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Filing date: **10/09/2014**

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

Proceeding	91214449
Party	Defendant Alpha Omega Epsilon, Inc.
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Date	10/09/2014
Attachments	AOE-MT_Consolidate.pdf(124080 bytes) ApplEx1 OmegaWatchPriceList.pdf(1833932 bytes) Appl Ex 2 OpposerResponsetoRogs(excerpts).pdf(342207 bytes)

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

OMEGA, S.A. (OMEGA AG) (OMEGA LTD.), OPPOSER, V. ALPHA OMEGA EPSILON, INC. APPLICANT.	Opposition Nos. 91214449 (Parent) 91214452 91214453 91214454 Serial Nos. 85/855823 85/857062 85/857065 85/855839

ALPHA OMEGA EPSILON'S MOTION FOR CONSOLIDATION WITH PROCEEDING NO. 91197504 FOR THE LIMITED PURPOSE OF CONSIDERING CO-PENDING MOTIONS FOR SUMMARY JUDGEMENT

Applicant, the Alpha Omega Epsilon Sorority moves the Board for the limited purpose consolidation of this Opposition proceeding with the significantly similar Omega Watch Opposition to the Applications of the Alpha Phi Omega Service Fraternity to register its fraternal insignia, namely consolidated proceedings no. 91197504 (Parent). The Owner of the Omega Watch trademarks is prosecuting both Oppositions against collegiate Greek letter fraternal organizations, both with the word "Omega" in their name. Essentially identical Motions for Summary Judgment are co-pending in both Oppositions based upon the *identical dispositive question* of whether the insignia of Greek letter collegiate fraternities and sororities with the Greek letter "Omega" in their name is likely to be confused with the Omega Watch marks.

Because the co-pending Motions for Summary Judgment are in all material respects essentially identical and both present the identical dispositive issue, for purposes of efficiency and uniformity, we respectively request consolidation for the limited purpose of uniform consideration of the co-pending motions. In further support of this Motion, Applicant submits the following:

Applicant, Alpha Omega Epsilon, also known as AΩE, a non-profit organization, is a Greek letter sorority founded in 1984. The Applicant in the parallel proceeding for which limited consolidation is sought is Alpha Phi Omega, also known as AΦΩ, a non-profit organization. It is a collegiate service fraternity founded in 1925.

Opposer Omega, S.A. is perhaps best known as a manufacturer of watches and other time-keeping devices. Its primary consumer products are premium-priced high-end wrist watches selling for thousands of dollars each. *See* Applicant's Exhibit 1. Although various models of Omega Watches can be acquired for "only" a few thousand dollars, many models sell for tens of thousands of dollars. *Id.* at Misc010–016.

The essential question in the Omega Oppositions against the applications to register the Alpha Omega Epsilon insignia as well as Oppositions to the applications to register the Alpha Phi Omega insignia is whether a consumer of fraternity or sorority affinity merchandise, primarily college students, will confuse fraternal affinity merchandise with Omega and its premium-priced high-end watches, or will at least associate the merchandise with Opposer or its $2,000, $5,000, $10,000, $20,000 or $40,000 Omega watches.

The dispositive premise in both of the pending Motions for Summary Judgment for which consolidated consideration is respectfully sought is the showing in both that as a matter of law, a multiple Greek letter collegiate fraternity or sorority name containing the word "Omega" or Greek letter "Ω" is not likely to be confused or associated with the with Omega marks and its premium-priced high-end watches.

The dispositive problem with the similar Oppositions is the fact that the public is conditioned to identify a combination of two or three Greek alphabet letters in a name as a reference to a fraternity or sorority. *Abraham v. Alpha Chi Omega*, 781 F.Supp.2d 396, 410

(N.D.Tx. 2011) *aff'd* 708 F.3d 614 (5th Cir. 2013) *cert. denied*, 134 S.Ct. 88 (2013) ("use of various combinations of Greek letters, in the mind of the public, generally refers to fraternities and sororities"). Indeed, the Board itself recently noted the same holding that the letters EK on caps is not likely to be confused with the Greek alphabet letters for Sigma Kappa Sorority, namely, ΣK, also on caps, because Greek insignia will be "perceived as identifying both Greek letters and the name of a sorority." *In re New Era Cap Co., Inc.,* No. 85515684, http://ttabvue.uspto.gov/ttabvue/v?pno=85515684&pty=EXA&eno=21 at p.5 (TTAB July 7, 2014). By reversing a registration refusal based upon a finding of likely confusion, the Board consequently had to find, *as a matter of law*, that confusion in such a context is not likely.

And that is the identical dispositive issue in the co-pending Motions for Summary judgment for which consolidated consideration is sought: whether a multiple Greek letter collegiate fraternity or sorority name containing the word "Omega" or Greek letter "Ω" is not likely to be confused or associated with the with Omega marks and its premium-priced high-end watches.

