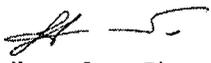


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

KRISTALL CLASSICS, INC., a) Cancellation No.92044751
Nevada Corporation)
)
Petitioner,)
V)
THE DIAMONDS OF RUSSIA, LTD., a)
Delaware Corporation)
)
Registrant)

76275014

I hereby certify that on January 10, 2006
correspondence and all listed attachments being deposited with
the United States Postal Service as First Class Mail, postage
prepaid, in an envelope addressed to: Commissioner for
Trademarks, PO BOX 22313-1451, Arlington, Virginia
ATTN: TTAB



Name: Leon Fingergut

THE DIAMONDS OF RUSSIA™ LTD'S MEMORANDUM IN RESPONSE TO PETITIONERS MOTION FOR
SUMMARY JUDGMENT

Commissioner for Trademarks
PO BOX 1451
Alexandria VA 22313-1451

Registrant The Diamonds Of Russia Ltd. ("Registrant") a Delaware Corporation,
having its principal place of business in Las Vegas, Nevada respectfully submits this
brief in opposition to the motion for summary judgment filed by Kristall Inc.,
(Petitioner).

INTRODUCTION

The Diamonds Of Russia Ltd is the legal owner of U.S. Trademarks CLEARLY
SUPERIOR KRISTALL THE DIAMONDS OF RUSSIA REGISTRATION No. 2728636 and KRISTALL THE
DIAMONDS OF RUSSIA Registration No. 2920296. Marks have been used without
interruptions.

In year 1993 Leon Fingergut, Chairman Of The Board of Russian American Diamond
Corporation a California Corporation created as a Joint Venture Between Kazanjian
Brozers Inc., Beverly Hills California and Production Corporation Kristall Smolensk,
Russian Federation started development of Kristall and Russian Diamonds trade
identity - trade names.

In year 1998 Millennium Diamond USA Inc., was created. Leon Fingergut was



elected as a President and CEO. In year 2000 Millennium Diamond USA Inc was admitted to California as GemDiam Corp. In 2001 GemDiam Corp., applied for U.S. trademarks Kristall, Kristall the Diamonds of Russia, Kristall Clearly Superior the Diamonds of Russia, The Diamonds of Russia. By the time applications have been submitted, Kristall and The Diamonds of Russia became well known and respected trade names with in polished diamonds industry.

In year 2001 Kristall Jeweler Inc, a New York Corporation has been created (Leon Fingergut, President and CEO) the main business of this company was intellectual property management (trademarks, copyrights, trade names, trade dress) and marketing of jewelry and diamonds using Kristall and The Diamonds of Russia trademarks and trade names. Shortly after creation of Kristall Jeweler Inc., GemDiam Corp assigned all its intellectual property rights to Kristall Jeweler Inc.

In year 2001 Kristall Classics Inc., a Nevada Corporation was created. Co founders MGM Jewelry Inc., and Kristall Jeweler Inc. The same year Kristall Jeweler Inc., grants to Kristall Classics Inc., non exclusive license to use Kristall, Kristall the Diamonds of Russia, The Diamonds of Russia Trademarks.

In February 2002 Kristall Jeweler Inc., sells its 50% stake in Kristall Classics Inc., to the entity controlled by the management of Production Corporation Kristall, Smolensk, Russian Federation.

May 15, 2002 revocation of the Kristall Classics License.

January 2003, Federal Trademark infringement complaint filed by Kristall Jeweler Inc., against Kristall Classics Inc.

August 12, 2004 Confidential Settlement Agreement reached and partially executed by signatories. Settlement was not legally effectuated until it was executed by Mr. Maksim Shkadov on behalf of Smolensk Unitary Company, Kristall Production Company some time mid December 2004.

August 26, 2004 Assignment of Kristall Trademark to Kristall Classics executed, conditional to the entry of the Confidential Settlement Agreement in to good legal standing.

November 16, 2004 as the Confidential Settlement Agreement was not in effect Kristall Jeweler Inc., assigned Trademarks CLEARLY SUPERIOR KRISTALL THE DIAMONDS OF RUSSIA REGISTRATION No. 2728636 and KRISTALL THE DIAMONDS OF RUSSIA Registration No. 2920296 to The Diamonds of Russia Ltd.

Mid December 2004 Kristall Classics entered in to Limited License of "Diamond of Russia" Trademarks. As a part of the Limited License "Parties agree that by the adoption and continual use by Kristall Jeweler if the mark" THE DIAMONDS OF RUSSIA" in connection with certain goods, Kristall Jeweler owns any and all rights recognized by a State of the United States at common law to the mark "THE DIAMONDS OF RUSSIA" and all good will set forth in Application No. 76/309,019.

