

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

AGRICULTURAL INSTRUMENTS CORP.,

Plaintiff,

v.

BOUMATIC LLC,

Defendant.

ORDER

11-cv-192-bbc

On March 16, 2011, plaintiff Agricultural Instruments Corp. filed this action in which it contends that defendant BouMatic LLC infringed two of plaintiff's patents relating to Somatic Cell Analysers, a type of device for evaluating milk quality. Dkt. #2. On July 6, 2011, defendants filed an answer and four counterclaims seeking declarations of non-infringement and invalidity with respect to both patents. Dkt. #11. On July 27, 2011, plaintiff moved to dismiss the counterclaims for failure to state a claim under Rule 12(b)(6), arguing that the pleading contained no factual allegations. Dkt. #14.

In accordance with the court's pretrial conference order, plaintiff filed an amended complaint on September 23, 2011. Dkt. #28. Defendant responded on September 26, 2011, with an amended answer and amended counterclaims. Dkt. #29. The amended

counterclaims add additional factual allegations and several new counterclaims for false patent marking and false advertising. Plaintiff responded to the counterclaims on October 10, 2011. Dkt. #30. Defendant's amended counterclaims and plaintiff's response moot the pending motions to dismiss, because amended pleadings supersede the previous pleadings and control the case from that point forward. Massey v. Helman, 196 F.3d 727, 735 (7th Cir. 1999).

ORDER

IT IS ORDERED that the motion to dismiss filed by plaintiff Agricultural Instruments Corp., dkt. # 14, is DENIED as moot.

Entered this 27th day of October, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge