

ESTTA Tracking number: **ESTTA546808**

Filing date: **07/03/2013**

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

**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	Innovation Ventures, LLC
Granted to Date of previous extension	07/03/2013
Address	38955 Hills Tech Drive Farmington Hills, MI 48331 UNITED STATES

Attorney information	Christoper W. Schneider Oakland Law Group, PLLC 38955 Hills Tech Drive Farmington Hills, MI 48331 UNITED STATES phoffer@oaklandlawgroup.com, rbondra@oaklandlawgroup.com, cschneider@oaklandlawgroup.com
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**Applicant Information**

Application No	85722196	Publication date	03/05/2013
Opposition Filing Date	07/03/2013	Opposition Period Ends	07/03/2013
Applicant	Barry D. Sears, Ph.D. 21 Tioga Way Marblehead, MA 01945 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 030. All goods and services in the class are opposed, namely: Food products, namely, pasta-based prepared meals and snacks, namely, cookies
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is merely descriptive	Trademark Act section 2(e)(1)
The mark is deceptively misdescriptive	Trademark Act section 2(e)(1)
Dilution	Trademark Act section 43(c)

**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	4004225	Application Date	07/15/2008
Registration Date	08/02/2011	Foreign Priority	NONE

		Date	
Word Mark	5-HOUR ENERGY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2004/09/00 First Use In Commerce: 2004/09/00 DIETARY SUPPLEMENTS Class 032. First use: First Use: 2004/09/00 First Use In Commerce: 2004/09/00 ENERGY SHOTS, NAMELY, ENERGY DRINKS		

U.S. Registration No.	4104670	Application Date	05/10/2011
Registration Date	02/28/2012	Foreign Priority Date	NONE
Word Mark	5-HOUR ENERGY		
Design Mark			
Description of Mark	The mark consists of "5" and "HOUR" separated by a dash and disposed adjacent to "ENERGY" wherein the aforementioned literal elements are depicted in a first color and oriented in a slanted manner and outlined by a second color that is different than the first color.		
Goods/Services	Class 005. First use: First Use: 2004/09/00 First Use In Commerce: 2004/09/00 Dietary supplements Class 032. First use: First Use: 2004/09/00 First Use In Commerce: 2004/09/00 Non-alcoholic drinks, namely, energy shots		

U.S. Registration No.	4134079	Application Date	03/02/2011
Registration Date	05/01/2012	Foreign Priority Date	NONE
Word Mark	ENERGY HOUR 5		
Design Mark			
Description of Mark	The mark consists of a rugged landscape with a silhouette of a person in an athletic pose in proximate relation to the foreground terrain and the literal elements of "5", "hour" and "ENERGY" disposed adjacent to the silhouette and terrain, all inside and oval.		
Goods/Services	Class 005. First use: First Use: 2007/05/00 First Use In Commerce: 2007/05/00 Dietary supplements Class 032. First use: First Use: 2007/05/00 First Use In Commerce: 2007/05/00 Non-alcoholic drinks, namely, energy shots		

U.S. Registration No.	4120361	Application Date	09/17/2010
Registration Date	04/03/2012	Foreign Priority Date	NONE
Word Mark	ENERGY HOUR 5		
Design Mark			
Description of Mark	The mark consists of "5-HOUR ENERGY" depicted in black outlined in yellow. A person in black silhouette is depicted in an athletic pose in the foreground of a green and black mountainous landscape; a yellow sun is located in a sky that transitions from blue to white as the sky meets the landscape.		

Goods/Services	Class 005. First use: First Use: 2008/01/27 First Use In Commerce: 2008/01/27 Dietary supplements Class 032. First use: First Use: 2008/01/27 First Use In Commerce: 2008/01/27 Non-alcoholic drinks, namely, energy shots		
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U.S. Registration No.	4120360	Application Date	09/17/2010
Registration Date	04/03/2012	Foreign Priority Date	NONE
Word Mark	ENERGY HOUR 5		
Design Mark			
Description of Mark	The mark consists of the wording "5-HOUR ENERGY" depicted in black outlined in yellow set against the design of a sky over a mountainous landscape and a person in black silhouette in an athletic pose adjacent to the foreground mountain wherein the background mountains are blue, the foreground mountain is in black silhouette and the sky is depicted in colors that transition from red to orange to yellow as the sky meets the mountains.		
Goods/Services	Class 005. First use: First Use: 2005/06/00 First Use In Commerce: 2005/06/00 Dietary Supplements Class 032. First use: First Use: 2005/06/00 First Use In Commerce: 2005/06/00 Non-alcoholic drinks, namely, energy shots		

U.S. Registration No.	4116951	Application Date	09/17/2010
Registration Date	03/27/2012	Foreign Priority Date	NONE
Word Mark	5-HOUR ENERGY EXTRA STRENGTH		
Design Mark			
Description of Mark	The mark consists of the wording "5-HOUR ENERGY" in black outlined in yellow and "EXTRA STRENGTH" in yellow below it. A person in black silhouette outlined in yellow is shown in an athletic pose adjacent to a black, uneven landscape and the sky is depicted in transitioning colors from black to red in an arcuate matter as the sky meets the landscape.		
Goods/Services	Class 005. First use: First Use: 2008/03/23 First Use In Commerce: 2008/03/23 Dietary supplements Class 032. First use: First Use: 2008/03/23 First Use In Commerce: 2008/03/23 Non-alcoholic drinks, namely, energy shots		

U.S. Registration No.	3876785	Application Date	04/06/2010
Registration Date	11/16/2010	Foreign Priority Date	NONE
Word Mark	5-HOUR ENERGY		
Design Mark			
Description of Mark	The mark consists of a picture of a mountainous landscape with a silhouette of a person running on the foreground mountain and the literal element of "5-hour ENERGY" disposed adjacent thereto.		
Goods/Services	Class 025. First use: First Use: 2009/10/02 First Use In Commerce: 2009/10/02 Clothing, namely, headwear, jackets, and shirts; Athletic apparel, namely, shirts, pants, jackets, and hats and caps		

U.S. Registration No.	3902207	Application Date	04/06/2010
Registration Date	01/04/2011	Foreign Priority Date	NONE
Word Mark	5-HOUR ENERGY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2009/10/00 First Use In Commerce: 2009/10/00 Clothing, namely, headwear, jackets, and shirts; Athletic apparel, namely, shirts, pants, jackets, and hats and caps		

Attachments	5082 - 5 hours, No Hunger - Notice of Opp - 3 JUL 2013.pdf(1474788 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/cwschneider/
Name	Christoper W. Schneider
Date	07/03/2013

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

Innovation Ventures, LLC,

Opposer,

v.

Barry D. Sears, Ph.D.,

Applicant.

Mark: 5 HOURS, NO HUNGER

Serial No.: 85/722,196

Opposition No. \_\_\_\_\_

**NOTICE OF OPPOSITON**

Opposer, Innovation Ventures, LLC, by and through its attorneys, Oakland Law Group, PLLC, believes it will be damaged by the registration of the mark 5 HOURS, NO HUNGER, U.S. Trademark Application No. 85/722,196, owned by Dr. Barry D. Sears, and hereby opposes the application in accordance with the Trademark Act of 1946, 15 USC §1063. In support of its opposition, Opposer alleges as follows:

1. Opposer, Innovation Ventures, LLC (“Innovation Ventures”), is a Michigan Limited Liability Company located at 38955 Hills Tech Drive, Farmington Hills, Michigan 48331.

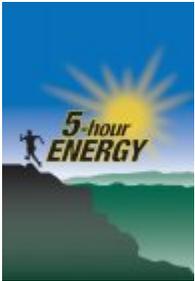
2. On information and belief, Applicant, Barry D. Sears, Ph.D. (“Applicant”), is a United States citizen residing in Massachusetts at 21 Tioga Way, Marblehead, Massachusetts 01945.

