ESTTA Tracking number: **ESTTA190667**
Filing date: **02/05/2008**

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

Proceeding	91162370
Party	Plaintiff De Boulle Diamond & Jewelry, Inc.
Correspondence Address	SCOTT T. GRIGGS GRIGGS BERGEN LLP 901 MAIN STREET, SUITE 6300, BANK OF AMERICA PLAZA DALLAS, TX 75202 UNITED STATES
Submission	Other Motions/Papers
Filer's Name	Scott T. Griggs
Filer's e-mail	scott@griggslaw.com
Signature	/Scott Griggs/
Date	02/05/2008
Attachments	Supplemental Affidavit of Denis J. Boulle with Exhibits.pdf (27 pages)(3743219 bytes)

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

DE BOULLE DIAMOND & JEWELRY, INC.,	Opposition No. 91162370
Opposer,	Opposition No. 91162469
	Opposition No. 91164615
v.	Opposition No. 91165285
DE BEERS LV LTD.,	Opposition No. 91165465
Applicant.	Consolidated under Opposition No. 91165285

SUPPLEMENTAL AFFIDAVIT OF DENIS J. BOULLE IN SUPPORT OF OPPOSER'S MOTION FOR SUMMARY JUDGMENT

STATE OF TEXAS §
§
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, on this day personally appeared Denis J. Boulle, who is personally known to me, and first being duly sworn according to the law upon his oath deposed and said:

1. My name is Denis J. Boulle. I am over eighteen years of age, have never been convicted of a crime and am fully competent to make this affidavit. I have personal knowledge of the facts stated herein, all of which are true and correct.

2. I am making this Supplemental Affidavit in support of the Motion for Summary Judgment filed by De Boulle Diamond & Jewelry, Inc., the Opposer in this Proceeding ("De Boulle").

3. As stated in paragraph 8 of my Affidavit in support of the Motion for

Summary Judgment filed by De Boulle in this Proceeding, in or about December 2000, as part of the design of its Web site, De Boulle designed the mark "DB", made the subject of its U.S. Trademark Application Serial No. 78/604,056 (the "DB Mark"). Attached hereto, labeled 00689, 00690, 00691, 00703, 00707, and 00708, are true and correct samples of pages from the De Boulle catalog, showing the DB Mark as used on the De Boulle Web site since December 2000. These enclosed pages, together with numerous other samples from the Web Site were produced to the Applicant in response to its requests for production in this Proceeding.

4. Attached hereto, labeled 00152, is a copy of an advertisement published in Millionaire magazine in December 1999, announcing the imminent launching of the De Boulle Web site at <www.deboulle.com>. The enclosed advertisement was also produced to the Applicant in response to its requests for production in this Proceeding.

5. Attached hereto, labeled 00485, 00498, 00468, 00503, and 00510, are copies of photographs showing the DB Mark, as well as the DE B® and DE BOULLE® marks, as used on packing for De Boulle's products shipped to customers in Texas and elsewhere in the United States since at least 2000. The enclosed photographs, together with numerous others, showing examples of the use of De Boulle's marks on packaging and in-store displays of De Boulle's marks were also produced to the Applicant in response to its requests for production in this Proceeding.

6. Attached hereto, labeled 00748, are true and correct copies of samples of labels containing the DB Mark used by De Boulle on packing for De Boulle's products shipped to customers in Texas and elsewhere in the United States since at least 2000. The enclosed samples of the DB Mark labels were also produced to the Applicant in response

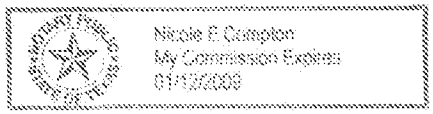
to its requests for production in this Proceeding.

7. Attached hereto, labeled 00724 through 00734, are true and correct copies of samples of a few of De Boulle invoices showing shipments of De Boulle's products to customers located outside the State of Texas, bearing De Boulle's marks, including the DB Mark. The enclosed De Boulle invoice samples were also produced to the Applicant in response to its requests for production in this Proceeding.

FURTHER AFFIANT SAYETH NAUGHT.

Denis J. Boulle

SUBSCRIBED AND SWORN TO BEFORE ME this 1st day of February, 2008, to certify which witness my hand and official seal.



