

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:17-cv-00187-FDW-DCK

VERIGENT, LLC,)
)
 Plaintiff,)
)
 vs.) ORDER
)
 MICHAEL SCHIANO,)
)
 Defendant.)
)
 _____)

THIS MATTER is before the Court on Defendant’s Partial Motion to Dismiss (Doc. No. 12) and Motion for a Hearing on the Motion to Dismiss (Doc. No. 14). Plaintiff responded in opposition to both motions (Docs. Nos. 15, 16). Defendant did not file a reply to either of his two motions, and the time for doing so has expired. Accordingly, this matter is now ripe for disposition.

Defendant filed his motion pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, arguing for dismissal of Plaintiff’s Third and Sixth Causes of Action. The Court notes at the outset that a hearing on the instant motion would not aid the Court in the decisional process, particularly in light of the Court’s review of the allegations under the standard of review applicable to Rule 12(b)(6) motions. After review of the pleadings, as well as applicable law governing the instant motion, the Court finds resolution of the parties’ arguments here hinge on factual determinations and are thus more appropriate at the summary judgment stage or perhaps, at trial.

IT IS THEREFORE ORDERED that Defendant’s Motion to Dismiss (Doc. No. 12) is DENIED WITHOUT PREJUDICE to his ability to reassert his arguments, if appropriate following

discovery in this matter, in a motion for summary judgment or at trial. Defendant's Motion for a Hearing (Doc. No. 14) is also DENIED.

IT IS SO ORDERED.

Signed: November 17, 2017

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

Frank D. Whitney
Chief United States District Judge