As the co-pending motions point out, Opposer and Alpha Phi Omega have coexisted for nearly 90 years, since 1925 and Opposer and Alpha Omega Epsilon have coexisted for over 30 years, since 1983. Although coexisting for nearly 90 years, and over 30 years, respectively, none of the parties are aware of even a single instance of confusion or consumer association of the Alpha Phi Omega or Alpha Omega Epsilon insignia with the Omega Watch marks.

As both of the co-pending Motions for Summary Judgment commonly note, notwithstanding years of coexistence with nary an instance of confusion or association, indications are that Opposer has now decided to bully AΩE, and AΦΩ, as well as any other collegiate fraternity or sorority with the word Omega in its name. Omega has instituted similar

proceedings in the TTAB against the Omega Psi Phi Fraternity which has coexisted with Omega over 100 years, since 1911 (Proceeding No. 91197082), and the Lambda Tau Omega Sorority (Proceeding No. 91208652). Omega also has unsuccessfully sought an extension to oppose a filing of the Psi Sigma Omega Service Fraternity (Serial No. 78739642); and it successfully bullied Omega Delta Phi into abandoning the application to register its name (Proceeding No. 91186613).

As commonly noted in the co-pending Motions for Summary judgment, and especially considering the lack of any *actual confusion,* the absurdity of Opposer's assertions of likely confusion caused by Alpha Omega Epsilon and Alpha Phi Omega is clear when one considers that in addition to these two Greek letter organizations, there apparently are *dozens* of other fraternities and sororities with the Greek letter "Omega" in their name including (1) Alpha Tau **Omega**, (2) Alpha Chi **Omega**, (3) Chi **Omega**, (4) Alpha Gamma **Omega**, (5) **Omega** Chi, (6) Sigma Phi **Omega**, (7) Kappa **Omega** Tau, (8) Gamma Epsilon **Omega**, (9) Beta **Omega** Phi, (10) Sigma Phi **Omega**, (11) Sigma Alpha **Omega**, (12) **Omega** Delta Phi, (13) Alpha Nu **Omega**, (14) Lambda Tau **Omega**, (15) **Omega** Chi, (16) **Omega** Phi Beta, (17) Gamma Phi **Omega,** (18) Sigma **Omega** Epsilon, (19) Alpha Pi **Omega**, (20) **Omega** Phi Gamma, (21) Sigma **Omega** Nu, (22) Alpha Sigma **Omega**, (23) Delta Phi **Omega**, (24) Delta Pi **Omega**, (25) **Omega** Chi Psi, (26) Sigma Kappa **Omega**, (27) Sigma **Omega** Phi, (28) Gamma Alpha **Omega**, (29) Alpha **Omega,** (30) **Omega** Tau Sigma, (31) Delta **Omega**, (32) **Omega** Psi Phi, (33) Psi Sigma **Omega**, (34) Alpha **Omega** Sigma, (35) Order of **Omega,** and (36) **Omega** Rho.

Opposer even acknowledges it is aware of the existence of numerous fraternities and sororities with Omega in their names including, Alpha Chi **Omega,** Alpha **Omega** Epsilon**,** Alpha Phi **Omega**, Alpha Tau **Omega**, Chi **Omega**, Delta Phi **Omega**, Gamma Phi **Omega,**

Lambda Tau **Omega**, **Omega** Psi Phi, **Omega** Delta Phi, **Omega** Phi Beta, **Omega** Phi Chi, and Sigma **Omega** Phi. *See* Applicant's Exhibit 2 (Excerpts of Opposer's response to Alpha Omega Epsilon Interrogatories) response to Interrogatory No. 12.

The truly dispositive factor common to both of the co-pending Motions for Summary judgment is the dissimilarity of the marks; the marks simply are not similar enough to support any plausible claim of likelihood of confusion. When comparing the marks, "[i]t is well-established that it is improper to dissect a mark, and that marks must be viewed in their entireties. . . 'The marks are considered in their entireties, words and design.'" *Coach Servs., Inc v. Triumph Learning, LLC*, 668 F.3d 1356, 1368 (Fed. Cir 2012) (quoting *In re Shell Oil Co.,* 992 F.2d 1204, 1206 (Fed. Cir. 1993)).

Thus, when comparing the Omega watch marks with the Alpha Omega Epsilon, AΩE, Alpha Phi Omega and AΦΩ marks, the comparison is not simply the OMEGA word in Opposer's marks and the OMEGA or Ω components of the marks sought to be registered; the comparison must be made with the marks in their entireties.

