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

Proceeding	92060353
Party	Defendant Aucera SA
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Date	06/28/2016
Attachments	AUCERA CROSS-MOTION REPLY FINAL.pdf(34715 bytes ) SUPP CHENG DECL.pdf(862738 bytes ) KRIS CHEN DECL.pdf(930562 bytes )

**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 REPLY IN SUPPORT OF CROSS-MOTION  
FOR SUMMARY JUDGMENT**

Registrant Aucera SA (“Aucera” or “Registrant”) submits this Reply in support of its Cross-Motion for Summary Judgment and in response to Petitioner Bentley Motors Limited’s (“Petitioner”) Opposition to Aucera’s Cross-Motion for Summary Judgment (“Opposition”).<sup>1</sup>

**I. Petitioner Distorts and Disregards Aucera’s Evidence of Use in Commerce**

In its opening brief, Aucera demonstrated that it made bona fide use of Aucera’s BENTLEY Mark sufficient to support the registrations at issue.<sup>2</sup> Petitioner’s arguments in its Opposition that Aucera’s evidence of shipments of products bearing Aucera’s BENTLEY Mark, during a period spanning over 20 years, are insufficient mischaracterizes the documentary

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<sup>1</sup> Aucera filed a consolidated Opposition to Petitioner’s Motion for Summary Judgment and Cross-Motion for Summary Judgment, and the arguments made in this Reply apply equally to both motions. For ease of reference, Aucera refers to its prior filing as “Aucera’s Motion” or “Mot.” and Petitioner’s consolidated Reply in Support of Motion for Summary Judgment and Opposition to Cross-Motion for Summary Judgment as “Petitioner’s Opposition” or “Opp’n.”

<sup>2</sup> “Aucera’s Bentley Mark” and other terms used herein are defined in the same manner as in Aucera’s Motion.

evidence offered by Aucera and disregards the unrebutted testimonial evidence supporting Aucera's Motion.

Petitioner claims that "Aucera makes vague references to shipments made 'from 1996 to 2001' and 'from 1995 to 2008'" and that "Aucera has not provided evidence of any shipments other than" certain shipments cherry-picked by Petitioner, Opp'n at 3, but in fact, Aucera set forth in detail shipments of products bearing Aucera's BENTLEY Mark, including dates, recipients, and descriptions of the products shipped, and has provided documentation supporting the majority of these shipments despite the fact that some occurred over 20 years ago.<sup>3</sup> Petitioner focuses solely on the documentary evidence proffered by Aucera, but ignores Aucera's testimonial evidence of its use of the marks via interrogatory responses and an unrebutted declaration.<sup>4</sup> Considering the evidence together, Aucera has shown that in addition to the specific shipments listed in Petitioner's Opposition that occurred in 1995, 1996, 2001, 2006, 2008, and 2014, Aucera shipped additional products bearing Aucera's BENTLEY Mark in the 1996 to 2001 period and made a recent shipment in 2015.<sup>5</sup> Moreover, notwithstanding Petitioner's bald claim that Aucera "admits that its products were *not* ... sold to consumers," Opp'n at 4 (emphasis in original), Aucera provided evidence of sales of products bearing Aucera's BENTLEY Mark in 1996 and 1997.<sup>6</sup> Aucera's testimonial evidence must be given

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<sup>3</sup> Mot. at 5-10.

<sup>4</sup> Mot. at 14; Declaration of Chia-Hsiang Cheng in Support of Registrant's Opposition to Petitioner's Motion for Summary Judgment and Registrant's Cross-Motion for Summary Judgment ("Cheng Decl.") ¶¶ 12-19 & Exs. 1-4; Declaration of Jennifer A. Golinveaux in Support of Registrant's Opposition to Petitioner's Motion for Summary Judgment and Registrant's Cross-Motion for Summary Judgment ("Golinveaux Decl.") ¶¶ 2-5 & Exs. 1-4.

<sup>5</sup> See Cheng Decl. ¶¶ 14, 18.

<sup>6</sup> *Id.* ¶ 15. Petitioner claims that Mr. Cheng's testimony regarding sales of products bearing Aucera's Bentley Mark by Jack Tsai is hearsay and that Mr. Cheng lacks personal knowledge to testify about products sold by Mr. Tsai. Opp'n at 4 n.9. However, as the President of Aucera, Mr. Cheng is more than qualified to testify regarding documents located in the files of Aucera

weight here, particularly given that substantial time has passed since the events occurred and in light of the fact that Petitioner did not seek to depose Aucera prior to the close of the discovery period.<sup>7</sup>