August 9, 2005 Russian Diamond Collection Trade Mark has been registered in Supplemental Register in violation of Kristall Classics Inc., Limited License of "Diamond of Russia" Trademarks Registration No. 2984306

STATEMENT OF FACTS

In year 2001 Kristall Jeweler Inc, a New York Corporation has been created (Leon Fingergut, President and CEO) the main business of this company was

intellectual property management (trademarks, copyrights, trade names, trade dress) and marketing of jewelry and diamonds using Kristall and The Diamonds of Russia trademarks and trade names. Shortly after creation of Kristall Jeweler Inc., GemDiam Corp assigned all its intellectual property rights to Kristall Jeweler Inc. (Exhibit 1)

In year 2001 Kristall Classics Inc., a Nevada Corporation was created. Co founders MGM Jewelry Inc., and Kristall Jeweler Inc. The same year Kristall Jeweler Inc., grants non exclusive license (Exhibit 2) to use Kristall, Kristall the Diamonds of Russia, The Diamonds of Russia Trademarks.

May 15, 2002 revocation of the Kristall Classics License. (Exhibit 3)

August 12, 2004 Confidential Settlement Agreement reached and partially executed by signatories. Settlement was not legally effectuated until it was executed by Mr. Maksim Shkadov on behalf of Smolensk Unitary Company, Kristall Production Company some time mid December 2004 (PETITIONERS MOTION FOR SUMMARY JUDGMENT EXHIBIT 3)

August 26, 2004 Assignment of Kristall Trademark to Kristall Classics executed, conditional to the entry of the Settlement Agreement in to legal standing. (PETITIONERS MOTION FOR SUMMARY JUDGMENT EXHIBIT 3 page 23)

November 16, 2004 as the Confidential Settlement Agreement was not in effect Kristall Jeweler Inc., assigned Trademarks CLEARLY SUPERIOR KRISTALL THE DIAMONDS OF RUSSIA REGISTRATION No. 2728636 and KRISTALL THE DIAMONDS OF RUSSIA Registration No. 2920296 to The Diamonds of Russia Ltd. (EXHIBIT 4 Page 1; EXHIBIT 4 page 2).

Mid December 2004 Kristall Classics entered in to Limited License of "Diamond of Russia" Trademarks. As a part of the Limited License "Parties agree that by the adoption and continual use by Kristall Jeweler if the mark" THE DIAMONDS OF RUSSIA" in connection with certain goods, Kristall Jeweler owns any and all rights recognized by a State of the United States at common law to the mark "THE DIAMONDS OF RUSSIA" and all good will set forth in Application No. 76/309,019 (PETITIONERS MOTION FOR SUMMARY JUDGMENT EXHIBIT 3 Page 8-11)

August 9, 2005 Russian Diamond Collection Trade Mark has been registered in Supplemental Register in violation of Kristall Classics Inc., Limited License of "Diamond of Russia" Trademarks Registration No. 2984306

On August 31, 2005 Kristall Classics Inc., ("Assignor") assigned twelve trademarks to Kristall Inc., ("Assignee") including trademark "Kristall" Registration No. 2,676,728 (PETITIONERS MOTION FOR SUMMARY JUDGMENT EXHIBIT 1 Page 1-3). At the time of assignment Confidential Settlement Agreement was not in effect. This assignment represent circumstantial evidence that Kristall Inc., and Kristall Classics Inc are independent business entities and The Diamonds of Russia Ltd allegation of "non existence" of Kristall Classics Inc. No assignments were required to update USPTO record of the business entity. Filing PTO 1594 form is the only requirement (EXHIBIT 5 page 1-2.)

August 9, 2005 Russian Diamond Collection Trade Mark has been registered in Supplemental Register in violation of Kristall Classics Inc., Limited License of "Diamond of Russia" Trademarks Registration No. 2984306. This registration and continues unauthorized use of "THE DIAMONDS OF RUSSIA" trademarks by Kristall Classics Inc., represents undisputable infringements (EXHIBITS 6-7)

