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and Cartier International, B.V.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CARTIER, A Division Of	:
RICHEMONT NORTH AMERICA, INC.;	:
and CARTIER INTERNATIONAL, B.V.,	:
	:
Plaintiffs,	:
v.	:
	:
HUDSON GROUP; HUDSON NEWS	:
COMPANY; DRUGSTORE-DIRECT, INC.;	:
IMPULSE NOVELTIES, INC.; NASRU ALI;	:
GLOBAL TIME INTERNATIONAL, INC.;	:
EDRAMUDDIN ISSA; ROYAL TIMES, INC.;	:
LAL BACHANI; MAGNA, LLC	:
and JOHN DOE No. 11 a/k/a "KUMAR"	:
	:
Defendants.	:
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AMENDED COMPLAINT

Civil Action No. 04-6700 (DLC)

In accordance with Rule 15(a), Federal Rules of Civil Procedure, and the Revised Scheduling Order of May 17, 2005, Plaintiffs hereby amend their complaint and allege as follows:

THE PARTIES

1. Plaintiff, Cartier, a division of Richemont North America, Inc., is a Delaware corporation, having its executive offices and place of business at 653 Fifth Avenue, New York, New York 10022 (“Cartier NA”).

2. Plaintiff, Cartier International, B.V., is a Netherlands corporation, having its principal office and place of business at Herengracht 436 B.P., 3980, Amsterdam, Netherlands (“Cartier International”). For purposes of this Complaint, except where specified, the Plaintiffs’ interests herein are as a practical matter identical, and they are referred to collectively and interchangeably as “Cartier.”

3. Upon information and belief, defendant Hudson Group, having its principal office and place of business at One Meadowlands Plaza, Suite 902, East Rutherford, New Jersey 07073 is transacting and doing business in this judicial district and is subject to the personal jurisdiction of this Court. Upon further information and belief, Hudson Group sells retail watches that infringe one or more of the trademarks and patents identified below.

4. Upon information and belief, defendant Hudson News Company is a New Jersey company, having its principal place of business at 1305 Paterson Plank Road, North Bergen, NJ 07047 and a place of business at 111 Eighth Avenue, New York, NY, 10011 (hereinafter “Hudson News”) and is transacting and doing business in this judicial district and is subject to the personal jurisdiction of this Court. Upon further information and belief, Hudson News sells retail watches that infringe one or more of the trademarks and patents identified below.

5. Upon information and belief, defendant Drugstore-Direct, Inc., is a corporation organized and existing under the laws of Pennsylvania, having its principal place of business at 200 Rittenhouse Circle, Bristol, PA 19007 (hereinafter “Drugstore-Direct”). Upon further

information and belief, Drugstore-Direct is a wholesaler of watches that supplies watches to Hudson News and Hudson Group.

6. Upon information and belief, defendant Global Time International, Inc. is a New York corporation, having its principal office and place of business at 28 West 30th Street, New York, NY 10001 (hereinafter “Global Time”), is transacting and doing business in this judicial district and is subject to the personal jurisdiction of this Court. Upon further information and belief, Global Time distributes and sells watches that infringe one or more of the trademarks and patents identified below by selling said infringing goods directly or indirectly to companies including but not limited to Drugstore-Direct.

7. Upon information and belief, defendant Edramuddin Issa (previously named as John Doe #1) is an individual who is an officer or other managing agent of Global Time, having an office and place of business at Global Time International, Inc., 28 West 30th Street, New York, NY 10001 and is a conscious dominant and active force behind the wrongful acts of Global Time complained of herein, which wrongful acts he has engaged in for the benefit of Global Time and his own individual gain and benefit. Defendant Edramuddin Issa is transacting and doing business in this judicial district and is subject to the personal jurisdiction of the Court.

8. Upon information and belief, defendant Royal Times, Inc., is a New York Corporation having its principal place of business at 32 W. 30th Street, New York, New York 10001, is transacting and doing business in this judicial district and is subject to the personal jurisdiction of this Court (hereinafter “Royal Times”). Upon further information and belief, Royal Times distributes and sells watches that infringe one or more of the trademarks and patents identified below by selling said infringing goods directly or indirectly to companies including but not limited to Drugstore-Direct.

