

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

KATMAI SUPPORT SERVICES, LLC, and)
KATMAI INFORMATION)
TECHNOLOGIES, LLC,)

Plaintiff,)

v.)

No. 3:15-CV-014-HBG

KNOXBI COMPANY, LLC, and)
CARNEGIE MANAGEMENT &)
DEVELOPMENT CORP.,)

Defendants.)

MEMORANDUM AND ORDER

This case is before the undersigned pursuant to 28 U.S.C. § 636(c), Rule 73(b) of the Federal Rules of Civil Procedure, and the consent of the parties, for all further proceedings, including entry of judgment [Doc. 24].

Now before the Court is Defendants’ Motion for Judgment on the Pleadings [Doc. 16]. Defendants have submitted two affidavits and other documentary evidence in support of their motion. [See Docs. 16-1, 16-2, 16-3, 16-4, 16-5]. The parties appeared before the Court on June 1, 2015, to address this motion. At that time, the parties presented their positions with regard to whether the Defendants’ motion should be considered pursuant to Rule 12 or Rule 56 of the Federal Rules of Civil Procedure. Having considered the parties’ positions, the Court now finds that the motion must be considered as a motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure.

Rule 12 of the Federal Rules of Civil Procedure states:

If, on a motion under Rule 12(b)(6) or 12(c), matters outside the pleadings are presented to and not excluded by the court, the motion must be treated as one for summary judgment under Rule 56. All parties must be given a reasonable opportunity to present all the material that is pertinent to the motion.

Fed. R. Civ. P. 12(d).

The Court of Appeals for the Sixth Circuit has held that a court's obligation to convert a motion under Rule 12(c) to a motion for summary judgment is triggered when the moving party presents matters outside the pleadings and the court does not exclude such matters from consideration. See Max Arnold & Sons, LLC v. W.L. Hailey & Co., Inc., 452 F.3d 494, 503 (6th Cir. 2006). The Court of Appeals has further directed that a court should give both of the parties notice of such conversion and provide a reasonable opportunity to present all material that is pertinent to the motion. Id. at 504.

In the instant case, the Court has not excluded the affidavits and documents submitted by the Defendants. Therefore, the Court will consider the Defendants' motion to be a motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. As a result, the Court is obligated to give the parties notice of this conversion and to afford the parties a reasonable opportunity to present material pertinent to the motion.

Accordingly, the parties are hereby **NOTIFIED** that the Defendants' Motion for Judgment on the Pleadings [Doc. 16] will be considered pursuant to the standard of review contained in Rule 56 of the Federal Rules of Civil Procedure. The parties shall have up to and including **August 15, 2015**, in which to file any additional material that is pertinent to the consideration of this motion as a motion for summary judgment.

IT IS SO ORDERED.

ENTER:


United States Magistrate Judge