

ESTTA Tracking number: **ESTTA230994**

Filing date: **08/18/2008**

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

**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	HERMES INTERNATIONAL
Granted to Date of previous extension	08/27/2008
Address	24, rue du Faubourg Saint-Honore Paris, F-75008 FRANCE

Attorney information	ANDREW BAUM FOLEY & LARDNER LLP 90 PARK AVENUE NEW YORK, NY 10016-1314 UNITED STATES PTOMAILNEWYORK@FOLEY.COM, ABAUM@FOLEY.COM, EMARMO@FOLEY.COM Phone:212-338-3527
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**Applicant Information**

Application No	77332553	Publication date	04/29/2008
Opposition Filing Date	08/18/2008	Opposition Period Ends	08/27/2008
Applicant	Detwiler, Conor Kelly 748 First Parish Rd. Scituate, MA 02066 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 018. All goods and services in the class are opposed, namely: Evening handbags; Handbags for men; Handbags, purses and wallets; Backpacks, book bags, sports bags, bum bags, wallets
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	2436099	Application Date	12/08/1997
Registration Date	03/20/2001	Foreign Priority Date	NONE
Word Mark	H		
Design Mark			

Description of Mark	NONE
Goods/Services	<p>Class 003. First use: skin lotions, hand lotions, hand soaps, [ rouges, lipsticks, face powders, body powders, ] skin creams, [ sun tanning preparations, ] perfumes, toilet waters, eau de colognes, colognes, toilet soaps, [ talcum powders, ] shaving creams, personal deodorants, hair lotions, hair sprays, hair shampoos, bath oils and bath lotions</p> <p>Class 008. First use: cutlery of precious metal, namely, knives, forks and spoons and tableware, namely, knives, forks and spoons</p> <p>Class 009. First use: [ opera glasses, ] magnifying glasses, [ a combination barometer, thermometer, dial-type calendar and clock, lenses, and spectacle frames ]</p> <p>Class 014. First use: jewelry, namely, bracelets, necklaces, long neck chains, earrings, rings, tie pins, tie clips, cuff-links, pendants, watches, clocks, all made of precious metal or coated therewith</p> <p>Class 016. First use: agenda books, [ fountain pens, ] cardboard backing used for binding books, playing cards, letter paper, envelopes, note cards, [ staplers, staples, paper clips, ] pen cases, [ felt pens, ] letter openers, [ and newspapers and magazines on the subject of style and fine merchandise ]</p> <p>Class 018. First use: articles made from leather or imitation leather, namely, hand bags and clutch purses, drawstring pouches, back packs, change purses and shoulder bags made of leather, trunks for travel, suitcases, billfolds and wallets, passport holders, attache cases, brief cases, brief case type portfolios, satchels, all purpose sports bags, umbrellas, parasols, walking sticks, toiletry bags made of leather, harnesses, whips, hunting crops and saddlery</p> <p>Class 020. First use: household furniture, picture frames and furniture mirrors</p> <p>Class 021. First use: [ beverage glassware, porcelain, faience and all articles of tableware in these materials, namely, plates, dishes, decorative plates, gravy boats, jars for jams and jellies, tea sets, coffee cups ]</p> <p>Class 024. First use: textile napkins, textile place mats, table linen, textile used as linen for clothing, textile linen for garments, table clothes not of paper; textile fabrics for the manufacture of clothing, namely, suits, jackets, pants, scarves, blouses; textile fabrics for the manufacture of household items, namely, towels, handkerchiefs, bath linen, bed linen, household linen, table linen, [ pillow cases ]</p> <p>Class 025. First use: pants, men's and women's belts including leather belts, neckties, fur cloaks, caps, coats of fabric and leather, jodhpurs, vests, short jackets, jackets, skirts, dresses, capes, tailor made ensembles comprising jackets, blazers or waistcoats with trousers, skirts or dresses, suits, rain coats, shirts, golf shirts, hats, scarves, blouses, smocks, bathrobes, dressing gowns, pajamas, hosiery, socks, boots, shoes, slippers and gloves</p> <p>Class 028. First use: golf bags, [ golf clubs, ] golf gloves, [ golf balls, ] golf bag pegs, [ golf putters, ] head covers for golf clubs, hunting arrow points, [ hunting blinds, hunting bows, water fowl hunting decoys, croquette sets, badminton sets, ] backgammon sets, board games, card games and parlow games</p>