[NOTARY SEAL]

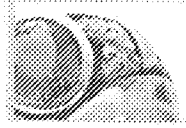
Notary Public, State of Texas

http://www.deboulle.com/deboulle.html

Go

deBoulle

when it is time for something special 1-800-454-GEMS



The deBoulle Collection

Over the years the fine designers and craftsmen at deBoulle™ have created the exquisite deBoulle Collection™, which can be viewed below. Every piece of fine jewelry we sell is guaranteed against defects in workmanship and materials. All of which combined is presented to you for your unique shopping pleasure. You may view our collection of fine jewelry below, or search our inventory for the selection of your choice.

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THE deBoulle DIFFERENCE GUARANTEE

29 Total Matches:

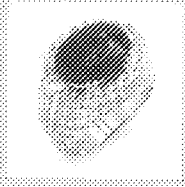
Select an item to view

[illegible]

18 karat white gold, 1.08 carat diamond and 7.00 carat sapphire ring.

Designer: deBoulle

$32,850.00

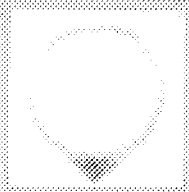


[illegible]

8.5-10.0mm pearl choker with 18 karat yellow gold clasp of crystal heart with heart shape ruby in center. Diamonds on corner ...

Designer: deBoulle

$21,250.00

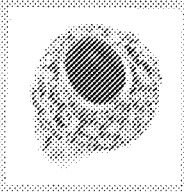


[illegible]

Estate 18 karat yellow gold 5.60 carat ruby and approximately 2.50 carat total weight round diamond ring.

Designer: deBoulle

$19,580.00

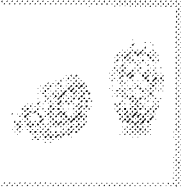


[illegible]

Platinum 4.23 carat diamond earrings.

Designer: deBoulle

$18,346.00

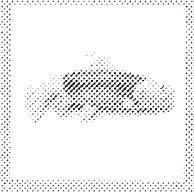


[illegible]

Handcrafted tush pin set with 77.0 carat opal in 18 karat yellow gold. Accented with approximately 0.65 carat total weight di ...

Designer: deBoulle

$18,000.00

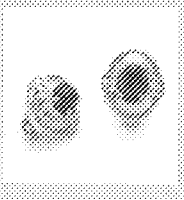


[illegible]

18 karat yellow gold 6.58 carat total weight emerald and 0.46 carat total weight diamond earrings.

Designer: deBoulle

$12,000.00

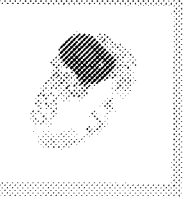


[illegible]

18 karat white gold ring with 3.28 carat oval sapphire set between pave diamond bars.

Designer: deBoulle

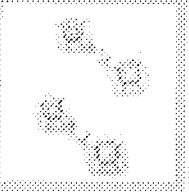
$12,000.00



[illegible]

18 karat white gold 2.22 carat diamond earrings. Earrings dangle with 2 square shapes connected by 1 bezel set round diamond. ...

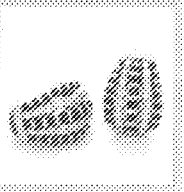
Designer: deBoulle



[illegible]

Classic hoop earrings designed with three rows of 4.46 carat total weight round sapphires and 1.54 carat total weight diamond ...

Designer: deBoulle



http://www.deboulle.com/deboulle-2.shtml

when it is time for something special 1-800-454-GEMS

deBoulle

The deBoulle Collection

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THE deBoulle D-FLAWLESS GUARANTEE

28 Total Matches

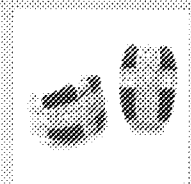
Select an item to view.

MGE02[illegible]

Platinum 1.83 carat diamond and onyx earrings.

Designer: deBoulle

$6,160.00

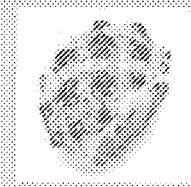


EAY[illegible]

18 karat yellow gold domed emerald and diamond ring. 1.42 carat total weight cabochon emeralds and 1.01 carat total weight p ...

Designer: deBoulle

$5,600.00

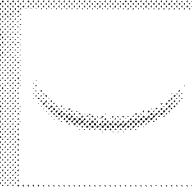


PGAL1001

14 karat yellow gold 8.5-9mm 18 inch cultured pearl strand with 14 karat yellow gold eye shape clasp.

Designer: deBoulle

$6,500.00

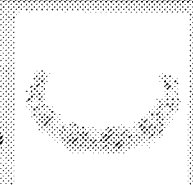


GAY[illegible]

18 karat yellow gold 8 link necklace. 17 inch triple figure 8s with oval connectors. 84.40 grams.

Designer: deBoulle

$6,250.00

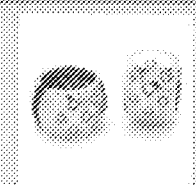


MGEE1001

Hoop style earrings in 18 karat yellow gold accented with 0.62 carat total weight diamonds centered in star motifs.

Designer: deBoulle

$6,200.00

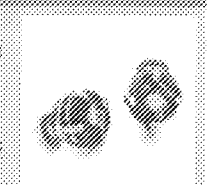


EGEE1000

Emerald and diamond earrings crafted in 18 karat white gold featuring 2.03 carat total weight marquise emeralds ...

Designer: deBoulle

$5,100.00

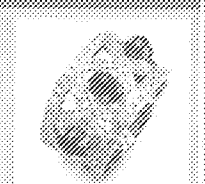


[illegible]

Wide platinum and 18 karat yellow gold band featuring three oval cabochon rubies.

Designer: deBoulle

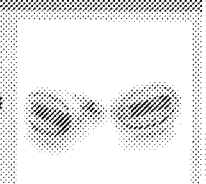
$6,000.00



[illegible]

18 karat yellow gold oval slightly domed cigar cufflinks. Domed crystal over mother of pearl back ground with picture of cohi ...

Designer: deBoulle



[illegible]

Sapphire and diamond dome style ring.

Designer: deBoulle

$4,610.00

00690

http://www.deboulle.com/deboulle-3.shtml

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29 Total Matches

Select an item to View

PEARL1000	**CYANN1000**	**CIGAR1000**
18 karat yellow gold Mobe pearl earrings featuring bezel set pear shape Mobe pearls accented with straight and tapered diamon ... Designer: deBoulle $4,500.00	18 karat yellow gold and platinum, 0.66 carat emerald cufflinks. Designer: deBoulle $4,000.00	18 karat yellow gold and 1.0 carat diamond cigar cufflinks. Cigar shape with red enamel band with red and pave diamond ash e ... Designer: deBoulle $3,900.00
EAGLE1000	**PHILIPS1000**	**CYANN1000**
18 karat yellow gold ring with a center hammer set 1.05 carat oval cabochon emerald accented by a hammer set small round diam ... Designer: deBoulle $3,315.00	Platinum 8-8.5mm 0.49 carat princess cut diamond earrings. Pearl stud set above dangling platinum bezel set princess cut diam ... Designer: deBoulle $2,250.00	18 karat yellow gold rubelite oval cufflinks. HS70 Designer: deBoulle $1,750.00
CYANN1000	**MIXED1000**	**MEEGR1000**
18 karat yellow and white gold bullet chain cufflinks with white gold on tips of bullets. Bullets on both ends. Designer: Deakin & Francis	18 karat yellow gold band with 1.28 carat hammer set oval cabochon sapphire between two hammer set round diamonds ... Designer:	Platinum 0.50 carat diamond cross earrings. 22 round diamonds pave set in center of crosses and 2 round diamonds bezel set a ... Designer:

00691

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THE deBoulle DIFLAWLESS GUARANTEE

Selected item detail:

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EAGED1000

18 karat yellow gold domed emerald and diamond ring. 1.42 carat total weight cabochon emeralds and 1.01 carat total weight pave set diamonds.