In addition to these shipments and sales, Aucera's use of the BENTLEY Mark for the goods at issue is shown by the continuous advertising and promotion of BENTLEY-branded products in the U.S. Petitioner's claim that "there was no public exposure to Aucera's BENTLEY products," Opp'n at 6, ignores the evidence Aucera provided of its substantial marketing and promotional efforts aimed at U.S. consumers, including an English-language website dedicated to products bearing Aucera's BENTLEY Mark (the "Bentley Luxury Website"); the promotion of Aucera's BENTLEY-branded products on the Blount Jewels website; a prominent English language Facebook page dedicated to advertisements for watches, jewelry, and pens bearing Aucera's BENTLEY Mark and communications with potential customers ("Aucera's Bentley Facebook Page"); print advertisements for the products; and the display and promotion of Aucera's BENTLEY-branded products at watch and jewelry trade shows both in the U.S. and internationally that are attended by some of the most well-known brands, distributors, and retailers. Mot. at 6-8.<sup>8</sup> To further support these efforts, Aucera has provided a declaration of the President of Pyxis Enterprise Co., Ltd., the licensee of Aucera for purposes of selling Aucera's BENTLEY-branded products in the U.S. and the company providing marketing

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and its affiliated companies and the sale of his company's products. Cheng Decl. ¶¶ 1, 15 (stating that he recently discovered the documentation of Mr. Tsai's sales "while reviewing the historical files of Aucera Technology Corporation," Aucera's affiliated company).

<sup>7</sup> Mot. at 14-15.

<sup>8</sup> See also Cheng Decl. ¶¶ 20-27; *id.* Exs. 5-8 (screenshots of Blount Jewels website, screenshot of Aucera's Bentley Facebook page, newspaper advertisement for BENTLEY-branded watch, sunglasses, and pen, and documentation of Aucera's participation at trade shows); Golinveaux Decl. Exs. 5-7 (current screenshots of Bentley Luxury Website, Blount Jewels website, and Aucera's Bentley Facebook Page).

and promotional services on behalf of Aucera in the U.S. since 2010.<sup>9</sup> This declaration supports and corroborates the following facts also set forth in the Cheng Declaration:

- Since 2011, Pyxis has operated the Bentley Luxury Website on Aucera's behalf, which features promotional articles, images, and videos of watches, jewelry, and pens bearing Aucera's BENTLEY Mark that are currently for sale, details the history of the BENTLEY brand, and lists U.S. retailers where products bearing Aucera's BENTLEY Mark are available for purchase.<sup>10</sup>
- Since 2012, Pyxis has operated Aucera's Bentley Facebook Page, where Pyxis promotes products bearing Aucera's BENTLEY Mark, communicates directly with potential customers by responding to price inquiries (in U.S. dollars) and questions about where the products are available, as well as directing all visitors to the Bentley Luxury Website.<sup>11</sup>
- Pyxis markets Aucera's BENTLEY-branded products in the U.S. by attending prominent trade shows, including the BaselWorld international watch and jewelry trade show in Switzerland and the JCK watch and jewelry trade fair in Las Vegas.<sup>12</sup>

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<sup>9</sup> See concurrently filed Declaration of Chao-Chung (Kris) Chen ("Chen Decl.") ¶¶ 1-3 & Ex. 1 (marketing agreement between Aucera and Pyxis).

<sup>10</sup> Chen Decl. ¶ 4; *see also* Cheng Decl. ¶ 20. Petitioner claims that Aucera may not rely on the fact that the Bentley Luxury Website listed a U.S. company called ResultCo as a retailer where BENTLEY-branded products were offered for sale because ResultCo's CFO provided a declaration stating that ResultCo has not sold any BENTLEY-branded products. Opp'n at 8 n.15. For the reasons set forth in Aucera's opening brief, this declaration, which states that a *different* ResultCo employee was contacted by an individual who was not associated with Aucera and purports to set forth the conversation between the employee and this individual and attaches an unauthenticated email in which the declarant was neither the sender or receiver, is inadmissible hearsay. *See* Mot. at 23. And even if the evidence was admissible, ResultCo's CFO does not state that BENTLEY-branded products were never *offered* for sale by ResultCo.

<sup>11</sup> Chen Decl. ¶ 5; *see also* Cheng Decl. ¶ 22; Golinveaux Decl. Ex. 5.

<sup>12</sup> Chen Decl. ¶ 6 & Ex. 2 (stating that he personally attends these trade shows on behalf of Aucera, where he displays Aucera's BENTLEY-branded watches and speaks to potential distributors, sellers, and customers about Aucera's BENTLEY-branded products in the U.S. and

Aucera also attaches hereto additional information about Aucera's marketing activities that have taken place since the filing of Aucera's Motion on May 24, 2016. Specifically, from June 3 to June 5, 2016, Aucera had its U.S.-based sales and marketing consultant attend the JCK watch and jewelry trade fair in Las Vegas, where he displayed watches bearing Aucera's BENTLEY Mark and promoted the sale of BENTLEY-branded products to U.S.-based retail buyers.<sup>13</sup> As a result, several major U.S.-based retail buyers were interested in purchasing Aucera's BENTLEY-branded products, including the head buyer for Bloomingdale's department stores (who is considering testing an assortment of watches in 10 to 12 Bloomingdale's department stores in the U.S.); two general managers for Tourneau (who are advising the head buyer for the store in New York); two principals of Fashion Time, a chain with seven stores in the Washington, D.C. area (who stated that they would purchase Aucera's BENTLEY-branded watches for sale in all of their stores); and the principal of Saltzman's Watches, a watch sales and repair chain with two stores in Rhode Island (who was interested in purchasing a line of Aucera's BENTLEY-branded watches).<sup>14</sup> Aucera's U.S.-based sales and marketing consultant also showed the products to watch buyers from Govberg (a jeweler chain with four stores in Pennsylvania and Ohio), James Free Jewelers (a chain with two stores in Ohio), Feldmar Watch Company (a luxury watch store in Los Angeles), and Bernie Robbins Jewelers (a chain with four stores in New Jersey and Pennsylvania), who said that they were interested in purchasing Aucera's BENTLEY-branded watches.<sup>15</sup>

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attaching documentation of Pyxis' attendance at the shows on Aucera's behalf); *see also* Cheng Decl. ¶ 27.