And when comparing the marks in their entireties, we must focus on the "sound, connotation and commercial impression" of the marks. This is one of the fatal problems with Opposer's claims common to both of the co-pending Motions for Summary Judgment. When viewing the opposed marks as a whole, consumers will readily recognize the insignia as references to a fraternity or sorority, not a reference to the Opposer or any of its products; the target customers are not at all likely to associate the insignia with anything other than a Greek letter fraternity or sorority, certainly not Opposer. As recognized by both the Courts and the Board, when the public encounters insignia consisting of a combination of two or three Greek alphabet letters, the public will recognize the insignia as a reference to a Greek letter fraternity or

sorority. "[U]se of various combinations of Greek letters, in the mind of the public, generally refers to fraternities and sororities." *Abraham,* 781 F.Supp.2d at 410. Or, as the Board itself recently held, **as a matter of law**, the letters EK on hats is not likely to be confused with the Greek alphabet letters for the Sigma Kappa Sorority, namely, ΣK, also for hats, because such insignia will be "perceived as identifying both Greek letters and the name of a sorority." *In re New Era Cap Co., Inc.,* http://ttabvue.uspto.gov/ttabvue/v?pno=85515684&pty=EXA&eno=21 at p.5 (TTAB July 7, 2014). Just as EK for hats is not likely, as a matter of law, to be confused with ΣK for hats, so too, the ALPHA OMEGA EPSILON mark, the AΩE insignia, the ALPHA PHI OMEGA mark, and the AΦΩ insignia are not likely, as a matter of law, to be confused with the Opposer or its products.

So this is the identical dispositive issue common to the co-pending Motions for Summary Judgment for which common consideration is sought: whether, as a matter of law, a multiple Greek letter collegiate fraternity or sorority name containing the word "Omega" or Greek letter "Ω" is not likely to be confused or associated with the with Omega marks and its premium-priced high-end watches.

Dissimilarity to the extent common to the Oppositions for which consolidation is sought is more than enough to be dispositive as a matter of law. As the Board recently held ***reversing*** a finding that EK is likely to be confused with the Greek letters Sigma Kappa, namely, ΣK, "the dissimilarity of the marks and differences in sound, meaning, and commercial impression are so great that they outweigh the other *du Pont* factors. . . . For that reason, we find the first *du Pont* factor to be dispositive*." Id.* at 5-6. "[A] single *du Pont* factor may be dispositive." *Id.* at 4 (citing *Kellogg Co. v. Pack'em Enters, Inc.,* 951 F.2d 330, 21 USPQ2d 1142 (Fed. Cir. 1991).

Because Omega is the same Opposer in both of the proceedings, and because both of the co-pending Motions for Summary Judgment for which limited consolidation is respectfully prayed for revolve around the *identical case dispositive issue*, the dictates of economy and an appropriate desire for uniformity of result warrant consolidation for the limited purpose of common consideration of the co-pending Motions for Summary Judgment.

As TBMP § 511 provides, consolidation is appropriate in cases involving common questions of law or fact especially in consideration of savings in time, effort, and expense, which may be gained from consolidation when consolidation is not likely to cause any prejudice or inconvenience. *See also Regatta Sport Ltd. v. Telux-Pioneer Inc*., 20 USPQ2d 1154 (TTAB 1991) and *Estate of Biro v. Bic Corp*., 18 USPQ2d 1382 (TTAB 1991). Fed. R. Civ. P. 42(a), as made applicable by Trademark Rule 2.116(a), provides that when actions involving a common question of law and fact are pending before the Board, it may order all the actions consolidated, and it may make such orders concerning proceedings therein to avoid unnecessary costs or delay. *S. Industries Inc. v. Lamb-Weston Inc*., 45 USPQ2d 1293, 1297 (T.T.A.B. 1997). Consolidation is most often appropriate where both proceedings involve the same mark and virtually identical pleadings. *Id.; see also Target Brands, Inc. v. Artificer Life Corp.*, 2014 TTAB LEXIS 203 (TTAB 2014) (cases consolidated because the marks at were the same, opposer filed identical notices of opposition and presented its cases on nearly identical records); *Ritchie v. Simpson*, 41 USPQ2d 1859 (TTAB 1996) (cases consolidated despite variations in marks and goods because notices of opposition were virtually identical and presented common questions of law and fact), *rev'd on other grounds*, 170 F.3d 1092 (Fed. Cir. 1999); *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (proceedings involving substantially identical issues of law and fact);

M.C.I. Foods, Inc. v. Brady Bunte, 2008 TTAB LEXIS 9 (TTAB 2008) (cases consolidated since they involved identical parties, an identical registration, and related issues).

That is the case here. Both sets of Oppositions involve essentially identical issues, and the co-pending Motions for Summary Judgment revolve around the *identical dispositive issue*. The limited consolidation provides economy for the Board, insures uniformity of result, and will be equally advantageous to all parties. Limited consolidation, solely for the purpose of common consideration of the co-pending motions will avoid the duplication of effort, loss of time, and the extra expense involved in separately addressing essentially identical co-pending motions. *See World Hockey Association v. Tudor Metal Products Corporation*, 185 USPQ 246, 248 (T.T.A.B 1975); *see New Orleans Louisiana Saints LLC v. Who Dat? Inc.*, 99 USPQ2D 1550 (TTAB 2011) (if multiple oppositions plead the same claims, the Board may consolidate for consistency and economy).

CONCLUSION

Because Omega is the same Opposer in both of the proceedings, and because both of the co-pending Motions for Summary Judgment for which limited consolidation is respectfully prayed for revolve around the *identical case dispositive issue*, the dictates of economy and an appropriate desire for uniformity of result warrant consolidating for the limited purpose of common consideration of the co-pending Motions for Summary Judgment.

ACCORDINGLY, we pray for consolidation of Omega, S.A. (Omega AG)(Omega Ltd.) v. Alpha Omega Epsilon, Inc., Opposition Nos. 91214449 (Parent) and Omega, S.A. (Omega AG)(Omega Ltd.) v. Alpha Phi Omega, Opposition Nos. 91197504 (Parent) for the limited purpose of common consideration of the co-pending motions.

Respectfully requested,

/jackawheat/

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Mari-Elise Taube
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Louisville, Kentucky 40202-3352
Telephone: (502) 587-3400

Counsel for Alpha Omega Epsilon

CERTIFICATE OF SERVICE AND ELECTRONIC SUBMISSION

I hereby certify that a true copy of this item, ALPHA OMEGA EPSILON'S MOTION FOR SUMMARY JUDGMENT is being filed electronically with the U.S. Patent and Trademark Office using the ESTTA service, and a copy has been served on counsel for Opposer by mailing said copy this 9th day of October, 2014, via First Class Mail, postage prepaid, to:

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/jackawheat/
Jack A. Wheat

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Applicant's Exhibit 1

omega watches price list

Top Category Matches

- > Watches 2
- > Other Electronics 1

Price

$ Min to $ Max

Store

- Overstock.com 2
- Bodycandy.com 1

Brand

- OMEGA 2

Color

1
1
1

Shop by Department

- Women
- Men
- Baby & Kids
- Home & Garden
- Technology
- Drugstore
- Sports & Fitness
- Automotive
- Books & Media
- Crafts & Sewing
- Flowers & Gifts
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- Musical Instruments
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- Pets
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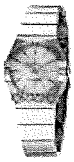


Constellation Brushed Quartz 27mm Women's ...
$2,299.99
overstock.com

Constellation Polished Quartz 27mm Women's...
$2,979.99
overstock.com

Seamaster Pro 300m Automatic Men's Watch
~~$4,400.00~~ **$3,430.00**
Graystoneltd.com

Seamaster Planet Ocean 46mm Men's Watch 23...
~~$6,200.00~~ **$4,465.00**
Graystoneltd.com

Seamaster Planet Ocean 42mm Men's Watch 23...
~~$6,100.00~~ **$4,390.00**
Graystoneltd.com

Chronograph 37.5mm Unisex 222.32.38.50.01-
~~$6,900.00~~ **$5,380.00**
Graystoneltd.com

Seamaster Planet Ocean Men's Chronograph W...
~~$8,200.00~~ **$5,905.00**
Graystoneltd.com

232.90.46.21.03.001 Seamaster Planet
~~$8,600.00~~ **$6,190.00**
Graystoneltd.com

232.92.46.21.03.001 Seamaster Planet
~~$7,900.00~~ **$5,690.00**
Graystoneltd.com

Chronograph 45.5mm Men's 232.30.46.51.01-
~~$8,200.00~~ **$5,905.00**
Graystoneltd.com

Seamaster Planet Ocean 42mm Men's Watch 23...
~~$6,100.00~~ **$4,390.00**
Graystoneltd.com

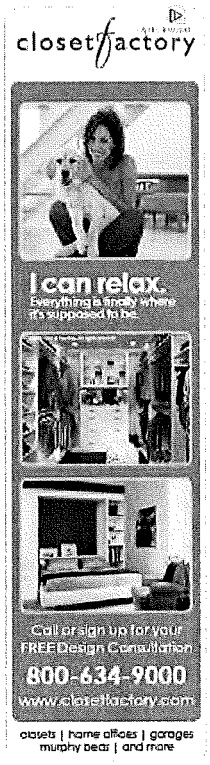
Seamaster Planet Ocean 46mm Men's Watch 23...
~~$6,100.00~~ **$4,390.00**
Graystoneltd.com

Seamaster Planet Ocean 42mm Men's Watch 23...
~~$6,200.00~~ **$4,465.00**
Graystoneltd.com

Seamaster Men's Automatic Watch -
~~$4,400.00~~ **$3,430.00**
Graystoneltd.com

DEFENDANT'S EXHIBIT 2

Misc001



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Stafford Jewelers

Omega Authorized Dealer - Topper Jewelers - TopperJewelers.com
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List View | Grid View | Sort by

