

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

OMEGA SA,)	
)	
	Plaintiff,	
)	
vs.)	No. <u>12-cv-9338 (SAS)</u>
)	
XIE ZHENMIN, ET AL)	
)	
	Defendants.	
)	

DECLARATION OF COLLEEN HURLEY

I, Colleen Hurley, declare as follows:


1. I submit this declaration in support of Plaintiff, Omega SA's ("Omega") Application for a Temporary Restraining Order.
2. Except where stated below, I have personal knowledge regarding the statements in this declaration, and if called to testify on these matters I could competently do so.
3. I am the Omega Sales Operations Manager for The Swatch Group (U.S.) Inc. The Swatch Group (U.S.) Inc. is the exclusive distributor for all OMEGA branded watches in the United States.
4. I am very familiar with the quality and characteristics of genuine OMEGA watches, an understanding of which is essential to the performance of my duties as the Omega Sales Operations Manager. I have over four years of experience identifying counterfeit OMEGA



watches, including regularly working with US Customs verifying the authenticity of OMEGA watches detained at the U.S. borders.

5. Omega manufactures watches which it sells in the United States through The Swatch Group (U.S.) Inc. From my review of The Swatch Group (U.S.) Inc.'s files, kept in the ordinary course of business, I am aware that Omega has advertised and promoted and otherwise used in commerce throughout the United States, including this District, the OMEGA mark since at least as early as 1894. Omega has become widely known as the source of exclusive, fashionable, high quality precision watches. Omega has invested millions of dollars in advertising and promoting its OMEGA watches making its OMEGA mark one of the world's most recognized brands.

6. Omega authorizes sale and distribution of its OMEGA watches exclusively through authorized and properly trained dealers who promote an image consistent with the company's enormous investment in extensive marketing of a luxury goods product of its kind. Omega and its dealers do not sell OMEGA watches on the Internet.

7. From my review of The Swatch Group (U.S.), Inc.'s files, kept in the ordinary course of business, I am aware that Omega is the owner of the entire right, title, and interest in Federal trademark registrations for goods and services including, among others, the following famous, valid, subsisting, and un-cancelled US trademark registrations, most of which are incontestable ("OMEGA Marks"):

Trademark	Registration No.	Registration Date	Class(es)/Goods
 OMEGA	25,036	May 23, 1894	IC 014: Watch movements and watch cases
OMEGA	566,370	November 4, 1952	IC 014: Watches and parts thereof

	734,891	July 14, 1962	IC 014: Timepieces and parts thereof
	3,757,932	March 9, 2010	IC 014: jewelry and precious stones; horological and chronometric instruments.
SEAMASTER	556,602	March 25, 1952	IC 014: Watches, watch parts and watch movements
SPEEDMASTER	672,487	January 13, 1959	IC 014: Watches and clocks
CONSTELLATION	1,223,349	January 11, 1983	IC 014: Watches and parts thereof
DE VILLE	1,309,929	December 18, 1984	IC 014: Watches, Wrist Watches, Portfolio Watches, Pendant Watches, and Miniature Clocks; and Parts Thereof
HOUR VISION	3,681,927	September 15, 2009	IC 014: Horological and chronometric instruments
PLANET OCEAN	3,085,659	April 25, 2006	IC 014: Watches and watch parts
BROAD ARROW	3,418,186	April 29, 2008	IC 014: Watches, watch straps, watch bracelets and parts thereof; chronometers, chronographs, watches made of precious metals, watches partly or entirely set with precious stones

8. Sales of counterfeit versions of Omega's watches are enormously damaging to Omega and the goodwill the company has built up in its OMEGA Marks. Sales of counterfeit watches result in a loss of reputation and goodwill to Omega and its OMEGA Marks, not to mention lost sales for Omega.

9. Beginning in or around November 2012, Omega began investigating 29 counterfeit websites. The 29 websites ("Counterfeit Websites") are located at the following addresses:

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|-----------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| (1) http://www.watches-vogue.com | (3) http://www.queenofwatches.com |
| (2) http://www.watchdear.com | (4) http://www.replicaup.com |

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|--------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| (5) http://www.watchmimic.com | (18) http://watchesyes.net |
| (6) http://www.watchkind.com | (19) http://replicavip.org |
| (7) http://www.myfavomega.com | (20) http://www.watchc.com |
| (8) http://www.omegaonlineoutlet.com | (21) http://www.watchespay.net |
| (9) http://www.omegaonlineoutlet.biz | (22) http://www.replicabuy.net |
| (10) http://www.omegaonlineoutlet.net | (23) http://www.watch7750.com |
| (11) http://www.qualityreplica.biz | (24) http://www.swissale.net |
| (12) http://www.qualityreplica.info | (25) http://www.replicafind.net |
| (13) http://www.qualityreplica.us | (26) http://www.salesreplicas.com |
| (14) http://www.bestreplicawatchesok.com | (27) http://www.replicawalker.com |
| (15) http://www.swisskiss.net | (28) http://replicaprice.com |
| (16) http://www.sinohorloge.com | (29) http://www.watchesfull.com |
| (17) http://www.salesswiss.com | |

10. Omega has learned the defendants are offering for sale and selling counterfeit Omega watches without authorization via the Counterfeit Websites. Upon information and belief, the OMEGA Marks have never been assigned or licensed to the defendants, and the defendants do not have, nor have they ever had, the right or authority to use the OMEGA Marks for any purpose, including in connection with the Counterfeit Websites.

11. As part of its ongoing investigations regarding the sale of counterfeit OMEGA watches, Omega investigated the suspected sales of counterfeit Omega watches via the Counterfeit Websites.

12. As recounted in the declaration of Lauren Kennedy, Omega accessed each of the 29 counterfeit websites between November 27, 2012 and December 4, 2012. Images captured from each of the Counterfeit Websites, are attached to the Kennedy declaration as Exs. 1-29 (“Counterfeit Website Screen Shots”).

13. I personally analyzed the Counterfeit Website Screen Shots and determined the OMEGA watches advertised on each of these sites to be non-genuine, counterfeit OMEGA watches. I reached this conclusion through my visual inspection of the websites which openly state that the products offered for sale through these sites are not genuine, but rather replica (or

counterfeit). I further reach this conclusion because the pricing of the Omega watches on these websites is far below prices offered for genuine Omega watches – at most 10% of their genuine counterpart. Upon information and belief, Omega has not authorized the distribution or sale of OMEGA products through the Counterfeit Websites. Indeed Omega does not sell, or authorize for sale, its OMEGA watches on the Internet. Moreover, the manner in which the OMEGA watches are advertised, displayed and described on the Counterfeit Websites is inconsistent with the manner in which Omega advertises, displays and describes its genuine watches.

14. As a result of the non-genuine OMEGA watches being offered for sale by defendants, Omega is likely to experience irreparable damage to its reputation among consumers unless the infringing and counterfeiting activity alleged in the Complaint is stopped.

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

Executed December 14, 2012



Colleen Hurley