CONCLUSION

SUMMARY JUDGMENT - A decision made on the basis of statements and evidence

presented for the record without a trial. It is used when there is no dispute as to the facts of the case, and one party is entitled to judgment as a matter of law. A material fact is one which might affect the outcome of the case under governing law. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). To preclude summary judgment, the dispute about a material fact must also be "genuine," such that a reasonable jury could find in favor of the non-moving party. Id. Conclusory or speculative testimony is insufficient to raise a genuine issue of fact to defeat summary judgment. See, e.g., Falls Riverway Realty, Inc. v. Niagara Falls, 754 F.2d 49 (2d Cir. 1985); Thornhill Publishing Co. v. GTE Corp., 594 F.2d 730, 738 (9th Cir. 1979). In general, inadmissible hearsay evidence may not be considered on a motion for summary judgment. Blair Foods, Inc. v. Ranchers Cotton Oil, 610 F.2d 665, 667 (9th Cir. 1990). Summary judgment is properly granted when the evidence in support of the moving party establishes that there is no issue of material fact to be tried. (Code Civ. Proc., section 437c; Mann v. Cracchiolo (1985) 38 Cal.3d 18, 35.) The court is required to consider all the evidence set forth in the papers, except where objections are properly sustained, and all inferences reasonably deducible from such evidence. Any doubts as to the propriety of granting the motion must be resolved in favor of the party opposing the motion. (Asare v. Hartford Fire Ins. Co. (1991) 1 Cal.App.4th 856, 862.) If the court determines there is no triable issue of fact, the court will determine any remaining issues of law. (Pittelman v. Pearce (1992) 6 Cal.App.4th 1436, 1441.)

The Diamonds Of Russia Ltd., presented considerable evidences confirming that "Petitioner" does not have a valid title to U.S. Trademark "KRISTALL" Registration No. 2,676,728 as well as "Petitioner" does have good legal standing to initiate cancellation proceedings before TTAB.

For the foregoing reasons Petitioner's motion for summary judgment should be denied and cancellation proceedings terminated.

Dated: Los Angeles, California
January 10, 2006

Respectfully submitted,
The Diamonds of Russia Ltd.


By _____
Leon Fingergut
President
848 N. Rainbow Blvd, Suite 1052
Las Vegas, NV 89107

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing ANSWER TO PETITION TO CANCEL was served by first class mail, postage prepaid, on the following counsel of record for Petitioner:

Michael Painter
ISAACMAN, KAUFMAN & PAINTER
A Professional Corporation
8484 Wilshire Blvd, Suite 850
Beverly Hills, CA 90211

This 11th day of January 10, 2006



Leon Fingergut

**United States Patent and Trademark Office**

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**Assignments on the Web > Trademark Query****Trademark Assignment Abstract of Title****Total Assignments: 2****Serial #:** 76275016**Filing Dt:** 06/22/2001**Reg #:** 2920296**Reg. Dt:** 01/25/2005**Registrant:** KRISTALL JEWELER, INC.**Mark:** KRISTALL THE DIAMONDS OF RUSSIA.**Assignment: 1****Reel/Frame:** 2471/0477**Received:** 03/29/2002**Recorded:** 03/22/2002**Pages:** 3**Conveyance:** ASSIGNS THE ENTIRE INTEREST**Assignor:** GEMDIAM CORPORATION**Exec Dt:** 03/20/2002**Entity Type:** CORPORATION**Citizenship:** CALIFORNIA**Entity Type:** CORPORATION**Citizenship:** NEW YORK**Assignee:** KRISTALL JEWELER, INC.9601 WILSHIRE BLVD., SUITE 730
BEVERLY HILLS, CALIFORNIA 90212**Correspondent:** MCKENNA & CUNEO, LLPSHARI L. KLEVENS
1900 K STREET, NW
WASHINGTON, DC 20006**Assignment: 2****Reel/Frame:** 3038/0030**Received:** 01/03/2005**Recorded:** 01/03/2005**Pages:** 5**Conveyance:** ASSIGNS THE ENTIRE INTEREST**Assignor:** KRISTALL JEWELER INC**Exec Dt:** 11/16/2004**Entity Type:** CORPORATION**Citizenship:** NEW YORK**Entity Type:** CORPORATION**Citizenship:** DELAWARE**Assignee:** THE DIAMONDS OF RUSSIA LTD.2029 CENTUTY PARK EAST
SUITE 1060
LOS ANGELES, CALIFORNIA 90049**Correspondent:** LEON FINGERGUT2096 RIDGE POINT DRIVE
LOS ANGELES, CA 90049

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TRADEMARK LICENSE AGREEMENT

THIS AGREEMENT is made this 13 day of November, 2001 at Los Angeles, California, between (the "Parties") as follows:

KRISTALL JEWELER, INC., a New York corporation, having an office at 550 South Hill Street, Suite 1627, Los Angeles, California 90013 ("Licensor"), and

KRISTALL CLASSICS, INC., a Nevada corporation, having its office at 1641 Allesandro Street, Los Angeles, California 90026 ("Licensee"),

with reference to the following facts:

A. Licensor markets gem-quality diamonds (the "Diamonds") manufactured by P.C. Kristall, Smolensk, Russia, a Russian diamond manufacturer.

B. Licensor desires that Licensee produce or cause to be produced and market jewelry incorporating the Diamonds (the "Licensed Products") to the Market Segment under Licensor's trademarks and trade names on the terms set forth herein.

C. Licensee is ready, willing and able to accept such appointment and represents that it has the expertise and organization necessary to fulfill the obligations set forth herein.