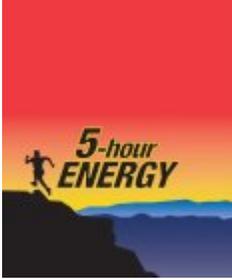
3. On September 6, 2012, Applicant filed an intent-to-use based trademark application for the mark 5 HOURS, NO HUNGER in International Class 30 for use with *food products, namely, pasta-based prepared meals and snacks, namely, cookies* (“Applicant’s

Mark”). The USPTO assigned the application United States Serial Number 85/722,196 (“Application ‘196”).

4. Innovation Ventures is a leading manufacturer and provider of dietary supplements under the famous 5 HOUR ENERGY family of marks.

5. Innovation Ventures is the exclusive licensee to the following 8 trademark registrations incorporating the 5 HOUR element (collectively, “5 HOUR ENERGY Marks”):

<u>Mark</u>	<u>Registration No.</u>	<u>Registration Date</u>	<u>Goods</u>	<u>Disclaimer</u>
5-HOUR ENERGY	4,004,225	August 2, 2011	(Class 5) Dietary supplements;  (Class 32) energy shots, namely, energy drinks	ENERGY
5-HOUR ENERGY 	4,104,670	February 28, 2012	(Class 5) Dietary supplements;  (Class 32) Non-alcoholic drinks, namely, energy shots	ENERGY
5-HOUR ENERGY 	4,134,079	May 1, 2012	(Class 5) Dietary supplements;  (Class 32) Non-alcoholic drinks, namely, energy shots	ENERGY
5-HOUR ENERGY 	4,120,361	April 3, 2012	(Class 5) Dietary supplements;  (Class 32) Non-alcoholic drinks, namely, energy shots	ENERGY

5-HOUR ENERGY 	4,120,360	April 3, 2012	(Class 5) Dietary supplements;  (Class 32) Non-alcoholic drinks, namely, energy shots	ENERGY
5-HOUR ENERGY EXTRA STENGTH 	4,116,951	March 27, 2012	(Class 5) Dietary supplements;  (Class 32) Non-alcoholic drinks, namely, energy shots	ENERGY EXTRA STRENGTH
5-HOUR ENERGY 	3,876,785	November 16, 2010	(Class 25) Clothing, namely, headwear, jackets, and shirts; Athletic apparel, namely, shirts, pants, jackets, and hats and caps	
5-HOUR ENERGY	3,902,207	January 4, 2011	(Class 25) Clothing, namely, headwear, jackets, and shirts; Athletic apparel, namely, shirts, pants, jackets, and hats and caps	

True and correct copies of the current TARR status of each registration and copies of the above registration certificates are attached hereto as **Group Exhibit A**.

6. Innovation Ventures has continuously used the 5 HOUR ENERGY Marks in interstate commerce since at least as early as September 2004 in connection with its dietary supplements.

7. Innovation Ventures has substantial product sales under its 5-HOUR ENERGY Marks through over 100,000 retail locations in the United States. Since 2004, sales of the 5-HOUR ENERGY products total nearly 2 billion units.

8. Through Innovation Ventures' continuous use and registration of its 5 HOUR ENERGY Marks, it has developed substantial goodwill in said marks, and the public closely associates the 5 HOUR ENERGY Marks with the goods of Innovation Ventures.

9. Innovation Ventures extensively and prominently advertises its 5 HOUR ENERGY Marks in numerous media, including high-profile publications and national network television.

10. Innovation Ventures engages in a variety of other promotional activities to market its 5-HOUR ENERGY goods. For example, it sponsors NASCAR driver Clint Bowyer; PGA touring professional Jim Furyk; the NASCAR Nationwide series race "5-hour ENERGY 200"; previously the Sprint series; ESPN television coverage of college basketball and football, sport highlights, and the Baseball Tonight show; Big Ten Network coverage of college football and basketball; NASCAR television broadcasts and race highlights; the Detroit Tigers, Detroit Red Wings, Detroit Lions and numerous professional team and league broadcast affiliates.

**Count I**  
**Likelihood of Confusion**

11. Innovation Ventures reasserts and incorporates Paragraphs 1 through 10 as if fully set forth herein.

12. Applicant's Mark incorporates the dominant portion of Innovation Ventures' 5 HOUR ENERGY Marks.

13. Application '196 seeks registration for use with goods highly related to the goods covered by the 5 HOUR ENERGY Marks.

14. The customers for the respective products are likely to be similar and overlapping, as are the channels of trade.

15. Because of the continuous and pervasive use of the 5 HOUR ENERGY Marks for dietary supplements, the marks have become an important and recognized brand and embody the valuable goodwill of Innovation Ventures.

16. The 5 HOUR element dominates the commercial impression of Applicant's Mark.

17. Each of the 5 HOUR ENERGY Marks registered before Applicant filed Application '196.

18. Each of the 5 HOUR ENERGY Marks was in use before Applicant Filed Application '196.

19. Innovation Ventures will be damaged by the registration of Applicant's Mark because it is likely, when used in conjunction with the goods identified in Application '196, to cause confusion, mistake or deception with the 5 HOUR ENERGY Marks in violation of Section 2(d) of the Lanham Act, 15 USC §1052(d).

20. Furthermore, any defect, objection, or fault found with Applicant's goods sold under Applicant's Mark necessarily reflects upon and seriously injures the reputation and goodwill that is associated with Innovation Ventures' 5-HOUR ENERGY Marks.

**Count II**  
**Dilution**

21. Innovation Ventures reasserts and incorporates Paragraphs 1 through 20 as if fully set forth herein.

22. As a further ground for the opposition, Innovation Ventures' 5 HOUR ENERGY Marks are famous within the meaning of Lanham Act Section 43(c), 15 USC §1125(c).

23. Upon information and belief, at the time of filing Application '196, Applicant was aware of Innovation Ventures' 5 HOUR ENERGY Marks.

24. The 5-HOUR ENERGY Marks became famous, distinctive, and widely recognized by the consuming public of the United States as a designation of source of Innovation Ventures' goods prior to Applicant filing Application '196.

25. Registration of Application '196 is likely to cause dilution of the 5 HOUR ENERGY Marks, to the injury of Innovation Ventures, by lessening the capacity of the 5 HOUR ENERGY Marks to identify and distinguish Innovation Ventures' goods, in violation of Section 43(c) of the Lanham Act, 15 USC §1125(c).

26. Registration of Application '196 should be denied based on a likelihood of dilution of the distinctive quality of Innovation Ventures' famous 5 HOUR ENERGY Marks, in violation of Section 43(c) of the Lanham Act, 15 USC §1125(c).

**Count III**  
**Merely Descriptive**

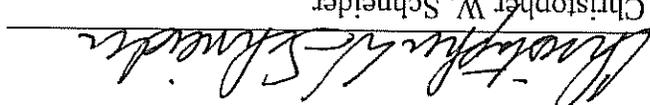
27. Innovation Ventures reasserts and incorporates Paragraphs 1 through 26 as if fully set forth herein.

28. Applicant's Mark, "5 HOURS, NO HUNGER" will be used with goods meant to satisfy hunger for five hours.

29. Applicant's Mark is merely descriptive or deceptively misdescriptive of the goods identified in Application '196, and therefore Applicant's Mark should be refused registration under 2(e)(1) of the Lanham Act, 15 USC §1125(e).

WHEREFORE, for the reasons stated above, Opposer, Innovation Ventures, LLC, respectfully requests that the Trademark Trial and Appeal Board sustain this opposition, refuse registration of U.S. Application No. 85/722,196 for the mark 5 HOURS, NO HUNGER in International Class 30, and for such further relief as this Honorable Board deems appropriate.

