



03-06-2002

U.S. Patent & TMOfo/TM Mail Rcpt Dt. #5E

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

MAG INSTRUMENT, INC.,

Cancellation No. 92040103

Petitioner

v.

MAGASCHONI APPAREL GROUP, INC.

Registration No.: 2,198,795

Date of Issue: October 20, 1998

Registrant.

Trademark: **E-MAG**

International Class: 25

DECLARATION OF MARY A. TUCK IN SUPPORT OF MOTION FOR DEFAULT JUDGMENT

Box TTAB
NO FEE
Commissioner for Trademarks
Arlington, Virginia 22202-3513

I, Mary A. Tuck, do hereby declare:

1. I have personal knowledge of the facts stated herein.
2. I am an associate with Lyon & Lyon LLP, attorneys of record for Mag

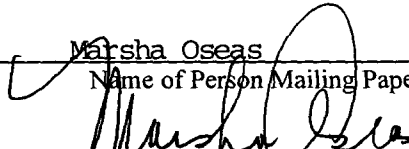
Instrument, Inc. ("Mag Instrument").

LA-214505.1(37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' in an envelope addressed to Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513

EV051356581US
Express Mail Label No.

March 6, 2002
Date of Deposit

Marsha Oseas
Name of Person Mailing Paper

Marsha Oseas
Signature of Person Mailing Paper

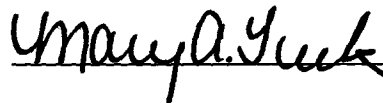
3. Attached hereto as Exhibit 1 is a true and correct copy of a printout on March 5, 2002 from the website www.m-a-g.com, which is purported to be the website for Magashoni Apparel Group, Inc. The address listed on the website is 525 Seventh Avenue, Floor 21, New York, New York, 10018.

4. Attached hereto as Exhibit 2 is a true and correct copy of a Dun & Bradstreet report for Magashoni Apparel Group, Inc. The address listed is 525 Seventh Avenue, 21st Floor, New York, New York, 10018.

5. Attached hereto as Exhibit 3 is a true and correct copy of a New York Department of State Corporate Record, printed from Lexis-Nexis for Magashoni Apparel Group, Inc. The address listed is 525 Seventh Avenue/21st Floor, New York, New York 10018.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Los Angeles, California, this 6th day of March, 2002.



Mary A. Tuck

M - A - G
BY MAGASCHONI

COLLECTION | ABOUT M-A-G | EDITORIALS & EVENTS | CONTACT US

Contact Us

Corporate Address:

525 Seventh Avenue
Floor 21
New York, NY 10018
Tel: 212.869.6886
Fax: 212.768.7878
E-mail: questions@m-a-g.com

Order By Phone:

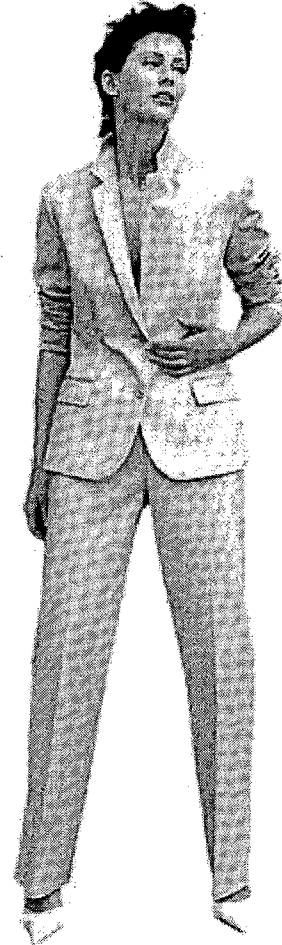
Toll-Free 888.MAG.0494
9:00am - 6:00pm (ET)
Monday through Friday

Stores:

M-A-G
75 Main Street
East Hampton, NY 11937
Tel: 631.329.8139
10am - 6pm / M.Th.Su.
11am - 4pm / Tu.W.
10am - 7pm / F.Sa.

