

ESTTA Tracking number: **ESTTA741081**

Filing date: **04/19/2016**

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

Proceeding	92060353
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Date	04/19/2016
Attachments	2016-04-19 REDACTED - MSJ.pdf(108169 bytes ) 2016-04-19 REDACTED - Sparkman Decl. & Exhibits 1-18, 25-26.pdf(2673324 bytes ) 2016-04-19 REDACTED - Exhibit 27.pdf(5344163 bytes ) 2016-04-19 REDACTED - Exhibits 28-29.pdf(2084326 bytes )

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

BENTLEY MOTORS LIMITED,

Petitioner,

v.

AUCERA SA,

Respondent.

Cancellation No. 92060353

Registration Nos.: 2007286, 2096184,  
2096186

Mark: BENTLEY

Atty. Ref. No.: 58389-9026

[REDACTED]

**PETITIONER’S MOTION FOR SUMMARY JUDGMENT**

Petitioner Bentley Motors Limited (“Bentley” or “Petitioner”) hereby submits its Motion for Summary Judgment (the “Motion”) in its favor and against respondent Aucera SA (“Aucera” or “Respondent”), and requests that the Board enter an order cancelling U.S. Trademark Reg. Nos. 2,007,286 for watches (the “Watch Reg.”), 2,096,184 for jewelry (the “Jewelry Reg.”), and 2,096,186 for pens and related items (the “Pen Reg.”) (collectively, the “Registrations”).

**I. THERE ARE NO MATERIAL FACTUAL DISPUTES IN THIS CASE**

Bentley seeks summary judgment on the following grounds:

(1) Aucera did not use the BENTLEY mark for any of the registered goods prior to the issuance of any of the Registrations, rendering each void *ab initio*;

(2) Aucera never made *bona fide* use of the BENTLEY mark for any of the registered goods, rendering the Registrations cancellable;

(3) Aucera abandoned any rights it may have established in the BENTLEY mark by repeatedly ceasing use of the mark for more than three years at a time; and

(4) Aucera’s affirmative defense of laches is not available against the claims raised by Bentley.

The standard for summary judgment is well-established: summary judgment should issue where there is no genuine dispute as to any material fact, and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. Pro. 56; *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-248, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986). Here, there are no genuine factual disputes with respect to any of the issues raised in this motion, and each should be resolved, in Bentley's favor, as a matter of law.

As discussed in Section VI, *infra*, there are reasons to doubt that the documents produced by Aucera in discovery evidence even a single legitimate sale or transport of any goods bearing the BENTLEY mark. Even if, however, the Board accepts all of Aucera's documents, summary judgment in Bentley's favor is still appropriate. Even accepting all of Aucera's documents, and viewing them in Aucera's favor, there is still *no evidence* that the BENTLEY mark was used with any of the registered goods prior to the issuance of any of the Registrations. The documents still show that, *at most*, over a period of 21 years, Aucera made just [REDACTED] shipments, in which a total of approximately [REDACTED] products bearing the BENTLEY mark were transported or sold in or to the United States: [REDACTED] watches, [REDACTED] pens, and [REDACTED] pieces of jewelry. The documents still establish that on multiple occasions (1995-September 2001, September 2001-January 2008, and April 2008-June 2013) Aucera went more than three *years* without transporting or selling a single BENTLEY product in or to the United States.

Aucera has had more than 18 months to come up with *some* evidence that would support its continued ownership of the Registrations. It failed. In light of the undisputed facts, as a matter of law, Aucera is not entitled to continued registration of the BENTLEY mark in any of the Registrations, and each of the Registrations should be cancelled.

## **II. BENTLEY HAS STANDING**

Bentley is the owner of the trademark BENTLEY which it uses in connection with its famous high-end cars, as well as number of other goods, including watches, cuff links, and pens. Bentley owns numerous trademark registrations and applications for the mark BENTLEY, including U.S. Reg. No. 3,998,345 for BENTLEY for various goods, including, “jewelry, watches and clocks” and U.S. Reg. No. 4,881,746 for B BENTLEY & Design for various goods, including, “jewelry, watches and clocks; table clocks; desk clocks; cuff link boxes” and “writing implements; pens; pencils; . . . stands for pens and pencils; holders for pens and pencils.” (Exhs. 1-2)<sup>1</sup>

The Registrations have been cited against Bentley’s applications to register its BENTLEY mark in the U.S., including the applications that resulted in the above registrations. (Exhs. 4-5, 7) As a result of the citation of Registrations, Bentley was required to include restrictions on the channels of trade in its U.S. Reg. No. 3,998,345 for BENTLEY. (Exhs. 1, 6) Additionally, each time the Registrations are cited against Bentley’s applications, Bentley is forced to expend time and money to overcome the refusals.

Thus, Bentley has a reasonable belief that the continued registration of the BENTLEY mark will cause it damage, and has standing to bring this cancellation action.

## **III. AUCERA DID NOT USE THE BENTLEY MARK PRIOR TO REGISTRATION**

“The registration of a mark that does not meet the use requirement is void *ab initio*.”  
*Aycock Eng'g, Inc. v. Airflite, Inc.*, 560 F.3d 1350, 1357, 90 U.S.P.Q.2d 1301 (Fed. Cir. 2009).<sup>2</sup>

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<sup>1</sup> Unless otherwise specified, references herein to “Exh.” refer to the exhibits to the Declaration of Jessica Bromall Sparkman (the “Sparkman Decl.”) filed concurrently herewith, and to the paragraph of the Sparkman Decl. in which the exhibit is identified.

<sup>2</sup> To the extent that this claim is considered a claim separate and apart from the claim for abandonment, and therefore an unpleaded claim, Petitioner respectfully requests that the Board consider and grant Petitioner’s motion for leave to file an Amended Petition for Cancellation filed concurrently herewith.

The Watch. Reg. issued on October 8, 1996, as a the result of an intent to use application filed on April 14, 1995. (Exh.8) The Pen Reg. and the Jewelry Reg. both issued on September 8, 1997, as the result of use based applications filed on March 1, 1996. (Exhs. 9-10)

Bentley requested, and Aucera agreed to produce, evidence of all use, transportation, and sale of the BENTLEY mark in the U.S. from the first use through the present. (Exh. 11, No. 2; Exh. 12, Nos. 27-40; Exh. 13, Nos. 27-52. 58, 60, 62; Exh. 14, Nos. 74-80). Although requested in discovery, there is no evidence of any use of the BENTLEY mark, for any goods, prior to September 8, 2001. (Exh. 19-20; Sparkman Decl. ¶¶ 17-19) Accordingly, based on the undisputed evidence, and as a matter of law, each of the Registrations is void *ab initio* as a result of Aucera's failure to meet the use requirement.

#### IV. **AUCERA NEVER MADE ANY *BONA FIDE* COMMERCIAL USE OF THE BENTLEY MARK**

Even if the Registrations are not void *ab initio*, they should still be cancelled. In its Petition for Cancellation, Bentley alleged that Aucera discontinued use of the BENTLEY mark thereby abandoning it. Now that discovery is nearly complete, however, it appears that Aucera did not discontinue use of BENTLEY, but rather that it never commenced *bona fide* use of the BENTLEY mark in the first place.<sup>3</sup> As the Second Circuit explained, “[t]he issue of

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The Amended Petition for Cancellation separately sets forth claims seeking cancellation on the ground that the registrations are void *ab initio* because Aucera failed to use the BENTLEY mark for the registered goods prior to registration, and are further cancellable as a result of Aucera's failure to ever make any *bona fide* use of the BENTLEY mark. It is proper to grant leave to amend to add unpleaded claims, and to consider, and grant summary judgment on those newly added claims. *See, e.g., American Express Marketing & Development Corp. v. Gilad Development Corp.*, 94 U.S.P.Q.2d 1294, 1297 (T.T.A.B. 2010) (recognizing that a party may “file a motion for summary judgment on an unpleaded issue concurrently with a motion to amend its pleading to include the unpleaded issue”); *Societe des Produits Marnier Lapostolle v. Distillerie Moccia S.R.L.*, 10 U.S.P.Q.2d 1241, 1242 n.4 (T.T.A.B. 1989) (motion to amend to add new ground, filed simultaneously with motion for summary judgment, granted and allegations in new ground deemed denied).

<sup>3</sup> *See* note 2, *supra*.

abandonment arises only if the defendant has previously acquired rights in the trademark.” *La Societe Anonyme des Parfums le Galion v. Jean Patou, Inc.*, 495 F.2d 1265, 1273, 181 U.S.P.Q. 545 (2d Cir. 1974).

**A. Bona Fide Commercial Use is Necessary to Establish Trademark Rights**

To support a federal trademark registration, there must be a *bona fide* use of the mark in the ordinary course of trade. 15 U.S.C. § 1127. “Use” of a mark occurs when it is placed on goods, and those goods are “sold or transported in commerce.” 15 U.S.C. § 1127. A *bona fide* use of the mark is “a commercial use which is typical in a particular industry.” *White v. Paramount Pictures Corp.*, 108 F.3d 1392, 1997 WL 76957, \*3 (Fed. Cir. Feb. 21, 1997), quoting Senate Judiciary Committee Report on S. 1883, S.Rep. No. 100-515, p. 44-45 (Sept. 15, 1988). “To prove bona fide usage, the proponent of the trademark must demonstrate that his use of the mark has been deliberate and continuous, not sporadic, casual or transitory.” *Jean Patou*, 495 F.2d at 1271-72.<sup>4,5</sup> In *Jean Patou*, the Second Circuit found that the sale of 89 bottles of

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<sup>4</sup> See also *Exxon Corp. v. Humble Exploration Co., Inc.*, 695 F.2d 96, 99, 217 U.S.P.Q. 1200 (5th Cir. 1983) (periodic sales of nominal amounts are not sufficient uses to avoid a prima facie proof of abandonment); *Procter & Gamble Co. v. Johnson & Johnson, Inc.*, 485 F.Supp. 1185, 205 U.S.P.Q. 697, 715-716 (S.D.N.Y. 1979) (shipment of 50 cases a year are nominal and do not represent placement on the market in a meaningful way or a *bona fide* attempt to establish commercial use); *Drexel Enterprises, Inc. v. Hermitage Cabinet Shop, Inc.*, 266 F. Supp. 532, 536, 152 U.S.P.Q. 484 (N.D. Ga. 1967) (“sporadic, casual, and fortuitous” use insufficient to establish trademark rights); *Philip Morris, Inc. v. Imperial Tobacco Co.*, 251 F. Supp. 362, 378 148 U.S.P.Q. 255 (E.D. Va. 1965) (“shipments . . . bearing the mark PLAYER'S to the United States . . . were sporadic, casual and nominal in character and thus created no rights”); *Continental Grain Co. v. Strongheart Prods., Inc.*, 9 U.S.P.Q.2d 1238, 1239 (T.T.A.B. 1988) (14 years of annual token shipments insufficient to maintain trademark rights or rebut prima facie case of abandonment); *Pet Inc. v. Bassetti*, 219 U.S.P.Q. 911 (T.T.A.B. 1983) (rights not established or maintained by sporadic, nominal shipments interspersed with long periods of inactivity); *Lever Brothers Co. v. Shacklee Corporation*, 214 U.S.P.Q. 654 (T.T.A.B. 1982) (sales of \$10.40 over 4 years are sporadic non-commercial token sales); *Block Drug Co. v. Morton-Norwich Products, Inc.*, 202 U.S.P.Q. 157 (T.T.A.B. 1979) (“minuscule” sales “without any indication that [the] product has ever reached the general public” insufficient to sustain a registration).

<sup>5</sup> Although the cited cases were decided prior to the adoption of the TLRA and prior to the availability of intent to use applications, they are still persuasive. “The pre-TLRA cases remain instructive because if a use does not meet the old pre-1989 ‘token use’ standard, then it certainly will not rise to the higher level

perfume over 20 years was not *bona fide* use and did not support the defendant's federal registration for perfume, stating "we cannot agree that such a meager trickle of business constituted the kind of bona fide use intended to afford a basis for trademark protection." *Id.* at 1272.

**B. Internal Shipments and Sales Do Not Established Trademark Rights**

Furthermore, not every type of transport or sale of goods is sufficient to establish rights in a trademark. *Planetary Motion, Inc. v. Techsplosion, Inc.*, 261 F.3d 1188, 1196, 59 U.S.P.Q.2d 1894 (11th Cir.2001). Rather, "[t]o acquire trademark rights there has to be an 'open' use, that is to say, a use has to be made to *the relevant class of purchasers or prospective purchasers.*" *Blue Bell, Inc. v. Farah Mfg. Co.*, 508 F.2d 1260, 1266, 185 U.S.P.Q. 1 (5th Cir. 1975) quoting *Sterling Drug Inc. v. Knoll A.-G. Chemische-Fabriken*, 159 U.S.P.Q. 628, 631 (T.T.A.B. 1968). "Internal" uses, *i.e.* uses to which consumers and potential consumers are not exposed, and of which they are not aware, do not qualify as "use" in commerce. See *Blue Bell, Inc.*, 508 F.2d at 632 (shipment and sale of 12 pairs of slacks to regional managers were characterized as sales for internal accounting purposes only, and were not valid use in commerce); *Sterling Drug*, 159 U.S.P.Q.at 631 (delivery to U.S. licensee for evaluation is not valid use in commerce).

**C. Aucera's Use of BENTLEY is Inadequate to Establish Trademark Rights**

Here, there can be no question that Aucera has not made a "deliberate and continuous" use of BENTLEY. Aucera claims that it has been using the BENTLEY mark in the United States for watches and jewelry consistently since 1995 and for pens consistently since 1996. (Exh. 12, Nos. 23-26) In discovery, Aucera was asked to produce, and agreed to produce,

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of 'use' necessary to support a registration founded on a post-1989 application." 3 McCarthy on Trademarks and Unfair Competition § 19:111 (4th ed.).

documents sufficient to show all of its sales of BENTLEY watches, pens, and jewelry from the date of the first sale, through the present. (Exh. 13, Nos. 27-38) However, in response to Bentley's requests for production, Aucera produced only 117 pages of documents related to its alleged 21 years of use of the BENTLEY mark.<sup>6</sup> (Sparkman Decl., ¶¶ 17-19)

Aucera's document production is notable for what it does not include: it includes no purchase orders, no requests or inquiries from any U.S. customer, no images showing the products for sale in any U.S. retail establishment, no sales records reflecting any U.S. sales, no profit and loss statements or other financial documents reflecting any U.S. sales, and no communications with any U.S. retailer or customer. (Sparkman Decl., ¶ 18-19) The only evidence of the actual transportation or sale of any BENTLEY products produced by Aucera are four invoices, six FedEx shipping documents, and two checks. (Exhs. 1-21; Sparkman Decl., ¶ 19) Three of the FedEx documents have no corresponding invoice, and one of the invoices has no corresponding shipping documents. (Exhs. 1-21; Sparkman Decl., ¶ 19)

Even if all of the documentary evidence produced by Aucera is accepted as legitimate evidence of the actual transportation and sale of BENTLEY products in the U.S., Aucera's documents would establish only that, over a period of 21 years, [REDACTED]

[REDACTED] <sup>7</sup>

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<sup>6</sup> Notably, the document production includes numerous duplicates: there are four, separately numbered, copies of at least one invoice, at least three copies of two shipping documents, and duplicates of at least five other shipping documents.

<sup>7</sup> Aucera refused to answer interrogatories regarding the number of BENTLEY products sold in the U.S. except to refer Bentley to Aucera's document production. (Ex. 12, Nos. 28, 31, 34, 37). Due to the paucity of documents produced by Aucera, however, it is impossible to determine with certainty the total number of goods sold during this time period. For three of the alleged shipments, the only information provided is a FedEx label, on which Aucera has noted that the package contains "Bentley Watches" and has assigned a value to the contents of the package, but the documents do not identify the number of watches contained in those shipments. (Exh. 20) The average unit price of the watches reflected in the four invoices Aucera did provide was approximately [REDACTED]. (Exh.19) A value of [REDACTED] was assigned to the contents of the FedEx packages that were unaccompanied by any other documentation. (Exh. 20)

[REDACTED]

[REDACTED]. (Exhs. 19-20)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Moreover, not only are Aucera's sales numbers beyond meager, the sales themselves are clearly not continuous. Instead, Aucera's documents make clear that, on multiple occasions, Aucera went more than six years without selling or transporting a single BENTLEY product to the U.S. (Exhs. 19-20)

<u>Time Period</u>	[REDACTED]	[REDACTED]
<b>1995-September 7, 2001: 6 years</b>	[REDACTED]	[REDACTED]
September 8, 2001	[REDACTED] <sup>8</sup>	[REDACTED]
<b>September 9, 2001 - January 29, 2008: 6.5 years</b>	[REDACTED]	[REDACTED]
January 30, 2008	[REDACTED] <sup>9</sup>	[REDACTED]

Assuming the watches allegedly shipped in those FedEx packages were valued by Aucera at the average unit price, we estimate that the three packages contained, at most, approximately [REDACTED] watches.

<sup>8</sup> See note 7, *supra*.

<sup>9</sup> See note 7, *supra*.



V. **AUCERA ABANDONED ANY TRADEMARK RIGHTS IT HAD IN “BENTLEY”**

A. **Abandonment Presumed After Three Years of Non-Use**

Even if the Board finds that Aucera somehow established trademark rights in BENTLEY sufficient to support a federal registration (and it should not), summary judgment is still appropriate; as a matter of law, Aucera has abandoned any trademark rights that it may have established.<sup>12</sup>

A trademark is abandoned when its use has been discontinued and there is no intent to resume use. 15 U.S.C. § 1127. Where the period of non-use is three years or longer, abandonment is presumed, and the mark will be deemed abandoned unless the alleged mark owner presents evidence that, despite the extended period of non-use, it intended to resume use of the mark “within a reasonably foreseeable time. *Id.*; see *Imperial Tobacco, Ltd. v. Philip Morris, Inc.*, 899 F.2d 1575, 1579, 14 U.S.P.Q.2d 1390 (Fed. Cir. 1990) (noting that triggering of presumption “eliminates the challenger's burden to establish the [lack of] intent [to resume use] element of abandonment as an initial part of its case”).

“Intent to resume” requires that the alleged trademark owner “have plans to resume commercial use of the mark” in the reasonably foreseeable future. *Exxon Corp. v. Humble Expl. Co.*, 695 F.2d 96, 102-03, 217 U.S.P.Q. 1200 (5th Cir. 1983) (emphasis added); see also *Imperial Tobacco, Ltd.*, 899 F.2d at 1580–81; *ITC Ltd. v. Punchgini, Inc.*, 482 F.3d 135, 149, 82 U.S.P.Q.2d 1414 (2d Cir. 2007). It is insufficient that the alleged mark owner have merely an “intent not to abandon,” as that would allow protection of “a mark with neither commercial use nor plans to resume commercial use. Such a license is not permitted by the Lanham Act.”

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<sup>12</sup> The standard of proof for abandonment before the Board is a preponderance of the evidence; proof of abandonment by clear and convincing evidence (although present in this case) is not required. *Cerveceria Centroamericana, S.A. v. Cerveceria India, Inc.*, 892 F.2d 1021, 1023-24 (Fed. Cir. 1989).

*Exxon Corp.*, 695 F.2d at 102-03. In other words, to avoid abandonment, the alleged owner must demonstrate an “intent to resume *bona fide* use of the designation in the ordinary course of business.” Restatement Third, Unfair Competition § 30, comment b (1995); *see also Emergency One, Inc. v. American FireEagle, Ltd.*, 228 F.3d 531, 536-37, 56 U.S.P.Q.2d 1343 (4th Cir. 2000) (for the purpose of preserving rights in a mark for fire trucks, a continuing use on one recycled fire truck in three years was only a token use that did not count as use in the ordinary course of trade).

Additionally, to avoid abandonment, the alleged “intent to resume use . . . must be formulated during the three-year period of non-use.” *ITC Ltd.*, 482 F.3d at 149. “An intent to resume use of the mark formulated after more than three years of non-use cannot be invoked to dislodge the rights of another party who has commenced use of a mark.” *Id.*; *see also Imperial Tobacco, Ltd.*, 899 F.2d at 1580–81 (recognizing that intent must be formulated during non-use period).

**B. Aucera Failed to Use the BENTLEY Mark for Multiple Three Year Periods**

Here, there are three separate periods of non-use: the six years from 1995 [REDACTED]

[REDACTED]

[REDACTED]. Exhs. 19-20.

**1. First Period of Non-Use: Beginning in 1995**

To avoid a finding of abandonment during the first extended period of non-use, Aucera must produce evidence from which a factfinder could reasonably infer that, during the three year period between 1995 and 1998, Aucera intended to resume using the BENTLEY mark. Aucera has not produced any such documents. (Sparkman Decl., ¶¶ 18-19) Thus, if Aucera did

establish rights in the BENTLEY mark, it abandoned those rights through non-use from 1995 through 1998.

**2. Second Period of Non-Use: Beginning** [REDACTED]

Even if the Board determines that Aucera did not abandon the BENTLEY mark during the first period of non-use, it should still find that Aucera abandoned the mark as a matter of law during the *second* extended period of non-use. Aucera has not produced any documents from which one could reasonably infer that, during the three year period between [REDACTED] [REDACTED], Aucera had an intent to resume *bona fide* commercial use of the BENTLEY mark. (Sparkman Decl., ¶¶ 18-19) Thus, if Aucera did establish rights in the BENTLEY mark, it abandoned those rights through non-use from [REDACTED] [REDACTED].

**C. Third Period of Non-Use: Beginning** [REDACTED]

Even if the Board determines that Aucera did not abandon the BENTLEY mark during the second period of non-use, it should still find that Aucera abandoned the mark as a matter of law during the *third* extended period of non-use.

To avoid a finding of abandonment during the third period of non-use, Aucera must produce specific evidence that, during the three years between [REDACTED] [REDACTED], it intended to resume using the BENTLEY mark. However, Aucera produced no marketing plans, no business plans, and no correspondence with any U.S. retailer, customer, consultant, agent, or anyone else, during this period. (Sparkman Decl., ¶¶ 18-19) The *only* evidence of any activity in the U.S. by Aucera during this time period is a list of charges that supposedly relate to its attendance at a trade show in Las Vegas in 2010. One cannot reasonably infer from a list of charges that, between [REDACTED] [REDACTED], Aucera had an intent

to commence a *bona fide* commercial use of the BENTLEY mark in the reasonably foreseeable future. Indeed, the unreasonableness of any such inference is confirmed by Aucera's continuing failure to make any *bona fide* commercial use of the BENTLEY mark in the U.S. at any point up to, and including, the present.

Aucera also produced emails between itself and Mr. Bonnem from the summer of 2014, in which it requests, and Mr. Bonnem provides, [REDACTED], as well as emails with [REDACTED]

[REDACTED] Bentley suspects that Aucera will argue that these documents are evidence of its intent to resume use of the BENTLEY mark. However, none of these documents give rise to a reasonable inference that, between [REDACTED] Aucera had an intent to resume the *bona fide* commercial use of BENTLEY in the United States.

In fact, none of these documents even permit a reasonable inference that, Aucera presently has an intent to resume the *bona fide* commercial use of BENTLEY. Instead, it is evident that Aucera has no actual plans to enter the U.S. market. Aucera produced no marketing plans, no business plans, and no correspondence with any actual sellers of goods in the U.S. At best, after an extended period of non-use, Aucera sent and received several emails about the possibility of [REDACTED].<sup>13</sup> These vague references to potential plans that may be executed "someday" are insufficient as a matter of law to rebut the presumption of abandonment arising out of Aucera's extended period of non-use.

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<sup>13</sup> More likely, in view of the evidentiary issues discussed in the following section, the correspondence with [REDACTED] is aimed at nothing more than defeating this action for abandonment.

**VI. ATTEMPT TO CREATE A “PAPER TRAIL” IN THE ABSENCE OF ACTUAL SALES CASTS DOUBT ON ALL OF AUCERA’S DOCUMENTS**

In the preceding sections, Bentley has, for purposes of this motion alone, accepted that Aucera’s documents are legitimate evidence of its transportation and sale of BENTLEY products. It is clear that, even if Aucera’s documents are accepted by the Board, summary judgment in Bentley’s favor is still appropriate. However, Bentley must point out certain revelations during discovery that give it reason to distrust Aucera’s documents.

**A. Is the ResultCo Invoice a Manufactured “Paper Trail”?**

The earliest invoice produced by Aucera is dated [REDACTED], and it purports to be issued by third-party ResultCo. (Exh. 19) There are no shipping documents corresponding to this invoices, and in a sworn declaration, ResultCo testified that it “has never imported, exported, purchased, received, manufactured, sold, shipped, distributed, or advertised any product bearing the trademark BENTLEY.” (Exh. 25, ¶ 6)

Furthermore, when subpoenaed by Bentley, ResultCo produced a copy of an email it received in December 2013 from the Engagement Manager for Pyxis Enterprise Co., Ltd. (“Pyxis”), a company that Aucera admits works for it. (Exh. 17, No. 68; Exh. 18, Nos. 40-43). In the email, Pyxis requested that ResultCo help it “produce evidence of trademark use.” (Exh. 26, at Exh. B) Pyxis said that it would like ResultCo to “keep record of sales and marketing activities for Bentley watches *even though no actual sales are being done in the U.S.*” (Exh. 25, at Exh. B)

Pyxis provided a detailed explanation of how ResultCo could create a fake “paper trail” for non-existent sales: (1) Pyxis would ship watches to ResultCo to create an import record; (2) an advertisement would be placed in a local paper; and (3) Pyxis would purchase the

watches from ResultCo to create a “paper trail showing a complete sales transaction.” (Exh. 25, at Exh. B) Pyxis also specified that it, and not ResultCo would bear the cost of creating this false evidence of use of the BENTLEY mark. (Exh. 25, at Exh. B)

**B. Arranged Sales to The Medicine Shoppe?**

Aucera also produced copies of two checks, each for [REDACTED]. (Exh. 21)

Each check is made out to [REDACTED]  
[REDACTED] (Exh. 21)

Aucera could not produce any other information or documents regarding a relationship with [REDACTED]  
[REDACTED], and it indicated that it did not have any information about why [REDACTED]  
[REDACTED]. (Exh.15, No. 66). Neither Mr. Bonnem nor Aucera produced any purchase orders or invoices to or from [REDACTED]. (Sparkman Decl., ¶¶ 18-19)

After commencement of this proceeding, Mr. Bonnem did send an email to someone, apparently at [REDACTED], requesting that, as a [REDACTED]  
[REDACTED]  
[REDACTED] (Exh. 24) [REDACTED]  
[REDACTED] (Exh. 24)

**C. Phony Retailers Listed on Aucera Website**

Aucera refused to provide a narrative interrogatory response identifying its U.S. retailers and websites that sell BENTLEY products. (Exh.12, Nos. 39-40). Instead, Aucera referred Bentley to its document production, as well as to the websites [www.bentleyluxury.com](http://www.bentleyluxury.com) and [www.blountjewels.com](http://www.blountjewels.com). (Exh. 11, No. 2; Exh. 12, Nos. 39-40). The website at [www.bentleyluxury.com](http://www.bentleyluxury.com) is Aucera’s own website. (Exh. 18, Nos. 40-43). That website does not

offer any products for sale. It does, however, purport to identify to U.S. retailers of Aucera's BENTLEY products – ResultCo and Blount Jewels, Inc. (Exh. 26)

The first supposed U.S. retailer identified on Aucera's website is ResultCo. As discussed above, ResultCo is not, and has never been, a retailer of BENTLEY products. *See* Section VI.A., *supra*. The other retailer identified Aucera's website is Blount Jewels, Inc., which operates the website [www.blountjewels.com](http://www.blountjewels.com). There is no physical address listed on [www.blountjewels.com](http://www.blountjewels.com), and there is no evidence that Blount Jewels, Inc. has any brick-and-mortar retail operations whatsoever. The physical address listed for Blount Jewels, Inc. on Aucera's website – 8710 Cameron, Suite 806 in Silver Spring, Maryland – is actually the address of an apartment building. (Exh. 29)

There is no evidence that any BENTLEY product was ever sold to or through Blount Jewels, Inc., or the website at [www.blountjewels.com](http://www.blountjewels.com); there are no purchase orders, invoices, shipping documents, emails, or other correspondence between Aucera and Blount Jewels. Nor is there any evidence that any BENTLEY product even appeared on the [www.blountjewels.com](http://www.blountjewels.com) website prior to November 26, 2014 – just after this cancellation action was filed. (Exhs. 27-28) In fact, the evidence is that as late as October 15, 2014, BENTLEY products did not appear on the [www.blountjewels.com](http://www.blountjewels.com) website. (Exhs. 27-28)

## **VII. LACHES DOES NOT APPLY AS A MATTER OF LAW**

In its Answer, Aucera asserted the affirmative defense of laches. However, “[i]t is well established that the equitable defenses of laches and acquiescence are not available against claims of genericness, descriptiveness, fraud, and abandonment,” nor is the defense available “in an action to remove a registration that is clearly void *ab initio*.” *Saint-Gobain Abrasives, Inc. v. Unova Indus. Automation Sys., Inc.*, 66 U.S.P.Q.2d 1355, 1359 (T.T.A.B. 2003); *Wandel*

*Machine Co., Inc. v. Altoona Fam Inc.*, 133 U.S.P.Q. 410, 410-411 (T.T.A.B. 1962).<sup>14</sup> Equitable defenses are not available because “[i]t is in the public interest to remove abandoned registrations from the register.” *TBC Corp.*, 12 U.S.P.Q.2d at 1313. The public interest in removing abandoned registrations “cannot be waived by the inaction of any single person . . . no matter how long the delay persists.” *Saint-Grobain*, 66 U.S.P.Q.2d at 1359.

The reasons for disallowing laches, or other equitable defenses, in response to claims of abandonment and fraud, apply with equal force to the question of whether a laches defense is available against Bentley’s related claim that Aucera failed to ever commence any *bona fide* use of the mark at all – either prior to registration or thereafter. For that claim, as in the case of

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<sup>14</sup> See also *Schnur & Cohan, Inc. v. Acad. of Motion Picture Arts & Scis.*, 223 F.2d 478, 480 (C.C.P.A. 1955) (“Passage of time cannot validate a void registration, no matter how large the registrant’s business may have grown during the period the mark remained on the register. Laches is not available as a defense in an action to remove a void registration from the register.”); *Emmpresa Cubana Del Tabaco v. Culbro Corp.*, 213 F. Supp. 2d 247, 266–267 (S.D.N.Y. 2002) (“There is no question that in actions before the PTO, equitable defenses such as the ones General Cigar asserts here are unavailing against cancellation claims based on abandonment.”); *Maids to Order of Ohio Inc. v. Maid-to-Order Inc.*, 78 U.S.P.Q.2d 1899, 1904 (T.T.A.B. 2006) (laches is unavailable against a claim of fraud); *Linville v. Rivard*, 41 U.S.P.Q.2d 1741, n.5 (T.T.A.B. 1997) (laches unavailable against a claim of abandonment); *Treadwell’s Drifters Inc. v. Marshak*, 18 U.S.P.Q.2d 1318 (T.T.A.B. 1990) (“[A]s a matter of law, . . . equitable defenses are not available against the claims of fraud and abandonment.”); *TBC Corp. v. Grand Prix Ltd.*, 12 U.S.P.Q.2d 1311, 1313 (T.T.A.B. 1989) (laches defense unavailable against claim of abandonment); *Midwest Plastic Fabricators Inc. v. Underwriters Laboratories Inc.*, 5 U.S.P.Q.2d 1067, 1069 (T.T.A.B. 1987) (laches not available against claims that registrant failed to control use of certification mark); *Bausch & Lomb Inc. v. Leupold & Stevens Inc.*, 1 U.S.P.Q.2d 1497 (P.T.O. Nov. 25, 1986) (laches unavailable against claim based on ornamentation); *Consolidated Foods Corporation v. Big Red, Inc.*, 226 U.S.P.Q. 829, 833-34 (T.T.A.B. 1985) (laches not available against claim of descriptiveness); *Care Corporation et al. v. Nursecare International, Inc.*, 216 U.S.P.Q. 99, 995 (T.T.A.B. 1982) (laches unavailable against claim of descriptiveness); *Yankee, Inc. v. Geiger*, 216 U.S.P.Q. 996, 1000 (T.T.A.B. 1982) (laches unavailable against claim that designation cannot function as a mark); *Primal Feeling Center of New England, Inc. v. Janov*, 201 U.S.P.Q. 44 (T.T.A.B. 1978) (laches unavailable against claim of descriptiveness); *American Velcro, Inc. v. Charles Mayer Studios, Inc.*, 177 U.S.P.Q. 149 (T.T.A.B. 1973) (laches unavailable against claim that designation cannot function as a mark); *Philip Morris Inc. v. He-Man Products, Inc.*, 157 U.S.P.Q. 200 (T.T.A.B. 1968) (laches unavailable against claim that designation cannot function as a mark); *Steinberg Brothers, Inc. v. J.P. Stevens & Co., Inc.*, 156 U.S.P.Q. 574 (T.T.A.B. 1967) (laches unavailable against claim that designation cannot function as a mark); *W.D. Byron & Sons, Inc. v. Stein Bros. Mfg. Co.*, 146 U.S.P.Q. 313 (T.T.A.B. 1965) (laches unavailable against claim that designation cannot function as a mark).

abandonment, there remains a strong public interest in removing from the register “marks no longer in use, or marks that were registered by means of fraud on the Office.” *Id.*

Even if Bentley had delayed (it did not), and even if such delay were unreasonable (it was not), and even if Aucera were prejudiced by such delay (there is no evidence of any prejudice to Aucera, whatsoever), it would be irrelevant. The law is well-established: laches is not a defense to the claims brought by Bentley.

