

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Energous Corporation) File No.: 1744-EX-ST-2017
)
Application for Special Temporary Authorization)

**RESPONSE TO INFORMAL OBJECTION
TO APPLICATION FOR SPECIAL TEMPORARY AUTHORIZATION**

Energous Corporation (“Energous”) files this response (“Response”) to the informal objection (“Objection”) ¹ submitted to the Federal Communications Commission (“Commission”) by Todor Mitev on December 22, 2017 pursuant to Section 5.95 of the Commission’s rules.² In the Objection, Mr. Mitev requests the Commission to deny Energous’ pending application (“Application”) for an experimental special temporary authorization (“STA”)³ to demonstrate certain wireless power transfer (“WPT”) at a distance (“AAD”) devices (“Devices”) at the International Consumer Electronics Show (“CES”) between January 6 and January 12, 2018. Energous filed the STA Application because the WPT AAD Devices that Energous intends to demonstrate have not yet been equipment authorized.⁴ For the reasons set forth herein, the Commission should dismiss Mr.

¹ Opposition to Application for Special Temporary Authorization filed by Todor Mitev, FCC File No. 1744-EX-ST-2017 (filed Dec. 22, 2017) (“Objection”).

² 47 C.F.R. § 5.95.

³ See 47 C.F.R. § 5.61; see also 47 C.F.R. § 5.3(g) (expressly permitting experimental licenses to be used for “demonstration of equipment to prospective purchasers by persons engaged in the business of selling radio equipment”).

⁴ As noted herein, the Commission has granted equipment authorizations for other Energous transmitters that are substantially similar to the Devices that Energous intends to demonstrate at CES. In addition, Energous will be demonstrating other devices that can be operated pursuant to

Mitev's Objection and grant the requested STA.

Background Regarding Mr. Mitev. Energous is a publicly traded company (NASDAQ: WATT), and Mr. Mitev reportedly is a short seller.⁵ Energous believes that he filed the Objection with the primary purpose of harming Energous's business reputation and thereby lowering Energous stock price for his own financial gain. Mr. Mitev has contacted investors in Energous and Energous's customers on numerous occasions in an effort to harm Energous's reputation. Energous also believes that he regularly posts comments and short articles online disparaging Energous and its WPT AAD technology and wrongfully accusing Energous of fraud.⁶ Mr. Mitev's Objection should be evaluated through this lens. Nevertheless, Energous is filing this Response to rebut the numerous inaccurate assertions made by Mr. Mitev in his Objection about Energous and the Devices.

Specific Absorption Rate ("SAR") Compliance. Contrary to Mr. Mitev's assertions,⁷ demonstration of the Devices at CES is entirely safe and will not pose any risk to CES attendees or exhibitors. The Devices comply with all of the Commission's specific absorption rate ("SAR")

Section 2.805(d) of the Commission's Rules and thus do not require special temporary authorization. *See* 47 C.F.R. § 2.805(d).

⁵ *See* David Pogue, *Is Through-the-Air Charging a Hoax?*, Yahoo Finance (July 15, 2017) available at <https://finance.yahoo.com/news/investigation-air-charging-hoax-174529315.html> (stating that Mr. Mitev acknowledged that he is a short seller and asserting that Mr. Mitev "has a financial interest in making the Energous stock go down") ("*Yahoo Finance*").

⁶ Energous believes that Mr. Mitev uses a variety of pseudonyms, including RichardXRoe, DSRCJammer, Copperfield Research, and Stock Puzzle, when posting false and disparaging allegations against Energous on stock trading sites, such as Seeking Alpha (<https://seekingalpha.com>) and StockTwits (<https://stocktwits.com/dsrcjammer>). *See Yahoo Finance* (stating that Mr. Mitev "admitted that he wrote some ... critical articles online [about Energous]—using a fake name"); *see also, e.g.,* Copperfield Research, *WATT—Edison Award Press Release Intended to Cover Up Overnight News*, Seeking Alpha (Feb. 10, 2017) available at <https://seekingalpha.com/instablog/890075-copperfield-research/4958513-watt-edison-award-press-release-intended-cover-overnight-news>; Richard X Roe, *Energous: No Path to Regulatory Approval*, Seeking Alpha (Dec. 21, 2016) available at <https://seekingalpha.com/article/4031990-energous-path-regulatory-approval>.

⁷ *See* Objection at 3-4.

requirements.⁸ In addition, most of the Devices are substantially similar to devices for which Commission equipment authorization already has been granted. This includes a near-field WPT transmitter (“Near-Field Transmitter”) for which an equipment authorization was granted on May 2, 2017,⁹ and a mid-field WPT AAD transmitter (“Mid-Field Transmitter”) for which an equipment authorization was granted on December 26, 2017.¹⁰ As part of the equipment authorization testing process for the Near-Field Transmitter and the Mid-Field Transmitter, Energois worked closely with the staff of the Commission’s Office of Engineering and Technology (“OET”) and with its Telecommunications Certification Body, UL Verification Services Inc., to develop a procedure for SAR testing of WPT AAD transmitters. Energois has tested each of the Devices to be demonstrated at CES using these procedures, and each is compliant with all applicable SAR thresholds.¹¹

Emissions. As with all of the equipment that Energois develops, Energois incorporated into the design of the Devices commercially reasonable mitigation techniques intended to reduce emissions. Based on Energois’s extensive testing, Energois has no expectation that the Devices will cause interference to any other wireless equipment being operated at CES.¹² Instead, the emissions

⁸ Because the Devices comply with all SAR requirements, Commission grant of the STA Application qualifies as an action that is categorically excluded from environmental processing under Section 1.1306(b)(3) of the Commission’s rules. 47 C.F.R. § 1.1306(b)(3). Consequently, Energois was not required to prepare or file an environmental assessment with the STA Application.

