

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

DANIEL WALLACE,

Plaintiff,

v.

Case No. 1:05-cv-678-SEB-VSS

INTERNATIONAL BUSINESS MACHINES  
CORPORATION;  
RED HAT, INC.; and  
NOVELL, INC.,

Defendant.

**RED HAT, INC. AND NOVELL, INC.'S  
MOTION TO DISMISS COMPLAINT**

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendants Red Hat, Inc. and Novell, Inc., by counsel, move to dismiss the Complaint with prejudice for the reason that the Complaint fails to state a claim against Defendants upon which relief can be granted. With and in support of this Motion, Defendants Red Hat, Inc. and Novell, Inc. have filed a separate brief.

Respectfully submitted,

ICE MILLER

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Counsel for Defendants Red Hat, Inc., and  
Novell, Inc.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 6th day of July, 2005, a copy of the foregoing was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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BARNES & THORNBURG

A copy of the foregoing will be sent via first class mail to the following parties:

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Philip A. Whistler

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