

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
DOCKET NO. 3:16-cv-00789-FDW-DCK

EYETALK365, LLC, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 ZMODO TECHNOLOGY )  
 CORPORATION LIMITED, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

ORDER

This matter is before the Court on several motions: (1) Defendant’s Motion to Dismiss for Failure to State a Claim (Doc. No. 13); (2) Defendant’s Motion For Partial Summary Judgment of Invalidity of Patent (Doc. No. 19); (3) Plaintiff’s Motion to Dismiss Affirmative Defenses (Doc. No. 26); and (4) Defendant’s Motion to Stay Proceedings (Doc. No. 40).

The Court has reviewed the pleadings and applicable law related to the parties’ motions to dismiss. The Court finds dismissal of Plaintiff’s claims and several of Defendant’s affirmative defenses would be premature at this stage. The Court therefore DENIES WITHOUT PREJUDICE Defendant’s Motion to Dismiss (Doc. No. 13) and Plaintiff’s Motion to Dismiss (Doc. No. 26). The parties may reassert their arguments in a motion for summary judgment if they so choose.

Turning to Defendant’s Motion for Partial Summary Judgment, the Court will also DENY WITHOUT PREJUDICE that motion. After reviewing the pleadings and applicable law, the Court finds that it would benefit from a more fully-developed record. Accordingly, Defendant may refile the motion following claim construction and discovery, and that any such renewed motion shall be filed no later than the deadline the Court will set for dispositive motions following claim construction.

Finally, as a result of the rulings contained herein, the Court DENIES AS MOOT Defendant's Motion to Stay (Doc. No. 40).

IT IS THEREFORE ORDERED that the parties' motions to dismiss (Docs. Nos. 13, 26) are DENIED WITHOUT PREJUDICE, Defendant's Motion for Partial Summary Judgment (Doc. No. 19) is DENIED WITHOUT PREJUDICE, and Defendant's Motion to Stay (Doc. No. 40) is DENIED AS MOOT.

IT IS SO ORDERED.

Signed: May 11, 2017

A handwritten signature in black ink, reading "Frank D. Whitney", written over a horizontal line.

Frank D. Whitney  
Chief United States District Judge