M-A-G
20 Beauchamp Place
Knightsbridge, London
England SW3 1NQ
Tel: 020.7591.0552
10:00am - 6:00pm
Monday through Saturday
Closed on Sunday

New NYC Location
Coming Soon



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ATTN: 02582212/MAT/MAG

COMPREHENSIVE REPORT

DUNS: 17-822-4267
MAGASCHONI APPAREL GROUP INC
(FOREIGN PARENT IS M
MAGTAGUE CO LTD, KOWLOON,
HONG KONG)
(FACTORED BY GMAC)

FINANCIAL STRESS CLASS: 1
CREDIT SCORE CLASS: 3

KEY

=====

LOWEST RISK				HIGHEST RISK
1	2	3	4	5

=====

525 7TH AVE, 21ST FLR
NEW YORK NY 10018
TEL: 212 869-6886

SIC: 51 37
LINE OF BUSINESS: WHOL WOMEN'S APPAREL
YEAR STARTED: 1987
CONTROL DATE: 1987

DATE PRINTED: MAR 05 2002

CHIEF EXECUTIVE: DOMINIC LEE, CEO-PRES

=====

EXECUTIVE SUMMARY

- The Financial Stress Class of 1 for this company shows that during the previous year, firms with this classification had a failure rate of .37% (37 per 10,000), which is lower than the national average.
- The Credit Score Class of 3 for this company shows that during the previous year, 10.4% of the firms with this classification paid one or more bills severely delinquent, which is lower than the national average.
- Subject company pays its bills an average 9 days beyond terms.
- Subject company's industry pays its bills an average 8 days beyond terms.
- Subject company pays its bills slower than the average for its industry.
- UCC filing(s) are reported for this business.
- Financing is secured.
- Under present management control 15 years.
- No record of open Suit(s), Lien(s), or Judgment(s) in the D&B database.
- History is clear.

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CREDIT CAPACITY SUMMARY

D&B Rating:	1R3	Payment Activity	
		(based on 22 experiences):	
		Average High Credit:	\$8,627
# of Employees		Highest Credit:	\$100,000
Total:	34	Total Highest Credits:	\$172,700
Worth:	-		
Working Capital:	-		

=====

FINANCIAL STRESS SUMMARY

The Financial Stress Model predicts the likelihood of a firm ceasing business without paying all creditors in full, or reorganizing or obtaining relief from creditors under state/federal law over the next 12 months. Scores were calculated using a statistically valid model derived from D&B's extensive data files.

(Highest Risk: 5; Lowest Risk: 1)

Incidence of Financial Stress Among Companies with this Classification: 0.37% (37 per 10,000)

Incidence of Financial Stress: 0.80% (80 per 10,000)
- National Average

Financial Stress National Percentile: 71
(Highest Risk: 1; Lowest Risk: 100)

Financial Stress Score: 1483
(Highest Risk: 1,001; Lowest Risk: 1,850)

The Financial Stress Class for this company is based on the following factors:

- Payment experiences exist for this firm which are greater than 60 days past due.
- 32% of trade experiences indicate slow payment(s) are present.
- Business does not own facilities.
- No open record of suit(s) in the D&B files.
- No record of open lien(s), or judgements(s) in the D&B files.

Notes:

- The Financial Stress Class indicates that this firm shares some of the same business and financial characteristics of other companies with this classification. It does not mean the firm will necessarily experience financial stress.
- The Incidence of Financial Stress shows the percentage of firms in a given Class that discontinued operations over the past year with loss to creditors. The Incidence of Financial Stress - National Average represents the national failure rate and is provided for comparative purposes.
- The Financial Stress National Percentile reflects the relative ranking of a company among all scorable companies in D&B's file.
- The Financial Stress Score offers a more precise measure of the level of risk than the Class and Percentile. It is especially helpful to customers using a scorecard approach to determining overall business performance.
- All Financial Stress Class, Percentile, Score and Incidence statistics are based on 1997.

