

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

MBA/CME

Mailed: March 14, 2013

Opposition No. 91200167

M2 Software, Inc.

v.

Higher Logic, LLC

Michael B. Adlin, Administrative Trademark Judge:

On March 6, 2013, the Board issued an order requiring the parties to file copies of the currently-operative complaint and answer from the civil action in which they are parties (*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")). On the same day, opposer filed the pleadings from the Federal Case.

The Board's well-settled policy is to suspend proceedings when the parties are involved in a civil action which may be dispositive of or have a bearing on the Board case. Trademark Rule 2.117(a); TMEP § 510.02(a) (3d ed. rev. 2012); *General Motors Corp. v. Cadillac Club Fashions, Inc.*, 22 USPQ2d 1933, 1937 (TTAB 1992). Here, the Federal Case involves the same parties and marks at issue in this consolidated opposition proceeding, and many of the same

issues, namely, which party has priority and whether there is a likelihood of confusion between the parties' marks. For these reasons, the Federal Case "may have a bearing" on this consolidated opposition proceeding, and therefore, proceedings herein are suspended pending final disposition of the Federal Case, including any appeals thereof.¹ In view of this suspension, all pending, viable² motions are denied without prejudice. Within **TWENTY DAYS** after the final determination of the Federal Case, the parties shall so notify the Board in writing and call this case up for any appropriate action.

During the suspension period the Board shall be notified of any address changes for the parties or their attorneys.

¹ While civil actions are on rare occasion suspended in favor of a Board proceeding, the parties are cautioned that they are almost certainly better off litigating their wide-ranging disputes in court rather than here. Indeed, the parties' various filings indicate that their disputes go well beyond the mere registration of the parties' marks.

² In the event proceedings herein resume, the parties should review the March 6, 2013 order prior to refiling any motions or filing any revised or other motions.