#### **VIII. AUCERA’S REGISTRATIONS FOR “BENTLEY” MUST BE CANCELLED**

The overwhelming and undisputed evidence is that Aucera did not use BENTLEY prior to issuance of the Registrations, that it never made *bona fide* use of the BENTLEY mark in U.S. commerce for watches, pens, or jewelry, that it *never* acquired any rights in the BENTLEY for watches, pens, or jewelry, and that, through multiple, extended periods of total non-use of the BENTLEY mark, it abandoned any rights that it did establish in the mark. The BENTLEY mark is not in use, and it has never been in use. U.S. Reg. Nos. 2,007,286 for watches, 2,096,184 for jewelry, and 2,096,186 for pens should be cancelled and removed from the register.

Dated: April 19, 2016

/s/ Jessica Bromall Sparkman

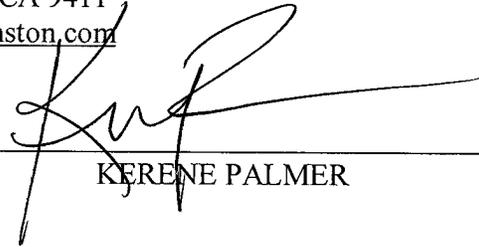
Rod S. Berman, Esq.  
Jessica Bromall Sparkman, Esq.  
JEFFER MANGELS BUTLER & MITCHELL LLP  
1900 Avenue of the Stars, Seventh Floor  
Los Angeles, CA 90067  
Telephone: (310) 203-8080  
Facsimile: (310) 203-0567  
E-mail: trademarkdocket@jmbm.com  
Attorneys for Petitioner BENTLEY MOTORS  
LIMITED

CERTIFICATE OF SERVICE

It is hereby certified that one (1) copy of the foregoing **PETITIONER'S MOTION FOR SUMMARY JUDGMENT** is being sent via first class mail to Petitioner Aucera SA's attorney of record as follows:

Jennifer A. Golinveaux  
Winston & Strawn LLP  
101 California Street  
San Francisco, CA 9411  
[jgolinveaux@winston.com](mailto:jgolinveaux@winston.com)

Dated: April 19, 2016



A handwritten signature in black ink, appearing to read 'Kerene Palmer', is written over a horizontal line. The signature is stylized and cursive.

KERENE PALMER

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

BENTLEY MOTORS LIMITED,

Petitioner,

v.

AUCERA SA,

Respondent.

Cancellation No. 92060353

Registration Nos.: 2007286, 2096184,  
2096186

Mark: BENTLEY

Atty. Ref. No.: 58389-9026

[REDACTED]

**DECLARATION OF JESSICA BROMALL SPARKMAN IN SUPPORT OF**  
**PETITIONER’S MOTION FOR SUMMARY JUDGMENT**

1. I am an attorney licensed to practice law in the State of California and an associate at the law firm of Jeffer Mangels Butler & Mitchell LLP, counsel for petitioner Bentley Motors Limited (“Bentley”) in the above-referenced matter. I have personal knowledge of the facts set forth herein, or knowledge based on the documents in my firm’s files in the relevant matters, and, if called as a witness, could and would competently testify thereto. I submit this declaration in support of Bentley’s Motion for Summary Judgment (the “Motion”).

2. Attached hereto as Exhibits 1 and 2 are true and correct copies of printouts from the Trademark Electronic Search System (“TESS”) showing the current status and title of U.S. Reg. Nos. 3,998,345 and 4,881,745.

3. Attached hereto as Exhibits 3, 4, 5, and 6 are true and correct copies of the application on which U.S. Reg. No., 3,998,345 issued, the relevant portions of two office actions issued in connection with that application dated February 28, 2005 and November 7, 2005, respectively, and an Examiner’s Amendment entered in connection with that application dated November 7, 2007, all of which were retrieved from the Trademark Status and Document Retrieval (“TSDR”) system.

4. Attached hereto as Exhibit 7 is a true and correct copy of the relevant portions of an office action issued in connection with the application on which U.S. Reg. No. 4,881,745 issued, which was retrieved from the TSDR system.

5. Attached hereto as Exhibits 8, 9, and 10 are true and correct copies of printouts from TESS showing the current status and title of U.S. Reg. Nos. 2,007,286, 2,096,184, and 2,096,186.

6. Attached hereto as Exhibit 11 is a true and correct copy of excerpts of Registrant Aucera SA's First Supplemental Responses and Objections to Petitioner's First Set of Interrogatories, served on March 11, 2016.

7. Attached hereto as Exhibit 12 is a true and correct copy of excerpts of Registrant Aucera SA's First Supplemental Responses to Petitioner's Second Set of Interrogatories, served on March 11, 2016.

8. Attached hereto as Exhibit 13 is a true and correct copy of excerpts of Registrant Aucera SA's Responses to Petitioner's Second Set of Requests for Production of Documents and Things, served on February 3, 2016.

9. Attached hereto as Exhibit 14 is at true and correct copy of excerpts of Registrant Aucera SA's Responses to Petitioner's Third Set of Requests for the Production of Documents and Things, served on January 27, 2016.

10. Attached hereto as Exhibit 15 is at true and correct copy of excerpts of Registrant Aucera SA's Responses to Petitioner's Third Set of Interrogatories, served on January 27, 2016.

11. Attached hereto as Exhibit 16 is at true and correct copy of excerpts of Registrant Aucera SA's Responses to Petitioner's Third Set of Requests for Admissions, served on January 27, 2016.

12. Attached hereto as Exhibit 17 is a true and correct copy of excerpts of Registrant Auera SA's Responses to Petitioner's Fourth Set of Interrogatories, served on February 12, 2016.

13. Attached hereto as Exhibit 18 is a true and correct copy of excerpts of Registrant Aucera SA's Responses to Petitioner's Fourth Set of Requests for Admissions, served on February 12, 2016.

14. Attached hereto as Exhibit 19 are true and correct copies of invoices produced by Aucera in response to Bentley's discovery requests.

15. Attached hereto as Exhibit 20 are true and correct copies of FedEx shipping documents produced by Aucera in response to Bentley's discovery requests.

16. Attached hereto as Exhibit 21 are true and correct copies of images of checks produced by Aucera in response to Bentley's discovery requests.

17. Aucera's entire document production in response to Bentley's discovery request consisted of just 117 pages of documents, and the document production includes numerous duplicates. For example, there are four, separately numbered, copies of at least one invoice, at least three copies of two shipping documents, and duplicates of at least five other shipping documents.

18. Aucera's document production includes no purchase orders, no requests or inquiries from any U.S. customer, no images showing BENTLEY products for sale in any U.S. retail establishment, no communications with any U.S. retailer, no sales records reflecting any U.S. sales, and no profit and loss statements or other financial documents reflecting any U.S. sales. Aucera has not produced any business plans, advertising plans, marketing plans, or any other plans relating to the actual or intended past, present, or future transportation or sale, actual or intended, of any product bearing the BENTLEY mark.

19. Aucera did not produce any documents identifying the transportation or sale of any products in or to the United States other than the transportation or sales arguably identified in the documents attached hereto as Exhibits 19 through 21.

20. Attached hereto as Exhibit 22 is a true and correct copy of an email produced by Robert Bonnem in response to a subpoena served by Bentley.

21. Attached hereto as Exhibit 23 is a true and correct copy of emails produced by Aucera in response to Bentley's discovery requests.

22. Attached hereto as Exhibit 24 is a true and correct copy of an email produced by Robert Bonnem in response to a subpoena served by Bentley.

23. Attached hereto as Exhibit 25 is a true and correct copy of a sworn declaration from ResultCo, and the exhibits thereto.

24. Attached hereto as Exhibit 26 is a true and correct copy of a print out from the website at the URL <http://www.bentleyluxury.com/distribution.php?type=retailers>.

25. Attached hereto as Exhibit 27 are true and correct copies of printouts of the website at [www.blountjewels.com](http://www.blountjewels.com) obtained from the Internet Archive at [www.waybackmachine.com](http://www.waybackmachine.com), that show the website [www.blountjewels.com](http://www.blountjewels.com) as it appeared on the dates October 8, 2012, November 27, 2012, December 6, 2012, December 7, 2012, December 19, 2012, February 18, 2013, April 12, 2013, , April 21, 2013, October 15, 2014, November 26, 2014. As late as October 14, 2014, BENTLEY watches did not appear on the website [www.blountjewels.com](http://www.blountjewels.com). The earliest archived date on which BENTLEY watches appear on [www.blountjewels.com](http://www.blountjewels.com) is November 26, 2014 – just after this cancellation action was filed. A true and correct copy of information regarding Internet Archive at [www.waybackmachine.com](http://www.waybackmachine.com) obtained from that website is attached hereto as Exhibit 28.

26. Attached hereto as Exhibit 29 are true and correct print outs of documents obtained from [www.google.com/maps](http://www.google.com/maps) and [www.livingatthecameron.com](http://www.livingatthecameron.com).

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct, and that this Declaration is executed on April 19, 2016 at Los Angeles, California.

/S/ JESSICA BROMALL SPARKMAN  
JESSICA BROMALL SPARKMAN

# **EXHIBIT 1**

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IC 016. US 002 005 022 023 029 037 038 050. G &amp; S: Texts, periodicals, magazines, brochures, pamphlets, information sheets pertaining to automobiles, their parts, fittings, and accessories; posters, stationery, diaries, calendars, paper coasters, paper flags, photographs, autograph cards, postcards, photograph and picture albums, greeting cards, decalcomanias, printed signage for application to windows and vehicles and user manuals pertaining to automobiles, their parts, fittings, and accessories; passport holders and checkbook holders made of leather and imitations of leather, all of the foregoing sold exclusively by authorized dealers. FIRST USE: 20110411. FIRST USE IN COMMERCE: 20110411

IC 018. US 001 002 003 022 041. G &amp; S: Leather and imitations of leather and goods made therefrom, namely, luggage, wallets, purses, belts, holdalls, handbags, sports bags, briefcases, attache cases, passport holders and checkbook holders; bags, namely, handbags, sports bags, shopping bags of textile, leather and imitations of leather, and carrier bags; umbrellas and parasols, all of the foregoing sold exclusively by authorized dealers. FIRST USE: 20110411. FIRST USE IN COMMERCE: 20110411

IC 025. US 022 039. G &amp; S: Clothing, namely, underwear and lingerie, trousers, shorts, sports clothing, t-shirts, shirts, jackets, suits for men and for women, stockings, tights, socks, skirts, blouses, neckties, handkerchiefs, raincoats and waterproof jackets, coats and trousers; footwear and headgear, namely, hats, caps, rain hats, and sun visors, all of the foregoing sold exclusively authorized dealers. FIRST USE: 20110411. FIRST USE IN COMMERCE: 20110411

IC 036. US 100 101 102. G &amp; S: Insurance services, namely, insurance brokerage, insurance claim administration and processing services and underwriting services for all types of insurance; loan and credit services, namely, the provision of loan financing and credit counseling and rating services, all relating to automobiles, their parts, fittings, and accessories; extended warranty services, namely, the provision of warranties on automobiles, their parts, fittings, and accessories; credit and debit card services, all of the foregoing sold exclusively by authorized dealers. FIRST USE: 20110411. FIRST USE IN COMMERCE: 20110411

IC 037. US 100 103 106. G &amp; S: Repair, installation, and maintenance services all relating to automobiles, internal combustion engines and parts and fittings thereof, all of the foregoing sold exclusively by authorized dealers. FIRST USE: 20110411. FIRST USE IN COMMERCE: 20110411

**Standard  
Characters  
Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 76979138

**Filing Date** July 26, 2004

**Current Basis** 1A

**Original Filing Basis** 1B

**Published for Opposition** December 25, 2007

**Registration Number** **3998345**

**Registration Date** July 19, 2011

**Owner** (REGISTRANT) Bentley Motors Limited CORPORATION UNITED KINGDOM Pyms Lane Crewe, Cheshire CW1 3PL UNITED KINGDOM

**Attorney of Record** Brian R. McGinley

**Prior Registrations** 0645703;0646403;1551811;2569278;AND OTHERS

**Type of Mark** TRADEMARK. SERVICE MARK

**Register** PRINCIPAL-2(F)

**Live/Dead Indicator** LIVE

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# **EXHIBIT 2**



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**Word Mark** B BENTLEY

**Goods and Services** IC 011. US 013 021 023 031 034. G & S: Lighting apparatus and equipment, namely, lighting installations; ceiling light fittings; decorative lighting in the nature of electrically-illuminated figurines, lanterns; lamps; table lamps; floor lamps; applique lamps; wall lamps; wall lights; ceiling light fixtures; ceiling lights; chandeliers; lampshades; lampstands

IC 014. US 002 027 028 050. G & S: Precious metals and their alloys; jewellery, watches and clocks; table clocks; desk clocks; cufflinks; jewellery boxes; cuff link boxes; key rings of precious metal; key trays of precious metal

IC 016. US 002 005 022 023 029 037 038 050. G & S: Money clips; desk sets; stationery; writing implements; pens; pencils; letter openers; desktop business card holders; stands for pens and pencils; holders for pens and pencils; desk file trays; letter trays; letter racks; document folders in the form of wallets; desk pads; photograph albums; printed photobooks; diaries; paper coasters; calendars; paper clip holders; paperweights; desk blotters

IC 018. US 001 002 003 022 041. G & S: Credit card holders; leather and imitation leather; leather and imitation leather goods, namely, purses; carrying bags; briefcases; attaché cases; holdalls; wallets; purses; luggage; umbrellas; leather trimmings for furniture

IC 020. US 002 013 022 025 032 050. G & S: Non-metal key rings; non-metal key trays; plastic coasters; photograph frames and picture frames; fitted furniture coverings of leather; furniture; living room furniture; bedroom furniture; bathroom furniture; dining room furniture; seating furniture; chairs; armchairs; sofas; settees; sofa beds; beds; bed frames; wood bedsteads; bed heads; bed headboards; tables; desks; dining tables; side tables; dressing tables; coffee tables; bedside tables; writing tables; television console tables; console tables; cabinets; bedside cabinets; display cabinets; storage cabinets; container cabinets; drawers; chests of drawers; drawer units; storage drawers; dividers for drawers; shelving; bookshelves; folding floor screens; folding partition screens; book rests; magazine racks; magazine holders; mirrors; mirror frames; mirror stands; photograph frames; picture frames; cushions

IC 024. US 042 050. G & S: Coasters of textile; unfitted furniture coverings of leather; textiles and textile

goods, namely, curtains, blankets and towels; cushion covers; plaids, namely, woven patterned fabrics; bed covers; duvets; duvet covers; bed linen; bed blankets; table covers of textile; table cloths of textile; place mats of textile; table mats of textile; drinks mats of textile; table linen; table settings, namely, table pads; place settings, namely, table napkins of textile

**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

**Design** 03.17.01 - Wings, birds'

**Search Code** 26.03.17 - Concentric ovals; Concentric ovals and ovals within ovals; Ovals within ovals; Ovals, concentric  
26.03.21 - Ovals that are completely or partially shaded

**Serial Number** 86976560

**Filing Date** October 15, 2013

**Current Basis** 44E

**Original Filing Basis** 1B

**Published for Opposition** October 20, 2015

**Registration Number** 4881745

**Registration Date** January 5, 2016

**Owner** (REGISTRANT) Bentley Motors Ltd COMPANY UNITED KINGDOM Pyms Lane Crewe UNITED KINGDOM CW13PL

**Attorney of Record** Bernard R. Gans

**Prior Registrations** 0344524;0646403;3998345;AND OTHERS

**Description of Mark** Color is not claimed as a feature of the mark. The mark consists of the word "BENTLEY" with the letter "B" in a circle above the "T" in "BENTLEY", with wings on each side of the "B" with a circle, and another circle behind the "B" and wings.

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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# **EXHIBIT 3**



07-26-2004

U.S. Patent & TMOfo/TM Mail Ropt Dt. #67

**DRAWING**

Applicant: Bentley Motors Limited  
Pyms Lane  
Crewe, Cheshire  
CW1 3PL  
United Kingdom



Filing Basis: Section 1(b) (Intent-To-Use).

Goods and Services:

**Jewelry, watches and clocks, in International Class 14;**

**Printed matter, books, publications, texts, periodicals, magazines, brochures, pamphlets, information sheets, posters, stationery, diaries, calendars, crayons, coasters, flags, photographs, jigsaw puzzles, autograph cards, postcards, photograph and picture albums, greeting cards, decalcomanias, printed livery for application to windows and vehicles and user manuals, in International Class 016;**

**Leather and imitations of leather and goods made therefrom; umbrellas and parasols; bags, suitcases, holdalls, wallets, purses and luggage, in International Class 009;**

**Clothing, footwear and headgear, in International Class 025;**

**Tobacco and smokers articles, in International Class 034;**

**Provision of financial services; insurance services; loan and credit services, warranty services and credit and debit card services, in International Class 036; and**

**Repair, installation, and maintenance services all relating to automobiles, internal combustion engines and parts and fittings thereof, in International Class 037.**

Statement Under 37 CFR §2.52: The mark is presented in standard character format without claim to any particular font, style, size or color.

**BENTLEY**

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**76603955**

TRADEMARK APPLICATION SERIAL NO. \_\_\_\_\_

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE  
FEE RECORD SHEET

07/28/2004 6THOMAS2 00000071 76603955

01 FC:6001

2345.00 OP

70022850.0007

TRADEMARK/SERVICE MARK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
APPLICATION FOR TRADEMARK REGISTRATION

**Mark:** BENTLEY

**Int. Class:** 014, 016, 018, 025, 034, 036, 037

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3514

**LETTER**

Dear Sir or Madam:

Enclosed herewith for filing please find an application for registration of the above-identified service mark in International Classes 014, 016, 018, 025, 034, 036 and 037 comprising a Combined Application, Declaration, Power of Attorney and Drawing together with a Credit Card Payment Form in the amount of \$2345.00 to cover the filing fee.

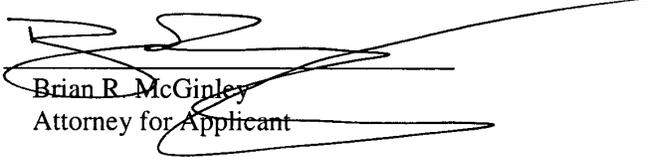
The Commissioner is hereby authorized to charge any additional fees which may be required, including, if necessary, the filing fee if the above-referenced check is in the wrong amount, unsigned, postdated, or otherwise improper or informal or missing, or credit any overpayment to Deposit Account No. 50-1126. Please acknowledge receipt by returning the enclosed postcard and please address any correspondence regarding this matter to the undersigned.

Respectfully submitted,

SONNENSCHN NATH & ROSENTHAL LLP

July 22, 2004

By:

  
Brian R. McGinley  
Attorney for Applicant

SONNENSCHN NATH & ROSENTHAL LLP  
PO Box #061080  
Wacker Drive Station  
Sears Tower  
Chicago, Illinois 60606-1080  
(816) 460-2400

I hereby certify that this document and any being referred to as attached or enclosed is being deposited with the United States Postal Service as Express Mail in an envelope addressed to Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514, on:

7-22-04 Connie A. Mills  
Date Connie A. Mills

Express Mail Certificate No. EL 460868647 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
APPLICATION FOR TRADEMARK REGISTRATION

Mark: **BENTLEY** )  
)  
Int. Classes: **014, 016, 018, 025, 034, 036, 037** )  
)  
Filing Basis: **Section 1(b)** )

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3514

APPLICANT: Bentley Motors Limited

COUNTRY OF INCORPORATION: United Kingdom

BUSINESS ADDRESS: Pyms Lane  
Crewe, Cheshire  
CW1 3PL  
United Kingdom

SITUS OF CORPORATION: Pyms Lane  
Crewe, Cheshire  
CW1 3PL  
United Kingdom

The above-identified Applicant has a bona fide intention to adopt and use the mark shown in the accompanying drawing in commerce for:

**Jewelry, watches and clocks, in International Class 14**

**Printed matter, books, publications, texts, periodicals, magazines, brochures, pamphlets, information sheets, posters, stationery, diaries, calendars, crayons, coasters, flags, photographs, jigsaw puzzles, autograph cards, postcards, photograph and picture albums, greeting cards, decalcomanias, printed livery for application to windows and vehicles and user manuals, in International Class 016;**

**Leather and imitations of leather and goods made therefrom; umbrellas and parasols; bags, suitcases, holdalls, wallets, purses and luggage, in International Class 009;**

**Clothing, footwear and headgear, in International Class 025;**

**Tobacco and smokers articles, in International Class 034;**

**Provision of financial services; insurance services; loan and credit services, warranty services and credit and debit card services, in International Class 036; and**

**Repair, installation, and maintenance services all relating to automobiles, internal combustion engines and parts and fittings thereof, in International Class 037.**

Applicant requests said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946.

Applicant has a bona fide intention to use the mark in commerce in connection with the goods and services by applying it to the goods, to the packaging for the goods, in advertising events and promotional materials, on global computer web sites and in other ways customary to the trade.

**DECLARATION**

Brian R. McGinley, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any registration resulting therefrom, declares that he is Applicant's attorney at law and is authorized to execute this declaration on behalf of Applicant; that he believes that Applicant is entitled to use the mark sought to be registered in commerce; that Applicant has the bona fide intent to use the mark in commerce; that no other person, firm, corporation or association, to the best of his/her knowledge and belief, has the right to use such service mark in commerce, either in the identical form or in such near resemblance thereto as to be likely, when applied to the goods of such other person, to cause confusion or to cause mistake, or to deceive; that the facts set forth in this application are true; that all statements made of his own knowledge are true; and that all statements made on information and belief are believed to be true.

**DOMESTIC REPRESENTATIVE DESIGNATION**

See Exhibit A.

**POWER OF ATTORNEY**

The undersigned hereby appoints BRIAN R. MCGINLEY, LARA D. LEWIS, JAMES H. RILEY II, I. EDWARD MARQUETTE, DIANNE M. SMITH-MISEMER, REBECCA S. STRODER, BRYAN P. STANLEY, SAMUEL FIFER, CAROL ANNE BEEN, JORDAN A. SIGALE and DAVID W. MAHER, attorneys at law, whose postal address is SONNENSCHN NATH & ROSENTHAL LLP, P. O. Box #061080, Wacker Drive Station, Sears Tower, Chicago, Illinois 60606-1080, (816) 460-2400, as its attorneys to prosecute this application for registration, with full power of substitution and revocation, and to transact all business in the Patent and Trademark Office in connection therewith, and to receive the certificate.

Please direct all correspondence concerning this matter to:

**Brian R. McGinley  
Sonnenschein Nath & Rosenthal LLP  
P.O. Box #061080  
Wacker Drive Station  
Sears Tower  
Chicago, Illinois 60606-1080**

All telephone calls are to be directed to Brian R. McGinley at (816) 460-2605. All e-mail communications can be directed to Brian R. McGinley at bmcginley@sonnenschein.com.

Respectfully submitted,

BENTLEY MOTORS LIMITED

July 22, 2004

By:

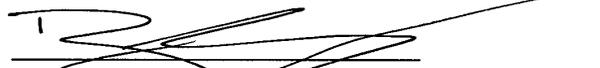
  
\_\_\_\_\_  
Brian R. McGinley  
Attorney for Applicant

Exhibit A

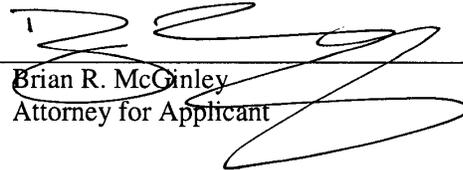
**DESIGNATION OF DOMESTIC REPRESENTATIVE**

<b>BENTLEY</b> Identify the mark	<b>Not assigned</b> Serial No.
<b>Bentley Motors Limited</b> Name of Applicant	<b>July 22, 2004</b> Date of signature
<b>Brian R. McGinley</b> (Name of domestic representative)	

whose postal address is:

**Brian R. McGinley**  
**Sonnenschein Nath & Rosenthal LLP**  
**P.O. Box #061080**  
**Wacker Drive Station**  
**Sears Tower**  
**Chicago, Illinois 60606-1080**

is hereby designated Applicant's representative upon whom notice or process in proceedings effecting the mark may be served.

  
 Brian R. McGinley  
 Attorney for Applicant

**Certificate of Mailing by EXPRESS MAIL  
under 37 CFR 1.10**

I hereby certify that the following documents:

**Certificate of Mailing by Express Mail (1 pg); Letter (1 pg); Credit Card  
Payment Form for \$2345 filing fee (1 pg); Application for Trademark  
Registration (3 pgs); Designation of Domestic Representative (1 pg); Drawing  
(1 pg); return receipt postcard**

are being deposited with the United States Postal as "Express Mail Post Office to  
Addressee" and addressed to:

**Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3514**

On July 22, 2004  
Date

Connie A. Mills  
Signature

Connie A. Mills  
Typed or printed name of person signing Certificate

EV 460868647 US  
EXPRESS MAIL NO.

Note: Each paper must have its own certificate of mailing by Express Mail, or this  
certificate must identify each submitted paper.

Docket No. 70022850.0007

# **EXHIBIT 4**

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 76/603955  
APPLICANT: Bentley Motors Limited

**\*76603955\***

CORRESPONDENT ADDRESS:  
BRIAN R. MCGINLEY  
SONNENSCHN NATH & ROSENTHAL LLP  
PO BOX 061080  
CHICAGO IL 60606-1080

RETURN ADDRESS:  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

MARK: BENTLEY

CORRESPONDENT'S REFERENCE/DOCKET NO : 70022850.000

Please provide in all correspondence:

CORRESPONDENT EMAIL ADDRESS:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

**OFFICE ACTION**

**TO AVOID ABANDONMENT, WE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF OUR MAILING OR E-MAILING DATE.**

Serial Number 76/603955 – BENTLEY

The assigned examining attorney has reviewed the referenced application and determined the following.

**LIKELIHOOD OF CONFUSION**

The examining attorney refuses registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), because the applicant's mark, when used on or in connection with the identified goods and services, so resembles the marks in U.S. Registration Nos. 2,096,184; 2,007,286; 2,096,186; 1,468,666; 2,689,982; 820,916; and 2,499,447, as to be likely to cause confusion, or to cause mistake, or to deceive. TMEP section 1207. See the attached registrations.

The examining attorney must analyze each case in two steps to determine whether there is a likelihood of confusion. First, the examining attorney must look at the marks themselves for similarities in appearance, sound, connotation and commercial impression. *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). Second, the examining attorney must compare the goods or services to determine if they are related or if the activities surrounding their marketing are such that confusion as to origin is likely. *In re August Storck KG*, 218 USPQ 823 (TTAB 1983); *In re International Telephone and Telegraph Corp.*, 197 USPQ 910 (TTAB 1978); *Guardian Products Co., v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978).

The applicant has applied to register the mark BENTLEY in standard character form for use on and in connection with “jewelry, watches and clocks,” “printed matter, books, publications, texts, periodicals, magazines, brochures, pamphlets, information sheets, posters, stationery, diaries, calendars, crayons, coasters, flags, photographs, jigsaw puzzles, autograph cards, postcards, photograph and picture albums, greeting cards, decalcomanias, printed livery for application to windows and vehicles and user manuals,” “leather and imitations of leather and goods made therefrom; umbrellas and parasols; bags, suitcases, holdalls, wallets, purses and luggage,” “clothing, footwear and headgear,” “tobacco and smokers articles,” “provision of financial services; insurance services; loan and credit services, warranty services and credit and debit card services,” and “repair, installation, and maintenance services all relating to automobiles, internal combustion engines and parts and fittings thereof.”

The first registered mark is BENTLEY in typed form for used on “jewelry bracelets, bracelets of precious metal, diamonds, earrings, jewelry, jewelry pins, pearls, jewelry boxes of precious metal, and jewelry cases of precious metal.”

The second registered mark BENTLEY in typed form for use on “watches, watch bands, watch chains and watchcases.”

The third registered mark BENTLEY in typed form for use on “ball-point pens, fountain pens, pen clips, pens, pen cases and writing ink.”

The fourth registered mark BENTLEY LUGGAGE & GIFTS and design for use in connection with “retail store services in the field of luggage,

travel accessories, and gifts.”

The fifth registered mark B BENTLEY’S TRAVELWARE and design for use in connection with “retail store services in the field of luggage, travel accessories, and gifts.”

The sixth registered mark BENTLEY in typed form for use on “pipes.”

The seventh registered mark is BENTLEY FINANCIAL SERVICES in typed form for use in connection with “automotive financing services, namely, credit consulting and loan services for retail purchase and/or lease of automobiles.”

On the face of the application and registrations, the goods and services of the parties are very closely related. Thus, when marketed under identical and substantially similar marks, consumers are likely to believe the goods and services of the applicant and the registrants emanate from the same source.

In summary, the similarities among the marks and the goods and services of the applicant and the registrants are so great as to create a likelihood of confusion among consumers. The examining attorney must resolve any doubt as to the issue of likelihood of confusion in favor of the registrant and against the applicant who has a legal duty to select a mark which is totally dissimilar to trademarks already being used. *Burroughs Wellcome Co. v. Warner & Lambert Co* 203 USPQ 191 (TTAB 1979). Accordingly, registration is refused under Section 2(d) of the Trademark Act.

The applicant should note the following additional ground for refusal.

**Mark Is Primarily Merely a Surname**

The examining attorney refuses registration on the Principal Register because the mark is primarily merely a surname. Trademark Act Section 2(e)(4), 15 U.S.C. Section 1052(e)(4); TMEP section 1211. The examining attorney must consider the primary significance of the mark to the purchasing public to determine whether a term is primarily merely a surname. *In re Kahan & Weisz Jewelry Mfg. Corp.*, 508 F.2d 831, 184 USPQ 421 (CCPA 1975).

The applicant has applied to register the mark BENTLEY for use on and in connection with “jewelry, watches and clocks,” “printed matter, books, publications, texts, periodicals, magazines, brochures, pamphlets, information sheets, posters, stationery, diaries, calendars, crayons, coasters, flags, photographs, jigsaw puzzles, autograph cards, postcards, photograph and picture albums, greeting cards, decalcomanias, printed livery for application to windows and vehicles and user manuals,” “leather and imitations of leather and goods made therefrom; umbrellas and parasols; bags, suitcases, holdalls, wallets, purses and luggage,” “clothing, footwear and headgear,” “tobacco and smokers articles,” “provision of financial services; insurance services; loan and credit services, warranty services and credit and debit card services,” and “repair, installation, and maintenance services all relating to automobiles, internal combustion engines and parts and fittings thereof.” Please see the attached evidence retrieved from Lexis/Nexis® establishing the surname significance of the mark.

The applicant should note the following possible option for overcoming the surname refusal.

**Section 2(f) Claim in Intent-to-Use Application Requires Prior Use (TMEP §1212.09(a))**

Section 2(f), 15 U.S.C. §1052(f), is limited by its terms to “a mark used by the applicant.” A claim of distinctiveness under §2(f) is normally not filed in a §1(b) application before the applicant files an amendment to allege use or a statement of use, because a claim of acquired distinctiveness, by definition, requires prior use.

However, an intent-to-use applicant who has used the mark on related goods or services may file a claim of acquired distinctiveness under §2(f) before filing an amendment to allege use or statement of use, if the applicant can establish that, as a result of the applicant’s use of the mark on other goods or services, the mark has become distinctive of the goods or services in the intent-to-use application, and that this previously created distinctiveness will transfer to the goods and services in the intent-to-use application when use in commerce begins. *In re Dial-A-Mattress Operating Corp.*, 240 F.3d 1341, 1347, 57 USPQ2d 1807, 1812 (Fed. Cir. 2001).

The Trademark Trial and Appeal Board has set forth the requirements for showing that a mark in an intent-to-use application has acquired distinctiveness:

The required showing is essentially twofold. First, applicant must establish, through the appropriate submission, the acquired distinctiveness of the same mark in connection with specified other goods and/or services in connection with which the mark is in use in commerce. All of the rules and legal precedent pertaining to such a showing in a use-based application are equally applicable in this context.... Second, applicant must establish, through submission of relevant evidence rather than mere conjecture, a sufficient relationship between the goods or services in connection with which the mark has acquired distinctiveness and the goods or services recited in the intent-to-use application to warrant the conclusion that the previously created distinctiveness will transfer to the goods or services in the application upon use.

*In re Rogers*, 53 USPQ2d 1741, 1744 (TTAB 1999).

To satisfy the first element, the applicant must establish acquired distinctiveness as to the other goods or services by appropriate evidence, such as ownership of a prior registration for the same mark for related goods or services (*see* TMEP §§1212.04 *et seq.*), a *prima facie* showing of acquired distinctiveness based on five years' use of the same mark with related goods or services ( *see* TMEP §§1212.05 *et seq.*), or actual evidence of acquired distinctiveness for the same mark with respect to the other goods or services (*see* TMEP §§1212.06 *et seq.*).

