

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

THE BRINKMANN CORPORATION)	
)	
Opposer,)	Opposition No. 91,164,169
)	Serial No. 76/484,030
v.)	Filed: January 21, 2003
)	Mark: Design
)	Published: September 28, 2004
MAG INSTRUMENT, INC.)	
)	
Applicant.)	
)	
)	

ANSWER TO NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Dear Sir or Madam:

The Applicant, Mag Instrument, Inc., a California corporation, submits its Answer to Opposer The Brinkmann Corporation in the above-captioned proceeding as follows:

1. Answering Paragraph 1 of the Notice of Opposition, Applicant admits the allegations thereof.

2. Answering Paragraph 2 of the Notice of Opposition, Applicant admits the allegations thereof.

3. Answering Paragraph 3 of the Notice of Opposition, Applicant admits the allegations thereof.



4. Answering Paragraph 4 of the Notice of Opposition, Applicant admits the allegations thereof.

5. Answering Paragraph 5 of the Notice of Opposition, Applicant admits the allegations thereof.

6. Answering Paragraph 6 of the Notice of Opposition, Applicant denies the allegations thereof.

7. Answering Paragraph 7 of the Notice of Opposition, Applicant admits that the charging rings are areas of contact between Applicant's flashlight and Applicant's charger, allowing a user to recharge the batteries in Applicant's flashlight for further use. Applicant denies the remaining allegations contained in Paragraph 7.

8. Answering Paragraph 8 of the Notice of Opposition, Applicant admits that Mag Instrument was the assignee and owner of U.S. Patent No. 4,388,673 ("the '673 patent"), entitled "Variable Light Beam Flashlight and Recharging Unit," issued June 14, 1983, based on an application filed June 22, 1981. Applicant further admits that one or more claims of the '673 patent covered a flashlight incorporating the Design in combination with a charger with the following qualification: none of the claims of the '673 patent required electrical contact areas to appear as circumferential bands around the flashlight. Applicant also admits that the '673 patent expired on June 22, 2001. Applicant denies the remaining allegations of Paragraph 8.

9. Answering Paragraph 9 of the Notice of Opposition, Applicant denies the allegations thereof.

10. Answering Paragraph 10 of the Notice of Opposition, Applicant denies the allegations thereof.

WHEREFORE, Applicant prays that the Notice of Opposition be dismissed and registration of the subject mark be granted to Applicant.

Respectfully submitted,

JONES DAY

By: 
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Dated: January 23, 2006

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CERTIFICATE OF EXPRESS MAILING AND SERVICE

I hereby certify that the foregoing ANSWER TO NOTICE OF OPPOSITION is being deposited on January 23, 2006, with the United States Postal Service as Express Mail No.

EV 749448310 US in an envelope addressed to:

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451.

It is further certified that on January 23, 2006, the foregoing ANSWER TO NOTICE OF OPPOSITION is being served by mailing a copy thereof by Express Mail addressed to:

EV 749448323 US

Susan Hwang
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By Francis Corrales

Francis Corrales