Respectfully submitted,  
OAKLAND LAW GROUP, PLLC  
Attorneys for Opposer, Innovation Ventures, LLC



Christopher W. Schneider  
Paul R. Hoffer  
Robert A. Bondra

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Farmington Hills, Michigan 48331  
Tel. (248) 536-0795  
Fax (248) 536-1848

Date: July 3, 2013

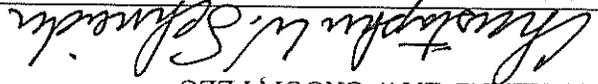
**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Notice of Opposition is being served on July 3, 2013 on the following Counsel of Record via First Class Mail:

Deborah L. Benson  
Hinckley, Allen & Snyder LLP  
28 State ST  
Boston, Massachusetts 02109-1775

Date: July 3, 2013

OAKLAND LAW GROUP, PLLC



Christopher W. Schneider

38955 Hills Tech Drive

Farmington Hills, Michigan 48331

Tel. (248) 536-0795

Fax (248) 536-1848

*Attorneys for Opposer, Innovation Ventures, LLC*

# Group Exhibit A

# United States of America

United States Patent and Trademark Office

5-HOUR ENERGY

INNOVATION VENTURES, LLC (MICHIGAN LIMITED LIABILITY COMPANY)

38955 HILLS TECH DRIVE

FARMINGTON HILLS, MI 48331

FOR: DIETARY SUPPLEMENTS, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 9-0-2004; IN COMMERCE 9-0-2004.

FOR: ENERGY SHOTS, NAMELY, ENERGY DRINKS, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 9-0-2004; IN COMMERCE 9-0-2004.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ENERGY", APART FROM THE MARK AS SHOWN.

SEC. 2(F).

SER. NO. 77-522,602, FILED 7-15-2008.

VERNA BETH RIBLE, EXAMINING ATTORNEY



David S. K. [Signature]

Director of the United States Patent and Trademark Office

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Mark: 5-HOUR ENERGY

# 5-HOUR ENERGY

US Serial Number: 77522602

US Registration Number: 4004225

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Aug. 02, 2011

Publication Date: May 17, 2011

### Mark Information

Mark Literal Elements: 5-HOUR ENERGY

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Disclaimer: "ENERGY"

Acquired Distinctiveness: In whole

Claim:

### Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parentheses ((...)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks "\*" identify additional (new) wording in the goods/services.

For: DIETARY SUPPLEMENTS

International Class(es): 005 - Primary Class

Class Status: ACTIVE

Basis: 1(a)

First Use: Sep. 2004

Use in Commerce: Sep. 2004

U.S. Class(es): 006, 018, 04

For: ENERGY SHOTS, NAMELY, ENERGY DRINKS

International Class(es): 032 - Primary Class

Class Status: ACTIVE

Basis: 1(a)

First Use: Sep. 2004

Use in Commerce: Sep. 2004

### Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes
Filed ITU: No	Currently ITU: No
Filed 44D: No	Currently 44D: No
Filed 44E: No	Currently 44E: No
Filed 66A: No	Currently 66A: No
Filed No Basis: No	Currently No Basis: No

### Current Owner(s) Information

Owner Name: INNOVATION VENTURES, LLC

Owner Address: 38955 Hills Tech Drive

Farmington Hills, MICHIGAN 48331

UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: MICHIGAN

### Attorney/Correspondence Information

#### Attorney of Record

Attorney Name: Robert A Bondra

Attorney Primary Email [rbondra@oaklandlawgroup.com](mailto:rbondra@oaklandlawgroup.com)

Address:

#### Correspondent

Correspondent Name: Robert A Bondra

Name/Address: Oakland Law Group, PLLC

38955 Hills Tech Drive

Farmington Hills, MICHIGAN 48331

UNITED STATES

Phone: 248-536-0806

Fax: 248-536-185

Correspondent e-mail: [rbondra@oaklandlawgroup.com](mailto:rbondra@oaklandlawgroup.com)

Correspondent e-mail No

Authorized:

Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
Feb. 20, 2013	NOTICE OF SUIT	
Aug. 15, 2012	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Aug. 08, 2012	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Aug. 02, 2011	REGISTERED-PRINCIPAL REGISTER	
May 17, 2011	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
May 17, 2011	PUBLISHED FOR OPPOSITION	
Apr. 08, 2011	LAW OFFICE PUBLICATION REVIEW COMPLETED	68658
Apr. 08, 2011	APPROVED FOR PUB - PRINCIPAL REGISTER	
Mar. 28, 2011	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Mar. 27, 2011	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Mar. 27, 2011	TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED	
Nov. 19, 2010	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Nov. 19, 2010	LETTER OF SUSPENSION E-MAILED	6332
Nov. 19, 2010	SUSPENSION LETTER WRITTEN	76725
Oct. 22, 2010	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Oct. 21, 2010	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Oct. 21, 2010	TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED	
Jul. 02, 2010	ATTORNEY REVOKED AND/OR APPOINTED	
Jul. 02, 2010	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Jun. 18, 2010	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	68658
Dec. 16, 2009	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	68658
Sep. 14, 2009	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Sep. 14, 2009	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Jun. 16, 2009	LETTER OF SUSPENSION MAILED	
Jun. 15, 2009	SUSPENSION LETTER WRITTEN	76725
May 14, 2009	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
May 14, 2009	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
May 14, 2009	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
May 06, 2009	AMENDMENT FROM APPLICANT ENTERED	68658
May 06, 2009	CORRESPONDENCE RECEIVED IN LAW OFFICE	68658
May 04, 2009	PAPER RECEIVED	
May 05, 2009	AMENDMENT FROM APPLICANT ENTERED	68658

May 05, 2009 CORRESPONDENCE RECEIVED IN LAW OFFICE 68658

May 05, 2009 ASSIGNED TO LIE 68658

May 04, 2009 PAPER RECEIVED

Nov. 21, 2008 NON-FINAL ACTION MAILED

Nov. 20, 2008 NON-FINAL ACTION WRITTEN

76725

Nov. 05, 2008 LETTER OF PROTEST ACCEPTED

Oct. 30, 2008 NON-FINAL ACTION MAILED

Oct. 29, 2008 NON-FINAL ACTION WRITTEN

76725

Oct. 22, 2008 ASSIGNED TO EXAMINER

76725

Jul. 19, 2008 NOTICE OF PSEUDO MARK MAILED

Jul. 18, 2008 NEW APPLICATION ENTERED IN TRAM

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Aug. 02, 201

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Proceedings - Click to Load

# United States of America

United States Patent and Trademark Office

# 5-hour ENERGY

Reg. No. 4,104,670

Registered Feb. 28, 2012

Int. Cls.: 5 and 32

TRADEMARK

PRINCIPAL REGISTER

INNOVATION VENTURES, LLC (MICHIGAN LIMITED LIABILITY COMPANY)  
38955 HILLS TECH DRIVE  
FARMINGTON HILLS, MI 48331  
FOR: DIETARY SUPPLEMENTS, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).  
FIRST USE 9-0-2004; IN COMMERCE 9-0-2004.  
FOR: NON-ALCOHOLIC DRINKS, NAMELY, ENERGY SHOTS, IN CLASS 32 (U.S. CLS. 43,  
46 AND 48).  
FIRST USE 9-0-2004; IN COMMERCE 9-0-2004.

OWNER OF U.S. REG. NOS. 3,003,077 AND 4,004,225.  
NO CLAIMS MADE TO THE EXCLUSIVE RIGHT TO USE "ENERGY", APART FROM THE  
MARK AS SHOWN.  
THE MARK CONSISTS OF "5" AND "HOUR" SEPARATED BY A DASH AND DISPOSED  
ADJACENT TO "ENERGY" WHEREIN THE AFOREMENTIONED LITERAL ELEMENTS  
ARE DEPICTED IN A FIRST COLOR AND ORIENTED IN A SLANTED MANNER AND  
OUTLINED BY A SECOND COLOR THAT IS DIFFERENT THAN THE FIRST COLOR.

SEC. 2(F).

SER. NO. 85-317,129, FILED 5-10-2011.

CHRISTINA SOBHAL, EXAMINING ATTORNEY



David S. K. [Signature]

Director of the United States Patent and Trademark Office

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Mark: 5-HOUR ENERGY



Application Filing Date: May 10, 2011  
Registration Date: Feb. 28, 2011

US Serial Number: 85317129

US Registration Number: 4104670

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance doc

Status Date: Feb. 28, 2012

Publication Date: Dec. 13, 2011

Mark Information

Mark Literal Elements: 5-HOUR ENERGY

Standard Character Claim: No

Mark Drawing Type: 5 - AN ILLUSTRATION DRAWING WITH WORD(S)/LETTER(S)/NUMBER(S) INSTYLIZED FORM

Description of Mark: The mark consists of "5" and "HOUR" separated by a dash and disposed adjacent to "ENERGY" elements are depicted in a first color and oriented in a slanted manner and outlined by a second color.