To satisfy the second element, applicant must submit evidence showing “the extent to which the goods or services in the intent-to-use application are related to the goods or services in connection with which the mark is distinctive, and that there is a strong likelihood that the mark’s established trademark function will transfer to the related goods or services when use in commerce occurs.” *In re Rogers* at 1745.

The fact that a mark is famous in connection with certain goods or services does *not* necessarily lead to the conclusion that, upon use, distinctiveness will transfer to use of the mark in connection with unrelated goods or services in an intent-to-use application. In *Rogers*, the Board stated that:

The owner of a famous mark must still establish a strong likelihood of transference of the trademark function to the goods or services identified in the intent-to-use application. This factually-based determination will still involve establishing some degree of relationship between the goods or services for which the mark is famous and the goods or services in the intent-to-use application.

53 USPQ2d at 1745-1746.

Although the examining attorney has refused registration, the applicant may respond to the refusal to register by submitting evidence and arguments in support of registration. If the applicant chooses to respond to the refusal to register, the applicant must also note the following remaining issues.

## **REMAINING ISSUES**

### **Prior Pending Applications**

Information regarding pending Application Serial Nos. 78/191421, 78/366473, 76/588062, and 76/266842 is enclosed. The filing dates of the referenced applications precede applicant’s filing date. There may be a likelihood of confusion under Trademark Act Section 2(d) between applicant’s mark and the referenced marks. If one or more of the referenced applications registers, registration may be refused in this case under Section 2(d). 37 C.F.R. §2.83; TMEP §1208.01.

### **Identification and Classification of Goods and Services**

The identification of goods and services is unacceptable as indefinite and includes goods which have been incorrectly classified and which are classified in more than four classes. TMEP sections 1402.01 and 1402.11. The applicant must amend the identification to clarify the exact nature of the goods and services and to classify the goods correctly. The applicant may adopt the following identification, if accurate:

Jewelry, watches and clocks, in INT. CLASS 14;

Printed matter, books, publications, texts, periodicals, magazines, brochures, pamphlets, information sheets pertaining to [indicate subject matter], posters, stationery, diaries, calendars, crayons, paper coasters, paper flags, photographs, autograph cards, postcards, photograph and picture albums, greeting cards, decalcomanias, printed [clarify nature of goods, e.g., decals, stickers] for application to windows and vehicles and user manuals pertaining to [indicate subject matter], in INT. CLASS 16;

Leather and imitations of leather and goods made thereof, namely, [specify items by common commercial name, e.g., leather sold in bulk, imitation leather sold in bulk, leather briefcases]; umbrellas and parasols; [specify type, e.g., duffle, all-purpose] bags, suitcases, holdalls, wallets, purses and luggage, in INT. CLASS 18;

Clothing, namely, [specify items by common commercial name, e.g., shirts, pants, jackets]; footwear and headwear, in INT. CLASS 25;

Jigsaw puzzles, in INT. CLASS 28;

Tobacco and smokers’ articles, namely, [specify items by common commercial name, e.g., smoking pipes], in INT. CLASS 34;

Provision of financial services, namely, [clarify exact nature of services, e.g., financing services]; insurance services, namely, [clarify exact nature of services, e.g., insurance brokerage]; loan and credit services, namely, [clarify exact nature of services, e.g., loan financing]; warranty services, namely, [clarify exact nature of services, e.g., providing extended warranties on automobiles]; credit and debit card services, in INT. CLASS 36;

Repair, installation, and maintenance services all relating to automobiles, internal combustion engines and parts and fittings thereof, in INT. CLASS 37.

To the extent the identification of goods and services suggested above is incomplete or inaccurate, the applicant is advised that the *Trademark Acceptable Identification of Goods and Services Manual* is accessible via the USPTO homepage at the following address:  
<[http://www.uspto.gov/web/offices/tac/doc/gsmannual/](http://www.uspto.gov/web/offices/tac/doc/gsmmanual/)>.

If the applicant adopts the suggested amendment to the identification, the applicant must amend the classification to International Classes 14, 16, 18, 25, 28, 34, 36 and 37. In this case, the applicant must also comply with each of the following.

(1) Applicant must list the goods and services by international class with the classes listed in ascending numerical order. TMEP § 1403.01; and

(2) Applicant must submit a filing fee for each international class of goods and services not covered by the fee already paid. 37 C.F.R. §2.86(a)(2); TMEP §§810.01 and 1403.01.

Please note that, while an application may be amended to clarify or limit the identification, additions to the identification are not permitted. 37 C.F.R. Section 2.71(a); TMEP section 1402.06. Therefore, the applicant may not amend to include any goods or services that are not within the scope of goods or services set forth in the present identification.

**Ownership of Prior Registrations**

If the applicant is the owner of Registration Nos. 646,403; 645,703; 1,551,811; 2,569,278, the applicant must submit a claim of ownership. 37 C.F.R. §2.36; TMEP §812. See attached registrations.

A properly worded claim of ownership should read as follows:

The applicant is the owner of U.S. Registration Nos. 646,403; 645,703; 1,551,811; 2,569,278.

**TELEPHONE FOR ASSISTANCE**

If the applicant has any questions or needs assistance in responding to this Office action, please telephone the assigned examining attorney.

**NOTICE: FEE CHANGE**

Effective January 31, 2005 and pursuant to the Consolidated Appropriations Act, 2005, Pub. L. 108-447, the following are the fees that will be charged for filing a trademark application:

- (1) \$325 per international class if filed electronically using the Trademark Electronic Application System (TEAS); or
- (2) \$375 per international class if filed on paper

These fees will be charged not only when a new application is filed, but also when payments are made to add classes to an existing application. If such payments are submitted with a TEAS response, the fee will be \$325 per class, and if such payments are made with a paper response, the fee will be \$375 per class.

The new fee requirements will apply to any fees filed on or after January 31, 2005.

**NOTICE: TRADEMARK OPERATION RELOCATION**

The Trademark Operation has relocated to Alexandria, Virginia. Effective October 4, 2004, all Trademark-related paper mail (except documents sent to the Assignment Services Division for recordation, certain documents filed under the Madrid Protocol, and requests for copies of trademark documents) must be sent to:

**Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451**

Applicants, attorneys and other Trademark customers are strongly encouraged to correspond with the USPTO online via the Trademark Electronic Application System (TEAS), at <http://www.uspto.gov/teas/index.html>.

/Alicia P. Collins/  
Trademark Examining Attorney  
Law Office 115  
(571) 272-9147  
(571) 273-9147 (fax)

**HOW TO RESPOND TO THIS OFFICE ACTION:**

- **ONLINE RESPONSE:** You may respond formally using the Office's Trademark Electronic Application System (TEAS) Response to Office Action form (visit <http://www.uspto.gov/teas/index.html> and follow the instructions, but if the Office Action issued via email you must wait 72 hours after receipt of the Office Action to respond via TEAS).
- **REGULAR MAIL RESPONSE:** To respond by regular mail, your response should be sent to the mailing return address above and include the serial number, law office number and examining attorney's name in your response.

**STATUS OF APPLICATION:** To check the status of your application, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov>.

**VIEW APPLICATION DOCUMENTS ONLINE:** Documents in the electronic file for pending applications can be viewed and downloaded online at <http://portal.uspto.gov/external/portal/tow>.

**GENERAL TRADEMARK INFORMATION:** For general information about trademarks, please visit the Office's website at <http://www.uspto.gov/main/trademarks.htm>

**FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY SPECIFIED ABOVE.**

# **EXHIBIT 5**

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 76/603955

APPLICANT: Bentley Motors Limited

CORRESPONDENT ADDRESS:  
BRIAN R. MCGINLEY  
SONNENSCHN NATH & ROSENTHAL LLP  
PO BOX 061080  
CHICAGO IL 60606-1080

**\*76603955\***

RETURN ADDRESS:  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

MARK: BENTLEY

CORRESPONDENT'S REFERENCE/DOCKET NO : 70022850.000

CORRESPONDENT EMAIL ADDRESS:

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

**SECOND ACTION**

**RESPONSE TIME LIMIT:** TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE MAILING OR E-MAILING DATE.

Serial Number 76/603955 – BENTLEY

This letter responds to the applicant's communication filed on August 31, 2005. The examining attorney has carefully reviewed the applicant's arguments and amendments in favor of registration. The refusal based on a likelihood of confusion with the marks in U.S. Registration Nos. 2,689,982; 2,096,186; 2,096,184; 2,007,286; 1,468,666; and 820,916 is maintained and continued. The refusal based on a likelihood of confusion with the mark in U.S. Registration No. 2,499,447 is withdrawn. Prior pending Application Serial Nos. 78/366473 and 76/588062 have abandoned. Prior pending Application Serial No. 76/266842 remains a potential bar to registration. The surname refusal is maintained and continued. The claim of ownership of prior registrations is acceptable and has been entered into the application record. As to the remaining issues, the examining attorney has determined the following.

**Likelihood of Confusion (Partial Refusal – International Classes 14, 18, 25 & 34)**

In the Office action of March 1, 2005, the examining attorney noted the existence of pending Application Serial No. 78/191421. The referenced application has matured into a registration. Therefore, registration is refused as follows.

The examining attorney refuses registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), as to International Classes 14, 18, 25 and 34, because the applicant's mark, when used on or in connection with the identified goods, so resembles the mark in U.S. Registration No. 2,932,701, as to be likely to cause confusion, or to cause mistake, or to deceive. TMEP §§1207.01 *et seq.* See the attached registration.

The examining attorney must analyze each case in two steps to determine whether there is a likelihood of confusion. First, the examining attorney must look at the marks themselves for similarities in appearance, sound, connotation and commercial impression. *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). Second, the examining attorney must compare the goods or services to determine if they are related or if the activities surrounding their marketing are such that confusion as to origin is likely. *In re August Storck KG*, 218 USPQ 823 (TTAB 1983); *In re International Telephone and Telegraph Corp.*, 197 USPQ 910 (TTAB 1978); *Guardian Products Co., v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978).

The applicant has applied to register the mark BENTLEY in standard character form for use on “jewelry, watches and clocks,” “leather and imitations of leather and goods made therefrom, namely luggage, wallets, purses, belts, holdalls, handbags, sports bags, briefcases, attaché cases, passport holders and checkbook holders; bags, namely, handbags, sports bags, shopping bags, and carrier bags; umbrellas and parasols,” “clothing, namely, underwear and lingerie, trousers, shorts, sports clothing, t-shirts, shirts, jackets, suits for men and for women, stockings, tights, socks, skirts, blouses, neckties, handkerchiefs, raincoats and waterproof clothing; footwear and headgear, namely, hats, caps, rain hats, and sun visors,” and “tobacco, smoker's articles, namely, ashtrays, cigarette and cigar holders, cigarette and cigar cases, cigar pincers, cigar and cigarette lighters, matches and match boxes; none of the aforementioned goods being made from precious metals.”

The registered mark is B BENTLEY and design for use on “belt buckles not of precious metal” and “cigarette lighters not of precious metal,

tobacco containers and ashtrays not of precious metal; smoking pipestands, smoking pipe cleaners, pipe tampers and cigar cutters.”

The marks of the parties are substantially similar in sound, appearance, and overall commercial impression, as the dominant commercial impression in each mark is created by the term BENTLEY.

The goods of the parties need not be identical or directly competitive to find a likelihood of confusion. They need only be related in some manner, or the conditions surrounding their marketing be such, that they could be encountered by the same purchasers under circumstances that could give rise to the mistaken belief that the goods come from a common source. *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 223 USPQ 1289 (Fed. Cir. 1984); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985); *In re Rexel Inc.*, 223 USPQ 830 (TTAB 1984); *Guardian Products Co., Inc. v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978); *In re International Telephone & Telegraph Corp.*, 197 USPQ 910 (TTAB 1978).

On the face of the application and registration, the goods of the parties are closely related and identical, in part. Thus, when marketed under substantially similar marks, consumers are likely to believe the goods of the applicant and the registrant emanate from the same source.

In summary, the similarities among the marks and the goods of the applicant and the registrant are so great as to create a likelihood of confusion among consumers. The examining attorney must resolve any doubt as to the issue of likelihood of confusion in favor of the registrant and against the applicant who has a legal duty to select a mark which is totally dissimilar to trademarks already being used. *Burroughs Wellcome Co. v. Warner-Lambert Co.* 203 USPQ 191 (TTAB 1979). Accordingly, registration is refused under Section 2(d) of the Trademark Act.

Although the examining attorney has refused registration, the applicant may respond to the refusal to register by submitting evidence and arguments in support of registration.

#### **Surname Refusal and Section 2(f) Claim – Clarification Needed**

Although the applicant has presented evidence in support of acquired distinctiveness and secondary meaning, the applicant has not made a formal request that the mark in the instant application be registered on the Principal Register pursuant to Trademark Act Section 2(d). The applicant only requests that the surname refusal be withdrawn. The applicant must clarify whether it seeks registration on the Principal Register pursuant to Trademark Act Section 2(f).

#### **Identification and Classification of Goods and Services**

The identification of goods and services remains unacceptable as indefinite and includes goods which appear to be incorrectly classified. TMEP sections 1402.01 and 1402.11. The applicant must amend the identification to clarify the exact nature of the goods and services and to classify the goods correctly.

The applicant may adopt the following identification, if accurate (suggested amendments shown in bold type):

Jewelry, watches and clocks, in INT. CLASS 14;

Texts, periodicals, magazines, brochures, pamphlets, information sheets pertaining to automobiles, their parts, fittings, and accessories; posters, stationery, diaries, calendars, crayons, paper coasters, paper flags, photographs, autograph cards, postcards, photograph and picture albums, greeting cards, decalcomanias, printed signage for application to windows and vehicles and user manuals pertaining to automobiles, their parts, fittings, and accessories; **passport holders and checkbook holders made of leather and imitations of leather**, in INT. CLASS 16;

Leather and imitations of leather and goods made therefrom, namely luggage, wallets, purses, belts, holdalls, handbags, sports bags, briefcases, attaché cases; bags, namely, handbags, sports bags, shopping bags **of [specify type, e.g., textile, leather]**, and carrier bags; umbrellas and parasols, in INT. CLASS 18;

Clothing, namely, underwear and lingerie, trousers, shorts, sports clothing, t-shirts, shirts, jackets, suits for men and for women, stockings, tights, socks, skirts, blouses, neckties, handkerchiefs, raincoats and waterproof **[specify clothing by type, e.g., jackets, pants]**; footwear and headgear, namely, hats, caps, rain hats, and sun visors, in INT. CLASS 25;

Tobacco, smoker's articles, namely, ashtrays, cigarette and cigar holders, cigarette and cigar cases, cigar pincers, cigar and cigarette lighters, matches and match boxes; none of the aforementioned goods being made from precious metals, in INT. CLASS 34;

Insurance services, namely, insurance brokerage, insurance claim **[clarify exact nature of services, e.g., administration, processing]** and underwriting services **in the field of [specify field of services, e.g., accidents]**; loan and credit services, namely, the provision of loan financing and credit **[clarify exact nature of services, e.g., counseling]** services, all relating to automobiles, their parts, fittings, and accessories; warranty services, namely, the provision of **extended** warranties on automobiles, their parts, fittings, and accessories; credit and debit card services, in INT. CLASS 36;

Repair, installation, and maintenance services all relating to automobiles, internal combustion engines and parts and fittings thereof, in INT. CLASS 37.

To the extent the identification of goods and services suggested above is incomplete or inaccurate, the applicant is advised that the *Trademark Acceptable Identification of Goods and Services Manual* is accessible via the USPTO homepage at the following address:

[http://www.uspto.gov/web/offices/tac/doc/gsmannual/](http://www.uspto.gov/web/offices/tac/doc/gsmmanual/).

Please note that, while an application may be amended to clarify or limit the identification, additions to the identification are not permitted. 37 C.F.R. Section 2.71(a); TMEP section 1402.06. Therefore, the applicant may not amend to include any goods or services that are not within the scope of goods or services set forth in the present identification.

**The requirement for clarification of the identification and classification of goods and services is maintained and continued.**

#### **Telephone For Assistance**

If the applicant has any questions or needs assistance in responding to this Office action, please telephone the assigned examining attorney.

/Alicia P. Collins/  
Trademark Examining Attorney  
U.S. Patent and Trademark Office  
Law Office 115  
(571) 272-9147  
(571) 273-9147 (fax)

#### **HOW TO RESPOND TO THIS OFFICE ACTION:**

- **ONLINE RESPONSE:** You may respond formally using the Office's Trademark Electronic Application System (TEAS) Response to Office Action form (visit <http://www.uspto.gov/teas/index.html> and follow the instructions, but if the Office Action has been issued via email, you must wait 72 hours after receipt of the Office Action to respond via TEAS).
- **REGULAR MAIL RESPONSE:** To respond by regular mail, your response should be sent to the mailing return address above and include the serial number, law office number and examining attorney's name in your response.

**STATUS OF APPLICATION:** To check the status of your application, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov>.

**VIEW APPLICATION DOCUMENTS ONLINE:** Documents in the electronic file for pending applications can be viewed and downloaded online at <http://portal.uspto.gov/external/portal/tow>.

**GENERAL TRADEMARK INFORMATION:** For general information about trademarks, please visit the Office's website at <http://www.uspto.gov/main/trademarks.htm>

**FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY SPECIFIED ABOVE.**

# **EXHIBIT 6**

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 76/603955

MARK: BENTLEY

**\*76603955\***

CORRESPONDENT ADDRESS:

BRIAN R. MCGINLEY  
SONNENSCHNEIN NATH & ROSENTHAL LLP  
PO BOX 061080  
CHICAGO IL 60606-1080

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: Bentley Motors Limited

CORRESPONDENT'S REFERENCE/DOCKET NO :

70022850.000

CORRESPONDENT E-MAIL ADDRESS:

EXAMINER'S AMENDMENT

ISSUE/MAILING DATE:

**OFFICE SEARCH:** The examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). TMEP section 704.02.

**AMENDMENT:** In accordance with the authorization granted by Brian R. McGinley on November 7, 2007, the application has been AMENDED as indicated below. Please advise the undersigned immediately if there is an objection to the amendment. Otherwise, no response is necessary. TMEP §707.

Serial Number: 76/603955 – BENTLEY

If the identification of goods or services has been amended, please note that any future amendments must be in accordance with 37 C.F.R. 2.71(a); TMEP section 1402.07(e).

**Prior Pending Application**

Prior pending Application Serial No. 76/266842 has abandoned.

**Likelihood of Confusion Refusal Withdrawn**

The refusal based on a likelihood of confusion with the mark in U.S. Registration Nos. 2,932,701; 2,689,982; 2,096,186; 2,096,184; 2,007,286; 1,468,666; and 820,916 is withdrawn.

**Identification of Goods and Services**

The identification of goods and services is amended to read as follows (amendments shown in bold type):

Jewelry, watches and clocks, **all of the foregoing sold exclusively by authorized dealers**, in INT. CLASS 14;

Texts, periodicals, magazines, brochures, pamphlets, information sheets pertaining to automobiles, their parts, fittings, and accessories; posters, stationery, diaries, calendars, paper coasters, paper flags, photographs, autograph cards, postcards, photograph and picture albums, greeting cards, decalcomanias, printed signage for application to windows and vehicles and user manuals pertaining to automobiles, their parts, fittings, and accessories; passport holders and checkbook holders made of leather and imitations of leather, **all of the foregoing sold exclusively by authorized dealers**, in INT. CLASS 16;

Leather and imitations of leather and goods made therefrom, namely luggage, wallets, purses, belts, holdalls, handbags, sports bags, briefcases, attaché cases, passport holders and checkbook holders; bags, namely, handbags, sports bags, shopping bags of textile, leather and imitations of leather, and carrier bags; umbrellas and parasols, **all of the foregoing sold exclusively by authorized dealers**, in INT. CLASS 18;

Clothing, namely, underwear and lingerie, trousers, shorts, sports clothing, t-shirts, shirts, jackets, suits for men and for women,

stockings, tights, socks, skirts, blouses, neckties, handkerchiefs, raincoats and waterproof jackets, coats and trousers; footwear and headgear, namely, hats, caps, rain hats, and sun visors, **all of the foregoing sold exclusively by authorized dealers**, in INT. CLASS 25;

Tobacco, smoker's articles, namely, ashtrays, cigarette and cigar holders, cigarette and cigar cases, cigar pincers, cigar and cigarette lighters, matches and match boxes; none of the aforementioned goods being made from precious metals, **all of the foregoing sold exclusively by authorized dealers**, in INT. CLASS 34;

Insurance services, namely, insurance brokerage, insurance claim administration and processing services and underwriting services for all types of insurance; loan and credit services, namely, the provision of loan financing and credit counseling and rating services, all relating to automobiles, their parts, fittings, and accessories; extended warranty services, namely, the provision of warranties on automobiles, their parts, fittings, and accessories; credit and debit card services, **all of the foregoing sold exclusively by authorized dealers**, in INT. CLASS 36;

Repair, installation, and maintenance services all relating to automobiles, internal combustion engines and parts and fittings thereof, **all of the foregoing sold exclusively by authorized dealers**, in INT. CLASS 37.

/Alicia P. Collins/  
Trademark Examining Attorney  
U.S. Patent and Trademark Office  
Law Office 115  
(571) 272-9147  
(571) 273-9147 (fax)

**STATUS CHECK:** Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

# **EXHIBIT 7**

**To:** Bentley Motors Ltd ([trademarkdocket@jmbm.com](mailto:trademarkdocket@jmbm.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 86092070 - B BENTLEY - 58389-0070  
**Sent:** 1/30/2014 5:11:34 PM  
**Sent As:** ECOM114@USPTO.GOV  
**Attachments:** [Attachment - 1](#)  
[Attachment - 2](#)  
[Attachment - 3](#)  
[Attachment - 4](#)  
[Attachment - 5](#)  
[Attachment - 6](#)  
[Attachment - 7](#)  
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[Attachment - 15](#)  
[Attachment - 16](#)  
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[Attachment - 21](#)  
[Attachment - 22](#)  
[Attachment - 23](#)

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

U.S. APPLICATION SERIAL NO. 86092070

MARK: B BENTLEY

**\*86092070\***

**CORRESPONDENT ADDRESS:**

BERNARD R. GANS  
JEFFER MANGELS BUTLER & MITCHELL LLP  
1900 AVENUE OF THE STARS FL 7  
LOS ANGELES, CA 90067-4308

**CLICK HERE TO RESPOND TO THIS LETTER:**  
[http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp)

**APPLICANT:** Bentley Motors Ltd

**CORRESPONDENT'S REFERENCE/DOCKET NO :**

58389-0070

**CORRESPONDENT E-MAIL ADDRESS:**

trademarkdocket@jmbm.com

**OFFICE ACTION**

**STRICT DEADLINE TO RESPOND TO THIS LETTER**

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

**ISSUE/MAILING DATE: 1/30/2014**

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

## **Section 2(d) Refusals – Likelihood of Confusion**

THESE REFUSALS APPLY ONLY TO THE GOODS SPECIFIED THEREIN

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration Nos. 1462683 and 2007286, 2096184, 2096186. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registrations. Please note the latter three have the same owner.

### Registration No. 1462683

In a likelihood of confusion determination, the marks in their entireties are compared for similarities in appearance, sound, connotation, and commercial impression. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973); TMEP §1207.01(b)-(b)(v).

In the present case, applicant's mark is BENTLEY AND B design and registrant's mark is BENTLEY.

The mere addition of a term to a registered mark generally does not obviate the similarity between the marks nor does it overcome a likelihood of confusion under Trademark Act Section 2(d). *See In re Chatam Int'l Inc.*, 380 F.3d 1340, 71 USPQ2d 1944 (Fed. Cir. 2004) (GASPAR'S ALE and JOSE GASPAR GOLD); *Coca-Cola Bottling Co. v. Jos. E. Seagram & Sons, Inc.*, 526 F.2d 556, 188 USPQ 105 (C.C.P.A. 1975) (BENGAL and BENGAL LANCER); *Lilly Pulitzer, Inc. v. Lilli Ann Corp.*, 376 F.2d 324, 153 USPQ 406 (C.C.P.A. 1967) (THE LILLY and LILLI ANN); *In re Toshiba Med. Sys. Corp.*, 91 USPQ2d 1266 (TTAB 2009) (TITAN and VANTAGE TITAN); *In re El Torito Rests., Inc.*, 9 USPQ2d 2002 (TTAB 1988) (MACHO and MACHO COMBOS); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) (CONFIRM and CONFIRMCELLS); *In re U.S. Shoe Corp.*, 229 USPQ 707 (TTAB 1985) (CAREER IMAGE and CREST CAREER IMAGES); *In re Riddle*, 225 USPQ 630 (TTAB 1985) (ACCUTUNE and RICHARD PETTY'S ACCU TUNE); TMEP §1207.01(b)(iii).

In this case, the applicant has merely added the letter B and design to the registered mark of BENTLEY. Thus, the parties share the wording BENTLEY. Consumers would focus on the full name as the source of the goods.

In addition, the connotation and commercial impression of the marks do not differ when considered in connection with applicant's and registrant's respective goods and/or services.

Therefore, the marks are confusingly similar.

The goods and/or services of the parties need not be identical or even competitive to find a likelihood of confusion. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000) (“[E]ven if the goods in question are different from, and thus not related to, one another in kind, the same goods can be related in the mind of the consuming public as to the origin of the goods.”); TMEP §1207.01(a)(i).

The respective goods and/or services need only be “related in some manner and/or if the circumstances surrounding their marketing [be] such that they could give rise to the mistaken belief that [the goods and/or services] emanate from the same source.” *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012) (quoting *7-Eleven Inc. v. Wechsler*, 83 USPQ2d 1715, 1724 (TTAB 2007)); *Gen. Mills Inc. v. Fage Dairy Processing Indus. SA*, 100 USPQ2d 1584, 1597 (TTAB 2011); TMEP §1207.01(a)(i).

Here, the applicant's goods “lighting apparatus and equipment; light fittings; decorative lighting; lamps; ceiling lights; chandeliers” are closely related to registrant's goods “ceiling fans” because the goods are often sold together as a combination light and ceiling unit.

The attached Internet evidence consists of third party retail websites selling lighting fixtures and fans. This evidence establishes that the relevant goods and/or services are sold or provided through the same trade channels and used by the same classes of consumers in the same fields of use. Therefore, applicant's and registrant's goods and/or services are considered related for likelihood of confusion

purposes. *See, e.g., In re Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1202-04 (TTAB 2009); *In re Toshiba Med. Sys. Corp.*, 91 USPQ2d 1266, 1268-69, 1271-72 (TTAB 2009).

Evidence obtained from the Internet may be used to support a determination under Trademark Act Section 2(d) that goods and/or services are related. *See, e.g., In re G.B.I. Tile & Stone, Inc.*, 92 USPQ2d 1366, 1371 (TTAB 2009); *In re Paper Doll Promotions, Inc.*, 84 USPQ2d 1660, 1668 (TTAB 2007).

Further, the application uses broad wording to describe the goods, namely “ceiling fixtures” and this wording is presumed to encompass all goods and/or services of the type described, including those in registrant’s more narrow identification.

Accordingly, the goods of applicant and the registrant(s) are considered related for purposes of the likelihood of confusion analysis.

Upon encountering similar marks and identical and closely related goods, consumers would mistakenly believe that applicant’s goods and registrant’s goods emanate from a common source, and thus a likelihood of confusion as to source would result. Therefore, applicant’s mark is not entitled to registration.

Registration Nos. 2007286, 2096184, 2096186

In a likelihood of confusion determination, the marks in their entireties are compared for similarities in appearance, sound, connotation, and commercial impression. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973); TMEP §1207.01(b)-(b)(v).

In the present case, applicant’s mark is BENTLEY AND B design and registrant’s mark is BENTLEY.

The mere addition of a term to a registered mark generally does not obviate the similarity between the marks nor does it overcome a likelihood of confusion under Trademark Act Section 2(d). *See In re Chatam Int’l Inc.*, 380 F.3d 1340, 71 USPQ2d 1944 (Fed. Cir. 2004) (GASPAR’S ALE and JOSE GASPAR GOLD); *Coca-Cola Bottling Co. v. Jos. E. Seagram & Sons, Inc.*, 526 F.2d 556, 188 USPQ 105 (C.C.P.A. 1975) (BENGAL and BENGAL LANCER); *Lilly Pulitzer, Inc. v. Lilli Ann Corp.*, 376 F.2d 324, 153 USPQ 406 (C.C.P.A. 1967) (THE LILLY and LILLI ANN); *In re Toshiba Med. Sys. Corp.*, 91 USPQ2d 1266 (TTAB 2009) (TITAN and VANTAGE TITAN); *In re El Torito Rests., Inc.*, 9 USPQ2d 2002 (TTAB 1988) (MACHO and MACHO COMBOS); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) (CONFIRM and CONFIRMCELLS); *In re U.S. Shoe Corp.*, 229 USPQ 707 (TTAB 1985) (CAREER IMAGE and CREST CAREER IMAGES); *In re Riddle*, 225 USPQ 630 (TTAB 1985) (ACCUTUNE and RICHARD PETTY’S ACCU TUNE); TMEP §1207.01(b)(iii).

In this case, the applicant has merely added the letter B and design to the registered mark of BENTLEY. Thus, the parties share the wording BENTLEY. Consumers would focus on the full name as the source of the goods.

In addition, the connotation and commercial impression of the marks do not differ when considered in connection with applicant’s and registrant’s respective goods and/or services.

Therefore, the marks are confusingly similar.

With respect to applicant’s and registrant’s goods and/or services, the question of likelihood of confusion is determined based on the description of the goods and/or services stated in the application and registration at issue, not on extrinsic evidence of actual use. *See, e.g., Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369-70, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012); *Octocom Sys. Inc. v. Hous. Computers Servs. Inc.*, 918 F.2d 937, 942, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990).

Absent restrictions in an application and/or registration, the identified goods and/or services are “presumed to travel in the same channels of trade to the same class of purchasers.” *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1268, 62 USPQ2d 1001, 1005 (Fed. Cir. 2002)). Additionally, unrestricted and broad identifications are presumed to encompass all goods and/or services of the type described. *See In re Jump Designs, LLC*, 80 USPQ2d 1370, 1374 (TTAB 2006) (citing *In re Elbaum*, 211 USPQ 639, 640 (TTAB 1981)); *In re Linkvest S.A.*, 24 USPQ2d 1716, 1716 (TTAB 1992).

In this case, the identification set forth in the application and registration(s) has no restrictions as to nature, type, channels of trade, or classes of purchasers. Therefore, it is presumed that these goods travel in all normal channels of trade, and are available to the same class of purchasers. Further, the application uses broad wording to describe the goods, namely “precious metals and their alloys,” “jewellery and cufflinks” “jewellery and cuff link boxes,” “watches” and “writing implements, pens, pencils, stands for pens and pencils, holders for pens and pencils” and this wording is presumed to encompass all goods of the type described, including those in registrant’s more narrow identification.

Accordingly, the goods of applicant and the registrants are considered related for purposes of the likelihood of confusion analysis.

Upon encountering similar marks and identical and closely related goods, consumers would mistakenly believe that applicant's goods and registrant's goods emanate from a common source, and thus a likelihood of confusion as to source would result. Therefore, applicant's mark is not entitled to registration.

Although applicant's mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration.

### **Identification and Classification of Goods**

Some the wording in the identification of goods is indefinite and must be clarified. *See* TMEP §1402.01. Specifically, the wording does not make clear the nature of the articles that are included. Moreover, some of the wording includes goods in other classes. Applicant must amend the identification to specify the common commercial name of the goods. If there is no common commercial name, applicant must describe the product and its intended uses. *See id.* See the suggestions below.

Applicant may adopt the following identification of goods, if accurate:

#### Class 06

**Metal key rings; metal key trays**

#### Class 11

Lighting apparatus and equipment, **namely, [specify, e.g., lighting installations]; ceiling light fittings;** decorative lighting **in the nature of electrically-illuminated [specify type, e.g., figurines, lanterns];** lamps; table lamps; floor lamps; applique lamps; wall lamps; wall lights; **ceiling light fixtures;** ceiling lights; chandeliers; lampshades; lampstands;

#### Class 14

Precious metals and their alloys; jewellery, watches and clocks; table clocks; desk clocks; cufflinks; jewellery boxes; cuff link boxes; **key rings of precious metal; key trays of precious metal**

#### Class 16

Money clips; desk sets; stationery; writing implements; pens; pencils; letter openers; **desktop business card holders;** stands for pens and pencils; holders for pens and pencils; **desk file trays;** letter trays; letter racks; **document folders in the form of wallets;** desk pads; photograph albums; **printed photobooks;** diaries; **paper coasters;** calendars; paper clip holders; paperweights; desk blotters

#### Class 18

**Credit card holders; leather and imitation leather; leather and imitation leather goods, namely, [specify, e.g., purses]; [specify, e.g., carrying] bags;** briefcases; **[specify, e.g., attaché] cases;** holdalls; wallets; purses; luggage; umbrellas; leather trimmings for furniture

#### Class 20

**Non-metal key rings; non-metal key trays; plastic coasters;** photograph frames and picture frames; **fitted furniture coverings of leather;** furniture; living room furniture; bedroom furniture; bathroom furniture; dining room furniture; **seating furniture;** chairs; armchairs; sofas; settees; sofa beds; beds; bed frames; **wood bedsteads;** bed heads; **bed headboards;** tables; desks; dining tables; side tables; dressing tables; coffee tables; bedside tables; writing tables; **television console tables;** console tables; cabinets; bedside cabinets; display cabinets; storage cabinets; container cabinets; drawers; chests of drawers; drawer units; storage drawers; dividers for drawers; shelving; bookshelves; **folding floor screens;** folding partition screens; book rests; magazine racks; magazine holders; mirrors; mirror frames; mirror stands; photograph frames; picture frames; cushions; **[specify goods, e.g., drawer pulls]** of wood, cork, reed, cane, wicker, shell, amber, mother of pearl, meerschaum and substitutes for these materials

#### Class 21

Candle holders and candlesticks

#### Class 24

**Coasters of textile; unfitted furniture coverings of leather; textiles and textile goods, namely, [specify, e.g., curtains];** cushion covers; **plaids, namely, woven patterned fabrics;** bed covers; duvets; duvet covers; bed linen; **bed blankets; table covers of textile; table cloths of textile; place mats of textile; table mats of textile; drinks mats of textile;** table linen; **table settings, namely, [specify, e.g., table pads]; place settings, namely, [specify, e.g., table napkins of textile]**

#### Class 25

Three piece suits

See TMEP §1402.01.

#### Class Fees

The application identifies goods that are classified in at least 9 classes; however, applicant submitted a fee sufficient for only 1 class. In a multiple-class application, a fee for each class is required. 37 C.F.R. §2.86(a)(2); TMEP §§810.01, 1403.01. Therefore, applicant must either (1) restrict the application to the number of classes covered by the fees already paid, or (2) submit the fees for each additional class.

The filing fees for adding classes to an application are as follows:

(1) \$325 per class, when the fees are submitted with an electronic response filed online at <http://www.uspto.gov/teas/index.html>, via the Trademark Electronic Application System (TEAS); or

(2) \$375 per class, when the fees are submitted with a paper response.

37 C.F.R. §2.6(a)(1)(i)-(a)(1)(ii); TMEP §§810, 1403.02(c).

#### Additions to Identification Not Permitted

An applicant may amend an identification of goods only to clarify or limit the goods; adding to or broadening the scope of the goods is not permitted. 37 C.F.R. §2.71(a); see TMEP §§1402.06 *et seq.*, 1402.07 *et seq.*

For assistance with identifying and classifying goods and/or services in trademark applications, please see the online searchable *Manual of Acceptable Identifications of Goods and Services* at <http://tess2.uspto.gov/netathtml/tidm.html>. See TMEP §1402.04.

#### Section 1(b) Requirements for Combined Applications

For an application with more than one international class, called a “multiple-class application,” an applicant must meet all of the requirements below for those international classes based on an intent to use the mark in commerce under Trademark Act Section 1(b):

- (1) LIST GOODS/SERVICES BY INTERNATIONAL CLASS: Applicant must list the goods and/or services by international class; and
- (2) PROVIDE FEES FOR ALL INTERNATIONAL CLASSES: Applicant must submit an application filing fee for each international class of goods and/or services not covered by the fee(s) already paid (confirm current fee information at <http://www.uspto.gov>, click on “View Fee Schedule” under the column titled “Trademarks”).

See 15 U.S.C. §§1051(b), 1112, 1126(e); 37 C.F.R. §§2.34(a)(2)-(3), 2.86(a); TMEP §§1403.01, 1403.02(c).

#### **Ownership Claim of Prior Registrations**

It appears applicant owns many U.S. Registrations bearing the letter B and wing design and the mark BENTLEY. Applicant must submit for the application record a claim of ownership of these registrations. See 37 C.F.R. §2.36; TMEP §812. See some attached copies of the registrations. See TMEP §812.

Applicant may use the following format to claim ownership of the registrations:

Applicant is the owner of U.S. Registration Nos. 0344524, 0646403, 3998345 AND OTHERS.

/William T. Verhosek/  
William T. Verhosek  
Examining Attorney  
USPTO/Law Office 114  
571-272-9464  
william.verhosek@uspto.gov

**TO RESPOND TO THIS LETTER:** Go to [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp). Please wait 48-72 hours from the issue/mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov). For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions;**

therefore, do not respond to this Office action by e-mail.

All informal e-mail communications relevant to this application will be placed in the official application record.

**WHO MUST SIGN THE RESPONSE:** It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov) or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

**To:** Bentley Motors Ltd ([trademarkdocket@jmbm.com](mailto:trademarkdocket@jmbm.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 86092070 - B BENTLEY - 58389-0070  
**Sent:** 1/30/2014 5:11:34 PM  
**Sent As:** ECOM114@USPTO.GOV  
**Attachments:**

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

**IMPORTANT NOTICE REGARDING YOUR  
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED  
ON **1/30/2014** FOR U.S. APPLICATION SERIAL NO. 86092070

Please follow the instructions below:

**(1) TO READ THE LETTER:** Click on this [link](#) or go to <http://tsdr.uspto.gov>, enter the U.S. application serial number, and click on "Documents."

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

**(2) TIMELY RESPONSE IS REQUIRED:** Please carefully review the Office action to determine (1) how to respond, and (2) the applicable response time period. Your response deadline will be calculated from **1/30/2014** (or sooner if specified in the Office action). For information regarding response time periods, see <http://www.uspto.gov/trademarks/process/status/responsetime.jsp>.

**Do NOT hit "Reply" to this e-mail notification, or otherwise e-mail your response** because the USPTO does NOT accept e-mails as responses to Office actions. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System (TEAS) response form located at [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp).

**(3) QUESTIONS:** For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail [TSDR@uspto.gov](mailto:TSDR@uspto.gov).

**WARNING**

**Failure to file the required response by the applicable response deadline will result in the ABANDONMENT of your application.** For more information regarding abandonment, see <http://www.uspto.gov/trademarks/basics/abandon.jsp>.

**PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION:** Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay "fees."

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the "United States Patent and Trademark Office" in Alexandria, VA; or sent by e-mail from the domain "@uspto.gov." For more information on how to handle private company solicitations, see [http://www.uspto.gov/trademarks/solicitation\\_warnings.jsp](http://www.uspto.gov/trademarks/solicitation_warnings.jsp).

# **EXHIBIT 8**

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**Word Mark** BENTLEY

**Goods and Services** IC 014. US 002 027 028 050. G & S: watches, watch bands, watch chains and watchcases.  
FIRST USE: 19480212. FIRST USE IN COMMERCE: 19950515

**Mark Drawing Code** (1) TYPED DRAWING

**Serial Number** 74661347

**Filing Date** April 14, 1995

**Current Basis** 1A

**Original Filing Basis** 1B

**Date Amended to Current Register** July 16, 1996

**Registration Number** **2007286**

**Registration Date** October 8, 1996

**Owner** (REGISTRANT) AUCERA TECHNOLOGY, CORP. CORPORATION TAIWAN 7FL., NO.216, SEC. 2, NANKING E. RD. TAIPEI TAIWAN  
  
(LAST LISTED OWNER) AUCREA, SA CORPORATION BY ASSIGNMENT SWITZERLAND RUE DE LA GARE 20 LE LANDERSON SWITZERLAND CH-2525

**Assignment Recorded** ASSIGNMENT RECORDED

**Attorney of Record** James M. Slattery

**Type of Mark** TRADEMARK

**Register** SUPPLEMENTAL

**Affidavit Text** SECT 8 (6-YR). SECTION 8(10-YR) 20061218.

**Renewal** 1ST RENEWAL 20061218

**Live/Dead Indicator** LIVE

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# **EXHIBIT 9**

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**Word Mark** BENTLEY

**Goods and Services** IC 014. US 002 027 028 050. G & S: jewelry bracelets, bracelets of precious metal, diamonds, earrings, jewelry, jewelry pins, pearls, jewelry boxes of precious metal, and jewelry cases of precious metal. FIRST USE: 19960201. FIRST USE IN COMMERCE: 19960301

**Mark Drawing Code** (1) TYPED DRAWING

**Serial Number** 75183918

**Filing Date** October 18, 1996

**Current Basis** 1A

**Original Filing Basis** 1A

**Date Amended to Current Register** July 1, 1997

**Registration Number** 2096184

**Registration Date** September 9, 1997

**Owner** (REGISTRANT) AUCERA SA CORPORATION SWITZERLAND Rue de la Gare 20 CH-2525 Le Landerson SWITZERLAND

**Attorney of Record** JAMES M SLATTERY

**Type of Mark** TRADEMARK

**Register** SUPPLEMENTAL

**Affidavit Text** SECT 8 (6-YR). SECTION 8(10-YR) 20070919.

**Renewal** 1ST RENEWAL 20070919

**Live/Dead Indicator** LIVE

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# **EXHIBIT 10**

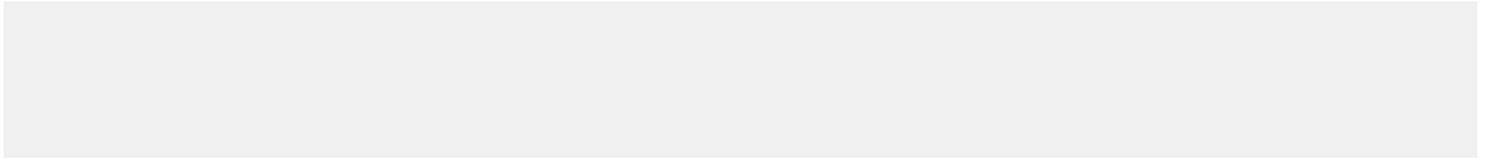
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<b>Word Mark</b>	BENTLEY
<b>Goods and Services</b>	IC 016. US 002 005 022 023 029 037 038 050. G & S: ball-point pens, fountain pens, pen clips, pens, pen cases and writing ink. FIRST USE: 19960201. FIRST USE IN COMMERCE: 19960301
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	75183921
<b>Filing Date</b>	October 18, 1996
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Date Amended to Current Register</b>	July 1, 1997
<b>Registration Number</b>	<b>2096186</b>
<b>Registration Date</b>	September 9, 1997
<b>Owner</b>	(REGISTRANT) AUCERA SA CORPORATION SWITZERLAND Rue de la Gare 20 CH-2525 SWITZERLAND
<b>Attorney of Record</b>	JAMES M SLATTERY
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	SUPPLEMENTAL
<b>Affidavit Text</b>	SECT 8 (6-YR). SECTION 8(10-YR) 20070917.
<b>Renewal</b>	1ST RENEWAL 20070917
<b>Live/Dead Indicator</b>	LIVE

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# **EXHIBIT 11**

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

In the matter of trademark Registration No.: 2007286, 2096184, 2096186  
For the mark: BENTLEY

BENTLEY MOTORS LIMITED,

Petitioner,

v.

AUCERA SA,

Registrant.

Cancellation No.: 92060353

**REGISTRANT’S FIRST SUPPLEMENTAL RESPONSES AND OBJECTIONS TO  
PETITIONER’S FIRST SET OF INTERROGATORIES**

Pursuant to Rule 2.120 of the Trademark Rules of Practice, Trademark Trial and Appeal Board Manual of Procedure § 405, and Rule 33 of the Federal Rules of Civil Procedure, Registrant Aucera SA (“Aucera” or “Registrant”) hereby provides these first supplemental responses and objections to the First Set of Interrogatories served by Petitioner Bentley Motors Limited (“Petitioner”).

The following responses and objections are based upon Registrant’s knowledge, information, and belief at this time. Registrant has made a reasonable and good faith effort to respond. However, Registrant has not yet completed its investigation related to this action, nor has it completed discovery or preparation for trial. The responses contained herein are based solely upon the information presently available and specifically known to Registrant. It is anticipated that further discovery, independent investigation, legal research, and analysis may supply additional facts and establish entirely new factual conclusions and legal contentions, all of which may lead to the discovery of additional information, thereby resulting in additions to,

changes in, and variations from these responses. Registrant specifically reserves the right to amend these responses should additional information become available and to use such information.

### **GENERAL OBJECTIONS**

Registrant makes the following general objections, whether or not separately set forth in response to each and every instruction, definition and interrogatories:

1. Registrant objects to the Interrogatories as overbroad and seeking information that is not relevant to the parties' claims or defenses.

2. Registrant objects to the Interrogatories to the extent that they purport to impose obligations on Registrant that exceed its obligations under the Federal Rules of Civil Procedure and/or the Trademark Trial and Appeal Board Manual of Procedure.

3. Registrant objects to the definition of "Aucera" as overly broad, and calling for information outside the possession, custody, and control of Aucera SA, as it includes "Aucera SA, its predecessors or successors in interest, any parent, subsidiary, affiliate and division, and any present or former officers, directors, agents, consultants, representatives, employees or other persons acting or purporting to act on any of those entities' behalf."

4. Registrant objects to the definition of "Aucera Mark" as overbroad and seeking documents that are not relevant to the parties' claims or defenses to the extent that it includes the language "as well as any other goods or services." Registrant will respond to the requests as if the definition of "Aucera Mark" did not include the wording "as well as any other goods or services."

5. Registrant objects to the Interrogatories to the extent that they are vague, ambiguous, and unclear, including Petitioner's use of terms that are not defined and/or are otherwise susceptible to more than one meaning.

## **FIRST SUPPLEMENTAL RESPONSES AND OBJECTIONS**

1. Identify every Person who may have knowledge or information regarding your Answer.

**Response:** Registrant objects to the extent that this interrogatory is overly broad and unduly burdensome. Notwithstanding and subject to the objection, Registrant responds: Chia-Hsiang, Cheng.

2. Identify all uses in US commerce of the Aucera Mark by you or on Your behalf from November 10, 2011 – present.

**Response:** Registrant objects to the extent that this interrogatory is overly broad and unduly burdensome. Registrant further objects to the extent that the term “Aucera Mark” is not defined in the definitions. Notwithstanding and subject to the objections, Registrant responds: Please see the attached documents and the following websites:

<http://blountjewels.com/brands/Bentley.html?page=1&sort=featured> and

<http://www.bentleyluxury.com/distribution.php?type=retailers>.

**First Supplemental Response:** Pursuant to Federal Rule of Civil Procedure 33(d), Registrant additionally refers to documents produced with Bates numbers AUCERA00001-14, 26, and 60.

3. Identify all licensees of the Aucera Mark and uses of the Aucera Mark by any licensee or on its behalf from November 10, 2011 – present.

**Response:** Registrant objects to the extent that this interrogatory is overly broad and unduly burdensome. Registrant further objects to the extent that the term “Aucera Mark” is not defined in the definitions. Notwithstanding and subject to the objections, Registrant responds: Registrant is unaware of any licensees of Aucera’s BENTLEY mark or uses of Aucera’s BENTLEY mark by any licensee or on its behalf from November 10, 2011 – present.

Dated: March 11, 2016

By: /s/ Jennifer A. Golinveaux  
Jennifer A. Golinveaux  
WINSTON & STRAWN LLP  
101 California Street, 35<sup>th</sup> Floor  
San Francisco, CA 94111-5894  
Telephone: 415-591-1000  
Facsimile: 415-591-1400  
Email: jgolinveaux@winston.com

Diana Hughes Leiden  
WINSTON & STRAWN LLP  
333 South Grand Avenue  
Los Angeles, CA 90071  
Telephone: 213-615-1700  
Facsimile: 213-615-1750  
Email: dhleiden@winston.com

*Attorneys for Registrant Aucera SA*

**CERTIFICATE OF SERVICE**

re: BENTLEY MOTORS LIMITED v. AUCERA SA

I hereby certify that a true and complete copy of the foregoing:

**REGISTRANT AUCERA SA'S FIRST SUPPLEMENTAL RESPONSES TO  
PETITIONER'S FIRST SET OF INTERROGATORIES**

has been served on

- (1) Petitioner's counsel of record by mailing said copy on  
March 11, 2016 via First Class Mail, postage prepaid, to:

ROD S. BERMAN  
JESSICA BROMALL SPARKMAN  
JEFFER MANGELS BUTLER & MITCHELL LLP  
1900 AVENUE OF THE STARS, SEVENTH FLOOR  
LOS ANGELES, CA 90067

/s/ Ann Newman  
Ann Newman

# **EXHIBIT 12**

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

In the matter of trademark Registration No.: 2007286, 2096184, 2096186  
For the mark: BENTLEY

BENTLEY MOTORS LIMITED,

Petitioner,

v.

AUCERA SA,

Registrant.

Cancellation No.: 92060353

**REGISTRANT AUCERA SA'S FIRST SUPPLEMENTAL RESPONSES TO  
PETITIONER'S SECOND SET OF INTERROGATORIES**

Pursuant to Rule 2.120 of the Trademark Rules of Practice, Trademark Trial and Appeal Board Manual of Procedure § 405, and Rule 33 of the Federal Rules of Civil Procedure, Registrant Aucera SA ("Aucera" or "Registrant") hereby provides these first supplemental responses to the Second Set of Interrogatories served by Petitioner Bentley Motors Limited ("Petitioner").

The following responses and objections are based upon Registrant's knowledge, information, and belief at this time. Registrant has made a reasonable and good faith effort to respond. However, Registrant has not yet completed its investigation related to this action, nor has it completed discovery or preparation for trial. The responses contained herein are based solely upon the information presently available and specifically known to Registrant. It is anticipated that further discovery, independent investigation, legal research, and analysis may supply additional facts and establish entirely new factual conclusions and legal contentions, all of which may lead to the discovery of additional information, thereby resulting in additions to, changes in, and variations from these responses. Registrant specifically reserves the right to

amend these responses should additional information become available and to use such information.

### **GENERAL OBJECTIONS**

Registrant makes the following general objections, whether or not separately set forth in response to each and every instruction, definition and interrogatories:

1. Registrant objects to the Interrogatories as overbroad and seeking information that is not relevant to the parties' claims or defenses.

2. Registrant objects to the Interrogatories to the extent that they purport to impose obligations on Registrant that exceed its obligations under the Federal Rules of Civil Procedure and/or the Trademark Trial and Appeal Board Manual of Procedure.

3. Registrant objects to the definition of "Aucera" as overly broad, and calling for information outside the possession, custody, and control of Aucera SA, as it includes "Aucera SA, its predecessors or successors in interest, any parent, subsidiary, affiliate and division, and any present or former officers, directors, agents, consultants, representatives, employees or other persons acting or purporting to act on any of those entities' behalf."

4. Registrant objects to the definition of "Aucera Mark" as overbroad and seeking documents that are not relevant to the parties' claims or defenses to the extent that it includes the language "as well as any other goods or services." Registrant will respond to the requests as if the definition of "Aucera Mark" did not include the wording "as well as any other goods or services."

5. Registrant objects to the Interrogatories to the extent that they are vague, ambiguous, and unclear, including Petitioner's use of terms that are not defined and/or are otherwise susceptible to more than one meaning.

### **FIRST SUPPLEMENTAL RESPONSES TO INTERROGATORIES**

#### **INTERROGATORY NO. 21**

Describe in detail how and when you created, selected, acquired, or otherwise came to own the Aucera Mark.

**RESPONSE TO INTERROGATORY NO. 23**

In addition to its General Objections Registrant objects to the request as vague and ambiguous. Subject to its General and Specific Objections, Registrant responds as follows: The date on which Aucera SA first transported goods bearing the Aucera Mark into the United States was in or about 1995.

**INTERROGATORY NO. 24**

State the date on which you first sold a watch bearing the Aucera Mark in the United States.

**RESPONSE TO INTERROGATORY NO. 24**

In addition to its General Objections Registrant objects to the request as vague and ambiguous. Subject to its General and Specific Objections, Registrant responds as follows: The date on which Aucera SA first transported watches bearing the Aucera Mark into the United States was in or about 1995.

**INTERROGATORY NO. 25**

State the date on which you first sold a piece of jewelry bearing the Aucera Mark in the United States.

**RESPONSE TO INTERROGATORY NO. 25**

In addition to its General Objections Registrant objects to the request as vague and ambiguous. Subject to its General and Specific Objections, Registrant responds as follows: The date on which Aucera SA first transported jewelry bearing the Aucera Mark into the United States was in or about 1995.

**INTERROGATORY NO. 26**

State the date on which you first sold a pen bearing the Aucera Mark in the United States.

**RESPONSE TO INTERROGATORY NO. 26**

In addition to its General Objections Registrant objects to the request as vague and ambiguous. Subject to its General and Specific Objections, Registrant responds as follows: The

date on which Aucera SA first transported pens bearing the Aucera Mark into the United States was in or about 1996.

**INTERROGATORY NO. 27**

For each year from 1995 through the present, state the annual dollar value of your sales of goods bearing the Aucera Mark in or to the United States.

**RESPONSE TO INTERROGATORY NO. 27**

In addition to its General Objections, Registrant objects to this interrogatory on the grounds that it is overly broad and unduly burdensome. Pursuant to Federal Rule of Civil Procedure 33(d), Registrant has produced documents and business records relevant to this Interrogatory and will produce any additional responsive documents.

**INTERROGATORY NO. 28**

For each year from 1995 through the present, state the total number of goods bearing the Aucera Mark sold in the United States.

**RESPONSE TO INTERROGATORY NO. 28**

In addition to its General Objections, Registrant objects to this interrogatory on the grounds that it is overly broad and unduly burdensome. Pursuant to Federal Rule of Civil Procedure 33(d), Registrant has produced documents and business records relevant to this Interrogatory and will produce any additional responsive documents.

**INTERROGATORY NO. 29**

For each year from 1995 through the present, state the annual dollar value of your expenditures for advertising or promoting goods bearing the Aucera Mark in or to the United States.

**RESPONSE TO INTERROGATORY NO. 29**

In addition to its General Objections, Registrant objects to this interrogatory on the grounds that it is overly broad and unduly burdensome and seeking information irrelevant to the parties' claims and defenses. Pursuant to Federal Rule of Civil Procedure 33(d), Registrant will produce documents and business records relevant to this Interrogatory, if any exist.

**INTERROGATORY NO. 30**

For each year from 1995 through the present, state the annual dollar value of your sales of watches bearing the Aucera Mark in or to the United States.

**RESPONSE TO INTERROGATORY NO. 30**

In addition to its General Objections, Registrant objects to this interrogatory on the grounds that it is overly broad. Pursuant to Federal Rule of Civil Procedure 33(d), Registrant has produced documents and business records relevant to this Interrogatory and will produce any additional responsive documents.

**INTERROGATORY NO. 31**

For each year from 1995 through the present, state the total number of watches bearing the Aucera Mark sold in or to the United States.

**RESPONSE TO INTERROGATORY NO. 31**

In addition to its General Objections, Registrant objects to this interrogatory on the grounds that it is overly broad. Pursuant to Federal Rule of Civil Procedure 33(d), Registrant has produced documents and business records relevant to this Interrogatory and will produce any additional responsive documents.

**INTERROGATORY NO. 32**

For each year from 1995 through the present, state the annual dollar value of your expenditures for advertising or promoting watches bearing the Aucera Mark in or to the United States.

**RESPONSE TO INTERROGATORY NO. 32**

In addition to its General Objections, Registrant objects to this interrogatory on the grounds that it is overly broad and seeking information irrelevant to the parties' claims and defenses. Pursuant to Federal Rule of Civil Procedure 33(d), Registrant will produce documents and business records relevant to this Interrogatory, if any exist.

**INTERROGATORY NO. 33**

For each year from 1995 through the present, state the annual dollar value of your sales of jewelry bearing the Aucera Mark in or to the United States.

**RESPONSE TO INTERROGATORY NO. 33**

In addition to its General Objections, Registrant objects to this interrogatory on the grounds that it is overly broad. Pursuant to Federal Rule of Civil Procedure 33(d), Registrant has produced documents and business records relevant to this Interrogatory and will produce any additional responsive documents.

**INTERROGATORY NO. 34**

For each year from 1995 through the present, state the total number of pieces of jewelry Bearing the Aucera Mark sold in or to the United States.

**RESPONSE TO INTERROGATORY NO. 34**

In addition to its General Objections, Registrant objects to this interrogatory on the grounds that it is overly broad. Pursuant to Federal Rule of Civil Procedure 33(d), Registrant has produced documents and business records relevant to this Interrogatory and will produce any additional responsive documents.

**INTERROGATORY NO. 35**

For each year from 1995 through the present, state the annual dollar value of your expenditures for advertising or promoting jewelry bearing the Aucera Mark in or to the United States.

**RESPONSE TO INTERROGATORY NO. 35**

In addition to its General Objections, Registrant objects to this interrogatory on the grounds that it is overly broad and seeking information irrelevant to the parties' claims and defenses. Pursuant to Federal Rule of Civil Procedure 33(d), Registrant will produce documents and business records relevant to this Interrogatory, if any exist.

**INTERROGATORY NO. 36**

For each year from 1995 through the present, state the annual dollar value of your sales of pens bearing the Aucera Mark in or to the United States.

**RESPONSE TO INTERROGATORY NO. 36**

In addition to its General Objections, Registrant objects to this interrogatory on the grounds that it is overly broad. Pursuant to Federal Rule of Civil Procedure 33(d), Registrant has produced documents and business records relevant to this Interrogatory and will produce any additional responsive documents.

**INTERROGATORY NO. 37**

For each year from 1995 through the present, state the total number of pens bearing the Aucera Mark sold in or to the United States.

**RESPONSE TO INTERROGATORY NO. 37**

In addition to its General Objections, Registrant objects to this interrogatory on the grounds that it is overly broad. Pursuant to Federal Rule of Civil Procedure 33(d), Registrant has produced documents and business records relevant to this Interrogatory and will produce any additional responsive documents.

**INTERROGATORY NO. 38**

For each year from 1995 through the present, state the annual dollar value of your expenditures for advertising or promoting pens bearing the Aucera Mark in or to the United States.

**RESPONSE TO INTERROGATORY NO. 38**

In addition to its General Objections, Registrant objects to this interrogatory on the grounds that it is overly broad and seeking information irrelevant to the parties' claims and defenses. Pursuant to Federal Rule of Civil Procedure 33(d), Registrant will produce documents and business records relevant to this Interrogatory, if any exist.

**INTERROGATORY NO. 39**

For each year from 1995 through the present, state the name, location, and address of all retailers where any product bearing the Aucera Mark is (or was) sold.

**RESPONSE TO INTERROGATORY NO. 39**

In addition to its General Objections, Registrant objects to this interrogatory on the grounds that it is overly broad. Pursuant to Federal Rule of Civil Procedure 33(d), Registrant has produced documents and business records relevant to this Interrogatory and will produce any additional responsive documents. Registrant further objects that this interrogatory is repetitive and duplicative of interrogatories previously served on Registrant. Registrant further objects to this Request on the grounds that it previously provided this information in response to Petitioner's Interrogatory No. 2.

**INTERROGATORY NO. 40**

For each year from 1995 through the present, state the name and web address of all websites on or through which any product bearing the Aucera Mark is (or was) sold.

**RESPONSE TO INTERROGATORY NO. 40**

In addition to its General Objections, Registrant objects to this interrogatory on the grounds that it is overly broad. Pursuant to Federal Rule of Civil Procedure 33(d), Registrant has produced documents and business records relevant to this Interrogatory and will produce any additional responsive documents. Registrant further objects that this interrogatory is repetitive and duplicative of interrogatories previously served on Registrant. Registrant further objects to this Request on the grounds that it previously provided this information in response to Petitioner's Interrogatory No. 2.

**INTERROGATORY NO. 41**

Describe your formal or informal marketing and business plans for the next five years for the use of the Aucera Mark for watches in the United States.

**RESPONSE TO INTERROGATORY NO. 41**

In addition to its General Objections, Registrant objects to this interrogatory as overly broad and seeking information irrelevant to the parties' claims and defenses. Pursuant to Federal Rule of Civil Procedure 33(d), Registrant will produce documents and business records relevant to this Interrogatory, if any exist. Subject to Registrant's General and Specific Objections, Registrant responds as follows: Aucera has engaged in ongoing efforts to develop additional sales of products bearing the Aucera Mark and channels of trade in the U.S., including without limitation: Promoting products bearing the Aucera Mark and developing relationships with potential U.S. distributors at trade shows (including the June 2010 JCK trade show in Las Vegas), taking out advertisements for products bearing the Aucera Mark in U.S. publications as reflected in documents produced by Registrant, creating and maintaining a Facebook page for Bentley Watches, and working with individuals and companies in the U.S. to develop relationships with potential distributors of products bearing the Aucera Mark in the U.S. via both online retailers and brick-and-mortar retail stores.

**INTERROGATORY NO. 42**

Describe your formal or informal marketing and business plans for the next five years for the use of the Aucera Mark for jewelry in the United States.

**RESPONSE TO INTERROGATORY NO. 42**

In addition to its General Objections, Registrant objects to this interrogatory as overly broad and seeking information irrelevant to the parties' claims and defenses. Pursuant to Federal Rule of Civil Procedure 33(d), Registrant will produce documents and business records relevant to this Interrogatory, if any exist. Subject to Registrant's General and Specific Objections, Registrant responds as follows: Aucera has engaged in ongoing efforts to develop additional sales of products bearing the Aucera Mark and channels of trade in the U.S., including without limitation: Promoting products bearing the Aucera Mark and developing relationships with potential U.S. distributors at trade shows (including the June 2010 JCK trade show in Las Vegas), taking out advertisements for products bearing the Aucera Mark in U.S. publications as

reflected in documents produced by Registrant, creating and maintaining a Facebook page for Bentley Watches, and working with individuals and companies in the U.S. to develop relationships with potential distributors of products bearing the Aucera Mark in the U.S. via both online retailers and brick-and-mortar retail stores.

**INTERROGATORY NO. 43**

Describe your formal or informal marketing and business plans for the next five years for the use of the Aucera Mark for pens in the United States.

**RESPONSE TO INTERROGATORY NO. 43**

In addition to its General Objections, Registrant objects to this interrogatory as overly broad and seeking information irrelevant to the parties' claims and defenses. Pursuant to Federal Rule of Civil Procedure 33(d), Registrant will produce documents and business records relevant to this Interrogatory, if any exist. Subject to Registrant's General and Specific Objections, Registrant responds as follows: Aucera has engaged in ongoing efforts to develop additional sales of products bearing the Aucera Mark and channels of trade in the U.S., including without limitation: Promoting products bearing the Aucera Mark and developing relationships with potential U.S. distributors at trade shows (including the June 2010 JCK trade show in Las Vegas), taking out advertisements for products bearing the Aucera Mark in U.S. publications as reflected in documents produced by Registrant, creating and maintaining a Facebook page for Bentley Watches, and working with individuals and companies in the U.S. to develop relationships with potential distributors of products bearing the Aucera Mark in the U.S. via both online retailers and brick-and-mortar retail stores.

**INTERROGATORY NO. 44**

State the retail price of each good for which you use the Aucera Mark.

**RESPONSE TO INTERROGATORY NO. 44**

In addition to its General Objections, Registrant objects to this interrogatory on the grounds that it is overly broad and seeks information irrelevant to the parties' claims and defenses. Pursuant to Federal Rule of Civil Procedure 33(d), Registrant has produced documents

through the present by transporting jewelry into the United States, by promoting jewelry in the United States, and also as reflected in documents produced to Petitioner showing shipments into the United States of jewelry bearing the Aucera Mark. Registrant will continue to supplement its responses to the extent additional information is located.

**INTERROGATORY NO. 60**

Describe in detail the relationship between Aucera and Resultco, including, without limitation, any role that Resultco plays in selling products bearing the Aucera Mark in the United States.

**RESPONSE TO INTERROGATORY NO. 60**

Subject to its General Objections, Registrant responds as follows: ResultCo was identified to be a U.S. distributor for products bearing the Aucera Mark.

**INTERROGATORY NO. 61**

Describe in detail the relationship between Aucera and Blount Jewelry, including, without limitation, any role that Blount Jewelry plays in selling products bearing the Aucera Mark in the United States.

**RESPONSE TO INTERROGATORY NO. 61**

Subject to its General Objections, Registrant responds as follows: Blount Jewelry has offered for sale products bearing the Aucera Mark in the United States, including on the website <http://blountjewels.com>.

**INTERROGATORY NO. 62**

Identify all Persons who participated in any way in the preparation of your answers or responses to these interrogatories, Bentley's First Interrogatories, Bentley's First or Second Requests for Production of Documents, and Bentley's First or Second Requests for Admissions.

**RESPONSE TO INTERROGATORY NO. 62**

Subject to its General Objections, Registrant responds as follows: Chia-Hsiang Cheng.

Dated: March 11, 2016

By: /s/ Jennifer A. Golinveaux  
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*Attorneys for Registrant Aucera SA*

**CERTIFICATE OF SERVICE**

re: BENTLEY MOTORS LIMITED v. AUCERA SA

I hereby certify that a true and complete copy of the foregoing:

**REGISTRANT AUCERA SA'S FIRST SUPPLEMENTAL RESPONSES TO  
PETITIONER'S SECOND SET OF INTERROGATORIES**

has been served on

- (1) Petitioner's counsel of record by mailing said copy on  
March 11, 2016 via First Class Mail, postage prepaid, to:

ROD S. BERMAN  
JESSICA BROMALL SPARKMAN  
JEFFER MANGELS BUTLER & MITCHELL LLP  
1900 AVENUE OF THE STARS, SEVENTH FLOOR  
LOS ANGELES, CA 90067

/s/ Ann Newman  
Ann Newman

# **EXHIBIT 13**

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

In the matter of trademark Registration No.: 2007286, 2096184, 2096186  
For the mark: BENTLEY

BENTLEY MOTORS LIMITED,

Petitioner,

v.

AUCERA SA,

Registrant.

Cancellation No.: 92060353

**REGISTRANT AUCERA SA'S RESPONSES TO PETITIONER'S  
SECOND SET OF REQUESTS FOR THE PRODUCTION OF  
DOCUMENTS AND THINGS**

Pursuant to Rule 2.120 of the Trademark Rules of Practice, Trademark Trial and Appeal Board Manual of Procedure § 406, and Rule 34 of the Federal Rules of Civil Procedure, Registrant Aucera SA ("Aucera" or "Registrant") hereby responds to the Second Set of Requests for Production of Documents and Things served by Petitioner Bentley Motors Limited ("Petitioner").

The following responses and objections are based upon Registrant's knowledge, information, and belief at this time. Registrant has made a reasonable and good faith effort to respond. However, Registrant has not yet completed its investigation related to this action, nor has it completed discovery or preparation for trial. The responses contained herein are based solely upon the documents and things presently available and specifically known to Registrant. It is anticipated that further discovery, independent investigation, legal research, and analysis may supply additional facts and establish entirely new factual conclusions and legal contentions, all of which may lead to the discovery of additional documents and things, thereby resulting in

additions to, changes in, and variations from these responses. Registrant specifically reserves the right to amend these responses should additional information become available and to use such information.

Where Registrant has agreed to produce responsive documents, Registrant will make a good faith effort to begin such productions no later than February 19, 2016.

These responses are timely served pursuant to the agreement of counsel reached on January 29, 2016.

### **GENERAL OBJECTIONS**

Registrant makes the following general objections, whether or not separately set forth in response to each and every instruction, definition and request for production of documents and things:

1. Registrant objects to the Requests to the extent that they seek the production of documents that are in the possession, custody or control of third parties.
2. Registrant objects to the Requests as improperly seeking the disclosure of trade secrets or other confidential research, development, or commercial information.
3. Registrant objects to the Requests to the extent that they purport to impose obligations on Registrant that exceed its obligations under the Federal Rules of Civil Procedure and/or the Trademark Trial and Appeal Board Manual of Procedure.
4. Registrant objects to the Requests to the extent that they would require Registrant to create documents that are not in its possession.
5. Registrant objects to the definitions of “Document” and “Communication” to the extent it expands its duties under the Federal Rules of Civil Procedure and/or the Trademark Trial and Appeal Board Manual of Procedure.
6. Registrant objects to the definition of “Aucera” as overly broad, and calling for information outside the possession, custody, and control of Aucera SA, as it includes “Aucera SA, its predecessors or successors in interest, any parent, subsidiary, affiliate and division, and

any present or former officers, directors, agents, consultants, representatives, employees or other persons acting or purporting to act on any of those entities' behalf.”

7. Registrant objects to the definition of “Aucera Mark” as overbroad and seeking documents that are not relevant to the parties’ claims or defenses to the extent that it includes the language “as well as any other goods or services.” Registrant will respond to the requests as if the definition of “Aucera Mark” did not include the wording “as well as any other goods or services.”

8. Registrant objects to the Requests as overbroad and seeking documents that are not relevant to the parties’ claims or defenses, particularly the lack of a time period or date restriction.

9. Registrant objects to the Requests to the extent that they are vague, ambiguous, and unclear, including Petitioner’s use of terms that are not defined and/or are otherwise susceptible to more than one meaning.

10. Registrant objects to the Requests to the extent that they seek documents and/or information protected from disclosure by the attorney-client privilege, attorney work product doctrine, joint defense privilege, and by any other applicable privilege or immunity from production. Nothing in Registrant’s responses is intended to be, or in any way should be deemed to be, a waiver of any such privilege or immunity.

11. Registrant objects to the Requests to the extent that they would require it to search for and produce electronically stored documents (including email) from sources that are not reasonably accessible because of undue burden or cost, as set forth in Rule 26(b)(2)(B) of the Federal Rules of Civil Procedure.

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## **RESPONSES TO REQUESTS FOR THE PRODUCTION OF DOCUMENTS**

### **REQUEST FOR PRODUCTION NO. 26**

All documents concerning your creation, selection, or acquisition of the Aucera Mark.

### **RESPONSE TO REQUEST NO. 26**

In addition to its General Objections, Registrant objects to this Request on the grounds that it seeks documents irrelevant to the parties' claims and defenses. Registrant further objects to this Request on the grounds that it is overly broad, particularly given the lack of a date restriction or time period. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody or control, using the revised definition of Aucera Mark set forth in Registrant's General Objections.

### **REQUEST FOR PRODUCTION NO. 27**

All documents in Aucera's possession, custody, or control that it may use to support its claims and defenses, unless to be used solely for impeachment, as identified and described in Aucera's Initial Disclosure pursuant to Fed. R. Civ. P. 26(a).

### **RESPONSE TO REQUEST NO. 27**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad and seeks documents irrelevant to the parties claims and defenses, particularly the language "that it may use to support its claims and defenses." Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody or control that it intends to use to supports its claims and defenses.

### **REQUEST FOR PRODUCTION NO. 28**

Documents sufficient to show the date on which you first sold any good bearing the Aucera Mark in the United States.

### **RESPONSE TO REQUEST NO. 28**

Subject to its General Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, using the revised definition of Aucera Mark set forth in Registrant's General Objections, to the extent they exist.

**REQUEST FOR PRODUCTION NO. 29**

Documents sufficient to show the date on which you first sold a watch bearing the Aucera Mark in the United States.

**RESPONSE TO REQUEST NO. 29**

Subject to its General Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, using the revised definition of Aucera Mark set forth in Registrant's General Objections, to the extent they exist.

**REQUEST FOR PRODUCTION NO. 30**

Documents sufficient to show the date on which you first sold a piece of jewelry bearing the Aucera Mark in the United States.

**RESPONSE TO REQUEST NO. 30**

Subject to its General Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, using the revised definition of Aucera Mark set forth in Registrant's General Objections, to the extent they exist.

**REQUEST FOR PRODUCTION NO. 31**

Documents sufficient to show the date on which you first sold a pen bearing the Aucera Mark in the United States.

**RESPONSE TO REQUEST NO. 31**

Subject to its General Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, using the revised definition of Aucera Mark set forth in Registrant's General Objections, to the extent they exist.

**REQUEST FOR PRODUCTION NO. 32**

For each year from 1995 through the present, documents sufficient to show the annual dollar value of your sales of goods bearing the Aucera Mark in or to the United States.

**RESPONSE TO REQUEST NO. 32**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad. Registrant further objects to this Request on the grounds that it is unduly

burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, using the revised definition of Aucera Mark set forth in Registrant's General Objections, to the extent they exist.

**REQUEST FOR PRODUCTION NO. 33**

For each year from 1995 through the present, documents sufficient to show the total number of goods bearing the Aucera Mark sold in the United States.

**RESPONSE TO REQUEST NO. 33**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control sufficient to show the total number of goods bearing the Aucera Mark sold by Aucera SA in the United States, using the revised definition of Aucera Mark set forth in Registrant's General Objections, to the extent they exist.

**REQUEST FOR PRODUCTION NO. 34**

For each year from 1995 through the present, documents sufficient to show the annual dollar value of your expenditures for advertising or promoting goods bearing the Aucera Mark in or to the United States.

**RESPONSE TO REQUEST NO. 34**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, using the revised definition of Aucera Mark set forth in Registrant's General Objections, to the extent they exist.

**REQUEST FOR PRODUCTION NO. 35**

For each year from 1995 through the present, documents sufficient to show the annual dollar value of your sales of watches bearing the Aucera Mark in or to the United States.

**RESPONSE TO REQUEST NO. 35**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, using the revised definition of Aucera Mark set forth in Registrant's General Objections, to the extent they exist.

**REQUEST FOR PRODUCTION NO. 36**

For each year from 1995 through the present, documents sufficient to show the total number of watches bearing the Aucera Mark sold in or to the United States.

**RESPONSE TO REQUEST NO. 36**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control sufficient to show the total number of watches bearing the Aucera Mark sold by Aucera SA in or to the United States, using the revised definition of Aucera Mark set forth in Registrant's General Objections, to the extent they exist.

**REQUEST FOR PRODUCTION NO. 37**

For each year from 1995 through the present, documents sufficient to show the annual dollar value of your expenditures for advertising or promoting watches bearing the Aucera Mark in or to the United States.

**RESPONSE TO REQUEST NO. 37**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, using the revised definition of Aucera Mark set forth in Registrant’s General Objections.

**REQUEST FOR PRODUCTION NO. 38**

All documents concerning or evidencing the sale of watches bearing the Aucera Mark in or to the United States from 1995 through the present, including, without limitation, purchase orders, invoices, e-mails or other communications, shipping documents, and customs documents.

**RESPONSE TO REQUEST NO. 38**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, specifically, the request for “[a]ll documents concerning” the sale of watches bearing the Aucera Mark in the United States for over ten years. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant responds as follows: Registrant is willing to meet and confer with Petitioner to discuss reasonable narrowing of this Request.

**REQUEST FOR PRODUCTION NO. 39**

For each year from 1995 through the present, documents sufficient to show the annual dollar value of your sales of jewelry bearing the Aucera Mark in or to the United States.

**RESPONSE TO REQUEST NO. 39**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or

control, using the revised definition of Aucera Mark set forth in Registrant's General Objections, to the extent they exist.

**REQUEST FOR PRODUCTION NO. 40**

For each year from 1995 through the present, documents sufficient to show the total number of pieces of jewelry bearing the Aucera Mark sold in or to the United States.

**RESPONSE TO REQUEST NO. 40**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control sufficient to show the total number of pieces of jewelry bearing the Aucera Mark sold by Aucera SA in the United States, using the revised definition of Aucera Mark set forth in Registrant's General Objections, to the extent they exist.

**REQUEST FOR PRODUCTION NO. 41**

For each year from 1995 through the present, documents sufficient to show the annual dollar value of your expenditures for advertising or promoting jewelry bearing the Aucera Mark in or to the United States.

**RESPONSE TO REQUEST NO. 41**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, using the revised definition of Aucera Mark set forth in Registrant's General Objections, to the extent they exist.

**REQUEST FOR PRODUCTION NO. 42**

All documents concerning or evidencing the sale of jewelry bearing the Aucera Mark in or to the United States from 1995 through the present, including, without limitation, purchase orders, invoices, e-mails or other communications, shipping documents, and customs documents.

**RESPONSE TO REQUEST NO. 42**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, specifically, the request for “[a]ll documents concerning” the sale of jewelry bearing the Aucera Mark in the United States for over ten years. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant responds as follows: Registrant is willing to meet and confer with Petitioner to discuss reasonable narrowing of this Request.

**REQUEST FOR PRODUCTION NO. 43**

For each year from 1995 through the present, documents sufficient to show the annual dollar value of your sales of pens bearing the Aucera Mark in or to the United States.

**RESPONSE TO REQUEST NO. 43**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, using the revised definition of Aucera Mark set forth in Registrant’s General Objections, to the extent they exist.

**REQUEST FOR PRODUCTION NO. 44**

For each year from 1995 through the present, documents sufficient to show the total number of pens bearing the Aucera Mark sold in or to the United States.

**RESPONSE TO REQUEST NO. 44**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control sufficient to show the total number of pens bearing the Aucera Mark sold by Aucera SA in the United States, using the revised definition of Aucera Mark set forth in Registrant’s General Objections, to the extent they exist.

**REQUEST FOR PRODUCTION NO. 45**

For each year from 1995 through the present, documents sufficient to show the annual dollar value of your expenditures for advertising or promoting pens bearing the Aucera Mark in or to the United States.

**RESPONSE TO REQUEST NO. 45**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, using the revised definition of Aucera Mark set forth in Registrant’s General Objections, to the extent they exist.

**REQUEST FOR PRODUCTION NO. 46**

All documents concerning or evidencing the sale of pens bearing the Aucera Mark in or to the United States from 1995 through the present, including, without limitation, purchase orders, invoices, e-mails or other communications, shipping documents, and customs documents.

**RESPONSE TO REQUEST NO. 46**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, specifically, the request for “[a]ll documents concerning” the sale of pens bearing the Aucera Mark in the United States for over ten years. Registrant further objects to

this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant responds as follows: Registrant is willing to meet and confer with Petitioner to discuss reasonable narrowing of this Request.

**REQUEST FOR PRODUCTION NO. 47**

For each year from 1995 through the present, documents sufficient to show the name, location, and address of all retailers where any product bearing the Aucera Mark is (or was) sold.

**RESPONSE TO REQUEST NO. 47**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Registrant further objects to this Request on the grounds that it previously provided this information in response to Petitioner's Interrogatory No. 2.

**REQUEST FOR PRODUCTION NO. 48**

For each year from 1995 through the present, documents sufficient to show the name and web address of all websites on or through which any product bearing the Aucera Mark is (or was) sold.

**RESPONSE TO REQUEST NO. 48**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Registrant further objects to this Request on the grounds that it previously provided this information in response to Petitioner's Interrogatory No. 2.

**REQUEST FOR PRODUCTION NO. 49**

For each year from 1995 through the present, documents sufficient to show the annual dollar value of sales of products bearing the Aucera Mark by each retailer or website through or by which such products were sold.

**RESPONSE TO REQUEST NO. 49**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, using the revised definition of Aucera Mark set forth in Registrant’s General Objections, to the extent they exist.

**REQUEST FOR PRODUCTION NO. 50**

Documents constituting or concerning any formal or informal marketing and business plans for the next five years for the use of the Aucera Mark for watches in the United States.

**RESPONSE TO REQUEST NO. 50**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, particularly given the lack of a date restriction or time period. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control constituting marketing and business plans for the next five years for the use of the Aucera Mark for watches in the United States, using the revised definition of Aucera Mark set forth in Registrant’s General Objections, to the extent they exist.

**REQUEST FOR PRODUCTION NO. 51**

Documents constituting or concerning any formal or informal marketing and business plans for the next five years for the use of the Aucera Mark for jewelry in the United States.

**RESPONSE TO REQUEST NO. 51**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, particularly given the lack of a date restriction or time period. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive,

non-privileged documents within its possession, custody, or control constituting marketing and business plans for the next five years for the use of the Aucera Mark for jewelry in the United States, using the revised definition of Aucera Mark set forth in Registrant's General Objections, to the extent they exist.

**REQUEST FOR PRODUCTION NO. 52**

Documents constituting or concerning any formal or informal marketing and business plans for the next five years for the use of the Aucera Mark for pens in the United States.

**RESPONSE TO REQUEST NO. 52**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, particularly given the lack of a date restriction or time period. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control constituting marketing and business plans for the next five years for the use of the Aucera Mark for pens in the United States, using the revised definition of Aucera Mark set forth in Registrant's General Objections, to the extent they exist.

**REQUEST FOR PRODUCTION NO. 53**

Documents sufficient to show the retail price of each good for which you use the Aucera Mark.

**RESPONSE TO REQUEST NO. 53**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, particularly given the lack of a date restriction or time period. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information.

**REQUEST FOR PRODUCTION NO. 54**

Specimens, originals when possible, of all advertising and promotional materials for your goods bearing the Aucera Mark, including, but not limited to, labels, packaging, flyers, direct

mail pieces, point of sale pieces, signs, posters, newspaper advertisements, magazine advertisements, media articles, catalogs, circulars, leaflets, brochures, television and radio commercials, and any other publicly distributed materials.

**RESPONSE TO REQUEST NO. 54**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, particularly given the lack of a date restriction or time period. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, using the revised definition of Aucera Mark set forth in Registrant's General Objections.

**REQUEST FOR PRODUCTION NO. 55**

Documents sufficient to show the wholesale price of each good for which you use the Aucera Mark.

**RESPONSE TO REQUEST NO. 55**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, particularly given the lack of a date restriction or time period. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information.

**REQUEST FOR PRODUCTION NO. 56**

All documents concerning or supporting the First Affirmative Defense set forth in the Answer.

**RESPONSE TO REQUEST NO. 56**

Subject to its General Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, using the revised definition of Aucera Mark set forth in Registrant's General Objections.

**REQUEST FOR PRODUCTION NO. 57**

All documents concerning or supporting that support the Second Affirmative Defense set forth in the Answer.

**RESPONSE TO REQUEST NO. 57**

Subject to its General Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, using the revised definition of Aucera Mark set forth in Registrant's General Objections.

**REQUEST FOR PRODUCTION NO. 58**

All documents concerning or supporting any contention by you that you have continuously used the Aucera Mark for watches in the United States from 1995 through the present.

**RESPONSE TO REQUEST NO. 58**

Subject to its General Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, using the revised definition of Aucera Mark set forth in Registrant's General Objections.

**REQUEST FOR PRODUCTION NO. 59**

All documents concerning or supporting any contention by you that you have continuously used the Aucera Mark for watches in the United States from November 10, 2011 through the present.

**RESPONSE TO REQUEST NO. 59**

Subject to its General Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, using the revised definition of Aucera Mark set forth in Registrant's General Objections.

**REQUEST FOR PRODUCTION NO. 60**

All documents concerning or supporting any contention by you that you have continuously used the Aucera Mark for pens in the United States from 1997 through the present.

**RESPONSE TO REQUEST NO. 60**

Subject to its General Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, using the revised definition of Aucera Mark set forth in Registrant's General Objections.

**REQUEST FOR PRODUCTION NO. 61**

All documents concerning or supporting any contention by you that you have continuously used the Aucera Mark for pens in the United States from November 10, 2011 through the present.

**RESPONSE TO REQUEST NO. 61**

Subject to its General Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, using the revised definition of Aucera Mark set forth in Registrant's General Objections.

**REQUEST FOR PRODUCTION NO. 62**

All documents concerning or supporting any contention by you that you have continuously used the Aucera Mark for jewelry in the United States from 1997 through the present.

**RESPONSE TO REQUEST NO. 62**

Subject to its General Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, using the revised definition of Aucera Mark set forth in Registrant's General Objections.

**REQUEST FOR PRODUCTION NO. 63**

All documents concerning or supporting any contention by you that you have continuously used the Aucera Mark for jewelry in the United States from November 10, 2011 through the present.

**RESPONSE TO REQUEST NO. 63**

Subject to its General Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, using the revised definition of Aucera Mark set forth in Registrant's General Objections.

**REQUEST FOR PRODUCTION NO. 64**

All documents and communications between Aucera and Robert Bonnem concerning the purchase or sale of any product bearing the Aucera Mark.

**RESPONSE TO REQUEST NO. 64**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, particularly given the lack of a date restriction or time period and the fact that the Request is not limited to the purchase or sale *in the United States* of any product bearing the Aucera Mark. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, concerning the purchase or sale of any product in the United States bearing the Aucera Mark, using the revised definition of Aucera Mark set forth in Registrant's General Objections.

**REQUEST FOR PRODUCTION NO. 65**

All documents and communications between Aucera and Robert Bonnem concerning this proceeding.

**RESPONSE TO REQUEST NO. 65**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, particularly given the lack of a date restriction or time period. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant and/or privileged information.

**REQUEST FOR PRODUCTION NO. 66**

All documents and communications between Aucera and Blount Jewels concerning the purchase or sale of any product bearing the Aucera Mark.

**RESPONSE TO REQUEST NO. 66**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, particularly given the lack of a date restriction or time period and the fact that the Request is not limited to the purchase or sale *in the United States* of any product bearing the Aucera Mark. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control concerning the purchase or sale in the United States of any product bearing the Aucera Mark, using the revised definition of Aucera Mark set forth in Registrant's General Objections.

**REQUEST FOR PRODUCTION NO. 67**

All documents and communications between Aucera and Blount Jewels concerning this proceeding.

**RESPONSE TO REQUEST NO. 67**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, particularly given the lack of a date restriction or time period. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information.

**REQUEST FOR PRODUCTION NO. 68**

All documents and communications between Aucera and Anthony Blount concerning the purchase or sale of any product bearing the Aucera Mark.

**RESPONSE TO REQUEST NO. 68**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, particularly given the lack of a date restriction or time period and the fact that the Request is not limited to the purchase or sale *in the United States* of any product bearing the Aucera Mark. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or

control concerning the purchase or sale in the United States of any product bearing the Aucera Mark, using the revised definition of Aucera Mark set forth in Registrant's General Objections.

**REQUEST FOR PRODUCTION NO. 69**

All documents and communications between Aucera and Anthony Blount concerning this proceeding.

**RESPONSE TO REQUEST NO. 69**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, particularly given the lack of a date restriction or time period. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information.

**REQUEST FOR PRODUCTION NO. 70**

All documents and communications between Aucera and Shontell Blount concerning the purchase or sale of any product bearing the Aucera Mark.

**RESPONSE TO REQUEST NO. 70**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, particularly given the lack of a date restriction or time period and the fact that the Request is not limited to the purchase or sale *in the United States* of any product bearing the Aucera Mark. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control concerning the purchase or sale in the United States of any product bearing the Aucera Mark, using the revised definition of Aucera Mark set forth in Registrant's General Objections.

**REQUEST FOR PRODUCTION NO. 71**

All documents and communications between Aucera and ResultCo concerning this proceeding.

**RESPONSE TO REQUEST NO. 71**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, particularly given the lack of a date restriction or time period. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information.

**REQUEST FOR PRODUCTION NO. 72**

All documents and communications between Resultco concerning this proceeding.

**RESPONSE TO REQUEST NO. 72**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is unintelligible.

**REQUEST FOR PRODUCTION NO. 73**

All documents referred to or relied on in preparing responses to Bentley's First or Second Interrogatories and Bentley's First or Second Requests for Admissions.

**RESPONSE TO REQUEST NO. 73**

Subject to its General Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control.

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Dated: February 3, 2016

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*Attorneys for Registrant Aucera SA*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing:

**REGISTRANT AUCERA SA'S RESPONSES TO  
PETITIONER'S SECOND SET OF REQUESTS FOR THE PRODUCTION OF  
DOCUMENTS AND THINGS**

has been served on

- (1) Petitioner's counsel of record by mailing said copy on February 3, 2016 via First Class Mail, postage prepaid, to:

ROD S. BERMAN  
JESSICA BROMALL SPARKMAN  
JEFFER MANGELS BUTLER & MITCHELL LLP  
1900 AVENUE OF THE STARS, SEVENTH FLOOR  
LOS ANGELES, CA 90067

*/s/ Diana Hughes Leiden*  
Diana Hughes Leiden

# **EXHIBIT 14**

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

In the matter of trademark Registration No.: 2007286, 2096184, 2096186  
For the mark: BENTLEY

BENTLEY MOTORS LIMITED,

Petitioner,

v.

AUCERA SA,

Registrant.

Cancellation No.: 92060353

**REGISTRANT AUCERA SA'S RESPONSES TO PETITIONER'S  
THIRD SET OF REQUESTS FOR THE PRODUCTION OF  
DOCUMENTS AND THINGS**

Pursuant to Rule 2.120 of the Trademark Rules of Practice, Trademark Trial and Appeal Board Manual of Procedure § 406, and Rule 34 of the Federal Rules of Civil Procedure, Registrant Aucera SA ("Aucera" or "Registrant") hereby responds to the Third Set of Requests for Production of Documents and Things (the "Requests") served by Petitioner Bentley Motors Limited ("Petitioner").

The following responses and objections are based upon Registrant's knowledge, information, and belief at this time. Registrant has made a reasonable and good faith effort to respond. However, Registrant has not yet completed its investigation related to this action, nor has it completed discovery or preparation for trial. The responses contained herein are based solely upon the documents and things presently available and specifically known to Registrant. It is anticipated that further discovery, independent investigation, legal research, and analysis may supply additional facts and establish entirely new factual conclusions and legal contentions, all of which may lead to the discovery of additional documents and things, thereby resulting in

additions to, changes in, and variations from these responses. Registrant specifically reserves the right to amend these responses should additional information become available and to use such information.

Where Registrant has agreed to produce responsive documents, Registrant will make a good faith effort to begin such productions no later than February 5, 2016.

### **GENERAL OBJECTIONS**

Registrant makes the following general objections, whether or not separately set forth in response to each and every instruction, definition and request for production of documents and things:

1. Registrant objects to the Requests to the extent that they seek the production of documents that are in the possession, custody or control of third parties.
2. Registrant objects to the Requests as improperly seeking the disclosure of trade secrets or other confidential research, development, or commercial information.
3. Registrant objects to the Requests to the extent that they purport to impose obligations on Registrant that exceed its obligations under the Federal Rules of Civil Procedure and/or the Trademark Trial and Appeal Board Manual of Procedure.
4. Registrant objects to the Requests to the extent that they would require Registrant to create documents that are not in its possession.
5. Registrant objects to the definitions of “Document” and “Communication” to the extent it expands its duties under the Federal Rules of Civil Procedure and/or the Trademark Trial and Appeal Board Manual of Procedure.
6. Registrant objects to the definition of “Aucera” as overly broad, and calling for information outside the possession, custody, and control of Aucera SA, as it includes “Aucera SA, its predecessors or successors in interest, any parent, subsidiary, affiliate and division, and any present or former officers, directors, agents, consultants, representatives, employees or other persons acting or purporting to act on any of those entities’ behalf.”

7. Registrant objects to the definition of “Aucera Mark” as overbroad and seeking documents that are not relevant to the parties’ claims or defenses to the extent that it includes the language “as well as any other goods or services.” Registrant will respond to the requests as if the definition of “Aucera Mark” did not include the wording “as well as any other goods or services.”

8. Registrant objects to the Requests as overbroad and seeking documents that are not relevant to the parties’ claims or defenses, particularly the lack of a time period or date restriction.

9. Registrant objects to the Requests to the extent that they are vague, ambiguous, and unclear, including Petitioner’s use of terms that are not defined and/or are otherwise susceptible to more than one meaning.

10. Registrant objects to the Requests to the extent that they seek documents and/or information protected from disclosure by the attorney-client privilege, attorney work product doctrine, joint defense privilege, and by any other applicable privilege or immunity from production. Nothing in Registrant’s responses is intended to be, or in any way should be deemed to be, a waiver of any such privilege or immunity.

11. Registrant objects to the Requests to the extent that they would require it to search for and produce electronically stored documents (including email) from sources that are not reasonably accessible because of undue burden or cost, as set forth in Rule 26(b)(2)(B) of the Federal Rules of Civil Procedure.

## **RESPONSES TO REQUESTS FOR THE PRODUCTION OF DOCUMENTS**

### **REQUEST FOR PRODUCTION NO. 74**

All documents concerning or evidencing the import, purchase, sale or distribution of products bearing the Aucera Mark in or to the United States from the date of first use through the present, including, without limitation, purchase orders, invoices, e-mails or other communications, shipping documents, and customs documents.

**RESPONSE TO REQUEST NO. 74**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, particularly given the lack of a date restriction or time period. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, using the revised definition of Aucera Mark set forth in Registrant's General Objections.

**REQUEST FOR PRODUCTION NO. 75**

All documents concerning or evidencing the import, purchase, sale or distribution of watches bearing the Aucera Mark in or to the United States from the date of first use through the present, including, without limitation, purchase orders, invoices, e-mails or other communications, shipping documents, and customs documents.

**RESPONSE TO REQUEST NO. 75**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, particularly given the lack of a date restriction or time period. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control.

**REQUEST FOR PRODUCTION NO. 76**

All documents concerning or evidencing the import, purchase, sale or distribution of jewelry bearing the Aucera Mark in or to the United States from the date of first use through the present, including, without limitation, purchase orders, invoices, e-mails or other communications, shipping documents, and customs documents.

**RESPONSE TO REQUEST NO. 76**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, particularly given the lack of a date restriction or time period. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant

information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control.

**REQUEST FOR PRODUCTION NO. 77**

All documents concerning or evidencing the import, purchase, sale or distribution of pens bearing the Aucera Mark in or to the United States from the date of first use through the present, including, without limitation, purchase orders, invoices, e-mails or other communications, shipping documents, and customs documents.

**RESPONSE TO REQUEST NO. 77**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, particularly given the lack of a date restriction or time period. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control.

**REQUEST FOR PRODUCTION NO. 78**

Documents sufficient to show all revenues derived from the sale of goods bearing the Aucera Mark from the date of the first sale through the present.

**RESPONSE TO REQUEST NO. 78**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, if any exist, in connection with the sale of goods in the United States, using the revised definition of Aucera Mark set forth in Registrant's General Objections.

**REQUEST FOR PRODUCTION NO. 79**

Documents sufficient to show the total number of goods bearing the Aucera Mark sold in the United States from the date of the first sale through the present.

**RESPONSE TO REQUEST NO. 79**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, if any exist, using the revised definition of Aucera Mark set forth in Registrant's General Objections.

**REQUEST FOR PRODUCTION NO. 80**

All documents concerning any attempts by you to import, sell, or distribute products bearing the Aucera Mark in the United States between the date of first use and the present.

**RESPONSE TO REQUEST NO. 80**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control.

**REQUEST FOR PRODUCTION NO. 81**

All documents and communications to or from ResultCo concerning the import, purchase, sale or distribution of any product bearing the Aucera Mark.

**RESPONSE TO REQUEST NO. 81**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, particularly given the lack of a date restriction or time period and the fact that the Request is not limited to the import, purchase, sale or distribution *in the United States* of any product bearing the Aucera Mark. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control concerning the import, purchase, sale or distribution of any product in the United States bearing the Aucera Mark, using the revised definition of Aucera Mark set forth in Registrant's General Objections.

**REQUEST FOR PRODUCTION NO. 82**

All documents and communications to or from Norm Kushner concerning the import, purchase, sale or distribution of any product bearing the Aucera Mark.

**RESPONSE TO REQUEST NO. 82**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, particularly given the lack of a date restriction or time period and the fact that the Request is not limited to the import, purchase, sale or distribution *in the United States* of any product bearing the Aucera Mark. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control concerning the import, purchase, sale or distribution of any product in the United States bearing the Aucera Mark.

**REQUEST FOR PRODUCTION NO. 83**

All documents and communications to or from Norm Kushner concerning this proceeding.

**RESPONSE TO REQUEST NO. 83**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, particularly given the lack of a date restriction or time period. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information.

**REQUEST FOR PRODUCTION NO. 84**

All documents and communications to or from Medicine Man, Inc. concerning the import, purchase, sale or distribution of any product bearing the Aucera Mark.

**RESPONSE TO REQUEST NO. 84**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, particularly given the lack of a date restriction or time period and the fact that the Request is not limited to the import, purchase, sale or distribution *in the United States* of

any product bearing the Aucera Mark. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control concerning the import, purchase, sale or distribution of any product in the United States bearing the Aucera Mark, using the revised definition of Aucera Mark set forth in Registrant's General Objections.

**REQUEST FOR PRODUCTION NO. 85**

All documents and communications to or from Medicine Man, Inc. concerning this proceeding.

**RESPONSE TO REQUEST NO. 85**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad, particularly given the lack of a date restriction or time period. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information.

**REQUEST FOR PRODUCTION NO. 86**

Documents sufficient to fully identify the relationship between Aucera and Robert Bonnem.

**RESPONSE TO REQUEST NO. 86**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad. Registrant further objects to this Request on the grounds that it is unduly burdensome and seeks irrelevant information. Subject to its General and Specific Objections, Registrant will produce responsive, non-privileged documents within its possession, custody, or control, if any exist.

**REQUEST FOR PRODUCTION NO. 87**

Documents sufficient to fully identify the relationship between Aucera and Norm Kushner.

Dated: January 27, 2016

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*Attorneys for Registrant Aucera SA*

**CERTIFICATE OF SERVICE**

re: BENTLEY MOTORS LIMITED v. AUCERA SA

I hereby certify that a true and complete copy of the foregoing:

**REGISTRANT AUCERA SA'S RESPONSES TO PETITIONER'S THIRD SET  
OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS**

has been served on

- (1) Petitioner's counsel of record by mailing said copy on  
January 27, 2016 via First Class Mail, postage prepaid, to:

ROD S. BERMAN  
JESSICA BROMALL SPARKMAN  
JEFFER MANGELS BUTLER & MITCHELL LLP  
1900 AVENUE OF THE STARS, SEVENTH FLOOR  
LOS ANGELES, CA 90067

/s/ Melodie Butler  
Melodie Butler

# **EXHIBIT 15**

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

In the matter of trademark Registration No.: 2007286, 2096184, 2096186  
For the mark: BENTLEY

BENTLEY MOTORS LIMITED,

Petitioner,

v.

AUCERA SA,

Registrant.

Cancellation No.: 92060353

**REGISTRANT AUCERA SA'S RESPONSES TO  
PETITIONER'S THIRD SET OF INTERROGATORIES**

Pursuant to Rule 2.120 of the Trademark Rules of Practice, Trademark Trial and Appeal Board Manual of Procedure § 405, and Rule 33 of the Federal Rules of Civil Procedure, Registrant Aucera SA (“Aucera” or “Registrant”) hereby responds to the Third Set of Interrogatories served by Petitioner Bentley Motors Limited (“Petitioner”).

The following responses and objections are based upon Registrant’s knowledge, information, and belief at this time. Registrant has made a reasonable and good faith effort to respond. However, Registrant has not yet completed its investigation related to this action, nor has it completed discovery or preparation for trial. The responses contained herein are based solely upon the information presently available and specifically known to Registrant. It is anticipated that further discovery, independent investigation, legal research, and analysis may supply additional facts and establish entirely new factual conclusions and legal contentions, all of which may lead to the discovery of additional information, thereby resulting in additions to, changes in, and variations from these responses. Registrant specifically reserves the right to

amend these responses should additional information become available and to use such information.

### **GENERAL OBJECTIONS**

Registrant makes the following general objections, whether or not separately set forth in response to each and every instruction, definition and interrogatories:

1. Registrant objects to the Interrogatories as overbroad and seeking information that is not relevant to the parties' claims or defenses.

2. Registrant objects to the Interrogatories to the extent that they purport to impose obligations on Registrant that exceed its obligations under the Federal Rules of Civil Procedure and/or the Trademark Trial and Appeal Board Manual of Procedure.

3. Registrant objects to the definition of "Aucera" as overly broad, and calling for information outside the possession, custody, and control of Aucera SA, as it includes "Aucera SA, its predecessors or successors in interest, any parent, subsidiary, affiliate and division, and any present or former officers, directors, agents, consultants, representatives, employees or other persons acting or purporting to act on any of those entities' behalf."

4. Registrant objects to the definition of "Aucera Mark" as overbroad and seeking documents that are not relevant to the parties' claims or defenses to the extent that it includes the language "as well as any other goods or services." Registrant will respond to the requests as if the definition of "Aucera Mark" did not include the wording "as well as any other goods or services."

5. Registrant objects to the Interrogatories to the extent that they are vague, ambiguous, and unclear, including Petitioner's use of terms that are not defined and/or are otherwise susceptible to more than one meaning.

### **RESPONSES TO INTERROGATORIES**

#### **INTERROGATORY NO. 63**

Describe in detail each attempt you made to import, sell, or distribute products bearing the Aucera Mark in the United States between the date of first use and the present.

**RESPONSE TO INTERROGATORY NO. 63**

Registrant objects to this interrogatory as overly broad and unduly burdensome. Pursuant to Federal Rule of Civil Procedure 33(d), Registrant has produced documents and business records relevant to this Interrogatory and will produce any additional responsive documents, as set forth in its responses to Petitioner's Requests for Production of Documents. Subject to its General and Specific Objections, Registrant further responds as follows: Aucera has sold products in the U.S. bearing the Aucera Mark as reflected in documents produced and to be produced by Registrant. Aucera has also engaged in ongoing efforts to develop additional sales of products bearing the Aucera Mark and channels of trade in the U.S., including without limitation: Promoting products bearing the Aucera Mark and developing relationships with potential U.S. distributors at trade shows (including the June 2010 JCK trade show in Las Vegas), taking out advertisements for products bearing the Aucera Mark in U.S. publications as reflected in documents produced by Registrant, creating and maintaining a Facebook page for Bentley Watches, and working with individuals and companies in the U.S. to develop relationships with potential distributors of products bearing the Aucera Mark in the U.S. via both online retailers and brick-and-mortar retail stores.

**INTERROGATORY NO. 64**

Describe in detail the relationship between Aucera and Robert Bonnem, including, without limitation, any role that Robert Bonnem plays or is intended to play in importing, distributing, or selling products bearing the Aucera Mark in the United States.

**RESPONSE TO INTERROGATORY NO. 64**

Subject to its General Objections, Registrant responds as follows: Mr. Bonnem has worked with Registrant to further develop marketing and sales channels for products bearing the Aucera Mark in the U.S., including both online retailers and brick-and-mortar retail stores, and advised on product design and marketing.

**INTERROGATORY NO. 65**

Describe in detail the relationship between Aucera and Norm Kushner, including, without limitation, any role that Norm Kushner plays or is intended to play in importing, distributing, or selling products bearing the Aucera Mark in the United States.

**RESPONSE TO INTERROGATORY NO. 65**

Subject to its General Objections, Registrant responds as follows: Mr. Kushner does not have a formal relationship with Aucera. Mr. Kushner has advised Registrant regarding developing marketing and sales channels for products bearing the Aucera Mark in the U.S.

**INTERROGATORY NO. 66**

Explain why Medicine Man, Inc. provided check numbers 7181 and 7162 (Bates Nos. 00015 and 00016) to Robert Bonnem, including without limitation, a description of the goods or services in exchange for which the money was given.

**RESPONSE TO INTERROGATORY NO. 66**

In addition to its General Objections, Registrant objects to this Interrogatory on the grounds that it seeks information in the possession, custody or control of third parties.

Dated: January 27, 2016

By: /s/ Jennifer A. Golinveaux  
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*Attorneys for Registrant Aucera SA*

**VERIFICATION**

I, Chia-Hsiang Cheng, declare:

I am the President of Aucera SA and am authorized to make this verification for and on its behalf. I have read the foregoing **REGISTRANT AUCERA SA'S RESPONSES TO PETITIONER'S THIRD SET OF INTERROGATORIES** and know the contents thereof.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 27 day of January, 2016.

  
\_\_\_\_\_  
Chia-Hsiang Cheng  
President of Aucera SA

**CERTIFICATE OF SERVICE**

re: BENTLEY MOTORS LIMITED v. AUCERA SA

I hereby certify that a true and complete copy of the foregoing:

**REGISTRANT AUCERA SA'S RESPONSES TO  
PETITIONER'S THIRD SET OF INTERROGATORIES**

has been served on

- (1) Petitioner's counsel of record, by mailing said copy on  
January 27, 2016 via First Class Mail, postage prepaid, to:

ROD S. BERMAN  
JESSICA BROMALL SPARKMAN  
JEFFER MANGELS BUTLER & MITCHELL LLP  
1900 AVENUE OF THE STARS, SEVENTH FLOOR  
LOS ANGELES, CA 90067

*/s/ Melodie Butler*  
Melodie Butler

# **EXHIBIT 16**

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

In the matter of trademark Registration No.: 2007286, 2096184, 2096186  
For the mark: BENTLEY

BENTLEY MOTORS LIMITED,

Petitioner,

v.

AUCERA SA,

Registrant.

Cancellation No.: 92060353

**REGISTRANT AUCERA SA'S RESPONSES TO  
PETITIONER'S THIRD SET OF REQUESTS FOR ADMISSIONS**

Pursuant to Rule 2.120 of the Trademark Rules of Practice, Trademark Trial and Appeal Board Manual of Procedure § 407, and Rule 36 of the Federal Rules of Civil Procedure, Registrant Aucera SA (“Aucera” or “Registrant”) hereby responds to the Third Set of Requests for Admissions (the “Requests”) served by Petitioner Bentley Motors Limited (“Petitioner”).

The following responses and objections are based upon Registrant’s knowledge, information, and belief at this time. Registrant has made a reasonable and good faith effort to respond. However, Registrant has not yet completed its investigation related to this action, nor has it completed discovery or preparation for trial. The responses contained herein are based solely upon the information presently available and specifically known to Registrant. It is anticipated that further discovery, independent investigation, legal research, and analysis may supply additional facts and establish entirely new factual conclusions and legal contentions, all of which may lead to the discovery of additional information, thereby resulting in additions to, changes in, and variations from these responses. Registrant specifically reserves the right to amend these responses should additional information become available.

## **GENERAL OBJECTIONS**

Registrant makes the following general objections, whether or not separately set forth in response to each and every instruction, definition and requests for admissions:

1. Registrant objects to the Requests as overbroad and seeking information that is not relevant to the parties' claims or defenses.

2. Registrant objects to the Requests to the extent that they purport to impose obligations on Registrant that exceed its obligations under the Federal Rules of Civil Procedure and/or the Trademark Trial and Appeal Board Manual of Procedure.

3. Registrant objects to the definition of "Aucera" as overly broad, and calling for information outside the possession, custody, and control of Aucera SA, as it includes "Aucera SA, its predecessors or successors in interest, any parent, subsidiary, affiliate and division, and any present or former officers, directors, agents, consultants, representatives, employees or other persons acting or purporting to act on any of those entities' behalf."

4. Registrant objects to the definition of "Aucera Mark" as overbroad and seeking documents that are not relevant to the parties' claims or defenses to the extent that it includes the language "as well as any other goods or services." Registrant will respond to the requests as if the definition of "Aucera Mark" did not include the wording "as well as any other goods or services."

5. Registrant objects to the Requests to the extent that they are vague, ambiguous, and unclear, including Petitioner's use of terms that are not defined and/or are otherwise susceptible to more than one meaning.

## **RESPONSES TO REQUESTS FOR ADMISSIONS**

### **REQUEST FOR ADMISSION NO. 28**

Admit that total sales of goods bearing the Aucera Mark in the United States between November 11, 2011 and November 11, 2014 were less than \$425.

**RESPONSE TO REQUEST NO. 28**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad and seeks information outside Registrant's possession, custody and control. Subject to its General and Specific Objections, Registrant responds as follows: Registrant admits that total sales of goods bearing the Aucera Mark by Aucera SA in the United States between November 11, 2011 and November 11, 2014 were less than \$425.

**REQUEST FOR ADMISSION NO. 29**

Admit that total sales of watches bearing the Aucera Mark in the United States between November 11, 2011 and November 11, 2014 were less than \$290.

**RESPONSE TO REQUEST NO. 29**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad seeks information outside Registrant's possession, custody and control. Subject to its General and Specific Objections, Registrant responds as follows: Registrant admits that total sales of watches bearing the Aucera Mark by Aucera SA in the United States between November 11, 2011 and November 11, 2014 were less than \$290.

**REQUEST FOR ADMISSION NO. 30**

Admit that total sales of pens bearing the Aucera Mark in the United States between November 11, 2011 and November 11, 2014 were no more than \$25.

**RESPONSE TO REQUEST NO. 30**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad and seeks information outside Registrant's possession, custody and control. Subject to its General and Specific Objections, Registrant responds as follows: Registrant admits that total sales of pens bearing the Aucera Mark by Aucera SA in the United States between November 11, 2011 and November 11, 2014 were no more than \$25.

**REQUEST FOR ADMISSION NO. 31**

Admit that total sales of jewelry bearing the Aucera Mark in the United States between November 11, 2011 and November 11, 2014 were no more than \$110.

**RESPONSE TO REQUEST NO. 31**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad and seeks information outside Registrant's possession, custody and control. Subject to its General and Specific Objections, Registrant responds as follows: Registrant admits that total sales of jewelry bearing the Aucera Mark by Aucera SA in the United States between November 11, 2011 and November 11, 2014 were no more than \$110.

**REQUEST FOR ADMISSION NO. 32**

Admit that total sales of goods bearing the Aucera Mark in the United States between 1996 and the present were less than \$1000.

**RESPONSE TO REQUEST NO. 32**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad and seeks information outside Registrant's possession, custody and control. Subject to its General and Specific Objections, Registrant responds as follows: Registrant admits that total sales of goods bearing the Aucera Mark by Aucera SA in the United States between 1996 and the present were less than \$1000.

**REQUEST FOR ADMISSION NO. 33**

Admit that the only person to whom you sold products bearing the Aucera Mark between November 11, 2011 and November 11, 2014 is Robert C. Bonnem.

**RESPONSE TO REQUEST NO. 33**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad and seeks information outside Registrant's possession, custody and control. Subject to its General and Specific Objections, Registrant responds as follows: Denied.

**REQUEST FOR ADMISSION NO. 34**

Admit that you have not licensed any other person or entity to manufacture products bearing the Aucera Mark.

**RESPONSE TO REQUEST NO. 34**

In addition to its General Objections, Registrant objects to this Request on the grounds that it is overly broad and seeks information outside Registrant's possession, custody and control. Subject to its General and Specific Objections, Registrant responds as follows: Denied.

Dated: January 27, 2016

By: /s/ Jennifer A. Golinveaux

Jennifer A. Golinveaux  
WINSTON & STRAWN LLP  
101 California Street, 35<sup>th</sup> Floor  
San Francisco, CA 94111-5894  
Telephone: 415-591-1000  
Facsimile: 415-591-1400  
Email: [jgolinveaux@winston.com](mailto:jgolinveaux@winston.com)

Diana Hughes Leiden  
WINSTON & STRAWN LLP  
333 South Grand Avenue  
Los Angeles, CA 90071  
Telephone: 213-615-1000  
Facsimile: 213-615-1400  
Email: [dhleiden@winston.com](mailto:dhleiden@winston.com)

*Attorneys for Registrant Aucera SA*

**CERTIFICATE OF SERVICE**

re: BENTLEY MOTORS LIMITED v. AUCERA SA

I hereby certify that a true and complete copy of the foregoing:

**REGISTRANT AUCERA SA'S RESPONSES TO  
PETITIONER'S THIRD SET OF REQUESTS FOR ADMISSIONS**

has been served on

- (1) Petitioner's counsel of record by mailing said copy on  
January 27, 2016 via First Class Mail, postage prepaid, to:

ROD S. BERMAN  
JESSICA BROMALL SPARKMAN  
JEFFER MANGELS BUTLER & MITCHELL LLP  
1900 AVENUE OF THE STARS, SEVENTH FLOOR  
LOS ANGELES, CA 90067

/s/ Melodie Butler  
Melodie Butler

# **EXHIBIT 17**

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

In the matter of trademark Registration No.: 2007286, 2096184, 2096186  
For the mark: BENTLEY

BENTLEY MOTORS LIMITED,

Petitioner,

v.

AUCERA SA,

Registrant.

Cancellation No.: 92060353

**REGISTRANT AUCERA SA'S RESPONSES TO  
PETITIONER'S FOURTH SET OF INTERROGATORIES**

Pursuant to Rule 2.120 of the Trademark Rules of Practice, Trademark Trial and Appeal Board Manual of Procedure § 405, and Rule 33 of the Federal Rules of Civil Procedure, Registrant Aucera SA ("Aucera" or "Registrant") hereby responds to the Fourth Set of Interrogatories served by Petitioner Bentley Motors Limited ("Petitioner").

The following responses and objections are based upon Registrant's knowledge, information, and belief at this time. Registrant has made a reasonable and good faith effort to respond. However, Registrant has not yet completed its investigation related to this action, nor has it completed discovery or preparation for trial. The responses contained herein are based solely upon the information presently available and specifically known to Registrant. It is anticipated that further discovery, independent investigation, legal research, and analysis may supply additional facts and establish entirely new factual conclusions and legal contentions, all of which may lead to the discovery of additional information, thereby resulting in additions to, changes in, and variations from these responses. Registrant specifically reserves the right to

amend these responses should additional information become available and to use such information.

### **GENERAL OBJECTIONS**

Registrant makes the following general objections, whether or not separately set forth in response to each and every instruction, definition and interrogatories:

1. Registrant objects to the Interrogatories as overbroad and seeking information that is not relevant to the parties' claims or defenses.

2. Registrant objects to the Interrogatories to the extent that they purport to impose obligations on Registrant that exceed its obligations under the Federal Rules of Civil Procedure and/or the Trademark Trial and Appeal Board Manual of Procedure.

3. Registrant objects to the definition of "Aucera" as overly broad, and calling for information outside the possession, custody, and control of Aucera SA, as it includes "Aucera SA, its predecessors or successors in interest, any parent, subsidiary, affiliate and division, and any present or former officers, directors, agents, consultants, representatives, employees or other persons acting or purporting to act on any of those entities' behalf."

4. Registrant objects to the definition of "Aucera Mark" as overbroad and seeking documents that are not relevant to the parties' claims or defenses to the extent that it includes the language "as well as any other goods or services." Registrant will respond to the requests as if the definition of "Aucera Mark" did not include the wording "as well as any other goods or services."

5. Registrant objects to the Interrogatories to the extent that they are vague, ambiguous, and unclear, including Petitioner's use of terms that are not defined and/or are otherwise susceptible to more than one meaning.

**RESPONSES TO INTERROGATORIES**

**INTERROGATORY NO. 67**

Describe in detail the relationship between Aucera and Lucius Russell Chen, including, without limitation, his employment status, position, job title, and job responsibilities at Aucera.

**RESPONSE TO INTERROGATORY NO. 67**

In addition to its General Objections, Registrant objects to this interrogatory as overly broad and seeking information irrelevant to the parties' claims and defenses. Subject to its General and Specific Objections, Registrant responds as follows: Lucius Russell Chen is not employed by Aucera. It is Aucera's understanding that Lucius Russell Chen is a former employee of Pyxis Enterprise Co., Ltd.

**INTERROGATORY NO. 68**

Describe in detail the relationship between Aucera and Pyxis Enterprise Co., Ltd., including, without limitation, the nature of any contracts or agreements between Aucera and Pyxis Enterprise Co., Ltd.

**RESPONSE TO INTERROGATORY NO. 68**

In addition to its General Objections, Registrant objects to this interrogatory as overly broad and seeking information irrelevant to the parties' claims and defenses. Subject to its General and Specific Objections, Registrant responds as follows: Pyxis Enterprise Co., Ltd. provides marketing services for Aucera.

///

///

///

Dated: February 12, 2016

By: /s/ Jennifer A. Golinveaux  
Jennifer A. Golinveaux  
WINSTON & STRAWN LLP  
101 California Street, 35<sup>th</sup> Floor  
San Francisco, CA 94111-5894  
Telephone: 415-591-1000  
Facsimile: 415-591-1400  
Email: [jgolinveaux@winston.com](mailto:jgolinveaux@winston.com)

Diana Hughes Leiden  
WINSTON & STRAWN LLP  
333 South Grand Avenue  
Los Angeles, CA 90071  
Telephone: 213-615-1700  
Facsimile: 213-615-1750  
Email: [dhleiden@winston.com](mailto:dhleiden@winston.com)

*Attorneys for Registrant Aucera SA*

**VERIFICATION**

I, Chia-Hsiang Cheng, declare:

I am the President of Aucera SA and am authorized to make this verification for and on its behalf. I have read the foregoing **REGISTRANT AUCERA SA'S RESPONSES TO PETITIONER'S FOURTH SET OF INTERROGATORIES** and know the contents thereof.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 12<sup>th</sup> day of February, 2016.

  
Chia-Hsiang Cheng  
President of Aucera SA

**CERTIFICATE OF SERVICE**

re: BENTLEY MOTORS LIMITED v. AUCERA SA

I hereby certify that a true and complete copy of the foregoing:

**REGISTRANT AUCERA SA'S RESPONSES TO  
PETITIONER'S FOURTH SET OF INTERROGATORIES**

has been served on

- (1) Petitioner's counsel of record by mailing said copy on February 12, 2016 via First Class Mail, postage prepaid, to:

ROD S. BERMAN  
JESSICA BROMALL SPARKMAN  
JEFFER MANGELS BUTLER & MITCHELL LLP  
1900 AVENUE OF THE STARS, SEVENTH FLOOR  
LOS ANGELES, CA 90067

/s/ Ann Newman  
Ann Newman

# **EXHIBIT 18**

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

In the matter of trademark Registration No.: 2007286, 2096184, 2096186  
For the mark: BENTLEY

BENTLEY MOTORS LIMITED,

Petitioner,

v.

AUCERA SA,

Registrant.

Cancellation No.: 92060353

**REGISTRANT AUCERA SA'S RESPONSES TO  
PETITIONER'S FOURTH SET OF REQUESTS FOR ADMISSION**

Pursuant to Rule 2.120 of the Trademark Rules of Practice, Trademark Trial and Appeal Board Manual of Procedure § 407, and Rule 36 of the Federal Rules of Civil Procedure, Registrant Aucera SA ("Aucera" or "Registrant") hereby responds to the Fourth Set of Requests for Admission served by Petitioner Bentley Motors Limited's ("Petitioner").

The following responses and objections are based upon Registrant's knowledge, information, and belief at this time. Registrant has made a reasonable and good faith effort to respond. However, Registrant has not yet completed its investigation related to this action, nor has it completed discovery or preparation for trial. The responses contained herein are based solely upon the information presently available and specifically known to Registrant. It is anticipated that further discovery, independent investigation, legal research, and analysis may supply additional facts and establish entirely new factual conclusions and legal contentions, all of which may lead to the discovery of additional information, thereby resulting in additions to, changes in, and variations from these responses. Registrant specifically reserves the right to amend these responses should additional information become available.

## **GENERAL OBJECTIONS**

Registrant makes the following general objections, whether or not separately set forth in response to each and every instruction, definition and requests for admissions:

1. Registrant objects to the Requests as overbroad and seeking information that is not relevant to the parties' claims or defenses.

2. Registrant objects to the Requests to the extent that they purport to impose obligations on Registrant that exceed its obligations under the Federal Rules of Civil Procedure and/or the Trademark Trial and Appeal Board Manual of Procedure.

3. Registrant objects to the definition of "Aucera" as overly broad, and calling for information outside the possession, custody, and control of Aucera SA, as it includes "Aucera SA, its predecessors or successors in interest, any parent, subsidiary, affiliate and division, and any present or former officers, directors, agents, consultants, representatives, employees or other persons acting or purporting to act on any of those entities' behalf."

4. Registrant objects to the definition of "Aucera Mark" as overbroad and seeking documents that are not relevant to the parties' claims or defenses to the extent that it includes the language "as well as any other goods or services." Registrant will respond to the requests as if the definition of "Aucera Mark" did not include the wording "as well as any other goods or services."

5. Registrant objects to the Requests to the extent that they are vague, ambiguous, and unclear, including Petitioner's use of terms that are not defined and/or are otherwise susceptible to more than one meaning.

## **RESPONSES TO REQUESTS FOR ADMISSIONS**

### **REQUEST FOR ADMISSION NO. 35**

Admit that Lucius Russell Chen is an officer of Aucera.

### **RESPONSE TO REQUEST NO. 35**

Subject to its General Objections, Aucera responds as follows: Denied.

**REQUEST FOR ADMISSION NO. 36**

Admit that Lucius Russell Chen is a director of Aucera.

**RESPONSE TO REQUEST NO. 36**

Subject to its General Objections, Aucera responds as follows: Denied.

**REQUEST FOR ADMISSION NO. 37**

Admit that Lucius Russell Chen is a managing agent of Aucera.

**RESPONSE TO REQUEST NO. 37**

Subject to its General Objections, Aucera responds as follows: Denied.

**REQUEST FOR ADMISSION NO. 38**

Admit that Lucius Russell Chen is an employee of Aucera.

**RESPONSE TO REQUEST NO. 38**

Subject to its General Objections, Aucera responds as follows: Denied.

**REQUEST FOR ADMISSION NO. 39**

Admit that Lucius Russell Chen is an agent of Aucera.

**RESPONSE TO REQUEST NO. 39**

Subject to its General Objections, Aucera responds as follows: Denied.

**REQUEST FOR ADMISSION NO. 40**

Admit that Pyxis Enterprise Co., Ltd. owns the domain name bentleluxury.com.

**RESPONSE TO REQUEST NO. 40**

Subject to its General Objections, Aucera responds as follows: Admitted that Pyxis Enterprise Co., Ltd. is the current registrant of the domain name bentleluxury.com.

**REQUEST FOR ADMISSION NO. 41**

Admit that Pyxis Enterprise Co., Ltd. owns the website located at the URL bentleluxury.com.

**RESPONSE TO REQUEST NO. 41**

Subject to its General Objections, Aucera responds as follows: Admitted.

**REQUEST FOR ADMISSION NO. 42**

Admit that Pyxis Enterprise Co., Ltd. operates the website located at the URL bentleluxury.com.

**RESPONSE TO REQUEST NO. 42**

Subject to its General Objections, Aucera responds as follows: Admitted.

**REQUEST FOR ADMISSION NO. 43**

Admit that Pyxis Enterprise Co., Ltd. operates the website located at the URL bentleluxury.com on behalf of Aucera.

**RESPONSE TO REQUEST NO. 43**

Subject to its General Objections, Aucera responds as follows: Admitted.

**REQUEST FOR ADMISSION NO. 44**

Admit that you have never sold any products bearing the Aucera Mark to ResultCo.

**RESPONSE TO REQUEST NO. 44**

Subject to its General Objections, Aucera responds as follows: Admit only that Aucera SA has not sold products bearing the Aucera Mark to ResultCo.

**REQUEST FOR ADMISSION NO. 45**

Admit that ResultCo has never sold any products bearing the Aucera Mark.

**RESPONSE TO REQUEST NO. 45**

Subject to its General Objections, Aucera responds as follows: Aucera has made reasonable inquiry and the information it knows or can readily obtain is insufficient to enable it to admit or deny this request.

**REQUEST FOR ADMISSION NO. 46**

Admit that ResultCo has never imported any products bearing the Aucera Mark.

**RESPONSE TO REQUEST NO. 46**

Subject to its General Objections, Aucera responds as follows: Denied.

**REQUEST FOR ADMISSION NO. 47**

Admit that ResultCo has never shipped any products bearing the Aucera Mark.

**RESPONSE TO REQUEST NO. 47**

Subject to its General Objections, Aucera responds as follows: Aucera has made reasonable inquiry and the information it knows or can readily obtain is insufficient to enable it to admit or deny this request.

Dated: February 12, 2016

By: /s/ Jennifer A. Golinveaux  
Jennifer A. Golinveaux  
WINSTON & STRAWN LLP  
101 California Street, 35<sup>th</sup> Floor  
San Francisco, CA 94111-5894  
Telephone: 415-591-1000  
Facsimile: 415-591-1400  
Email: [jgolinveaux@winston.com](mailto:jgolinveaux@winston.com)

Diana Hughes Leiden  
WINSTON & STRAWN LLP  
333 South Grand Avenue  
Los Angeles, CA 90071  
Telephone: 213-615-1700  
Facsimile: 213-615-1750  
Email: [dhleiden@winston.com](mailto:dhleiden@winston.com)

*Attorneys for Registrant Aucera SA*

**CERTIFICATE OF SERVICE**

re: BENTLEY MOTORS LIMITED v. AUCERA SA

I hereby certify that a true and complete copy of the foregoing:

**REGISTRANT AUCERA SA'S RESPONSES TO  
PETITIONER'S FOURTH SET OF REQUESTS FOR ADMISSION**

has been served on

- (1) Petitioner's counsel of record by mailing said copy on February 12, 2016 via First Class Mail, postage prepaid, to:

ROD S. BERMAN  
JESSICA BROMALL SPARKMAN  
JEFFER MANGELS BUTLER & MITCHELL LLP  
1900 AVENUE OF THE STARS, SEVENTH FLOOR  
LOS ANGELES, CA 90067

*/s/ Ann Newman*  
Ann Newman

**EXHIBITS 19-24**

**REDACTED**

**[FILED SEPARATELY  
UNDER SEAL]**

# **EXHIBIT 25**

## DECLARATION OF MICHAEL PICKENS

I, MICHAEL PICKENS, declare and state as follows:

1. I am the Chief Financial Officer of ResultCo (“ResultCo”), which is located at 3160 Haggerty Road, Suite J, West Bloomfield, Michigan 48323. I am familiar with ResultCo’s business, as well as the individuals and companies with which it conducts its business. I have personal knowledge, or knowledge based on my review of ResultCo’s files, of the matters set forth in this declaration, and, if called as a witness, I could and would testify competently to these matters.

2. I have reviewed the Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action attached hereto as Exhibit A (the “Subpoena”). Other than the document attached hereto as Exhibit B, ResultCo does not have any documents in its possession, custody, or control that are responsive to any of the document requests included in the Subpoena.

3. In December 2013, ResultCo employee Jeff Freedman was contacted via email sent to the email address [jeff@resultco.com](mailto:jeff@resultco.com) by Lucius Russell Chen. Mr. Chen identified himself as the Engagement Manager for Pyxis Enterprise Co., Ltd., and inquired if ResultCo would assist him to “produce evidences of trademark use.” He explained that he would like to ResultCo help him to “keep record of sales and marketing activities for the Bentley watches even though no actual sales are being done in the US.” He went on to explain, at some length, how a “paper trail” for sales could be created without any actual products being sold. A true and correct copy of the email described above, as well as my email forwarding that email to Jessica Bromall Sparkman counsel for Bentley Motors Limited is attached hereto as Exhibit B. The text highlighting in Exhibit B was added by me.

4. ResultCo did not participate in Mr. Chen’s proposed scheme.

5. ResultCo has never purchased or received any BENTLEY branded watches, pens, or jewelry from Aucera S.A., Pyxis Enterprise Co., Ltd., Ted Cheng, Chia-Hsiang Cheng, Lucius Russell Chen, Robert Bonnem, Medicine Man, Inc., Norm Kushner, Blount Jewels, Inc., or Anthony or Shontell Blount.

6. ResultCo has never imported, exported, purchased, received, manufactured, sold, shipped, distributed, or advertised any product bearing the trademark BENTLEY.

I declare under penalty of perjury under the laws of the United States of America and the

State of Michigan that the foregoing is true and correct, and that this Declaration is executed on

1/08/2016 [Date] at 3160 HAGGERTY RD [Location].  
Suite J  
WEST BLOOMFIELD, MI 48323

Michael Pickens

MICHAEL PICKENS

# EXHIBIT A

UNITED STATES DISTRICT COURT
for the
Eastern District of Michigan

Bentley Motors Limited
Plaintiff
v.
Aucera SA
Defendant

Civil Action No. Trademark Trial and Appeal Board
Proceeding Number 92/060,353

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Resultco, 3160 Haggerty Road, Suite J, West Bloomfield, Michigan 48323

(Name of person to whom this subpoena is directed)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:
See Attachment A, hereto.

Place: ResultCo, 3160 Haggerty Road, Suite J, West Bloomfield, Michigan 48323
Date and Time: January 8, 2016 at 10:00 a.m.

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:
Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached - Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: December 22, 2015

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

[Handwritten signature]

Attorney's signature

Jessica Bromall Sparkman

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Petitioner Bentley Motors Limited, who issues or requests this subpoena, are: Jessica Bromall Sparkman, Jeffer Mangels Butler & Mitchell LLP, 1900 Avenue of the Stars, 7th Floor, Los Angeles, California 90064; jrbromall@jmbm.com; 310-712-6838

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_

I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

## Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

### (c) Place of Compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

(A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises at the premises to be inspected.

### (d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

### (e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

For access to subpoena materials, see Fed. R. Civ. P. 45(a) Committee Note (2013).



**ATTACHMENT A TO SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION,  
OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

**DEFINITIONS AND INSTRUCTIONS**

Unless the context clearly requires otherwise, the following definitions and instructions shall apply to these requests:

1. "You," "your," and "ResultCo" shall mean and include ResultCo, and any of its officers, directors, employees, agents, or representatives acting on its behalf.
2. "Petitioner" and "Bentley" means Bentley Motors Limited.
3. "Respondent" and "Aucera" means Aucera SA or Aucera SA Co., Ltd., its predecessors or successors in interest, any parent, subsidiary, affiliate and division, and any present or former officers, directors, agents, consultants, representatives, employees or other persons acting or purporting to act on any of those entities' behalf.
4. "Person" means any natural person, partnership, corporation, or other business entity, and all present and former officers, directors, agents, representatives and employees acting or purporting to act on behalf of such person.
5. "Document" is defined to be synonymous in meaning and equal in scope to the usage of this term in its broadest possible sense in the Federal Rules of Evidence and the Federal Rules of Civil Procedure. For further specificity, documents include all information recorded or stored in any electronic medium such as telephonic memory, computer memory, diskettes, SIM cards or magnetic tape. Any document with any remarks such as initials, comments, or notations of any kind is not deemed to be identical to one without such marks, and is to be produced as a separate document.
6. "Communication" means and includes any transmission or exchange of information between two or more persons, whether orally or in writing, including without limitation, any discussion or information carried on or transmitted by means of letter, note, memorandum, interoffice correspondence, internal office communications, telephone, telex, telecopies, cable, e-mail, instant message, text message, or any other electronic or other medium.
7. "Proceeding" means and refers to the Petition for Cancellation of Aucera's U.S. Trademark Reg. Nos. 2007286, 2096184, and 2096186 filed by Bentley on November 11, 2014, Trademark Trial and Appeal Board Proceeding No. 92060353.
8. The term the "Aucera Mark" shall refer to the mark "BENTLEY" as identified and described in U.S. Trademark Reg. Nos. 2007286, 2096184, and 2096186, including as used with any and all of the goods set forth in each of those registrations, as well as any other goods or services.
9. The terms "concerning" and "concern" mean specifically mentioning, referring to, or relating to matters that are the subject of the request and, where appropriate, having context or

content that makes it apparent that matters that are the subject of the request are shown or described.

10. You are required to produce all documents and things in your actual or constructive possession, custody, or control, including documents and things which may be in the physical possession of another entity such as a business or a law firm. If documents or things responsive to these requests for production cannot be located, state in detail the particulars of the efforts you made to locate such documents or things and the reasons for their disappearance or unavailability.

11. Should you deem any document or thing of which information or inspection is requested by any of the following requests to be privileged, work-product or confidential, list and identify each such document or thing, specify what matter therein you claim to be privileged, work-product, or confidential, and state all of the grounds and facts upon which such a claim rests, and on which you will rely to assert such claim in order to provide the factual basis to determine whether such documents or things are, in fact, privileged, work-product or confidential.

12. If any attorney-client privilege is asserted, in addition to the information requested above, specifically identify the attorney, the client, the nature of the confidential communication, the date of the confidential communication, and all recipients of the communication.

13. If any attorney work-product was prepared, in addition to the information requested above, specifically identify the person or attorney who prepared the work-product, the date of preparation of the work-product, the nature of the work-product information, and identify the litigation for which the work-product was prepared.

14. Whenever appropriate: the singular form of a word or phrase shall be interpreted in the plural, or vice versa; verb tenses shall include past, present and future tenses; the masculine, feminine and neuter each shall include the other; and the terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of these requests any information which might otherwise be construed to be outside their scope.

#### DOCUMENT REQUESTS

##### REQUEST FOR PRODUCTION NO. 1:

All communications to or from Aucera.

##### REQUEST FOR PRODUCTION NO. 2:

All communications to or from Ted Cheng.

##### REQUEST FOR PRODUCTION NO. 3:

All communications to or from Chia-Hsiang Cheng.

REQUEST FOR PRODUCTION NO. 4:

All communications to or from Norm Kushner that concern Aucera, the Aucera Mark, any products bearing the Aucera Mark, or the importation, distribution, purchase or sale of any products bearing the Aucera Mark.

REQUEST FOR PRODUCTION NO. 5:

All communications to or from Medicine Man, Inc. that concern Aucera, the Aucera Mark, any products bearing the Aucera Mark, or the importation, distribution, purchase or sale of any products bearing the Aucera Mark.

REQUEST FOR PRODUCTION NO. 6:

All communications to or from Robert Bonnem that concern Aucera, the Aucera Mark, any products bearing the Aucera Mark, or the importation, distribution, purchase or sale of any products bearing the Aucera Mark.

REQUEST FOR PRODUCTION NO. 7:

All communications to or from Blount Jewels, Inc. that concern Aucera, the Aucera Mark, any products bearing the Aucera Mark, or the importation, distribution, purchase or sale of any products bearing the Aucera Mark.

REQUEST FOR PRODUCTION NO. 8:

All communications to or from Anthony Blount that concern Aucera, the Aucera Mark, any products bearing the Aucera Mark, or the importation, distribution, purchase or sale of any products bearing the Aucera Mark.

REQUEST FOR PRODUCTION NO. 9:

All communications to or from Shontell Blount that concern Aucera, the Aucera Mark, any products bearing the Aucera Mark, or the importation, distribution, purchase or sale of any products bearing the Aucera Mark.

REQUEST FOR PRODUCTION NO. 10:

All documents, including all communications, that concern or evidence the importation, distribution, purchase, or sale of any products bearing the Aucera Mark, including, without limitation, purchase orders, invoices, e-mails or other communications, shipping documents, purchase agreements, sale agreements, and customs documents.

REQUEST FOR PRODUCTION NO. 11:

All invoices for the sale of products bearing the Aucera Mark.

REQUEST FOR PRODUCTION NO. 12:

All purchase orders for products bearing the Aucera Mark.

REQUEST FOR PRODUCTION NO. 13:

Documents sufficient to show the total number of goods bearing the Aucera Mark sold by or to you.

REQUEST FOR PRODUCTION NO. 14:

Documents sufficient to show the number of goods bearing the Aucera Mark in your inventory.

REQUEST FOR PRODUCTION NO. 15:

Documents sufficient to show your total revenues from the sale of goods bearing the Aucera Mark.

REQUEST FOR PRODUCTION NO. 16:

Documents constituting or concerning any advertising and promotional materials for goods the Aucera Mark, including, but not limited to, labels, packaging, flyers, direct mail pieces, point of sale pieces, signs, posters, newspaper advertisements, magazine advertisements, media articles, catalogs, circulars, leaflets, brochures, television and radio commercials, and any other publicly distributed materials.

REQUEST FOR PRODUCTION NO. 17:

Any contracts or agreements between you and Aucera.

REQUEST FOR PRODUCTION NO. 18:

All documents constituting or concerning any formal or information marketing or business plan for the use of the Aucera Mark.

REQUEST FOR PRODUCTION NO. 19:

All documents concerning the placement of goods bearing the Aucera Mark on the website [www.blountjewels.com](http://www.blountjewels.com).

REQUEST FOR PRODUCTION NO. 20:

All documents concerning the pricing of goods bearing the Aucera Mark on the website [www.blountjewels.com](http://www.blountjewels.com).

REQUEST FOR PRODUCTION NO. 21:

All documents concerning any sales of goods bearing the Aucera Mark on or through the website [www.blountjewels.com](http://www.blountjewels.com).

REQUEST FOR PRODUCTION NO. 22:

All documents constituting or concerning your document destruction policy.

# EXHIBIT B

## Bromall Sparkman, Jessica

---

**From:** Michael P <michael@resultco.com>  
**Sent:** Thursday, January 07, 2016 1:00 PM  
**To:** Bromall Sparkman, Jessica  
**Subject:** RE: Bentley Motors Limited vs Aucera SA  
**Attachments:** img01072016\_0001.pdf

Jessica:

It appears that we were approached in December 2013 to become a US Dealer as a matter of convenience. As the e-mail below states, it was never intended to progress beyond that point and no watches were ever shipped or sold to us.

Regards,

Michael Pickens

**From:** Lucius Russell Chen [mailto:[nehcul@gmail.com](mailto:nehcul@gmail.com)]  
**Sent:** Tuesday, December 10, 2013 3:00 AM  
**To:** Jeff F  
**Subject:** Bentley Trademark

Hi Jeff

Thanks for taking your time for our meeting, As discussed, the Bentley trademark needs protection in the US, I'd wish to get help from your side to produce evidences of trademark use. Basically I would need to keep record of sales and marketing activities for the Bentley watches **even though no actual sales are being done in the US.**

Couple things I would need to suffice the purpose of trademark protection.

1. Import record (**I can send you some watches marked as Bentley** at low money value, so we'd have proof the watches have been legally imported into the states)
2. Marketing activities (**I can send you some adverts, and if you could put them on local news paper or publication with printed DATES,** that would be great)
3. Sales activities (basically invoice and receipts showing Bentley watches are sold to customers, I believe there are ways that I could purchase the watches from your website or cash transaction, so as long as we can produce paper trail showing a complete sales transaction has been made, it would be sufficient)

Please let me know if the above mentioned tasks can be completed, and how soon would we have something concrete in hand to provide sufficient proof of trademark use in the US. **My company will bear all the expenses involved in regard to the trademark protection tasks d.**

Thanks

--

*Lucius Russell C.*  
**Engagement Manager**

Pyxis Enterprise Co.,Ltd  
+886 227867706 #165

# **EXHIBIT 26**

# Retailers | BENTLEY OFFICIAL WEBSITE - Luxury Watches, Leather, Writing Instrument, Eyewear, Bicycle, BENTLEY Lifestyle

## USA

### **Blount Jewels, Inc.**

8710 Cameron St. Suite 906

Silver Spring, MD 20910

TEL: [anthony.c.blount@blountjewels.com](mailto:anthony.c.blount@blountjewels.com)

## USA

### **Resultco**

3160 Haggerty Rd, Suite J

West Bloomfield, Michigan 48323

TEL: (888) 782-2080

## ABOUT BENTLEY



Bentley purveys the finest mens accessories, the specialized collection offers fine timepieces, writing instruments, leather goods, eyewear, fixed gear bicycles and cufflinks.

## The Timepiece



Bentley watches are recognized by enthusiasts as a contemporary illustrations of precision craft with

each luxurious timepiece achieving a fine balance between tradition and modernity.

# **EXHIBIT 27**

# {Blount Jewels Onli

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- Codex
- Cyril Ratel
- David Van Heim
- Hautlence
- Jean-Pierre Lepine
- JS Watch Reykjavik
- Pilo & Co
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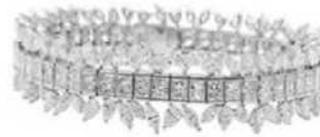
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• Earrings



• Three Stone Engagement Ring Settings



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115R/JO/B/115R/D  
\$8,970.00



**Cyril Ratel UAC PCS -1**  
Ladies Diamond Watch  
\$12,580.00



**Cyril Ratel Urban**  
Adventures Collection Day  
Retrograde Series  
DR777R-4  
\$2,780.00



Hautelance HLO4 with Fold Buckle  
\$71,700.00



101 38 REYKJAVIK "Our old town center" Watch with Alligator Strap  
\$2,180.00



Hautelance HLO4 Yellow Gold with Pin Buckle  
\$62,200.00



STEFFEN JULIUS 102R/JU/EC  
\$2,950.00



Blacksand Geneva Uniformity UN3  
\$11,800.00



Cyril Ratel Day Retrograde Series UAC DR777S-2 DIAM 2  
\$6,180.00



Cyril Ratel Urban Adventures Collection Day Retrograde Series DR777S-4  
\$2,580.00



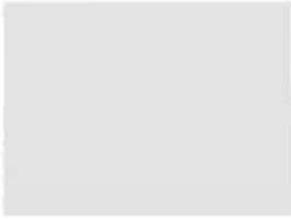
Cyril Ratel Urban Adventures Automatic series A900BR-1  
\$3,980.00

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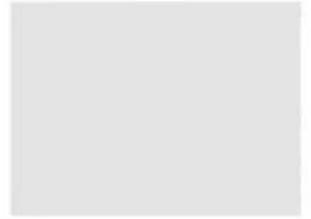




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Cyril Ratel Day Retrograde Series UAC DR777S-2  
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\$2,580.00

Cyril Ratel Urban Adventures Automatic series UAC Au001-1  
\$3,980.00

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[David Van Heim Dual Chronograph Quartz White Dial Men's Watch #VH-41](#)



[David Van Heim Irea Quartz Brown Dial Men's Watch #VH-31](#)



[David Van Heim Irea Quartz Black Dial Men's Watch #VH-32](#)



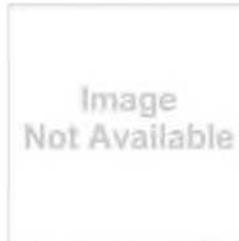
[David Van Heim Irea Mechanical Black Dial Men's Watch #VH-37](#)



[CODEX IDENTITY Chrono Moonphase Automatic Black Dial Diamonds Men's Watch #4401.41.0101.R01](#)  
\$4,300.00



[David Van Heim T1 Mechanical Tourbillon Black Dial Men's Watch #VH-81](#)



[CODEX IDENTITY Steel Hand Wind Black Dial Men's Watch #4401.11.0101.L01](#)  
\$2,350.00



[CODEX IDENTITY Chrono Moonphase Automatic Black Dial Men's Watch](#)  
\$30,000.00



Blacksand Geneve Uniformity UN3  
\$11,800.00



Cyril Ratel Day Retrograde Series UAC DR777S-2  
DIAM 2  
\$6,180.00



CODEX IDENTITY Steel Hand Wind Black Dial Men's Watch  
\$2,300.00



CODEX IDENTITY Chrono Day Date Automatic Rhodium Dial Men's Watch #4401.42.0103.R01  
\$3,600.00

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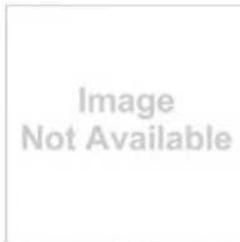
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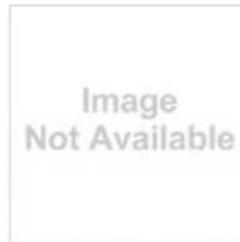
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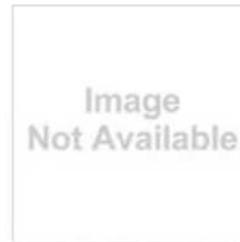
**Belharra champagne HMS with brown strap**  
\$3,950.00



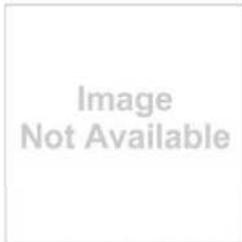
**Savoy Icon Extreme Swiss Quartz Silver Dial Men's Watch**  
#WM1.11B1D.11.RW.HS  
\$2,500.00



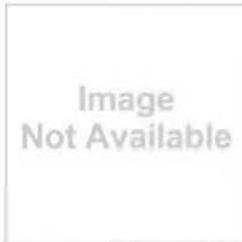
**Savoy Icon Extreme Swiss Quartz Silver Dial Men's Chronograph Watch**  
#WM1.21C7.T.27.RO.LHQ  
\$1,450.00



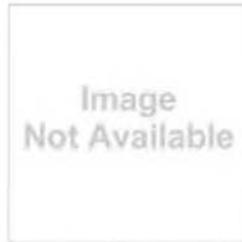
**Savoy Icon Extreme Swiss Quartz White Dial Men's Watch**  
#WM1.11B5R1.11.RW.TS  
\$900.00



Savoy Icon Extreme Swiss Quartz Black Dial Men's Chronograph Watch  
#WM1.22C2T.22.RB.HB  
\$1,450.00



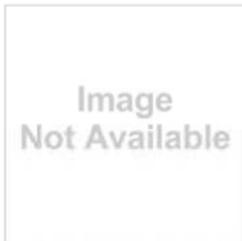
Savoy Icon Extreme Swiss Quartz Silver Dial Men's Watch  
#WM1.11b1.11.RB/HS  
\$900.00



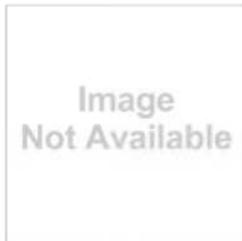
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#WM1.22C7TA.27A.RB.LC  
\$1,450.00



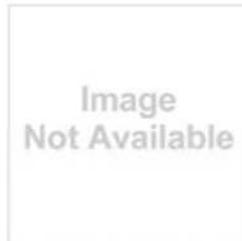
Jean-Pierre Lepine Belharra Black HMS with Black strap  
\$3,950.00



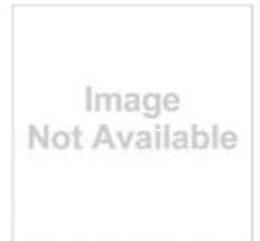
Savoy Icon Extreme Swiss Quartz Silver Dial Men's Watch  
#WM1.41B1.14.RW/PG  
\$990.00



Savoy Icon Extreme Swiss Quartz Blue Dial Men's Chronograph Watch  
#WM1.11C1T.81.RW.TS  
\$1,350.00



Savoy Icon Extreme Swiss Quartz Silver Dial Men's Watch  
#WM1.13B4.14.RW/HG  
\$950.00

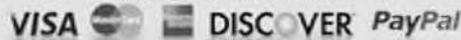


Savoy Icon Extreme Swiss Quartz Silver Dial Men's Chronograph Watch  
#WM1.11C1T.12.RB.TS  
\$1,350.00

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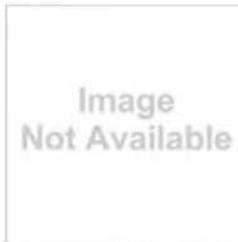
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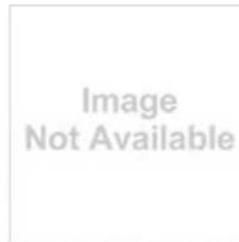
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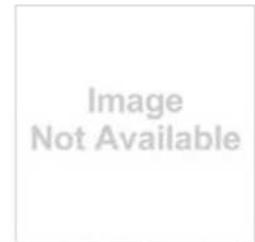
[Jean-Pierre Lepine Belharra Power Large Date](#)  
\$5,300.00



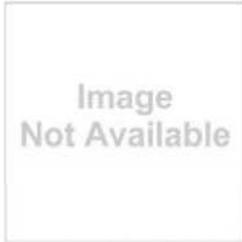
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#WM1.11B1D.11.RW.HS  
\$2,500.00



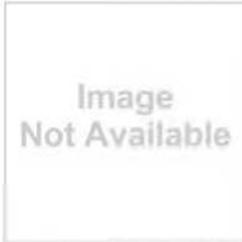
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#WM1.21C7.T.27.RO.LHQ  
\$1,450.00



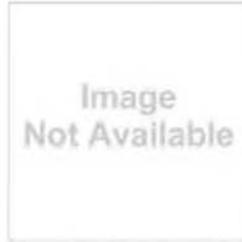
[Savoy Icon Extreme Swiss Quartz White Dial Men's Watch](#)  
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Savoy Icon Extreme Swiss Quartz Black Dial Men's Chronograph Watch  
#WM1.22C2T.22.RB.HB  
\$1,450.00



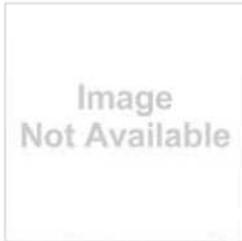
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\$900.00



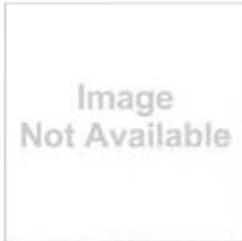
Savoy Icon Extreme Swiss Quartz Black Dial Men's Chronograph Watch  
#WM1.22C7TA.27A.RB.LC  
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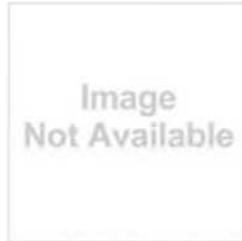
Jean-Pierre Lepine Belharra Black HMS with Black strap  
\$3,950.00



Savoy Icon Extreme Swiss Quartz Silver Dial Men's Watch  
#WM1.41B1.14.RW/PG  
\$990.00



Savoy Icon Extreme Swiss Quartz Blue Dial Men's Chronograph Watch  
#WM1.11C1T.8L.RW.TS  
\$1,350.00



Savoy Icon Extreme Swiss Quartz Silver Dial Men's Watch  
#WM1.13B3.13.RW/HG  
\$950.00



Blacksand Geneve Chronograph CH-1 Watch with Satin-Finished Titanium  
\$26,500.00

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Belharra Power Large Date  
\$5,300.00



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Hand-Wound  
Chronograph CH-3 Watch  
\$27,000.00



Savoy Icon Extreme Swiss  
Quartz Silver Dial Men's  
Chronograph Watch  
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\$1,450.00



Black Sand Geneve  
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Blacksand Geneve  
Chronograph CH-7 Watch  
with Polished Gold/Satin  
Gold  
\$45,000.00



Savoy Icon Extreme Swiss  
Quartz Silver Dial Men's  
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\$1,400.00



Blacksand Geneve  
Chronograph CH-4 Watch  
with Satin Titanium &  
Ceramic Mat  
\$26,000.00



Jean-Pierre Lepine  
Belharra Black HMS with  
Black strap  
\$3,950.00



Jean-Pierre Lepine  
Belharra second retro  
metal dial with brown strap  
\$4,950.00



Savoy Icon Extreme Swiss  
Quartz Silver Dial Men's  
Watch  
#WM1.14B1R.14.RBR/TS  
\$950.00



CODEX IDENTITY Steel  
Hand Wind Black Dial  
Men's Watch  
\$2,300.00



Blacksand Geneve  
Chronograph CH-1 Watch  
with Satin-Finished  
Titanium  
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**Jaeger LeCoultre Master Master Perpetual Mens Watch #149.34.4a**  
\$29,200.00



**Hublot Big Bang King Gold Mens Watch 322.PM.100.RX**  
\$30,600.00



**Black Sand Geneve Uniformity Automatic White Dial Men's Watch #UNI.1.A33-SP**  
\$12,800.00

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**Black Sand Geneve Uniformity Automatic Silver Dial Men's Watch**  
**#UNI.1.A32-SS**  
 \$18,800.00



**SERKET REEF DIVER 3.0 PVD BLACK STEEL**  
 \$699.00



**CODEX IDENTITY Steel Hand Wind Silver Dial Men's Watch**  
**#4401.11.0102.L01**  
 \$2,350.00



**CODEX IDENTITY Steel Hand Wind Black Dial Men's Watch**  
**#4401.11.0101.L01**  
 \$2,350.00



**CODEX IDENTITY Chrono Moonphase Automatic Black Dial Men's Watch**  
 \$30,000.00



**CODEX IDENTITY Chrono Day Date Automatic Rhodium Dial Men's Watch**  
**#4401.42.0103.L01**  
 \$3,650.00



**CODEX IDENTITY Lady Moonphase Automatic Brown Dial Diamond Women's Watch**  
**#3903.12.0105.A05**  
 \$24,100.00



**CODEX IDENTITY Steel Hand Wind Black Dial Men's Watch**  
 \$2,300.00



**CODEX IDENTITY Chrono Day Date Automatic Rhodium Dial Men's Watch**  
**#4401.42.0103.R01**  
 \$3,600.00

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<b>Rolex Day-Date II</b> <b>President White Gold</b> <b>Setted Bezel &amp; Paved Dial</b> \$100,399.00	<b>Audemars Piquet CARBON</b> <b>CONCEPT Tourbillon</b> <b>Chronograph</b> \$279,999.00	<b>Hublot Big Bang 2 Million</b> <b>BB 44mm</b> \$2,450,000.00	<b>Hublot Big Bang Aero Bang</b> <b>Carbon 44mm</b> \$25,900.00

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<b>Hublot Big Bang Steel Diamonds Bracelet 38mm</b> \$12,000.00	<b>Hublot Big Bang Black Magic Diamonds 41mm</b> \$19,400.00	<b>2013 Rolex Oyster Perpetual Cosmograph Daytona 116589</b> \$96,500.00	<b>Hublot Big Bang Gold Zebra Bang 41mm</b> \$42,500.00
			
<b>Hublot Big Bang Black Tutti Frutti Camel Carat 41mm</b> \$27,800.00	<b>Savoy Icon Extreme Swiss Quartz Black Dial Men's Chronograph Watch #S1.12B2T.201.R2.5</b> \$1,350.00	<b>Jean-Pierre Lepine Belharra second retro metal dial with brown strap</b> \$4,950.00	<b>SERKET REEF DIVER 3.0 Stainless Steel Orange</b> \$599.00

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- Montblanc
- Navitec
- Patek Philippe
- Pierre Thomas
- Piaget
- Richard Mille
- Roger Dubuis
- Rolex
- Rudis Sylva
- Savoy
- Serket
- TEMPVS COMPVTARE
- Vacheron Constantin
- Urwerk
- Tourbillon
- Coming Soon

### Featured Jeweler



### Featured Jeweler



### WeddingWire Preferred Vendor



go

#### • Wristware



#### • Watches



#### • Earrings



#### • Loose Diamonds

#### • Engagement Settings



#### • Engagement 2 Piece



#### • Three Stone Engage





**Blount Jewels Affiliate Programs**

[Webgains Affiliate Program](#)  
[SAS Affiliate Program](#)

[BlountJewels](#)

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INTERNET ARCHIVE <http://blountjewels.com/> Go AUG OCT DEC 15 2013 2014 2016 Close X Help ?

Wayback Machine 45 captures 8 Oct 12 - 10 Mar 16

301-588-2043 English

# BLOUNT JEWELS

- BRANDS & DESIGNERS
- ENGAGEMENT
- DIAMONDS
- FINE JEWELRY
- WATCHES
- COLLECTIONS
- GIFTS



SILVER THE WORLD OF BLOUNT

- A. LANGE AND SOHN
- AUDEMARS PIGUET
- BAUME & MERCIER
- BLANCPAIN
- BREGUET
- BREITLING
- BULGARI
- CARTIER
- CHOPARD
- CORUM
- CURTIS & CO
- CYRIL RATEL
- GIRARD-PERREGAUX
- GRAHAM
- HAMILTON
- HARRY WINSTON
- IWC
- JACOB & CO.
- JAEGER LECOULTRE
- LONGINES
- LUDOVIC BALLOUARD
- MONTBLANC
- OMEGA
- PATEK PHILIPPE

**FEATURED COLLECTION**

**A. LANGE AND SOHNE**  
10 ITEMS

**AUDEMARS PIGUET**  
113 ITEMS



**BAUME & M**  
26 ITE



**BLANCPAIN**  
ITEMS



BREGUET  
49 ITEMS

BREITLING  
430 ITEMS

BULGARI  
13 ITEMS

- PIAGET
- PIERRE THOMAS
- REBELLION
- ROLEX
- RUDIS SYLVA
- TAG HEUER
- TISSOT
- ZANETTI
- ZENITH



CARTIER  
ITEMS

WATCHES >  
CO  
47 ITE



CHOPARD  
211 ITEMS



CORUM  
50 ITEMS



CYRIL RATEAU  
35 ITEMS

GRAHAM  
94 ITEMS



GIRARD-PERREGAUX  
112 ITEMS



HAMILTON  
75 ITEMS

HARRY WINSTON  
86 ITEMS



IWC  
49 ITEMS



JACOB & CO.  
152 ITEMS



JAEGER LECOULTRE  
209 ITEMS



LONGINES  
24 ITEMS



LUDOVIC BALLOUARD  
8 ITEMS



MONTBLANC  
146 ITEMS



OMEGA  
52 ITEMS



PATEK PHILIPPE  
185 ITEMS



PIAGET  
167 ITEMS



PIERRE THOMAS  
13 ITEMS



REBELLION  
28 ITEMS



ROLEX  
1000 ITEMS



RUDIS SYLVA  
9 ITEMS



TAG HEUER  
155 ITEMS

WATCHES > ZANNETTI  
22 ITEMS



ENGAGEMENT RINGS



BLOUNT JEWELS

BLOUNT JEWELS 1.49 CTTW  
ROUND DIAMOND  
ENGAGEMENT RING IN 18K  
WHITE GOLD

\$ 11,600.00

QUICK VIEW

BLOUNT JEWELS

BLOUNT JEWELS 1.58 CTTW  
ROUND DIAMOND  
ENGAGEMENT RING IN 18K  
WHITE GOLD

\$ 15,400.00

QUICK VIEW

BLOUNT JEWELS

BLOUNT JEWELS 1.60 CTTW  
ROUND DIAMOND  
ENGAGEMENT RING IN  
PLATINUM

\$ 15,800.00

QUICK VIEW

BLOUNT JEWELS

BLOUNT JEWELS 1.67CT  
CERTIFIED FANCY PINK  
DIAMOND ENGAGEMENT  
RING

\$ 100,750.00

QUICK VIEW

BLOUNT JEWELS

BLOUNT JEWELS 1.69 C  
ROUND BRILLIAN'  
DIAMOND ENGAGEM  
RING

\$ 22,100.00

QUICK VIEW

# BLOUNT JEWELS

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[RETURN POLICY](#)

[TERMS & CONDITIONS](#)

[CONTACT-US](#)

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INTERNET ARCHIVE Wayback Machine  
 http://blountjewels.com/collections/bentley-luxury-watches Go  
 4 captures 26 Nov 14 - 14 Aug 15  
 OCT NOV JAN 26 2013 2014 2015 Close X Help ?  
 f t p b 301-588- English

# BLOUNT JEWELS

- BRANDS & DESIGNERS
- ENGAGEMENT
- DIAMONDS
- FINE JEWELRY
- WATCHES
- COLLECTIONS
- GIFTS
- SILVER
- THE WORLD OF BLOUNT
- BLOG

HOME > BENTLEY LUXURY WATCHES

## Bentley Luxury Watches

### MENU

- BRANDS & DESIGNERS
- ENGAGEMENT
- DIAMONDS
- FINE JEWELRY
- WATCHES
- COLLECTIONS
- GIFTS
- SILVER
- THE World Of BLOUNT
- BLOG

### DIAMONDS

- Cushion
- Emerald
- Marquise
- Oval
- Princess
- Round
- Asscher
- Radiant
- Heart

### TIMEPIECES

- A. Lange and Sohne
- Audemars Piguet
- Baume & Mercier
- Bentley
- Blancpain
- Breguet
- Breitling
- Bulgari
- Cartier
- Chopard



BENTLEY	BENTLEY	BENTLEY
BENTLEY BOURBON AUTOMATIC WATCH 86-15001	BENTLEY BOURBON AUTOMATIC WATCH 86-15011	BENTLEY BOURBON AUTOMATIC WATCH 86-15481
\$ 4,300.00 <del>\$ 4,800.00</del>	\$ 2,400.00 <del>\$ 4,800.00</del>	\$ 2,400.00 <del>\$ 4,800.00</del>
<a href="#">QUICK VIEW</a>	<a href="#">QUICK VIEW</a>	<a href="#">QUICK VIEW</a>

- Corum
- CT Scuderia
- Cyril Ratel
- Franck Muller
- Girard-Perregaux
- Graham
- Hamilton
- Harry Winston
- IWC
- Jacob & Co.
- Jaeger LeCoultre
- Longines
- Ludovic Ballouard
- Montblanc
- Omega
- Panerai
- Patek Philippe
- Piaget
- Pierre Thomas
- Rebellion
- Rolex
- Rudis Sylva
- Serket
- Tag Heuer
- Tissot
- Ulysses Nardin
- Yonger & Bresson
- Zanetti
- Zenith

GIFTS AND SALES

- Cufflinks
- Leather Goods
- Writing Instruments
- Gifts under \$500
- Gift Under \$1000
- Gifts under \$5000

SHOP BY DESIGNER

Bentley



BENTLEY  
 BENTLEY BOURBON AUTOMATIC  
 WATCH 86-15533  
 \$ 2,400.00 ~~\$ 4,800.00~~

QUICK VIEW



BENTLEY  
 BENTLEY BOURBON AUTOMATIC  
 WATCH 86-15593  
 \$ 2,400.00 ~~\$ 4,800.00~~

QUICK VIEW



BENTLEY  
 BENTLEY BOURBON BIG DATE  
 WATCH 84-50001  
 \$ 1,150.00 ~~\$ 4,800.00~~

QUICK VIEW



BENTLEY  
 BENTLEY BOURBON BIG DATE  
 WATCH 84-50011  
 \$ 1,150.00 ~~\$ 4,800.00~~

QUICK VIEW



BENTLEY  
 BENTLEY BOURBON BIG DATE  
 WATCH 84-50471  
 \$ 1,350.00 ~~\$ 4,800.00~~

QUICK VIEW



BENTLEY  
 BENTLEY BOURBON BIG DATE  
 WATCH 84-50593  
 \$ 1,400.00 ~~\$ 4,800.00~~

QUICK VIEW



BENTLEY  
BENTLEY BOURBON  
CHRONOGRAPH WATCH 86-20001

\$ 1,250.00 ~~\$ 4,800.00~~

[QUICK VIEW](#)



BENTLEY  
BENTLEY BOURBON  
CHRONOGRAPH WATCH 86-20011

\$ 1,250.00 ~~\$ 4,800.00~~

[QUICK VIEW](#)



BENTLEY  
BENTLEY BOURBON  
CHRONOGRAPH WATCH 86-20473

\$ 1,520.00 ~~\$ 4,800.00~~

[QUICK VIEW](#)



BENTLEY  
BENTLEY BOURBON  
CHRONOGRAPH WATCH 86-20593

\$ 1,600.00 ~~\$ 4,800.00~~

[QUICK VIEW](#)



BENTLEY  
BENTLEY BOURBON  
CHRONOGRAPH WATCH 86-30001

\$ 1,250.00 ~~\$ 4,800.00~~

[QUICK VIEW](#)



BENTLEY  
BENTLEY BOURBON  
CHRONOGRAPH WATCH 86-30011

\$ 1,250.00 ~~\$ 4,800.00~~

[QUICK VIEW](#)



BENTLEY  
BENTLEY BOURBON  
CHRONOGRAPH WATCH 86-30473

\$ 1,500.00 ~~\$ 4,800.00~~

QUICK VIEW



BENTLEY  
BENTLEY BOURBON  
CHRONOGRAPH WATCH 86-30481

\$ 1,500.00 ~~\$ 4,800.00~~

QUICK VIEW



BENTLEY  
BENTLEY BOURBON CLASSIC  
WATCH 86-25001

\$ 2,400.00 ~~\$ 4,800.00~~

QUICK VIEW



BENTLEY  
BENTLEY BOURBON CLASSIC  
WATCH 86-25011

\$ 2,400.00 ~~\$ 4,800.00~~

QUICK VIEW



BENTLEY  
BENTLEY BOURBON CLASSIC  
WATCH 86-25473

\$ 2,400.00 ~~\$ 4,800.00~~

QUICK VIEW



BENTLEY  
BENTLEY BOURBON CLASSIC  
WATCH 86-25481

\$ 2,400.00 ~~\$ 4,800.00~~

QUICK VIEW



BENTLEY  
BENTLEY BOURBON CLASSIC  
WATCH 86-25593

\$ 2,400.00 ~~\$ 4,800.00~~

QUICK VIEW



BENTLEY  
BENTLEY BOURBON DIAMOND  
WATCH 86-252001

\$ 2,400.00 ~~\$ 4,800.00~~

QUICK VIEW



BENTLEY  
BENTLEY BOURBON DIAMOND  
WATCH 86-252293

\$ 2,400.00 ~~\$ 4,800.00~~

QUICK VIEW



BENTLEY  
BENTLEY BOURBON DIAMOND  
WATCH 86-252473

\$ 2,400.00 ~~\$ 4,800.00~~

QUICK VIEW



BENTLEY  
BENTLEY BOURBON DUAL TIME  
AUTOMATIC WATCH 86-35000

\$ 3,800.00 ~~\$ 4,800.00~~

QUICK VIEW



BENTLEY  
BENTLEY BOURBON DUAL TIME  
AUTOMATIC WATCH 86-35001

\$ 3,800.00 ~~\$ 4,800.00~~

QUICK VIEW



SALE

BENTLEY  
BENTLEY BOURBON DUAL TIME  
AUTOMATIC WATCH 86-35777

\$ 4,100.00 ~~\$ 4,800.00~~

QUICK VIEW



SALE

BENTLEY  
BENTLEY BOURBON DUAL TIME  
AUTOMATIC WATCH 86-35999

\$ 4,300.00 ~~\$ 4,800.00~~

QUICK VIEW



SALE

BENTLEY  
BENTLEY BOURBON  
RETROGRADE DAY WATCH 86-  
10001

\$ 1,265.00 ~~\$ 4,800.00~~

QUICK VIEW



SALE

BENTLEY  
BENTLEY BOURBON  
RETROGRADE DAY WATCH 86-  
10011

\$ 1,265.00 ~~\$ 4,800.00~~

QUICK VIEW



SALE

BENTLEY  
BENTLEY BOURBON  
RETROGRADE DAY WATCH 86-  
10473

\$ 1,520.00 ~~\$ 4,800.00~~

QUICK VIEW



SALE

BENTLEY  
BENTLEY BOURBON  
RETROGRADE DAY WATCH 86-  
10481

\$ 1,520.00 ~~\$ 4,800.00~~

QUICK VIEW



BENTLEY  
BENTLEY BOURBON  
RETROGRADE DAY WATCH 86-  
10593

\$ 1,670.00 ~~\$ 4,800.00~~

QUICK VIEW



BENTLEY  
BENTLEY DENARIUM  
AUTOMATIC WATCH 90-15001

\$ 2,400.00 ~~\$ 4,800.00~~

QUICK VIEW



BENTLEY  
BENTLEY DENARIUM  
AUTOMATIC WATCH 90-15011

\$ 2,400.00 ~~\$ 4,800.00~~

QUICK VIEW



BENTLEY  
BENTLEY DENARIUM  
AUTOMATIC WATCH 90-15473

\$ 2,400.00 ~~\$ 4,800.00~~

QUICK VIEW



BENTLEY  
BENTLEY DENARIUM  
AUTOMATIC WATCH 90-15533

\$ 2,400.00 ~~\$ 4,800.00~~

QUICK VIEW



BENTLEY  
BENTLEY DENARIUM  
AUTOMATIC WATCH 90-15593

\$ 2,400.00 ~~\$ 4,800.00~~

QUICK VIEW



BENTLEY  
BENTLEY DENARIUM BIG DATE  
WATCH 90-30001

\$ 1,100.00 ~~\$ 4,800.00~~

[QUICK VIEW](#)



BENTLEY  
BENTLEY DENARIUM BIG DATE  
WATCH 90-30011

\$ 1,100.00 ~~\$ 4,800.00~~

[QUICK VIEW](#)



BENTLEY  
BENTLEY DENARIUM BIG DATE  
WATCH 90-30473

\$ 1,400.00 ~~\$ 4,800.00~~

[QUICK VIEW](#)



BENTLEY  
BENTLEY DENARIUM BIG DATE  
WATCH 90-30533

\$ 1,550.00 ~~\$ 4,800.00~~

[QUICK VIEW](#)



BENTLEY  
BENTLEY DENARIUM BIG DATE  
WATCH 90-30593

\$ 1,550.00 ~~\$ 4,800.00~~

[QUICK VIEW](#)



BENTLEY  
BENTLEY DENARIUM  
MOONPHASE WATCH 90-20001

\$ 2,400.00 ~~\$ 4,800.00~~

[QUICK VIEW](#)



BENTLEY  
BENTLEY DENARIUM  
MOONPHASE WATCH 90-20011

\$ 2,400.00 ~~\$ 4,800.00~~

[QUICK VIEW](#)

BENTLEY  
BENTLEY DENARIUM  
MOONPHASE WATCH 90-20473

\$ 2,400.00 ~~\$ 4,800.00~~

[QUICK VIEW](#)

BENTLEY  
BENTLEY DENARIUM  
MOONPHASE WATCH 90-20593

\$ 2,400.00 ~~\$ 4,800.00~~

[QUICK VIEW](#)

Showing items 1-48 of 141.   1   2   3   >

# BLOUNT JEWELS

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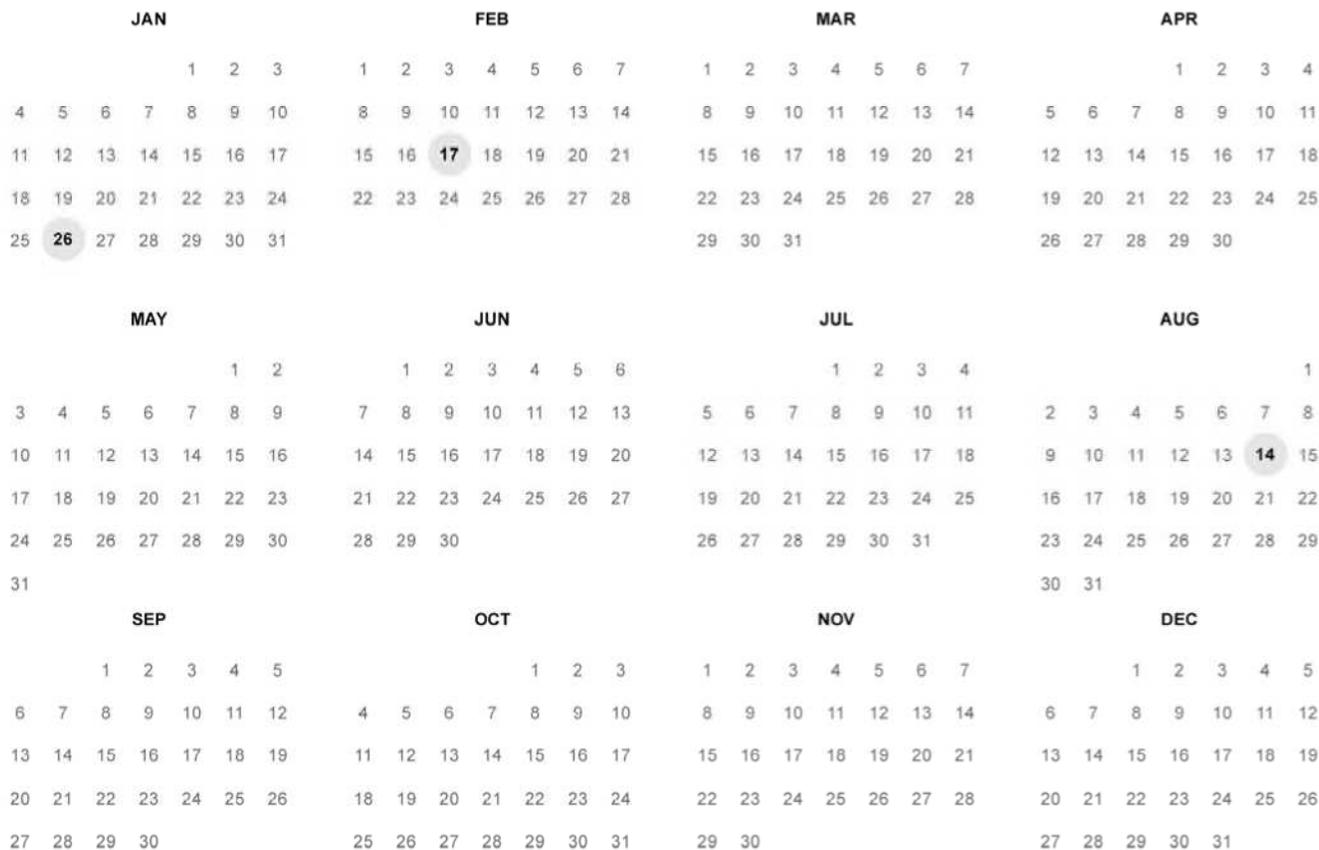
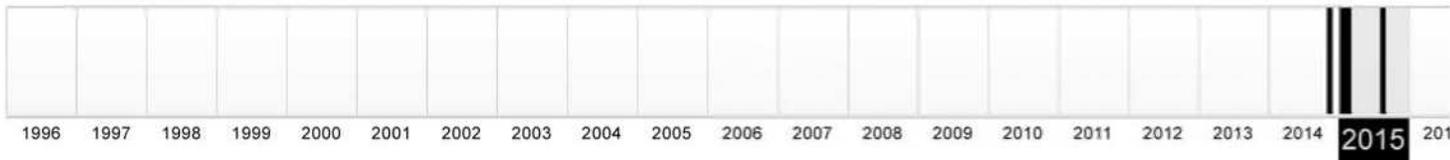
http://blountjewels.com/collections/bentley-luxury-watches

BROWSE HISTORY

http://blountjewels.com/collections/bentley-luxury-watches

Saved 4 times between November 26, 2014 and August 14, 2015.

PLEASE DONATE TODAY. Your generosity preserves knowledge for future generations. Thank you.



Note

This calendar view maps the number of times http://blountjewels.com/collections/bentley-luxury-watches was crawled by the Wayback Machine, not how many times the site was actually updated. More info in the FAQ.



The Wayback Machine is an initiative of the Internet Archive, a 501(c)(3) non-profit, building a digital library of Internet sites and other cultural artifacts in digital form. Other projects include Open Library & archive-it.org.

Your use of the Wayback Machine is subject to the Internet Archive's Terms of Use.

# **EXHIBIT 28**

GO

## Frequently Asked Questions

[ [The Internet Archive](#) | [Search Tips](#) | [Prelinger Movies](#) | [The Wayback Machine](#) | [Audio](#) | [MS-DOS Emulation](#) | [Archive BitTorrents](#) | [Accounts Information](#) | [Navigation](#) | [Live Music Archive](#) | [Movies](#) | [Collections](#) | [Law Enforcement Requests](#) | [The Internet Arcade](#) | [Uploading Content](#) | [Books and Texts](#) | [Rights](#) | [Downloading Content](#) | [Item page management](#) | [Borrow from Lending Library](#) | [The Grateful Dead Collection](#) | [Report Item](#) | [Forums](#) | [SFLan](#) | [Archive-It](#) | [Equipment](#) | [Errors](#) ]

### Questions

**Does the Archive issue grants?**

**Can I donate BitCoins?**

**What is the nonprofit status of the Internet Archive? From where does its funding come?**

**How do I get assistance with research? How about research about a particular book?**

**What statistics are available about use of Archive.org?**

**What's the significance of the Archive's collections?**

### The Internet Archive

**Does the Archive issue grants?**

No; although we promote the development of other Internet libraries through [online discussion](#), [colloquia](#), and other means, the Archive is not a grant-making organization.

**Can I donate BitCoins?**

Yes, please do. Our BitCoin address is: 1Archive1n2C579dMsAu3iC6tWzuQJz8dN . Every bit helps.

**What is the nonprofit status of the Internet Archive? From where does its funding come?**

The Internet Archive is a 501(c)(3) nonprofit organization. It receives in-kind and financial donations from a variety of sources as well as [you](#).

**How do I get assistance with research? How about research about a particular book?**

The Internet Archive focuses on preservation and providing access to digital cultural artifacts. For assistance with research or appraisal, you are bound to find the information you seek elsewhere on the internet. You may wish to inquire about reference services provided by your local public library. Your area's college library may also support specialized reference librarian services. We encourage your support of your local library, and the essential services your library's professional staff can provide in person. Local libraries are still an irreplaceable resource!

**What statistics are available about use of Archive.org?**

Largely because of copyright law. While a high percentage of ephemeral films were never originally copyrighted or (if initially copyrighted) never had their copyrights properly renewed, copyright laws still protect most moving image works produced in the United States from 1964 to the present. Since the Prelinger collection on this site exists to supply material to users without most rights restrictions, every title has been checked for copyright status. Those titles that either are copyrighted or whose status is in question have not been made available. For information on recent changes in copyright law, see the circular [Duration of Copyright](#) (in [PDF format](#)) published by the Library of Congress

**For more information...**

Check out our [Prelinger Archives Forum](#)

## Questions

**[Can I link to old pages on the Wayback Machine?](#)**

**[Who was involved in the creation of the Internet Archive Wayback Machine?](#)**

**[How was the Wayback Machine made?](#)**

**[How do you archive dynamic pages?](#)**

**[Can I search the Archive?](#)**

**[How can I have my site's pages excluded from the Wayback Machine?](#)**

**[Do you collect all the sites on the Web?](#)**

**[Why isn't the site I'm looking for in the archive?](#)**

## The Wayback Machine

**Can I link to old pages on the Wayback Machine?**

Yes! The Wayback Machine is built so that it can be used and referenced. If you find an archived page that you would like to reference on your Web page or in an article, you can copy the URL. You can even use fuzzy URL matching and date specification... but that's a bit more advanced.

**Who was involved in the creation of the Internet Archive Wayback Machine?**

"The original idea for the Internet Archive Wayback Machine began in 1996, when the Internet Archive first began archiving the web. Now, five years later, with over 100 terabytes and a dozen web crawls completed, the Internet Archive has made the Internet Archive Wayback Machine available to the public. The Internet Archive has relied on donations of web crawls, technology, and expertise from Alexa Internet and others. The Internet Archive Wayback Machine is owned and operated by the Internet Archive."

**How was the Wayback Machine made?**

Alexa Internet, in cooperation with the Internet Archive, has designed a three dimensional index that allows browsing of web documents over multiple time periods, and turned this unique feature into the Wayback Machine.

**How do you archive dynamic pages?**

There are many different kinds of dynamic pages, some of which are easily stored in an archive and some of which fall apart completely. When a dynamic page renders standard html, the archive works beautifully. When a dynamic page contains forms, JavaScript, or other elements that require interaction with the originating host, the archive will not contain the original site's functionality.

**Why is the Internet Archive collecting sites from the Internet? What makes the information useful?**

**Do you archive email? Chat?**

**How can I get a copy of the pages on my Web site? If my site got hacked or damaged, could I get a backup from the Archive?'**

**Is there any personal information in these collections?**

**Can I add pages to the Wayback Machine?**

**How do I contact the Internet Archive?**

**Where is the rest of the archived site? Why am I getting broken or gray images on a site?**

**Why are some sites harder to archive than others?**

**How do you protect my privacy if you archive my site?**

**What is the Wayback Machine? How can I get my site included in the Wayback Machine?**

**How does the Wayback Machine behave with Javascript turned off?**

**Can I search the Archive?**

Using the Internet Archive Wayback Machine, it is possible to search for the names of sites contained in the Archive (URLs) and to specify date ranges for your search. We hope to implement a full text search engine at some point in the future.

**How can I have my site's pages excluded from the Wayback Machine?**

You can exclude your site from display in the Wayback Machine by placing a robots.txt file on your web server that is set to disallow User-Agent: *ia\_archiver*. You can also send an email request for us to review to [info@archive.org](mailto:info@archive.org) with the URL (web address) in the text of your message.

**Do you collect all the sites on the Web?**

No, the Archive collects web pages that are publicly available. We do not archive pages that require a password to access, pages that are only accessible when a person types into and sends a form, or pages on secure servers. Pages may not be archived due to robots exclusions and some sites are excluded by direct site owner request.

**Why isn't the site I'm looking for in the archive?**

Some sites may not be included because the automated crawlers were unaware of their existence at the time of the crawl. It's also possible that some sites were not archived because they were password protected, blocked by robots.txt, or otherwise inaccessible to our automated systems. Site owners might have also requested that their sites be excluded from the Wayback Machine.

**Why is the Internet Archive collecting sites from the Internet? What makes the information useful?**

Most societies place importance on preserving artifacts of their culture and heritage. Without such artifacts, civilization has no memory and no mechanism to learn from its successes and failures. Our culture now produces more and more artifacts in digital form. The Archive's mission is to help preserve those artifacts and create an Internet library for researchers, historians, and scholars. The Archive collaborates with institutions including the [Library of Congress](#) and the [Smithsonian](#).

**Do you archive email? Chat?**

No, we do not collect or archive chat systems or personal email messages that have not been posted to Usenet bulletin boards or publicly accessible online message boards.

**How did I end up on the live version of a site? or I clicked on X date, but now I am on Y date, how is that possible?**

**How can I get a copy of the pages on my Web site? If my site got hacked or damaged, could I get a backup from the Archive?'**

Our [terms of use](#) do not cover backups for the general public. However, you may use the Internet Archive Wayback Machine to locate and access archived versions of a site to which you own the rights. We can't guarantee that your site has been or will be archived. We can no longer offer the service to pack up sites that have been lost.

**Where does the name come from?**

**How do I cite Wayback Machine urls in MLA format?**

**Is there any personal information in these collections?**

We collect Web pages that are publicly accessible. These may include pages with personal information.

**What is the Archive-It service of the Internet Archive Wayback Machine?**

**Can I add pages to the Wayback Machine?**

On <https://archive.org/web> you can use the "Save Page Now" feature to save a specific page one time. This does not currently add the URL to any future crawls nor does it save more than that one page. It does not save multiple pages, directories or entire sites.

**How can I help the Internet Archive and the Wayback Machine?**

**How do I contact the Internet Archive?**

**Who has access to the collections? What about the public?**

All questions about the Wayback Machine, or other Internet Archive projects, should be addressed to [info@archive.org](mailto:info@archive.org).

**How can I get pages authenticated from the Wayback Machine? How can use the pages in court?**

**Where is the rest of the archived site? Why am I getting broken or gray images on a site?**

Broken images occur when the images are not available on our servers. Usually this means that we did not archive them.

**Some sites are not available because of robots.txt or other exclusions. What does that mean?**

You can tell if the image or link you are looking for is in the Wayback Machine by entering the image or link's URL into the Wayback Machine search box. Whatever archives we have are viewable in the Wayback Machine.

**What is the Wayback Machine's Copyright Policy?**

The best way to see all the files we have archived of the site is:

[http://web.archive.org/\\*/www.yoursite.com/](http://web.archive.org/*/www.yoursite.com/)\*

There is a 3-10 hour lag time between the time a site is crawled and when it appears in the Wayback Machine.

**Why are some sites harder to archive than others?**

If you look at our collection of archived sites, you will find some broken pages, missing graphics, and some sites that aren't archived at all. Some of the things that may cause this are:

- Robots.txt -- A site's robots.txt document may have prevented the crawling of

a site.

- Javascript -- Javascript elements are often hard to archive, but especially if they generate links without having the full name in the page. Plus, if javascript needs to contact the originating server in order to work, it will fail when archived.
- Server side image maps -- Like any functionality on the web, if it needs to contact the originating server in order to work, it will fail when archived.
- Orphan pages -- If there are no links to your pages, the robot won't find it (the robots don't enter queries in search boxes.)

As a general rule of thumb, simple html is the easiest to archive.

### **How do you protect my privacy if you archive my site?**

The Archive collects Web pages that are publicly available, the same ones that you might find as you surfed around the Web. We do not archive pages that require a password to access, pages that are only accessible when a person types into and sends a form, or pages on secure servers. Pages tagged for robots.txt exclusion (for User-Agent: *ia\_archiver*) by their owners are excluded from the Wayback Machine. We also provide information on removing a site from the collections. Those who use the collections must agree to certain terms of use.

Like a public library, the Archive provides free and open access to its collections to researchers, historians, and scholars. Our cultural norms have long promoted access to documents that were, but no longer are, publicly accessible.

Given the rate at which the Internet is changing the average life of a Web page is only 77 days if no effort is made to preserve it, it will be entirely and irretrievably lost. Rather than let this moment slip by, we are proceeding with documenting the growth and content of the Internet, using libraries as our model.

If you are interested in these issues, please join and contribute to our [announcement and discussion lists](#).

### **What is the Wayback Machine? How can I get my site included in the Wayback Machine?**

The **Internet Archive Wayback Machine** is a service that allows people to visit archived versions of Web sites. Visitors to the Wayback Machine can type in a URL, select a date range, and then begin surfing on an archived version of the Web. Imagine surfing circa 1999 and looking at all the Y2K hype, or revisiting an older version of your favorite Web site. The Internet Archive Wayback Machine can make all of this possible.

### **How can I get my site included in the Wayback Machine?**

Much of our archived web data comes from our own crawls or from Alexa Internet's crawls. Neither organization has a "crawl my site now!" submission process. Internet Archive's crawls tend to find sites that are well linked from other sites. The best way to ensure that we find your web site is to make sure it is included in online directories and that similar/related sites link to you.

Alexa Internet uses its own methods to discover sites to crawl. It may be helpful to install the free Alexa toolbar and visit the site you want crawled to make sure they know about it.

Regardless of who is crawling the site, you should ensure that your site's 'robots.txt' rules and in-page META robots directives do not tell crawlers to avoid your site.

### **How does the Wayback Machine behave with Javascript turned off?**

If you have Javascript turned off, images and links will be from the live web, not from our archive of old Web files.

### **How did I end up on the live version of a site? or I clicked on X date, but now I am on Y date, how is that possible?**

Not every date for every site archived is 100% complete. When you are surfing an incomplete archived site the Wayback Machine will grab the closest available date to the one you are in for the links that are missing. In the event that we do not have the link archived at all, the Wayback Machine will look for the link on the live web and grab it if available. Pay attention to the date code embedded in the archived url. This is the list of numbers in the middle; it translates as `yyyymmddhhmmss`. For example in this url

`http://web.archive.org/web/20000229123340/http://www.yahoo.com/` the date the site was crawled was Feb 29, 2000 at 12:33 and 40 seconds.

You can see a listing of the dates of the specific URL by replacing the date code with an asterisk (\*), ie: `http://web.archive.org/*/www.yoursite.com`

### **Where does the name come from?**

The Wayback Machine is named in reference to the famous Mr. Peabody's WABAC (pronounced way-back) machine from the Rocky and Bullwinkle cartoon show.

### **How do I cite Wayback Machine urls in MLA format?**

This question is a newer one. We asked MLA to help us with how to cite an archived URL in correct format. They did say that there is no established format for resources like the Wayback Machine, but it's best to err on the side of more information. You should cite the webpage as you would normally, and then give the Wayback Machine information. They provided the following example: McDonald, R.

C. "Basic Canary Care." \_Robirda Online\_. 12 Sept. 2004. 18 Dec. 2006 [http://www.robirda.com/cancare.html]. \_Internet Archive\_. [http://web.archive.org/web/20041009202820/http://www.robirda.com/cancare.html]. They added that if the date that the information was updated is missing, one can use the closest date in the Wayback Machine. Then comes the date when the page is retrieved and the original URL. Neither URL should be underlined in the bibliography itself. Thanks MLA!

### **What is the Archive-It service of the Internet Archive Wayback Machine?**

For information on the **Archive-It** subscription service that allows institutions to build and preserve collections of born digital content, see <https://www.archive.org/about/faqs.php#Archive-It>

### **How can I help the Internet Archive and the Wayback Machine?**

The Internet Archive actively seeks donations of digital materials for preservation. If you have digital materials that may be of interest to future generations, please let us know by sending an email to info at archive dot org. The Internet Archive is also seeking additional funding to continue this important mission. You can click the donate tab above or click [here](#). Thank you for considering us in your charitable giving.

### **Who has access to the collections? What about the public?**

Anyone can access our collections through our website archive.org. The web archive can be searched using the [Wayback Machine](#).

The Archive makes the collections available at no cost to researchers, historians, and scholars. At present, it takes someone with a certain level of technical knowledge to access collections in a way other than our website, but there is no requirement that a user be affiliated with any particular organization.

### **How can I get pages authenticated from the Wayback Machine? How can use the pages in court?**

The Wayback Machine tool was not designed for legal use. We do have a legal request policy found at [our legal page](#). Please read through the entire policy before contacting us with your questions. We do have a [standard affidavit](#) as well as a [FAQ section for lawyers](#). We would prefer that before you contact us for such services, you see if the other side will stipulate instead. We do not have an in-house legal staff, so this service takes away from our normal duties. Once you have read through our policy, if you still have questions, please [contact us](#) for more information.

### **Some sites are not available because of robots.txt or other exclusions. What does that mean?**

Such sites may have been excluded from the Wayback Machine due to a robots.txt file on the site or at a site owner's direct request.

The Internet Archive strives to follow the [Oakland Archive Policy](#) for Managing Removal Requests And Preserving Archival Integrity

### **What is the Wayback Machine's Copyright Policy?**

The Internet Archive respects the intellectual property rights and other proprietary rights of others. The Internet Archive may, in appropriate circumstances and at its discretion, remove certain content or disable access to content that appears to infringe the copyright or other intellectual property rights of others. If you believe that your copyright has been violated by material available through the Internet Archive, please provide the Internet Archive Copyright Agent with the following information:

- Identification of the copyrighted work that you claim has been infringed;
- An exact description of where the material about which you complain is located within the Internet Archive collections;
- Your address, telephone number, and email address;
- A statement by you that you have a good-faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law;
- A statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the owner of the copyright interest involved or are authorized to act on behalf of that owner;
- Your electronic or physical signature.

The Internet Archive strives to follow the [Oakland Archive Policy](#) intended for use by both academic and non-academic digital repositories and archivists.

The Internet Archive Copyright Agent can be reached as follows:

Internet Archive Copyright Agent  
Internet Archive  
300 Funston Ave.  
San Francisco, CA 94118  
Phone: 415-561-6767  
Email: info at archive dot org

## Questions

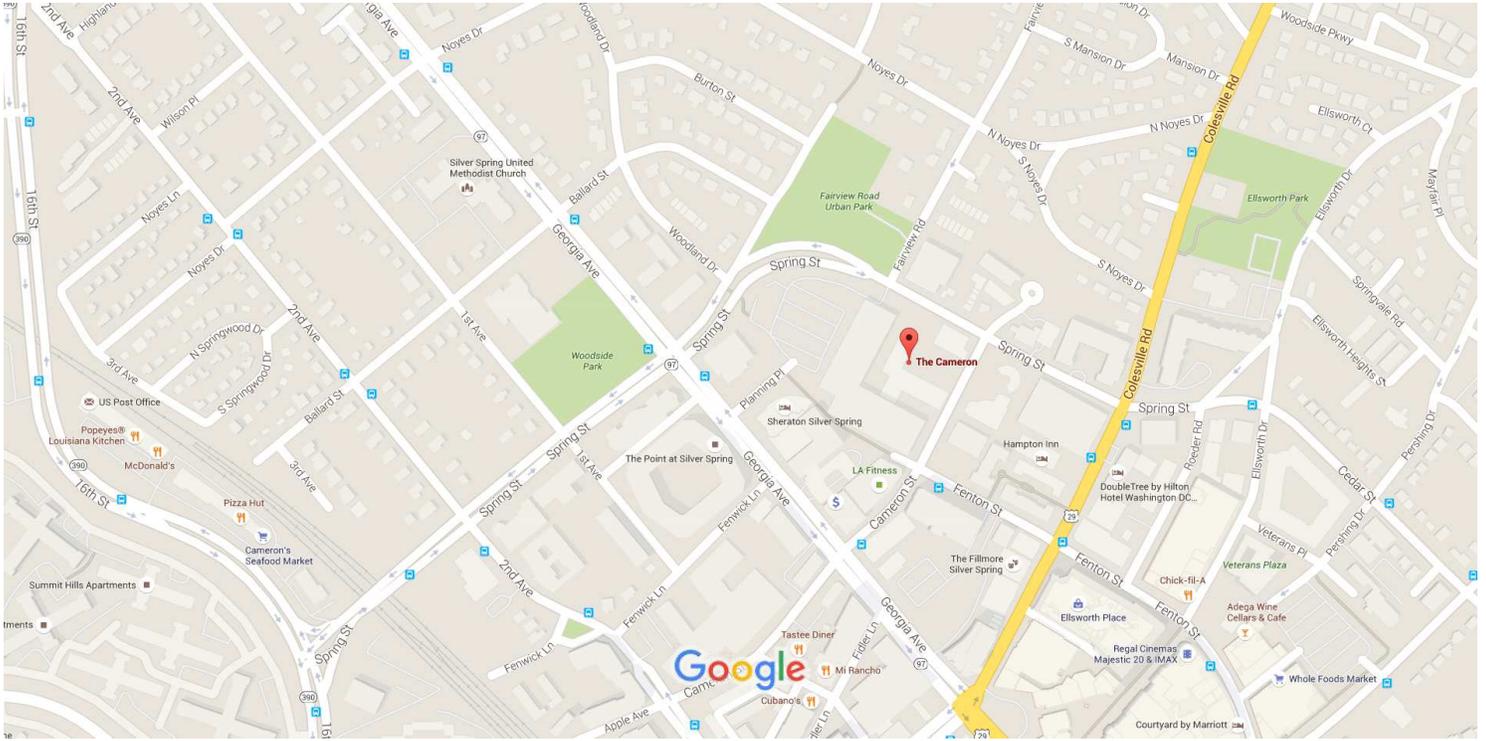
[How do I specify an image for my page?](#)

## Audio

[How do I specify an image for my page?](#)

# **EXHIBIT 29**

# Google Maps The Cameron



Map data ©2016 Google 200 ft

# THE CAMERON

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## The Cameron

Book a room Ad



Sun, Apr 17



Mon, Apr 18



Check website for rates and availability.

 8710 Cameron St, Silver Spring, MD 20910

 livingatthecameron.com

 (301) 242-0263

 Open now: 10AM–7PM



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## Google Maps



PHONE :

301.242.0251



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The Cameron features luxury studio, one and two-bedroom apartment homes in Silver Spring, MD.

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surpass expectations and open up an entirely new world and approach to upscale living. Our rooftop

“ We’ve created inspired spaces that surpass expectations and open up an entirely new world and approach to upscale living. ”

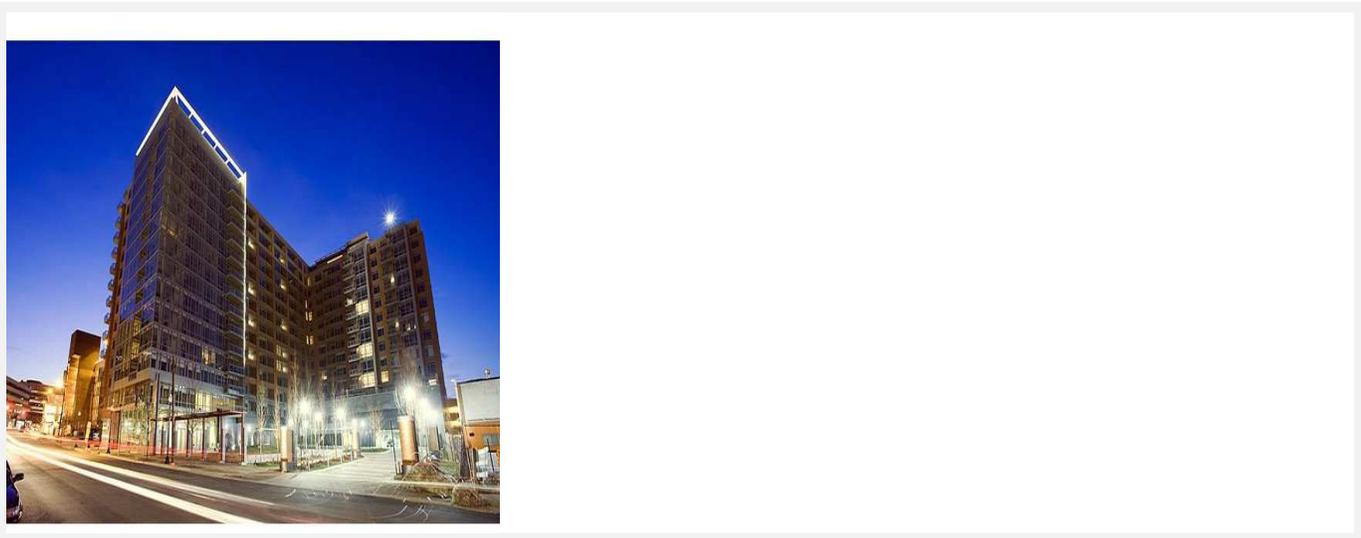
## DIRECTIONS



## AVAILABILITY



## GALLERY



CONTACT

301.242.0251  
8710 Cameron Street  
Silver Spring, MD 20910

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OFFICE HOURS

Monday - Friday: 10:00 am - 7:00 pm  
Saturday: 10:00 am - 5:00 pm  
Sunday: 1:00 pm - 5:00 pm

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SOCIAL LINKS



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CERTIFICATE OF SERVICE

It is hereby certified that one (1) copy of the foregoing **DECLARATION OF JESSICA BROMALL SPARKMAN IN SUPPORT OF PETITIONER'S MOTION FOR SUMMARY JUDGMENT** is being sent via first class mail & email to Petitioner Aucera SA's attorney of record as follows:

Jennifer A. Golinveaux  
Winston & Strawn LLP  
101 California Street  
San Francisco, CA 94111  
[jgolinveaux@winston.com](mailto:jgolinveaux@winston.com)

Dated: April 19, 2016



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KERENE PALMER