Refine Search

Subm

Price Range

Under $3263	327
$3263 - $5471	331
$5471 - $10982	333
$10982+	330

$ 8 to $ 10412 Update

Condition

New	1321

Shipping

Free Shipping	1278

Top Brands

Omega	1173
Longines	1
Time	1
General Electric	1
Swiss	7
GS	3
Calibre	1

+ See all

Gender

Men	468
Women	470
Unisex	40

Dial Color

Black	139
White	23
Blue	22
Silver	123
Gold	3
Champagne	9
Pearl	54

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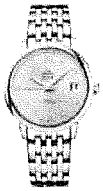

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Push Button	250
Deployment	788
Invisible / Hidden	18
Material	
Gold	406
Leather Band	112
Rubber Band	24
Silver	301
Steel	82
Titanium	11
Movement	
Automatic	352
Manual	1
Quartz	305
Browse by Store	
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Sale	
Show Sale Prices	6

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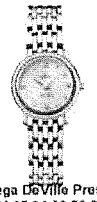

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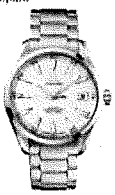

Omega Automatic Chronometer 41.5mm...
Authentic Watches.com
seller rating: 4.5/5
as low as $3,890.00
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Omega Seamaster Planet Ocean 2900.51.82
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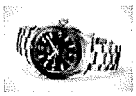

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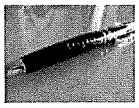

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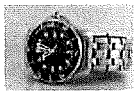

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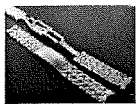

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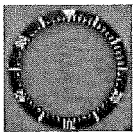

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DESIGNER ACCESSORIES

Omega Speedmaster Moonwatch Black Dial Chronograph 18kt Rose Gold Black Alligator Leather Mens Watch 311.63.44.51.01.001

Write a Review

ITEM CODE: OMEGA-WATCH-311-63-44-51-01-001

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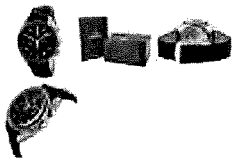

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Brand	Omega
Model number	311.63.44.51.01.001
Gender	Mens
Series	Speedmaster Moonwatch
Watch Style	Luxury
Movement	Automatic
Engine	Omega 9301
Functions	Chronograph, Date, Hour, Minute, Second
Case Material	18kt Rose Gold
Case Shape	Round
Case Diameter	44.25 mm - View the watch size chart
Case Back	Transparen
Bezel	Uni-directional Rotating with Tachymeter
Dial Color	Black
Dial Type	Analog
Dial Markers	Index
SubDials	Two - 60 Second and 12 Hour
Hands	Gold-tone
Luminiscents	Hands and Markers
Bracelet	Black Alligator Leather
Band Length	9 inches
Band Width	24.1 mm
Clasp	Deployment with Push Button
Calendar	Date display at the 3 o'clock position
Water Resistant	100 meters / 330 feet
Crystal	Scratch Resistant Sapphire
Watch Label	Swiss Made
Warranty	Warranty service for this watch will be offered through Jomashop and not the manufacturer. Omega watches have a 4 year Jomashop warranty. Please click here for additional watch warranty information.

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Omega DeVille Hour Vision Silver Dial 18kt Rose Gold Mens Watch 431.60.41.21.02.001

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Our Code

SKU # : OMEGA-WATCH-311-63-44-51-01-001

Warranty on this item

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Omega DeVille Hour Vision Silver Dial 18kt Rose Gold Mens Watch 431.60.41.21.02.001

This item is also in these section/s:

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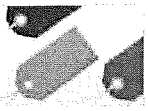

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Home :: :: Featured Brands :: Omega :: Omega De Ville Watches :: Omega DeVille Hour Vision Silver Dial 18kt Rose Gold Mens Watch 431.60.41.21.02.001

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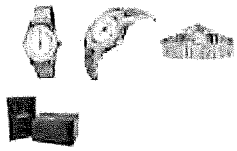

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Omega DeVille Hour Vision Silver Dial 18kt Rose Gold Mens Watch 431.60.41.21.02.001

Write a Review

ITEM CODE: OMEGA-WATCH-431-60-41-21-02-001

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ASK A QUESTION

Retail Price:	$33,900.00
Savings:	$8475 (25%)
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Sale Price:	**$25,425.00**
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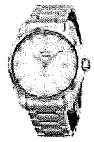
18kt rose gold case with a 18kt rose gold bracelet. Fixed18kt rose gold bezel. Silver dial with gold-toned hands and index hour markers. Minute markers around the outer rim. Dial Type: Analog. Date display at the 3 o'clock position. Automatic movement. Scratch resistant sapphire crystal. Push / pull crown. Solid case back. Case diameter: 41 mm. Round case shape. Deployment clasp. Water resistant at 100 meters / 330 feet. Functions: date, hour, minute, second. Luxury watch style. Watch label: Swiss Made. Omega DeVille Hour Vision Silver Dial 18kt Rose Gold Mens Watch 431.60.41.21.02.001.

