

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Robert E. Blackburn**

Civil Action No. 09-cv-00077-REB-BNB

MARK STAVASKI,

Plaintiff,

v.

SUN MICROSYSTEMS, INC., and  
DAVID PROFOZICH,

Defendants.

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**ORDER DENYING WITHOUT PREJUDICE AS MOOT  
MOTION TO DISMISS PLAINTIFF'S FIFTH AMENDED CLAIM FOR RELIEF**

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**Blackburn, J.**

The matter before me is defendants' **Motion To Dismiss Plaintiff's Amended Fifth Claim for Relief** [#55] filed October 16, 2009. After the motion was filed, plaintiff sought leave to amend his complaint, *inter alia*, to provide "a more definite statement of the claim." (**See Plaintiff's Second Motion To Amend Complaint** ¶7 at 4 [#60] filed November 5, 2009.) The magistrate judge granted the motion, and the second amended complaint has been accepted for filing. (**See Order** [#71] filed November 20, 2009.) The filing of an amended complaint moots a motion to dismiss directed at the superseded complaint. **See *Griggs v. Jornayvaz***, 2009 WL 1464408 at \*1 (D. Colo. May 22, 2009); ***United States ex rel. Babb v. Northrop Grumman Corp.***, 2007 WL 1793795 at \*1 (D. Colo. June 19, 2007).

**THEREFORE, IT IS ORDERED** that defendants' **Motion To Dismiss Plaintiff's Amended Fifth Claim for Relief** [#55] filed October 16, 2009, is **DENIED WITHOUT PREJUDICE** as moot.

Dated November 23, 2009, at Denver, Colorado.

**BY THE COURT:**

  
Robert E. Blackburn  
United States District Judge