

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

_____		)
		)
Resident Artist Studio, LLC,		)
		)
Opposer,		)
		)
v.		)
		)
ABiSee, Inc.,		)
		)
Applicant.		)
_____		)

In re App. Ser. No. 77947865

Mark: EYE-PAL

Filing Date: March 1, 2010

Publ'n Date: July 20, 2010

Opposition No.: 91196503

**OPPOSER'S MOTION TO WITHDRAW  
INCORRECTLY FILED MOTION**

Please withdraw the Motion "To Amend Statement of Goods" filed on February 25, 2011, with Express Mailing Receipt incorrectly indicating Opposition No. 91196503, and with the Motion attached to the Express Mailing Receipt indicating Opposition No. 91195183. This Motion was entered by the USPTO in the Opposition indicated on the Express Mailing Receipt, the incorrect Opposition.

A copy of the incorrectly filed Motion is attached as Exhibit A.



03-10-2011

**RELIEF REQUESTED**

Resident Artist Studio, LLC respectfully prays that this Board Withdraw the Motion "To Amend Statement of Goods" filed on February 25, 2011, with Express Mailing Receipt incorrectly indicating Opposition No. 91196503, and with the Motion attached to the Express Mailing Receipt indicating Opposition No. 91195183.

Dated: March 10, 2011

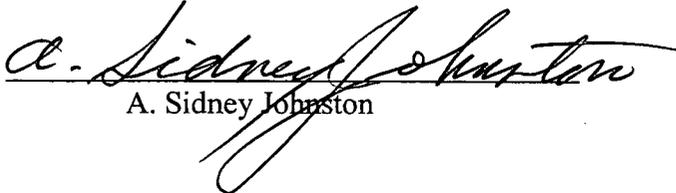
RESIDENT ARTIST STUDIO, LLC

By:   
A. Sidney Johnston  
Thomas C. O'Konski  
Kevin Gannon  
CESARI and MCKENNA, LLP  
88 Black Falcon Avenue  
Boston, MA 02210  
(617) 951-2500

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing motion was served U.S. Post Office Express Mail in the U.S. Patent and Trademark Office, Trademark Trial and Appeal Board, by e-mail to the e-mail address [tcd@dcglaw.com](mailto:tcd@dcglaw.com) and by first-class mail postage prepaid on March 10, 2011 to:

T. Christopher Donnelly  
DONNELLY, CONROY & GELHAAR, LLP  
One Beacon Street – 33<sup>rd</sup> Floor  
Boston, Massachusetts 02108

  
A. Sidney Johnston

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

Resident Artist Studio, LLC, Opposer

v.

ABiSee, Inc., Applicant

In Re Opposition No. 91196503

Serial No.: 77947865

Filed: March 1, 2010

Mark: EYE-PAL

Cesari and McKenna, LLP  
88 Black Falcon Avenue  
Boston, MA 02210  
February 25, 2011

**EXPRESS-MAIL DEPOSIT**

Express Mail Mailing-Label Number: EV 606177753 US

The following papers are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service pursuant to 37 C.F.R. §1.10:

- X Applicant's Motion to Amend Statement of Goods (3 pages)
- X Exhibit 1 – Stipulation of Dismissal with Prejudice (3 pages)
- X Exhibit 2 – Court Notice (1 page)
- X Return Receipt Postcard

EXHIBIT A

A-PL078

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

ABiSee, Inc.,	)	In re App. Ser. No. 77/829,909
Opposer,	)	Mark: EYE PAL
	)	Filing Date: September 18, 2009
v.	)	Publ'n Date: March 30, 2010
Resident Artist Studio, LLC,	)	Opposition No.: 91195183
Applicant.	)	

**APPLICANT'S MOTION TO AMEND STATEMENT OF GOODS**

Applicant, Resident Artist Studio, LLC ("RAS"), by its undersigned counsel, hereby moves to amend the Statement of Goods.

On February 18, 2011 A Settlement Agreement was executed by Opposer ABiSee, and Resident Artist Studio, LLC, Applicant, settling the above captioned matter.

