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Hon. Stephen L. Petrillo, J.S.C.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION, CIVIL PART  
ESSEX VICINAGE  
DOCKET NO.: ESX-L-7208-24

*ATLAS DATA PRIVACY CORPORATION, as assignee of individuals who are  
Covered Persons, JANE DOE-1, a law enforcement officer, SCOTT MALONEY,  
JUSTYNA MALONEY, and PETER ANDREYEV,  
Plaintiffs,*

v.

*VONAGE HOLDINGS CORP., VONAGE BUSINESS, INC., VONAGE  
AMERICA LLC, et al.,  
Defendants.*

**OPINION**

Petrillo, J.S.C.

Before the court is the motion of defendants Vonage Holdings Corp., Vonage Business, Inc., and Vonage America LLC ("Vonage" or "Defendants") for summary judgment pursuant to R. 4:46-2. Defendants seek to dismiss plaintiffs' claims under, N.J.S.A. 56:8-166.1, et seq., ("Daniel's Law") based largely on their interpretation of the statute and the asserted undisputed facts regarding how their "Number Insight" product functions. Plaintiffs, in opposition, vigorously contest the motion on several grounds, most notably on grounds of prematurity due to the lack of meaningful discovery, and further, on the existence of genuine disputes of material fact regarding the precise functionality of the Number Insight product and its implications under Daniel's Law.

For the reasons set forth below, and as further detailed herein, the court **DENIES** defendants' motion for summary judgment as premature, without prejudice to a renewed application following further development of the factual record through discovery.

**I. FACTUAL AND PROCEDURAL BACKGROUND**

***A. The Daniel's Law Framework***

Daniel's Law was enacted to protect the privacy and safety of certain public officials in New Jersey, motivated by the tragic murder of Daniel Anderl, son of U.S.

District Judge Esther Salas. The statute allows "covered persons"—including law enforcement, prosecutors, judges, and their families—to demand that certain businesses and data brokers cease the disclosure of their home address and unpublished home telephone number on the internet or otherwise. N.J.S.A. 56:8-166.1(d). Upon receipt of a valid request, businesses are required under N.J.S.A. 56:8-166.1(a)-(d) to refrain from disclosing or making available covered information. The statute provides for actual or liquidated damages for violations.

#### **B. Background of the Parties and Litigation**

Plaintiff Atlas Data Privacy Corporation ("Atlas") is an entity formed shortly after the enactment of Daniel's Law, which claims to assist individuals in removing sensitive personal data from online sources and, crucially here, acts as assignee for the Daniel's Law claims of thousands of covered persons, including the individual plaintiffs in this action.

Defendants are various Vonage entities that provide communications services and a host of Application Programming Interface ("API") products, including the "Number Insight" API at issue.

Plaintiffs filed suit against Vonage alleging that despite numerous written nondisclosure requests sent throughout 2024 on behalf of thousands of covered persons, Vonage continued to "disclose or re-disclose on the internet or otherwise make available" the protected information, specifically through their Number Insight API and potentially other products.

On October 16, 2024, plaintiffs filed the complaint in this matter. Defendants, after initial default, appeared and answered. No meaningful discovery has yet taken place, and most responses to propounded discovery requests have been objected to or remain outstanding as of the filing of this motion.

#### **C. The Number Insight API and the Summary Judgment Motion**

Defendants describe Number Insight as a reverse-lookup service, intended to allow business customers to input known telephone numbers for fraud prevention purposes, returning, among other data, the subscriber name and information associated with that number. Defendants argue that Number Insight cannot be used to "discover" an individual's unpublished phone number or home address, and thus, under their reading of Daniel's Law, cannot constitute a "disclosure" or "making available" of protected information.

Plaintiffs contest both this characterization and its legal implications, arguing that the nature of Number Insight allows for mass data mining, can be configured to extract data en masse, and that the product's real-world use may, in fact, function as a data broker and facilitate prohibited discovery and linkage of names and phone numbers. The parties also spar over the meaning and reach of "disclosure" under Daniel's Law, both factually and as a matter of statutory interpretation.

## **II. LEGAL STANDARD ON SUMMARY JUDGMENT**

Summary judgment is appropriate only where "the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to a judgment or order as a matter of law." R. 4:46-2(c); Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 528-29 (1995). The court must view the record in the light most favorable to the non-moving party and draw all reasonable inferences in that party's favor.

Critically, summary judgment is not meant to shut a deserving litigant from his or her trial and is inappropriate where there are disputed issues of material fact or an incomplete evidentiary record, particularly when the moving party alone possesses the relevant factual information. James v. Bessemer Processing Co., Inc., 155 N.J. 279, 311 (1998) (citing Velantzas v. Colgate-Palmolive Co., Inc., 109 N.J. 189, 193 (1988)).

## **III. ANALYSIS**

### **A. Prematurity of the Motion: Absence of Discovery & Asymmetric Access to Information**

The court's threshold concern is the prematurity of Vonage's motion. The parties have only just begun the discovery process, and as the plaintiffs persuasively argue, virtually all meaningful information regarding the source, structure, output, real-world usage, and potential for abuse or prohibited disclosures of Vonage's API products—including but not limited to Number Insight—is wholly within Vonage's exclusive possession. Plaintiffs have been unable to meaningfully challenge, through deposition or otherwise, the core assertions made in the detailed certification submitted by Vonage's employee. Plaintiffs have not yet obtained the documents nor technical details necessary to verify or refute the factual premise of the motion.

