

ESTTA Tracking number: **ESTTA674619**

Filing date: **05/27/2015**

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

|                        |   |
|------------------------|---|
| Proceeding             | 91195628  |
| Party                  | Plaintiff<br>Marshfield Utilities   |
| Correspondence Address | JOSEPH W BYRNE<br>BOARDMAN & CLARK LLP<br>ONE SOUTH PINCKNEY STREET, SUITE 410<br>MADISON, WI 53703<br>UNITED STATES<br>jbyrne@boardmanclark.com, docket_jbyrne@boardmanclark.com |
| Submission             | Stipulated/Consent Motion to Extend   |
| Filer's Name           | Joseph W. Byrne (Attorney for Plaintiff)  |
| Filer's e-mail         | jbyrne@boardmanclark.com, docket_jbyrne@boardmanclark.com   |
| Signature              | /Joseph W. Byrne/   |
| Date                   | 05/27/2015  |
| Attachments            | Motion17. Motion to Extend - Final - As Filed 5-27-2015 (A2175332).pdf(50307 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 May 28, 2015. Opposer Marshfield Utilities (hereinafter “Opposer”) hereby submits this motion on stipulated consent to extend such date by ninety (90) days, or until August 26, 2015, 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. Counsel for Opposer has provided counsel for

Applicant with 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 May 15, 2015, May 16, 2015, May 21, 2015, and on May 27, 2015 relating to settlement of this matter.

The unresolved issues in this proceeding continue to involve an acceptable amendment to the description of services contained in the opposed application and a potential geographical restriction on Applicant's future use of its mark. At this point in time, counsel for each of the parties continue to believe that settlement of this proceeding can be reached during the ninety (90) day extension requested herein, but still 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:                   | 07/27/2015   |
| Discovery Period to Close:                | 08/26/2015   |
| Plaintiff's Pretrial Disclosures:         | 10/10/2015   |
| Plaintiff's 30-day Trial Period Ends:     | 11/24/2015   |
| Defendant's Pretrial Disclosures:         | 12/09/2015   |
| Defendant's 30-day Trial Period Ends:     | : 01/23/2016 |
| Plaintiff's Rebuttal Disclosures:         | 02/07/2016   |
| Plaintiff's 15-day Rebuttal Period Ends : | : 03/08/2016 |

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 May, 2015.

Marshfield Utilities

/Joseph W. Byrne/

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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), [trademarks@rimermath.com](mailto:trademarks@rimermath.com) and to [darren@RimerMathewson.com](mailto:darren@RimerMathewson.com) on the 27th day of May, 2015.

/Joseph W. Byrne/

Executed on: May 27, 2015

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Joseph W. Byrne  
Attorney for Marshfield Utilities

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