Color(s) Claimed: Color is not claimed as a feature of the mark.

Disclaimer: "ENERGY"

Acquired Distinctiveness In whole

Claim:

Related Properties Information

Claimed Ownership of US 3003077, 4004225

Registrations:

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parentheses ((.)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks \*, \* identify additional (new) wording in the goods/services.

For: Dietary supplements

International Class(es): 005 - Primary Class

Class Status: ACTIVE

Basis: 1(a)

First Use: Sep. 2004

Use in Commerce: Sep. 2004

For: Non-alcoholic drinks, namely, energy shots

International Class(es): 032 - Primary Class

Class Status: ACTIVE

Basis: 1(a)

First Use: Sep. 2004

Use in Commerce: Sep. 2004

### Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Filed ITU: No

Currently ITU: No

Filed 44D: No

Currently 44D: No

Filed 44E: No

Currently 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

### Current Owner(s) Information

Owner Name: Innovation Ventures, LLC

Owner Address: 38955 Hills Tech Drive

Farmington Hills, MICHIGAN 48331

UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: MICHIGAN

### Attorney/Correspondence Information

Attorney of Record

Attorney Name: Robert A. Bondra

Docket Number: 0914.2055

Attorney Primary Email [rbondra@boaklandlawgroup.com](mailto:rbondra@boaklandlawgroup.com)

Address:

Correspondent

Correspondent ROBERT A BONDRA

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38955 HILLS TECH DR

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UNITED STATES

Phone: (248) 536-0806

Correspondent e-mail: [rbondra@oaklandlawgroup.com](mailto:rbondra@oaklandlawgroup.com)

Correspondent e-mail No

Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
------	-------------	-------------------

Feb. 20, 2013

NOTICE OF SUIT

Aug. 15, 2012

ASSIGNMENT OF OWNERSHIP NOT UPDATED

AUTOMATICALLY

Feb. 28, 2012

REGISTERED-PRINCIPAL REGISTER

Dec. 13, 2011

OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED

Dec. 13, 2011

PUBLISHED FOR OPPOSITION

Nov. 23, 2011

NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED

Nov. 04, 2011

LAW OFFICE PUBLICATION REVIEW COMPLETED

77976

Oct. 24, 2011

APPROVED FOR PUB - PRINCIPAL REGISTER

Oct. 20, 2011

TEAS/EMAIL CORRESPONDENCE ENTERED

888889

Oct. 20, 2011

CORRESPONDENCE RECEIVED IN LAW OFFICE

888889

Oct. 20, 2011

TEAS RESPONSE TO OFFICE ACTION RECEIVED

Aug. 24, 2011

COMBINED EXAMINER'S AMENDMENT/PRIORITY ACTION

77976

Aug. 24, 2011

ASSIGNED TO LIE

Aug. 24, 2011

NOTIFICATION OF EXAMINER'S AMENDMENT/PRIORITY ACTION

6326

Aug. 24, 2011

E-MAILED

Aug. 24, 2011

EXAMINER'S AMENDMENT/PRIORITY ACTION E-MAILED

6326

Aug. 24, 2011

EXAMINER'S AMENDMENT AND/OR PRIORITY ACTION -

83185

Aug. 24, 2011

COMPLETED

Aug. 24, 2011

ASSIGNED TO EXAMINER

83185

May 17, 2011

NOTICE OF PSEUDO MARK MAILED

May 16, 2011

NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN

TRAM

May 13, 2011

NEW APPLICATION ENTERED IN TRAM

TM Staff and Location Information

TM Staff Information - None

File Location

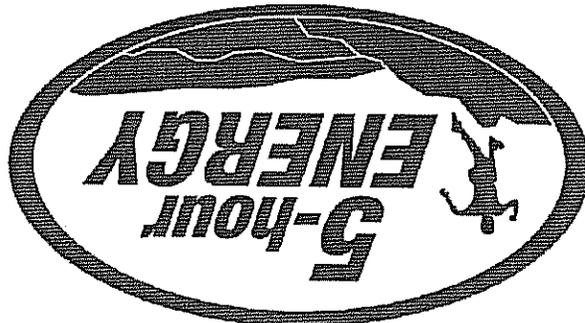
Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Feb. 28, 2011

Assignment Abstract Of Title Information - Click to Load

Proceedings - Click to Load

**United States of America**  
 United States Patent and Trademark Office



INNOVATION VENTURES, LLC (MICHIGAN LIMITED LIABILITY COMPANY)  
 38955 HILLS TECH DRIVE  
 FARMINGTON HILLS, MI 48331

FOR: DIETARY SUPPLEMENTS, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 5-0-2007; IN COMMERCE 5-0-2007.

FOR: NON-ALCOHOLIC DRINKS, NAMELY, ENERGY SHOTS, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 5-0-2007; IN COMMERCE 5-0-2007.

OWNER OF U.S. REG. NOS. 3,003,077, 4,004,225 AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ENERGY", APART FROM THE MARK AS SHOWN.

THE MARK CONSISTS OF A RUGGED LANDSCAPE WITH A SILHOUETTE OF A PERSON IN AN ATHLETIC POSE IN PROXIMATE RELATION TO THE FOREGROUND TERRAIN AND THE LITERAL ELEMENTS OF "5", "HOUR" AND "ENERGY" DISPOSED ADJACENT TO THE SILHOUETTE AND TERRAIN, ALL INSIDE AND OVAL.

SEC. 2(F) AS TO "5-HOUR ENERGY".

SER. NO. 85-255,911, FILED 3-2-2011.

ELISSA GARBER KON, EXAMINING ATTORNEY



*David S. Kappas*

Director of the United States Patent and Trademark Office

TRADEMARK  
 PRINCIPAL REGISTER

Int. Cls.: 5 and 32

Registered May 1, 2012

Reg. No. 4,134,079

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Generated on: This page was generated by TSDR on 2013-07-03 16:06:32 EDT

Mark: ENERGY HOUR 5



US Serial Number: 85255911

US Registration Number: 4134079

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance doc

Status Date: May 01, 2012

Publication Date: Feb. 14, 2012

Mark Information

Mark Literal Elements: ENERGY HOUR 5

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/LETTER(S)/NUMBER(S)

Description of Mark: The mark consists of a rugged landscape with a silhouette of a person in an athletic pose in pro terrain and the literal elements of "5", "hour" and "ENERGY" disposed adjacent to the silhouette

Color(s) Claimed: Color is not claimed as a feature of the mark.

Disclaimer: "ENERGY"

Acquired Distinctiveness: In part

Claim:

Distinctiveness Limitation: As to "5-HOUR ENERGY"

Statement:

Design Search Code(s): 02.01.02 - Silhouettes of men; Men depicted as shadows or silhouettes of men

02.01.08 - Mountainneers; Coonskin hats, men wearing; Frontiersmen; Men, frontiersmen, pioneer

other men wearing buckskins and/or coonskin caps; Pioneers; Trappers; Buckskin clothing, me

02.09.05 - Humans, including men, women and children, depicted running; Running, humans

06.01.04 - Mountains (landscapes); Scenery with mountains

26.03.01 - Ovals as carriers and single line borders

26.03.02 - Ovals, plain single line; Plain single line ovals

Related Properties Information

Claimed Ownership of US 3003077, 3698044, 3940929, 4004225 and others Registrations:

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parentheses (()) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks "\*" identify additional (new) wording in the goods/services.