On February 23, 2011, a Stipulation was filed in United States District Court for the District of Massachusetts Civil Action No. 10-CV-10268DPW, Moving for a stipulated dismissal of the Civil Action. A copy of the filed Stipulation is attached hereto as Exhibit 1. A copy of a NOTICE OF ELECTRONIC FILING issued by the United States District Court of the District of Massachusetts that the Civil Case was terminated on 02/24/2011 is attached hereto as Exhibit 2.

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In accordance with the above mentioned Settlement Agreement, Applicant agreed to amend the statement of goods as follows.

Please Amend the Statement of Goods as follows in U.S. Trademark Application for Trademark Registration Serial No. 77829909 as follows:

1. DELETE: the present Statement of Goods.

2. INSERT NEW STATEMENT OF GOODS:

Class 9: optical pinhole lens to be attached to eyeglasses to improve "depth of field"

**RELIEF REQUESTED**

Resident Artist Studio, LLC respectfully prays that this Board grant this Motion to Amend the Statement of Goods.

Dated: February 25, 2011

RESIDENT ARTIST STUDIO, LLC

By:

  
A. Sidney Johnston  
Thomas C. O'Konski  
Kevin Gannon

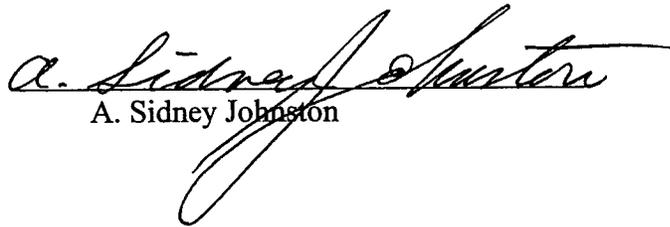
CESARI and MCKENNA, LLP  
88 Black Falcon Avenue  
Boston, MA 02210  
(617) 951-2500

A P-3

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing pleading was served U.S. Post Office Express Mail in the U.S. Patent and Trademark Office, Trademark Trial and Appeal Board, by e-mail to the e-mail address [tcd@dcglaw.com](mailto:tcd@dcglaw.com) and by first-class mail postage prepaid on February 25, 2011 to:

T. Christopher Donnelly  
DONNELLY, CONROY & GELHAAR, LLP  
One Beacon Street – 33<sup>rd</sup> Floor  
Boston, Massachusetts 02108

  
A. Sidney Johnston

A-P4

EXHIBIT A

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

RESIDENT ARTIST STUDIO, LLC,	)	No. 10-cv-10268 (DPW)
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
ABISEE, INC.,	)	
Defendant.	)	
	)	
	)	
ABISEE, INC.	)	
	)	
Counterclaim Plaintiff,	)	
	)	
v.	)	
	)	
RESIDENT ARTIST STUDIO, LLC,	)	
	)	
Counterclaim Defendant.	)	
	)	

STIPULATION OF DISMISSAL WITH PREJUDICE

Pursuant to Fed. R. Civ. P. 41(a)(A)(ii), the parties in the above-captioned matter hereby stipulate and agree that this action, including any and all claims and counterclaims raised or that could have been raised, is hereby dismissed with prejudice. Each party shall bear its own costs and fees.

EXHIBIT 1 P 1/3

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ABISEE, INC.  
By its attorneys,

RESIDENT ARTIST STUDIO, LLC  
By its attorneys,

/s/ T. Christopher Donnelly  
T. Christopher Donnelly (BBO #129930)  
Jeffrey M. Ernst (BBO #658831)  
DONNELLY, CONROY & GELHAAR, LLP  
One Beacon Street, 33<sup>rd</sup> Floor  
Boston, Massachusetts 02108  
(617) 720-2880

/s/ Thomas C. O'Konski (BBO #378265)  
A. Sidney Johnston (BBO #632578)  
Thomas C. O'Konski (BBO #378265)  
Kevin Gannon (BBO #640931)  
CESARI and MCKENNA, LLP  
88 Black Falcon Avenue  
Boston, MA 02210  
(617) 951-2500