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FINANCIAL STRESS NORMS

Norms for Companies in the Same ...	National Percentile
- Region (MIDDLE ATLANTIC)	45
- Industry: WHOLESALE	53
- Employee Range (20-99)	72
- Years in Business Range (11-25)	65
- Subject Company	71

Key Comparisons

The subject company has a Financial Stress Percentile that shows:

- Lower risk than other companies in the same region.

- Lower risk than other companies in the same industry.
- Higher risk than other companies in the same employee size range.
- Lower risk than other companies with a comparable number of years in business.

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CREDIT SCORE SUMMARY

The Credit Score Class predicts the likelihood of a firm paying in a severely delinquent manner (90+ Days Past Terms) over the next twelve months. It was calculated using statistically valid models and the most recent payment information in D&B's files.

Credit Score Class: 3

Incidence of Delinquent Payment Among Companies with this Classification: 10.40%

Percentile: 36

The Credit Score Class for this company is based on the following factors:

- 32% of trade experiences indicate slow payment(s) are present.
- Payment experiences exist for this firm which are greater than 60 days past due.
- No record of open suit(s), lien(s) or judgment(s) in the D&B files.
- Business does not own facilities.

Notes:

- The Incidence of Delinquent Payment is the percentage of companies with this classification that were reported 90 days past due or more by creditors. The calculation of this value is based on an inquiry weighted sample.
- The Percentile ranks this firm relative to other businesses. For example, a firm in the 80th percentile has a lower risk of paying in a severely delinquent manner than 79% of all scorable companies in D&B's files.

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CREDIT SCORE NORMS

Norms for Companies in the Same ...	National Percentile
- Region (MIDDLE ATLANTIC)	46
- Industry: WHOLESALE	53
- Employee Range (20-99)	57
- Years in Business Range (11-25)	56
- Subject Company	36

Key Comparisons

The subject company has a Credit Score Percentile that shows:

- Higher risk than other companies in the same region.
- Higher risk than other companies in the same industry.
- Higher risk than other companies in the same employee size range.
- Higher risk than other companies with a comparable number of years in business.

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PAYMENT TRENDS

PAYDEX scores below are based on dollar weighted trade in most recent 12 mos.

	'00 JUN	'00 SEP	'00 DEC	'01 MAR	'01 APR	'01 MAY	'01 JUN	'01 JUL	'01 AUG	'01 SEP	'01 OCT	'01 NOV	'01 DEC	'02 JAN	'02 FEB	'02 MAR
FIRM	70	76	77	72	72	72	72	71	70	69	69	67	66	65	74	74
Industry Quartiles	-----															
Upper	79	78	78	78			78			79			79			
Median	75	74	75	74			73			75			75			
Lower	65	65	67	66			66			65			66			

Industry PAYDEX based on: KEY TO PAYDEX SCORES:
 SIC: 5137 79 2 Days Beyond Terms
 305 Firms 74 9 Days Beyond Terms
 65 19 Days Beyond Terms

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SUMMARY OF PAYMENT HABITS

Dollar Range Comparisons:

Suppliers That Extend Credit of...	Number of Experiences:	Total Amount	% of Dollars Within Terms
	#	\$	%
OVER \$100,000	1	100,000	100
\$50,000 - 99,999	0	0	0
\$15,000 - 49,999	1	30,000	50
\$ 5,000 - 14,999	4	30,000	75
\$ 1,000 - 4,999	6	10,500	83
Under 1,000	8	2,050	62

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PAYMENT ANALYSIS BY INDUSTRY

There are 22 payment experiences in D&B's file for the most recent 12 months, with 11 experiences reported during the last three month period.