Brand	Omega
Model number	431.60.41.21.02.001
Gender	Mens
Series	DeVille Hour Vision
Watch Style	Luxury
Movement	Automatic
Functions	Date, Hour, Minute, Second
Case Material	18kt Rose Gold
Case Shape	Round
Case Diameter	41 mm - View the watch size chart
Case Back	Solid
Crown	Pull / Push
Bezel	Fixed 18kt Rose Gold
Dial Color	Silver
Dial Type	Analog
Dial Markers	Index
Hands	Gold-toned
Bracelet	18kt Rose Gold
Clasp	Deployment
Calendar	Date display at the 3 o'clock position
Water Resistant	100 meters / 330 feet
Crystal	Scratch Resistant Sapphire
Watch Label	Swiss Made
Warranty	Warranty service for this watch will be offered through Jomashop and not the manufacturer. Omega watches have a 4 year Jomashop warranty. Please click here for additional watch warranty information.

You May Also Like:

Omega De Ville Prestige Automatic Diamond Yellow Gold Men...
Retail Price: $10,800.00
Sale Price $7,462.38



Omega Seamaster Aqua Terra Mens Watch 23110396002001
Retail Price: $2,750.00
Sale Price $2,095.24

Omega Seamaster Plant Ocean Black Dial Stainless Steel Me...
Retail Price: $6,200.00
Sale Price $4,595.00

May we also suggest...

Misc013

FOR THE HOME

GIFT CERTIFICATE

Omega Constellation Black Dial 18kt Rose Gold Black Rubber Automatic Mens Watch 121.62.41.50.01.001

Our Price: $17,706.00

New Image Coming Soon

Omega Constellation Brown Dial 18kt Rose Gold Brown Leather Automatic Mens Watch 231.53.42.21.06.001

Our Price: $15,372.00

Omega Speedmaster Moonwatch Black Dial Chronograph 18kt Rose Gold Black Alligator Leather Mens Watch 311.63.44.51.01.001

Our Price: $20,670.00

Misc014

800.998.3082 International 1.415.360.5503

THE FINEST WATCHES (/)

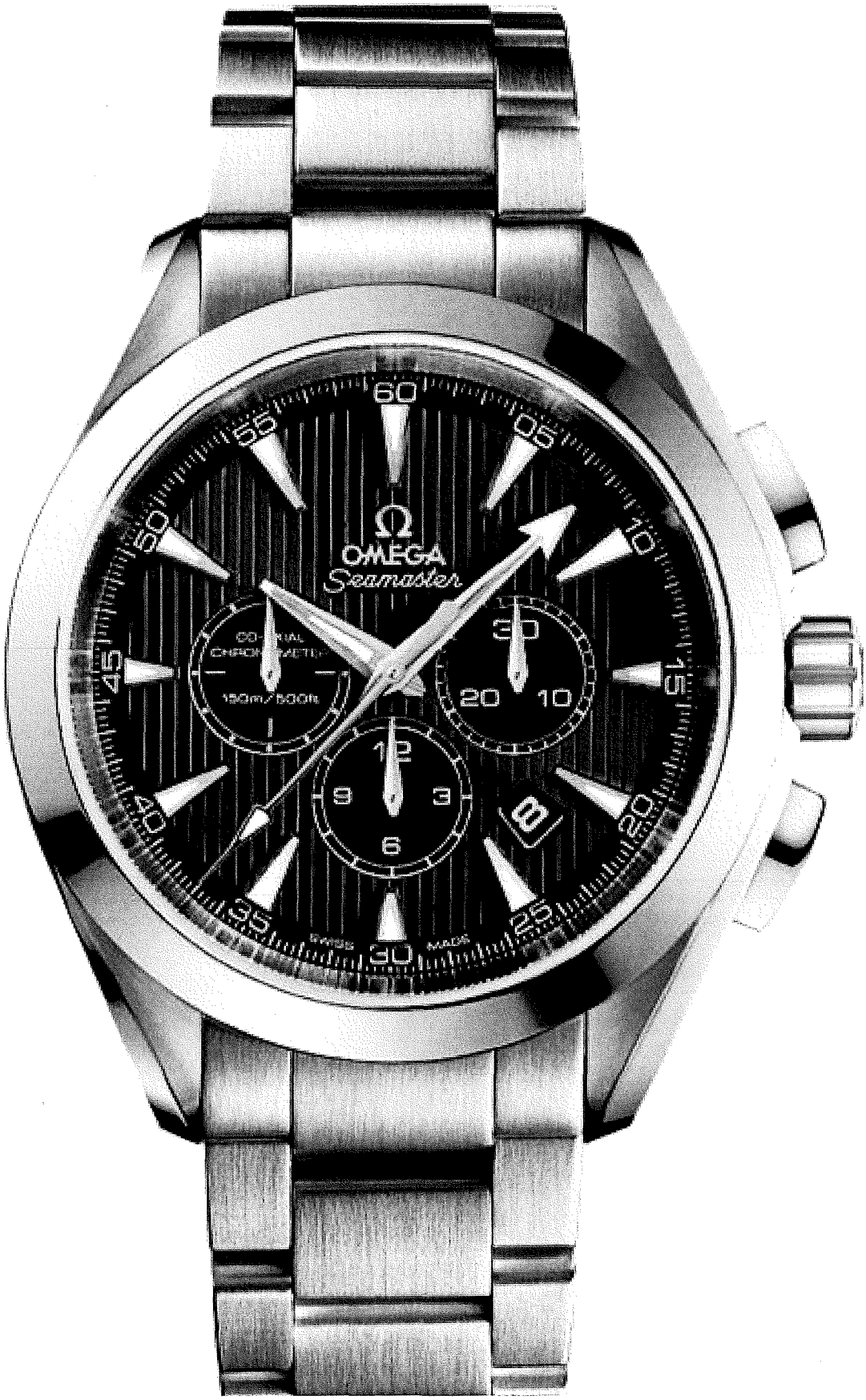
OMEGA

Seamaster Aqua Terra Chronograph White Gold

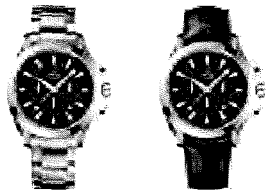
~~$48,900.00~~$39,125.00

Tweet g+1

Misc015



Misc016



Color

White Gold

Band

White Gold

Quantity

1

ADD TO CART

Description
Payment
Shipping
Price Match
Trade-In

Omega Seamaster Aqua Terra Chronograph Watch, round 18kt white gold case (44mm diameter) with screw-down crown and transparent case back, choice of 18kt white gold bracelet or alligator strap with 18kt white gold deployant buckle, black lacquered dial with teak pattern, date indication between 4 and 5 o'clock, chronograph function (central seconds, 30 min, 12 hr), Omega caliber 3313 self-winding Co-Axial movement with 52 hour power reserve, water-resistant to 150 meters.

The Aqua Terra represents a tribute to Omega's rich maritime heritage. The easily recognizable dial of the Omega Aqua Terra collection recalls the wooden decks

Misc017

of luxury sailboats. Co-Axial escapement for greater precision, stability and durability. Features include automatic winding in both directions to reduce winding time, the teak concept pattern dial, date window between the 4 and 5 o'clock position, and a chronograph with 30 minute and 12 hour registers. A 44mm diameter case provides ample size for most sportsmen and adventurers. At the heart of this watch beats the COSC certified caliber 3313 Co-Axial chronometer movement.

Misc018

Applicant's Exhibit 2

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

OMEGA S.A. (OMEGA AG) (OMEGA LTD.), Opposer, v. ALPHA OMEGA EPSILON, INC., Applicant.	Mark: AΩE Opp. No.: 91214449 (Parent) Serial No.: 85855823
OMEGA S.A. (OMEGA AG) (OMEGA LTD.), Opposer, v. ALPHA OMEGA EPSILON, INC., Applicant.	Mark: ALPHA OMEGA EPSILON Opp. No.: 91214454 (Child) Serial No.: 85855839
OMEGA S.A. (OMEGA AG) (OMEGA LTD.), Opposer, v. ALPHA OMEGA EPSILON, INC., Applicant.	Mark: ALPHA OMEGA EPSILON & Design Opp. No.: 91214452 (Child) Serial No.: 85857062
OMEGA S.A. (OMEGA AG) (OMEGA LTD.), Opposer, v. ALPHA OMEGA EPSILON, INC., Applicant.	Mark: ALPHA OMEGA EPSILON Opp. No.: 91214453 (Child) Serial No.: 85857065

OPPOSER'S RESPONSES AND OBJECTIONS TO APPLICANT'S FIRST SET OF INTERROGATORIES

Opposer Omega SA (Omega AG) (Omega Ltd.) (hereafter, "Opposer"), hereby serves its responses and objections to Applicant's First Set of Interrogatories pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure.

GENERAL OBJECTIONS

1. Opposer objects to each and every Interrogatory in their entirety on the ground that Opposer is responding on the basis of its current knowledge and information. Opposer reserves the right to supplement each response to these interrogatories.

2. Opposer objects to each and every Interrogatory insofar as and to the extent it seeks information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege or immunity, and will not produce such information. Any inadvertent disclosure of such information shall not be a waiver of the attorney-client privilege, the work product doctrine, or any other applicable privilege or immunity.

