

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

NUVIO CORPORATION,)	
)	
Plaintiff,)	CIVIL ACTION
v.)	
)	No. 09-2126-KHV
BROADSOFT, INC.,)	
)	
Defendant.)	
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MEMORANDUM AND ORDER

This matter is before the Court on Defendant Broadsoft, Inc.’s Motion To Dismiss For Lack of Personal Jurisdiction (Doc. #6) filed March 13, 2009. On February 11, 2009, Nuvio Corporation filed a petition for damages in Kansas state court alleging tortious interference with a license agreement between plaintiff and defendant’s wholly-owned subsidiary, Sylanro, Inc. On March 13, 2009, defendant removed the case under 28 U.S.C. §§ 1441 and 1446, and filed its motion to dismiss. See Notice Of Removal Of Civil Action (Doc. #1); Defendant Broadsoft, Inc.’s Motion To Dismiss For Lack of Personal Jurisdiction (Doc. #6). On March 26, 2009, plaintiff filed an amended complaint pursuant to Fed. R. Civ. P. 15(a). See Unopposed Motion For Leave Of Court To Filed Plaintiff’s First Amended Petition (Doc. #10). The amended complaint added a new count, alleging that defendant violated the Kansas Uniform Trade Secrets Act. Id. On June 2, 2009, the Court entered a memorandum and order, see Doc. #30, overruling defendant’s motion to file under seal. On June 10, 2009, defendant filed its Motion To Dismiss Plaintiff’s First Amended Complaint For Lack Of Personal Jurisdiction And For Failure To State A Claim Upon Which Relief Can Be Granted (Doc. #32).

Analysis

A pleading that has been amended under Federal Rule of Civil Procedure 15(a) supercedes the pleading which it modifies. See Gilles v. United States, 906 F.2d 1386, 1389 (10th Cir.1990). Therefore, a motion filed in response to a superceded pleading is rendered moot by the filing of the amended pleading. See United States ex rel. Babb v. Northrop Grumman Corp. No. 06-CV-00581-EWN-MJW, 2007 WL 1793795 at *1 (D. Colo. June 19, 2007). Here, plaintiff's first amended complaint supersedes its petition for damages. Thus, defendant's original motion to dismiss, Doc. #6, is moot.

IT IS THEREFORE ORDERED that Defendant Broadsoft, Inc.'s Motion To Dismiss For Lack of Personal Jurisdiction (Doc. #6) filed March 13, 2009 be and hereby is **OVERRULED** as moot.

Dated this 29th day of June, 2009 at Kansas City, Kansas.

s/ Kathryn H. Vratil
KATHRYN H. VRATIL
United States District Judge