D. Each Party warrants and represents to the other that it is duly organized and in good standing, and authorized to do business under the laws of each state in which it does business; that it has the authority to enter into this Agreement; that the individual signing this Agreement on its behalf is duly authorized by it to do so; that all proceedings required by law to be taken in order for this Agreement to be valid and binding upon it have been taken; and that the entry by it into this Agreement will not result in a violation of any statute or regulation to which it is subject, or in the breach of any other agreement to which it is a party.

NOW, THEREFORE, it is agreed:

1. **Definitions**

In this Agreement, the following words shall have the meanings now ascribed to them:

- 1.1 "Change of Control": any voluntary or involuntary sale or transfer of the shares or interest in the assets of Licensee of five percent (5%) or more to any person other than Licensor, Roycon Trading Ltd., and Licensee.
- 1.2 "Diamonds": diamonds manufactured only by P. C. Kristall, Smolensk, Russia.
- 1.3 "Licensed Product" or "Licensed Products": jewelry products incorporating the Diamonds.
- 1.4 "Market Segment": retailers in the United States of America as the Parties may agree by annex to this Agreement.

- 1.5 "Net Sales": the total of all charges invoiced by Licensee for sales of Licensed Products, less the following items insofar as they are separately stated by included in the amounts invoiced to customers: usual trade discounts actually taken, returns, allowances, packing costs, insurance, transportation costs, customs duties, and sales, use, import, export and excise taxes
- 1.6 "Term": the term of this Agreement as defined in Paragraph 10 hereof.
- 1.7 "Trademarks": those trademarks and trade names (with devices) shown on Annex A hereto, together with such other trademarks and trade names as the Parties may agree by annex to this Agreement.
- 1.8 "Uncured Breach": Licensee's failure to perform its obligations under this Agreement, including without limitation its failure to achieve Sales of Diamonds in the amounts corresponding to each year of the Term and renewal Terms (if applicable) as set forth in Schedule 1 hereto, or Licensee's failure to pay when due any amount it is obligated to pay to Licensor under this Agreement or any other trade creditor in the ordinary course of business, which breach remains uncured for 30 days after Licensee's receipt of written notice of breach from Licensor, or Licensor's failure to perform its obligations under this Agreement, which breach remains uncured for 30 days after Licensor's receipt of written notice of breach from Licensee. Minimum Sales for each year in any renewal Term hereof are also set forth in Schedule 1 hereto.

2. Appointment

- 2.1. Subject to the terms herein, Licensor hereby appoints Licensee as its non-exclusive Licensee to market Licensed Products under the Trademarks to customers in the Market Segment.
- 2.2. During the term of this Agreement and for so long as Licensee is not in default under this Agreement, Licensor agrees not to appoint another licensee to market Licensed Products to customers in the Market Segment.
- 2.3. Licensee hereby accepts such appointment subject to the terms herein.

3. Licensee's Obligations

- 3.1. In addition to any other obligations of Licensee that may arise from this Agreement, Licensee shall:
- (a) use its best endeavors at its own expense to promote sales of the Licensed Products to the customers in the Market Segment. This includes, but is not limited to, regular visits as Licensee reasonably deems appropriate, to the Market Segment for the purposes of achieving the widest possible distribution and merchandising of the Licensed Products within the Market Segment;

- (b) pay to Licensor a royalty equal to two percent (2%) of Sales, to be determined monthly and paid to Licensor within ten (10) days after the end of each calendar month during the Term and any renewal Term hereof, accompanied by a report of Net Sales for such period certified as to accuracy by an officer of Licensee. Late payments of royalties shall be subject to a late payment charge equal to twelve percent (12%) per annum until paid in full.
- (c) regularly, and otherwise whenever Licensor requires, provide Licensor with such sales and market information including competitive data in connection with the Licensed Products within the Market Segment, including lists of customers to whom Licensee has sold during the term of this Agreement as Licensee prepares in the normal course of its business;
- (d) as and when requested by Licensor, deliver such reports to Licensor on issues connected with the Licensed Products in the Market Segment as Licensee prepares in the normal course of its business;
- (e) take such measures as shall be necessary to comply with applicable local legislation and regulations covering the manufacture and sale of the Licensed Products;
- (f) promptly inform Licensor of each instance coming to Licensee's knowledge of any, and any alleged or apparent, infringement or wrongful use by third parties of any trademark, trade name or other intellectual property owned or used by Licensor;
- (g) indemnify and hold harmless Licensor against each claim made against Licensor or Licensee, or both, and against all costs and expenses incurred by Licensor and Licensee, in connection, directly or indirectly, with Licensee's acts or omissions in connection, directly or indirectly, with this Agreement, provided that the foregoing shall not extend to any claim, cost, or expense arising out of Licensor's breach of its obligations hereunder;
- (h) not distribute any Licensed Products utilizing Diamonds or other stones from any source other than Licensor without the prior written consent of Licensor;
- (i) pay before delinquency all duties, taxes and license fees imposed, if any, resulting from this Agreement, the manufacture and sale of the Licensed Products, or the actions of Licensee in connection therewith; and
- (j) maintain adequate and current books and records with respect to the Licensed Products, in which complete entries will be made reflecting all manufacturing activities and sales of the Licensed Products, and permit Licensor's representatives to visit and inspect Licensee's facilities and Licensee's financial and accounting records of manufacturing activities and sales of the Licensed Products, and to make copies of and take

