

ESTTA Tracking number: **ESTTA224301**

Filing date: **07/15/2008**

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

## Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

### Petitioner Information

Name	Cintron Beverage Group, LLC		
Entity	Limited liability company	Citizenship	Delaware
Address	7400 Brewster Avenue Philadelphia, PA 19153 UNITED STATES		

Attorney information	Jeffrey Zucker Fisher Zucker LLC 21 South 21st Street Philadelphia, PA 19103 UNITED STATES jzucker@fisherzucker.com,pcianci@fisherzucker.com Phone:2158253100
----------------------	--

### Registration Subject to Cancellation

Registration No	2239968	Registration date	04/13/1999
Registrant	COUNTRY LIFE, LLC 180 VANDERBILT MOTOR PARKWAY HAUPPAUGE, NY 11788 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 030. First Use: 1997/07/16 First Use In Commerce: 1997/07/16 All goods and services in the class are cancelled, namely: teas
---

### Grounds for Cancellation

Attachments	Petition for Cancellation_7-15-08_FINAL.pdf ( 10 pages )(1004201 bytes )
-------------	--

## 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	/Jeffrey Zucker/
Name	Jeffrey Zucker
Date	07/15/2008

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

In the Matter of Registration No. 2,239,968  
For the Mark ENERGY ENHANCER  
Issued on April 13, 1999

<hr/>		:	
CINTRON BEVERAGE GROUP, LLC		:	
		:	
Petitioner		:	
		:	Cancellation No.:
v.		:	
		:	
COUNTRY LIFE, LLC		:	
		:	
Respondent		:	
<hr/>		:	

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

PETITION FOR CANCELLATION

Petitioner Cintron Beverage Group, LLC, a limited liability company organized and existing under the laws of the State of Delaware, believes that it is or will be damaged by the continued registration of the mark ENERGY ENHANCER, the subject of Registration No. 2,239,968, and hereby petitions to cancel the same.

To the best of Petitioner's knowledge, the name and address of the current owner of Registration No. 2,239,968, as recorded with the United States Patent and Trademark Office is: Country Life, LLC, 180 Vanderbilt Motor Parkway, Hauppauge, New York, 11788.

As grounds for this Petition, it is alleged that:

1. On July 13, 2006, Petitioner filed an application for registration of the mark CINTRON ENERGY ENHANCER in connection with its sale of energy drinks and sports drinks in International Class 032, which application was assigned U.S. Serial No. 78/928691 (the “Application”) as evidenced by the printout from the U.S. Trademark and Patent Office Trademark Electronic Search System attached hereto as Exhibit A.

2. Petitioner’s Application has been refused registration under Section 2(d) of the Lanham Act because the Examining Attorney believes that Petitioner’s mark, when used on or in connection with the identified services, so resembles the mark ENERGY ENHANCER that is the subject of Registration No. 2,239,968 in connection with “teas” in International Class 032, as to be likely to cause confusion, to cause mistake, or to deceive.

The Mark ENERGY ENHANCER should  
be cancelled because it is merely descriptive.

3. A trademark registration application cannot be refused registration unless it, among other possibilities, “consists of a mark which . . . when used on or in connection with the goods of the applicant is merely descriptive or deceptively misdescriptive of them”. 15 U.S.C. § 1052(e)(1).

4. Registrant’s mark ENERGY ENHANCER merely describes a quality or characteristic of Registrant’s teas, namely that the teas, when consumed, are intended to enhance a person’s energy level.

5. The words “Energy Enhancer” comprise Registrant’s entire mark ENERGY ENHANCER. That mark should be cancelled, because it merely describes a quality or characteristic of Registrant’s goods, namely that Registrant’s teas, when consumed, are intended to enhance a person’s energy level. 15 U.S.C. § 1052(e)(1).

WHEREFORE, Petitioner requests that Registration No. 2,239,968 for the mark ENERGY ENHANCER owned by Respondent be cancelled and that this Petition for Cancellation be sustained in favor of Petitioner.

The Mark ENERGY ENHANCER should be cancelled  
because Respondent has failed to timely file an Affidavit of Continuing Use.

6. Under 15 U.S.C. § 1058(b), a registrant must submit an affidavit of continuing use between the fifth and sixth anniversary of registration. If the required affidavit is not timely filed pursuant to 15 U.S.C. § 1058(b), the mark “shall” be cancelled, under 15 U.S.C. § 1058(a).

7. The mark ENERGY ENHANCER was registered on April 13, 1999.

8. More than 6 years have elapsed since the Registration, and as evidenced by the printout from the U.S. Trademark and Patent Office Trademark Electronic Search System attached hereto as Exhibit B, Respondent has not filed an affidavit of continuing use regarding the mark ENERGY ENHANCER.

9. In July 2008, Petitioner’s counsel performed various internet searches in an effort to find a current use of the mark ENERGY ENHANCER, and did not find any such current use.

WHEREFORE, Petitioner requests that Registration No. 2,239,968 for the mark ENERGY ENHANCER owned by Respondent be cancelled and that this Petition for Cancellation be sustained in favor of Petitioner.

Petitioner: Cintron Beverage Group, LLC  
Registration Subject to Cancellation: 2,239,968  
Filed: July 15, 2008  
Mark: ENERGY ENHANCER  
Page 4

Please direct all communications concerning this cancellation proceeding to the undersigned attorney at the below address.

