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13 Attorneys for Defendant DEVCON CONSTRUCTION, INC.

14  
 15 UNITED STATES DISTRICT COURT  
 16 NORTHERN DISTRICT OF CALIFORNIA  
 17 SAN JOSE DIVISION

18 In re:	)	Case No.: C05-787 PVT
	)	
19 EXDS, INC. (f/k/a EXODUS	)	<b>[PROPOSED] ORDER GRANTING DEVCON CONSTRUCTION, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON COUNT VI (PREFERENCE CLAIM) OF EXDS' FIRST AMENDED COMPLAINT</b>
20 COMMUNICATIONS, INC.), <u>et al.</u> ,	)	
21 Debtor,	)	
<hr style="width: 50%; margin-left: 0;"/>		
22 EXDS, INC. (f/k/a EXODUS	)	
23 COMMUNICATIONS, INC.),	)	Date: June 7, 2005
	)	Time: 10:00 a.m.
24 Plaintiff,	)	Place: Courtroom 5, 4 <sup>th</sup> Floor
25 v.	)	Judge: Chief Magistrate Judge Patricia V. Trumbull
	)	
26 DEVCON CONSTRUCTION, INC., SHARP	)	
27 DEVELOPMENT COMPANY, INC., and	)	
SHARP LAFAYETTE, LLC,	)	
	)	
28 Defendants.	)	

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[PROPOSED] ORDER GRANTING DEVCON CONSTRUCTION, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON COUNT VI (PREFERENCE CLAIM) OF EXDS' FIRST AMENDED COMPLAINT CASE NO.

C05-787 PVT

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1 On June 7, 2005, Defendant DEVCON CONSTRUCTION, INC.'S ("DEVCON")  
2 Motion for Partial Summary Judgment on Count VI (Preference Claim) of EXDS' First  
3 Amended Complaint came before the Court. Plaintiff EXDS, Inc. ("EXDS"), and Defendant  
4 Sharp Development Company, Inc. and Sharp Lafayette, LLC (collectively, "SHARP") were  
5 given notice of DEVCON'S Motion.

6 After full consideration of all papers filed in connection with DEVCON'S Motion, the  
7 evidence, arguments of counsel, and all other matters presented to the Court, IT IS HEREBY  
8 ORDERED AS FOLLOWS:

9 1. DEVCON'S Motion for Partial Summary Judgment on Count VI (Preference  
10 Claims) of EXDS' First Amended Complaint is GRANTED.

11 2. Judgment shall be and is entered in this action in favor of DEVCON and against  
12 EXDS as follows:

13 (a) All remaining claims and issues of liability asserted in Count VI of EXDS'  
14 First Amended Complaint shall be dismissed with prejudice.

15

16 **IT IS SO ORDERED.**

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19 Dated: June \_\_\_, 2005

\_\_\_\_\_  
PATRICIA V. TRUMBULL  
CHIEF MAGISTRATE JUDGE

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