

ESTTA Tracking number: **ESTTA752003**

Filing date: **06/13/2016**

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

Proceeding	92060353
Party	Plaintiff Bentley Motors Limited
Correspondence Address	ROD S BERMAN JEFFER MANGELS BUTLER & MITCHELL LLP 1900 AVENUE OF THE STARS, SEVENTH FLOOR LOS ANGELES, CA 90067 UNITED STATES trademarkdocket@jmbm.com, JZB@JMBM.COM, DOCKETING@JMBM.COM, RBERMAN@JMBM.COM, KP2@JMBM.COM
Submission	Reply in Support of Motion
Filer's Name	Jessica Bromall Sparkman
Filer's e-mail	rberman@jmbm.com, jzb@jmbm.com, kp2@jmbm.com, docketing@jmbm.com
Signature	/s/ Jessica Bromall Sparkman
Date	06/13/2016
Attachments	Petitioners Reply re MSJ.pdf(55339 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

PETITIONER'S REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT
AND OPPOSITION TO CROSS MOTION FOR SUMMARY JUDGMENT

Petitioner Bentley Motors Limited (“Bentley” or “Petitioner”) hereby submits its Reply in Support of its Motion for Summary Judgment (the “Motion”) and its Opposition to the Cross-Motion for Summary Judgment filed by respondent Aucera SA (“Aucera” or “Respondent”).

I. AUCERA HAS NO TRADEMARK RIGHTS IN THE BENTLEY MARK

Aucera quotes *La Societe Anonyme des Parfums le Galion v. Jean Patou, Inc.* for the following proposition: “[a]doption and single use of the mark may be sufficient to entitle the user to register the mark.” The rest of the quotation, which Aucera conveniently omitted from its brief, is particularly relevant:

Adoption and a single use of the mark may be sufficient to entitle the user to register the mark. ***But more is required to sustain the mark against a charge of nonusage.*** 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.

La Societe Anonyme des Parfums le Galion v. Jean Patou, Inc., 495 F.2d 1265, 1271-72 (2d Cir. 1974) (emphasis added).

In other words, even if a single pre-registration shipment were adequate to support the initial issuance of Aucera's Registrations¹, Aucera must show *more* than that to defeat Bentley's charge of non-use. *Id.* Specifically, Aucera must show that its use of BENTLEY has been "deliberate and continuous" and "not sporadic, casual, or transitory." *Id.* Aucera clearly cannot meet this burden.

Aucera complains that the *Jean Patou* case is forty years old. Yet, *Jean Patou* has never been overturned, nor has any court questioned the correctness of the decision. Further, regardless of its age, *Jean Patou* is the only case cited by either party that is directly analogous to the facts in this case. In *Jean Patou*, the plaintiff sought cancellation of a decades old trademark registration on the ground that the defendant failed to make more than token use of the registered mark. Here, Bentley seeks cancellation of Aucera's Registrations because, for decades, Aucera has failed to make more than a token use of the registered mark BENTLEY.

In *Jean Patou*, the defendant sold just 89 bottles of perfume over two decades. *Id.* This "meager trickle of business" did not constitute "the kind of bona fide use intended to afford a basis for trademark protection." *Id.* at 1272. Here, according to Aucera's own account, its sales and shipments are even more meager: just 40 watches, 14 pens, and 15 pieces of jewelry over 21 years.² (Cheng Decl., ¶¶ 13-18)³ Bentley is not aware of any case, and Aucera has not cited any, allowing continued registration despite twenty years of inactivity.

¹ "Registrations" means 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.").

² Attached hereto as Exhibit A are timelines showing Aucera's activities based on the Cheng declaration and Aucera's own admissions. Review of these timelines, particularly through the lens of the cases discussed herein, makes absolutely clear that Aucera has not made sufficient use of the BENTLEY mark to justify continued registration.

³ Notably absent from the record is any of the type evidence one would typically expect to see where genuine use of mark had been made: there is no testimony from consumers, no retailers have been identified, no distributors have been identified, there is no testimony from any of the people who Aucera was supposedly working with, and there is no survey showing consumer recognition of the mark.

