

ESTTA Tracking number: **ESTTA434516**

Filing date: **10/07/2011**

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

Proceeding	92051860
Party	Plaintiff La Montre Hermes S.A.
Correspondence Address	ANDREW BAUM FOLEY & LARDNER LLP 90 PARK AVENUE NEW YORK, NY 10016-1314 UNITED STATES ptomailnewyork@foley.com, abaum@foley.com, emarmo@foley.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	Andrew Baum
Filer's e-mail	ptomailnewyork@foley.com, abaum@foley.com, emarmo@foley.com
Signature	/Andrew Baum/
Date	10/07/2011
Attachments	PETITIONER'S NOTICE OF RELIANCE WITH EX A-C-AKKAWI.PDF ( 25 pages )(328439 bytes )

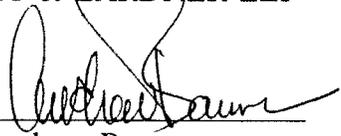


3. Printout of information from the electronic database records of the USPTO showing the current status and title of Registration No. 2,753,802, pleaded in the Amended Petition for Cancellation, submitted herewith as Exhibit C.

Dated: October 7, 2011  
New York, New York

Respectfully submitted,

FOLEY & LARDNER LLP

By: 

Andrew Baum  
90 Park Avenue  
New York, NY 10016-1314  
Tel. (212) 338-3527  
Fax (212) 687-2329

*Attorneys for Petitioner*  
La Montre Hermès S.A.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **PETITIONER'S NOTICE OF RELIANCE PURSUANT TO 37 C.F.R. §§ 2.120(j)(3)(i) & 2.122(e)** was served by first-class mail, postage prepaid, to Registrant at the address of record as follows:

Milton Oliver, Esq.  
7 Teal Circle  
Mashpee, MA 02649-3676

Date: October 7, 2011

  
\_\_\_\_\_  
Elizabeth Marmo

# **EXHIBIT A**

IN THE US PATENT & TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL & APPEAL BOARD

In re Reg. # 3,433,601

LA MONTRE HERMÈS S.A.,

*Petitioner*

vs.

MICHAEL AKKAWI,

*Registrant*

CANCELLATION #

92-051860

REGISTRANT'S ANSWERS TO PETITIONER'S REQUESTS FOR ADMISSIONS

Pursuant to Rules 26 and 36 of the Federal Rules of Civil Procedure, Registrant responds to Petitioner's First Set of Requests for Admissions, as follows:

REQUESTS FOR ADMISSIONS

1. Registrant has sold watches under Registrant's Mark only to Hannoush Jewelers.

ANSWER 1:

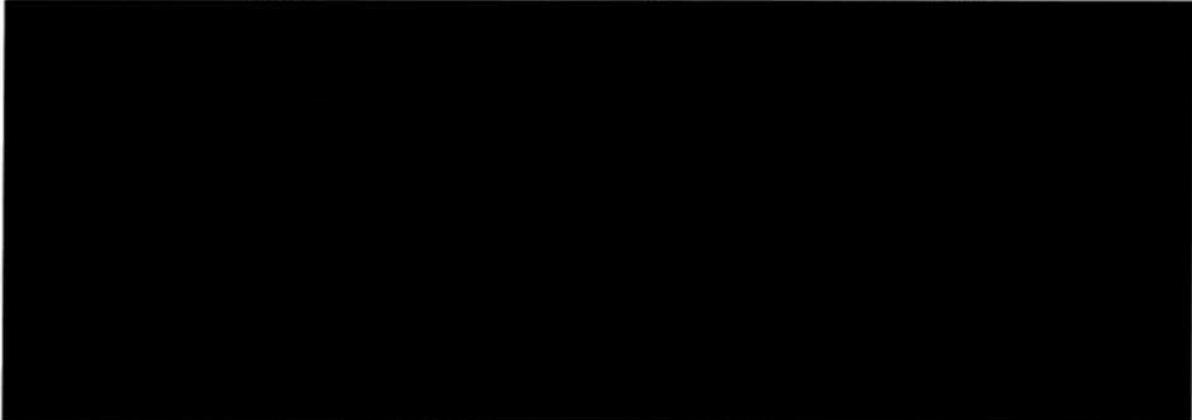
Denied; Registrant has sold watches under Registrant's mark to Hannoush Jewelers of Cape Cod, which has resold them, as Registrant's licensee, to ultimate purchasers.

2 Hannoush Jewelers is located on Cape Cod, in the State of Massachusetts.

ANSWER 2: Denied in the form presented; Hannoush Jewelers, Inc., a Massachusetts corporation (owner of US Reg. Nos. 1,925,360 & 1,950,954), is a multi-state chain, of which Hannoush Jewelers of Cape Cod, in the Commonwealth of Massachusetts, is a franchisee.

3. Hannoush Jewelers has retail stores only in the State of Massachusetts.

ANSWER 3: Denied; Hannoush Jewelers, Inc. has over 70 retail outlets, of which 20 stores are franchised. Hannoush Jewelers of Cape Cod has retail stores only in the Commonwealth of Massachusetts, in the towns of Falmouth and Barnstable on Cape Cod (Barnstable County).



6. Registrant has never offered for sale, or sold, any of Registrant's Goods through any website.

ANSWER 6: Denied in part: Registrant has a website [www.CapeCodWatch.com](http://www.CapeCodWatch.com), on which the availability of Registrant's watches is indicated, but the website states that sales are made only at the stores, located in Falmouth, MA or Hyannis MA (a village within the town of Barnstable MA).

7 Registrant has never sold any clocks under Registrant's Mark.;

ANSWER 7: Admitted.

8. Registrant has never sold any jewelry under Registrant's Mark.

ANSWER 8: Denied; Registrant considers its watches to be a species of jewelry, since its watches comprise 14K gold and sterling silver.



10. Registrant has never sold any clocks under Registrant's Mark to any customer outside the State of Massachusetts.

ANSWER 10: Admitted.

11. Registrant has never sold any jewelry under Registrant's Mark to any customer outside the State of Massachusetts.

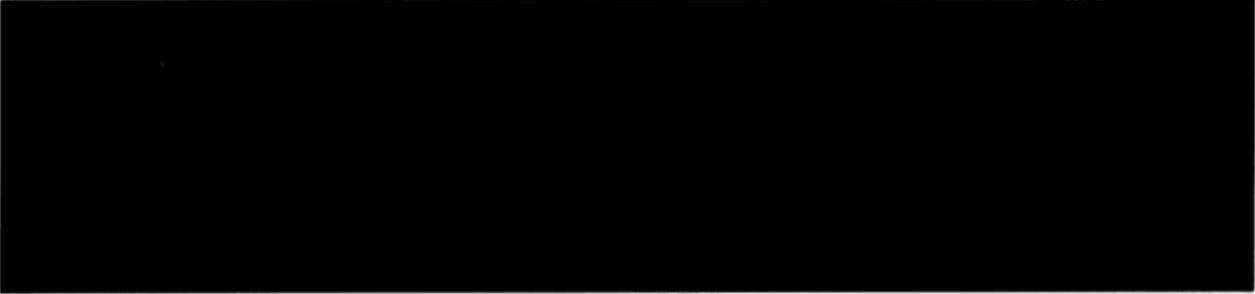
ANSWER: Denied: as previously indicated, Registrant's licensee Hannoush Jewelers of Cape Cod has sold watches, which it considers a species of jewelry, under the mark CAPE COD WATCH, to multiple customers outside the Commonwealth of Massachusetts.



13. Prior to December 27, 2007, Registrant did not sell any clocks under Registrant's Mark to any customer outside the State of Massachusetts.

ANSWER 13: Admitted.





Respectfully submitted,

*Michael Akkawi*

Michael Akkawi

8 Plum Hollow Road

East Falmouth, MA 02536

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing ANSWERS TO PETITIONER'S FIRST REQUESTS FOR ADMISSIONS was served on counsel for Petitioner La Montre Hermès S.A. by first-class mail, addressed to:

Andrew Baum, Esq, FOLEY & LARDNER, 90 Park Avenue, New York, NY 10016-1314

and by emailing a copy to: abaum@foley.com and emarmo@foley.com, this 22nd day of APRIL 2010.

*Milton Oliver*

Milton Oliver, Esq.  
OLIVER INTELLECTUAL PROPERTY LLC  
PO BOX 1670  
COTUIT MA 02635  
TEL: 774-521-3058  
FAX: 774-521-3062

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

In the matter of Registration No.: 3,433,601  
Mark: CAPE COD WATCH

La Montre Hermès S.A.,

Petitioner,

vs.

MICHAEL AKKAWI,

Registrant.

**Cancellation No.: 92-051 860**

RESPONDENT'S RESPONSES TO PETITIONER'S  
SECOND SET OF REQUESTS FOR ADMISSIONS

Respondent Michael Akkawi hereby answers as follows:

REQUESTS FOR ADMISSIONS



17. HJCC has never operated any retail stores outside of the state of Massachusetts.

ANSWER: Admitted.

093012-7000  
REVIEWED/DEPOSITED L. Marmo  
IN DENNEMEYER (NYC)  
BY: 3H ON: 8/20/10

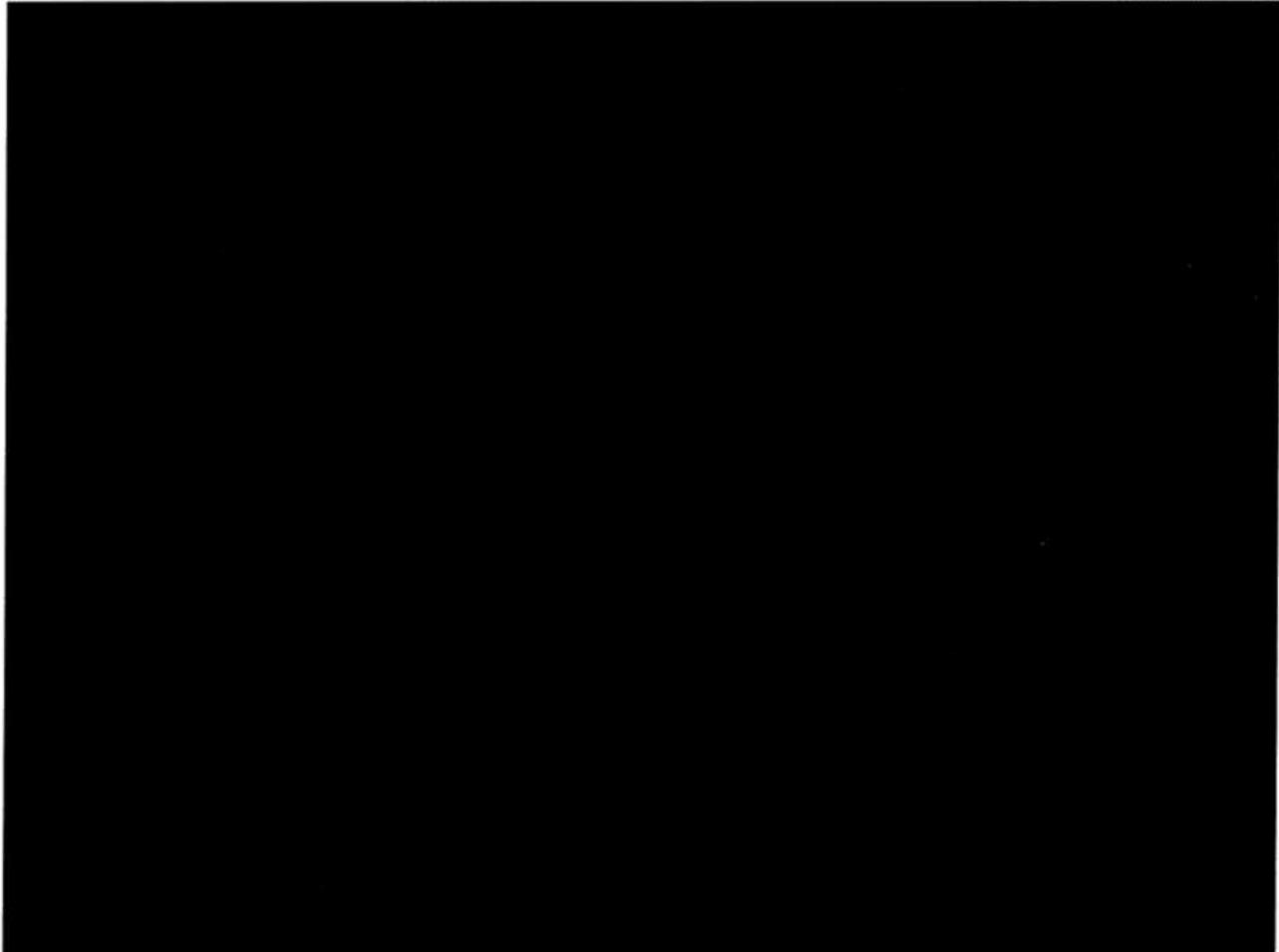


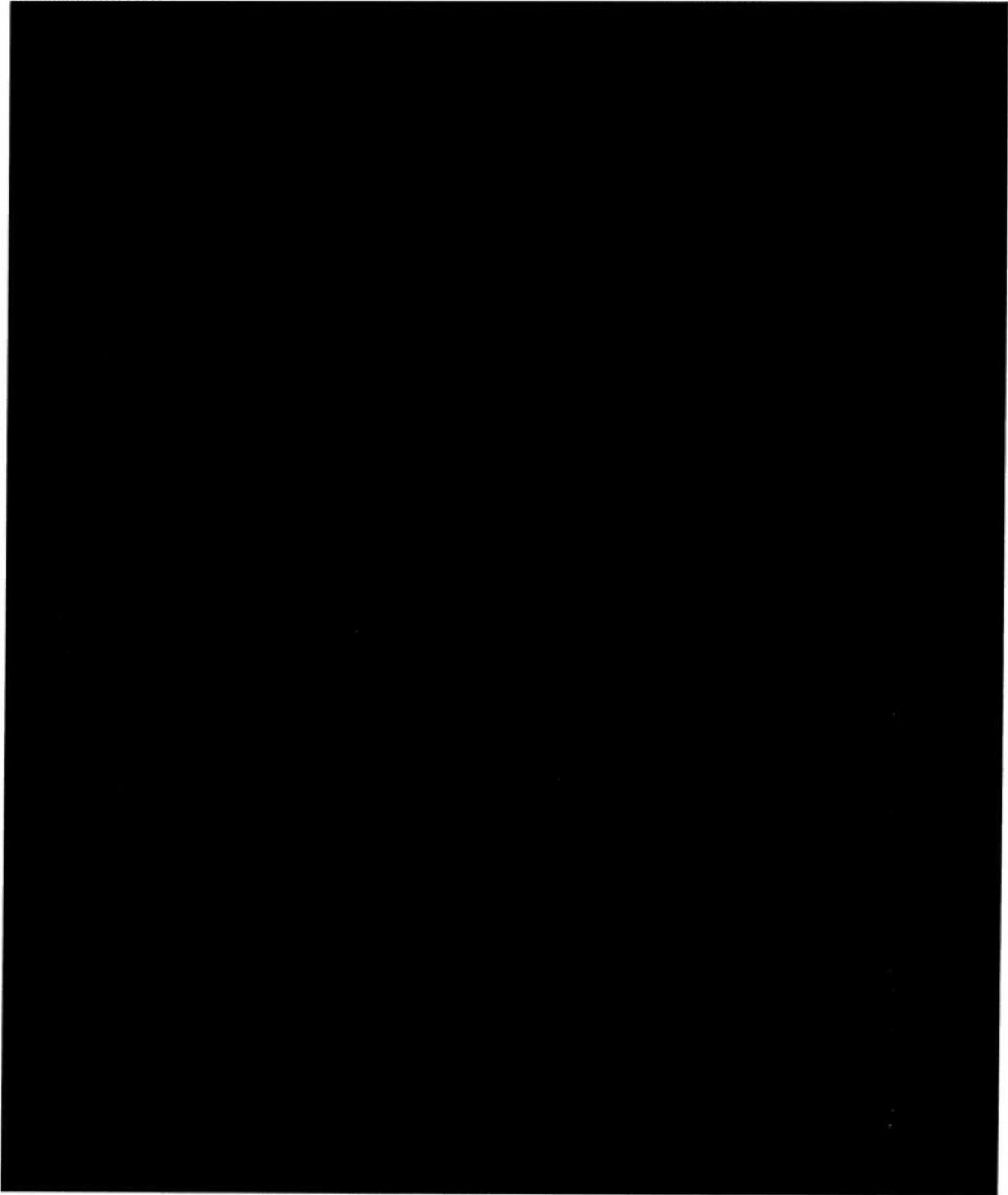
20. Registrant has never sold any goods under Registrant's mark by orders taken through a website.

ANSWER: Admitted.

21. HJCC has never sold any goods under Registrant's mark by orders taken through a website.

ANSWER: Admitted.







Respectfully submitted,

MICHAEL AKKAWI

by his attorney:

/Milton Oliver/

Milton Oliver, Esq.

OLIVER INTELLECTUAL PROPERTY LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing REGISTRANT'S RESPONSES TO PETITIONER'S SECOND SET OF REQUESTS FOR ADMISSIONS was served by first class mail, postage prepaid, to Petitioner at the address of record as follows:

ANDREW BAUM, Esq.

FOLEY & LARDNER

90 Park Avenue

New York, NY 10016-1314

this 17th day of AUGUST, 2010.

/Milton Oliver/

Milton Oliver, Esq.

OLIVER INTELLECTUAL PROPERTY

PO BOX 1670

COTUIT MA 02635

# **EXHIBIT B**

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

In the matter of Registration No.: 3,433,601

Mark: CAPE COD WATCH

La Montre Hermès S.A.,

Petitioner,

vs.  
MICHAEL AKKAWI,

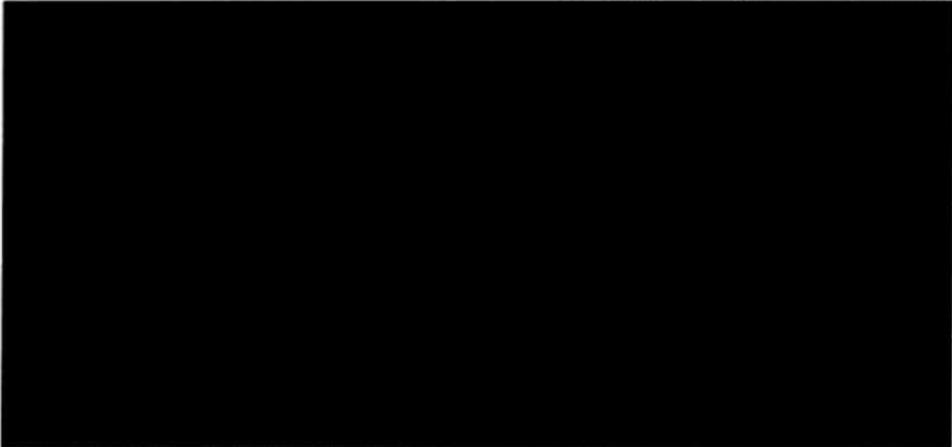
Registrant.

**Cancellation No.: 92-051 860**

REGISTRANT'S ANSWERS TO  
PETITIONER'S FIRST SET OF  
INTERROGATORIES

Registrant hereby answers Petitioner's First Set of Interrogatories as follows:



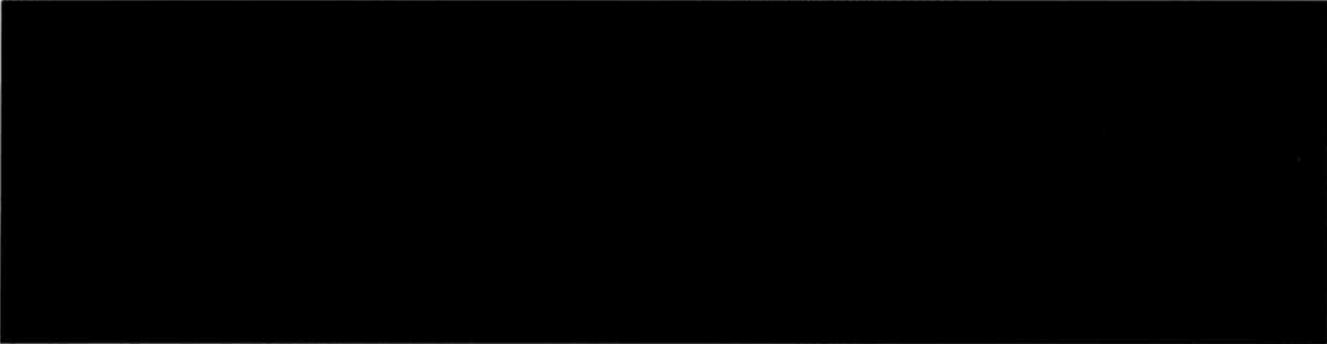


2. For each of Registrant's Goods, specify the channels of trade through which they are sold or distributed.

ANSWER:

Two Retail stores of  
HANNOUSH JEWELERS OF CAPE COD, located respectively at:  
793 Iyannough Road (in Cape Cod Mall)  
HYANNIS MA 02601  
and  
137 Teaticket Highway (in Falmouth Mall)  
EAST FALMOUTH MA 20536.





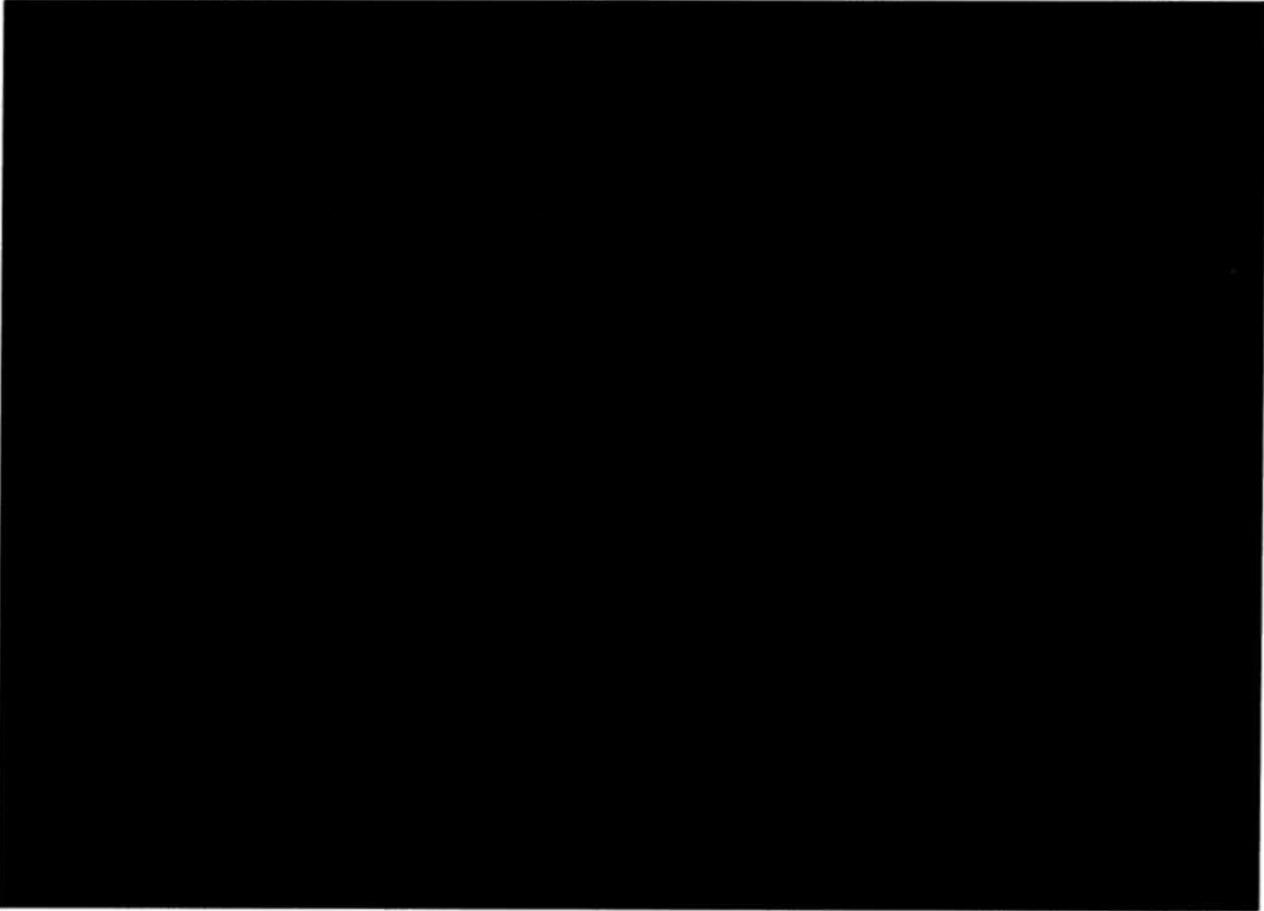
5. State the principal occupation of Registrant.

ANSWER:

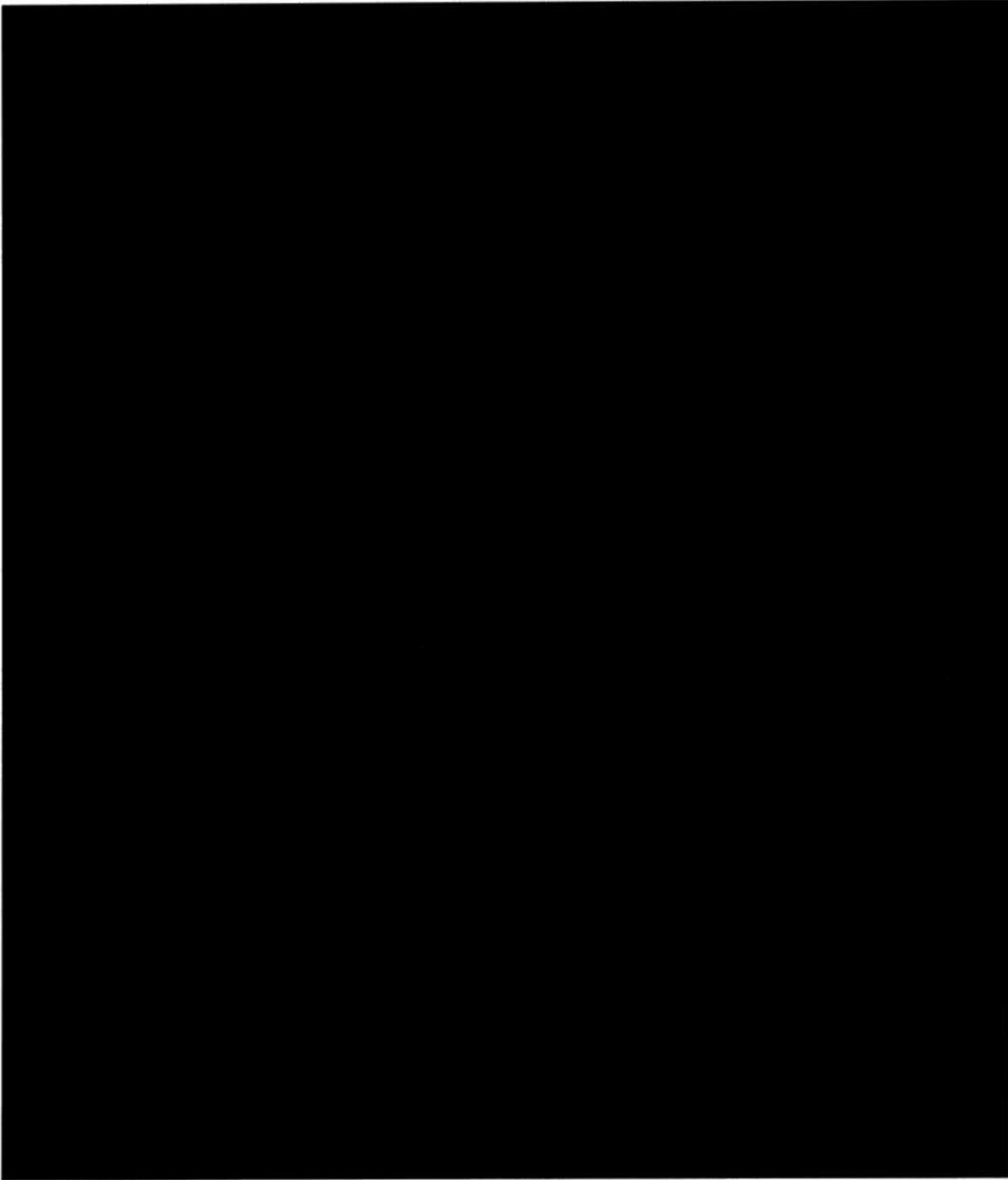
Part-owner of Hannoush Jewelers of Cape Cod, a franchisee.