extracts from such records, and to discuss such activities of the Licensed Products with representatives of the Licensor, all at such reasonable times during normal business hours as often as may be reasonably requested. If Licensor's inspection of such books and records reveals that Licensee's payment of royalties for any period was deficient in an amount of 5% or more of the royalties actually due to Licensor for such period, Licensee shall reimburse Licensor's inspection and audit expenses incurred. Licensor agrees, as a condition precedent to the foregoing, to keep all such reports, information, and data confidential and not to disseminate all or any part thereof, without the prior written consent of Licensee.

3.2. In addition to any other obligations of Licensee that may arise in connection with this Agreement, Licensee shall not:

- (a) hold itself out as being entitled to, and shall not purport to, commit, or otherwise bind Licensor in relation to any third parties;
- (b) incur any liability on behalf of Licensor, pledge or purport to pledge Licensor's credit;
- (c) describe itself as, or imply that it is anything other than Licensor's licensee to market the Licensed Products to the Market Segment;
- (d) advertise the Diamonds or the Licensed Products, or distribute any printed matter referring to the Diamonds or the Licensed Products or to Licensor unless, and except to the extent that, such advertising and printed matter has been approved in writing in advance by Licensor;
- (e) divert Diamonds or Licensed Products to customers outside of those comprising the Market Segment nor allow customers to perform said diversion without written permission of the Licensor; or
- (f) make any representation or give any warranty regarding the Diamonds or the Licensed Products, except with Licensor's written consent.

4. Licensor's Obligations

4.1. In addition to the other obligations of Licensor arising in connection with this Agreement, Licensor shall:

- (a) sell and deliver to Licensee such quantities of the Diamonds to which Licensor and Licensee agree from time to time, and in no event less than the quantity of Diamonds set forth on Schedule 1 attached;
- (b) provided Licensee purchases from Licensor Diamonds in amounts not less than the amounts indicated for each of the years during the Term hereof set forth in Schedule 1 hereto and has not committed an Uncured Breach of any of its obligations hereunder, and so long as a Change of Control has

not occurred, not grant any other licenses of the Trademarks to any party distributing to the Market Segment;

- (c) expend not less than \$500,000 on account of advertising for the benefit of Licensee's sales of Diamonds to the Market Segment in each of the years of the Term hereof, and also provide Licensee with such advice and assistance in connection with the Diamonds and the Licensed Products as Licensor shall deem appropriate, taking reasonable account of the business needs and availability of inventory and employees; and
- (d) supply, and keep supplied in a timely manner, Licensee with such sales and promotional aids as the Parties mutually deem appropriate to achieve agreed business targets. If Licensee develops or creates any sales or promotional aids for use in connection with this Agreement they shall not be so used until after Licensor has given its written approval thereof, which approval shall not be unreasonably withheld;

5. Representations and Warranties of Licensor

- 5.1. Licensor represents and warrants that to the best of its knowledge, the sale of the Diamonds does not infringe or violate any intellectual property rights (including but not limited to trademarks, copyrights and patents) of any third party.
- 5.2. If there is any actual or threatened suit (whether related to the Trademarks or otherwise) against Licensee or any of its customers in connection with the sale of the Diamonds, then Licensee, upon obtaining knowledge thereof, shall report the details thereof, in writing, to Licensor, whereupon Licensor shall furnish to Licensee, in the English language, free of charge, all information in its possession as shall be reasonably considered by it to assist Licensee or its customer in defending or otherwise dealing with such suit.

6. Compliance with Law

Licensee shall observe and comply with all applicable laws, orders, ordinances, notifications, rules and regulations, relating in any way to the import, storage, sale or use of the Diamonds and the Licensed Products in the United States of America and its several states and other political subdivisions, or the performance by Licensee of this Agreement.

7. Trademarks and Patents

- 7.1. Licensor hereby grants to Licensee a non-exclusive, non-transferable license to utilize Licensor's owned and licensed trademarks and trade names, (the "Trademarks") to the Market Segment. This license may be used only in connection with marketing the Licensed Products and may not be sublicensed, further sublicensed or assigned without Licensor's advanced written consent. The term of this license is coextensive with the term of this Agreement, and in all respects shall be governed by this Agreement.