For: Dietary supplements

International Class(es): 005 - Primary Class

Class Status: ACTIVE

Basis: 1(a)

First Use: May 2007

Use in Commerce: May 2007

For: Non-alcoholic drinks, namely, energy shots

International Class(es): 032 - Primary Class

Class Status: ACTIVE

Basis: 1(a)

First Use: May 2007

Use in Commerce: May 2007

Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes
Filed ITU: No	Currently ITU: No
Filed 44D: No	Currently 44D: No
Filed 44E: No	Currently 44E: No
Filed 66A: No	Currently 66A: No
Filed No Basis: No	Currently No Basis: No

Current Owner(s) Information

Owner Name: Innovation Ventures, LLC

Owner Address: 38955 Hills Tech Drive

Farmington Hills, MICHIGAN 48331

UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: MICHIGAN

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Robert A Bondra

Attorney Primary Email [rbondra@oaklandlawgroup.com](mailto:rbondra@oaklandlawgroup.com)

Address:

Attorney Email Authorized: No

Correspondent

Correspondent ROBERT A BONDRA

Name/Address: OAKLAND LAW GROUP, PLLC

38955 HILLS TECH DR

FARMINGTON HILLS, MICHIGAN 48331-3431

UNITED STATES

Phone: 248-536-0806

Fax: 248-536-185

Correspondent e-mail: [rbondra@oaklandlawgroup.com](mailto:rbondra@oaklandlawgroup.com)

Correspondent e-mail No

Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
------	-------------	-------------------

Aug. 15, 2012

ASSIGNMENT OF OWNERSHIP NOT UPDATED  
AUTOMATICALLY

May 01, 2012

REGISTERED-PRINCIPAL REGISTER

Feb. 14, 2012

OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED

Feb. 14, 2012

PUBLISHED FOR OPPOSITION

Jan. 25, 2012

NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED

Jan. 10, 2012

LAW OFFICE PUBLICATION REVIEW COMPLETED

68552

Jan. 06, 2012

APPROVED FOR PUB - PRINCIPAL REGISTER

Jan. 06, 2012

EXAMINER'S AMENDMENT ENTERED

68552

Jan. 05, 2012

NOTIFICATION OF EXAMINER'S AMENDMENT E-MAILED

6328

Jan. 05, 2012

EXAMINER'S AMENDMENT E-MAILED

6328

Jan. 05, 2012

EXAMINER'S AMENDMENT -WRITTEN

73706

Dec. 22, 2011

TEAS/EMAIL CORRESPONDENCE ENTERED

68552

Dec. 22, 2011

CORRESPONDENCE RECEIVED IN LAW OFFICE

68552

Dec. 19, 2011

ASSIGNED TO LIE

68552

Dec. 16, 2011

TEAS REQUEST FOR RECONSIDERATION RECEIVED

Dec. 15, 2011

NOTIFICATION OF FINAL REFUSAL EMAILED

Dec. 15, 2011

FINAL REFUSAL E-MAILED

Dec. 15, 2011

FINAL REFUSAL WRITTEN

73706

Date	Description	Number
Dec. 01, 2011	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Nov. 30, 2011	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Nov. 30, 2011	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Jun. 01, 2011	NOTIFICATION OF EXAMINER'S AMENDMENT/PRIORITY ACTION E-MAILED	6326
Jun. 01, 2011	EXAMINER'S AMENDMENT/PRIORITY ACTION E-MAILED	6326
Jun. 01, 2011	EXAMINERS AMENDMENT AND/OR PRIORITY ACTION - COMPLETED	73706
May 16, 2011	ASSIGNED TO EXAMINER	73706
Mar. 08, 2011	NOTICE OF DESIGN SEARCH CODE AND PSEUDO MARK MAILED	
Mar. 07, 2011	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Mar. 05, 2011	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

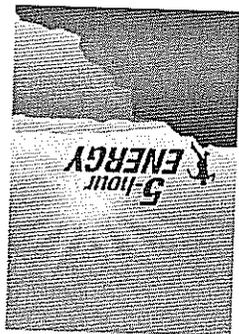
Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: May 01, 2012

Assignment Abstract Of Title Information - Click to Load

Proceedings - Click to Load

**United States of America**  
 United States Patent and Trademark Office



INNOVATION VENTURES, LLC (MICHIGAN LIMITED LIABILITY COMPANY)  
 38955 HILLS TECH DRIVE  
 FARMINGTON HILLS, MI 48331

FOR: DIETARY SUPPLEMENTS, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).  
 FIRST USE 1-27-2008; IN COMMERCE 1-27-2008.

FOR: NON-ALCOHOLIC DRINKS, NAMELY, ENERGY SHOTS, IN CLASS 32 (U.S. CLS. 45,  
 46 AND 48).  
 FIRST USE 1-27-2008; IN COMMERCE 1-27-2008.

OWNER OF U.S. REG. NOS. 3,003,077, 3,698,044, AND 4,004,223.  
 FIRST USE 1-27-2008; IN COMMERCE 1-27-2008.

THE COLOR(S) BLUE, GREEN, WHITE, YELLOW AND BLACK, IS/ARE CLAIMED AS A  
 FEATURE OF THE MARK.  
 NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ENERGY", APART FROM THE  
 MARK AS SHOWN.

THE MARK CONSISTS OF "5-HOUR ENERGY" DEPICTED IN BLACK OUTLINED IN  
 YELLOW, A PERSON IN BLACK SILHOUETTE IS DEPICTED IN AN ATHLETIC POSE IN  
 THE FOREGROUND OF A GREEN AND BLACK MOUNTAINOUS LANDSCAPE; A YELLOW  
 SUN IS LOCATED IN A SKY THAT TRANSITIONS FROM BLUE TO WHITE AS THE SKY  
 MEETS THE LANDSCAPE.

SEC. 2(F) AS TO "5-HOUR ENERGY".

SER. NO. 85-132,391, FILED 9-17-2010.

EMILY CARLSEN, EXAMINING ATTORNEY

Director of the United States Patent and Trademark Office

*David S. K. [Signature]*



PRINCIPAL REGISTER

TRADEMARK

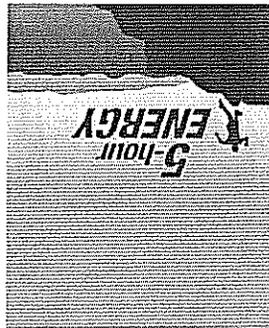
Int. Cls.: 5 and 32

Registered Apr. 3, 2012

Reg. No. 4,120,361

# United States of America

United States Patent and Trademark Office



INNOVATION VENTURES, LLC (MICHIGAN LIMITED LIABILITY COMPANY)  
 38955 HILLS TECH DRIVE  
 FARMINGTON HILLS, MI 48331

FOR: DIETARY SUPPLEMENTS, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52),

FIRST USE 6-0-2005; IN COMMERCE 6-0-2005.

FOR: NON-ALCOHOLIC DRINKS, NAMELY, ENERGY SHOTS, IN CLASS 32 (U.S. CLS. 45,  
 46 AND 48).

FIRST USE 6-0-2005; IN COMMERCE 6-0-2005.

OWNER OF U.S. REG. NOS. 3,003,077, 3,698,044, AND 4,004,225.

THE COLOR(S) RED, ORANGE, YELLOW, BLUE AND BLACK IS/ARE CLAIMED AS A  
 FEATURE OF THE MARK.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ENERGY", APART FROM THE  
 MARK AS SHOWN.

THE MARK CONSISTS OF THE WORDING "5-HOUR ENERGY" DEPICTED IN BLACK  
 OUTLINED IN YELLOW SET AGAINST THE DESIGN OF A SKY OVER A MOUNTAINOUS  
 LANDSCAPE AND A PERSON IN BLACK SILHOUETTE IN AN ATHLETIC POSE ADJACENT  
 TO THE FOREGROUND MOUNTAIN WHEREIN THE BACKGROUND MOUNTAINS ARE  
 DEPICTED IN COLORS THAT TRANSITION FROM RED TO ORANGE TO YELLOW AS  
 THE SKY MEETS THE MOUNTAINS.

SEC. 2(F) AS TO "5-HOUR ENERGY".

SER. NO. 85-132,321, FILED 9-17-2010.