Respectfully submitted,

FISHER ZUCKER LLC

Date: July 15, 2008

By: /s/ Jeffrey Zucker  
Jeffrey Zucker  
Paul J. Ciani  
21 South 21st Street  
Philadelphia, PA 19103  
Phone (215) 825-3100  
Fax (215) 825-3101

# Exhibit “A”



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBic Alerts](#) | [News](#) | [Help](#)

## Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Tue Jul 15 04:14:34 EDT 2008

[TESS Home](#) | [New User](#) | [Examiners](#) | [Search Tools](#) | [Database Info](#) | [SEARCH OF](#) | [Browse](#) | [HELP](#)
[Logout](#) Please logout when you are done to release system resources allocated for you.

### Record 1 out of 1

[TMPL Status](#) | [ASSIGN Status](#) | [TOP](#) | [TTAB Status](#) ( Use the "Back" button of the Internet Browser to return to TESS)

#### Typed Drawing

**Word Mark** ENERGY ENHANCER  
**Goods and Services** IC 030. US 046. G & S: teas. FIRST USE: 19970716. FIRST USE IN COMMERCE: 19970716  
**Mark Drawing Code** (1) TYPED DRAWING  
**Serial Number** 75401174  
**Filing Date** December 5, 1997  
**Current Filing Basis** 1A  
**Original Filing Basis** 1A  
**Supplemental Register Date** December 14, 1998  
**Registration Number** 2239968  
**Registration Date** April 13, 1999  
**Owner** (REGISTRANT) Consac Industries, Inc. DBA Long Life Herbal Teas CORPORATION NEW YORK 101 Corporate Drive Hauppauge NEW YORK 11788  
 (LAST LISTED OWNER) COUNTRY LIFE, LLC LIMITED LIABILITY COMPANY 180 VANDERBILT MOTOR PARKWAY HAUPPAUGE NEW YORK 11788  
**Assignment Recorded** ASSIGNMENT RECORDED  
**Attorney of Record** C BRUCE HAMBURG  
**Type of Mark** TRADEMARK  
**Register** SUPPLEMENTAL  
**Live/Dead Indicator** LIVE

[TESS Home](#) | [New User](#) | [Examiners](#) | [Search Tools](#) | [Database Info](#) | [SEARCH OF](#) | [Top](#) | [HELP](#)
[\[ HOME \]](#) | [\[ SITE INDEX \]](#) | [\[ SEARCH \]](#) | [\[ eBUSINESS \]](#) | [\[ HELP \]](#) | [\[ PRIVACY POLICY \]](#)





# Exhibit “B”



## United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Sitemap](#) | [Contacts](#) | [eBusiness](#) | [eBis Alerts](#) | [News](#) | [Help](#)
[Portal Home](#) | [Patents](#) | [Trademarks](#) | [Other](#)

Trademark eBusiness



TDR Portal



## Document Retrieval FAQ

[Check Status \(TARR\)](#)
[File Online \(TEAS\)](#)
[Retrieve Documents \(TDR\)](#)
[Retrieve US Registration Certificates](#)
[Search Trademarks \(TESS\)](#)
[Trademark Official Gazette](#)
[\\* Trademark Ownership](#)
[\\* Copies, Products & Services](#)
[\\* Supplemental Resources & Support](#)

## Trademark Information

## Trademark Guidance

[\\* Codes, Rules & Manuals](#)
[\\* Employee & Office Directories](#)
[\\* Fees](#)
[\\* Resources & Public Notices](#)

## Trademark Trial &amp; Appeal Board

[TTAB Manual of Procedure](#)
[\\* Online Proceedings](#)

## Other

[Copyrights](#)
[Patents](#)
[Policy & Law](#)
[Reports](#)
**IMPORTANT  
NOTICE:**
[E-Mail with Direct Link to Issued Trademark Office Actions and  
Examining Attorney Appeal Briefs Replaces E-Mailed](#)
**US Serial No: 75401174**



To view a document page-by-page, click on the document name in the Document Description column. The document will open in a New Window. To download and print the complete document, check the boxes next to the desired documents and click the Start Download button.

Please note that Mail/Create Date below is the date the document was loaded into the database; it is not necessarily the mailing date from which the response period, if any, flows. The mailing date is available in the prosecution History in TARR.

Mail / Create Date	Document Description	<input type="button" value="Select All"/>	<input type="button" value="Start Download"/>	<input type="button" value="Clear All"/>
08-Feb-2008	Prosecution Hist for Review Correspondence	<input type="checkbox"/>		
24-Jan-2008	Paper Correspondence Incoming	<input type="checkbox"/>		
12-Jul-2007	File Jacket	<input type="checkbox"/>		
12-Jul-2007	Specimens	<input type="checkbox"/>		
12-Jul-2007	Unclassified	<input type="checkbox"/>		
13-Apr-1999	Registration Certificate	<input type="checkbox"/>		
13-Apr-1999	Registration Certificate	<input type="checkbox"/>		
14-Dec-1998	Paper Correspondence Incoming	<input type="checkbox"/>		

If you need help:

- **General trademark information:** Please e-mail [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov), or telephone either 571-272-9250 or 1-800-786-9199.
- **Technical help:** For instructions on how to use TDR, or help in resolving technical glitches, please e-mail [TDR@uspto.gov](mailto:TDR@uspto.gov). If outside of the normal business hours of the USPTO, please e-mail [Electronic Business Support](#), or call 1-800-786-9199.
- **Questions about USPTO programs:** Please e-mail [USPTO Contact Center \(USCC\)](#).

**NOTE:** Within any e-mail, please include your telephone number so we can talk to you directly, if necessary. Also, include the relevant serial number or registration number, if existing.

You can suggest USPTO webpages or material you would like featured on this section by E-mail to the [webmaster@uspto.gov](mailto:webmaster@uspto.gov). While we cannot promise to accommodate all requests, your suggestions will be considered and may lead to other improvements on the website.

---

[Home](#) | [Site Index](#) | [Search](#) | [eBusiness](#) | [Help](#) | [Privacy Policy](#)