- 7.2. Licensee acknowledges that except as expressly provided herein, it shall have no right or claim to the validity of the Trademarks that designate and identify the Diamonds; and to the extent permitted by applicable law, shall not contest Licensor's ownership or exclusive entitlement to the Trademarks during the term of this Agreement or thereafter.
- 7.3. Licensee may only use the Trademarks to further the promotion and sale of the Licensed Products. Licensee may only use the Trademarks in their standard form and style as instructed in writing by Licensor. No other letter(s), word(s), design(s), symbol(s), or other matter of any kind shall be superimposed upon, associated with or shown in such proximity to the Trademarks as to tend to alter or dilute them.
- 7.4. Licensee may identify itself by its full name and state its relationship to Licensor in all advertisement, sales and promotional literature or other printed matter in which any of the Trademarks appear. Every Trademark used or displayed by Licensee must be identified as owned by Licensor.
- 7.5. Licensee may identify itself as a licensee in respect of the Trademarks on its letterheads, business cards, statements, and similar documents.
- 7.6. Licensee shall never use any Trademark or any simulation of such marks and names as a part of Licensee's corporate or other trading name or designation of any kind, except to the limited extent allowed by Paragraph 7.3.
- 7.7. Upon termination of this Agreement, Licensee shall promptly discontinue every use of the Trademarks and any language stating or suggesting that Licensee is a licensee of Licensor.

8. Term and Termination

- 8.1. The Term of this Agreement shall be effective as of the effective date of this Agreement and shall remain in full force for five (5) years unless sooner terminated as provided below. Provided Licensee has not committed an Uncured Breach and no Change of Control has occurred, and provided further that Licensee has achieved Sales of not less than \$25,000,000 in the fifth year of the Term, Licensee, at its option, shall have the right but not the obligation to renew this Agreement for an additional five-year Term. Notice of Licensee's intent to renew must be given to Licensor in writing not less than sixty (60) days prior to the end of the Term hereof, in which event the determination of Sales shall be made on the basis of actual Sales through and including the end of the initial Term. If the Sales for the fifth year do not aggregate \$25,000,000, then notwithstanding such notice, this License shall not be renewed. This Agreement is subject to renewal for a third five-year Term on the same terms and conditions provided in Paragraph 10.1 above, except that Net Sales in each year of the renewal Term shall be not less than those amounts set forth for the second renewal Term in Schedule 1 attached hereto

- 8.2. In the event of an Uncured Breach by Licensee, Licensor's obligations under Paragraph 4 of this Agreement will terminate immediately.
- 8.3. In the event of an Uncured Breach by Licensor or a Change of Control, Licensee's obligations under Paragraph 3 of this Agreement will terminate immediately. Any payment obligation to Licensor outstanding at such termination shall survive said termination.
- 8.4. Licensor's obligations under Paragraph 4 of this Agreement and the Trademark License granted hereunder will terminate immediately without notice to Licensee if: (a) Licensee assigns its rights or obligations under this Agreement without Licensor's prior written consent; or (b) there is a filing by or against Licensor of a proceeding under any bankruptcy or other law for the relief of insolvent debtors (including the application for the appointment of a receiver or assignment for the benefit of creditors or for dissolution or liquidation), unless such proceeding is dismissed within 30 days from the date of filing; or (c) a Change of Control occurs.

9. Confidentiality

- 9.1. Neither Licensor nor Licensee shall use or disclose to others during or subsequent to the Term of this Agreement (and any renewal Term or Terms hereof), except as is necessary in the proper performance of its duties, any information regarding the plans, programs, processes, products, equipment, operations, finances or customers of the other Party, which the other Party may obtain or have access to during the term of this Agreement, without in each instance securing the prior written consent of the other Party, and both Parties will cause their employees, agents and sublicensees, if any, to observe the foregoing, unless such information was otherwise publicly available. The parties acknowledge that damages ensuing any breach of the obligations of this paragraph would be difficult to ascertain, and acknowledge that injunctive relief shall be an appropriate remedy (in addition to any claim for damages) to prevent such breach or continuing breach.

10. Notices

- 10.1. Any notice necessary to be served to either Party shall be given by mail or fax and directed to the addresses or such other addresses as notified by one Party in writing to the other Party as shown in the preamble to this Agreement. Such notice will be deemed received four days after deposit in the mail if sent by first-class mail, and upon receipt of transmission confirmation if sent by e-mail or fax.

11. Force Majeure

- 11.1. Neither Party shall be liable for any delay in performance of this Agreement, or any sales agreement made between the Parties as contemplated in this Agreement, where such delay is due to causes reasonably beyond the control of the Party so delayed.