EMILY CARLSEN, EXAMINING ATTORNEY

*David S. K...*



Director of the United States Patent and Trademark Office

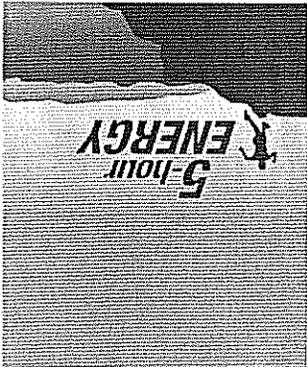
Reg. No. 4,120,360  
 Registered Apr. 3, 2012  
 Int. Cls.: 5 and 32  
 TRADEMARK  
 PRINCIPAL REGISTER

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Mark: ENERGY HOUR 5



US Serial Number: 85132321

Application Filing Date: Sep. 17, 2011

US Registration Number: 4120360

Registration Date: Apr. 03, 2012

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance doc

Status Date: Apr. 03, 2012

Publication Date: Jan. 17, 2012

### Mark Information

Mark Literal Elements: ENERGY HOUR 5

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/LETTER(S)/NUMBER(S)

Description of Mark: The mark consists of the wording "5-HOUR ENERGY" depicted in black outlined in yellow set ag  
mountainous landscape and a person in black silhouette in an athletic pose adjacent to the fore  
background mountains are blue, the foreground mountain is in black silhouette and the sky is di  
red to orange to yellow as the sky meets the mountains.

Color Drawing: Yes

Color(s) Claimed: The color(s) red, orange, yellow, blue and black is/are claimed as a feature of the mark.

Disclaimer: "ENERGY"

Acquired Distinctiveness In part

Claim:

Distinctiveness Limitation As to "5-HOUR ENERGY"

Statement:

Owner Name: Innovation Ventures, LLC

### Current Owner(s) Information

Filed Use: Yes	Currently Use: Yes
Filed ITU: No	Currently ITU: No
Filed 44D: No	Currently 44D: No
Filed 44E: No	Currently 44E: No
Filed 66A: No	Currently 66A: No
Filed No Basis: No	Currently No Basis: No

### Basis Information (Case Level)

International Class(es): 032 - Primary Class	U.S. Class(es): 045, 046, 047
Class Status: ACTIVE	
Basis: 1(a)	
First Use: Jun. 2005	Use in Commerce: Jun. 2005
For: Non-alcoholic drinks, namely, energy shots	
International Class(es): 005 - Primary Class	U.S. Class(es): 006, 018, 047
Class Status: ACTIVE	
Basis: 1(a)	
First Use: Jun. 2005	Use in Commerce: Jun. 2005
For: Dietary Supplements	

- Brackets [...] indicate deleted goods/services;
- Double parentheses ((...)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks "\*" identify additional (new) wording in the goods/services.

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

### Goods and Services

Claimed Ownership of US 3003077, 3698044, 4004225  
Registrations:

### Related Properties Information

Design Search Code(s): 02.01.02 - Men depicted as shadows or silhouettes of men; Silhouettes of men

02.09.05 - Humans, including men, women and children, depicted running; Running, humans

06.01.01 - Quarries; Rocks; Walls of rock; Cliffs

06.01.04 - Mountains (landscapes); Scenery with mountains

26.11.21 - Rectangles that are completely or partially shaded

Owner Address: 3895b Hills Tech Drive  
 Farmington Hills, MICHIGAN 48331  
 UNITED STATES  
 Legal Entity Type: LIMITED LIABILITY COMPANY  
 State or Country Where Organized: MICHIGAN

**Attorney/Correspondence Information**

**Attorney of Record**  
 Attorney Name: Robert A Bondra  
 Attorney Primary Email: [rbondra@oaklandlawgroup.com](mailto:rbondra@oaklandlawgroup.com)  
 Address: Attorney Email Authorized: No  
 Docket Number: 0914.2042

**Correspondent**  
 Correspondent Name: ROBERT A BONDRA  
 Name/Address: OAKLAND LAW GROUP, PLLC  
 38955 HILLS TECH DR  
 FARMINGTON HILLS, MICHIGAN 48331-3431  
 UNITED STATES  
 Phone: (248) 536-0806  
 Fax: (248) 536-18

Correspondent e-mail: [rbondra@oaklandlawgroup.com](mailto:rbondra@oaklandlawgroup.com)  
 Correspondent e-mail No Authorized:

**Domestic Representative - Not Found**

**Prosecution History**

Date	Description	Proceeding Number
Aug. 15, 2012	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Apr. 03, 2012	REGISTERED-PRINCIPAL REGISTER	
Jan. 17, 2012	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Jan. 17, 2012	PUBLISHED FOR OPPOSITION	
Dec. 28, 2011	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Dec. 13, 2011	LAW OFFICE PUBLICATION REVIEW COMPLETED	68552
Dec. 12, 2011	APPROVED FOR PUB - PRINCIPAL REGISTER	
Dec. 01, 2011	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Dec. 01, 2011	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Dec. 01, 2011	TEAS REQUEST FOR RECONSIDERATION RECEIVED	
Nov. 14, 2011	NOTIFICATION OF FINAL REFUSAL EMAILED	
Nov. 14, 2011	FINAL REFUSAL E-MAILED	
Nov. 14, 2011	FINAL REFUSAL WRITTEN	83176
Sep. 12, 2011	REPORT COMPLETED SUSPENSION CHECK CASE STILL	68552



# United States of America

United States Patent and Trademark Office



Reg. No. 4,116,951

Registered Mar. 27, 2012

Int. Cls.: 5 and 32

TRADEMARK

PRINCIPAL REGISTER

INNOVATION VENTURES, LLC (MICHIGAN LIMITED LIABILITY COMPANY)

38955 HILLS TECH DRIVE

FARMINGTON HILLS, MI 48331

FOR: DIETARY SUPPLEMENTS, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 3-23-2008; IN COMMERCE 3-23-2008.

FOR: NON-ALCOHOLIC DRINKS, NAMELY, ENERGY SHOTS, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 3-23-2008; IN COMMERCE 3-23-2008.

OWNER OF U.S. REG. NOS. 3,003,077, 3,698,044, AND 4,004,225.

THE COLOR(S) BLACK, RED AND YELLOW IS/ARE CLAIMED AS A FEATURE OF THE MARK.

NO CLAIMS MADE TO THE EXCLUSIVE RIGHT TO USE "ENERGY EXTRA STRENGTH", APART FROM THE MARK AS SHOWN.

THE MARK CONSISTS OF THE WORDING "5-HOUR ENERGY" IN BLACK OUTLINED IN YELLOW AND "EXTRA STRENGTH" IN YELLOW BELOW IT. A PERSON IN BLACK SILHOUETTE OUTLINED IN YELLOW IS SHOWN IN AN ATHLETIC POSE ADJACENT TO A BLACK, UNEVEN LANDSCAPE AND THE SKY IS DEPICTED IN TRANSITIONING COLORS FROM BLACK TO RED IN AN ARCUATE MANNER AS THE SKY MEETS THE LANDSCAPE.

SEC. 2(F) AS TO "5-HOUR ENERGY".

SER. NO. 85-132,099, FILED 9-17-2010.

EMILY CARLSEN, EXAMINING ATTORNEY

Director of the United States Patent and Trademark Office

*David S. K...*



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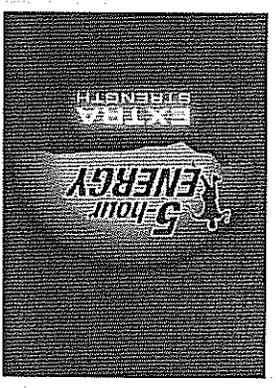
DOCUMENTS

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Generated on: This page was generated by TSDR on 2013-07-03 16:13:16 EDT

Mark: 5-HOUR ENERGY EXTRA STRENGTH



US Serial Number: 85132099

US Registration Number: 4116951

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance doc

Status Date: Mar. 27, 2012

Publication Date: Jan. 10, 2012

### Mark Information

Mark Literal Elements: 5-HOUR ENERGY EXTRA STRENGTH

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/LETTER(S)/NUMBER(S)

Description of Mark: The mark consists of the wording "5-HOUR ENERGY" in black outlined in yellow and "EXTRA ST" person in black silhouette outlined in yellow is shown in an athletic pose adjacent to a black, un depicted in transitioning colors from black to red in an arcuate matter as the sky meets the lande Color Drawing: Yes

Color(s) Claimed: The color(s) black, red and yellow is/are claimed as a feature of the mark.

