

TTAB

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

The Brinkmann Corporation,

Opposer,

v.

Mag Instrument, Inc.,

Applicant.

Opposition No.: 91,164,169

Serial No.: 76/484,030

DESIGN



06-17-2005

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #11

**MAG INSTRUMENT, INC.'S RESPONSE TO NOTICE OF DEFAULT AND RE-SUBMISSION
OF MOTION WITH CONSENT TO SUSPEND OPPOSITION PROCEEDING**

BOX TTAB - NO FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3514

Dear Commissioner:

Transmitted herewith please find copies of the following documents that were previously submitted in connection with the above-captioned proceeding on March 23, 2005:

1. Transmittal of Motion with Consent to Suspend Opposition Proceeding (attached hereto as **Exhibit 1**);
2. Motion with Consent to Suspend Opposition Proceeding (attached hereto as **Exhibit 2**); and
3. A return postcard to acknowledge receipt of the materials detailed in 1 & 2, above (attached hereto as **Exhibit 3**).

Also transmitted herewith please find a return postcard, dated June 8, 2005, to acknowledge receipt of the materials detailed in 1-3, above. Should any fees be required, the Commissioner

CERTIFICATE OF MAILING

I hereby certify that this document, entitled Mag Instrument, Inc.'s Response to Notice of Default and Re-Transmission of Motion with Consent to Suspend Opposition Proceeding, is being deposited with the United States Postal Service on this date in an envelope addressed to: Box TTAB- No Fee, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514.

Dated: June 9, 2005

By: 

Trisha Dolman

for Trademarks is authorized to deduct said fees from the Deposit Account of Jones Day (No. 50-2468).

Applicant Mag Instrument, Inc. ("Mag Instrument") originally submitted its Motion with Consent to Suspend Opposition Proceeding on or before the due date for the filing of its Answer (March 23, 2005) as set forth in the Scheduling Order dated February 11, 2005. Mag Instrument also filed similar motions on the same date in connection with Opposition Nos. 91,163,534 and 91,164,340 (both of which were received by the Board). Suspension of all three proceedings was sought in order to maintain the status quo pending settlement discussions.

Mag Instrument therefore respectfully requests that its Motion with Consent to Suspend Opposition Proceeding be granted -- and that the Notice of Default, dated May 31, 2005, be vacated. The Board can then issue a revised Scheduling Order that includes a new date by which Mag Instrument must file and serve its Answer.

In the event such relief is denied, Mag Instrument still respectfully requests that that the Notice of Default be vacated and that Applicant be provided additional time to file and serve an Answer. In particular, Mag Instrument has acted in good faith by securing Opposer's consent to a suspension and by timely seeking entry of an appropriate Order.

Respectfully submitted,

JONES DAY

Dated: June 9, 2005

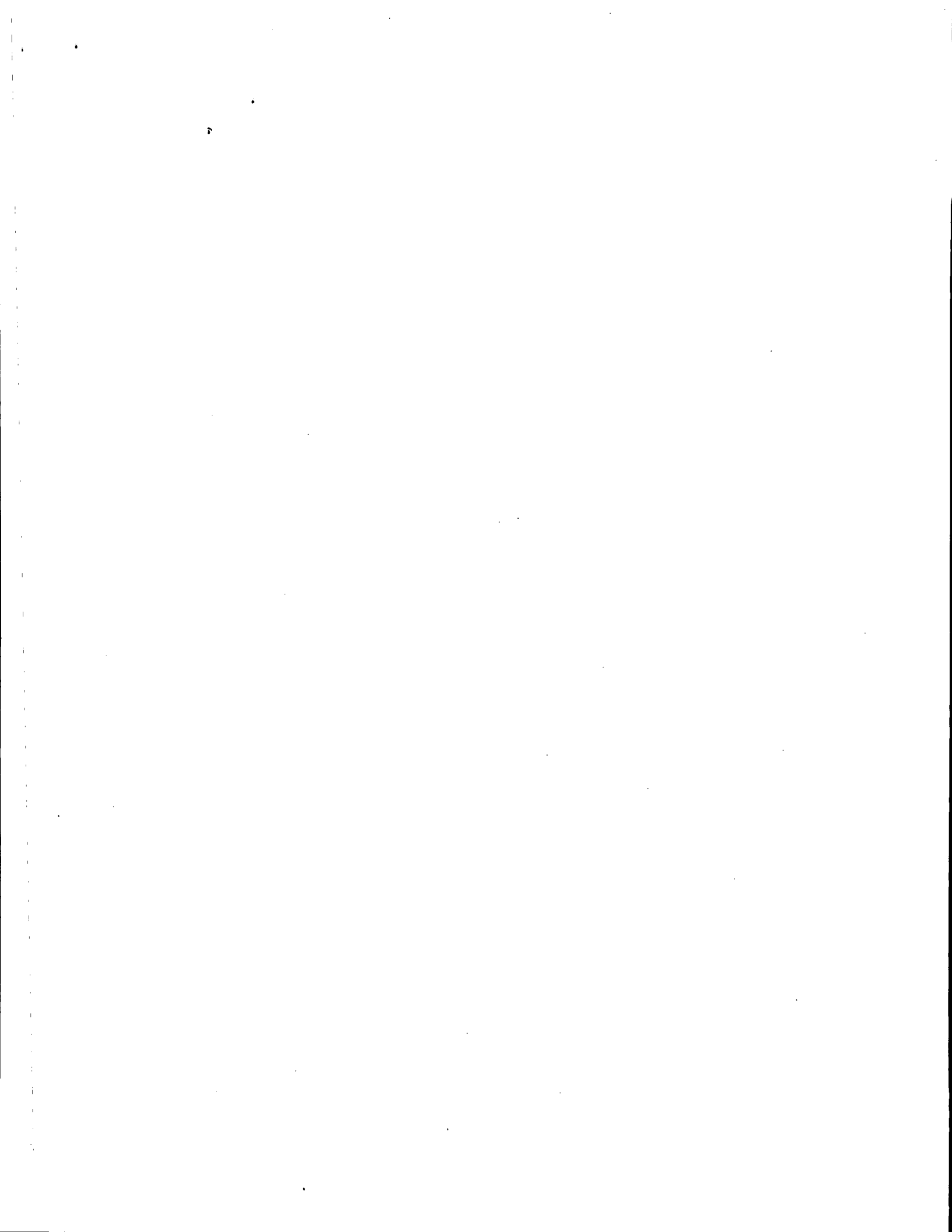
By: 
Charles A. Kertell
Attorney for Applicant
MAG INSTRUMENT, INC.

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing document, entitled Mag Instrument, Inc.'s Response to Notice of Default and Re-Transmission of Motion with Consent to Suspend Opposition Proceeding, has been served upon Applicant's counsel, Susan Hwang, Sheppard, Mullin, Richter & Hampton, LLP, 333 South Hope Street, 48th Floor, Los Angeles, California 90071-1448, this 9th day of June, 2005, marked first class mail, postage prepaid.

A handwritten signature in cursive script, reading "Trisha Dolman", is written over a horizontal line.

Trisha Dolman



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

The Brinkmann Corporation,

Opposer,

v.

Mag Instrument, Inc.,

Applicant.

Opposition No.: 91,164,169

Serial No.: 76/484,030

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TRANSMITTAL OF MOTION WITH CONSENT TO SUSPEND
OPPOSITION PROCEEDING

BOX TTAB - NO FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3514

Dear Commissioner:

Transmitted herewith please find the following documents:

1. Motion to with Consent to Suspend Opposition Proceeding (original and two copies); and
2. A return postcard to acknowledge receipt of these materials.

Should any fees be required, the Commissioner for Trademarks is authorized to deduct said fees from the Deposit Account of Jones Day (No. 50-2468).

Respectfully submitted,

JONES DAY

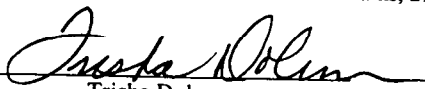
Dated: March 23, 2005

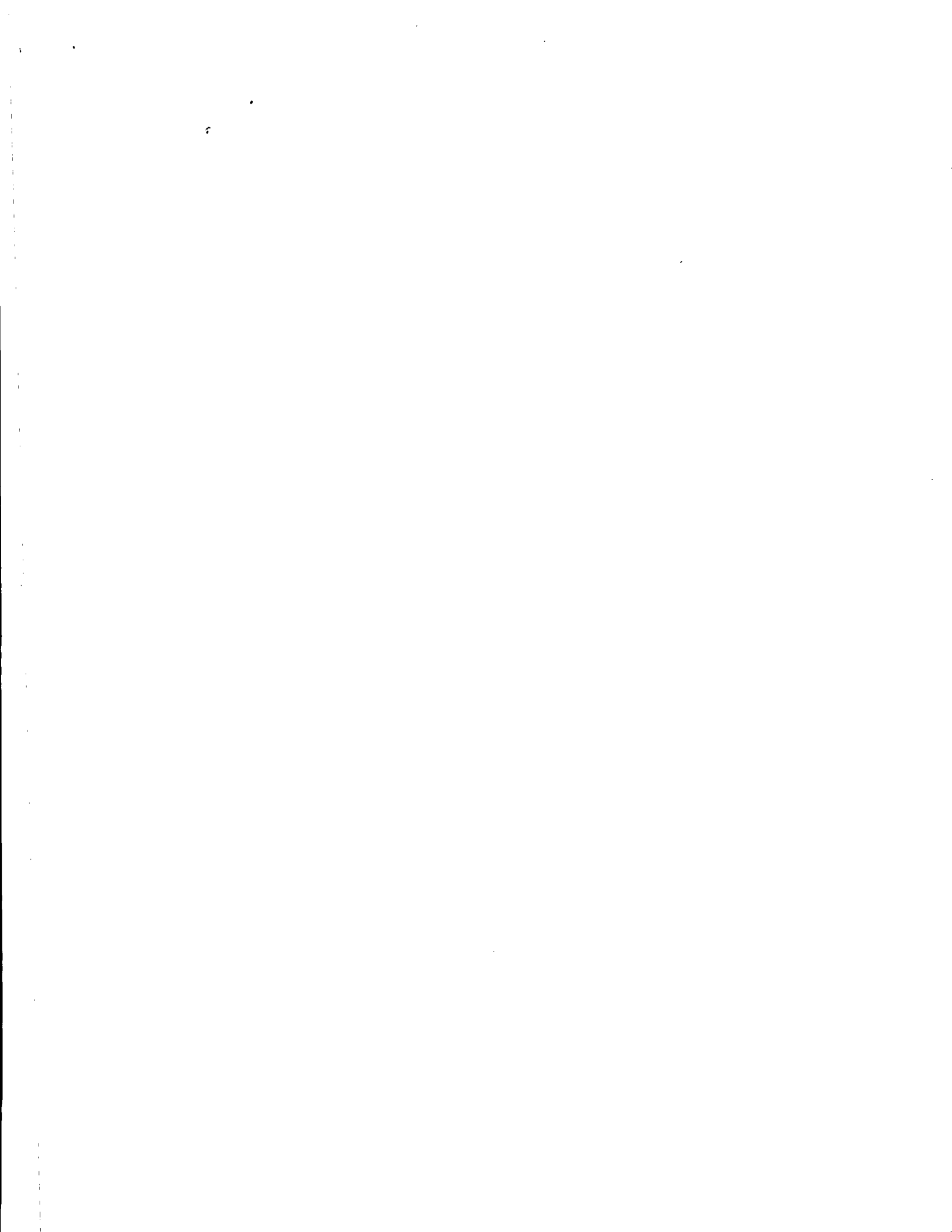
By: 
Charles A. Kertell
Attorney for Applicant
MAG INSTRUMENT, INC.

CERTIFICATE OF MAILING

I hereby certify that this document, entitled Transmittal of Motion with Consent to Suspend Opposition Proceeding, is being deposited with the United States Postal Service on this date in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513.

Dated: March 23, 2005

By: 
Trisha Dolman



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

The Brinkmann Corporation,

Opposer,

v.

Mag Instrument, Inc.,

Applicant.

Opposition No.: 91,164,169

Serial No.: 76/484,030

DESIGN

MOTION WITH CONSENT TO SUSPEND OPPOSITION PROCEEDING

BOX TTAB - NO FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3514

Dear Sir:

Applicant, Mag Instrument, Inc., with the consent of the Opposer, The Brinkmann Corporation, hereby requests that the above-captioned trademark opposition proceeding be suspended for six (6) months, subject to the right of either party to request resumption at any time prior thereto.

The parties, through their attorneys, are engaged in settlement discussions that, if successful, will result in the termination of this proceeding. Suspension is requested in order to allow the parties to maintain the status quo pending the outcome of these discussions.

Respectfully submitted,

JONES DAY

Dated: March 23, 2005

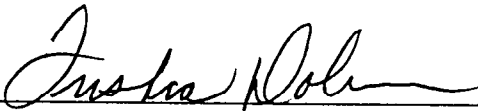
By:



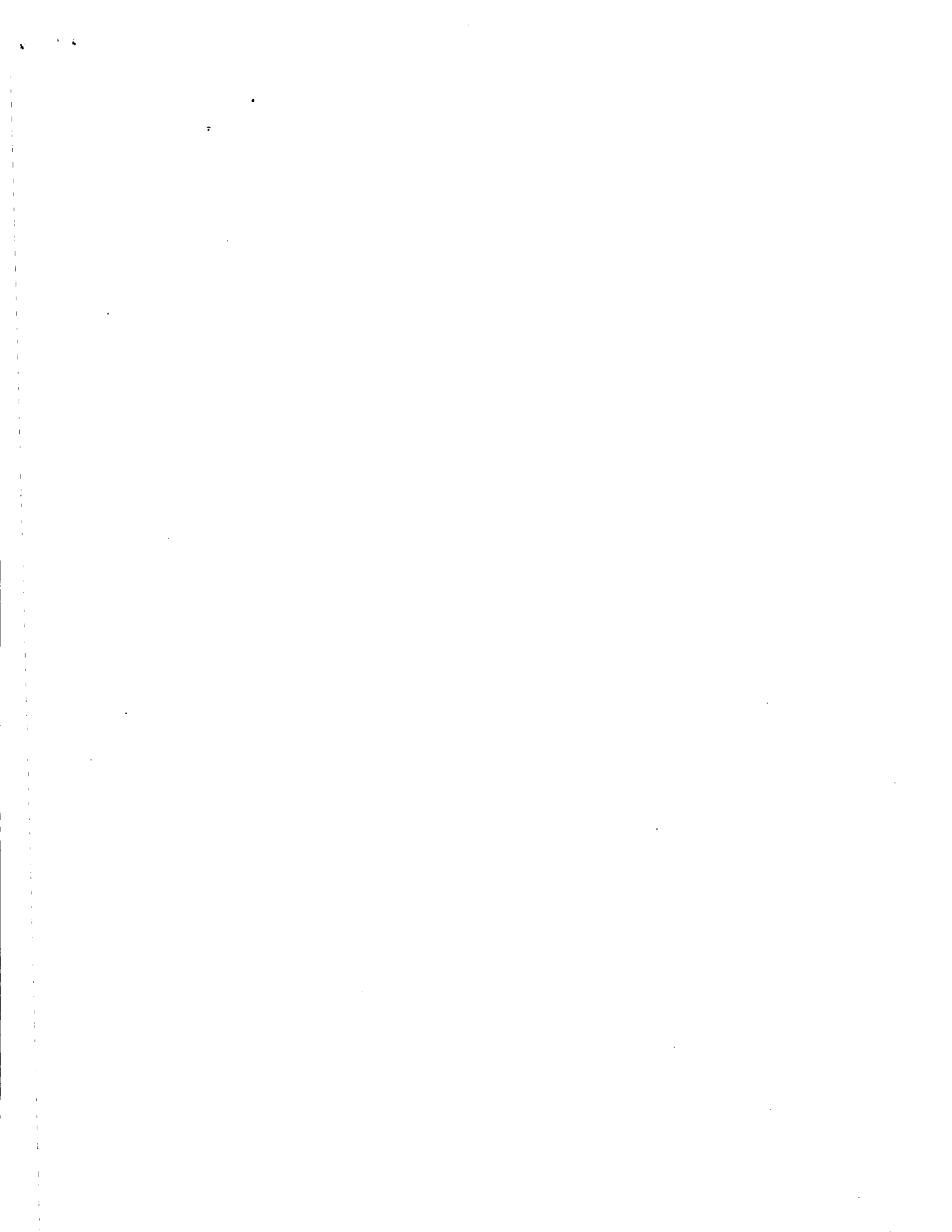
Charles A. Kertell
Attorney for Applicant
MAG INSTRUMENT, INC.

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing document, entitled Motion with Consent to Suspend Opposition Proceeding, has been served upon Opposer's counsel, Gary A. Clark, Sheppard, Mullin, Richter & Hampton, LLP, 333 South Hope Street, 48th Floor, Los Angeles, California 90071-1448, this 23rd day of March, 2005, marked first class mail, postage prepaid.



Trisha Dolman



Please acknowledge receipt of the following by affixing hereon the Patent and Trademark Office date stamp and returning this card to our office.

Opposer: MAG INSTRUMENT, INC.
Serial No.: 76/484,030
Mark: DESIGN
Attorney(s): Charles A. Kertell/Robert C. Weiss
Date of Deposit: March 23, 2005

**MOTION WITH CONSENT TO SUSPEND OPPOSITION
PROCEEDING**

Enclosure(s): Transmittal; Motion with Consent to Suspend Opposition
Proceeding; and Postcard

LAI-1139451v1