Plaintiffs have demonstrated through the record—including their description of outstanding discovery requests, Vonage’s refusal to respond substantively, and the ongoing nature of discovery—that material facts central to any proper resolution of this matter remain unavailable to them. As the Supreme Court has repeatedly emphasized, “[w]here a party, opposing a motion for summary judgment, is unable to file supporting affidavits because the critical facts are peculiarly within the moving party’s knowledge, the motion should be denied until the opposing party has had an opportunity to complete discovery.” Velantzas, 109 N.J. at 193.

Applying the standard articulated in Bilotti v. Accurate Forming Corp., 39 N.J. 184, 193 (1963), the court is obliged to review a dispositive motion at this early stage from the standpoint of “whether there is any basis upon which plaintiff should be entitled to proceed further.” Plaintiffs have more than met this standard.

Accordingly, the motion is denied as premature.

#### **B. Disputes of Material Fact: Functionality & Use Cases of Number Insight**

Even if the motion were ripe for adjudication, it is clear from the present record—as supplemented by plaintiffs’ opposition, affidavits, and supporting materials—that there exist genuine disputes of material fact as to the functionality and possible uses of Number Insight.

Defendants’ motion is predicated on the assertion that Number Insight is simply a “reverse lookup” service, requiring prior knowledge of a specific phone number and serving merely to confirm association with a name, and thus, never “discloses” unpublished numbers or addresses in violation of Daniel’s Law.

Plaintiffs, however, offer substantial evidence and argument to the contrary:

##### **1. Mass API Request and Data Mining Functionality:**

Plaintiffs have demonstrated—both through a programming script and the actual conduct of queries—that Number Insight can be utilized to conduct bulk, automated API requests, inputting not known phone numbers but all phone numbers within a specific area code, e.g., the entire 732 area code, and harvesting the returned data en masse. Plaintiffs’ script produced an Excel file with 86,083 home phone numbers and corresponding names, including

protected data of at least 50 covered persons who had previously sent Vonage valid nondisclosure requests.

## **2. Lack of Vetting and Restriction:**

Plaintiffs have credibly alleged, based on Vonage's own public documentation, that the API product can be readily accessed with little restriction or vetting, minimal account creation hurdles, and for a modest per-query fee. Plaintiffs further contest Vonage's assertion that the product is restricted to business clients or that technical prohibitions on mass querying are actually enforced in practice.

## **3. Disputes Regarding "Disclosure":**

Plaintiffs highlight that under Daniel's Law, "disclose" is broadly defined to include "making available or viewable within a searchable list or database, regardless of whether a search of such list or database is actually performed." N.J.S.A. 56:8-166.1(d). The parties dispute whether Number Insight, as operated, makes protected information "available" in this sense.

Further, plaintiffs argue that the essential harm Daniel's Law seeks to prevent is precisely the linkage of a Covered Person's unique identifiers—name and unpublished telephone number—which, they contend, Number Insight facilitates both on individual and mass basis. The data broker industry's business model, according to the plaintiffs' allegations, is predicated on such persistent identifiers easily mined and sold.

## **4. Potential Use Scenarios & Functionality:**

Plaintiffs challenge the motion's reliance on a singular, "model use case," and instead argue—drawing on both their own experience and that of industry experts—that the product's actual or potential use for mass extraction and resale of personal data must be tested and understood through discovery of Vonage's complete suite of APIs and related products. Whether Vonage offers customized APIs and how such products interact with protected information remain open factual questions.

In light of these disputes, which go to the very heart of the litigation, summary judgment is plainly inappropriate. As reaffirmed by the New Jersey Supreme Court, "[i]n the context of a summary judgment motion, the judge does not weigh the

evidence, or resolve credibility disputes." Conrad v. Michelle & John, Inc., 394 N.J. Super. 1, 13 (App. Div. 2007). The court finds that, at minimum, "a potential factual issue exists," and further discovery is necessary to develop the record. Kenney v. Scientific, Inc., 204 N.J. Super. 228, 254 (Law Div. 1985) (quoting Empire Mut. Ins. Co. v. Melburg, 67 N.J. 139, 142 (1975)).

***C. Reservation of Ultimate Question under Daniel's Law***

Significantly, the court does not herein reach or resolve the ultimate statutory interpretation issue advanced by both parties: whether, on a developed record, Number Insight or any other Vonage product is properly covered by Daniel's Law, or whether the product's functionality fits within the statutory definition of "disclosure." That question is expressly reserved for resolution on a more fulsome record after the completion of discovery. Nothing in this opinion shall be construed as prejudgment as to the merits of Daniel's Law coverage or the viability of plaintiffs' claims.

**IV. CONCLUSION**

For the foregoing reasons, the motion for summary judgment is **DENIED WITHOUT PREJUDICE**. The denial is grounded primarily in the prematurity of the motion—given the incomplete, one-sided record, and defendants' exclusive possession of essential facts—and, secondarily, in the clear and genuine disputes of material fact regarding the functionality, use cases, and possible coverage of Number Insight and related Vonage products under Daniel's Law.

A memorializing order will be entered simultaneously with the filing of this opinion.