Dated: February 25, 2011

EXHIBIT 1 P 2 / 3

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**Other Documents**

1:10-cv-10268-DPW Resident Artist Studio, LLC v. ABiSee, Inc.  
TRADE

**United States District Court**

**District of Massachusetts**

**Notice of Electronic Filing**

The following transaction was entered by O'Konski, Thomas on 2/23/2011 at 4:30 PM EST and filed on 2/23/2011

**Case Name:** Resident Artist Studio, LLC v. ABiSee, Inc.  
**Case Number:** 1:10-cv-10268-DPW  
**Filer:** Resident Artist Studio, LLC  
**Document Number:** 28

**Docket Text:**

**STIPULATION of Dismissal by Resident Artist Studio, LLC. (O'Konski, Thomas)**

**1:10-cv-10268-DPW Notice has been electronically mailed to:**

Jeffrey M. Ernst jme@dcglaw.com

Kevin Gannon ktg@c-m.com

T. Christopher Donnelly tcd@dcglaw.com, jlf@dcglaw.com

Thomas C. O'Konski TOK@c-m.com

**1:10-cv-10268-DPW Notice will not be electronically mailed to:**

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**yes

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1029851931 [Date=2/23/2011] [FileNumber=3747048-0]  
][8987127eed02088ec1d974415752075f11f51562d1b61effc8a967cc7a088bfd5  
f41d296b7634790978d8f3c83679748e8a3ffb9a4540a025538f8beb1e003]]

EXHIBIT 1 P 3/3

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**Other Documents**

1:10-cv-10268-DPW Resident Artist Studio, LLC v. ABiSee, Inc. CASE CLOSED on 02/24/2011

CLOSED, TRADE

**United States District Court**

**District of Massachusetts**

**Notice of Electronic Filing**

The following transaction was entered by O'Konski, Thomas on 2/24/2011 at 10:17 AM EST and filed on 2/24/2011

**Case Name:** Resident Artist Studio, LLC v. ABiSee, Inc.

**Case Number:** 1:10-cv-10268-DPW

**Filer:** Resident Artist Studio, LLC

**WARNING: CASE CLOSED on 02/24/2011**

**Document Number:** 29

**Docket Text:**

**CERTIFICATE OF SERVICE pursuant to LR 5.2 by Resident Artist Studio, LLC re [28] Stipulation of Dismissal. (O'Konski, Thomas)**

**1:10-cv-10268-DPW Notice has been electronically mailed to:**

Jeffrey M. Ernst jme@dcglaw.com

Kevin Gannon ktg@c-m.com

T. Christopher Donnelly tcd@dcglaw.com, jlf@dcglaw.com

Thomas C. O'Konski TOK@c-m.com

**1:10-cv-10268-DPW Notice will not be electronically mailed to:**

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**yes

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1029851931 [Date=2/24/2011] [FileNumber=3747753-0] [5d5ccb66ed5e250bd3bc6267b2c83693cf19d0d03d455b706e63bb50c4eb1919ba6e55f0a0a09d61e9777b7a8bed5e1ed3ab40fa4ea3a047aeaed3e2232abc9]]

*EXHIBIT 2*

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

_____ )	
Resident Artist Studio, LLC, )	In re App. Ser. No. 77947865
Opposer, )	Mark: EYE-PAL
v. )	Filing Date: March 1, 2010
ABiSee, Inc., )	Publ'n Date: July 20, 2010
Applicant. )	Opposition No.: 91196503
_____ )	

**EXPRESS MAIL DEPOSIT**

Express Mail Mailing-Label Number: EM 066542404 US

The following papers are being deposited with the United States Postal Service  
"Express Mail Post Office to Addressee" service pursuant to 37 C.F.R. § 1.10:

<input checked="" type="checkbox"/> Opposer's Motion to Withdraw Incorrectly Filed Motion (3 pages)
<input checked="" type="checkbox"/> Exhibit A – Motion Incorrectly Filed Feb. 25, 2011 (8 pages)
<input checked="" type="checkbox"/> Return Receipt Postcard