6. Identify the URL of any website used in the sale, advertising or promotion of each of Registrant's Goods.

ANSWER: [www.capecodwatch.com](http://www.capecodwatch.com)

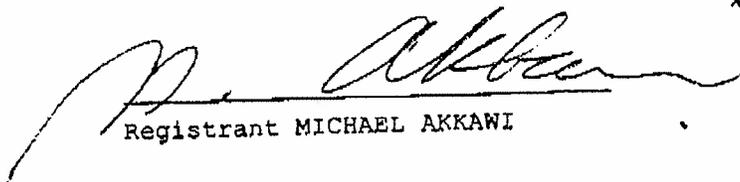








Subscribed and sworn to this 17th day of JUNE 2010, by:

  
Registrant MICHAEL AKKAWI

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a PDF copy of REGISTRANT'S ANSWERS TO PETITIONER'S FIRST SET OF INTERROGATORIES was served on JUNE 17, 2010 via email to Petitioner's counsel, Andrew Baum, Esq. of FOLEY & LARDNER, New York, NY at the email address: [abaum@foley.com](mailto:abaum@foley.com).

*/Milton Oliver/*

# EXHIBIT C



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Wed Oct 5 04:35:46 EDT 2011

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [BOTTOM](#) | [HELP](#)

Please logout when you are done to release system resources allocated for you.

**Record 1 out of 1**[TARR Status](#) | [ASSIGN Status](#) | [TDR](#) | [TTAB Status](#) ( Use the "Back" button of the Internet Browser to return to TESS)**Typed Drawing**

<b>Word Mark</b>	CAPE COD 2 ZONES
<b>Goods and Services</b>	IC 014. US 002 027 028 050. G & S: [HOROLOGICAL AND CHRONOMETRIC INSTRUMENTS, NAMELY,] WATCHES [AND THEIR COMPONENT PARTS, WATCH BANDS AND WATCH CLASPS]. FIRST USE: 20010000. FIRST USE IN COMMERCE: 20010000
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	76235715
<b>Filing Date</b>	April 4, 2001
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	December 31, 2002
<b>Registration Number</b>	2753802
<b>Registration Date</b>	August 19, 2003
<b>Owner</b>	(REGISTRANT) LA MONTRE HERMES S.A. CORPORATION SWITZERLAND Erlenstrasse 31A 2555 Brugg SWITZERLAND
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	Andrew Baum; Kelly M. Bargmann
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR).
<b>Live/Dead Indicator</b>	LIVE

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [TOP](#) | [HELP](#)

**Int. Cl.: 14**

**Prior U.S. Cls.: 2, 27, 28, and 50**

**Reg. No. 2,753,802**

**United States Patent and Trademark Office**

**Registered Aug. 19, 2003**

**TRADEMARK  
PRINCIPAL REGISTER**

**CAPE COD 2 ZONES**

LA MONTRE HERMES S.A. (SWITZERLAND  
CORPORATION)  
ERLENSTRASSE 31A  
2555 BRUGG, SWITZERLAND

WATCH CLASPS, IN CLASS 14 (U.S. CLS. 2, 27, 28  
AND 50).

FIRST USE 0-0-2001; IN COMMERCE 0-0-2001.

FOR: HOROLOGICAL AND CHRONOMETRIC  
INSTRUMENTS, NAMELY, WATCHES AND THEIR  
COMPONENT PARTS, WATCH BANDS AND

SN 76-235,715, FILED 4-4-2001.

SCOTT OSCLICK, EXAMINING ATTORNEY