	Class 034. First use: [ smoking pipes, ] cigarette holders, cigar holders, [ cigar humidors, ] ash trays, [ non-electric cigar and cigarette lighters, ] cigar cases and cigar cutters, all not made of precious metal
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U.S. Registration No.	2516025	Application Date	12/08/1997
Registration Date	12/11/2001	Foreign Priority Date	NONE

Word Mark	H
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Design Mark	
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Description of Mark	NONE
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Goods/Services	<p>Class 003. First use: skin lotions, hand lotions, hand soaps, [rouges, lipsticks, face powders, body powders, skin creams, sun tanning preparations, perfumes,] toilet waters, eau de colognes, colognes, toilet soaps, [talcum powders,] shaving creams, personal deodorants,[ hair lotions, hair sprays,] hair shampoos, bath oils and bath lotions</p> <p>Class 008. First use: cutlery of precious metal, namely, knives, forks and spoons and tableware, namely, knives, forks and spoons</p> <p>Class 009. First use: opera glasses, magnifying glasses, a combination barometer, thermometer, dial-type calendar and clock, lenses, and spectacle frames</p> <p>Class 014. First use: jewelry, namely, bracelets, necklaces, long neck chains, earrings, rings, tie pins, tie clips, cuff-links, pendants, watches, clocks, key rings, ornaments for the hair, all made of precious metal or coated therewith</p> <p>Class 016. First use: agenda books, fountain pens, cardboard backing used for binding books, playing cards, letter paper, envelopes, note cards, [staplers, staples, paper clips, pen cases, felt pens,] letter openers, and newspapers and magazines on the subject of style and fine merchandise</p> <p>Class 018. First use: articles made from leather or imitation leather, namely, hand bags and clutch purses, drawstring pouches, back packs, change purses and shoulder bags made of leather, trunks for travel, suitcases, billfolds and wallets, passport holders, attache cases, brief cases, brief case type portfolios, satchels, all purpose sports bags, umbrellas, parasols, walking sticks, toiletry pouches made of leather sold empty, harnesses, whips, hunting crops and saddlery</p> <p>Class 020. First use: household furniture, picture frames and furniture mirrors</p> <p>Class 021. First use: Beverage glassware; glass dishes; porcelain tableware, namely plates, dishes, coffee and tea cups; faience tableware, namely plates, dishes, coffee and tea cups</p> <p>Class 024. First use: textile fabrics for manufacturing household items and clothing</p> <p>Class 025. First use: pants, men's and women's belts including leather belts, neckties, fur cloaks, caps, coats of fabrics and leather, vests, short jackets, jackets, skirts, dresses, capes, tailor made ensembles comprising jackets, blazers or waistcoats with</p>
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	<p>trousers, skirts or dresses, suits, rain coats, shirts, hats, scarves, blouses, smocks, bathrobes, dressing gowns, pajamas, hosiery, socks, boots, shoes, slippers and gloves</p> <p>Class 028. First use: Toys, games, and [sporting goods, namely, tennis balls, soccer balls, cricket balls, golf balls, ]balloons for play, [stationary exercise bicycles, marbles for games, golf clubs, kites, gymnastic apparatus,] dice,[ barbells, ice skates, roller skates, tennis rackets, squash rackets, badminton rackets, racketball rackets, skis]</p> <p>Class 034. First use: smoking pipes, cigarette holders, cigar holders, cigar humidors, ash trays, non-electric cigar and cigarette lighters, cigar cases and cigar cutters, all not made of precious metal</p>
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U.S. Application No.	79049428	Application Date	09/20/2007
Registration Date	NONE	Foreign Priority Date	03/23/2007
Word Mark	H		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 006. First use: Metal fasteners for bags, metal fasteners for leather or imitation leather goods, namely wallets, leather purses, card holders, briefcases, leather key cases, padlocks</p> <p>Class 014. First use: Jewellery, namely necklaces, bracelets, rings, earrings, pendants, brooches, badges, cuff-links, medals, medallions, charms, tie pins, precious stones, precious metals and their alloys other than for dental use and goods made of these materials and/or plated with them, namely boxes, jewel cases, horological and chronometric instruments, watches and their components, watch straps, watch clasps</p> <p>Class 016. First use: Metal money clips, money clips</p> <p>Class 018. First use: Leather or imitation leather goods (except for cases adapted to the products they are intended to contain, gloves and belts), handbags, travelling bags, rucksacks, school bags, beach bags, shopping bags, garment bags (for travel), baby care bags, bags for travelling rugs, sling bags for carrying infants (baby-carriers), wallets, leather purses, card cases (wallets), document cases, key cases (leather goods), tidies of leather, trunks and suitcases, travelling sets, vanity cases, pouches (leather bags for packaging), saddlery articles; purses made of or plated with precious metals</p> <p>Class 021. First use: Goods made of or plated with precious metals and their alloys, namely tableware, plates, dishes, cups, tumblers, egg-cups, teacups, coffee cups, breakfast mugs, saucers, bowls, decanters, salad bowls, candlesticks, vases, powder cases</p> <p>Class 025. First use: Clothing for men, women and children, boots, boot liners, shoes and slippers, fashionable clothing accessories for men, women and children, namely hats, bonnets, gloves, mittens, ties, belts, scarves, sashes for wear, stockings, socks, tights and braces</p>		

	<p>Class 026. First use: Belt clasps, belt buckles; fastenings for clothing, shoes and belts; belt buckles of precious metals</p> <p>Class 034. First use: Goods made of or plated with precious metals and their alloys, namely ashtrays for smokers, smokers' articles, cigar and cigarette boxes and cases, cigar and cigarette holders for smoking</p>
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Attachments	<p>75401754#TMSN.gif ( 1 page )( bytes )</p> <p>75402283#TMSN.gif ( 1 page )( bytes )</p> <p>79049428#TMSN.jpeg ( 1 page )( bytes )</p> <p>NOTICE OF DEPOSITION W-EXHS. 1-2.pdf ( 16 pages )(504137 bytes )</p>
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Andrew Baum/
Name	ANDREW BAUM
Date	08/18/2008

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

HERMÈS INTERNATIONAL,	)	
	)	
	)	
<i>Opposer,</i>	)	
	)	OPPOSITION NO.
v.	)	
	)	Serial No. 77/332,553
CONOR KELLY DETWILER,	)	
	)	
<i>Applicant.</i>	)	
	)	

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**NOTICE OF OPPOSITION**

Hermès International (“Opposer”), a corporation of France, located at 24, rue du Faubourg Saint Honoré, F-75008, Paris, France, believes it will be damaged by the registration of the mark (the “Mark”) as shown in Application Serial No. 77/332,553 (the “Application”) for “evening handbags; handbags for men; handbags, purses and wallets; backpacks; book bags, sports bags, bum bags, wallets” in Class 18 (“Applicant’s Goods”), filed by Conor Kelly Detwiler (“Applicant”), and hereby opposes the same. The Application was filed on November 18, 2007 and published for opposition on April 29, 2008. Opposer has previously obtained an extension of time to oppose, to and including August 27, 2008.

As grounds for the Opposition, Opposer alleges that:

1. Continuously since long prior to Applicant’s filing date, Opposer has manufactured and sold, throughout the world and in the United States, a broad range of

luxury goods including wearing apparel for men, women, and children, handbags, jewelry and fine leather accessories for men and women.

2. Continuously since long prior to Applicant's filing date, Opposer has used a trademark consisting of a capital letter "H" set inside a circle (the "Circle H Logo"). The Circle H Logo appears on packaging for goods sold by Opposer, in advertising for goods sold by Opposer, and in and on the designs for retail stores owned by Opposer. Photographs showing use of Opposer's Circle H Logo are attached hereto as Exhibit 1.

3. As a result of Opposer's long and widespread use of its "Circle H Logo" since long prior to Applicant's filing date, such trademark has become associated with Opposer exclusively and has become a famous trademark signifying high quality goods, including handbags, manufactured and sold by Opposer exclusively.

4. Opposer owns U.S. Trademark Registrations Nos. 2,436,099 and 2,516,025 for trademarks incorporating the "Circle H Logo" for goods including handbags, purses, wallets and bags, in Class 18. These registrations are in full force and effect and are incontestable under Section 15 of the Lanham Act, 15 U.S.C. § 1065.

5. Continuously since prior to Applicant's filing date, Opposer has used a modified version of the Circle H Logo (the "Simple Circle H Logo") in the design of various products sold by Opposer. Specifically, the Simple Circle H Logo has been used on products including jewelry, handbags and gloves. Copies of products which bear the Simple Circle H Logo are attached hereto as Exhibit 2.

6. Opposer is the owner of International Registration No. 952,185 for the Simple Circle H Logo. International Registration No. 952,185 is the basis for a Request for Extension of Protection to the United States under Section 66(f) of the Lanham Act, 15 U.S.C.

§ 1141(f), Serial No. 79/049,428 (“Opposer’s REP”), which covers, *inter alia*, handbags, purses, wallets and bags in Class 18. Opposer’s REP was filed in the United States on September 20, 2007, claiming a priority date of March 23, 2007 pursuant to Section 67 of the Lanham Act, 15 U.S.C. § 1141(g).

7. By virtue of its sales of goods in the United States bearing the Simple Circle H Logo, the Simple Circle H Logo has become a trademark identifying products of Opposer exclusively.

8. Applicant's Mark includes what appears to be the letter “H” inside a circle. Applicant’s H-in-circle design is very similar to Opposer’s Circle H Logo and very similar to Opposer’s Simple Circle H Logo.

9. The goods with which Applicant intends to use Applicant's mark are identical to the goods for which Opposer has long used and registered its Circle H Logo and Simple Circle H Logo.

10. Use of Applicant’s Mark on Applicant’s Goods is likely to create confusion, mistake or deception. Specifically, consumers are likely to be confused, mistaken or deceived into believing that the goods of Applicant are provided, sponsored, licensed or approved by Opposer, that Applicant’s and Opposer’s Goods emanate from the same source and/or that Applicant is in some way connected or associated with Opposer, resulting in damage to Opposer.

11. Registration of Applicant's Mark is barred by Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), because it consists of, or comprises a mark which so resembles a trademark previously used and registered by Opposer as to be likely, when applied to the goods of the Applicant, to cause confusion, to cause mistake or to deceive.

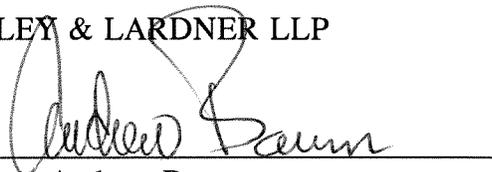
WHEREFORE, Opposer prays that the registration sought by Applicant be refused, and that this opposition be sustained. The required fee of \$300.00 is being submitted with this Notice of Opposition. Please charge any additional costs to our Deposit Account 19-0741.

Dated: August 18, 2008

Respectfully submitted,

FOLEY & LARDNER LLP

By

A handwritten signature in black ink, appearing to read "Andrew Baum", is written over a horizontal line.

Andrew Baum

Attorneys for Applicant

90 Park Avenue  
New York, NY 10016-1314  
(212) 338-3527

**CERTIFICATE OF SERVICE**

It is hereby certified that a copy of the foregoing NOTICE OF OPPOSITION,  
was served by first class mail, postage prepaid to:

Conor Kelly Detwiler  
748 First Parish Road  
Scituate, MA 02066

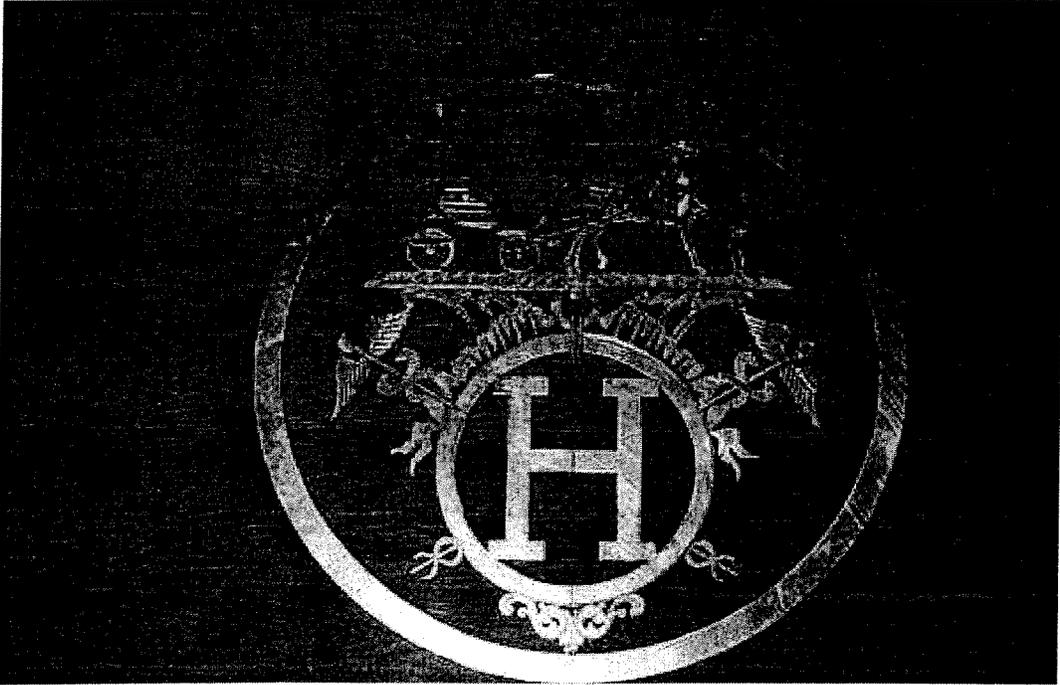
attorneys for Applicant, this 18<sup>th</sup> day of August, 2008.

  
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# **EXHIBIT 1**

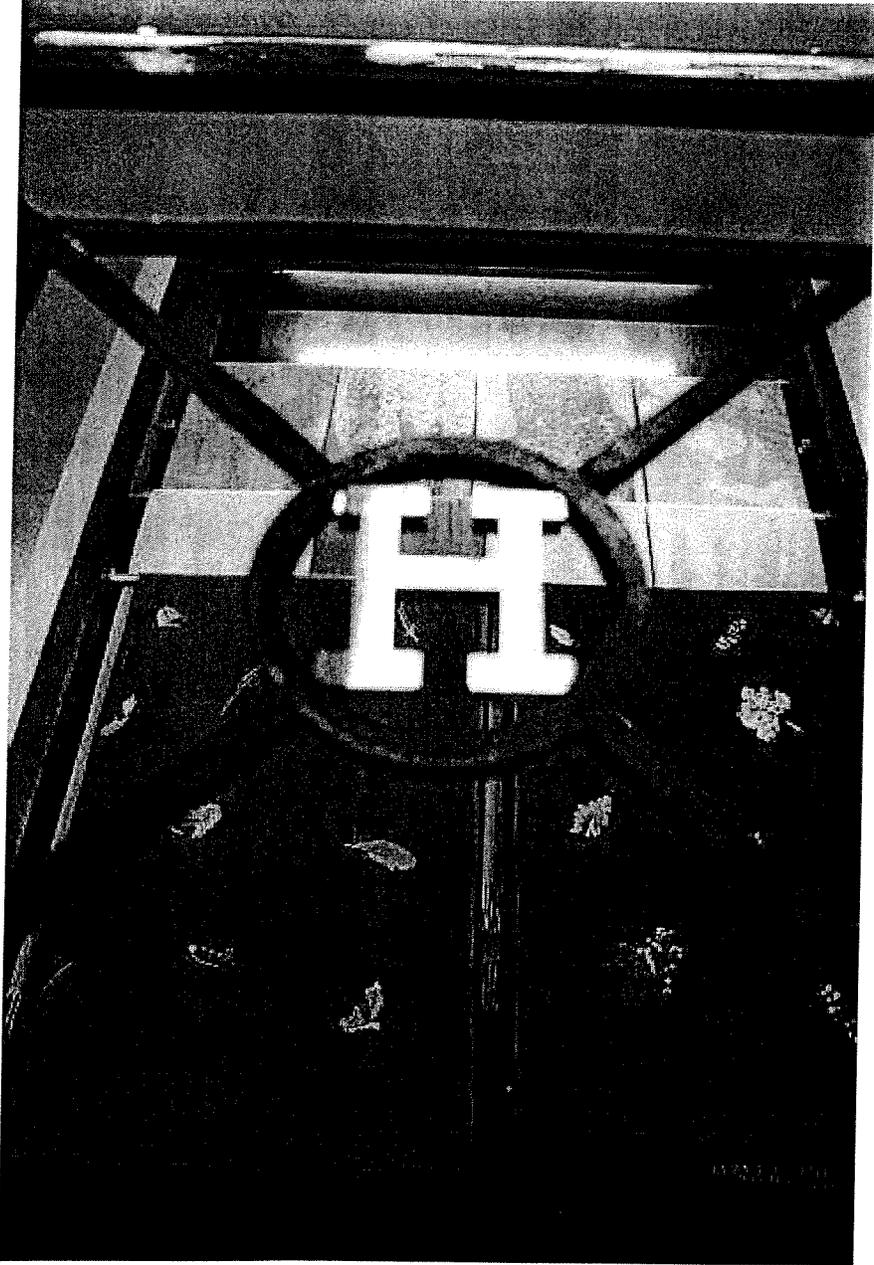
Hermès store / New York 1983 :

