

ESTTA Tracking number: **ESTTA595024**

Filing date: **03/27/2014**

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

Proceeding	91195628
Party	Plaintiff Marshfield Utilities
Correspondence Address	JOSEPH W BYRNE BOARDMAN SUHR CURRY & FIELD LLP ONE SOUTH PINCKNEY STREET, STE 410 MADISON, WI 53703 UNITED STATES jbyrne@boardmanclark.com, docket_jbyrne@boardmanclark.com
Submission	Stipulated/Consent Motion to Extend
Filer's Name	Joseph W. Byrne
Filer's e-mail	jbyrne@boardmanclark.com, docket_jbyrne@boardmanclark.com
Signature	/Joseph W. Byrne/
Date	03/27/2014
Attachments	Motion12. Motion to Extension - Final - As Filed 3-27-2014 (A1859678).pdf(50304 bytes )

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

In the Matter of Application Serial No.: 77/546,833  
Filed on: August 14, 2008  
For the Mark: POWERPAY! NEW ENGLAND  
Published in the Official Gazette on: January 12, 2010

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<b>MARSHFIELD UTILITIES</b>	)	
	)	
<b>Opposer,</b>	)	
	)	
<b>v.</b>	)	<b>Opposition No. 91195628</b>
	)	
<b>ENERGY CURTAILMENT SPECIALISTS, INC.</b>	)	
	)	
<b>Applicant.</b>	)	

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**MOTION FOR AN EXTENSION OF  
ANSWER OR DISCOVERY OR TRIAL PERIODS WITH CONSENT**

The discovery period in the above-captioned proceeding is currently set to close on April 3, 2014. Opposer Marshfield Utilities (hereinafter “Opposer”) hereby submits this motion on stipulated consent to extend such date by sixty (60) days, or until June 2, 2014, and that all subsequent dates be reset accordingly.

Pursuant to the Board’s Order dated August 12, 2013, the parties were directed to submit a report accompanying any further suspension or extension requests that sets out the progress of their settlement negotiations.

The parties continue to be involved in settlement negotiations relating to resolution of the open issues in this proceeding. The parties have exchanged proposed terms to

govern a possible settlement of this matter and counsel for each of the parties communicated with each other via telephone and/or e-mail on March 13, 2014, March 17, 2014, March 21, 2014, March 24, 2014, March 25, 2014 and March 26, 2014 relating to settlement discussions in this matter.

The unresolved issues in the proposal involve (1) an amendment to the description of services contained in the opposed application, and (2) potential geographical restrictions on Applicant's use of the mark sought to be registered. At this point in time, counsel for each of the parties continue to believe that settlement of this proceeding can be reached during the sixty (60) day extension requested herein, but need additional time to complete negotiations on the remaining open issues, to confer with their respective clients, and to finalize a settlement agreement once resolution of the remaining issues are reached. The parties therefore request that the deadlines in this proceeding be extended as set forth below to allow for time to complete negotiations, confer with counsel and to negotiate and finalize a settlement agreement in this proceeding.

If the parties' negotiations fail for any reason, however, the parties request that the Board re-set the remaining dates in the proceeding as follows:

Time to Answer:	CLOSED
Deadline for Discovery Conference:	CLOSED
Discovery Opens:	CLOSED
Initial Disclosures Due:	CLOSED
Expert Disclosures Due:	05/03/2014
Discovery Period to Close:	06/02/2014
Plaintiff's Pretrial Disclosures:	07/17/2014
Plaintiff's 30-day Trial Period Ends:	08/31/2014
Defendant's Pretrial Disclosures:	09/15/2014
Defendant's 30-day Trial Period Ends:	: 10/30/2014
Plaintiff's Rebuttal Disclosures:	11/14/2014
Plaintiff's 15-day Rebuttal Period Ends :	: 12/14/2014

This motion is being filed by Opposer's counsel. Opposer has secured the express consent of Applicant for the extension and resetting of dates requested herein. A copy of this motion as filed is being served upon Applicant's counsel of record via e-mail as agreed upon between the parties.

Dated this 27th day of March, 2014.

Marshfield Utilities

/Joseph W. Byrne/

Dated: March 27, 2014

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Joseph W. Byrne  
Attorney for Marshfield Utilities

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### **CERTIFICATE OF SERVICE**

I hereby certify and declare under penalty of perjury that I served a true and correct copy of this document upon Attorney Darren Rimer, attorney for Energy Curtailment Specialists, Inc., by e-mail to [darren@rimermath.com](mailto:darren@rimermath.com) on the 27th day of March, 2014.

/Joseph W. Byrne/

Executed on: March 27, 2014

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Joseph W. Byrne  
Attorney for Marshfield Utilities

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