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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

NextEra Energy, Inc., a Florida
corporation,

Plaintiff,

v.

Nextra Technologies, LLC, an Indiana
limited liability company,

Defendant.

No. 3:14-cv-1941

JURY DEMANDED

**COMPLAINT FOR TRADEMARK INFRINGEMENT
AND UNFAIR COMPETITION**

Plaintiff NextEra Energy, Inc., hereby alleges the following claims for relief against defendant Nextra Technologies, LLC.

NATURE OF ACTION

1. This is an action for trademark infringement, unfair competition, false advertising and other relief arising under the trademark laws of the United States, specifically 15 U.S.C. § 1051, *et seq.* (the “Lanham Act”), and the statutes and common law of the State of Indiana.

PARTIES

2. Plaintiff NextEra Energy, Inc. (“NextEra” or “Plaintiff”) is a corporation organized and existing under the laws of Florida with its principal place of business located at 700 Universe Blvd., Juno Beach, Florida 33408.

3. NextEra is a leading clean energy company that is publicly traded on the New York Stock Exchange under the ticker symbol “NEE.” NextEra’s

market capitalization was approximately \$41.58 billion as of September 17, 2014.

4. NextEra is the owner of the trademarks at issue in this case. NextEra, through its affiliates, among other things, owns, operates and maintains high quality wind and solar energy facilities. Among other things, NextEra owns, and identifies its products and services using a family of NEXTERA trademarks, as described below.

5. Upon information and belief, defendant Nextra Technologies, LLC (“Nextra” or “Defendant”) is a limited liability company organized and existing under the laws of Indiana with its principal place of business located at 14435 Northampton Dr., Granger, Indiana 46530.

6. Upon information and belief, Nextra has manufactured, imported, advertised, promoted, distributed and/or sold energy products and services—including wind turbine components, solar panels, lithium batteries, and integrated new energy systems—in the United States and in this judicial district that infringe on NextEra’s well-known trademarks.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338 because NextEra’s claims arise under the trademark laws of the United States. This Court also has supplemental jurisdiction pursuant to 28 U.S.C. §§ 1338(b) and 1367 over NextEra’s claims that arise under the laws of the State of Indiana.

8. This Court has personal jurisdiction over Defendant because

Defendant is located in, and transacts business in, the State of Indiana.

9. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391 because a substantial part of the acts complained of herein occurred in this judicial district and Defendant is subject to personal jurisdiction in this judicial district.

PLAINTIFF’S MARKS

10. NextEra is currently the owner of 132 Federal trademark registrations and 35 pending applications for variations of the mark NEXTERA (collectively, “the NEXTERA marks”), which among many other goods and services includes wind and solar renewable energy related services.

11. Among many other related goods and services, NextEra, through its affiliates, provides wind and solar renewable energy through services offered in connection with the consulting, designing, developing, construction and installation of wind energy systems consisting of, among other things, wind energy generating turbines and turbine transformers and solar energy systems consisting of, among other things, solar panels, solar arrays, solar photovoltaic equipment, solar thermal equipment and transformers.

12. A list of NextEra’s registered Federal trademarks and pending Federal trademark applications is set forth below.

	Serial Number	Reg. Number	Word Mark
1	86194497		NEXTERA ENERGY PARTNERS
2	86194488		NEXTERA ENERGY PARTNERS
3	86194480		NEXTERA ENERGY PARTNERS
4	86194454		NEXTERA ENERGY PARTNERS

5	86194448		NEXTERA ENERGY PARTNERS
6	86194444		NEXTERA ENERGY PARTNERS
7	86194432		NEXTERA ENERGY PARTNERS
8	86194425		NEXTERA ENERGY PARTNERS
9	86302589		NEXTERA ENERGY PARTNERS
10	86302582		NEXTERA ENERGY PARTNERS
11	86302578		NEXTERA ENERGY PARTNERS
12	86302573		NEXTERA ENERGY PARTNERS
13	86302558		NEXTERA ENERGY PARTNERS
14	86302551		NEXTERA ENERGY PARTNERS
15	86302535		NEXTERA ENERGY PARTNERS
16	86302520		NEXTERA ENERGY PARTNERS
17	86240401		NEXTERA
18	85777000		NEXTERA ENERGY
19	85776942		NEXTERA ENERGY
20	85776938		NEXTERA ENERGY
21	85776598		NEXTERA
22	85776596		NEXTERA
23	85728685		NEXTERA ENERGY
24	85728224		NEXTERA
25	85728183		NEXTERA ENERGY
26	85728166		NEXTERA
27	85728012		NEXTERA ENERGY
28	85728003		NEXTERA
29	85727988		NEXTERA
30	85727487		NEXTERA ENERGY
31	85698261		NEXTERA ENERGY
32	85698253		NEXTERA
33	85904229		NEXTERA ENERGY POWER MARKETING
34	85828038		NEXTERA ENERGY
35	85828015		NEXTERA
36	85240509	4564466	NEXTERA ENERGY OPERATING SERVICES

37	85975580	4068745	NEXTERA ENERGY CAPITAL HOLDINGS
38	85975160	3972053	NEXTERA ENERGY SERVICES
39	85548827	4394667	NEXTERA HEALTH & WELL-BEING
40	85548618	4394665	NEXTERA HEALTH & WELL-BEING
41	85119070	4429114	NEXTERA ENERGY SERVICES
42	77983495	4298511	NEXTERA ENERGY
43	77983326	4298506	NEXTERA ENERGY
44	77981729	3975615	NEXTERA
45	77981689	3979169	NEXTERA ENERGY
46	77981688	3975612	NEXTERA ENERGY
47	77981304	3932647	NEXTERA ENERGY
48	77981184	3942016	NEXTERA
49	77981006	3909349	NEXTERA ENERGY
50	77980726	3895531	NEXTERA ENERGY
51	77980725	3888090	NEXTERA
52	77980598	3888076	NEXTERA
53	77980484	3878164	NEXTERA ENERGY POINT BEACH
54	77980125	3851697	NEXTERA ENERGY
55	77980084	3858355	NEXTERA ENERGY RESOURCES
56	77980007	3855016	NEXTERA
57	77979985	3855013	NEXTERA ENERGY DUANE ARNOLD
58	77979963	3855010	NEXTERA ENERGY SEABROOK
59	77979904	3843138	NEXTERA ENERGY RESOURCES
60	77979898	3846592	NEXTERA ENERGY
61	77979893	3836240	NEXTERA ENERGY
62	77979777	3829639	NEXTERA ENERGY RESOURCES
63	77979537	3808549	NEXTERA ENERGY POWER MARKETING
64	77979110	3782760	NEXTERA ENERGY RESOURCES
65	77979066	3782754	NEXTERA
66	77979021	3794923	NEXTERA ENERGY RESOURCES
67	77979018	3776281	NEXTERA
68	77979017	3779501	NEXTERA
69	77978911	3773516	NEXTERA ENERGY RESOURCES

70	77978910	3773515	NEXTERA
71	77978840	3779473	NEXTERA ENERGY RESOURCES
72	77978662	3759301	NEXTERA ENERGY RESOURCES
73	77978659	3756139	NEXTERA
74	77978436	3741155	NEXTERA
75	77978432	3741154	NEXTERA ENERGY RESOURCES
76	77978431	3738160	NEXTERA ENERGY RESOURCES
77	77978430	3738159	NEXTERA
78	77978387	3735272	NEXTERA
79	77978384	3732774	NEXTERA ENERGY RESOURCES
80	77978382	3732772	NEXTERA
81	77978369	3735270	NEXTERA ENERGY RESOURCES
82	77978299	3729997	NEXTERA ENERGY RESOURCES
83	77978298	3729996	NEXTERA
84	77934330	4006989	NEXTERA ENERGY
85	77930256	4491357	NEXTERA ENERGY
86	77930248	4400437	NEXTERA ENERGY
87	77927139	4415097	NEXTERA FIBERNET
88	77923671	4488717	NEXTERA ENERGY
89	77923654	4436753	NEXTERA ENERGY
90	77923641	4396475	NEXTERA ENERGY
91	77923606	4396474	NEXTERA ENERGY
92	77923507	4485433	NEXTERA ENERGY
93	77923403	4400433	NEXTERA ENERGY
94	77923390	4485430	NEXTERA ENERGY
95	77923378	4400432	NEXTERA ENERGY
96	77923367	4400431	NEXTERA ENERGY
97	77923357	4485429	NEXTERA ENERGY
98	77907286	4400414	NEXTERA FIBERNET
99	77886109	3958929	NEXTERA ENERGY RESOURCES
100	77873651	4403585	NEXTERA FIBERNET
101	77865137	3839285	NEXTERA ENERGY RESOURCES
102	77865123	3839284	NEXTERA
103	77865038	4392538	NEXTERA ENERGY RESOURCES

104	77865034	4392537	NEXTERA
105	77832177	4342859	NEXTERA ENERGY POWER MARKETING
106	77736304	3723737	NEXTERA ENERGY RESOURCES
107	77736299	3756107	NEXTERA ENERGY RESOURCES
108	77736293	3951441	NEXTERA ENERGY RESOURCES
109	77736261	3761858	NEXTERA ENERGY RESOURCES
110	77736246	3723736	NEXTERA
111	77736230	3732731	NEXTERA
112	77736212	3951440	NEXTERA
113	77736204	3761857	NEXTERA
114	77730972	3723735	NEXTERA ENERGY RESOURCES
115	77730959	3750687	NEXTERA ENERGY RESOURCES
116	77730745	4321298	NEXTERA
117	77730739	3723734	NEXTERA
118	77730691	3750686	NEXTERA
119	77727464	3723733	NEXTERA ENERGY RESOURCES
120	77727418	3723732	NEXTERA
121	77727400	4254256	NEXTERA
122	77724392	4498294	NEXTERA ENERGY RESOURCES
123	77723046	3738128	NEXTERA ENERGY RESOURCES
124	77722995	4295899	NEXTERA
125	77722986	3738127	NEXTERA
126	77722983	4295898	NEXTERA
127	77721867	4298393	NEXTERA
128	77721865	4298392	NEXTERA
129	77721862	4298391	NEXTERA
130	77721849	4295897	NEXTERA
131	77713532	3723731	NEXTERA ENERGY RESOURCES
132	77713516	3723730	NEXTERA
133	77710838	3723729	NEXTERA ENERGY RESOURCES
134	77710820	3723728	NEXTERA ENERGY RESOURCES
135	77710815	3732725	NEXTERA ENERGY RESOURCES
136	77710799	3723727	NEXTERA ENERGY RESOURCES

137	77710789	3741126	NEXTERA ENERGY RESOURCES
138	77710750	3729950	NEXTERA ENERGY RESOURCES
139	77710696	3723726	NEXTERA ENERGY RESOURCES
140	77710659	3765230	NEXTERA ENERGY RESOURCES
141	77710628	3723725	NEXTERA
142	77710606	3723724	NEXTERA
143	77710596	3732724	NEXTERA
144	77710575	3723723	NEXTERA
145	77710542	3741125	NEXTERA
146	77710167	3726631	NEXTERA
147	77710165	3723722	NEXTERA
148	77710163	3765227	NEXTERA
149	77701302	3723720	NEXTERA
150	77697851	3723719	NEXTERA ENERGY RESOURCES
151	77697824	3723718	NEXTERA
152	77697813	3723717	NEXTERA
153	77697798	3719976	NEXTERA ENERGY RESOURCES
154	77697794	3759146	NEXTERA ENERGY RESOURCES
155	77697729	3765177	NEXTERA
156	77681695	3723707	NEXTERA ENERGY RESOURCES
157	77678518	3723698	NEXTERA
158	77661658	3741065	NEXTERA
159	77661644	3741064	NEXTERA ENERGY RESOURCES
160	77658420	3694113	NEXTERA ENERGY RESOURCES
161	77658415	3743253	NEXTERA ENERGY RESOURCES
162	77658412	3694112	NEXTERA ENERGY RESOURCES
163	77657796	3694111	NEXTERA
164	77657761	3743250	NEXTERA
165	77657759	3694110	NEXTERA
166	77646638	3710381	NEXTERA ENERGY RESOURCES
167	77294284	3620150	NEXTERA

13. The NEXTERA marks are distinctive and feature a fanciful, coined term as their primary component.

14. Through their extensive use and promotion, the NEXTERA marks act as indicators of source for NEXTERA branded goods and services.

15. NextEra has expended substantial time, effort, and money promoting the NEXTERA marks and developing the goodwill and reputation associated with the NEXTERA brand.

16. NextEra is one of the largest electric power companies in North America, with approximately 42,500 megawatts of generating capacity in 26 states in the U.S. and 4 provinces in Canada. Specifically, NextEra, through its affiliates, provides retail and wholesale electric services to nearly 5 million customers and owns generation, transmission and distribution facilities to support its services. NextEra also, through its affiliates, purchases and sells electric power for resale to its customers and provides risk management services related to power and gas consumption for a limited number of wholesale customers in selected markets. As a result, NextEra, through its affiliates, is the largest generator in North America of renewable energy from the wind and sun, owning and operating approximately 16% of the installed base of U.S. wind power production capacity and owns and/or operates approximately 14% of the installed base of U.S. utility-scale solar power production capacity as of December 31, 2013.

17. The NEXTERA marks have developed substantial goodwill and a national reputation for wind and solar renewable related energy services,

among other things. As a result of its extensive promotion, widespread use, and prevalent number of Federal trademark registrations, the NEXTERA marks have become well-known and designate a leader in the wind and solar renewable energy industry.

DEFENDANT'S INFRINGEMENT

18. Defendant recently began to market, manufacture, import, distribute, license and/or sell energy products and services—including wind turbine components, solar panels, lithium batteries, and integrated new energy systems—in interstate commerce throughout the United States, including within the State of Indiana. These goods and services are offered using a mark that infringes on NextEra's well-known NEXTERA marks.

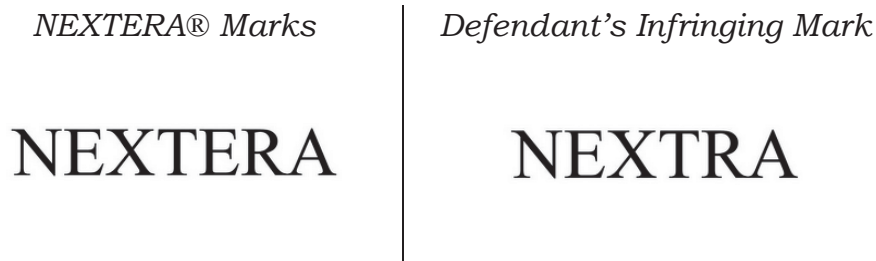
19. In particular, Defendant is promoting, offering to sell, and/or selling its energy products and services throughout the U.S. (including over the Internet) under the name "Nextra".

20. Both NextEra and Nextra are in the business of providing renewable energy goods and services. Nextra has placed its infringing energy products and services in competition with NextEra's products and services bearing the NEXTERA marks.

21. Nextra's first sales of its infringing energy products and services occurred years after NextEra's first use of the NEXTERA marks.

22. Defendant's NEXTRA mark causes confusion with the NEXTERA marks, given the extraordinary similarity of the marks. Defendant has chosen a highly similar mark in appearance, sound, connotation and meaning,

presumably in an attempt to capitalize on the established goodwill of the NEXTERA marks and NextEra's brand, especially in the renewable energy sector. The following side-by-side comparison demonstrates the similarity of the marks:



23. Nextra's sale of infringing energy products and services is likely to cause confusion, mistake and deception among purchasers such that purchasers of the infringing products and services are likely to be confused as to the existence of an association, connection or relationship between NextEra and Nextra.

24. Nextra has acted with full knowledge of NextEra's prior ownership and use of the NEXTERA marks. In addition, NextEra's marketing materials and website provide notice that the NEXTERA marks constitute NextEra's trademark. Nextra has acted without NextEra's authorization or consent. Further, Nextra is on notice of the present infringement. NextEra sent Nextra a cease-and-desist letter to notify Nextra of its infringement on April 16, 2014.

25. Moreover, Defendant is attempting to register with the United States Patent & Trademark Office ("USPTO") (in application serial number 86/132,944) the mark NEXTRA for use in connection with "Wind turbines" in

International Class 007; “Solar panels for production of electricity” in International Class 009; and “LED (light emitting diode) lighting fixtures” in International Class 011.

26. On April 17, 2014, NextEra filed a Letter of Protest with the USPTO concerning Nextra’s attempt to register its infringing NEXTRA mark.

27. On May 6, 2014, the Office of the Deputy Commissioner for Trademark Examination Policy at the USPTO directed the Examining Attorney for Nextra’s application to consider the Letter of Protest, stating: “the evidence submitted by the protester is relevant and may support a reasonable ground for refusal.”

28. On June 20, 2014, NextEra filed a Notice of Opposition with the USPTO to Nextra’s application to register the NEXTRA mark. In response, the Trademark Trial and Appeal Board of the USPTO instituted Opposition No. 91216980.

29. Upon information and belief, Nextra has acted willfully, in bad faith, and with the intent to confuse and mislead the public and unfairly trade on the substantial and valuable goodwill encompassed in Plaintiff’s NEXTERA marks to capitalize on NextEra’s highly respected reputation as a high-quality supplier of products and services relating to renewable energy.

30. NextEra is in need of injunctive relief to bring an end to the irreparable harm caused by the sale of Nextra’s products and services that infringe on NextEra’s well-known NEXTERA marks. Without an injunction, Nextra will continue to sell the infringing products and services at issue, and

will cause confusion in the marketplace and dilute the distinctiveness of Plaintiff's NEXTERA marks.

FIRST CLAIM FOR RELIEF

FEDERAL TRADEMARK INFRINGEMENT

31. NextEra repeats and realleges each and every allegation contained in the foregoing paragraphs of the complaint as though fully set forth herein.

32. By the acts and omissions set forth above, Defendant has infringed and continues to infringe NextEra's rights in its Federal trademark registrations, in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114. Defendant's conduct is likely to cause confusion, mistake and deception among the general purchasing public, and interfere with NextEra's ability to use its mark to indicate a single quality-controlled source of goods and services.

33. NextEra has suffered, is suffering, and will continue to suffer irreparable injury for which NextEra has no adequate remedy at law. NextEra is therefore entitled to a preliminary and permanent injunction against Defendant's further infringing conduct.

34. Defendant has profited and is profiting from such infringement, and NextEra has been and is being damaged by such infringement. NextEra is therefore entitled to recover damages from Defendant in an amount to be proved at trial as a consequence of Defendant's infringing activities.

35. Defendant's aforesaid infringing conduct has been willful, wanton and malicious, and done with an intent to deceive. NextEra therefore is entitled to an award of its reasonable attorneys' fees and costs, and treble its

actual damages, pursuant to 15 U.S.C. § 1117(a). NextEra also is entitled to, among other things, the cost of corrective advertising.

SECOND CLAIM FOR RELIEF

FEDERAL UNFAIR COMPETITION

36. NextEra repeats and realleges each and every allegation contained in the foregoing paragraphs of the complaint as though fully set forth herein.

37. By the acts and omissions set forth above, Defendant has infringed and continues to infringe NextEra's rights, in violation of Lanham Act § 43(a), 15 U.S.C. § 1125(a). Defendant's conduct is likely to cause confusion, mistake and deception among the general purchasing public, and interfere with NextEra's ability to use its NEXTERA marks to indicate a single quality-controlled source of goods and services. Defendant's acts as alleged herein also constitute false designation of origin, unfair competition and false advertising in violation of Lanham Act § 43(a), 15 U.S.C. § 1125(a).

38. NextEra has suffered, is suffering, and will continue to suffer irreparable injury for which NextEra has no adequate remedy at law. NextEra is therefore entitled to a preliminary and permanent injunction against Defendant's further infringing conduct.

39. Defendant has profited and is profiting from such infringement, and NextEra has been and is being damaged by such infringement. NextEra is therefore entitled to recover damages from Defendant in an amount to be proved at trial as a consequence of Defendant's infringing activities.

40. Defendant's aforesaid wrongful conduct has been willful, wanton and malicious, and done with an intent to deceive. NextEra therefore is entitled to an award of its reasonable attorneys' fees and costs, and treble its actual damages, pursuant to 15 U.S.C. § 1117(a). NextEra also is entitled to, among other things, the cost of corrective advertising.

THIRD CLAIM FOR RELIEF

COMMON LAW TRADEMARK INFRINGEMENT AND UNFAIR COMPETITION

41. NextEra repeats and realleges each and every allegation contained in the foregoing paragraphs of the complaint as though fully set forth herein.

42. Defendant's acts, practices, and conduct, as alleged herein, constitute common law trademark infringement and unfair competition under the laws of the State of Indiana, in that Defendant is likely to cause a likelihood of confusion, mistake, or misunderstanding as to the source or origin of Defendant's goods and services.

43. NextEra has suffered, is suffering, and will continue to suffer irreparable injury for which NextEra has no adequate remedy at law. NextEra is therefore entitled to a preliminary and permanent injunction against Defendant's further infringing conduct.

44. As a direct and proximate result of Defendant's infringement, NextEra is likely to be substantially injured in its business, including its goodwill and reputation, resulting in lost revenues and profits and diminished goodwill.

45. Defendant has profited and is profiting from such infringement, and NextEra has been and is being damaged by such infringement. NextEra is therefore entitled to recover damages from Defendant in an amount to be proved at trial as a consequence of Defendant's infringing activities.

PRAYER FOR RELIEF

WHEREFORE, NextEra prays for judgment that:

1. Defendant and its officers, agents, servants, distributors, affiliates, employees, attorneys and representatives, and all those in privity or acting in concert with Defendant, or on its behalf, be preliminarily and permanently enjoined and restrained from, directly or indirectly:

- (a) Using the NEXTERA marks, or any other mark colorably similar thereto, including the NEXTRA mark identified in this Complaint, alone or in combination with other words, names, styles, titles, designs, trade dress or marks in connection with the manufacture, distribution, sale, advertising, marketing and promotion of any energy products or services;
- (b) Using in any other way any other mark, designation, or trade dress so similar to Plaintiff's NEXTERA marks as to be likely to cause confusion, mistake or deception;
- (c) Falsely designating the origin, sponsorship, or affiliation of Defendant's products;
- (d) Otherwise competing unfairly with NextEra in any manner;

(e) Using any words, names, styles, designs, titles, marks or trade dress, including but not limited to, Defendant's NEXTRA mark identified in this complaint, that create a likelihood of injury to the business reputation of NextEra and the goodwill associated therewith;

(f) Using any trade practices whatsoever, including those complained of herein, which tend to unfairly compete with or to injure NextEra's business and the goodwill pertaining thereto; and

(g) Continuing to perform in any manner whatsoever any of the acts complained of in this complaint.

2. Defendant be ordered to pay to NextEra the compensatory damages sustained by NextEra in consequence of the unlawful acts alleged herein, and that such damages be trebled pursuant to 15 U.S.C. § 1118 because of the willful and unlawful acts as alleged herein.

3. Defendant be ordered to pay NextEra punitive damages as a consequence of the willful and wonton acts alleged herein.

4. Defendant be required to account for and pay over to NextEra all gains, profits and advantages derived by it from the unlawful activities alleged herein, and/or as a result of unjust enrichment.

5. Defendant be required to deliver up for destruction all products including, but not limited to, all physical products, catalogs, stationary, signs, advertisements, packaging, brochures, promotional materials, labels, stickers and any other written materials that bear the aforesaid infringing NEXTRA

mark, together with all means and materials for making or reproducing the same.

6. Defendant be required to pay to NextEra all of NextEra's litigation expenses including, but not limited to, reasonable attorneys' fees and the costs of this action.

7. Defendant pay NextEra's costs of corrective advertising.

8. NextEra be awarded such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff NextEra Energy, Inc. hereby requests a trial by jury of all issues so triable.

Dated: October 8, 2014

DRINKER BIDDLE & REATH LLP

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