Designer: deBoulle

$5,600.00

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- How to Care for Your Diamonds
- About Gold
- About Emeralds
- Understanding the 4 C's
- Jewelry Care Tips

Contact Customer Service at 1-800-454-GEMS or email customersfirst@deBoulle.com

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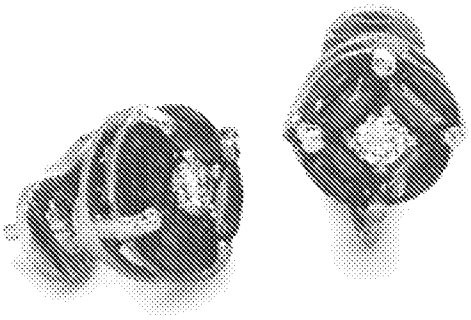

ECEEC1000

Emerald and diamond earrings crafted in 18 karat white gold featuring 2.03 carat total weight marquise emeralds and 0.27 carat total weight diamonds.

Designer: deBoulle

$5,100.00

JEWELER'S GUIDE

- How to Care for Your Diamonds
- About Gold
- About Emeralds
- Tips on Buying Gemstones
- Jewelry Care Tips

Contact Customer Service at 1-800-454-GEMS or email customersfirst@deBoulle.com

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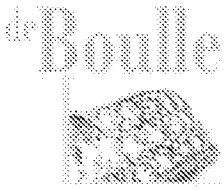

when it's time for something special : 1 800 454-GEMS

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THE deBoulle DIAMOND GUARANTEE

Selected item detail

< Back to deBoulle Collection

RIGED1000

Wide platinum and 18 karat yellow gold band featuring three oval cabochon rubies totaling .85 carat, accented by 0.65 carat total weight round diamonds.

Designer: deBoulle

$5,900.00

JEWELER'S GUIDE

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About Gold
About Rubies
How to Care for Your Diamonds
Jewelry Care Tips

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5550A Preston Road • Dallas, TX 75205 • (800) 454-GEMS