9. Upon information and belief, defendant Lal Bachani (previously named as John Doe #2) is an individual who is an officer or other managing agent of Royal Time, having an office and place of business at Royal Times, Inc., 32 W. 30th Street, New York, New York 10001 and is a conscious dominant and active force behind the wrongful acts of Royal Time complained of herein, which wrongful acts he has engaged in for the benefit of Royal Time and his own individual gain and benefit. Defendant Lal Bachani is transacting and doing business in this judicial district and is subject to the personal jurisdiction of the Court.

10. Upon information and belief, defendant Impulse Novelties, Inc. is a New York corporation, having its principal office and place of business at 468 Grand Boulevard, Westbury, NY 11590 (hereinafter "Impulse"), is transacting and doing business in this judicial district and is subject to the personal jurisdiction of this Court. Upon further information and belief, Impulse distributes and sells watches that infringe one or more of the trademarks and patents identified below by selling said infringing goods directly or indirectly to companies including but not limited to Drugstore-Direct.

11. Upon information and belief, defendant Nasru Ali (previously named as John Doe #3) is an individual who is an officer or other managing agent of Impulse, having an office and place of business at Impulse Novelties, Inc., 468 Grand Boulevard, Westbury, NY 11590 and is a conscious dominant and active force behind the wrongful acts of Impulse complained of herein, which wrongful acts he has engaged in for the benefit of Impulse and his own individual gain and benefit. Defendant Nasru Ali is transacting and doing business in this judicial district and is subject to the personal jurisdiction of the Court.

12. Upon information and belief, defendant Magna, LLC is a New York limited liability company, having its principal office and place of business at 276 Fifth Avenue, Suite

302, New York, New York 10001(hereinafter “Magna”), is transacting and doing business in this judicial district and is subject to the personal jurisdiction of this Court. Upon further information and belief, Magna distributes and sells watches that infringe one or more of the trademarks, copyrights and patents identified below by selling said infringing goods directly or indirectly to companies including but not limited to Drugstore-Direct.

13. Upon information and belief, defendant John Doe No. 11 a/k/a Kumar is an individual who is an officer or other managing agent of Magna, having an office and place of business at that company, and is a conscious dominant and active force behind the wrongful acts of one or more of Magna complained of herein, which wrongful acts he has engaged in for the benefit of one or more of Magna and for his own individual gain and benefit. Defendant John Doe 11 a/k/a Kumar is transacting and doing business in this judicial district and is subject to the personal jurisdiction of this Court.

14. All defendants herein are identified hereinafter collectively as “Defendants.”

JURISDICTION AND VENUE

15. This Court has subject matter jurisdiction over the claims in this action arising under the Trademark Act of 1946, as amended, relating to trademark and trade dress infringement and false designations of origin and false descriptions pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338.

16. This Court has subject matter jurisdiction over claims in this action arising under the Patent Laws of the United States of America, pursuant to 35 U.S.C. § 271 and 28 U.S.C. §§ 1331 and 1338.

17. This Court has subject matter jurisdiction over claims in this action arising under the Copyright Act pursuant to 28 U.S.C. §§ 1331 and 1338.

18. This Court has supplemental jurisdiction over the claims in this Complaint arising under state statutory law and the common law of the State of New York pursuant to 28 U.S.C. § 1367(a), because the state law claims are so related to the federal claims that they form part of the same case or controversy and derive from a common nucleus of operative facts.

19. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and 1400.

FACTS COMMON TO ALL COUNTS

The CARTIER Brand and Businesses

20. Plaintiffs' origins date to over 150 years ago, when master jeweler Louis Francois Cartier established his jewelry concern in the heart of Paris, and established the CARTIER brand.

21. Cartier created the first women's wristwatch in 1888, and in 1904 the first wristwatch to utilize a leather strap.

22. Over the last century and a half, Cartier's leadership in the field of fine jewelry and watch design has caused the Cartier brand to be regarded as the preeminent global symbol of cosmopolitan fashion and prosperity.

23. For decades, Cartier NA has operated an internationally famous retail store at Fifth Avenue and 52nd Street in New York City. Cartier NA also operates retail shops in many

of America's major cities and licenses distributors to sell world-acclaimed Cartier watches and jewelry throughout the United States in fine stores.