- 11.2. In the performance of any sales agreement with Licensee, Licensor may make partial delivery to Licensee by allocation or otherwise in proportions that are commercially reasonable under the circumstances.
- 11.3. Deliveries suspended or not made by reason of this Paragraph 14 shall be canceled without obligation or liability, but this Agreement shall otherwise remain unaffected. In no event shall an event of *force majeure* extend the term of this Agreement.

12. Miscellaneous Provisions

- 12.1. After signing this Agreement, any and all previous correspondence, agreements, or understandings between the Parties that may be pertaining thereto and are not contained herein shall be considered null and void.
- 12.2. Any amendments and additions to this Agreement shall be valid only if made in writing and signed by duly authorized representatives of the Parties.
- 12.3. Neither Party shall transfer rights and obligations under this Agreement without the written consent of the other Party.
- 12.4. This Agreement shall remain in force until complete performance and final settlement of outstanding debts and claims.
- 12.5. This Agreement shall be governed by and controlled in accordance with the internal laws of the State of California (without regard to conflicts of law principles).
- 12.6. If the Parties hereto are unable to settle amicably any disputes and disagreements which may arise from and/or be in connection with the present agreement, they shall submit their claims for consideration to the American Arbitration Association. The arbitration shall be conducted in Los Angeles, California, by a single arbitrator (who shall be admitted to practice law in California) agreed to by the parties or, failing such agreement, by the American Arbitration Association. The arbitrator shall apply California law without regard to its conflicts-of-law rules, and shall apply the California Evidence Code. The award shall be made in writing within 30 days after the conclusion of the arbitration hearing, shall be non-appealable, may be entered as a judgment in any court having jurisdiction, and may include (at the arbitrator's discretion) an award to the prevailing party (as denominated by the arbitrator) of its attorneys' fees and costs. Nothing contained in this paragraph shall bar either party from seeking equitable relief before any court having jurisdiction, and the parties hereby submit to the in personam jurisdiction of the U.S. District Court for the Central District of California. Arbitration shall be conducted in the English language and the minutes of hearings, as well as the final decision, shall be written in the English language.

- 12.7. Each Party shall indemnify, defend, and hold the other harmless from and against any and all claims, costs, actions, expenses and damages arising from or relating to, directly or indirectly, a Party's breach of any of its obligations, warranties, or representations in this Agreement, or its negligent acts, omissions or willful misconduct in connection therewith.
- 12.8. In performing their respective duties hereunder, the Parties will comply with all applicable laws and regulations, and will cooperate with one another at all times in connection with their legal and regulatory obligations. Without limiting the generality of the foregoing, each Party agrees that it will observe and comply with any and all applicable regulations regarding the export and re-export of the Diamonds to and from the United States of America and will promptly advise the other Party of any suspected or actual violations of such regulations. The Parties further undertake not to make payments to any person which would violate the anti-bribery or similar laws of the United States of America, and to obtain such licenses and permits required by cognizable government authorities for the performance of their respective duties hereunder.
- 12.9. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, and all of which when taken together shall constitute one and the same agreement.
- 12.10. The parties hereto are independent contractors, and not joint venturers, partners, or agents of each other. No other person or entity may be a third party beneficiary of, or have any direct or indirect cause of action or claim in connection with this Agreement.

This Agreement is agreed to by the duly authorized officers of the Parties in two (2) original copies.

KRISTALL JEWELER, INC.

KRISTALL CLASSICS, INC.

By: 
 Name: Leon Fingershut
 Title: PRESIDENT

By: 
 Name: Dmitry Marmershteyn
 Title: President

SCHEDULE 1

Original Term

Minimum Sales

Balance of 2001
Calendar Year 2002
Calendar Year 2003
Calendar Year 2004
Calendar Year 2005

No minimum
\$ 8,000,000
\$12,000,000
\$16,000,000
\$25,000,000

First Renewal Term

Calendar Year 2006
Calendar Year 2007
Calendar Year 2008
Calendar Year 2009
Calendar Year 2010

\$
\$
\$
\$
\$50,000,000

Second Renewal Term

Calendar Year 2011
Calendar Year 2012
Calendar Year 2013
Calendar Year 2014
Calendar Year 2015

\$
\$
\$
\$
\$100,000,000

McKenna & Cuneo, LLP

1900 K Street, NW
Washington, D.C. 20006
Voice: (202) 496-7500
Fax: (202) 496-7756

FACSIMILE TRANSMISSION INFORMATION

DATE: May 15, 2002
SEND TO: Leon Fingergut, President/CEO
COMPANY: Kristall Jewelers, Inc
CITY, STATE: Beverly Hills, CA
FACSIMILE #: 310.246.9661
TELEPHONE #: 310.246.2400
FROM: Jeff E. Schwartz
TELEPHONE # 202-496-7916
CLIENT/MATTER NAME:
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May 15, 2002

VIA FACSIMILE

Jeff E. Schwartz

202-496-7916

jeff_schwartz@mckennacuneo.com

Mr. Dmitry Marmershtyne
President
Chief Executive Officer
Kristall Classics, Inc.
1641 Allesandro Street
Los Angeles, CA 90026

Re: Trademark License Agreement of November 13, 2001

Dear Mr. Marmershtyne:

It has come to our attention that Kristall Classics, Inc. has failed to cure the deficiencies outlined in our April 10, 2002 letter. Consequently, on behalf of Kristall Jewelers Inc., we hereby notify Kristall Classics that the Agreement has been terminated under paragraph 1.8 of the Agreement due to Kristall Classic's failure to cure its breach of the Agreement. Thus, Kristall Classics, Inc. is no longer permitted to use any of the marks owned by Kristall Jewelers Inc., including the following: (1) CLEARLY SUPERIOR KRISTALL THE DIAMONDS OF RUSSIA AND DESIGN; (2) KRISTALL AND DESIGN; (3) KRISTALL THE DIAMONDS OF RUSSIA AND DESIGN; (4) FOREVER RUSSIAN; (5) THE DIAMONDS OF RUSSIA; and (6) KRISTALL ELITE.

Please note that we are sending this letter to several companies under contract with Kristall Jewelers Inc. to inform them of the termination of the licensing agreement. Those companies are listed below. If you have any questions please contact us or you may contact Leon Fingergut of Kristall Jewelers Inc. at 9601 Wilshire Boulevard, Suite 730, Beverly Hills, CA 90210, (310) 246-2400.

McKenna & Cuneo, L.L.P.

Attorneys at Law

Mr. Dmitry Marmershtyne

May 15, 2002

Page 2

Sincerely,



Jeff E. Schwartz

JES/slk

cc: Mr. Leon Fingergut
Mr. John Liebman
Mr. Joel Goldman

Macy's
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JCPenney
Neiman Marcus
Zale Corporation Jewelers
Sterling Jewelers
Fred Meyer Jewelers
Helzberg Diamonds
Samuels Jewelers Inc.
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**Assignments on the Web > Trademark Query****Trademark Assignment Abstract of Title****Total Assignments: 2****Serial #:** 76275016**Filing Dt:** 06/22/2001**Reg #:** 2920296**Reg. Dt:** 01/25/2005**Registrant:** KRISTALL JEWELER, INC.**Mark:** KRISTALL THE DIAMONDS OF RUSSIA.**Assignment: 1****Reel/Frame:** 2471/0477**Received:** 03/29/2002**Recorded:** 03/22/2002**Pages:** 3**Conveyance:** ASSIGNS THE ENTIRE INTEREST**Assignor:** GEMDIAM CORPORATION**Exec Dt:** 03/20/2002**Entity Type:** CORPORATION**Citizenship:** CALIFORNIA**Entity Type:** CORPORATION**Citizenship:** NEW YORK**Assignee:** KRISTALL JEWELER, INC.9601 WILSHIRE BLVD., SUITE 730
BEVERLY HILLS, CALIFORNIA 90212**Correspondent:** MCKENNA & CUNEO, LLP

SHARI L. KLEVENS

1900 K STREET, NW

WASHINGTON, DC 20006

Assignment: 2**Reel/Frame:** 3038/0030**Received:** 01/03/2005**Recorded:** 01/03/2005**Pages:** 5**Conveyance:** ASSIGNS THE ENTIRE INTEREST**Assignor:** KRISTALL JEWELER INC**Exec Dt:** 11/16/2004**Entity Type:** CORPORATION**Citizenship:** NEW YORK**Entity Type:** CORPORATION**Citizenship:** DELAWARE**Assignee:** THE DIAMONDS OF RUSSIA LTD.2029 CENTUTY PARK EAST
SUITE 1060
LOS ANGELES, CALIFORNIA 90049**Correspondent:** LEON FINGERGUT

2096 RIDGE POINT DRIVE

LOS ANGELES, CA 90049

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BEVERLY HILLS, CALIFORNIA 90212**Correspondent:** MCKENNA & CUNEO, LLPSHARI L. KLEVENS
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WASHINGTON, DC 20006**Assignment: 2****Reel/Frame:** [3038/0030](#)**Received:** 01/03/2005**Recorded:** 01/03/2005**Pages:** 5**Conveyance:** ASSIGNS THE ENTIRE INTEREST**Assignor:** [KRISTALL JEWELER INC](#)**Exec Dt:** 11/16/2004**Entity Type:** CORPORATION**Citizenship:** NEW YORK**Entity Type:** CORPORATION**Citizenship:** DELAWARE**Assignee:** [THE DIAMONDS OF RUSSIA LTD.](#)2029 CENTUTY PARK EAST
SUITE 1060
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