

ESTTA Tracking number: **ESTTA770399**

Filing date: **09/13/2016**

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 Close of Discovery is currently set to close on 02/10/2017. mPhase Technologies, Inc.dba mPower Technologies, Inc. requests that such date be extended for 30 days, or until 03/12/2017, and that all subsequent dates be reset accordingly.

Time to Answer :	CLOSED
Deadline for Discovery Conference :	CLOSED
Discovery Opens :	CLOSED
Initial Disclosures Due :	CLOSED
Expert Disclosure Due :	02/10/2017
Discovery Closes :	03/12/2017
Plaintiff's Pretrial Disclosures :	04/26/2017
Plaintiff's 30-day Trial Period Ends :	06/10/2017
Defendant's Pretrial Disclosures :	06/25/2017
Defendant's 30-day Trial Period Ends :	08/09/2017
Plaintiff's Rebuttal Disclosures :	08/24/2017
Plaintiff's 15-day Rebuttal Period Ends :	09/23/2017

The grounds for this request are as follows:

- *Parties are engaged in settlement discussions*
- *Respondent respectfully requests that the Board extend all trial dates by thirty (30) days as set forth below to allow for further settlement negotiations. Deadline to Answer CLOSED Initial Disclosures Due October 13, 2016 Expert Disclosure Due February 10, 2017 Discovery Closes March 12, 2017 Plaintiff's Pretrial Disclosures April 26, 2017 Plaintiff's 30-day Trial Period Ends June 10, 2017 Defendant's Pretrial Disclosures June 25, 2017 Defendant's 30-day Trial Period Ends August 9, 2017 Plaintiff's Rebuttal Disclosures August 24, 2017 Plaintiff's 15-day Rebuttal Period Ends September 23, 2017 This request is not for purposes of delay. Rather the parties are actively engaged in settlement negotiations and have been working diligently to reach an amicable resolution to this dispute. The parties have discussed settlement and/or exchanged proposals on numerous occasions including March 17, 2016, April 12, 2016, April 13, 2016, April 18, 2016, May 16, 2016, July 15, 2016, and most recently on September 1, 2016, and submit that good cause has been shown for the extension. Petitioner and Respondent stipulated to this request in a tele-*

phone conversation between their respective counsel for Petitioner, David M. Kelly, and for respondent, David Aker on September 13, 2016.

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, Larry.White@kelly-ip.com, Linda.McLeod@kelly-ip.com

09/13/2016