

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

MBA/CME

Mailed: March 6, 2013

Opposition No. 91200167

M2 Software, Inc.

v.

Higher Logic, LLC

Michael B. Adlin, Administrative Trademark Judge:

On June 28, 2012, opposer filed a combined motion for leave to amend its consolidated notice of opposition and for sanctions, or in the alternative, summary judgment. Applicant opposed the motion and cross-moved for summary judgment on unpleaded, nonexistent counterclaims, perhaps based on abandonment and non-use, though it is impossible to characterize nonexistent counterclaims. In violation of the Board's suspension order of July 2, 2012, applicant also moved to compel and for sanctions,¹ and opposer moved to join opposer's president and CEO as a party plaintiff in this proceeding. Suffice it to say, the parties have violated a number of the Trademark Rules which govern this proceeding, and their various motions and cross-motions are replete with irrelevancies and worse.

¹ Applicant's motion for sanctions does not violate the Board's order of July 2, 2012 to the extent that it relates to opposer's conduct in filing the instant motion.

In any event, and perhaps fortuitously, in reviewing the parties' filings and the status of opposer's pleaded registration, it has come to the Board's attention that the parties are involved in a civil action that may have a bearing on this proceeding, and thus warrant suspension of this case (*Higher Logic, LLC v. David Escamilla and M2 Software, Inc.*, Case No. 1:12-cv-01153-GBL, pending in the U.S. District Court for the Eastern District of Virginia (the "Federal Case")). Trademark Rule 2.117. Accordingly, the parties are hereby ordered to submit copies of the currently-operative complaint and answer from the Federal Case within **TEN DAYS** of the mailing date of this order and nothing more. To repeat, the parties are ordered to file **only** a copy of the currently-operative complaint and answer in the Federal Case, and any additional filings will be given no consideration, or worse. The parties are warned to strictly comply with this order and not file any motions, arguments, background, letters, exhibits, materials or anything else which is nonresponsive.
