

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

PHOENIX TECHNOLOGIES LTD. a
Delaware Corporation,

Plaintiff,

v.

VMWARE, INC., a Delaware Corporation,

Defendant.

VMWARE, INC., a Delaware Corporation,

Counterclaimant,

v.

PHOENIX TECHNOLOGIES LTD. a
Delaware Corporation,

Counterdefendant.

Case No. 15-cv-01414-HSG

VERDICT FORM

Trial Date: May 30, 2017

Ctrm: Courtroom 2 — 4th Floor

FILED

JUN 12 2017

**SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

WE, THE JURY IN THE ABOVE-ENTITLED ACTION, unanimously find the following on the questions submitted to us:

COPYRIGHT INFRINGEMENT

1. Do you find that VMware committed copyright infringement by using the Phoenix BIOS Code in software:

a. that does not meet the definition of "Licensee's Products"?

Yes ___ (finding for Phoenix) No (finding for VMware)

b. in violation of the 440BX chipset provision?

Yes ___ (finding for Phoenix) No (finding for VMware)

c. that supports more processors than permitted by the license?

Yes ___ (finding for Phoenix) No (finding for VMware)

d. in more locations than permitted by the license?

Yes ___ (finding for Phoenix) No (finding for VMware)

2. Do you find that VMware committed contributory copyright infringement by causing others to use the Phoenix BIOS Code in a manner that exceeded the scope of the license?

Yes ___ (finding for Phoenix) No (finding for VMware)

If you answered "No" to all of **Questions 1(a)–(d) and Question 2**, please skip the remaining questions and sign and date this form. If you answered "Yes" to any of **Questions 1(a)–(d) or Question 2**, please move on to **Question 3**.

STATUTE OF LIMITATIONS

3. If you found that VMware infringed Phoenix's copyright, on what date did Phoenix discover, or should Phoenix have reasonably discovered the infringement? (*See* Jury Instruction No. 25).

Date: _____

WAIVER

4. Has VMware proven that Phoenix waived its claims against VMware for copyright infringement and/or contributory copyright infringement? (See Jury Instruction No. 26).

Yes (finding for VMware) No (finding for Phoenix)

If you answered "Yes" to Question 4, please skip the remaining questions and sign and date this form. If you answered "Yes" to any of Questions 1(a)-(d) or Question 2, and answered "No" to Question 4, please answer Questions 5 and 6.

DAMAGES

5. Actual Damages: State the dollar amount to compensate Phoenix for its actual damages. (See Jury Instruction Nos. 25 and 29).

ACTUAL DAMAGES: \$ _____

6. Defendant's Profits: State the dollar amount of VMware's profits that are attributable to its copyright infringement and/or contributory copyright infringement. (See Jury Instruction Nos. 25 and 30).

DEFENDANT'S PROFITS: \$ _____

When this Special Verdict Form is completed, the jury foreperson shall sign and date the form below:

Michael Bruner

(Signature of jury foreperson)

5/12

(Date form completed)