Disclaimer: "ENERGY EXTRA STRENGTH"

Acquired Distinctiveness: In part

Claim:

Distinctiveness Limitation as to "5-HOUR ENERGY"

Statement:

Design Search Code(s): 02.01.02 - Silhouettes of men; Men depicted as shadows or silhouettes of men

Owner Name: Innovation Ventures, LLC  
Owner Address: 38955 Hills Tech Drive

### Current Owner(s) Information

Filed Use: Yes	Currently Use: Yes
Filed ITU: No	Currently ITU: No
Filed 44D: No	Currently 44D: No
Filed 44E: No	Currently 44E: No
Filed 66A: No	Currently 66A: No
Filed No Basis: No	Currently No Basis: No

### Basis Information (Case Level)

International Class(es): 032 - Primary Class	U.S. Class(es): 045, 046, 041
Class Status: ACTIVE	
Basis: 1(a)	
First Use: Mar. 23, 2008	Use in Commerce: Mar. 23, 2008
For: Non-alcoholic drinks, namely, energy shots	

International Class(es): 005 - Primary Class	U.S. Class(es): 006, 018, 041
Class Status: ACTIVE	
Basis: 1(a)	
First Use: Mar. 23, 2008	Use in Commerce: Mar. 23, 2008
For: Dietary supplements	

- Brackets [.] indicate deleted goods/services;
- Double parentheses ((.)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks \*.\* identify additional (new) wording in the goods/services.

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

### Goods and Services

Claimed Ownership of US 3003077, 3698044, 4004225  
Registrations:

### Related Properties Information

- 02.01.19 - Golfer; Strongmen; Men, athletes, strongmen; Athletes (men)
- 02.09.05 - Running, humans; Humans, including men, women and children, depicted running
- 06.01.04 - Mountains (landscapes); Scenery with mountains
- 26.01.21 - Circles that are totally or partially shaded.

Farmington Hills, MICHIGAN 48331  
UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: MICHIGAN

### Attorney/Correspondence Information

#### Attorney of Record

Attorney Name: Robert Bondra

Docket Number: 0914.2039

Attorney Primary Email [rbondra@oaklandlawgroup.com](mailto:rbondra@oaklandlawgroup.com)

Attorney Email Authorized: No

Address:

#### Correspondent

Correspondent ROBERT BONDRA

Name/Address: OAKLAND LAW GROUP, PLLC

38955 HILLS TECH DR

FARMINGTON HILLS, MICHIGAN 48331-3431

UNITED STATES

Phone: 248-536-0806

Fax: 248-536-185

Correspondent e-mail: [rbondra@oaklandlawgroup.com](mailto:rbondra@oaklandlawgroup.com)

Correspondent e-mail No

Authorized:

Domestic Representative - Not Found

### Prosecution History

Date	Description	Proceeding Number
------	-------------	-------------------

Feb. 20, 2013

NOTICE OF SUIT

Aug. 15, 2012

ASSIGNMENT OF OWNERSHIP NOT UPDATED  
AUTOMATICALLY

Mar. 27, 2012

REGISTERED-PRINCIPAL REGISTER

Jan. 10, 2012

OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED

Jan. 10, 2012

PUBLISHED FOR OPPOSITION

Dec. 21, 2011

NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED

Dec. 03, 2011

LAW OFFICE PUBLICATION REVIEW COMPLETED

77312

Dec. 02, 2011

APPROVED FOR PUB - PRINCIPAL REGISTER

Dec. 02, 2011

EXAMINER'S AMENDMENT ENTERED

88888

Dec. 02, 2011

NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED

6328

Dec. 02, 2011

EXAMINERS AMENDMENT E-MAILED

6328

Dec. 02, 2011

EXAMINERS AMENDMENT - WRITTEN

83176

Nov. 28, 2011

PREVIOUS ALLOWANCE COUNT WITHDRAWN

Nov. 25, 2011

WITHDRAWN FROM PUB - OG REVIEW QUERY

76621

Nov. 15, 2011

LAW OFFICE PUBLICATION REVIEW COMPLETED

77010

Proceedings - Click to Load

Assignment Abstract Of Title Information - Click to Load

Date in Location: Mar. 27, 2011

Current Location: PUBLICATION AND ISSUE SECTION

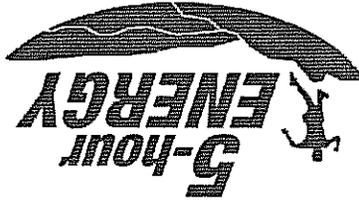
File Location

TM Staff Information - None

TM Staff and Location Information

83176	ASSIGNED TO EXAMINER	Oct. 28, 2010
6326	EXAMINER'S AMENDMENT/PRIORITY ACTION E-MAILED	Oct. 29, 2010
83176	EXAMINERS AMENDMENT AND/OR PRIORITY ACTION - COMPLETED	Oct. 29, 2010
6326	NOTIFICATION OF EXAMINER'S AMENDMENT/PRIORITY ACTION E-MAILED	Oct. 29, 2010
88889	TEAS RESPONSE TO OFFICE ACTION RECEIVED	Feb. 22, 2011
88889	CORRESPONDENCE RECEIVED IN LAW OFFICE	Feb. 22, 2011
83176	TEAS/EMAIL CORRESPONDENCE ENTERED	Feb. 22, 2011
6332	SUSPENSION LETTER WRITTEN	Mar. 11, 2011
6332	LETTER OF SUSPENSION E-MAILED	Mar. 11, 2011
83176	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	Mar. 11, 2011
6325	NON-FINAL ACTION WRITTEN	May 13, 2011
6325	NON-FINAL ACTION E-MAILED	May 13, 2011
6325	NOTIFICATION OF NON-FINAL ACTION E-MAILED	May 13, 2011
88889	TEAS RESPONSE TO OFFICE ACTION RECEIVED	Oct. 19, 2011
88889	CORRESPONDENCE RECEIVED IN LAW OFFICE	Oct. 19, 2011
88889	TEAS/EMAIL CORRESPONDENCE ENTERED	Oct. 19, 2011
77312	PAPER RECEIVED	Oct. 26, 2011
77312	ASSIGNED TO LIE	Nov. 04, 2011
88889	TEAS VOLUNTARY AMENDMENT RECEIVED	Nov. 09, 2011
88889	APPLICANT AMENDMENT PRIOR TO EXAMINATION - ENTERED	Nov. 09, 2011
77312	APPROVED FOR PUB - PRINCIPAL REGISTER	Nov. 14, 2011

**United States of America**  
United States Patent and Trademark Office



Reg. No. 3,876,785  
Registered Nov. 16, 2010  
INNOVATION VENTURES, LLC (MICHIGAN LIMITED LIABILITY COMPANY)  
38955 HILLS TECH DRIVE  
FARMINGTON HILLS, MI 48331

Int. Cl.: 25  
FOR: CLOTHING, NAMELY, HEADWEAR, JACKETS, AND SHIRTS; ATHLETIC APPAREL,  
NAMELY, SHIRTS, PANTS, JACKETS, AND HATS AND CAPS, IN CLASS 25 (U.S. CLS. 22  
AND 39).

FIRST USE 10-2-2009; IN COMMERCE 10-2-2009.

THE MARK CONSISTS OF A PICTURE OF A MOUNTAINOUS LANDSCAPE WITH A SIL-  
HOUETTE OF A PERSON RUNNING ON THE FOREGROUND MOUNTAIN AND THE LIT-  
ERAL ELEMENT OF "5-HOUR ENERGY" DISPOSED ADJACENT THERETO.

SER. NO. 85-007,326, FILED 4-6-2010.

