorneys for Microsoft Corporation

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

NOVELL, INC.,

Plaintiff,

-v-

MICROSOFT CORPORATION,

Defendant.

MICROSOFT'S MOTION FOR
JUDGMENT AS A MATTER OF LAW

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

November 17, 2011

Pursuant to Federal Rule of Civil Procedure 50(a) and District of Utah Civil Rule 7-1(a), Defendant Microsoft Corporation (“Microsoft”) hereby moves for judgment as a matter of law now that Plaintiff Novell, Inc. has rested.

For the reasons set forth in Microsoft’s Memorandum in Support of its Motion for Judgment as a Matter of Law, and the reasons stated in open Court, Microsoft respectfully requests that the Court grant this motion and enter judgment in favor of Microsoft.

Dated: November 17, 2011

Respectfully Submitted,

David B. Tulchin
Steven L. Holley
Sharon L. Nelles
Adam S. Paris
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, New York 10004
Phone: (212) 558-4000
Facsimile: (212) 558-3588

/s/ James S. Jardine
James S. Jardine (A1647)
Justin T. Toth (A8434)
John Mackay (A6923)
RAY QUINNEY & NEBEKER
36 South State Street, Suite 1400
P.O. Box 45385
Salt Lake City, Utah 84145
Phone: (801) 532-1500
Facsimile: (801) 532-7543

Steven J. Aeschbacher (A4527)
MICROSOFT CORPORATION
One Microsoft Way
Redmond, Washington 98052
Phone: (425) 706-8080
Facsimile: (425) 936-7329

Attorneys for Microsoft Corporation

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of November, 2011, I caused a true and correct copy of the foregoing MICROSOFT'S MOTION FOR JUDGMENT AS A MATTER OF LAW, the memorandum of law in support thereof and the accompanying declaration and exhibits, to be filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

Max D. Wheeler
Maralyn M. English
SNOW, CHRISTENSEN & MARTINEAU
10 Exchange Place, 11th Floor
P. O. Box 45000
Salt Lake City, Utah 84145-5000

Jeffrey M. Johnson
Paul R. Taskier
Jason D. Wallach
DICKSTEIN SHAPIRO LLP
1825 Eye Street, NW
Washington, DC 20006-5403

R. Bruce Holcomb
ADAMS HOLCOMB LLP
1875 Eye Street, NW, Suite 310
Washington, DC 20006-5403

/s/ Jasmine Diamanti