

ESTTA Tracking number: **ESTTA133840**

Filing date: **04/05/2007**

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	Trace Minerals Research, L.C.
Granted to Date of previous extension	04/14/2007
Address	1996 West 3300 South Ogden, UT 84401 UNITED STATES
Correspondence information	Trace Minerals Research, L.C. Attn: John H. Rees Callister Nebeker & McCullough 10 East South Temple, Suite 900 - Zions Bank Building Salt Lake City, UT 84133 UNITED STATES jhrees@cnmlaw.com Phone:801-530-7388

Applicant Information

Application No	78917034	Publication date	02/13/2007
Opposition Filing Date	04/05/2007	Opposition Period Ends	04/14/2007
Applicant	Mineral Resources International, Inc. 1990 W. 3300 S. Ogden, UT 84401 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 005. All goods and services in the class are opposed, namely: Animal feed supplements; Dietary and nutritional supplements; Dietary food supplements; Dietary supplemental drinks; Dietary supplements; Dietary supplements for animals; Dietary supplements for human consumption; Food supplements; Herbal supplements; Mineral nutritional supplements; Mineral supplements; Nutraceuticals for use as a dietary supplement; Nutritional additives for use in foods and dietary supplements for human consumption; Nutritional supplements; Nutritional supplements in lotion form sold as a component of nutritional skin care products; Powdered nutritional supplement drink mix; Vitamin and mineral supplements; Vitamin supplements</p>	
Related Proceedings	Trace Minerals Research, L.C. v. Mineral Resources International, Inc. Civil No. 1:06CV00068, Judge Tena Campbell, U.S. District Court for the District of Utah, Central Division.
Attachments	opposition.pdf (13 pages)(435932 bytes)

Signature	/John H. Rees/
Name	Trace Minerals Research, L.C.
Date	04/05/2007

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

**In the matter of Application Serial No. 78/917,034
For the mark CONCENSEA
Published in the Official Gazette on February 13, 2007.**

TRACE MINERALS RESEARCH, L.C.,

Opposer,

vs.

MINERAL RESOURCES INTERNATIONAL,
INC.,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

Trace Minerals Research, L.C. (“TMR” or “Opposer”), believes that it is and will be damaged by registration of the mark CONCENSEA as shown in Serial No. 78/917,034, in International Class 5, and hereby opposes such registration.

The grounds for opposition are as follows:

1. Mineral Resources International, Inc. (“MRI” or “Applicant”), seeks to register CONCENSEA as a trademark for: “Animal feed supplements; Dietary and nutritional supplements; Dietary food supplements; Dietary supplemental drinks; Dietary supplements; Dietary supplements for animals; Dietary supplements for human consumption; Food supplements; Herbal supplements; Mineral nutritional supplements; Mineral supplements; Nutraceuticals for use as a dietary supplement; Nutritional additives for use in foods and dietary supplements for human consumption; Nutritional supplements; Nutritional supplements in lotion form sold as a component of nutritional

skin care products; Powdered nutritional supplement drink mix; Vitamin and mineral supplements; Vitamin supplements” in International Class 5. MRI filed an application for CONCENSEA on an intent-to-use basis.

2. On February 13, 2007, Applicant’s CONCENSEA mark was published for opposition in the *Trademark Official Gazette*. On March 9, 2007, TMR filed a Request for Extension of Time to Oppose, which the Trademark Trial and Appeal Board granted.

3. TMR markets and sells numerous dietary, vitamin and mineral supplements in the United States and abroad. One of TMR’s leading supplement products is CONCENTRACE. TMR, since at least as early as July 30, 1974, has been and is now using the mark CONCENTRACE in commerce and otherwise in connection with the sale and marketing of dietary and mineral supplements in the United States and abroad. TMR owns a federal registration for CONCENTRACE, Registration No. 1,714,977, in International Class 5 for mineral supplements. This Registration was issued on the Principal Register on September 15, 1992 and the mark has been accorded incontestable status. A true and correct copy of TMR’s registration for CONCENTRACE is attached hereto as Exhibit A and incorporated herein by reference.

4. In April of 1999, the present owners of Applicant sold the mark CONCENTRACE, along with the company to the present owners of Opposer. After TMR terminated Applicant’s license to use CONCENTRACE, Applicant adopted the mark CONCENSEA in a clear attempt to trade off of the goodwill established by TMR in CONCENTRACE. Attached as Exhibit B and incorporated herein by reference is a press release by MRI stating that CONCENTRACE “is now being sold under the name CONCENSEA”.

5. TMR has spent considerable time and resources developing, advertising and promoting its CONCENTRACE mineral supplements and has established valuable goodwill and consumer recognition in CONCENTRACE. In view of the similarity of CONCENSEA to CONCENTRACE and the identical nature of the goods with which each mark is used, Opposer alleges that Applicant's mark so resembles Opposer's mark as to be likely to cause consumer confusion, or to cause mistake as to source, sponsorship or affiliation or to deceive.