A. 20 Years; Less than 70 Products Shipped or Sold

Even if the Board accepts all of Aucera's evidence (and it should not⁴) and views it in the light most favorable to Aucera, over the past 21 years, Aucera shipped, *at most*, 40 watches, 14 pens, and 15 pieces of jewelry bearing the BENTLEY mark to the United States. (Cheng Decl., ¶¶ 13-18) In an attempt to make its "meager trickle" of shipments appear less "sporadic," Aucera makes vague references to shipments made "from 1996 to 2001" and "from 1995 to 2008." (Opp., pp. 5, 20; Cheng Decl., ¶ 14) The actual timeline of shipments, however, is as follows:

- 17 watches, 9 pens, and 5 pieces of jewelry were shipped in 1995 and 1996;⁵
- 2 watches were shipped in 2001;⁶
- an unspecified number of watches were shipped in 2006;⁷
- 10 watches were shipped in 2008;
- 11 watches, 5 pens, and 10 pieces of jewelry watches were shipped in 2014.

(Cheng Decl., ¶¶ 13-18; Exhibit A, hereto)

Aucera has not provided evidence of any shipments other than those referenced above.⁸

Aucera cannot create a triable issue of fact as to the existence of other shipments through non-specific references to shipments "from 1996 to 2001" or "from 1995 to 2008." Instead, the

⁴ See note 16, *infra*; Motion, Section VI.

⁵ Aucera claims that 12 watches were sent to Jack Tsai and Helen Wu "from 1996 to 2001." It identifies just three shipment dates: November 5, 1996, November 27, 1996, and September 8, 2001. Based on the documents produced, Bentley has asserted that the September 8, 2001 shipment contained two watches. See Motion, n. 7. Aucera has not disputed that assertion. This leaves 10 watches between the two November 1996 shipments.

⁶ See n. 4, *supra*.

⁷ Aucera does not state how many watches were shipped in 2006. For that reason, Bentley does not take this alleged shipment into account in calculating the total number of watches shipped. However, the largest shipment of watches that Aucera has ever made at one time to any U.S. consumer is five. Even if Bentley assumed that this largest number of watches was shipped in 2006, the total number of watches shipped is still only 45.

⁸ Aucera argues that its failure to produce documentary evidence of its sales from 20 years ago is not sufficient basis for summary judgment. (Opp., p. 14) The issue here, however, is not just that there are no documents, but that there is *no evidence at all*: no interrogatory responses or declaration identifying the number of products shipped or sold each year between 1995 and 2008. Instead, the evidence is that in more than 21 years, less than 80 products were shipped, to less than six people.

undisputed evidence is that Aucera made an initial shipment of watches prior to registration, followed by several smaller shipments. With respect to jewelry and pens, the undisputed evidence is that Aucera made an initial shipment prior to registration, and made no further shipments for nearly two decades.

Aucera's shipments of BENTLEY products are clearly *not* deliberate and continuous, but rather "sporadic, casual, or transitory," and are clearly inadequate to justify continued trademark registration. *Jean Patou, Inc.*, 495 F.2d at 1271-72.

B. Aucera's Shipments to Potential Distributors Are not Trademark "Use"

Aucera admits that its products were *not* shipped or sold to consumers. (Cheng, ¶¶ 13-19) Instead, over 21 years, Aucera's BENTLEY products were shipped to just six people, all for "purposes of exploring potential distribution channels for the products," for attempting to "identify opportunities to sell" products, for "developing sales" prospects and channels of trade, obtaining feedback, and even as compensation to one potential business partner. (Cheng Decl., ¶¶ 13-19) In fact, according to Aucera, only eight BENTLEY watches were ever sold to any U.S. consumer, and the last such sale occurred in 1997 – nearly twenty years ago.⁹ There is no evidence than any BENTLEY pen or piece of jewelry was ever sold to any U.S. consumer.

Despite the sale of only eight watches bearing the BENTLEY mark, and its failure to sell *any* pens or jewelry bearing the BENTLEY mark, Aucera claims that its shipments for the "purposes of exploring distribution channels" and "developing sales prospects" constitute use in commerce. In support, Aucera cites several cases, all but one of which were decided prior to the

⁹ Evidence of these consumer sales (Cheng, Decl. ¶ 15 and Exh. 2) should be stricken. *See* n. 16, *infra*. Mr. Cheng claims that these sales were made by a Jack Tsai, with World of Wonder, Inc. Aucera failed to disclose Mr. Tsai and World of Wonder, Inc. in their Initial Disclosures or at any other point during the discovery period in this matter. Further, Mr. Cheng has no foundation of personal knowledge to testify about what products Mr. Tsai sold, or to authenticate the documents submitted as Exhibit 2. Further, the documents, and Mr. Cheng's testimony, are inadmissible hearsay.

effective date of the Trademark Law Revision Act (“TLRA”). Prior to the TLRA, trademark applications had to be based on actual use, which meant greater risk to applicants, so prior to the TLRA application and registration could be based on “token use.” *Mountain Top Beverage Grp., Inc. v. Wildlife Brewing N.B., Inc.*, 338 F. Supp. 2d 827, 833 (S.D. Ohio 2003).

1. Aucera’s Use Fails the Pre-TLRA “Token Use” Requirement

Prior to the TLRA, “a sale or transportation of a mark in commerce made primarily to serve as a foundation for federal registration was a sufficient ‘use’ ”, so long as the shipment was “accompanied or followed by activity or circumstances which would tend to establish a continuing effort or intent to continue such use and place the product so shipped on the market on a commercial scale.” *Id.*; *Standard Pressed Steel Co. v. Midwest Chrome Process Company*, 183 U.S.P.Q. 758, 765 (T.T.A.B. 1974). Even in the pre-TLRA era, however, uses that were not “open” and that did not expose consumers to the mark were inadequate to support registration.

In one case cited by Aucera, an intra-company shipment was found adequate to support registration primarily because the products “did not remain immobile within the office of the sales representative but were openly used and distributed by said individual” *Standard Pressed Steel*, 183 U.S.P.Q. at 765. In another case cited by Aucera, a single sale of a mobile phone was adequate where the phone was the subject of a public demonstration, and the sale was to a director who was an investor, who was interested in becoming a franchisor, and who used the phone on business trips. *Int’l Mobile Machines Corp. v. Int’l Tel. & Tel. Corp.*, 800 F.2d 1118, 1121 (Fed. Cir. 1986).

“[I]f a use does not meet the old pre-1989 ‘token use’ standard, then it certainly will not rise to the higher level of ‘use’ necessary to support a registration founded on a post-1989 application.” 3 McCarthy on Trademarks and Unfair Competition § 19:111 (4th ed.). Here,

other than Mr. Cheng's hearsay and unfounded testimony that Mr. Tsai sold eight BENTLEY watches to consumers, there is no evidence that any of the few products shipped by Aucera ever went beyond the six individuals to whom they were shipped. Here, there is no evidence that any BENTLEY products were actually displayed in stores, or used by any of the six people to which they were shipped.¹⁰

Here, there was no public exposure to Aucera's BENTLEY products, nor was there any attempt to place Aucera's products "on the market on a commercial scale." Aucera's initial shipments, followed by years of inactivity, do not meet even the lower "token use" standard allowed prior to the TLRA.

2. **Aucera's Use Fails the Post-TLRA Use Requirement**

In addition to the pre-TLRA cases, Aucera also relies on *Rearden LLC v. Rearden Commerce, Inc.*, for the proposition that sales are not required to establish use in commerce. Instead of requiring sales, the *Rearden* court examined the "totality of the circumstances" to determine whether the mark was used "in a way sufficiently public to identify or distinguish the marked goods in an appropriate segment of the public mind." *Rearden LLC v. Rearden Commerce, Inc.*, 683 F.3d 1190, 1205 (9th Cir. 2012). The *Rearden* court looked to the following factors: (1) "the genuineness and commercial character of the activity"; (2) whether the use of the mark was "sufficiently public to identify or distinguish" the goods as belonging to the mark's owner; (3) "the scope of the non-sales activity relative to what would be a commercially reasonable attempt to market" to goods; (4) "the degree of ongoing activity . . .

¹⁰ Evidence that BENTLEY watches were displayed by Yenchi Chen in 2006 should be stricken. (Cheng Decl., ¶ 16) *See* n. 16, *infra*. Mr. Cheng lacks foundation to testify as to what Chen did. Further, Mr. Cheng's testimony is so vague, both as to number of watches shipped to Chen or the details of their alleged display that it is insufficient to create a factual issue to bar summary judgment.

using the mark, the amount of business transacted, and other similar factors.” *Id.* (quoting *Chance v. Pac-Tel Teletrac Inc.*, 242 F.3d 1151 (9th Cir.2001)).

Applying the test from *Rearden*, Aucera’s use is inadequate to establish trademark rights. First, Aucera’s initial shipments of products followed by years of inactivity appears neither genuine nor commercial. Second, Aucera’s shipments were not “public”; Aucera’s shipments only exposed Aucera’s potential business partners – not the public – to the BENTLEY mark. Third, the few shipments that Aucera did make, were unaccompanied by any other advertising or promotion,¹¹ and were not a commercially reasonable attempt to market its goods. Fourth, the amount of business transacted, as well as the amount of ongoing activity, is minimal.

Here, in view of the “totality of the circumstances,” Aucera’s use of BENTLEY has not been “sufficiently public to identify or distinguish the marked goods in an appropriate segment of the public mind.” In short, Aucera’s meager shipments to potential distributors are simply inadequate to establish trademark rights or support continued federal registration.

II. AUCERA FAILS TO REBUT THE PRESUMPTION OF ABANDONMENT

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, during the period of non-use, it had the intent to resume use of the mark. 15 U.S.C. § 1127.¹² As shown in the Motion and Exhibit A hereto, Aucera had multiple three-year periods of non-use.

With respect to jewelry a presumption of abandonment arose after May 1998. With respect to pens, a presumption of abandonment arose after August 1999. With respect to

¹¹ See Section II, *infra*.

¹² See also *Imperial Tobacco, Ltd. v. Philip Morris, Inc.*, 899 F.2d 1575, 1579, 14 U.S.P.Q.2d 1390 (Fed. Cir. 1990); *ITC Ltd. v. Punchgini, Inc.*, 482 F.3d 135, 149, 82 U.S.P.Q.2d 1414 (2d Cir. 2007).

watches, a presumption of abandonment arose after early 2000. Aucera submits no evidence showing that there was any use of the mark during any of these periods of non-use.¹³

“An ‘intent to resume’ requires the trademark owner to have plans to resume commercial use of the mark. Stopping at an ‘intent not to abandon’ tolerates an owner's protecting a mark with neither commercial use nor plans to resume commercial use.” *Id.* Mr. Cheng’s conclusory statement that he never intended to abandon the BENTLEY mark is insufficient. And, there is no evidence, that during the periods of non-use, Aucera had any plans to resume use of the BENTLEY mark. Other than the intermittent shipment of products described herein, there is no evidence of any promotional activities prior to 2006.¹⁴ After 2006, Aucera’s promotional activities are limited at best: creation of a brochure, attendances at a 2010 trade show in Las Vegas, a website and Facebook page created in 2011 and 2012, and a single print ad in the March 2, 2014 edition of the *Birmingham Eccentric* newspaper in Michigan.¹⁵

Aucera seems to suggest that these minimal promotional activities beginning in 2006, coupled with its anemic attempts to promote the mark by contacting Mr. Bonnem in 2014,¹⁶ somehow rebut the presumption of abandonment. Aucera is wrong. There is no evidence from

¹³ In the absence of any evidence of shipments or sales during these periods, Aucera’s vague references to shipments “from 1995 to 2008” or “from 1996 to 2001” are not sufficient create a triable issue of fact as to use during the identified non-use periods.

¹⁴ Aucera’s evidence of use, promotion, and registration abroad (Cheng Decl., ¶¶ 2-7, 27, Exh. 8) is irrelevant and should be stricken.

¹⁵ No sample brochure was provided, and no information is provided about how many brochures were distributed. There is no evidence that the website and Facebook page promoted the mark in the U.S., as opposed to other countries in which Aucera may have been selling its products. And, notably, the advertisement indicates that BENTLEY watches and pens are for sale at ResultCo. ResultCo’s Chief Financial Officer stated in his declaration that ResultCo does not sell, and has never sold, any BENTLEY products. (Exh. 25, ¶¶ 5-6) Nonetheless, and without even attempting an explanation, Aucera continues to identify ResultCo as a retailer, and to point to this advertisement, and to the identification of ResultCo as a retailer on *bentleyluxury.com*, as evidence of its use of the mark. Cheng Decl., ¶ 20.

¹⁶ Additionally, Mr. Cheng’s testimony regarding activities undertaken by Mr. Bonnem and his other erstwhile business partners in the U.S. must be stricken. (Cheng Decl., ¶¶ 15-17, 30) Mr. Cheng lacks the foundation to testify regarding what these individuals were doing, and what they thought about BENTLEY.

which the Board could reasonably infer that that Aucera formed an intent to resume use of the BENTLEY mark during any of original three-years periods of non-use. In short, Aucera fails to rebut the presumption of abandonment raised by its undisputed three-years of non-use.

III. AUCERA'S REGISTRATIONS ARE VOID *AB INITIO*

Although requested in discovery, prior to filing its Opposition, Aucera disclosed no information about any shipment or sale of any BENTLEY products prior to 2001 – much less prior to the issuance of the Registrations in 1995 and 1996. (Motion, Section III; Exh.¹⁷ 19-20; Sparkman Decl. ¶¶ 17-19) Now, however, Aucera claims it shipped and sold products in addition to those disclosed in discovery. (Cheng Decl., ¶¶ 13-16, Exhs. 1-2) These documents and evidence should be stricken to the extent they were not previously disclosed.¹⁸

Even if the Board accepts Aucera's evidence, and recognizes the single shipment of watches, pens, and jewelry sent prior to registration, the Board should still find that the Registrations are void *ab initio*. Aucera admits that the pre-registrations shipments were not to consumers, but rather were to potential distributors for the purpose of “exploring distribution

¹⁷ Unless otherwise specified, references herein to “Exh.” refer to the exhibits to the Declaration of Jessica Bromall Sparkman (the “Sparkman Decl.”) filed with Bentley's Motion.

¹⁸ These documents and information are unquestionably responsive to Bentley's discovery requests, which sought, *inter alia*, all documents Aucera would use to defend against Bentley's claims, as well as documents showing all sales of BENTLEY products. (Exh. 11, No. 2; Exh. 12, Nos. 27-40; Exh. 13, Nos. 27-52, 58, 60, 62; Exh. 14, Nos. 74-80) Bentley also served interrogatories specifically asking Aucera to identify how many products bearing the BENTLEY mark were sold each year from the date of first use to the present, as well as asking it to describe each attempt to import, sell, or distribute products bearing the BENTLEY mark. (*Id.*) Further, these documents, as well as the identities of the additional recipients of BENTLEY products, were required to be disclosed as part of Aucera's Initial Disclosures, requiring Aucera to disclose the names of individuals that Aucera may use to support its claims or defenses. Fed. R. Civ. P. 26(a). Nonetheless, Aucera did not come forward with evidence of any shipments or sales prior to 2001 – documentary or otherwise – until it served its Opposition. Aucera provides no explanation for withholding this information – information it now seeks to rely on in support of its defenses. Worse, Aucera suggests that Bentley is somehow at fault for Aucera's failure to disclose this information because Bentley did not take Aucera's deposition. A deposition should not be required to get basic information, such as when, how many, and to whom products were sold or shipped, particularly, as this is the precisely the information Aucera now seeks to use in its defense. Further, given the evasiveness and incompleteness of Aucera's response to discovery, there is no reason to believe that a deposition would have resulted in the disclosure of the information at issue.

channels.” (Cheng Decl., ¶¶ 13-14, 19) This use is not sufficiently public to support trademark registration. (See Section I.B., *supra*) The Registrations should be cancelled as void *ab initio* for failure to use the marks in commerce prior to registration.

IV. CONCLUSION

For all the foregoing reasons, and for the reasons stated in the Motion, Bentley’s Motion should be granted, and Aucera’s cross-motion for summary judgment should be denied.¹⁹

Dated: June 13, 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

¹⁹ Bentley also opposes Aucera’s cross-motion for summary judgment.

(1) Summary judgment on the issue of bona fide intent to use is not appropriate. There is no evidence of any plan to market BENTLEY products or to otherwise exploit the BENTLEY mark. Aucera’s sporadic shipment of products to a few individuals in the U.S., together with a single print advertisement, single trade show appearance, and a website – all of which occurred decades after the applications were filed, are not evidence of a bona fide intent to use the BENTLEY mark. Based on this evidence (and the absence of other evidence), the Board could reasonably find that Aucera lacked (and still lacks) a bona fide intent to the BENTLEY mark.

(2) Each of the Registrations is void *ab initio* for failure to use the marks in commerce prior to registration. (See Section III, *supra*; Motion, Section III)

(3) Aucera has not established trademark rights in BENTLEY. (See Section I, *supra*; Motion, Section IV)

(4) Aucera has not rebutted the presumption of abandonment. (See Section II, *supra*; Motion, Section V)

EXHIBIT A

1. BENTLEY Use for Jewelry

<u>Date</u>	<u>Event</u>
May 1995	5 pieces of jewelry sent to Paul Huang to “identify potential purchasers and U.S. distributors” (Cheng Decl., ¶ 13)
May 1995 – October 14, 2014	0 pieces of jewelry sold or shipped
October 15, 2014	10 pieces of jewelry shipped to Robert Bonnem to “develop distributors” and “promote the product line” as well as for compensation (Cheng Decl., ¶ 18)

2. BENTLEY Use for Pens

<u>Date</u>	<u>Event</u>
March 1996	5 pens sent to Paul Huang to “identify potential purchasers and U.S. distributors” (Cheng Decl., ¶ 13)
August 27, 1996	4 pens to Jack Tsai and Helen Wu for “identifying potential purchasers, and explore potential distribution relationships” (Cheng Decl., ¶ 14)
August 27, 1996 – October 14, 2014	0 pens sold or shipped
October 15, 2014	5 pens shipped to Robert Bonnem to “develop distributors” and “promote the product line” as well as for compensation (Cheng Decl., ¶ 18)

3. BENTLEY Use For Watches

<u>Date</u>	<u>Event</u>
May 1995	5 watches sent to Paul Huang to “identify potential purchasers and U.S. distributors” (Cheng Decl., ¶ 13)
November 5, 1996- November 27, 1996	10 watches sent in two shipments to Jack Tsai and Helen Wu for “identifying potential purchasers, and explore potential distribution relationships” (Cheng Decl., ¶ 14) ²⁰
Late 1996 – Early 1997 (sales by Jack Tsai)	8 watches sold by Jack Tsai to U.S. consumers (Cheng Decl., ¶ 15)
Early 1997 – September 7, 2001: 4+ years	0 watches shipped or sold
September 8, 2001	2 watches sent to Helen Wu for “identifying potential purchasers, and explore potential distribution relationships” (Cheng Decl.,

²⁰ See Reply Brief, n. 5, *supra*.

	¶ 14) ²¹
September 9, 2001 – December 31, 2006: 4+ years	0 watches shipped or sold
2006	Unspecified number of watches sent to Yenchi Chen for display in jewelry stores (Cheng Decl., ¶ 16)
January 30, 2008 – April 19, 2008	2 shipments of 5 watches each shipped to Mag Ma to explore potential for sale of watches at baseball stadiums (Cheng Decl., ¶ 17)
April 20, 2008 - June 5, 2013: 5 years	0 watches sold or shipped
June 6, 2013 – Present	11 watches sent to Bonnem to “develop distributors” and “promote the product line,” as well as for compensation (Cheng Decl., ¶ 18)

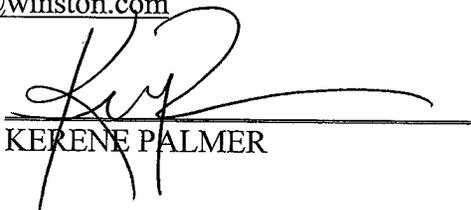
²¹ See Reply Brief, n. 5, *supra*.

CERTIFICATE OF SERVICE

It is hereby certified that one (1) copy of the foregoing **PETITIONER'S REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT AND OPPOSITION TO CROSS 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 94111
jgolinveaux@winston.com

Dated: June 13, 2016


KERENE PALMER