Industry	Total Recd #	Dollar Amount \$	Highest Credit \$	Within Terms	Slow 1-30	Slow 31-60	Slow 61-90	Slow 91+
				--- % of dollar amount ---				
Total in D&B's File	22	172,700	100,000					
Nonclassified	3	31,100	30,000	50	50	0	0	0
Telephone communicatns	3	17,500	10,000	50	7	14	0	29
Air courier service	3	1,050	750	26	2	72	0	0
Accounting services	2	100,500	100,000	100	0	0	0	0
Misc business credit	2	12,500	10,000	100	0	0	0	0
Short-trm busn credit	2	7,500	5,000	100	0	0	0	0
Misc equipment rental	2	1,250	1,000	100	0	0	0	0
Coating/engrave svcs	1	100	100	100	0	0	0	0
Whol office supplies	1	50	50	100	0	0	0	0
Misc computer service	1	1,000	0	100	0	0	0	0

OTHER PAYMENT CATEGORIES:

Cash Experiences	0	0
Paying Record Unknown	2	150
Unfavorable Comments	0	0
Placed for Collection		

with D&B	0	0
other	0	N/A

Indications of slowness can be the result of disputes over merchandise, skipped invoices, etc.

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PUBLIC FILINGS SUMMARY

The following data includes both open and closed filings found in D&B's database on the subject company.

Record Type	#	Most Recent Filing Date
Bankruptcy Proceedings	0	-
Judgments	0	-
Liens	0	-
Suits	0	-
UCC's	9	01/23/2001

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PUBLIC FILINGS DETAIL

The following data is for information purposes only and is not the official record. Certified copies can only be obtained from the official source.

* * * UCC FILING(S) * * *

COLLATERAL: RIGHT		
FILING NO: 1857463	DATE FILED: 01/23/2001	
TYPE: Assignment	LATEST INFO RECEIVED: 02/16/2001	
SEC. PARTY: BANC OF AMERICA COMMERCIAL CORPORATION SUCCESSOR TO NATIONSBANC COMMERCIAL CORPORATION, ATLANTA, GA	ORIG. UCC FILED: 08/25/1998	
	ORIG. FILING NO: 1857463	
ASSIGNEE: GMAC COMMERCIAL CREDIT LLC ATTN: GENERAL COUNSEL, NEW YORK, NY	FILED WITH: SECRETARY OF STATE/UCC DIVISION, NJ	
DEBTOR: M-A-G APPAREL, INC., JERSEY CITY NJ		

FILING NO: 1541938	DATE FILED: 09/02/1998
TYPE: Continuation	LATEST INFO RECEIVED: 10/13/1998
SEC. PARTY: THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED, NEW YORK, NY	ORIG. UCC FILED: 11/29/1993
	ORIG. FILING NO: 1541938
DEBTOR: MAGASCHONI, INC., JERSEY CITY, NJ	FILED WITH: SECRETARY OF STATE/UCC DIVISION, NJ

FILING NO: 1533097	DATE FILED: 08/13/1997
TYPE: Amendment	LATEST INFO RECEIVED: 09/16/1997
SEC. PARTY: NATIONSBANC COMMERCIAL CORPORATION, ATLANTA, GA	ORIG. UCC FILED: 09/29/1993
	ORIG. FILING NO: 1533097
DEBTOR: MAGASCHONI, INC.	FILED WITH: SECRETARY OF STATE/UCC DIVISION, NJ

FILING NO: 1533097	DATE FILED: 04/21/1998
TYPE: Continuation	LATEST INFO RECEIVED: 06/15/1998
SEC. PARTY: NATIONSBANC COMMERCIAL CORPORATION, ATLANTA, GA	ORIG. UCC FILED: 09/29/1993
	ORIG. FILING NO: 1533097
DEBTOR: MAGASCHONI, INC.	FILED WITH: SECRETARY OF STATE/UCC DIVISION, NJ

