

ESTTA Tracking number: **ESTTA666286**

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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	FLUID ENERGY GROUP LTD.		
Entity	Foreign Company	Citizenship	Canada
Address	04-214 11th Avenue SE Calgary, Alberta, T2G0X8 CANADA		

Attorney information	Benjamin Natter Natter & Natter 501 Fifth Avenue New York, NY 10017 UNITED STATES b.natter@natter-natter.com		
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### Registration Subject to Cancellation

Registration No	4224628	Registration date	10/16/2012
Registrant	HEARTLAND ENERGY GROUP, LTD. OLIAJI TRADE CENTER, FRANCIS RACHEL VICTORIA, MAHE, SEYCHELLES		

### Goods/Services Subject to Cancellation

Class 001. First Use: 2011/12/02 First Use In Commerce: 2011/12/02 All goods and services in the class are cancelled, namely: Synthetic replacement for acids, namely, hydrochloric, phosphoric, hydrofluoric, sulfuric, acetic, and formic acids used in dissolving and removing mineral deposits
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### Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Priority and likelihood of confusion	Trademark Act section 2(d)

### Marks Cited by Petitioner as Basis for Cancellation

U.S. Application No.	86238631	Application Date	04/01/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ENVIRO-SYN		

Design Mark	<h1>ENVIRO-SYN</h1>		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 0 First Use In Commerce: 0 Wholesale ordering featuring chemical preparations for use as oil and gas drilling lubricants and hydraulic fracturing materials		

U.S. Application No.	86238639	Application Date	04/01/2014
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	ENVIRO-SYN		
Design Mark	<h1>ENVIRO-SYN</h1>		
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 0 First Use In Commerce: 0 Synthetic replacement for acids, namely, hydrochloric, phosphoric, hydrofluoric, sulfuric, acetic, and formic acids used in dissolving calcium carbonate and/or silica formation or build up in oil and gas		

Attachments	86238631#TMSN.png( bytes ) 86238639#TMSN.png( bytes ) Cancellation04.10.15.pdf(23521 bytes ) Exhibit A.pdf(103879 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	//Benjamin Natter//
Name	Benjamin Natter

Date	04/13/2015
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dissolving and removing mineral deposits, registered October 16, 2012 to Heartland Solutions, Inc. (hereinafter “Heartland Solutions”) and assigned to HEARTLAND ENERGY GROUP, LTD (hereinafter referred to as “Respondent”) and hereby petitions to cancel said registration.

**The grounds for cancellation are as follows:**

1. On or about November, 2011, Petitioner entered into an negotiations with Respondent’s predecessor in interest, Heartland Solutions for manufacture by Heartland Solutions of synthetic replacements for acids, namely, hydrochloric, phosphoric, hydrofluoric, sulfuric, acetic, and formic acids used in dissolving and removing mineral deposits, (hereinafter “Goods”) then being sold by Solutions under the trademarks “OILSAFE” and “MUDSAFE” under a private label for Heartland Solutions to drop ship the Goods to Petitioner’s customers.
2. On or about December 6, 2011 Petitioner provided Heartland Solutions with the private label marks which Petitioner had created for the Goods, namely: ENVIRO-SYN, ENVIRO-SYN HCR, ENVIRO-SYN HFR, ENVIRO-SYN HSR, and ENVIRO-SYN CR, ENVIRO-SYN HCR, ENVIRO-SYN HFR, ENVIRO-SYN HSR, and ENVIRO-SYN CR
3. Commencing on or about January 3, 2012, Heartland Solutions commenced shipments of the Goods to Petitioner’s customers under Petitioner’s private ENVIRO-SYN labels (Attached as Exhibit A).

4. Petitioner was advised by Heartland Solutions that it was filing an application to register Petitioner's ENVIRO-SYN mark on Petitioner's behalf.
5. On December 21, 2011, Heartland Solutions filed, on its own behalf, Application Serial No. 85500596, for registration of the mark ENVIRO-SYN in connection with the Goods and listing, as a date of first use in commerce December 2, 2011.
6. To the knowledge of Heartland Solutions, the marks ENVIRO-SYN, ENVIRO-SYN HCR, ENVIRO-SYN HFR, ENVIRO-SYN HSR, and ENVIRO-SYN CR, were owned by Petitioner and not Heartland Solutions.
7. To the knowledge of Heartland Solutions, the mark ENVIRO-SYN was not in use in commerce on December 2, 2011.
8. To the knowledge of Heartland Solutions, the specimen of use submitted with Application Serial No. 85500596 (Exhibit B) was not in use in commerce on December 21, 2011.
9. To the knowledge of Heartland Solutions, the specimen of use submitted with Application Serial No. 85500596 was not a label, as represented in Application Serial No. 85500596.
10. On October 16, 2012 Application Serial No. 85500596 issued to Heartland Solutions as Registration No. 4224628.