3. Opposer objects to each and every Interrogatory insofar as and to the extent it seeks divulgence of trade secrets, confidential or proprietary information of any third-party, such information will not be disclosed. To the extent each and every request seeks divulgence of such information of Opposer, such information will be disclosed subject to an appropriate protective order, signed by the parties and their counsel, and ordered by the Trademark Trial & Appeal Board.

4. Opposer objects to each and every Interrogatory to the extent it seeks disclosure of information relating to or revealing proprietary development and marketing activities for products not yet manufactured or not yet on sale or otherwise employed. The slight relevance, if

any, of such highly confidential trade secret information is vastly outweighed by the severe prejudice that would result to Opposer were it to be disclosed or available to competitors of Opposer. Opposer will not provide such information.

5. Opposer objects to each and every Interrogatory to the extent it calls for information neither relevant to the subject matter of this Action nor reasonably calculated to lead to the discovery of admissible evidence.

6. Opposer objects to Applicant's definitions in their entirety to the extent same seeks to impose obligations on Opposer beyond those permitted by the Federal Rules of Civil Procedure or the Local Rules applicable to this matter.

7. Opposer objects to each and every Interrogatory to the extent it calls for information that exceeds a reasonable durational scope.

8. Opposer objects to each and every Interrogatory to the extent it calls for information not yet available as these responses are made during the discovery process. Opposer reserves the right to supplement responses when the information becomes available.

9. Opposer objects to each and every Interrogatory to the extent it is overly broad, vague and ambiguous, unduly burdensome or not reasonably calculated to lead to the discovery of admissible evidence.

10. Opposer objects to each and every Interrogatory to the extent it is duplicative.

11. Opposer objects to each and every Interrogatory to the extent that it is not limited in geographic scope to the United States.

12. Opposer objects to the extent it is not required to respond to these interrogatories to the extent that Applicant has exceeded the permitted number of interrogatories, including subparts, as set forth in37 C.F.R. § 2.120(d)(1), and TBMP §§ 405.03(a) and 405.03(e).

entireties, Opposer uses its Marks in conjunction with other words, phrases and designs (OMEGA SEAMASTER, OMEGA CONSTELLATION, Omega Globe Design, etc.), Applicant seeks to register its marks in Classes which are identical or which are highly related to those in Opposer's Registrations, and Applicant's application are unlimited as to target consumers or channels of trade, Opposer's registrations are unlimited as to target consumers and channels of trade.

INTERROGATORY NO. 11:

Describe in detail any demographic characteristics, including income, net worth, or extent of disposable income characteristics of the primary types of customers with whom Opposer does or intends to do business in the United States in connection with the marks upon which the Oppositions are based.

ANSWER:

Opposer incorporates by reference its General Objections, as if fully stated herein. Opposer objects to this Interrogatory as compound. Opposer objects to this Interrogatory as overly broad, ambiguous and vague. Opposer objects to this Interrogatory as unduly burdensome. Notwithstanding and without waiving the foregoing objections, Opposer responds that is customers are the public in general, that said customers' specific income, net worth or extent of disposable income falls within a wide range encompassing many income brackets.

INTERROGATORY NO. 12:

Identify all collegiate Greek letter fraternities and sororities with the word "Omega" in their name that Opposer is aware of, including any identified or otherwise noted in any survey,

Internet search, poll, investigation, market study, research, trademark search, conducted by or on behalf of Opposer.

ANSWER:

Opposer hereby incorporates by reference all of its General Objections. Additionally, Opposer objects to this Interrogatory as compound. Opposer further objects to this Interrogatory as it seeks information not relevant to the instant proceedings and not reasonably calculated to lead to the discovery of admissible evidence in this proceeding. Opposer objects to this Interrogatory it requires Opposer to provide information that is within Applicant's knowledge, possession and/or control. Opposer objects that this Interrogatory seeks to impose an obligation on Opposer that is outside the scope of the Federal Rules of Civil Procedures. Opposer objects to this Interrogatory to the extent that Applicant is attempting to shift the burden of establishing its defenses to Opposer. Notwithstanding and without waiving the foregoing objections, Opposer responds that through its enforcement efforts it has become aware of the following: Alpha Chi Omega, Alpha Omega Epsilon, Alpha Phi Omega, Alpha Pi Omega, Alpha Tau Omega, Chi Omega, Delta Phi Omega, Gamma Phi Omega, Lambda Tau Omega, Omega Psi Phi, Omega Delta Phi, Omega Phi Beta, Omega Phi Chi, Sigma Omega Phi.

INTERROGATORY NO. 13:

Indicate the average or median, or approximate average or median price range of products sold under the marks upon which the Oppositions are based.

ANSWER:

Opposer hereby incorporates by reference all of its General Objections. Additionally, Opposer objects to this Interrogatory as compound. Opposer objects to this Interrogatory as