FILING NO: 1533097 DATE FILED: 08/25/1998
TYPE: Amendment LATEST INFO RECEIVED: 10/09/1998
SEC. PARTY: NATIONSBANC COMMERCIAL ORIG. UCC FILED: 09/29/1993
CORPORATION, ATLANTA, GA ORIG. FILING NO: 1533097
DEBTOR: MAGASCHONI APPAREL GROUP, INC. FILED WITH: SECRETARY OF
and OTHERS STATE/UCC DIVISION,
NJ

FILING NO: 98085390 DATE FILED: 04/22/1998
TYPE: Continuation LATEST INFO RECEIVED: 05/15/1998
SEC. PARTY: NATIONSBANC COMMERCIAL ORIG. UCC FILED: 09/29/1993
CORPORATION, ATLANTA, GA ORIG. FILING NO: 93206250
DEBTOR: MAGASCHONI APPAREL GROUP INC. FILED WITH: SECRETARY OF
STATE/UCC DIVISION,
NY

FILING NO: 98183065 DATE FILED: 08/25/1998
TYPE: Amendment LATEST INFO RECEIVED: 09/22/1998
SEC. PARTY: NATIONSBANC COMMERCIAL ORIG. UCC FILED: 09/29/1993
CORPORATION, ATLANTA, GA ORIG. FILING NO: 93206250
DEBTOR: MAGASCHONI APPAREL GROUP, INC. FILED WITH: SECRETARY OF
STATE/UCC DIVISION,
NY

FILING NO: 98138841 DATE FILED: 06/29/1998
TYPE: Amendment LATEST INFO RECEIVED: 07/17/1998
SEC. PARTY: HONGKONGBANK DIVISION OF MARINE ORIG. UCC FILED: 11/25/1997
MIDLAND BANK, NEW YORK, NY ORIG. FILING NO: 97243412
DEBTOR: MAGASCHONI APPAREL GROUP, INC. FILED WITH: SECRETARY OF
STATE/UCC DIVISION,
NY

FILING NO: 97168955 DATE FILED: 08/13/1997
TYPE: Amendment LATEST INFO RECEIVED: 09/05/1997
SEC. PARTY: NATIONSBANC COMMERCIAL ORIG. UCC FILED: 09/29/1993
CORPORATION, ATLANTA, GA ORIG. FILING NO: 93206258
DEBTOR: MAGASCHONI APPAREL GROUP, INC. FILED WITH: SECRETARY OF
STATE/UCC DIVISION,
NY

The public record items contained in this report may have been paid, terminated, vacated or released prior to the date this report was printed.

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BUSINESS BACKGROUND

HISTORY

CORPORATE AND BUSINESS REGISTRATIONS REPORTED BY THE SECRETARY OF STATE OR OTHER OFFICIAL SOURCE AS OF 02/22/2002:

The following data is not an official record of the Department of State or the State of New York and Dun & Bradstreet is not an employee or agent thereof.

BUSINESS TYPE: Corporation - DATE INCORPORATED: 05/18/1987
Profit STATE OF INCORP: New York

02/14/02

DOMINIC LEE, CEO-PRES
DIRECTOR(S): THE OFFICER(S)

Business started 1987 by foreign parent. 100% of capital stock is owned by foreign parent.

DOMINIC LEE. Antecedents not available.

OPERATIONS

02/14/02

Foreign parent is M Magtague Co Ltd, Kowloon, Hong Kong. Reference is made to that report, DUNS number 66-223-8310 for background information on the parent and its management. Parent owns 100% of capital stock.

Wholesales (imports) women's apparel (100%).

FACTORING ARRANGEMENT: This company is factored by Nations Bank, New York, NY. Factor purchases receivable on a non recourse basis.

Terms are net 30-60 days, open credit. Has 850 account(s).

Sells to retailers, specialty department stores and boutiques. Territory : United States.

Business slow winter. Business steady rest of year.

EMPLOYEES: 34 which includes officer(s). Employees remain constant year round.

FACILITIES: Rents 12,000 sq. ft. on 21st floor of a multi story brick building.

LOCATION: Central business section on main street.

