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United States District Court
Northern District of California

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

FINISAR CORPORATION,
Plaintiff
vs.
NISTICA, INC.,
Defendant.

Case No.: 13-CV-3345 YGR
ORDER DENYING MOTION TO DISMISS AS MOOT

In this patent case, on October 3, 2013, Plaintiff filed a motion to dismiss counterclaims asserted in Defendant’s Answer under Federal Rule of Civil Procedure 12(b)(6), and to strike affirmative defenses under Rule 12(f). (Dkt. No. 23).

On October 17, 2013, Defendant filed a statement of non-opposition, in which it represented that, pursuant to Rule 15(a)(1(B), it would file an Amended Answer no later than October 24, 2013. (Dkt. No. 32.)

Defendant timely filed its Amended Answer. (Dkt. No. 35.) In light of the filing of that pleading, Plaintiff’s motion is **DENIED** as moot. The hearing set for November 12, 2013, is **VACATED**.

This Order terminates Docket No. 23.

IT IS SO ORDERED.

Date: October 30, 2013


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE