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

Proceeding	91205395
Party	Defendant Magpul Industries Corp.
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Date	07/07/2012
Attachments	Answer.pdf (4 pages)(63627 bytes)

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

MAG INSTRUMENT, INC.,)	Opposition No. 91/205,395
)	
Opposer,)	Application Serial No. 85/385,069
)	Filing Date: July 29, 2011
v.)	Publication Date: December 6, 2011
)	Trademark: EMAG
MAGPUL INDUSTRIES, CORP.)	International Class: 13
)	
Applicant.)	
)	
_____)	

APPLICANT'S ANSWER TO THE NOTICE OF OPPOSITION

Box TTAB FEE
Commissioner for Trademarks
P.O. Box 1451
Arlington, VA 22313-1451

Dear Sir or Madam:

Applicant, Magpul Industries Corp. ("MAGPUL"), contests the Opposition filed by Opposer, Mag Instrument, Inc. in this matter and responds to the grounds set forth in the Notice of Opposition as follows:

1. Applicant lacks sufficient information to respond to the allegations contained in paragraph 1 of the Notice of Opposition and, accordingly, DENIES the same.
2. Applicant lacks sufficient information to respond to the allegations contained in paragraph 2 of the Notice of Opposition and, accordingly, DENIES the same.
3. Applicant lacks sufficient information to respond to the allegations contained in paragraph 3 of the Notice of Opposition and, accordingly, DENIES the same.

4. Applicant lacks sufficient information to respond to the allegations contained in paragraph 4 of the Notice of Opposition and, accordingly, DENIES the same.

5. Applicant lacks sufficient information to respond to the allegations contained in paragraph 5 of the Notice of Opposition and, accordingly, DENIES the same.

6. Applicant lacks sufficient information to respond to the allegations contained in paragraph 6 of the Notice of Opposition and, accordingly, DENIES the same.

7. Applicant ADMITS the allegations contained in paragraph 7 of the Notice of Opposition.

8. Applicant lacks sufficient information to respond to the allegations contained in paragraph 8 of the Notice of Opposition and, accordingly, DENIES the same.

9. Applicant DENIES the allegations contained in paragraph 9 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

10. As a first and separate affirmative defense, Applicant submits that the sixth mark in the MAG Family marks, MAG – Reg. No. 1,975,632, which is the common element to all of the MAG family marks, is generic to the goods for which Applicant seeks to register the applied for mark

11. As a second and separate affirmative defense, Applicant submits that the marks referred to in the Notice of Opposition as the MAG Family Marks are not distinctive marks.

12. As a third and separate affirmative defense, Applicant submits that the marks referred to in the Notice of Opposition as the MAG Family Marks are not famous marks.

13. As a fourth and separate affirmative defense, Applicant submits that there is no likelihood of confusion between the applied for mark and the marks cited in the Notice of Opposition.

14. As a fifth and separate affirmative defense, Applicant alleges that the Opposition is barred by the doctrine of latches.

15. As a sixth and separate affirmative defense, Applicant alleges that the Opposer has acquiesced to Applicant's use of the applied for mark.

16. As a seventh and separate affirmative defense, Applicant submits that it has a prior registration for "PMAG" (U.S. TM. Reg. No. 3,608,684, registered 4/21/2009), a substantially identical mark for the identical goods for which the applied for mark is sought.

17. Additional affirmative defenses may be realized in the course of discovery. Applicant reserves the right to assert such later discovered affirmative defenses.

Dated: July 7, 2012

Respectfully Submitted,




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MAGPUL INDUSTRIES CORP.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the APPLICANT'S ANSWER TO THE NOTICE OF OPPOSITION has been mailed to the Opposer's Attorney on July 9, 2012, via USPS First Class mail, postage prepaid, at the correspondence address of record in the Patent and Trademark Office:

Anna E. Raimer
Jones Day
717 Texas, Suite 3300
Houston, TX 77002



Geoffrey E. Dobbin