

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Baxley

Mailed: May 11, 2007

Opposition No. 91173189

Monstercommerce, LLC

v.

Igor Logniko

Andrew P. Baxley, Interlocutory Attorney:

On March 5, 2007, the Board issued an order wherein it suspended this case pending disposition of applicant's motion to amend involved application Serial No. 78612360, opposer's motion for partial judgment on the pleadings, opposer's motion to compel discovery, and opposer's motion for leave to file a second amended notice of opposition. In that order, the Board indicated that the parties should not file any submission which is not germane to those motions.

On May 8, 2007, applicant filed a motion for relief from the Board's December 13, 2006 order. To the extent that applicant requests relief from the December 13, 2006 order, the motion is untimely because any request for reconsideration of that order was due by not later than January 16, 2007. See Trademark Rules 2.127(b) and 2.196. Further, because the motion for relief presents new arguments and evidence in support of applicant's contention

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that this proceeding should be dismissed, the motion for relief is actually a renewed motion to dismiss under Fed. R. Civ. P. 12(b)(1). See TBMP Section 518 (2d ed. rev. 2004). The Board will treat the renewed motion to dismiss accordingly.

A review of the renewed motion to dismiss indicates that it involves different issues from those in the motions which prompted the March 5, 2007 suspension order. As such, it is not germane to those motions and was thus filed in contravention of the suspension order. Nonetheless, inasmuch as the renewed motion to dismiss is potentially dispositive of this proceeding and could render moot all of the remaining pending motions herein, the Board finds that, in the interest of judicial economy, the renewed motion to dismiss should be fully briefed prior to the Board's decision on the remaining pending motions. Accordingly, opposer is allowed until twenty days from the mailing date of this order to file a brief in response to the renewed motion to dismiss. Applicant's reply brief is due in accordance with Trademark Rules 2.119(c) and 2.127(a).

The parties are directed, however, not to file any further motions until the motions currently pending before the Board in this proceeding have been decided. See TBMP Section 527.03 (2d ed. rev. 2004).