

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

PLECTRUM LLC,

Plaintiff,

v.

ORACLE CORPORATION and  
ORACLE AMERICA, INC.,

Defendants.

C.A. NO. 4:17-CV-00141-ALM

**JURY TRIAL DEMANDED**

**PLAINTIFF PLECTRUM LLC'S NOTICE THAT ITS  
FIRST AMENDED COMPLAINT MOOTS DEFENDANTS ORACLE CORPORATION  
AND ORACLE AMERICA, INC.'S MOTION TO DISMISS**

Defendants Oracle Corporation and Oracle America, Inc. (collectively, "Oracle") have moved to dismiss plaintiff Plectrum LLC's ("Plectrum") direct and indirect infringement claims, alleging pleading deficiencies in Plectrum's Original Complaint. (Dkt. # 14). On May 17, 2017, Plectrum filed an amended complaint. (Dkt # 15). "An amended complaint supersedes the original complaint and renders it of no legal effect unless the amended complaint specifically refers to and adopts or incorporates by reference the earlier pleading." *King v. Dogan*, 31 F.3d 344, 346 (5th Cir. 1994). Thus, because the original complaint has been deprived of "legal effect," Oracle's motion to dismiss must therefore be denied as moot. *See, Bank of N.Y. Mellon v. Maniscalco*, No. 1:15-CV-35, 2015 WL 11111369, at \*1 n. 2 (E.D. Tex. May 11, 2015) (dismissing defendant's motion to dismiss original complaint as moot after plaintiff filed an amended complaint); *Chaisson v. Grounds*, No. 5:13CV54, 2014 WL 175329, at \*4 (E.D. Tex. Jan. 14, 2014) ("The Fifth Circuit has stated that an amended complaint supersedes the original and becomes the operative pleading.")

Dated: May 18, 2017

Respectfully submitted,

/s/ Zachariah S. Harrington

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*Attorneys for Plectrum LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 18th day of May, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Zachariah S. Harrington  
Zachariah S. Harrington