11. On or about July 9, 2013 Heartland Solutions assigned Registration No. 4224628 to Respondent; such assignment was recorded August 5, 2013 in Reel 5084 at Frame 0917.
12. On April 1, 2014 Petitioner filed Application Serial No. 86238631 for registration of the mark ENVIRO-SYN in connection with wholesale and retail sales of chemical preparations for use as oil and gas drilling lubricants and hydraulic fracturing materials.
13. An Office Action comprising a final refusal to register Petitioner's mark under Section 2(d) because of a likelihood of confusion with the mark of Registration No. 4224628 issued on January 21, 2015.
14. On April 1, 2014 Petitioner filed Application Serial No. 86238639 for registration of the mark ENVIRO-SYN in connection with synthetic replacement for acids, namely, hydrochloric, phosphoric, hydrofluoric, sulfuric, acetic, and formic acids used in dissolving calcium carbonate and/or silica formation or build up in oil and gas.
15. An Office Action comprising a final refusal to register Petitioner's mark under Section 2(d) because of a likelihood of confusion with the mark of Registration No. 4224628 issued on January 21, 2015.

16. Continued registration of the mark ENVIRO-SYN by Respondent, with the associated presumption of ownership and right to use will likely preclude Petitioner from obtaining a registration for Petitioner's ENVIRO-SYN marks.

13. Continued registration of the mark ENVIRO-SYN by Respondent, will cause the purchasing public to assume erroneously, and to be confused, misled and/or deceived into believing that Respondent is the owner of the ENVIRO-SYN mark and the and will presumptively deprive Petitioner of the goodwill associated its ENVIRO-SYN marks and cause irreparable harm, injury and damage to Petitioner.

14. Continued registration of the mark shown in Registration No. 4,224,628 will result in damage to the Petitioner under the provisions of Section 2 of the U.S. Trademark Act, 15 U.S.C. §1052.

WHEREFORE, Petitioner requests judgment sustaining this Petition for Cancellation and that Registration No. 4,228,628 be cancelled.

Dated: New York, NY  
April 13, 2015

Respectfully submitted,  
NATTER & NATTER  
Attorneys for Petitioner  
501 Fifth Avenue, Suite 808  
New York NY 10017  
Tel: (212) 840-8300  
E-mail: b.natter@natter-natter.com

By /Benjamin Natter/  
Benjamin Natter

# EXHIBIT A

## *Enviro-Syn HCR 1050 - CONCENTRATE KIT*

### Blending Directions:

Recommended Ratio for Acid Stimulation: 1:1

Add 1.0 m<sup>3</sup> of H<sub>2</sub>O and 1.0 m<sup>3</sup> of Enviro-Syn HCR 1050 into an approved tank. Mix product thoroughly for approximately 30 minutes using an air diaphragm style or centrifugal pump.

Each concentrated kit will yield ~ 2.0 m<sup>3</sup>.

Blending ratios may vary based on specific applications and recommendations from your consultants at Fluid Energy Group Ltd.

**BATCH BLEND ONLY; NOT FOR RESALE**

### WARNING!

When pumping this product it is strongly recommended to use manufacturer approved hose couplings or fittings. **DO NOT USE ALUMINUM FITTINGS.** 316 Stainless Steel is recommended.

**Net Contents : BULK LOAD**

### Description:

Enviro-Syn HCR 1050 is part of the environmentally safe synthetic acid replacement product line that has comparable solubilising abilities of Hydrochloric acid, without the extremely hazardous properties. Enviro-Syn HCR 1050 contains no conventional acids and will not promote excessive corrosion, yet will effectively attack multiple forms of carbonate based scale/mineral build-up, and formation matrices. Enviro-Syn HCR 1050 is non-regulated for transportation/handling, is non-toxic, non-fuming, and will not corrode or rust metals. Enviro-Syn HCR 1050 is an extremely safe replacement for most Hydrochloric acid blends, and can be enhanced through the addition of synthetic surfactants



ENERGY GROUP LTD.

**Exclusively Distributed By:**  
**Fluid Energy Group Ltd**  
**#104, 214 – 11<sup>th</sup> Ave SE**  
**Calgary, Alberta T2G 0X8**

[www.fluidenergygroup.com](http://www.fluidenergygroup.com)

### First Aid & Guarantee

#### First Aid

If swallowed, drink two glasses of water. In case of eye contact, flush with water for two minutes. If symptoms persist, seek medical advice. In case of skin contact, wash thoroughly with soapy water. As with all chemicals, keep out of reach of children

#### For Commercial and Industrial Use Only

#### Guarantee

This product is guaranteed to be free from defects, true to its contents, free from urea hydrochloride salts, other organic salts, Hydrofluoric acid and other traditional acids.

In case of emergency call 1-800-424-9300

**Health:0, Flammability:0, Reactivity:0**



# EXHIBIT A

## *Enviro-Syn HCR 1110i - CONCENTRATE KIT*

### Blending Directions:

Recommended Ratio for Acid Stimulation: 1:1

Add 1.0 m<sup>3</sup> of H<sub>2</sub>O and 1.0 m<sup>3</sup> of Enviro-Syn HCR into an approved tank. Mix product thoroughly for approximately 30 minutes using an air diaphragm style or centrifugal pump.

Each concentrated kit will yield ~ 2.0 m<sup>3</sup>.

Blending ratios may vary based on specific applications and recommendations from your consultants at Fluid Energy Group Ltd.

**BATCH BLEND ONLY; NOT FOR RESALE**

### **WARNING!**

When pumping this product it is strongly recommended to use manufacturer approved hose couplings or fittings. **DO NOT USE ALUMINUM FITTINGS.** 316 Stainless Steel is recommended.

**Net Contents : BULK LOAD**

### Description:

Enviro-Syn HCR is part of the environmentally safe synthetic acid replacement product line that has comparable solubilising abilities of Hydrochloric acid, without the extremely hazardous properties. Enviro-Syn HCR contains no conventional acids and will not promote excessive corrosion, yet will effectively attack multiple forms of carbonate based scale/mineral build-up, and formation matrices. Enviro-Syn HCR is non-regulated for transportation/handling, is non-toxic, non-fuming, and will not corrode or rust metals. Enviro-Syn HCR is an extremely safe replacement for most Hydrochloric acid blends, and can be enhanced through the addition of synthetic additives.



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#### First Aid

If swallowed, drink two glasses of water. In case of eye contact, flush with water for two minutes. If symptoms persist, seek medical advice. In case of skin contact, wash thoroughly with soapy water. As with all chemicals, keep out of reach of children.

#### For Commercial and Industrial Use Only

#### Guarantee

This product is guaranteed to be free from defects, true to its contents, free from urea hydrochloride salts, other organic salts, Hydrofluoric acid and other traditional acids.

In case of emergency call 1-800-424-9300

**Health:0, Flammability:0, Reactivity:0**



# EXHIBIT A

## *Enviro-Syn HCR - CONCENTRATE*

### Blending Directions:

Mix product thoroughly for approximately 30 minutes using an air diaphragm style or centrifugal pump.

Blending ratios may vary based on specific applications and recommendations from your consultants at Fluid Energy Group Ltd.

**BATCH BLEND ONLY; NOT FOR RESALE**

### **WARNING!**

When pumping this product it is strongly recommended to use manufacturer approved hose couplings or fittings. 316 Stainless Steel is recommended.

**DO NOT USE ALUMINUM FITTINGS.**

### Product Description:

Enviro-Syn HCR is part of the environmentally safe synthetic acid replacement product line that has comparable solubilizing abilities of Hydrochloric acid, without the extremely hazardous properties. Enviro-Syn HCR contains no conventional acids and will not promote excessive corrosion, yet will effectively attack multiple forms of carbonate based scale/mineral build-up, and formation matrices. Enviro-Syn HCR is non-regulated for transportation/handling, is non-toxic, non-fuming, and will not corrode or rust metals. Enviro-Syn HCR is an extremely safe replacement for most Hydrochloric acid blends, and can be enhanced through the addition of synthetic surfactants.



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**Health:0, Flammability:0, Reactivity:0**

