IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-00970-PAB-KMT

PREDATOR INTERNATIONAL, INC., a Colorado corporation,

Plaintiff,

v.

GAMO OUTDOOR USA, INC., a Florida corporation, and
INDUSTRIAS EL GAMO, S.A., a Spanish corporation,

Defendants.

MINUTE ORDER

Entered by Judge Philip A. Brimmer

This matter is before the Court on defendant Gamo Outdoor USA, Inc.,'s Motion to Dismiss Fourth, Fifth and Sixth Claims [Docket No. 20]. On October 20, 2009, plaintiff filed the Second Amended Complaint [Docket No. 73] pursuant to the Order [Docket No. 72] granting plaintiff's Motion to File Second Amended Complaint [Docket No. 62]. Thus, the Second Amended Complaint became the operative pleading in this action, and the Motion to Dismiss [Docket No. 20] is directed to an inoperative, superseded pleading. *See, e.g., Gilles v. United States*, 906 F.2d 1386, 1389 (10th Cir. 1990) ("a pleading that has been amended under Rule 15(a) supersedes the pleading it modifies") (internal quotation marks omitted). As such, the motion to dismiss is moot. It is

ORDERED that defendant Gamo Outdoor USA, Inc.,'s Motion to Dismiss Fourth, Fifth and Sixth Claims [Docket No. 20] is DENIED as moot.

DATED November 6, 2009.