24. Cartier International is the owner of trademarks and patents for watches and jewelry sold by Cartier NA or under its auspices, pursuant to licenses from Cartier International to Cartier NA.

25. Cartier NA is the exclusive United States trademark and patent licensee of Cartier International.

26. No defendant in this action has sought or received a license from Cartier NA or Cartier International for any purpose whatsoever.

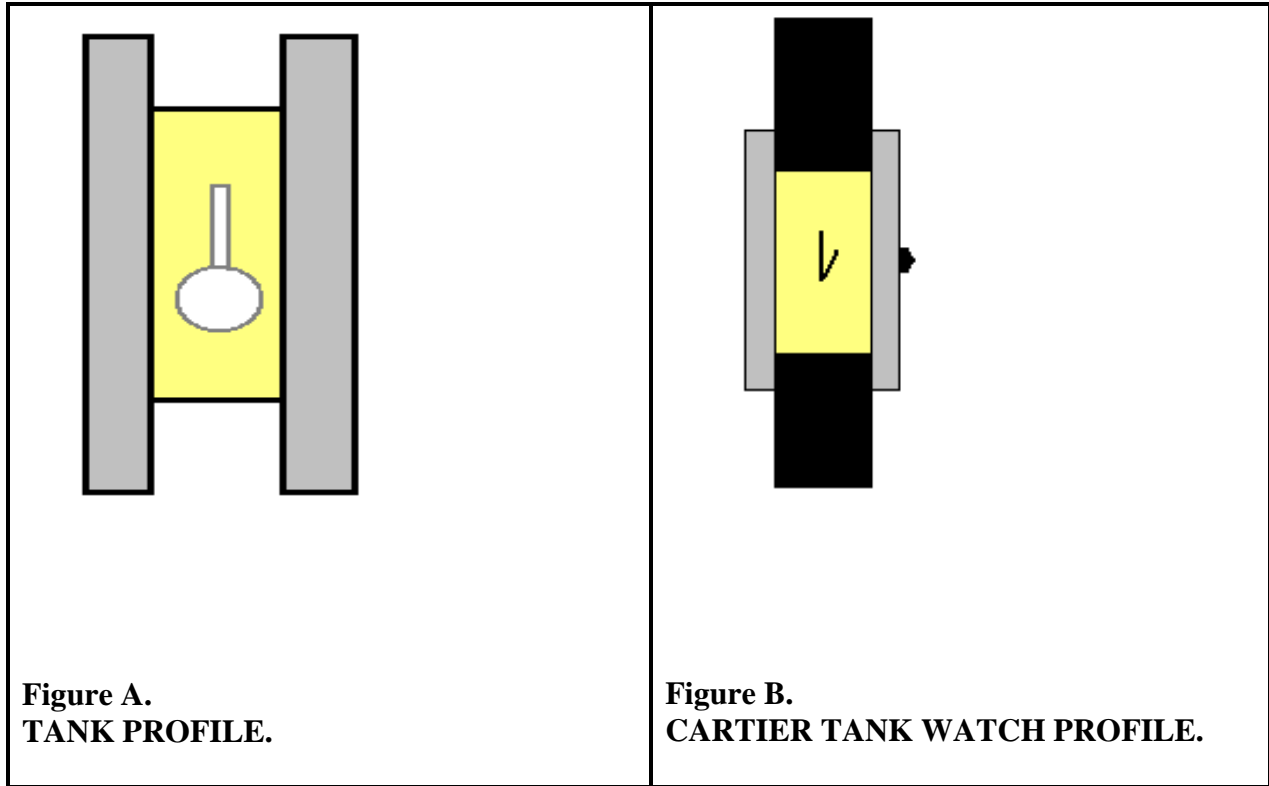
THE CARTIER INTELLECTUAL PROPERTY

The CARTIER Word Trademark

27. Among the trademarks and trade dress used by Cartier to identify its products is the word mark CARTIER (the "CARTIER Trademark"). Cartier is the owner of U.S. Trademark Registration No. 759,201 of October 29, 1963, for the word mark CARTIER for watches and clocks and U.S. Trademark Registration No. 759,202 of October 29, 1963 for Articles of Jewelry for Personal Wear, Not Including Watches. These registrations and the trademark contained therein are valid and subsisting and have become incontestable.

