

ESTTA Tracking number: **ESTTA740765**

Filing date: **04/18/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding.	92060840
Applicant	Defendant mPhase Technologies, Inc.dba mPower Technologies, Inc.
Other Party	Plaintiff MPOWERED Inc.
Have the parties held their discovery conference as required under Trademark Rules 2.120(a)(1) and (a)(2)?	No

## Motion for an Extension of Answer or Discovery or Trial Periods With Consent

The Defendant's Time to Answer is currently set to close on 04/16/2016. mPhase Technologies, Inc.dba mPower Technologies, Inc. requests that such date be extended for 30 days, or until 05/16/2016, and that all subsequent dates be reset accordingly.

Time to Answer :	05/16/2016
Deadline for Discovery Conference :	06/15/2016
Discovery Opens :	06/15/2016
Initial Disclosures Due :	07/15/2016
Expert Disclosure Due :	11/12/2016
Discovery Closes :	12/12/2016
Plaintiff's Pretrial Disclosures :	01/26/2017
Plaintiff's 30-day Trial Period Ends :	03/12/2017
Defendant's Pretrial Disclosures :	03/27/2017
Defendant's 30-day Trial Period Ends :	05/11/2017
Plaintiff's Rebuttal Disclosures :	05/26/2017
Plaintiff's 15-day Rebuttal Period Ends :	06/25/2017

The grounds for this request are as follows:

- *Parties are engaged in settlement discussions*
- *The undersigned attorney for the Respondent (Registrant) asked for this extension on the following grounds, and the attorney for the Petitioner has graciously agreed: 1. The undersigned attorney needed to go to Memorial Sloan Kettering# Cancer Center for a consultation, go through a series of preoperative tests and examinations, undergo additional preparation for surgery, had a cancerous bladder tumor removed, and recovered from surgery, all during the last 30 day extension. 2. Also during the last 30 day extension, the CEO of the Respondent was on a trip to Australia, which made communication with the undersigned attorney for Respondent even more difficult. The CEO was also out of touch for a while as his return aircraft had to go back to Sidney, Australia due to an odor caused by an electrical problem. 3. The undersigned attorney for Respondent has promised to provide a new offer to the attorney for Petitioner by the end of this week (April 23, 2016) to facilitate settlement of this matter.*

mPhase Technologies, Inc.dba mPower Technologies, Inc. has secured the express consent of all other

parties to this proceeding for the extension and resetting of dates requested herein.

mPhase Technologies, Inc.dba mPower Technologies, Inc. has provided an e-mail address herewith for itself and for the opposing party so that any order on this motion may be issued electronically by the Board.

### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Facsimile or email (by agreement only) on this date.

Respectfully submitted,

/David Aker/

David Aker

daker@ogrp.com

David.Kelly@kelly-ip.com, Linda.McLeod@kelly-ip.com, Jacob.Mersing@kelly-ip.com, docket-

ing@kelly-ip.com

04/18/2016