OTHER CORPORATE DETAILS

CORPORATE STATUS: ACTIVE
STATE ID NO: 1171801

FINANCIAL SUMMARY

KEY BUSINESS RATIOS

NOTE: D&B has been unable to obtain sufficient financial information from this company to calculate business ratios. Our check of additional outside sources also found no information available on its financial performance.

To help you in this instance, ratios for other firms in the same industry are provided below to support your analysis of this business.

(Industry Norms Based on 47 Establishments)

Table with 8 columns: Firm, Profitability % (Return on Sales, Return on Net Worth), Short-Term Solvency (Curr Ratio, Quick Ratio), Efficiency (%) (Assets/Sales, Sales/Net working Capital), Utilization (%) (Total Liabs/Net Worth). Rows include Firm, Industry Median, and Industry Quartile.

UN = Unavailable

FINANCIAL INFORMATION

02/07/02 On FEB 06 2002 Russ Medoy, CFO, deferred financial information.

CUSTOMER SERVICE

If you need any additional information, or have any questions regarding this report, please call our Customer Service Center at (800) 234-3867 from anywhere within the U.S. From outside the U.S., please call your local D&B office.

END OF COMPREHENSIVE REPORT

THIS DATA IS NOT AN OFFICIAL RECORD OF THE DEPARTMENT OF STATE OR THE STATE OF NEW YORK. LEXIS-NEXIS IS NOT AN EMPLOYEE OR AGENT OF THE DEPARTMENT OF STATE OR THE STATE OF NEW YORK. THE DEPARTMENT OF STATE DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, REGARDING THIS DATA.

NEW YORK DEPARTMENT OF STATE, CORPORATE RECORD

NAME: MAGASCHONI APPAREL GROUP, INC.

TYPE: DOMESTIC BUSINESS

STATUS: ACTIVE

NOTE: GOOD STANDING STATUS CAN ONLY BE DETERMINED BY PERFORMING A SEARCH IN THE RECORDS OF BOTH THE DEPARTMENT OF STATE CORPORATION RECORDS AND THE DEPARTMENT OF TAX AND FRANCHISE. CALL 1-800-634-9738 TO ORDER GOOD STANDING DOCUMENTATION.

DURATION: PERPETUAL

DATE OF INCORPORATION/QUALIFICATION: 05/18/1987

COUNTY OF PRINCIPAL OFFICE: NEW YORK

EXECUTIVE OFFICE ADDRESS: 525 SEVENTH AVE / 21ST FL
NEW YORK, NY 10018

CHAIR OF THE BOARD: DOMINIQUE LEE
525 SEVENTH AVE / 21ST FL
NEW YORK, NY 10018

STOCK:

NUMBER OF SHARES	STOCK TYPE	VALUE PER SHARE
200	PAR VALUE	\$ 1.0

HISTORY:

DATE	TRANSACTION	MICROFILM-NO
05/31/2001	BIENNIAL STATEMENT (DOMESTIC BUSINESS) EFFECTIVE: 05/01/2001	010531002047
07/22/1997	BIENNIAL STATEMENT (DOMESTIC BUSINESS) EFFECTIVE: 05/01/1997	970722002234
06/06/1997	AMENDMENT (DOM. BUSINESS)	970606000484
03/15/1989	AMENDMENT (DOM. BUSINESS)	B752948-3
05/18/1987	INCORPORATION (DOM. BUSINESS)	B497775-3

PRIOR-NAMES:

DATE NAME TYPE MICROFILM-NO
---- ---- --- -----

03/15/1989	<u>MAGASCHONI</u> , INC.	ACTUAL	B752948-3
05/18/1987	VANESSA VANCLEEF, INC.	ACTUAL	B497775-3

PROCESS ADDRESS:

JOEL S FORMAN
C/O BONDY & SCHLOSS LLP
6 EAST 43RD STREET 25TH FL
NEW YORK, NY 10017

CALL LEXIS DOCUMENT SERVICES FOR ALL YOUR CORPORATE NEEDS. 800-634-9738



TTAB

03-06-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #56

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

MAG INSTRUMENT, INC.,

Cancellation No. 92040103

Petitioner

v.

