

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

MAG INSTRUMENT, INC.	)	
	)	
Opposer,	)	Opposition No.: 91157711
	)	
v.	)	Application Serial No.: 76/466,372
	)	Filing Date: November 4, 2002
	)	Publication Date: July 22, 2003
CLARITI EYEWEAR, INC.	)	Trademark: MAGAIR
	)	International Class: 09
Applicant.	)	
_____	)	

United States Department of Commerce  
Patent and Trademark Office  
Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

  
03-25-2004  
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #78

**Stipulation**

Mag Instrument, Inc. (“Opposer”) and Clariti Eyewear, Inc. (“Applicant”) (collectively “Parties”) stipulate as follows:

1. The Applicant has filed a trademark registration application for the mark “MAGAIR” on November 4, 2002. The mark “MAGAIR” was published for opposition on July 22, 2003.
2. The Opposer has filed an opposition, Opposition No. 91157711, to the proposed mark “MAGAIR” in the Trademark Trial and Appeal Board on August 21, 2003.
3. The Parties started to negotiate a possible settlement immediately after the Applicant received the Notice of Opposition.

4. On or about January 8, 2004, the Applicant filed a Response to Order to Show Cause in response to the Trademark Trial and Appeal Board (“TTAB”)’s Notice of Default issued on December 19, 2003. In the Applicant’s Response, the Parties filed a stipulation with the TTAB, in which the Parties agreed that the Applicant should not be required to file an Answer the Notice of Opposition until March 1, 2004 if the case is not settled by that time.

5. On or about February 10, 2004, the TTAB suspended the current proceeding allowing time for the Parties to negotiate a settlement agreement for six (6) months.

6. The Parties now come to an agreement as follows:

- a. The Applicant withdraws, with prejudice, its pending trademark registration application in the United States Patent and Trademark Office (“USPTO”) for the mark MAGAIR, Application Serial No. 76/466,372;
- b. The Applicant agrees that it will not attempt to expand its business in connection with the use of its mark AIRMAG, currently pending in the USPTO, Application Serial No.: 76/466,373, beyond the products described in the Goods/Services in the pending application;
- c. The Opposer agrees to withdraw, with prejudice, its oppositions to the registration applications of the marks MAGAIR and AIRMAG, Opposition Nos. 91157711 and 91157709 respectively.

7. Based on the above agreement, the Application Serial No. 76/466,372 is hereby withdrawn with prejudice; the Oppositions Nos. 91157711 and 91157709 are hereby withdrawn with prejudice. These foregoing said withdrawals are effective immediately.

Respectfully submitted,

LAW OFFICES OF ROGER C. HSU

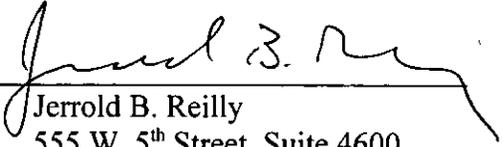
Dated: March 17, 2004

By 

Gary F. Wang  
201 S. Lake Avenue, Suite 302  
Pasadena, California 91101  
(626) 792-7936  
Attorneys for the Applicant  
Clariti Eyewear, Inc.

JONES DAY

Dated: March 22, 2004

By 

Jerrold B. Reilly  
555 W. 5<sup>th</sup> Street, Suite 4600  
Los Angeles, California 90013  
(213) 489-3939  
Attorneys for the Opposer  
Mag Instrument, Inc.

**PROOF OF SERVICE**

I, Trisha Dolman, declare:

I am employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 555 West Fifth Street, Suite 4600, Los Angeles, California 90013-1025. On March 22, 2004, I served a copy of the within document(s): **STIPULATION AND TRANSMITTAL LETTER TO TRADEMARK TRIAL AND APPEAL BOARD RE: OPPOSITION NO. 91157709 (MAGAIR)**

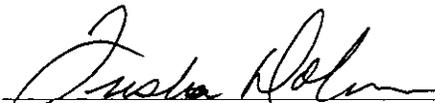
- by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below.
- by placing the document(s) listed above in a sealed Federal Express envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a Federal Express agent for delivery.
- by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

Gary F. Wang  
LAW OFFICES OF ROGER C. HSU  
201 South Lake Avenue, Suite 302  
Pasadena, CA 91101-3004

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on March 22, 2004, at Los Angeles, California.

  
\_\_\_\_\_  
Trisha Dolman

TTAB

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CLARITI EYEWEAR, INC. )
Applicant. )

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Dear Ladies and Gentlemen:

Transmitted herewith is a signed Stipulation whereby the Applicant withdraws, with prejudice, the captioned application and the Opposer withdraws, with prejudice, this opposition.

Respectfully submitted,

JONES DAY

By: [Signature]
Jerrold B. Reilly
Reg. No. 32,293

Dated: March 22, 2004

Attorney for Opposer
Mag Instrument, Inc.

555 West Fifth Street, Suite 4600
Los Angeles, California 90013-1025
(213) 243-2612

CERTIFICATE OF MAILING
(37 C.F.R. § 1.8a)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail in an envelope addressed to the Patent and Trademark Office, Trademark Trial and Appeal Board, 2900 Crystal Drive, Arlington, VA 22202-3513.

March 22, 2004
Date of Deposit
LAI-2100945v1

Trisha Dolman
Name of Person Mailing Paper
[Signature]
Signature of Person Mailing Document