

ESTTA Tracking number: **ESTTA873580**

Filing date: **01/26/2018**

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

Proceeding	87102250
Applicant	Eastman Outdoors, LLC
Applied for Mark	ADRENALINE
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Submission	Request to Suspend and Remand for Additional Evidence
Attachments	14916333_1.pdf(164601 bytes )
Filer's Name	Draeke H. Weseman
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Signature	/DHW/
Date	01/26/2018

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

In re Application of: Eastman Outdoors, LLC  
Application No.: 87/102,250  
Filed: July 13, 2016  
Mark: **ADRENALINE**

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**APPLICANT'S MOTION TO SUSPEND AND REMAND  
FOR ADDITIONAL EVIDENCE**

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Pursuant to 37 C.F.R. § 2.142(d), TBMP § 1207.02, for the following good cause, Applicant Eastman Outdoors, LLC hereby respectfully requests that the instant ex parte appeal for Application Serial No. 87/102,250 be suspended and remanded for consideration of the consent agreement attached hereto as Exhibit A.

Respectfully submitted,

WINTHROP & WEINSTINE, P.A.

Date: January 26, 2018

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**EXHIBIT A**  
**CONSENT AGREEMENT**

*[See attached]*

## Trademark Consent Agreement

This Trademark Consent Agreement (“**Agreement**”), dated as of January 8, 2018 (the “**Effective Date**”), is by and between MCP IP, LLC, a South Dakota limited liability company at 919 River Road, Sparta, Wisconsin 54656 (“**Registrant**”), and Eastman Outdoors LLC, a Michigan limited liability company located at 3476 Eastman Drive, Flushing, Michigan 48433 (“**Applicant**”). Registrant and Applicant are each a “**Party**” and collectively, the “**Parties**” to this Agreement.

WHEREAS, the United States Patent and Trademark Office has refused registration of the standard character word mark ADRENALINE (“**Applicant’s Mark**”) as applied-for in U.S. Trademark Application Serial No. 87/102,250 (the “**Application**”) based on a finding of likelihood of confusion with the mark depicted below for reference (“**Registrant’s Mark**”) and as registered in U.S. Trademark Registration No. 3,441,382 (the “**Registration**”):



WHEREAS, Registrant and Applicant have a long-standing, cooperative business relationship and frequent communication as competitors and are familiar and knowledgeable of the industry, marketplace, and each other’s respective businesses, including products, trademarks, packaging, labels, marketing, and advertising;

WHEREAS, Registrant and Applicant are also parties to that certain Confidential Trademark Coexistence Agreement dated as of the Effective Date above and to which this Consent Agreement is attached as **Exhibit A**;

WHEREAS, based on the unique circumstances of the Parties described above and the restrictions and conditions set forth herein and pursuant to the terms of the Confidential Trademark Coexistence Agreement between them, Registrant and Applicant believe that Applicant’s use of Applicant’s Mark within the scope of the Application does not and will not create actual or likelihood of confusion with Registrant’s use of Registrant’s Mark within the scope of the Registration, in the United States of America and its territories and possessions (the “**Territory**”).

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Consent to Use and Registration. Registrant hereby consents to:
  - a. Registration in the U.S. Patent and Trademark Office of Applicant’s Mark as set forth in the Application.
  - b. Applicant’s use in the Territory of Applicant’s Mark within the scope of the Application.
2. No Likelihood of Confusion. The Parties acknowledge and agree that subject to each Party’s compliance with this Sections 2 and the following Section 3, there is and will


be no likelihood of confusion resulting from the simultaneous use and registration of the Marks, for at least the following reasons:

- a. Differences in the beginnings and endings of each Mark;
  - b. Differences in the visual appearance and pronunciation of the Marks;
  - c. The appearance of each Party's different house mark in connection with each Party's respective Mark;
  - d. Differences in the nature of the coined term "drenalin" having no known meaning and the defined word "adrenaline" having a known meaning;
  - e. Differences in the overall commercial impression of each Mark;
  - f. The differences in the non-consumable nature of the products sold under the DRENALIN (Stylized) & Design Mark and the consumable nature of the products sold under the ADRENALINE Mark;
  - g. Differences in the goods to which the Marks are applied;
  - h. The long-standing business relationship between the Parties and cooperation resolving differences;
  - i. The history of frequent communication between the Parties;
  - j. The knowledge and familiarity of the Parties with each other's customers, products, and trademarks, as competitors;
  - k. The lack of any actual confusion between the Marks; and
  - l. The mutual undertakings set forth in Section 4 of this Agreement.
3. Restrictions on the Use and Registration of Applicant's and Registrant's Marks. The Registrant and Applicant hereby acknowledge their respective rights and obligations concerning the use and registration of their respective Marks as set forth in the Confidential Trademark Coexistence Agreement to which this Agreement is attached as **Exhibit A**.
4. Further Efforts to Avoid Confusion. Each Party agrees that it will not advertise, market, or promote its goods under the Marks in a manner that implies that such Party or its goods are affiliated or connected with the other Party or the other Party's goods. In the unlikely event that either Party becomes aware of any actual consumer confusion resulting from the simultaneous use of the Marks as permitted by this Agreement such Party shall advise the other Party promptly of the details of such confusion and the Parties shall take commercially reasonable steps to address the confusion and prevent its future occurrence.

IN WITNESS WHEREOF, the Parties hereto have executed this Consent Agreement as of the date first above written.

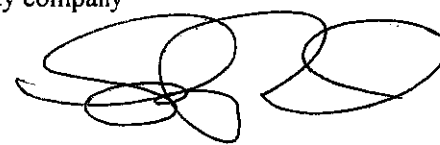
**REGISTRANT:**

MCP IP, LLC, a South Dakota limited liability company

By:   
Name: Mathew A. McPherson  
Title: Member

**APPLICANT:**

Eastman Outdoors, LLC, a Michigan limited liability company

By:   
Name: Lou Riley  
Title: President