MAGASCHONI APPAREL GROUP, INC.

Registration No.: 2,198,795

Date of Issue: October 20, 1998

Registrant.

Trademark: **E-MAG**

International Class: 25

TRANSMITTAL LETTER

Box TTAB
NO FEE
Commissioner for Trademarks
Arlington, Virginia 22202-3513

Dear Sir:

Enclosed please find the following:

1. Motion for Default Judgment;
2. Declaration of Mary A. Tuck in Support of Motion for Default Judgment; and

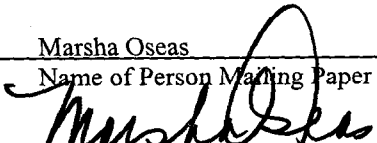
LA-214505.1(37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' in an envelope addressed to Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513

EV05135658IUS
Express Mail Label No.

March 6, 2002
Date of Deposit

Marsha Oseas
Name of Person Mailing Paper


Signature of Person Mailing Paper

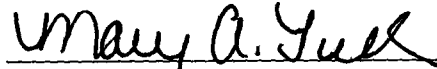
3. Postcard.

Respectfully submitted,

LYON & LYON LLP

Dated: March 6, 2002

By:



Mary A. Tuck
633 West Fifth Street, Suite 4700
Los Angeles, California 90071
(213) 489-1600

Attorneys for Mag Instrument, Inc.

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Registration No.: 2,198,795

Date of Issue: October 20, 1998

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Trademark: **E-MAG**

International Class: 25

MOTION FOR DEFAULT JUDGMENT

Box TTAB
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Commissioner for Trademarks
Arlington, Virginia 22202-3513

Mag Instrument, Inc. ("Mag Instrument"), hereby moves for entry of default judgment against Magaschoni Apparel Group, Inc. ("Magaschoni") for failure to file any response to Mag Instrument's Cancellation Petition.

Mag Instrument filed its Cancellation Petition on October 22, 2001. The TTAB mailed a notice of cancellation on December 5, 2001, setting the time for an answer at 40 days after the mailing – January 14, 2002. Almost two months have now passed since that answer was due and yet Mag Instrument was advised that no answer has been filed.

LA-214505.1(37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' in an envelope addressed to Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513

EV051356581US

Express Mail Label No.

March 6, 2002

Date of Deposit

Marsha Oseas

Name of Person Mailing Paper



Signature of Person Mailing Paper

The address listed in the notice of cancellation is: 525 Seventh Avenue, New York, New York, 10018. The address currently listed on the website for Magaschoni is essentially the same: 525 Seventh Avenue, Floor 21, New York, New York, 10018 . [See, accompanying Declaration of Mary A. Tuck in Support of Motion for Default Judgment (“Tuck Decl.”) at ¶3, Ex. 1]. And that is the same address listed in the Dunn & Bradstreet records as well as the New York Department of State, Corporate Records. [See, Tuck Decl. at ¶¶4-5, Exs. 2-3]. Accordingly, it appears that Magaschoni was given adequate notice of the cancellation proceedings.

Under TBMP §508, a petitioner may file a motion for default judgment for failure to respond to a complaint, or, in this instance, a petition. In view of Magaschoni’s failure to respond to the Cancellation Petition, Mag Instrument respectfully requests that the TTAB enter judgment in favor of Mag Instrument and cancel Magaschoni’s Registration No. 2,198,795 for E-MAG.

Respectfully submitted,

LYON & LYON LLP

Dated: 3/6/02

By: Mary A. Tuck
Mary A. Tuck
633 West Fifth Street, Suite 4700
Los Angeles, California 90071
(213) 489-1600

Attorneys for Mag Instrument, Inc.