⁹ See Grant of Equipment Authorization Issued Under the Authority of the Federal Communications Commission by UL Verification Services Inc., FCC Identifier 2ADNG-NF130 (issued May 2, 2017).

¹⁰ See Grant of Equipment Authorization Issued Under the Authority of the Federal Communications Commission by UL Verification Services Inc., FCC Identifier 2ADNG-MS300 (issued Dec. 26, 2017).

¹¹ As with Energois’ equipment-authorized Mid-Field Transmitter, the 902-928 MHz Device that Energois intends to demonstrate at CES may require the use of a “keep out” zone for SAR compliance. If so, the Device will utilize appropriate sensors to ensure that it does not transmit when any person is in the keep out zone.

¹² As an example of Energois’ extensive efforts to ensure that the equipment it designs does not pose any significant risk of causing harmful interference to other equipment operated using

profiles of the Devices will be similar to other comparable devices operating in the relevant spectrum bands, and the Devices have no more potential to cause interference than such other devices.¹³

Further, Energous has designated Billy Manning, Energous's Director of Regulatory Operations, to serve as Energous's "stop buzzer," and Energous provided Mr. Manning's mobile phone number in the STA Application. Energous will immediately cease operating any Device if it is determined that the demonstration of the Device is causing harmful interference.

No Notice Requirement. Despite Mr. Mitev's apparent belief to the contrary,¹⁴ there is no Commission rule that requires Energous, or any other exhibitor demonstrating wireless equipment at CES, to provide any type of prior notice to the CES organizers or other CES exhibitors regarding the SAR compliance or emission characteristics of the devices that they intend to demonstrate. Instead, each exhibitor demonstrating non-equipment-authorized devices must ensure that the devices comply with the applicable technical rules or secure an STA and operate in accordance with any conditions imposed by the Commission in that STA.¹⁵ In addition, the Commission's rules require certain conspicuous notices to be placed adjacent to devices that are being demonstrated that have not been equipment authorized.¹⁶ As noted above, the Devices are SAR-compliant, Energous will comply with the terms of its STA, and Energous will comply with all Commission posting requirements.

Other Inaccurate Assertions in the Objection. Mr Mitev makes a host of additional false assertions in the Objection, each of which is addressed below.

unlicensed spectrum, Energous undertook extensive testing of the Mid-Field Transmitter. These tests demonstrated that the Mid-Field Transmitter had less potential to cause harmful interference to commercially available Part 15 wireless devices than other devices on the market that operate using similar unlicensed spectrum bands.

¹³ The 5.8 GHz Device that Energous will demonstrate at CES will operate using less than the one Watt specified in the STA Application and will be comparable to, and have no more potential to cause interference than, other commercially available 5.8 GHz devices.

¹⁴ See Objection at 4-5.

¹⁵ See 47 C.F.R. § 2.805.

¹⁶ See *id.*

- Contrary to Mr. Mitev's assertion,¹⁷ the operational frequencies set forth in the STA Application are correct.
- Because the Devices are mobile, the orientation of their transmitters may change in the horizontal plane. However, contrary to Mr. Mitev's assertion,¹⁸ the Devices will not exceed the maximum radiated power set forth in the STA Application within the beamwidth indicated.
- Contrary to Mr. Mitev's assertion,¹⁹ Energous will not demonstrate any Device at the Hard Rock Hotel, which Energous acknowledges is outside of the one kilometer radius specified in the STA Application. All demonstrations will be conducted within the point-radius specified in the Application. In addition, the Application is not required to identify specific CES booth numbers, demonstration suite numbers, or floor numbers.
- Energous strives to comply with all Commission rules governing demonstrations of prototype wireless equipment. Contrary to Mr. Mitev's assertion,²⁰ Energous has included all required postings during prior demonstrations of its wireless equipment and has never asserted that devices were equipment authorized when they were not.
- The recent grant of an equipment authorization for the Mid-Field Transmitter demonstrates that Mr. Mitev's views regarding what wireless devices are eligible for equipment authorization are inaccurate.²¹

¹⁷ See Objection at 10.

¹⁸ See *id.* at 10-11.

¹⁹ See *id.* at 5, 11.

²⁰ See *id.* at 12-14.

²¹ See *id.* at 8, 14.

- Section 5.110 of the Commission’s rules²² describes the power limitations for experimental licensing. That rule clearly states that the transmitting radiated power for stations authorized under the Experimental Radio Service shall be limited to the minimum practical radiated power necessary for the success of the experiment. Contrary to Mr. Mitev’s assertion,²³ there is no requirement to limit conducted power, and therefore no specific level of conducted power was required to be specified in the experimental STA Application.
- Mr. Mitev makes the conclusory statement that the requested STA is not needed because WPT AAD technology can be demonstrated at CES using off-the-shelf equipment.²⁴ Energous, of course, does not intend to merely demonstrate WPT AAD technology generally. Energous desires to demonstrate its innovative WPT AAD Devices and technology. For certain Devices, this requires Energous to secure the requested STA.

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²² 47 C.F.R. § 5.110.

²³ *See* Objection at 10-11.

²⁴ *See id.* at 7-9.

For the reasons set forth herein, the Objection should be summarily dismissed by the Commission, and Energous requests the Commission to timely grant the STA Application to enable Energous to demonstrate its innovative WPT AAD Devices and technology at CES.

By: /s/ *Billy Manning*

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