

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:14-CV-323-D

POLYZEN, INC.,)
)
 Plaintiff,)
)
 v.)
)
 RADIADYNE, LLC,)
)
 Defendant.)

ORDER

On June 11, 2015, RadiaDyne, LLC, (“RadiaDyne” or “defendant”), filed a motion for summary judgment on the affirmative defense of ownership and a memorandum in support [D.E. 26, 27]. On February 5, 2016, RadiaDyne again filed a motion for summary judgment and a memorandum in support, this time citing the Federal Circuit’s decision in Lucent Technologies, Inc. v. Gateway, Inc., 543 F.3d 710 (Fed. Cir. 2008) [D.E. 41, 42]. Also on February 5, 2016, Polyzen, Inc., (“Polyzen” or “plaintiff”) filed three separate motions for summary judgment along with memoranda in support of each motion [D.E. 43, 44, 45, 46, 47, 48].

Effective December 1, 2015, the Eastern District of North Carolina amended Local Civil Rule 56.1. Standing Order 15-SO-3 (E.D.N.C. Nov. 5, 2015). In relevant part, that rule now requires that “[a]ny motion for summary judgment pursuant to Federal Rule of Civil Procedure 56 . . . be supported by a separate statement, in numbered paragraphs, of the material facts as to which the moving party contends there is no genuine dispute.” Local Civil Rule 56.1(a)(1). When opposing a motion for summary judgment, the nonmovant must provide the court with a “separate statement including a response to each numbered paragraph in the moving party’s statement, in correspondingly numbered paragraphs, and if necessary, additional paragraphs containing a

statement of additional material facts as to which the opposing party contends there is a genuine dispute.” Id. 56.1(a)(2). “Each numbered paragraph in the moving party’s statement of material facts will be deemed admitted for purposes of the motion unless it is specifically controverted by a correspondingly numbered paragraph in the opposing statement.” Id.

The filings made after December 1, 2015, fail to conform with Local Civil Rule 56.1(a). The court dismisses without prejudice Polyzen’s and RadiaDyne’s pending motions for summary judgment. Both parties shall have until April 18, 2016, to refile any motion for summary judgment in conformity with Local Civil Rule 56.1(a). Responses and replies will conform with the local rules, including deadlines under the local rules.

In sum, the court DISMISSES WITHOUT PREJUDICE RadiaDyne’s motions for summary judgment [D.E. 26, 41]. The court likewise DISMISSES WITHOUT PREJUDICE Polyzen’s motions for summary judgment [D.E. 43, 45, 47]. Both parties shall have until Monday, April 18, 2016, to resubmit any motion for summary judgment and supporting memorandum in conformance with Local Civil Rule 56.1(a)(1). For good cause shown, the motions to seal [D.E. 58, 69, 72, 86] are GRANTED. The joint motion to amend [D.E. 35] is DISMISSED as moot.

SO ORDERED. This 29 day of March 2016.


JAMES C. DEVER III
Chief United States District Judge