The Cartier TANK Watch

28. Cartier launched the TANK watch in 1919, shortly after the end of the First World War. The design of the TANK watch's case was inspired by a schematic conception of the chassis and treads of a World War I TANK as seen from above, as illustrated in figures A and B, below:



The Cartier TANK Francaise Trade Dress

29. The trade dress of the Cartier Francaise variation of the Cartier TANK watch consists of a collocation of design elements. The combination of all or almost all such elements together gives the watches a distinct overall look and commercial impression. Although these elements cannot be perfectly described in words, the following describes the elements of the Tank Francaise Trade Dress:

- a) The watch face is square. The portion of the case that frames the watch face consists of relatively thin horizontal frames and relatively thick concave vertical frames (or brancards), both formed of the case metal. At each corner the vertical brancards are elongated beyond the bottom and top of the watch case, and end in inwardly angled corners. The vertical brancards are beveled along their entire

length such that they slope downward laterally from the inside to the outside.

(The vertical brancards may or may not be decorated with jewels.)

- b) The elongated brancard corners frame the end links in the bracelet chain or the end of the watch strap, as the case may be.
- c) The watch face features Art Deco-style Roman numerals. Each numeral inclines to conform to the angle-direction of the watch hands at such time as the hands are juxtaposed to that numeral.
- d) The winding crown is a faceted octagon set with a “cabochon” (rounded) stone. (Cabochon refers to the fact that the stone’s side is rounded and not faceted. At the tip the stone may be rounded or pointed.)
- e) The watch face has a chapter ring or minute guide located between the center of the dial and the numerals.
- f) On models including a metal chain bracelet, the bracelet has the following distinctive design: the bracelet consists of alternating H-shaped and rectangular links. The end portions of the H-shaped links mimic the beveled upper and lower corners of the vertical brancards.
- g) The links may or may not be decorated with jewels.

30. Figure C (right) is a photograph of the “TANK Francaise.”



31. The collocation of features set forth in the above paragraph constitutes a distinctive trade dress that has secondary meaning. This design has been extensively promoted by Cartier in the United States and has achieved significant sales success. The public has come to recognize this design as distinctive of this line of Cartier watches and as an indication of source of such watches. The TANK FRANCAISE Trade Dress is thus a means by which Cartier is known to the public and the trade as the sole source and origin of Cartier TANK FRANCAISE watches.

The TANK FRANCAISE Registration

32. Cartier International owns Trademark Registration No. 2,322,769 for the French TANK (TANK Francaise) case design, issued on February 29, 2000.

The PASHA DE CARTIER Trade Dress

33. Cartier's PASHA DE CARTIER Watches feature a distinctive and unique combination of elements that collectively create a particular trade dress (the "PASHA DE CARTIER Trade Dress"). Cartier's PASHA Watches feature a distinctive and unique combination of elements that collectively create a particular trade dress (the "PASHA Trade Dress"). The PASHA DE CARTIER Trade Dress consists of a collocation of design elements. The combination of all or almost all such elements together gives the watches a distinct overall look and commercial impression. Although these elements cannot be perfectly described in words, the following describes the elements of the PASHA DE CARTIER Trade Dress:

- a) The watch case is round and is thick (*i.e.* deep) as compared to most watches, with a thick outer metal bezel surrounding the watch face. The bezel is beveled such that it slopes downward from the inside of the case to the outside.

- b) A distinctively shaped removable screw down cap covers a central crown. When viewed from the front of the watch, the shape of the cap, from left to right, is as follows: (1) a first thin metal ring, (2) a second thin metal ring of larger diameter, (3) a third thick metal ring of still larger diameter with engraved striations about the entire ring, (4) a fourth thick, smooth metal ring of smaller diameter than the third ring and tapering to a narrow diameter, and (5) a cabochon (rounded) end, consisting of sapphire, diamond or colored stone or a rounded stainless-steel dome. The cap is attached to the watch case with a chain link.

- c) The watch case has single “horned” extensions at the top and bottom thereof for connection to a strap or bracelet. Unlike most watches, that have two extensions on both the top and bottom such that a strap fits between the extensions, there is only a single extension on each side, and the strap or bracelet fits around the single extension.
- d) A lug fits through the strap/bracelet and the single horned extension and is capped on both sides by distinctive cut-pyramid shapes.
- e) The watch face has large, prominent Arabic numerals with a distinctive curly font.
- f) On models including a metal bracelet, the bracelet consists of H-shaped links alternating with rectangular shaped links. The width of each of the two legs of the H-shaped link is half that of the rectangular link.
- g) On models including two smaller crowns, the crowns are positioned above and below the central crown, and are capped with non-removable caps, which caps are designed similarly to the main cap and end in matching cabochons.

31. Figure F (below) are photographs of two variations of the “Pasha de Cartier” watch:



Figure F

32. The collocation of features set forth in the above paragraphs constitute a distinctive trade dress that has secondary meaning. This design has been extensively promoted by Cartier in the United States and has achieved significant sales success. The public has come to recognize this design as distinctive of this line of Cartier watches and as an indication of source of such watches. The PASHA DE CARTIER Trade Dress is thus a means by which Cartier is known to the public and the trade as the sole source and origin of PASHA DE CARTIER watches.

The PASHA DE CARTIER GRILLE Trade Dress

33. In addition to the elements of the PASHA DE CARTIER Trade Dress, many of the Pasha de Cartier watches feature a unique and distinctive feature unknown in any other watch model: a removable cover for the watch face featuring a grille or grid design, consisting of two

sets of equidistant perpendicular lines which form a tic-tac-toe pattern and this three-dimensional grille pattern overlays the face of the watch to the edges of the bezel of the watch (hereinafter the PASHA DE CARTIER GRILLE Trade Dress”).

34. Figure G (below) are photographs of the Pasha de Cartier watch with the PASHA DE CARTIER GRILLE Trade Dress.



FIGURE G

35. The PASHA DE CARTIER GRILLE Trade Dress has been extensively promoted by Cartier in the United States and has achieved significant sales success. The public has come to recognize this design as distinctive of this line of Cartier watches and as an indication of source of such watches. The PASHA DE CARTIER GRILLE Trade Dress is thus a means by which Cartier is known to the public and the trade as the sole source and origin of Cartier PASHA DE CARTIER watches.

The PASHA DE CARTIER GRILLE Registration

36. Cartier International owns Trademark Registration No. 2,436,100 for the PASHA DE CARTIER GRILLE TRADE DRESS design, issued on March 20, 2001. A copy of this registration is attached as Exhibit B (the “PASHA DE CARTIER GRILLE Registration”).

The Cartier Design Patents

37. Cartier International owns U.S. Design Patent Nos. D 388,332; D 393,598; and D 462,908 for various watch designs.

The TANK DIVAN Trade Dress

38. The trade dress of the Cartier Tank Divan watch consists of a collocation of design elements. The combination of all or almost all such elements together gives the watches a distinct overall look and commercial impression. Although these elements cannot be perfectly described in words, the following describes the elements of the Tank Divan Trade Dress:

- a) The watch face is rectangular, with the longer side being horizontal. The portion of the case which frames the watch face consists of thick vertical and horizontal frames (or brancards) formed of the case metal. At each corner the vertical brancards are elongated beyond the bottom and top of the watch case, and end in rounded, inwardly curving corners. (The frames may or may not be decorated with jewels.)
- b) The case is curved toward the front when the watch is viewed from the side. The back of the case is slightly curved and the front has a pronounced curve.
- c) The elongated brancard corners partially frame the end of the watch strap.
- d) The winding crown is a faceted octagon set with a faceted stone.

- e) The watch face features Art Deco-style Roman numerals. Each numeral inclines to conform to the angle-direction of the watch hands at such time as the hands are juxtaposed to that numeral.
- f) The watch face has a “chemin-de-fer” (railroad) chapter ring or minute guide located between the center of the dial and the numerals.

34. Figure H is a picture of the TANK DIVAN:

Figure H



39. The collocation of features set forth in the above paragraphs constitutes a distinctive trade dress that has secondary meaning. This design has been extensively promoted by Cartier in the United States and has achieved significant sales success. The public has come to recognize this design as distinctive of this line of Cartier watches and as an indication of

source of such watches. The TANK DIVAN Trade Dress is thus a means by which Cartier is known to the public and the trade as the sole source and origin of Cartier TANK DIVAN watches.

The TANK DIVAN Copyright

40. The TANK DIVAN model was designed by a designer or designers who are employees of Cartier or their corporate affiliates. All designs created by such designers and any copyrights therein are the property of Cartier International and licensed to Cartier NA.