<sup>13</sup> *See* concurrently filed Supplemental Declaration of Chia-Hsiang Cheng in Support of Registrant's Opposition to Petitioner's Motion for Summary Judgment and Registrant's Cross-Motion for Summary Judgment ("Supp. Cheng Decl.") ¶¶ 1-2 & Ex. 1.

<sup>14</sup> *Id.* ¶ 2.

<sup>15</sup> *Id.*

Taken together, Aucera’s evidence of sales and shipments of products bearing Aucera’s BENTLEY Mark, Aucera’s continuous efforts to market BENTLEY-branded products in the U.S., and Aucera’s ongoing development of distribution channels in the U.S. demonstrate that Aucera has used the BENTLEY Mark in commerce and has not abandoned its trademark rights. Petitioner’s argument that *Jean Patou* is directly on point factually is a misreading of the case. Opp’n at 1-2. There, the court found that the defendant’s low number of sales was evidence of a bad faith effort to reserve the mark for future use and to prevent the more successful plaintiff from importing its perfume into the U.S. *La Societe Anonyme des Parfums le Galion v. Jean Patou, Inc.*, 495 F.2d 1265, 1274 (2d Cir. 1974). There is no such allegation or evidence of such bad faith here. *See* Mot. at 21-22.<sup>16</sup> And while Petitioner purports to apply the “totality of the circumstances” set forth in *Rearden*, Opp’n at 6-7, Petitioner ignores the substantial evidence Aucera has set forth regarding the marketing and promotion of Aucera’s BENTLEY Mark in the U.S. in ways that “identify or distinguish” products bearing the mark in the eyes of the public. *Rearden LLC v. Rearden Commerce, Inc.*, 683 F.3d 1190, 1205 (9th Cir. 2012).

## **II. Petitioner Uses an Improperly Narrow Definition of “Use in Commerce”**

Petitioner argues that Aucera may not rely on cases pre-dating the Trademark Law Revision Act (“TLRA”) because prior to the TLRA trademark applications and registrations could be based on “token use.” Opp’n at 4-5. Yet neither of the cases relied upon by Aucera found that the shipments at issue constituted “token use.” *See Standard Pressed Steel Co. v. Midwest Chrome Process Co.*, 183 U.S.P.Q. 758, 765 (T.T.A.B. 1974) (“intra-company

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<sup>16</sup> Petitioner also argues that Aucera “complains” that *Jean Patou* is 40 years old. But this is a fact—the case was decided in 1974. Aucera’s point, which Petitioner ignores, is that more recent cases have held that less traditional uses in commerce (such as shipments) and “[e]ven a single instance of use is sufficient against a claim of abandonment of a mark if such use is made in good faith.” *Electro Source, LLC v. Brandess-Kalt-Aetna Grp., Inc.*, 458 F.3d 931, 935 (9th Cir. 2006); *see also* Mot. at 17-18.

transaction” to sales representative was a bona fide shipment sufficient to lay a foundation for registration); *Int’l Mobile Machines Corp. v. Int’l Tel. & Tel. Corp.*, 800 F.2d 1118, 1120 (Fed. Cir. 1986) (specifically *declining* to hold that “a commercial transaction between the corporate-owner of a mark and a member of its board of directors and investor, is per se a non-commercial transaction for registration purposes.”). Indeed, in *Int’l Mobile Machines*, the Federal Circuit explicitly rejected the “token use” test, despite the fact that the case pre-dated the TLRA. *Id.*; accord McCarthy on Trademarks and Unfair Competition (4th ed.) § 19:109 (noting that many cases rejected the “token use” test prior to the TLRA). These cases illustrate the fact that shipment of products bearing Aucera’s BENTLEY Mark into the U.S. for the purpose of pursuing distribution channels in the U.S. is sufficient to establish a “use in commerce” for purposes of supporting the registrations. *See* Mot. at 12-13, 18-19.

Furthermore, Aucera cited several other cases, both pre- and post-TLRA demonstrating that “use in commerce” should not be applied mechanically or focused solely on sales. *See, e.g., Automedx, Inc. v. Artivent Corp.*, 95 U.S.P.Q. 2d 1976 (TTAB 2010) (“[u]se in commerce should be interpreted with flexibility to account for different industry practices” and “even sales made in a test marketing program will probably suffice as a bona fide use of the mark in the ordinary course of trade because test market sales are a common harbinger of a proposed new product launch.”); *New West Corp. v. NYM Co. of Cal.*, 595 F.2d 1194, 1200 (9th Cir. 1979) (promotional mailing along with solicitation of potential distributors constituted “public identification” of the mark and therefore constituted a use in commerce); *Grey Matter Med. Prods., LLC v. Schreiner Grp. Ltd. P’ship*, No. C13-5861 BHS, 2015 WL 106199, at \*3 (W.D. Wash. Jan. 7, 2015) (the plaintiff’s evidence of “market research in 2004-2005, one sales pitch in 2005, disclosures to manufacturers of prototypes, and FDA approval activities” was sufficient to

“create questions of fact” regarding its alleged abandonment of the mark). In light of this case law, Petitioner’s focus *solely* on Aucera’s documentary evidence of shipments is improper.

**III. Petitioner Does Not Rebut the Facts or Address the Law Supporting Aucera’s Position that the Registrations At Issue Are Not Void *Ab Initio***

Despite recently amending its petition to include a claim that the registrations at issue are void *ab initio*, Petitioner now deemphasizes that argument, spending half a page arguing that Aucera has not satisfied the low bar for establishing use in commerce sufficient to support the registrations—without addressing any of Aucera’s cases or citing any authority at all. Opp’n at 9-10; *see also* Mot. at 10-17. Instead, Petitioner claims only that Aucera’s evidence should not be taken at face value and that Aucera has somehow *changed* its position that it used the marks in commerce in 1995 and 1996. Opp’n at 9. This is untrue—Aucera has consistently identified shipments of products bearing Aucera’s BENTLEY Mark into the U.S. prior to obtaining the registrations.<sup>17</sup> And Petitioner’s complaint that statements made in the unrebutted declaration of Aucera’s President are “new” evidence holds no water in light of the fact that Petitioner chose not to depose Aucera, notwithstanding Petitioner’s conjecture that “there is no reason to believe that a deposition would have resulted in the disclosure of the information at issue.” Opp’n at 9 n. 18.

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<sup>17</sup> *See* Mot. at 5; Golinveaux Decl. ¶ 2 & Ex. 1 at Interrogatory Nos. 2, 5, 8, 9; *id.* ¶ 3 & Ex. 2 at Interrogatory Nos. 23-26, 48-49, 52-53, 56-57; *id.* ¶ 4 & Ex. 3 at Interrogatory No. 63. Petitioner also takes issue with the fact that Aucera produced additional evidence supporting these statements with its Cross-Motion. Opp’n at 9. However, as set forth in the Cheng Declaration, Aucera’s President recently discovered those documents while reviewing the historical files of Aucera’s affiliated company, Aucera Technology Corporation. Cheng Decl. ¶¶ 14-15.

Dated: June 28, 2016

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

**CERTIFICATE OF SERVICE**

In re: Bentley Motors Limited v. Aucera SA  
Cancellation No.: 92060353

I hereby certify that true and complete copies of:

**REGISTRANT'S REPLY IN SUPPORT OF CROSS-MOTION FOR SUMMARY JUDGMENT**

**SUPPLEMENTAL DECLARATION OF CHIA-HSIANG CHENG IN SUPPORT OF REGISTRANT'S CROSS-MOTION FOR SUMMARY JUDGMENT AND EXHIBIT 1**

**DECLARATION OF CHAO-CHUNG (KRIS) CHEN IN SUPPORT OF REGISTRANT'S CROSS-MOTION FOR SUMMARY JUDGMENT AND EXHIBITS 1-2**

have been served on:

- (1) Petitioner's counsel of record, Jessica Bromall Sparkman, by mailing said copy on June 28, 2016, via First Class Mail to:

JEFFER MANGELS BUTLER & MITCHELL LLP  
1900 AVENUE OF THE STARS, SEVENTH FLOOR  
LOS ANGELES, CA 90067

Executed: June 28, 2016

By: /s/ Diana Hughes Leiden  
Diana Hughes Leiden

**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

**SUPPLEMENTAL DECLARATION OF CHIA-HSIANG CHENG IN SUPPORT OF  
REGISTRANT’S OPPOSITION TO PETITIONER’S MOTION FOR SUMMARY  
JUDGMENT AND REGISTRANT’S CROSS-MOTION FOR SUMMARY JUDGMENT**

I, Chia-Hsiang Cheng, declare as follows:

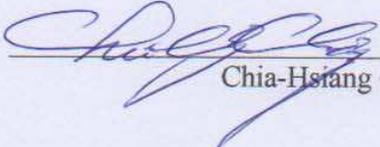
1. I am the President of Aucera SA (“Aucera”), a public limited Swiss company based in La Chaux-de-Fonds, Switzerland. I make this declaration in further support of Aucera’s Opposition to Petitioner’s Motion for Summary Judgment and Aucera’s Cross-Motion for Summary Judgment. I have personal knowledge of the matters set forth herein, and if called upon as a witness I could competently testify thereto. I submit this supplemental declaration to provide additional information about Aucera’s marketing activities that have taken place since my initial declaration was submitted on May 24, 2016.

2. I have continued to work with Robert Bonnem to establish customers, marketing, and sales channels for products bearing Aucera’s BENTLEY Mark in the U.S. At my direction, Mr. Bonnem attended the JCK watch and jewelry trade fair in Las Vegas on June 3 – June 5, 2016. Attached hereto as **Exhibit 1** are true and correct copies of promotional fliers that Mr.

Bonnem showed to potential customers and buyers on an iPad tablet at the JCK fair. Mr. Bonnem also displayed watches bearing Aucera's BENTLEY Mark at the JCK fair. Following the JCK fair, Mr. Bonnem reported to me that several U.S.-based retail buyers were interested in purchasing Aucera's BENTLEY-branded products, including the head buyer for Bloomingdale's department stores (who is considering testing an assortment of watches in ten to twelve Bloomingdale's department stores in the U.S.); two general managers for Tourneau (who are advising the head buyer for the store in New York); two principals of Fashion Time, a chain with seven stores in the Washington, D.C. area (who stated that they would purchase Aucera's BENTLEY-branded watches for sale in all of their stores); and the principal of Saltzman's Watches, a watch sales and repair chain with two stores in Rhode Island (who was interested in purchasing a line of Aucera's BENTLEY-branded watches). Mr. Bonnem also showed the products to watch buyers from Govberg (a jeweler chain with four stores in Pennsylvania and Ohio), James Free Jewelers (a chain with two stores in Ohio), Feldmar Watch Company (a luxury watch store in Los Angeles), and Bernie Robbins Jewelers (a chain with four stores in New Jersey and Pennsylvania), who said that they were interested in purchasing Aucera's BENTLEY-branded watches.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 28<sup>th</sup> day of June, 2016 in Taipei, TAIWAN.

  
Chia-Hsiang Cheng

# **EXHIBIT 1**



Specification of dual movement models:

Sapphire Glass:



Double dome barrel type

Index:



60 round indexes

Movements:

2 pieces of Soprod A-10-2 (blue screws)



Side Engraving:

3D deep laser engraving: 08mm



Lugs:

Hydraulic turning lugs



Deploy clasp:

From the factory supplying to Patek Philippe, Montblanc, Cartier and Hermes



Packaging:

Cigar box



# BENTLEY

1948

La Chaux-de-Fonds



*B/W*  
*Arctic Gyrfalcon*

*Two Watches in One*

*Twin Silm Automatic Movements • 3D Deep Laser Engraving • Hydraulic Lugs*

Ladies Specification of dual movement models:

Sapphire Glass:

Double dome type



Dials:

Tahiti black & white MOP

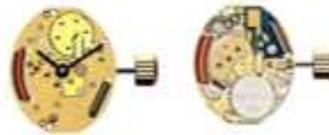
Diamonds:

134 pcs of VS1 ø1.50 Total Weight: 1.20 CT



Movements:

2 pieces of ETA E03.001 Height: 1.35mm

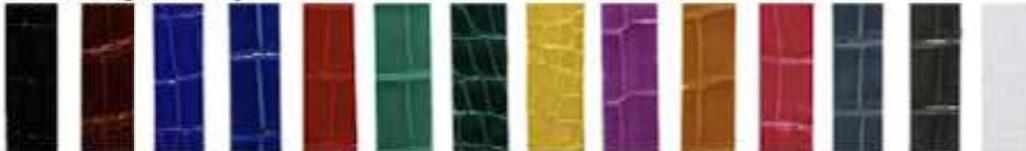


Crown diamond:

VS1 ø3.0 mm; Weight: 0.10 CT



Color alligator straps:



Deploy clasp:

From the factory supplying to Patek Philippe, Montblanc, Cartier and Hermes



Packaging:

Cherry wood box



# BENTLEY

1948

SWISS PROFESSIONAL WATCHMAKER SINCE 1948



THE ONE AND ONLY P-38 GLACIER GIRL

P-38 Lightning

Twin Slim Automatic Movements • Barrel Shape Sapphire Glass • 3 D Deep Laser Engraving • Hydraulic Pressure Lugs • Patented Structure Design

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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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

**DECLARATION OF CHAO-CHUNG (KRIS) CHEN IN SUPPORT OF REGISTRANT'S  
OPPOSITION TO PETITIONER'S MOTION FOR SUMMARY JUDGMENT AND  
REGISTRANT'S CROSS-MOTION FOR SUMMARY JUDGMENT**

I, Chao-Chung (Kris) Chen, declare as follows:

1. I am the President of Pyxis Enterprise Co., Ltd. ("Pyxis"). I make this declaration in support of Aucera's Opposition to Petitioner's Motion for Summary Judgment and Aucera's Cross-Motion for Summary Judgment. I have personal knowledge of the matters set forth herein, and if called upon as a witness I could competently testify thereto.

2. Pyxis is based in Taipei, Taiwan. Pyxis was established over 30 years ago and is currently one of the largest watch importer and exporter companies in Taiwan. Pyxis also distributes watches, including brands such as Timex, Hello Kitty, and Issey Miyake, to retailers in Taiwan.

3. Since 2012, Pyxis has been a licensee of Aucera for purposes of selling Aucera's BENTLEY-branded products in countries in which Aucera has registrations for the BENTLEY mark, including the U.S. In addition, since January 2010, Pyxis has engaged in marketing and

promotional efforts in the U.S. on behalf of Aucera in countries where Aucera has the registrations for the BENTLEY mark, including the U.S. Attached hereto as **Exhibit 1** is a true and correct copy of the Marketing Agreement entered into by Pyxis and Aucera on January 1, 2010.

4. Pyxis registered the domain name [www.bentleluxury.com](http://www.bentleluxury.com) and has operated a website at that domain (the “Bentley Luxury Website”) on behalf of Aucera since 2011. The Bentley Luxury Website features promotional articles, images, and videos of watches, jewelry, and pens bearing Aucera’s BENTLEY Mark that are currently for sale, details the history of the BENTLEY brand, and lists U.S. retailers where products bearing Aucera’s BENTLEY Mark are available for purchase.

5. Since 2012, Pyxis has operated a Facebook page on behalf of Aucera for Aucera’s BENTLEY branded products ([www.facebook.com/BENTLEYLUXURY](http://www.facebook.com/BENTLEYLUXURY)) (“Aucera’s Bentley Facebook Page”). Pyxis communicates directly with potential customers on Aucera’s Bentley Facebook Page by responding to price inquiries and questions about where the products are available, as well as directing all visitors to the Bentley Luxury Website and the email address [info@bentleluxury.com](mailto:info@bentleluxury.com). In responding to price inquiries, Pyxis provides the cost in U.S. dollars.

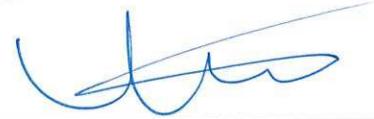
6. One of the ways in which Pyxis markets Aucera’s BENTLEY-branded products in the U.S. is by attending prominent industry trade shows on behalf of Aucera, including the BaselWorld international watch and jewelry trade show in Switzerland and the JCK watch and jewelry trade fair in Las Vegas, Nevada. I personally attended BaselWorld on Aucera’s behalf each year since 2012 and I attended the JCK fair in Las Vegas, Nevada on Aucera’s behalf in 2010. At these trade shows, I display Aucera’s BENTLEY-branded watches and speak to

potential distributors, sellers, and customers about Aucera's BENTLEY-branded products in order to establish sales and marketing channels for Aucera's BENTLEY-branded products in the U.S. Attached hereto as **Exhibit 2** are true and correct copies of a cost list for the fees associated with the JCK fair in 2010 that Pyxis paid on Aucera's behalf; an invoice to Pyxis for Aucera's attendance fee at BaselWorld 2014; and documentation related to Pyxis' payment of the fees associated with BaselWorld 2014 and 2015 on Aucera's behalf.

7. Pyxis plans to continue to market Aucera's BENTLEY-branded products in the U.S., and is actively seeking distributors in the U.S.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 23 day of June, 2016 in Taipei, Taiwan.



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Chao-Chung (Kris) Chen

# **EXHIBIT 1**

# **BENTLEY**

**1948**

## **MARKETING AGREEMENT**

DATE: JANUARY 01ST 2010

We, AUCERA SA, Avenue Leopold-Robert 76, CH-2300 La Chaux-de-Fonds, Switzerland, agree Pyxis Co., Ltd. (B1. No. 221, Chung-yang Rd, Nan-Kang District, Taipei, TAIWAN) for marketing BENTLEY watches (International class 14) for marketing activities in countries where AUCERAS SA has the registrations for an uncertain period.

Marketing Activities:

1. Website building and editing.
  2. Facebook building and editing.
  3. Attending watch fair: Swiss Basel Fair, HK watch & Jewelry Fair, and Las Vegas JCK show.
  4. Commercials and advertisements.
  5. Editorial reports.
  6. Business activities.
- period!



CHIA-HSIANG, CHENG

President of AUCERA SA



CHAO-CHUNG, CHEN

President of Pyxis Enterprise Co., Ltd.

AUCERA SA,  
Avenue Leopold-Robert 76, CH-2300 La Chaux-de-Fonds, Switzerland, Tel: +41(0)32-911-32-00; Fax: +41(0)32-911.32.01

# **EXHIBIT 2**



Pico Total Brand Activation

Pico International (HK) Ltd.  
Pico House, 4 Dai Fu Street  
Tai Po Industrial Estate  
New Territories, Hong Kong SAR

Tel: 852 2665 0990

www.pico.com

華克(香港)有限公司  
香港新界大埔工業邨  
大富街4號華克大樓

hk.info@hk.pico.com

# Invoice

<b>To:</b> PYXIS ENTERPRISE., CO LTD B1, NO 221 CHUNG YANG RD NANG KANG TAIWAN  Attention: Ms Janice Hsu Tel: 886 22786 7706		Invoice No: <b>LDBASE140004</b>		
		Invoice Date: <b>17/03/2014</b>		
		Due Date: <b>04/04/2014</b>		
		Project Code: <b>LDJEW14004-002</b>		
S/No:	Description	Unit Price	Quantity	Amount
	<b>RE : Basel World 2014</b>  Being cost of the above mentioned show as per our quotation reference no. HKCDY-Q14017070-2 dated 12 Mar 2014  Show Period : 27/03/2014 - 03/04/2014 Venue : Messe Basel ; Hall: Hall 1.1 Booth No. : A70			USD  55,000.00  2nd Payment 20% Balance 11,000.00
<b>SAY TOTAL USD ELEVEN THOUSAND ONLY</b> The Sum of Dollars				Total 11,000.00

Cheques should be crossed and made payable to Pico International (HK) Ltd.

Pico International (HK) Ltd.

(HK)CTL

Please quote invoice number on payment or return copy of invoice with remittance.

To effect payment through telegraphic transfer, please remit to our banker:

The Hongkong and Shanghai Banking Corporation Limited  
Account No: 110-067295-282 (HKD) 110-067295-274 (USD)  
110-067295-275 (EUR) 110-067295-276 (GBP)  
110-067295-280 (SGD)

Bank code: 004 Swift code: HSBCHKHHHKH

Any queries on this invoice should be made to our Accounts Department or the invoice is to be returned to us within seven days, otherwise it will be deemed as accepted by you.

Authorised Signature

**THIS IS A COMPUTER GENERATED PRINT-OUT  
AND NO SIGNATURE IS REQUIRED  
Approve by HKRH on 17/03/2014**

T. & O. E.

ISO 9001



AUCERA000050

item	Accounting Summons	Serial #	Date	Bollower	Sponsor	Remarks
2915	910-09903150008	0010	3/15/2010		\$14,390	Taiwan Association-JCK watch & jewelryFair
2915	910-09903160003	0010	3/16/2010	\$1,163		Airticket for Kris (JCK) 06/02-06/09
2915	910-09903160003	0020	3/16/2010	\$1,775		Airticket for Robert Wang+Hsu
2915	910-09904220002	0010	4/22/2010	\$394		Lodging for Kris (JCK)
2915	910-09904220002	0020	4/22/2010	\$789		Lodging for Robert Wang+Hsu
2915	910-09905200009	0010	5/20/2010	\$13,000		Reeman-JCK Booth + Decoration
2915	910-09905280005	0470	5/28/2010	\$15		JCK Picture Frame
2915	910-09905280005	0510	5/28/2010	\$161		JCK Wood Box
2915	910-09905280005	0580	5/28/2010	\$15		JCK Watch Display Frame
2915	910-09905280005	0660	5/28/2010	\$76		JCK Watch Transportation
2915	910-09905280005	0850	5/28/2010	\$7		JCK Extra
2915	910-09905310026	0010	5/31/2010	\$2,494		JCK Rochas & Bentley Folding DM
2915	910-09905310061	0090	5/31/2010	\$12		JCK Show Insurance
2915	910-09905310064	0010	5/31/2010	\$2,038		JCK Show Fright Fees CW9950709200
2915	910-09905310065	0010	5/31/2010	\$57		JCK Declaration Fees CH9952020363
2915	910-09906280002	0010	6/28/2010	\$153		Hsu, I-chen 06/02-06/09 GSM Fees
2915	910-09906280002	0020	6/28/2010	\$45		Hsu, I-chen 06/02-06/09 Transportation
2915	910-09906280002	0030	6/28/2010	\$438		Hsu, I-chen 06/02-06/09 Meals & Extra
2915	910-09906280002	0040	6/28/2010	\$212		Hsu, I-chen 06/02-06/09 Allowances
2915	910-09906280002	0080	6/28/2010	\$366		Robert Wang 06/02-06/09 Airticket
2915	910-09906280002	0090	6/28/2010	\$39		Robert Wang 06/02-06/09 Transportation
2915	910-09906280002	0110	6/28/2010	\$301		Robert Wang 06/02-06/09 Hotel Internet
2915	910-09906280002	0130	6/28/2010	\$195		Robert Wang 06/02-06/09 Meals & Extra
2915	910-09906280002	0150	6/28/2010	\$212		Robert Wang 06/02-06/09 Allowances
2915	910-09906300017	0020	5/30/2010	\$1,281		Kris 06/02-06/13 Miscellaneous
2915	910-09906300017	0030	5/30/2010	\$403		Kris 06/02-06/13 Transportation
2915	910-09906300017	0040	5/30/2010	\$137		Kris 06/02-06/13 Stationary
2915	910-09906300017	0050	5/30/2010	\$267		Kris 06/02-06/13 Allowances
2915	910-09906300021	0010	5/30/2010	\$1,905		06/02-06/09 JCK Furnitures Transportation
2915	910-09906300022	0020	5/30/2010	\$538		Kris 06/02-06/13 Meals & Extra
2915	910-09906300022	0030	5/30/2010	\$270		Kris 06/02-06/13 Lodging
2915	910-09906300022	0040	5/30/2010	\$163		Kris 06/02-06/13 GPS Rental
2915	910-09906300022	0050	5/30/2010	\$85		Kris 06/02-06/13 JCK Display
2915	910-09906300022	0060	5/30/2010	\$11		Kris 06/02-06/13 JCK Books
2915	910-09906300022	0070	5/30/2010	\$1,094		Kris 06/02-06/13 JCK Decoration
2915	910-09906300022	0080	5/30/2010	\$270		Kris 06/02-06/13 JCK Airtickets
2915	910-09906300024	0430	5/30/2010	\$11		Department #2, JCK Display Tools
2915	910-09906300030	0010	5/30/2010	\$279		Rober Wang & Kris US VISA Fees
2915	910-09906300094	0010	5/30/2010	\$239		JCK Poster Fees
2915	910-09906300133	0010	5/30/2010	\$1,654		JCK Show Fees CA9906800984
2915	910-09907150013	0020	7/15/2010		\$7,273	Taiwan Association-JCK watch & jewelryFair
2915	910-09908310079	0010	8/31/2010	\$332		JCK Enterning Fees
2915	910-09908310079	0020	8/31/2010	\$695		JCK Exiting Fees

# 上海商業儲蓄銀行

THE SHANGHAI COMMERCIAL & SAVINGS BANK, LTD.

## 匯出匯款證明書

### CONFIRMATION FOR OUTWARD REMITTANCE

匯出編號

Reference

日期 Date

2014/10/29

申請人 Applicant	統一編號 ID/Passport/ Residence No.	
	帳號A/C NO. 2710830026693-6	
	中文名稱 Name in Chinese	
	英文名稱 PYXIS ENTERPRISE CO LTD Name in English	
收款人 Beneficiary	地址 Address	BI NO221 CHUNG-YANG ROAD NAN-KANG DISTRICT TAIPEI R.O.C TEL:27867706
	電話 Tel.	
	收款人 Beneficiary	MCH SWISS EXHIBITION (BASEL) LTD
	匯款幣別 Currency	CHF
收款銀行 "A/C with" Bank	帳號 A/C NO.	IBAN: CH91 0077 0016 0454 2454 5
	地址 Address	CH-4005 BASEL, SWITZERLAND
	匯率 Exchange Rate	0
	匯款方式 Settlement Method	<input checked="" type="radio"/> 新台幣 NTS <input type="radio"/> 外匯 Foreign Currency
收款銀行 "A/C with" Bank	匯款幣別 Currency	CHF
	匯款金額 Amount	23,936.00
	匯款方式 Remittance Method	<input checked="" type="radio"/> 電匯 Swift Telex <input type="radio"/> 票匯 Demand Draft
	匯款性質 Nature of Remittance	(1) 進口貨款 Import Proceeds <input type="radio"/> 已進口 Imported <input checked="" type="radio"/> 未進口 Not yet Imported (2) 其他 Others
備註 Remarks	SWIFT: BKBBCHBB	註: 代理銀行費用將在匯款內扣除 * CORRESPONDENT BANK CHARGE WILL BE DEDUCTED FROM THE REMITTED AMOUNT

(2) 客戶存查 Customer's Copy

匯票: 01-08匯-591-3-01

列印時間: 2014/10/29 10:07

請向匯款行

# 上海商業儲蓄銀行

THE SHANGHAI COMMERCIAL & SAVINGS BANK, LTD.

## 匯出匯款證明書

CONFIRMATION FOR OUTWARD REMITTANCE

匯出編號  
Reference

日期 Date 2015/1/14

申請人 Applicant	統一編號 ID/Passport/ Residence No.	
	帳號A/C NO 2710800026893-6	
	中文名稱 Name in Chinese	
	英文名稱 PYXIS ENTERPRISE CO LTD Name in English	
收款人 Beneficiary	地址 Address	
	B1 NO221 CHUNG-YANG ROAD NAN-KANG DISTRICT TAIPEI R.O.C TEL:27867706	
	電話 Tel.	
收款銀行 "A/C with" Bank	收款人 Beneficiary	匯款幣別 Currency
	MCH SWISS EXHIBITION (BASEL) LTD	CHF
	帳號 A/C NO.	匯款金額 Amount
	IBAN: CH91 0077 0016 0454 2434 5	55,850.40 (10%)
收款銀行 "A/C with" Bank	地址 Address	匯率 Exchange Rate @ 0
	CH-4005 BASEL, SWITZERLAND	繳款方式 <input checked="" type="radio"/> 新台幣 NT\$ 0
	電話 Tel.	匯款方式 <input type="radio"/> 外匯 Foreign Currency
		註: 代理銀行費用將在匯款內扣除 * CORRESPONDENT BANK CHARGE WILL BE DEDUCTED FROM THE REMITTED AMOUNT
收款銀行 "A/C with" Bank	收款銀行 "A/C with" Bank	匯款方式 Remittance Method
	Postkonto: 40-2910-1 Basler Kantonalbank Basel, Konto: 16454.243.45 Clearing Nr: 770	<input checked="" type="radio"/> 電匯 Swift Telex <input type="radio"/> 票匯 Demand Draft
	銀行代號 Bank Code	匯款性質 Nature of Remittance
	#REF!	(1) 進口貨款 Import Proceeds <input type="radio"/> 已進口 Imported <input type="radio"/> 未進口 Not yet Imported (2) 其他 Orders <input type="radio"/> 備付貿易支出(T/T):
備註 Remarks	地址 Address	THE SHANGHAI COMMERCIAL & SAVINGS BANK LTD.
	備註 Remarks	
SWIFT : BKRBCHBB		

(2) 顧客存查 Customer's Copy

新華 01-4829-501-3-001

列印時間

聯合匯款