



03-20-2002

U.S. Patent & TMOfo/TM Mail RcptDt. #76

# Exhibits

TTAB

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

Vision-Ease Lens, Inc.

Opposer,

v.

Shimano, Inc.,

Respondent.

Opposition No. 151225

### NOTICE OF OPPOSITION

#### **BOX TTAB -- FEE**

Commissioner of Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

EXPRESS MAIL MAILING LABEL		02 JUL 15 AM 12:03 TRADEMARK TRIAL AND APPEAL BOARD
NUMBER	EL 746596844 US	
DATE OF DEPOSIT	3-20-02	
I hereby certify that this paper or fee is being deposited with the United States Postal Service "EXPRESS MAIL POST OFFICE TO ADDRESSEE" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.		
Signature		

Madam:

Vision-Ease Lens, Inc., a Minnesota corporation having its principal place of business at 7100 Northland Circle, Suite 312, Brooklyn Park, Minnesota 55428, believes that it will be damaged by the registration of application Serial No. 76/176,796 for the mark ULTEGRA ("Respondent's Mark"), in International Class 9, and hereby opposes the same through this Notice of Opposition.

03/26/2002 EPINA1 00000142 76176796

01 FC:377

300.00 OP

As grounds for opposing registration of the mark set forth in the above-referenced application, it is alleged as follows:

1. The Respondent seeks to register the subject mark ULTEGRA as a trademark and service mark for: "Electric accumulators for bicycles; electric cables; computers for bicycles; speed indicators, namely, speedometers; automatic indicators for pressure in bicycle tires, namely, tire pressure gauges; helmets for bicycles; eyeglasses; sunglasses; cases for eyeglasses and sunglasses; protective clothing, namely, clothing for protection against accidents; and eye glass frames", in International Class 9. Respondent's application for registration of ULTEGRA was filed on December 6, 2000, and was published for opposition in the Official Gazette on February 19, 2002, at page TM 2002 157.

2. On information and belief, Respondent has not alleged use of the mark ULTEGRA in interstate commerce in connection with the goods and services recited in the subject application Serial No. 76/176,796 prior to the filing of the present Notice of Opposition.

3. Opposer has continuously sold "ophthalmic lenses for eyeglasses" ("Opposer's Goods") in commerce under the TEGRA mark since at least as early as November 20, 1997.

4. In addition to such common law rights in the TEGRA mark, Opposer is the owner of the following federal trademark and registrations and applications:

<u>Mark</u>	<u>Reg./ Appl. No.</u>	<u>Goods/Services</u>	<u>Reg./Filing Date</u>
<b>TEGRA</b>	2,324,836	Ophthalmic lenses	February 29, 2000
<b>TEGRA SUNRX</b>	76/171,464	Ophthalmic lenses for eyeglasses	November 27, 2000
<b>TEGRA ACTUALEYES</b>	76/171,462	Ophthalmic lenses for eyeglasses	November 27, 2000
<b>TEGRA OUTLOOK</b>	76/171,459	Ophthalmic lenses for eyeglasses	November 27, 2000
<b>TEGRA OUTLOOK SUNRX</b>	76/171,177	Ophthalmic lenses for eyeglasses	November 27, 2000
<b>TEGRA OUTLOOK EXPRESS</b>	76/174,386	Ophthalmic lenses for eyeglasses	December 1, 2000

(Collectively the "Tegra Marks") A copy of the Certificate of Registration No. 2,324,836, which is valid and subsisting, is attached hereto as Exhibit A. A copy of the printouts from the PTO TARR database for Reg. No. 2,324,836 and for the above-identified applications is attached hereto as Exhibit B.

5. Opposer has expended considerable effort and devoted substantial resources toward promoting its Tegra Marks, with the result that the purchasing public has come to know, rely upon and recognize the goods of Opposer by the Tegra Marks. Accordingly, Opposer has established significant and valuable goodwill in its Tegra Marks.

6. Opposer's TEGRA mark is an arbitrary mark as applied to Opposer's Goods and is, therefore, entitled to a broad scope of protection.

7. Respondent's goods in International Class 9 are identical in some respects, and closely related in other respects, to Opposer's Goods.

8. Opposer has priority over Respondent as a result of its earlier continuous use of its Tegra Marks in connection with identical and closely related goods and services.

9. Respondent's ULTEGRA mark so resembles Opposer's TEGRA Marks as to be likely, when used in connection with Respondent's goods and services, to cause confusion, or to cause mistake or to deceive. Respondent's ULTEGRA mark incorporates the whole of Opposer's registered TEGRA Mark. Purchasers and prospective purchasers are likely to be confused or mistaken as to the source of the goods or services, all to the detriment of Opposer. Registration of Respondent's mark therefore should be denied registration under 15 U.S.C. §§ 1052(d).

WHEREFORE, pursuant to Section 14 of the Lanham Act, 15 U.S.C. § 1063, Opposer respectfully requests that Application Serial Nos. 76/176,796 be rejected with respect to the goods identified in International Class 9, and that the registration of the mark therein shown for the goods therein specified be refused and that the present opposition be sustained.


A duplicate copy of this Notice of Opposition and the fee in the amount of \$300 as required in Section 2.6(1) are enclosed herewith. The Commissioner is authorized to draw on the Deposit Account of Fish & Richardson, P.C., P.A., Account No. 06-1050 with reference to file 11553/039001, if the accompanying check is insufficient or inadvertently omitted. In the event the check is in excess of the amount needed for fees, please deposit the excess in Deposit

Account No. 06-1050. Please return the enclosed postcard to evidence receipt of this Notice of Opposition.

Please direct all communications concerning the above-captioned opposition proceeding for docketing purposes to the undersigned attorneys at the following address:

Respectfully submitted,

Date: 3-20-02



Marsha Stolt  
Fish & Richardson, P.C, P.A.  
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Frederick P. Fish  
1855-1930

W.K. Richardson  
1859-1951



03-20-2002

U.S. Patent & TMOs/TM Mail Rpt Dt. #76

March 20, 2002

BOX TTAB - FEE  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Re: Notice of Opposition  
Mark: **ULTEGRA**  
Parties: Vision-Ease Lens, Inc. and Shimano, Inc.  
Our Ref.: 11857/120PP1

BOSTON

DELAWARE

NEW YORK

SILICON VALLEY

SOUTHERN CALIFORNIA

TWIN CITIES

WASHINGTON, DC

Madam:

Enclosed for filing please find a Notice of Opposition in duplicate for the above-captioned matter.

Our check in the amount of \$300 is enclosed to cover the filing fee. Should any additional fees be required relating to the enclosed document, the Commissioner for Trademarks is authorized to deduct said fees from Fish & Richardson Deposit Account No. 06-1050 referencing 11857/120PP1.

Please date stamp and return the enclosed postcard to acknowledge receipt of these materials.

Very truly yours,

Marsha Stolt

MS/jal  
Enclosures

## CERTIFICATE OF MAILING BY EXPRESS MAIL

Express Mail Label No. EL 746596844 US

I hereby certify under 37 CFR §1.10 that this correspondence is being deposited with the United States Postal Service as Express Mail Post Office to Addressee with sufficient postage on the date indicated below and is addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.

March 20, 2002  
Date of Deposit

Signature

Vince Defante  
Typed or Printed Name of Person Signing Certificate