

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 07-cv-00630-DME-MEH

NETQUOTE, INC., a Colorado corporation,

Plaintiff;

v.

BRANDON BYRD, an internet user making use of the IP Addresses 64.136.27.226 and
64.136.26.227, and
MOSTCHOICE.COM, INC., a Georgia corporation,

Defendants.

MINUTE ORDER

Entered by Michael E. Hegarty, United States Magistrate Judge, on August 6, 2007.

Pending before the Court is a Motion for Leave to Amend Counterclaims [filed July 30, 2007; doc #58], filed by Defendant Mostchoice.com. Pursuant to Fed. R. Civ. P. 15(a), a party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served. A responsive pleading pursuant to Rule 15(a) includes only those described in Fed. R. Civ. P. 7(a). *See Brever v. Rockwell Int'l Corp.*, 40 F.3d 1119, 1131 (10th Cir. 1994) (motions to dismiss or for summary judgment are not responsive pleadings for purposes of Fed. R. Civ. P. 15); *see also Kennerly v. Gherini*, 1993 U.S. App. LEXIS 13078 (9th Cir. 1993) (same, with respect to counterclaims). Since no responsive pleading has been filed as to Defendant's counterclaims, Defendant Mostchoice.com may file its Amended Counterclaims without leave of court. Therefore, the Motion is **denied as moot**.

Defendant may re-file its amended pleading without the term "proposed" in the title. Plaintiff may respond in accordance with Fed. R. Civ. P. 15(a) and all applicable rules.