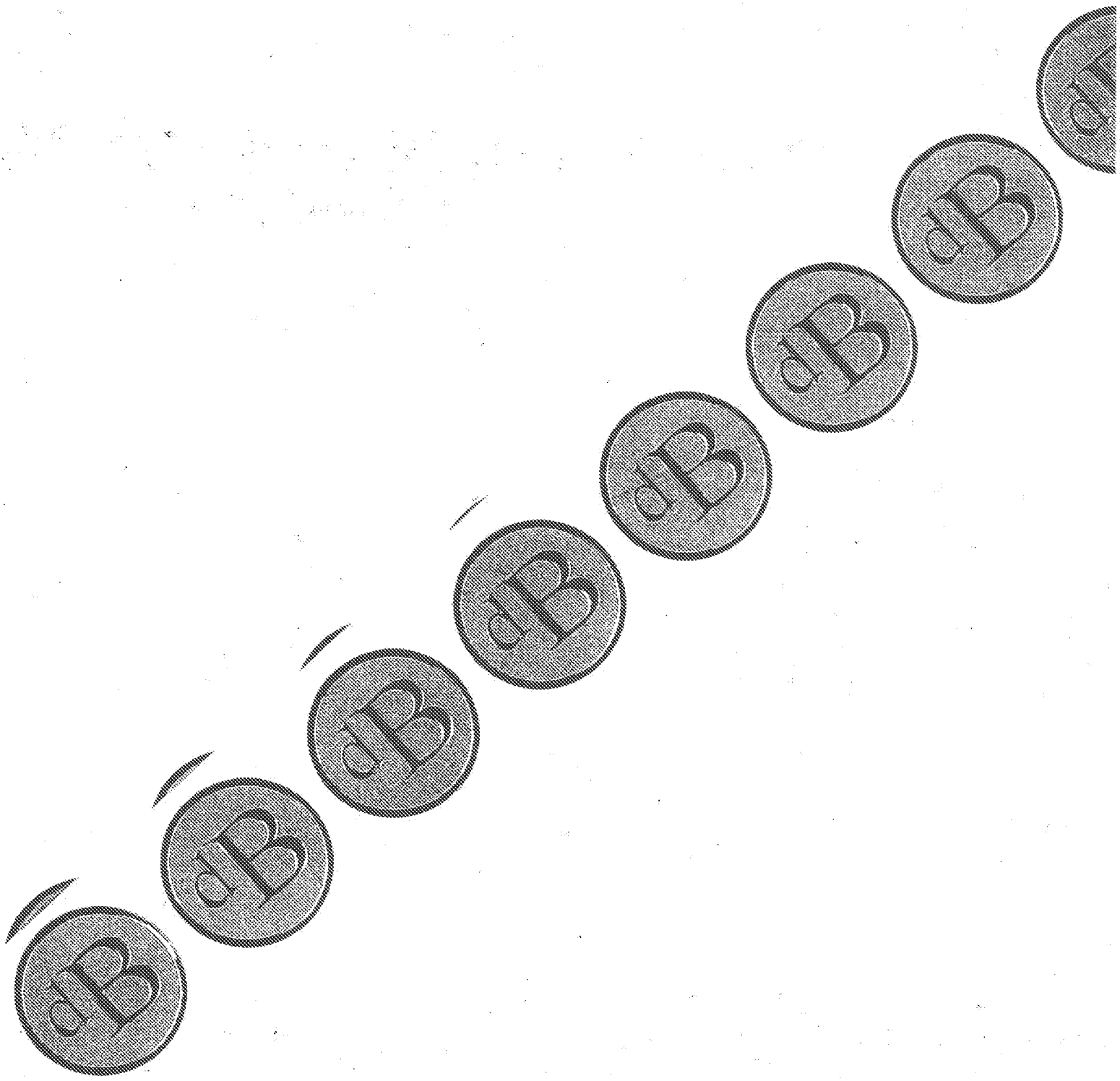
Millionaire
Magazine
Dec. 1999

B

Regalie

00503

00510


dB
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55825

SUWANEE, GA 30024-

SALES PERSON : RH, Customer #:4438 01/26/01

CAT.	STOCK #	QTY	DESCRIPTION	AMOUNT
WPAPA	1002	1	GNTS 18KRG MASTER CALENDAR W/IVORY ARABIC DIAL DAY	

SUBTOTAL
TAX
TOTAL

TYPE OF TRANSACTION : ACCOUNTS RECEIVABLE

CASH	CHECK	VISA/MC	AMEX	DISCOVER	CHECK/CREDIT CARD #
0.00	0.00	0.00	0.00	0.00	

OTHERS: 0.00 HOUSE CARDS: 0.00

00724

57507

SALES PERSON : JB, Customer #: 05/04/01

CAT.	STOCK #	QTY	DESCRIPTION	AMOUNT
WPAQA	1009	1	GENTS SS ENDURANCE CHRONO MNUAL W/WHITE ARABIC DIA	
WPARA	1001	1	GENTS PLAT ENDURANCE CHRONO W/BLACK ARABIC DIAL W/	

SUBTOTAL :
TAX :
TOTAL :

TYPE OF TRANSACTION : ACCOUNTS RECEIVABLE

CASH	CHECK	VISA/MC	AMEX	DISCOVER	CHECK/CREDIT CARD #
0.00	0.00	0.00	0.00	0.00	

OTHERS: 0.00 HOUSE CARDS: 0.00

Welling, OK 74471

Welling, OK 74471

12/17/02	76299	Immediate	DC	AR

1.0 DSFNC-7355
PLATINUM 7.00CT SAPPHIRE & 1.47CT DIAMOND
RING. OVAL CUT SAPPHIRE SET IN 4 PRONG HEAD
FLANKED BY 2 TRILLION DIAS ON PLAT SHANK.

00726

Sub Total:
Shipping:
Tax:
Total:
Total Payments:
Invoice's Balance:

Thank You

Welling, OK 74471

Welling, OK 74471

12/17/02	76299	Immediate	DC	AR

1.0 DSFNC-7355
PLATINUM 7.00CT SAPPHIRE & 1.47CT DIAMOND
RING. OVAL CUT SAPPHIRE SET IN 4 PRONG HEAD
FLANKED BY 2 TRILLION DIAS ON PLAT SHANK.

