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11 Attorneys for Defendants  
 DEVICEVM, INC. a Delaware corporation, and  
 12 BENEDICT CHONG, an individual

13 **UNITED STATES DISTRICT COURT**  
 14 **NORTHERN DISTRICT OF CALIFORNIA**

16 PHOENIX TECHNOLOGIES, LTD., a  
 Delaware corporation,

17 Plaintiff,

18 v.

19 DEVICEVM, Inc., a Delaware corporation,  
 20 and BENEDICT CHONG, an individual,

21 Defendants.

22 DEVICEVM, Inc., a Delaware corporation,

23 Counterclaimant,

24 v.

25 PHOENIX TECHNOLOGIES LTD., a  
 26 Delaware corporation,

27 Counterclaim-defendant.  
 28

CASE NO. C 09-04697-CW (EDL)

**JOINT STIPULATION AND ORDER  
 THAT MOTION TO DISMISS  
 COUNTERCLAIM FOR TORTIOUS  
 INTERFERENCE IS NOW MOOT**

Judge: Hon. Claudia A. Wilken

Trial Date: None Set

1 **STIPULATION**

2  
3 WHEREAS, on December 30, 2009, Phoenix Technologies Ltd. (“Phoenix”) filed a  
4 Motion to Dismiss the Fourth Claim of DeviceVM, Inc.’s Counterclaims (for Tortious  
5 Interference with Prospective Economic Advantage) (Doc. No. 54);

6 WHEREAS, on January 8, 2010, Defendant/Counterclaimant DeviceVM, Inc. filed  
7 Amended Counterclaims against Phoenix (Doc. No. 63) that removed the Claim for Tortious  
8 Interference with Prospective Economic Advantage, rendering Phoenix’s Motion to Dismiss  
9 DeviceVM’s Fourth Counterclaim moot.

10  
11 **IT IS SO STIPULATED.**

12  
13 Dated: January 21, 2010

14 STEPHEN J. AKERLEY  
15 ERIC J. AMDURSKY  
16 PETER T. SNOW  
17 JILLIAN R. WEADER  
18 O’MELVENY & MYERS LLP

19 By: \_\_\_\_\_ /s/  
Peter T. Snow  
Attorneys for Defendants  
DeviceVM, Inc. and Benedict Chong

20  
21 Dated: January 21, 2010

22 KARINEH KHACHATOURIAN  
23 BRYAN J. SINCLAIR  
24 K&L GATES LLP

25 By: \_\_\_\_\_ /s/  
Karineh Khachatourian  
Attorneys for Plaintiff  
Phoenix Technologies Ltd.

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**ATTESTATION**

I, Peter T. Snow, am the ECF User whose ID and password are being used to file this Joint Stipulation and [Proposed] Order that Motion to Dismiss Counterclaim for Tortious Interference Is Now Moot. In compliance with General Order 45. X.B., I hereby attest that Karineh Khachatourian has concurred in this filing.


Dated: January 21, 2010

STEPHEN J. AKERLEY  
ERIC J. AMDURSKY  
PETER T. SNOW  
JILLIAN R. WEADER  
  
O'MELVENY & MYERS LLP

By: \_\_\_\_\_ /s/  
Peter T. Snow  
Attorneys for Defendants  
DeviceVM, Inc. and Benedict Chong

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Dated: 1/25/10

By:  \_\_\_\_\_  
The Honorable Claudia A. Wilken  
United States District Judge

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