MAYUR VAGHANI, EXAMINING ATTORNEY



*David S. K...*

Director of the United States Patent and Trademark Office

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Mark: 5-HOUR ENERGY



US Serial Number: 85007326

Application Filing Date: Apr. 06, 2010

US Registration Number: 3876785

Registration Date: Nov. 16, 2011

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance doc

Status Date: Nov. 16, 2010

Publication Date: Aug. 31, 2010

### Mark Information

Mark Literal Elements: 5-HOUR ENERGY

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/LETTER(S)/NUMBER(S)

Description of Mark: The mark consists of a picture of a mountainous landscape with a silhouette of a person running. The literal element of "5-hour ENERGY" disposed adjacent thereto.

Color(s) Claimed: Color is not claimed as a feature of the mark.

Design Search Code(s): 02.01.02 - Men depicted as shadows or silhouettes of men; Silhouettes of men

02.09.05 - Running, humans; Humans, including men, women and children, depicted running

06.01.04 - Scenery with mountains; Mountains (landscapes)

### Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks \* identify additional (new) wording in the goods/services.

For: Clothing, namely, headwear, jackets, and shirts; Athletic apparel, namely, shirts, pants, jackets,

U.S. Class(es): 022, 039

International Class(es): 025 - Primary Class

Class Status: ACTIVE

Basis: 1(a)

First Use: Oct. 02, 2009

Use in Commerce: Oct. 02, 2009

### Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes
Filed ITU: No	Currently ITU: No
Filed 44D: No	Currently 44D: No
Filed 44E: No	Currently 44E: No
Filed 66A: No	Currently 66A: No
Filed No Basis: No	Currently No Basis: No

### Current Owner(s) Information

Owner Name: Innovation Ventures, LLC

Owner Address: 38955 Hills Tech Drive

Farmington Hills, MICHIGAN 48331

UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: MICHIGAN

### Attorney/Correspondence Information

#### Attorney of Record

Attorney Name: Robert Bondra

Attorney Primary Email [rbondra@oaklandlawgroup.com](mailto:rbondra@oaklandlawgroup.com)

Address:

#### Correspondent

Correspondent ROBERT BONDRA

Name/Address: OAKLAND LAW GROUP PLLC

38955 HILLS TECH DR

FARMINGTON HILLS, MICHIGAN 48331-3434

UNITED STATES

Phone: 248-536-0806

Fax: 248-536-185

Correspondent e-mail: [rbondra@oaklandlawgroup.com](mailto:rbondra@oaklandlawgroup.com)

Correspondent e-mail No

Authorized:

Domestic Representative - Not Found

### Prosecution History

Date	Description	Proceeding Number
Aug. 15, 2012	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Aug. 08, 2012	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Nov. 16, 2010	REGISTERED-PRINCIPAL REGISTER	
Aug. 31, 2010	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Aug. 31, 2010	PUBLISHED FOR OPPOSITION	
Jul. 28, 2010	LAW OFFICE PUBLICATION REVIEW COMPLETED	73787
Jul. 28, 2010	ASSIGNED TO LIE	73787
Jul. 12, 2010	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jul. 12, 2010	EXAMINER'S AMENDMENT ENTERED	88888
Jul. 12, 2010	NOTIFICATION OF EXAMINER'S AMENDMENT E-MAILED	6328
Jul. 12, 2010	EXAMINER'S AMENDMENT E-MAILED	6328
Jul. 12, 2010	EXAMINER'S AMENDMENT -WRITTEN	85327
Jul. 09, 2010	ASSIGNED TO EXAMINER	85327
Apr. 13, 2010	NOTICE OF DESIGN SEARCH CODE AND PSEUDO MARK MAILED	
Apr. 12, 2010	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Apr. 09, 2010	NEW APPLICATION ENTERED IN TRAM	

## TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Nov. 16, 2011

Assignment Abstract Of Title Information - Click to Load

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**United States of America**  
United States Patent and Trademark Office

**5-HOUR ENERGY**

INNOVATION VENTURES, LLC (MICHIGAN LIMITED LIABILITY COMPANY)  
38955 HILLS TECH DRIVE  
FARMINGTON HILLS, MI 48331

FOR: CLOTHING, NAMELY, HEADWEAR, JACKETS, AND SHIRTS; ATHLETIC APPAREL,  
NAMELY, SHIRTS, PANTS, JACKETS, AND HATS AND CAPS, IN CLASS 25 (U.S. CLS. 22  
AND 39).

FIRST USE 10-0-2009; IN COMMERCE 10-0-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PAR-  
TICULAR FONT, STYLE, SIZE, OR COLOR.

SN 85-007,006, FILED 4-6-2010.

MAYUR VAGHANI, EXAMINING ATTORNEY



*David S. K. [Signature]*

Director of the United States Patent and Trademark Office

Reg. No. 3,902,207  
Registered Jan. 4, 2011  
Int. Cl.: 25  
TRADEMARK  
PRINCIPAL REGISTER

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Mark: 5-HOUR ENERGY

5-HOUR ENERGY

US Serial Number: 85007006

Application Filing Date: Apr. 06, 2010

US Registration Number: 3902207

Registration Date: Jan. 04, 2011

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance doc

Status Date: Jan. 04, 2011

Publication Date: Aug. 31, 2010

Notice of Allowance Date: Oct. 26, 2010

### Mark Information

Mark Literal Elements: 5-HOUR ENERGY

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

### Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

• Brackets [...] indicate deleted goods/services;

• Double parentheses ((.)) identify any goods/services not claimed in a Section 15 affidavit of

• Asterisks \* identify additional (new) wording in the goods/services.

For: Clothing, namely, headwear, jackets, and shirts; Athletic apparel, namely, shirts, pants, jackets,

International Class(es): 025 - Primary Class

U.S. Class(es): 022, 039

Class Status: ACTIVE

Basis: 1(a)

First Use: Oct. 2009

Use in Commerce: Oct. 2009

### Basis Information (Case Level)

Filed Use: No

Currently Use: Yes

Filed ITU: Yes

Currently ITU: No

Filed 44D: No

Currently 44D: No

Filed 44E: No

Currently 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

### Current Owner(s) Information

Owner Name: Innovation Ventures, LLC

Owner Address: 38955 Hills Tech Drive

Farmington Hills, MICHIGAN 48331

UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: MICHIGAN

### Attorney/Correspondence Information

#### Attorney of Record

Attorney Name: Robert Bondra

Docket Number: 00914.20007

Attorney Primary Email [rbondra@oaklandlawgroup.com](mailto:rbondra@oaklandlawgroup.com)

Attorney Email Authorized: No

Address:

#### Correspondent

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Correspondent e-mail: [rbondra@oaklandlawgroup.com](mailto:rbondra@oaklandlawgroup.com)

Correspondent e-mail No

Authorized:

#### Domestic Representative - Not Found

### Prosecution History

Date	Description	Proceeding Number
Aug. 15, 2012	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Aug. 08, 2012	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Jan. 04, 2011	REGISTERED-PRINCIPAL REGISTER	
Nov. 30, 2010	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-	

Proceedings - Click to Load

Assignment Abstract Of Title Information - Click to Load

Date in Location: Nov. 29, 2011

Current Location: PUBLICATION AND ISSUE SECTION

File Location

TM Staff Information - None

TM Staff and Location Information

Date	Description	Case Number
Nov. 29, 2010	LAW OFFICE REGISTRATION REVIEW COMPLETED	68171
Nov. 22, 2010	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Nov. 09, 2010	STATEMENT OF USE PROCESSING COMPLETE	66530
Oct. 26, 2010	USE AMENDMENT FILED	66530
Nov. 09, 2010	CASE ASSIGNED TO INTENT TO USE PARALEGAL	66530
Oct. 26, 2010	TEAS STATEMENT OF USE RECEIVED	
Oct. 26, 2010	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
Aug. 31, 2010	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Aug. 31, 2010	PUBLISHED FOR OPPOSITION	
Jul. 28, 2010	LAW OFFICE PUBLICATION REVIEW COMPLETED	68171
Jul. 28, 2010	ASSIGNED TO LIE	68171
Jul. 12, 2010	APPROVED FOR PUB - PRINCIPAL REGISTER	
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Jul. 09, 2010	ASSIGNED TO EXAMINER	85327
Apr. 09, 2010	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Apr. 09, 2010	NEW APPLICATION ENTERED IN TRAM	

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