Sub Total:
Shipping:
Tax:
Total:
Total Payments:
Invoice's Balance:

Juno Beach, FL 33408

Juno Beach, FL 33408

09/23/02	75842	Immediate	DJB	AR

1.0	DMGGR-6266 14KWG 2.01CT DIAMOND TOE RING

00727

Thank You

Sub Total:
Shipping:
Tax:
Total:
Total Payments:
Invoice's Balance:

Juno Beach, FL 33408

Juno Beach, FL 33408

09/23/02	75842	Immediate	DJB	AR

1.0	DMGGR-6266 14KWG 2.01CT DIAMOND TOE RING

Thank You

Sub Total:
Shipping:
Tax:
Total:
Total Payments:
Invoice's Balance:

Mobile, AL 36606 Mobile, AL 36606

07/16/03 79123 DJB CSH

1.0 DMBNR-9296
14KWG 2.02CTW DIA STUD EARRINGS. TWO 1.01CT
ROUND DIAS BOTH GIA HSI1 SET IN 4 PRONG
BASKETS W/SCREW BACKS.
GIA#S 12750543 & 12750533
1 *****ress

00728

Sub Total:
Shipping:
Tax:
Total:
Total Payments:

Mobile, AL 36606 Mobile, AL 36606

07/16/03 79123 DJB CSH

1.0 DMBNR-9296
14KWG 2.02CTW DIA STUD EARRINGS. TWO 1.01CT
ROUND DIAS BOTH GIA HSI1 SET IN 4 PRONG
BASKETS W/SCREW BACKS.
GIA#S 12750543 & 12750533
*****ress

Thank You

Sub Total: 1
Shipping:
Tax:
Total: $
Total Payments: $

Greenwood Village, CO 80121

Greenwood Village, CO 80121

06/24/04 85297 DC CSH

1.0 MCBER-9675
18K WG 2.40CTW ROUND DIA STUD EARRINGS SET
IN 3 PRG BASKETS.
1 *****Tess

00729

Sub Total:
Shipping:
Tax:
Total:
Total Payments:

Thank You

Greenwood Village, CO 80121

Greenwood Village, CO 80121

06/24/04 85297 DC CSH

1.0 MCBER-9675
18KWG 2.40CTW ROUND DIA STUD EARRINGS SET
IN 3 PRG BASKETS.
1 *****Tess

Sub Total: 3
Shipping:
Tax:
Total:
Total Payments:

New York, NY 10011

New York, NY 10011

11/29/04	87512	Immediate	DJB	AR

1.0 SCEMC-13794
18KWG 2.72 CT SAPPHIRE AND 0.66 CT DIAMOND
DANGLE EARRINGS, OVAL BEZEL SET SAPP
SURROUNDED BY PAVE DIAMS W/BEZEL SET
ROUND DIAM BENEATH THEN BEZEL SET OVAL
SAPP SURROUNDED BY PAVE DIAMS DANGLING

00730

Sub Total:
Shipping:
Tax:
Total:
Total Payments:
Invoice's Balance:

New York, NY 10011

New York, NY 10011

11/29/04	87512	Immediate	DJB	AR

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18KWG 2.72 CT SAPPHIRE AND 0.66 CT DIAMOND
DANGLE EARRINGS, OVAL BEZEL SET SAPP
SURROUNDED BY PAVE DIAMS W/BEZEL SET
ROUND DIAM BENEATH THEN BEZEL SET OVAL
SAPP SURROUNDED BY PAVE DIAMS DANGLING

Thank You

Sub Total:
Shipping:
Tax:
Total:
Total Payments:
Invoice's Balance:

Juno Beach, FL 33408

03/19/05 89679 RH, DJB CSH

1.0	MCGMC-14684 FLAT 5.62CTW DIA BAND W/CHANNEL SET BAGUETTES ALONG CNTR W/PAVE DIAS ON SCALLOP EDGES. SZ 6
1.0	WABBE-11644 LDS SS/18KYG OP DATEJUST W/WHITE ROMAN DIAL 18KYG FLUTED BEZEL ON SS/18K JUBILEE BRACELET
1.0	WBACE-15566 GNTS SS NAUTILUS LRG W/BLACK ROMAN DIAL, DATE, PWR RESERVE ON SS BRACELET MVT 3731967
1.0	WBAFA-11439 GNTS 18KWG "TRAVEL TIME" W/WHITE ARABIC DIAL 2 SUB-DIALS ON BLACK CROCO STRAP MVT 3086776
1	Check

Thank You

Sub Total:

Shipping:

Tax:

Total:

Total Payments:

Juno Beach, FL 33408

03/19/05 89679 RH, DJB CSH

1.0	MCGMC-14684 FLAT 5.62CTW DIA BAND W/CHANNEL SET BAGUETTES ALONG CNTR W/PAVE DIAS ON SCALLOP EDGES. SZ 6
1.0	WABBE-11644 LDS SS/18KYG OP DATEJUST W/WHITE ROMAN DIAL 18KYG FLUTED BEZEL ON SS/18K JUBILEE BRACELET
1.0	WBACE-15566 GNTS SS NAUTILUS LRG W/BLACK ROMAN DIAL, DATE, PWR RESERVE ON SS BRACELET MVT 3731967
1.0	WBAFA-11439 GNTS 18KWG "TRAVEL TIME" W/WHITE ARABIC DIAL 2 SUB-DIALS ON BLACK CROCO STRAP MVT 3086776
1	Check

Thank You

Sub Total:

Shipping:

Tax:

Total:

Total Payments:

FRUITLAND PARK, FL 34731

FRUITLAND PARK, FL 34731

04/06/05	89913	Immediate	BSM	AR

1.0	LHBFE-15763 3.25CT SQUARE EMERALD CUT DIA GIA FVS2
1.0	DMGNC-14480 PLAT 4.38CT PINK TOURMALINE & 0.57CT DIA RING. CUSHION CUT TOURMALINE IN ALL BEAD SET DIA BEZEL ON ALL BEAD SET DIA SHANK.
1	Check 1151

00732

Thank You

Sub Total:

Shipping:

Tax:

Total:

Total Payments:

Invoice's Balance:

FRUITLAND PARK, FL 34731

FRUITLAND PARK, FL 34731

04/06/05 89913 Immediate BSM AR

1.0 LHBFE-15763
3.25CT SQUARE EMERALD CUT DIA GIA FVS2

1.0 DMGNC-14480
PLAT 4.38CT PINK TOURMALINE & 0.57CT DIA RING.
CUSHION CUT TOURMALINE IN ALL BEAD SET DIA
BEZEL ON ALL BEAD SET DIA SHANK.

1 Check 1151

Thank You

Sub Total:

Shipping:

Tax:

Total:

Total Payments:

Invoice's Balance:

Malibu, Ca 90265

Malibu, Ca 90265

09/14/06 98512 Immediate DJB AR

1.0 WBAPE-21624
ONTS 18KWG 5102 CELESTIAL SELF-WINDING
WATCH W/SKY CHART, PHASES AND ORBIT OF THE
MOON AND TIME OF MERIDIAN PASSAGE OF SIRIUS
AND OF THE MOON. BLACK CROCO STRAP
W/18KWG BUCKLE MVT 3328363

00733

Sub Total:
Shipping:
Tax:
Total:
Total Payments:
Invoice's Balance:

Thank You

Malibu, Ca 90265

Malibu, Ca 90265

09/14/06 98512 Immediate DJB AR

1.0 WBAPE-21624
ONTS 18KWG 5102 CELESTIAL SELF-WINDING
WATCH W/SKY CHART, PHASES AND ORBIT OF THE
MOON AND TIME OF MERIDIAN PASSAGE OF SIRIUS
AND OF THE MOON. BLACK CROCO STRAP
W/18KWG BUCKLE MVT 3328363

Sub Total:
Shipping:
Tax:
Total:
Total Payments:
Invoice's Balance:

Malibu, Ca 90265

Malibu, Ca 90265

11/27/06	99634	Immediate	DJB	AR

1.0 WBUPA-22591
PATEK, GNTS 18KYG 5050 AUTO RETROGRADE
W/SILVER MARKER DIAL DAY-MONTH INDICATORS
MOONPHASE ON BROWN CROCO STRAP W/18KYG
BUCKLE MVT 1957166, 315/136

00734

Sub Total:
Shipping:
Tax:
Total:
Total Payments:
Invoice's Balance:

Thank You

Malibu, Ca 90265

Malibu, Ca 90265

11/27/06	99634	Immediate	DJB	AR

1.0 WBUPA-22591
PATEK, GNTS 18KYG 5050 AUTO RETROGRADE
W/SILVER MARKER DIAL DAY-MONTH INDICATORS
MOONPHASE ON BROWN CROCO STRAP W/18KYG
BUCKLE MVT 1957166, 315/136

Sub Total:
Shipping:
Tax:
Total:
Total Payments:
Invoice's Balance: