

ESTTA Tracking number: **ESTTA288469**

Filing date: **06/08/2009**

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

Proceeding	91177234
Party	Plaintiff Cardinal Health 303, Inc.
Correspondence Address	Joseph R. Dreitler Bricker & Eckler LLP 100 S. Third Street Columbus, OH 43215-4291 UNITED STATES mtrue@bricker.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	Mary R. True
Filer's e-mail	jdreitler@bricker.com, mtrue@bricker.com, trademarks@bricker.com
Signature	/Mary R. True/
Date	06/08/2009
Attachments	Notice of Reliance Gilmore.pdf (7 pages)(122264 bytes)

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

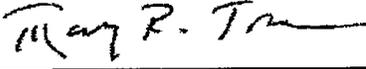
- | | | |
|------------------------------|---|------------------------------|
| 1. CARDINAL HEALTH 303, INC. | : | |
| Opposer | : | |
| v. | : | Opposition No.: 91-177,234 |
| THE ALARIS GROUP, INC. | : | |
| Applicant | : | |
| 2. CARDINAL HEALTH 303, INC. | : | |
| Opposer | : | |
| v. | : | Opposition No.: 91-177,365 |
| THE ALARIS GROUP, INC. | : | |
| Applicant | : | |
| 3. CARDINAL HEALTH 303, INC. | : | |
| Opposer | : | |
| v. | : | Opposition No.: 91-177,366 |
| THE ALARIS GROUP, INC. | : | |
| Applicant | : | |
| 4. CARDINAL HEALTH 303, INC. | : | |
| Opposer | : | |
| v. | : | Opposition No.: 91-177,367 |
| THE ALARIS GROUP, INC. | : | |
| Applicant | : | |
| 5. CARDINAL HEALTH 303, INC. | : | |
| Petitioner | : | |
| v. | : | Cancellation No.: 92-048,172 |
| THE ALARIS GROUP, INC. | : | |
| Registrant. | : | |

NOTICE OF RELIANCE PURSUANT TO 37 C.F.R. § 2.122(e)

Petitioner/Opposer Cardinal Health 303, Inc., gives notice of its reliance on the attached Declaration of Eric Gilmore, which is being submitted and relied upon to show the dollar amount of Cardinal Health 303, Inc.’s U.S. (“domestic”) sales for its Alaris-branded products and services for the years 1998 through 2009.

Dated: June 8, 2009

Respectfully submitted,

By: 

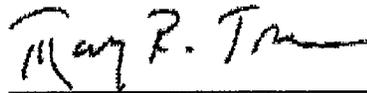
Joseph R. Dreitler
Mary R. True
BRICKER & ECKLER LLP
100 S. Third Street
Columbus, Ohio 43215
Telephone: (614) 227-2347
Facsimile: (612) 227-2390
Email: jdreitler@bricker.com
mtrue@bricker.com

Attorneys for Opposer
Cardinal Health 303, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served upon the following attorney of record for Applicant by electronic and First Class Mail, this 8th day of June 2009:

Kristine Boylan
Merchant & Gould
3200 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402
kboylan@merchantgould.com



Mary R. True

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

- | | | |
|------------------------------|---|---------------------------|
| 1. CARDINAL HEALTH 303, INC. | : | |
| Opposer | : | |
| v. | : | Opposition No. 91-177,234 |
| THE ALARIS GROUP, INC. | : | |
| Applicant | : | |
| 2. CARDINAL HEALTH 303, INC. | : | |
| Opposer | : | |
| v. | : | Opposition No. 91-177,365 |
| THE ALARIS GROUP, INC. | : | |
| Applicant | : | |
| 3. CARDINAL HEALTH 303, INC. | : | |
| Opposer | : | |
| v. | : | Opposition No. 91-177,366 |
| THE ALARIS GROUP, INC. | : | |
| Applicant | : | |
| 4. CARDINAL HEALTH 303, INC. | : | |
| Opposer | : | |
| v. | : | Opposition No. 91-177,367 |
| THE ALARIS GROUP, INC. | : | |
| Applicant | : | |

5. CARDINAL HEALTH 303, INC.	:	
	:	
Petitioner	:	
	:	
v.	:	Cancellation No. 92-048,172
	:	
THE ALARIS GROUP, INC.	:	
	:	
Registrant	:	

STIPULATED TESTIMONY OF ERIC GILMORE

Pursuant to the Stipulation of April 29, 2009, between the parties as to means of taking testimony, filed with the TTAB and in accordance with the TTAB Rules of Procedure, I, Eric Gilmore, state that as a witness for Opposer/Petitioner, if called I would testify as follows:

1. I am the Manager, General Accounting, CTS-Accounting & Planning, Clinical Technologies and Services, Cardinal Health 303, Inc. San Diego, CA, and have held this position since May 11, 2009.

2. I have been employed by Cardinal Health 303, Inc. San Diego, CA and its predecessors in interest since August 1, 2005.

3. I have held the following positions at Cardinal Health 303, Inc. San Diego, CA and its predecessors in interest:

- a. Manager General Accounting
- b. Senior Accountant
- c. Financial Analyst

4. As part of my job duties, I am responsible for obtaining and preparing the records of sales information of all products and services sold by Cardinal Health 303, Inc., including all Alaris products and services.

5. I am responsible for the care, custody and control of all sales records for Cardinal Health 303, Inc., including historical sales records of Alaris products and services.

6. The sales records under my control are records kept in the normal course of business by Cardinal Health 303, Inc.

7. From the sales records under my control, I can state that Cardinal Health 303, Inc., and its predecessors in interest, made the following domestic sales of Alaris products, including infusion products, patient monitoring products, computer software and networking products, and Alaris services, including technical support for its products, clinical support for practitioners, biomedical and other training seminars for clinical personnel, onsite instrument repairs, preventative maintenance programs, and consulting services:

1998: \$234,313,000

1999: \$255,520,000

2000: \$257,920,000

2001: \$267,102,000

2002: \$302,207,000

2003: \$348,103,000

2004 (through June): \$175,728,000

FY 2005 (7/1/04 – 6/30/05): \$399,324,552.83

FY 2006 (7/1/05 – 6/30/06): \$492,938,725.52

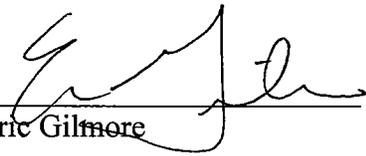
FY 2007 (7/1/06 – 6/30/07): \$576,731,107.49

FY 2008 (7/1/07 – 6/30/08): \$651,618,731.37

YTD FY 2009 (7/1/08 – 4/30/09): \$484,870,181.38

8. I declare under the penalties of perjury that the foregoing statements are true to the best of my information, knowledge and belief.

6/4/09


Eric Gilmore