UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

K.MIZRA LLC, *Plaintiff,* v. CIENA CORPORATION, *Defendant.*	)	Case No. 1:24-cv-05442-SDG **JURY TRIAL DEMANDED**

PLAINTIFF K.MIZRA LLC'S OPPOSITION TO CIENA CORPORATION'S MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM UNDER FED. R. CIV. P. 12(B)(6)

I. INTRODUCTION

On February 14, 2025, Defendant Ciena Corporation ("Ciena"), in response to Plaintiff K.Mizra LLC's ("K.Mizra") November 25, 2024, Complaint (Doc. 1), filed its Motion to Dismiss for Failure to State a Claim Under Fed. R. Civ. P. 12(b)(6) ("Rule 12(b)(6) Motion"). [Doc. 22]. Because Plaintiff K.Mizra LLC ("K.Mizra") filed an amended complaint on March 14, 2025, Ciena's pending Rule 12(b)(6) Motion is rendered moot. Accordingly, the Court should deny Ciena's Rule 12(b)(6) Motion.

II. PROCEDURAL BACKGROUND

On November 25, 2024, K.Mizra filed the instant patent litigation against Ciena for infringement of U.S. Patent Nos. 8,782,282 (the "'282 Patent"), 9,485,176 (the "'176 Patent"), and 10,735,320 (the "'320 Patent") (collectively, the "Patents-in-Suit"). [Doc. 1]. In relevant part, K.Mizra's Complaint alleged that Ciena infringes at least claim 1 of the '282 Patent, claim 1 of the '176 Patent, and claim 1 of the '320 Patent. [*Id.*] The parties jointly agreed to and the Court granted an extension for Ciena to respond to K.Mizra's Complaint. [Doc. 10].

On February 14, 2025, Ciena responded to K.Mizra's Complaint with two motions to dismiss alleging (1) that K.Mizra lacked subject matter eligibility under 35 U.S.C. § 101 (Doc. 21) and (2) failure to state a claim under Fed. R. Civ. P.

12(b)(6) (Doc. 22). Both of Ciena's motions were premised upon K.Mizra's original November 25, 2024, Complaint.

On February 25, 2025, following the parties' discussions, the Court granted an extension of time for K.Mizra to file an amended complaint and/or to respond to Ciena's motions to dismiss by March 14, 2025. [Docs. 29 and 30].

On March 14, 2025, K.Mizra filed its First Amended Complaint in accordance with the Court's extension. [Doc. 34]. In relevant part, K.Mizra updated its allegations to make clear that it was accusing Ciena's Blue Planet Software-as-a-Service ("SaaS") offerings and infrastructure of infringing at least claim 1 of the '282 Patent, claim 9 of the '176 Patent, and claim 8 of the '320 Patent. [*See* Doc. 34]. In further relevant part, K.Mizra's First Amended Complaint does not adopt or incorporate by reference any portion of its original Complaint.

III. LEGAL STANDARD AND ARGUMENT

In general, an amended complaint supersedes an original complaint unless the amendment specifically refers to or adopts the earlier pleadings. *Varnes v. Local 91, Glass Bottle Blowers Ass'n.*, 674 F.2d 1365, 1371 n.6 (11th Cir. 1982).

In the Eleventh Circuit, it is well-settled that a motion to dismiss based upon an original complaint is rendered moot by an amended pleading. *See, e.g., Open on Sunday LLC v. Michel,* No. 1:22-CV-04167-SCJ, 2023 U.S. Dist. LEXIS 100396, at *4 (N.D. Ga. Apr. 28, 2023) ("[a]n amended complaint supersedes the original

complaint, and thus renders moot a motion to dismiss the original complaint"); *Thomas v. Alcon Labs.*, 116 F. Supp. 3d 1361, 1365 n.5 (N.D. Ga. 2013) ("[A] motion to dismiss is rendered moot by an amended pleading"); *S. Pilot Ins. Co. v. CECS, Inc.*, 15 F. Supp. 3d 1284, 1287 n.1 (N.D. Ga. 2013) ("An amended complaint supersedes the original complaint, and thus renders moot a motion to dismiss the original complaint"); *Dresdner Bank AG v. M/V OLYMPIA VOYAGER*, 463 F.3d 1210, 1215 (11th Cir. 2006)("[a]n amended pleading supersedes the former pleading; the original pleading is abandoned by the amendment, and is no longer a part of the pleader's averments against his adversary")(internal quotations omitted).

Accordingly, K.Mizra's First Amended Complaint, because it neither adopts nor incorporates by reference K.Mizra's original Complaint, and because it clarifies and adds factual allegations, moots Ciena's pending Rule 12(b)(6) Motion. The Court should thus find that Ciena's Rule 12(b)(6) Motion is rendered moot and deny Ciena's requested relief.

IV. CONCLUSION

For the foregoing reasons, the Court should find that Ciena's Rule 12(b)(6) Motion is rendered moot and deny Ciena's requested relief.

Dated: March 14, 2025

Respectfully submitted,

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CERTIFICATION OF COMPLIANCE AND SERVICE

Pursuant to LR 7.1(D), the undersigned counsel I certify that the foregoing has been prepared in Times New Roman 14 point, one of the fonts and points and approved by the Court in LR 5.1(C). I further certify that on March 14, 2025, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system which will send a copy to all counsel of record.

/s/ *Timothy Dewberry*
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