Hermès store / New York 1983 :



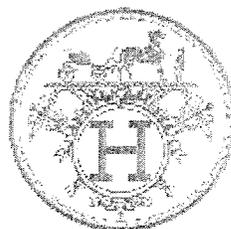
Hermès Store / Chicago 1991 :

Hermès store / Beverly Hills en 1997:



Hermès New York Madison 2000 / press book:

691 MADISON  
AVENUE



Hermès store / San Francisco en 2003:

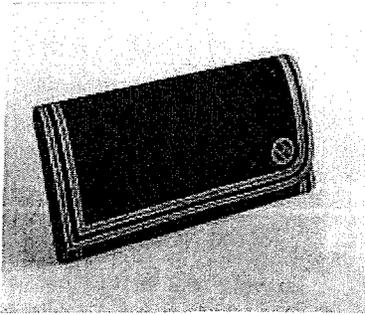
Hermès store / San Francisco en 2003:

Press book - Opening of Wall Street store:

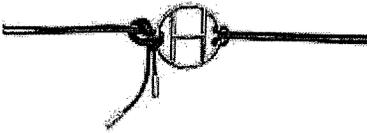
15 BROAD   
STREET

Hermès store / New York Wall Street, 15 broad street, June 2007:

# **EXHIBIT 2**



COCHER handbag / 1989



KISS device « H » Belt / 2005

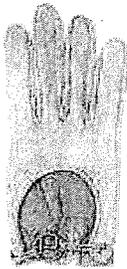


Photo: 18214 - Gant "KISS" model "H" en agneau glacé gris 61 € 2005.

KISS H Gloves / 2005

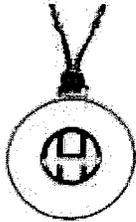
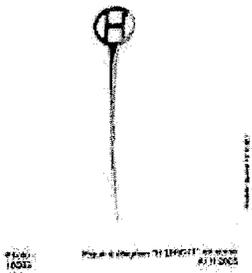


Photo: 18227 - Pendentif "H" en acier, 2005.

STRAIGHT H Pendant / 2005



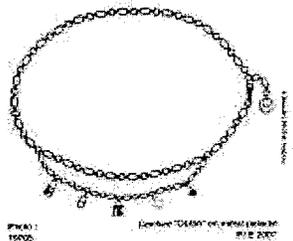
STRAIGHT H CHIGNON CLAW / 2005



LISE Gloves / 2005



STRAIGHT H Pendant / 2006



"OLGA" Belt / 2007