6. The registration of Applicant's mark will dilute the distinctiveness of Opposer's well-known mark CONCENTRACE and will trade on the goodwill associated with Opposer's mark CONCENTRACE, with consequent injury to Opposer, to the trade and to the public.

WHEREFORE, TMR believes that it will be damaged by the registration of Application Serial No. 78/917,034 and respectfully requests that the Trademark Trial and Appeal Board reject such application and deny it registration, and for such other and further relief as is deemed just and proper.

A duplicate copy of this Notice of Opposition and the required fee are enclosed herewith.

DATED: April 4, 2007.



John H. Rees
CALLISTER NEBEKER & MCCULLOUGH
Zions Bank Building
10 East South Temple, Suite 900
Salt Lake City, Utah 84133
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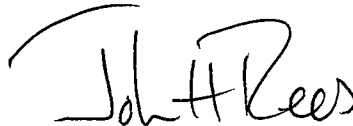
Attorney for Opposer
Trace Minerals Research, L.C.

CERTIFICATE OF SERVICE

I hereby certify that on April 4, 2007 a copy of the foregoing NOTICE OF OPPOSITION was mailed first-class, postage prepaid, to the following:

Shaun L. Peck, Esq.
BEARNSON & PECK, L.C.
74 West 100 North
P. O. Box 675
Logan, Utah 84321
Attorney for Applicant

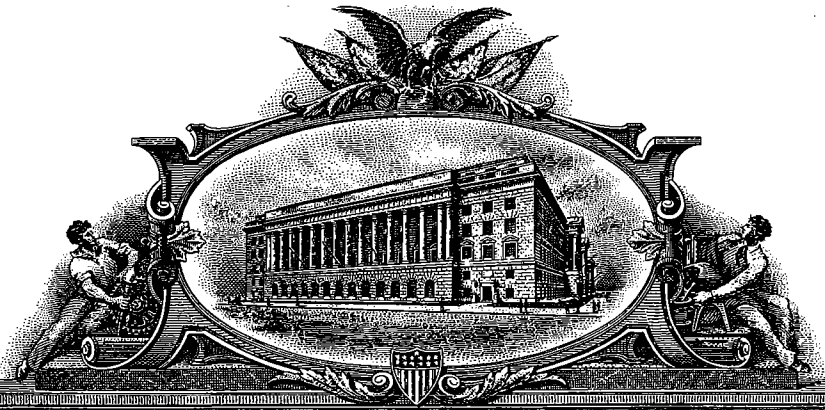
Commissioner for Trademarks
TTAB – BOX FEE
P.O. Box 1451
Alexandria, VA 22313-1451

A handwritten signature in black ink, reading "John H. Rees". The signature is written in a cursive style with a large initial "J" and "R".

John H. Rees
Attorney for Opposer

EXHIBIT A

7046730



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

January 11, 2007

THE ATTACHED U.S. TRADEMARK REGISTRATION 1,714,977 IS CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES PATENT AND TRADEMARK OFFICE.

**REGISTERED FOR A TERM OF 10 YEARS FROM *September 15, 1992*
1st RENEWAL FOR A TERM OF 10 YEARS FROM *September 15, 2002*
SECTION 8 & 15**

SAID RECORDS SHOW TITLE TO BE IN:

TRACE MINERALS RESEARCH, L.C.

AN UTAH LIMITED LIABILITY COMPANY

By Authority of the

**Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office**

M. K. CARTER

Certifying Officer



Int. Cl.: 5

Prior U.S. Cl.: 18

Reg. No. 1,714,977

United States Patent and Trademark Office Registered Sep. 15, 1992

**TRADEMARK
PRINCIPAL REGISTER**

CONCENTRACE

TRACE MINERALS RESEARCH, INC. (UTAH
CORPORATION)
1990 WEST 3300 SOUTH
OGDEN, UT 84401

FIRST USE 7-30-1974; IN COMMERCE
7-30-1974.

SER. NO. 74-236,921, FILED 1-13-1992.

FOR: MINERAL SUPPLEMENTS, IN CLASS 5
(U.S. CL. 18).

KELLEY WELLS, EXAMINING ATTORNEY.

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-04-04 12:45:49 ET

Serial Number: 74236921 Assignment Information

Registration Number: 1714977

Mark (words only): CONCENTRACE

Standard Character claim: No

Current Status: This registration has been renewed.

Date of Status: 2002-12-23

Filing Date: 1992-01-13

Transformed into a National Application: No

Registration Date: 1992-09-15

Register: Principal

Law Office Assigned: LAW OFFICE 11

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2002-12-26

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. TRACE MINERALS RESEARCH, L.C.

Address:

TRACE MINERALS RESEARCH, L.C.

1996 WEST 3300 SOUTH

OGDEN, UT 84401

United States

Legal Entity Type: Ltd Liab Co

State or Country Where Organized: Utah

GOODS AND/OR SERVICES

International Class: 005

Class Status: Active

mineral supplements

Basis: 1(a)

First Use Date: 1974-07-30

First Use in Commerce Date: 1974-07-30

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2006-09-06 - Automatic Update Of Assignment Of Ownership

2006-06-23 - Attorney Revoked And/Or Appointed

2006-06-23 - TEAS Revoke/Appoint Attorney Received

2002-12-23 - First renewal 10 year

2002-12-23 - Section 8 (10-year) accepted/ Section 9 granted

2002-09-18 - Combined Section 8 (10-year)/Section 9 filed

2002-09-18 - PAPER RECEIVED

1999-01-19 - Section 8 (6-year) accepted & Section 15 acknowledged

1998-09-16 - Section 8 (6-year) and Section 15 Filed

1998-09-16 - Section 8 (6-year) and Section 15 Filed

1992-09-15 - Registered - Principal Register

1992-06-23 - Published for opposition

1992-05-22 - Notice of publication

1992-03-21 - Approved for Pub - Principal Register (Initial exam)

1992-03-20 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

John H. Rees

Correspondent

John H. Rees

Callister Nebeker & McCullough

Zions Bank Building

10 East South Temple, Suite 900

Salt Lake City UT 84133

Phone Number: 801-530-7388

Fax Number: 801-364-9127

EXHIBIT B

Solu



Health Solu+ions
A div. of Mineral Resources International

Mineral Resources International

1990 West 3300 South
Ogden, UT 84401

Phone (800) 731-7866
(801) 731-7040
Fax (801) 731-7985

Mailing Address:
P.O. Box 190
Roy, UT 84067

For Immediate Release

**Contact: Bruce Anderson, President
Mineral Resources International
Phone: (801) 731-7040, ext. 314
e-mail brucea@mineralresourcesint.com**

Original Founders of Trace Minerals Research Launch New Product Line

Mineral Resources International is pleased to introduce its Health Solu+ions™ product line along with ConcenSea™ low-sodium minerals from Utah's Great Salt Lake.

July 14, 2006 Ogden, UT — Until recently, Mineral Resources International, Inc. (MRI), owned by the Anderson Family, the founders of Trace Minerals Research, had manufactured ConcenTrace® and other products containing minerals and trace minerals harvested from Utah's Great Salt Lake for Trace Minerals Research (TMR). A contractual dispute between MRI and TMR's current owners has caused MRI to sever its relationship with TMR and pursue selling its Great Salt Lake-derived mineral products, along with other original formulas, directly to health food stores.

The formula for the ConcenTrace® product that MRI had manufactured for TMR is now being sold under the name ConcenSea™. Though the name and label has changed, the formula, the manufacturing process, and the quality remains unchanged. The raw material originates as Great Salt Lake water which is concentrated and processed using natural methods at an operation owned by the Andersons on the remote northernmost tip of the Great Salt Lake. MRI's harvesting and processing is authorized, inspected, and regulated by the State of Utah, which owns the lake. As such, it is the only food-grade mineral product coming from the Great Salt Lake.

MRI also owns (and has owned) the formulas for other liquid and tableted products, which it has continued to manufacture for TMR up until very recently. Most of these products will also be available under the Health Solu+ions label.

Although MRI is coming out with new branding for the products, which were formerly distributed by TMR, the formulas and the quality of such products remain the same. We cannot say the same for substitute products. For your health, accept no substitutes.

- Continued on Page 2 -

PRODUCT LIST

Original TMR Product Name Manufactured by MRI

ConcenTrace®*
ConcenTrace® Trace Mineral Tablets*
Inland Sea Water™
Arth-X* Formula
Arth-X Plus*
Arth-X Platinum*
CellEnergy*
Complete Cleanse and Anti-Toxin System
Part 1, Herb and Sea Mineral Cleanse*
Complete Cleanse and Anti-Toxin System
Part 2, Fiber w/Acidophilus*
Electro-Vita-Min*
Electrolyte Stamina Tablets*
Elite Electrolyte Add-In
ImmunoMax*
Insulin Health*
Natural Rest*
Perfect Balance for Women*
PriMale*
Stress-X*
Transcend*

New Health Solu+ions Name for Same Formula Manufactured by MRI

Health Solu+ions ConcenSea™ Mineral Drops
Health Solu+ions ConcenSea™ Mineral Tablets
Health Solu+ions Inland Sea Water™
Bone and Joint Health Solu+ions Vegetarian
Bone and Joint Health Solu+ions Plus Formula
Bone and Joint Health Solu+ions Premium Formula
Chi Health Solu+ions
Health Solu+ions Cleanse 1

Health Solu+ions Cleanse 2
(Improved version of original formula)
Enhanced Essentials Health Solu+ions
Health Solu+ions Electrolyte Endurance
Elite Electrolyte Add-In
Immune Health Solu+ions
Metabolic System Health Solu+ions
Rest Health Solu+ions
Menstrual Health Solu+ions
Male System Health Solu+ions
Health Solu+ions for Stress
Menopause Health Solu+ions
(Improved version of original formula)

*These trade names, as well as Trace Minerals Research, are trade names owned by Trace Minerals Research LLC, which is no longer affiliated with Mineral Resources International.