41. The design of the Tank Divan watch is an original and creative work of Cartier and its team of designers, and such design is validly protected by copyright. Cartier is the owner of the copyright in such work.

42. The Tank Divan was first offered for sale in France. Such design is not a “U.S. Work” within the meaning of 17 U.S.C. §§ 101 and 411(a) and no copyright registration is required to maintain this action.

The HYPNOSE Watch and Copyright

43. Among the creative designs offered by Cartier in its line of watches is the HYPNOSE watch. A photograph of that watch appears below in Figure J:



FIGURE J

44. The HYPNOSE model was designed by a designer(s) who is an employee of Cartier or their corporate affiliates. All designs created by such designer(s) and any copyrights therein are the property of Cartier International and licensed to Cartier NA.

45. The design of the HYPNOSE watch is an original and creative work of Cartier and its team of designers, and such design is validly protected by copyright. Cartier is the owner of the copyright in such work.

46. The Hypnose was first offered for sale in France. Such design is not a “U.S. Work” within the meaning of 17 U.S.C. §§ 101 and 411(a) and no copyright registration is required to maintain this action.

The Goodwill and Fame of the Products, Marks and Designs

47. Cartier has extensively advertised and promoted the trademarks, trade dress and designs set forth above.

48. As set forth above, Cartier has also been an important innovator in watch and jewelry fashion and design.

49. Cartier takes particularly great care and applies the highest level of professional skill in the design and manufacture of its watches and jewelry.

50. Cartier has invested millions of dollars over the years in marketing, promoting and advertising the fine quality of its jewelry and watches, including the trademarks, trade dress and designs set forth above.

51. As a result of all the foregoing, Cartier has established a worldwide reputation for the uniform high quality of Cartier watches and jewelry sold under or in connection with the trademarks, trade dress, and designs set forth above. As a result, these watches and designs have acquired outstanding renown and invaluable goodwill in the United States and around the world.

Defendants' Infringing and Unfairly Competitive Activities

52. Upon information and belief, Defendants Hudson News and DrugStore Direct have used a colorable imitation of the CARTIER word trademark to advertise and identify watches which are in no way manufactured or sponsored by Cartier or its affiliates. Specifically, defendant DrugStore Direct has set up watch display cases at various places of business owned and operated by Hudson News, which display cases are used to advertise the watches for sale and to attract customers for such sale. Such display cases have used, among others, a colorable

imitation of the CARTIER word mark. Such use is exemplified in the following picture taken at a place of business operated by Hudson News:



53. On information and belief, each of the Defendants herein sells and offers for sale watches directly to the general public or to other distributors, wholesalers or retailers. Each of the Defendants has sold watches that are: (i) imitations of at least one of the Cartier watch models listed above, and such watches sold by Defendants embody one or more of the trade dresses enumerated above; and/or (ii) contains a design that comes within one of the claims of one or more of the patents identified above; and/or contains a design that was copied from one or more of the copyrighted designs identified above.

54. Defendants, without Cartier's authorization, upon information and belief, intentionally and knowingly have sold and continue to sell and offer for sale imitations of

Cartier's watches, and watches that are covered by one or more of the patents identified above, thereby infringing the rights of Cartier as set forth below.

55. Upon information and belief, the watches sold and offered for sale by Defendants are of inferior quality to genuine Cartier watches.

56. Defendants, without Cartier's authorization, have advertised, offered for sale, sold and distributed imitations of Cartier's watches and jewelry, and continue to do so, infringing the rights of Cartier as set forth below.

57. Defendants sell watches that infringe upon the rights described above, including but not limited to the trademark rights accompanying the registrations described above, common law rights to the trade dresses described above and the patent rights described above.

58. Upon information and belief all the acts complained of herein are still being committed one or more of the Defendants.

COUNT I
TRADE DRESS INFRINGEMENT

59. Plaintiffs repeat and incorporate herein by reference each of the foregoing allegations.

60. Defendants have reproduced, copied and imitated the TANK FRANCAISE Trade Dress, the PASHA DE CARTIER Trade Dress, the PASHA DE CARTIER GRILLE Trade Dress, and/or the TANK DIVAN Trade Dress in designing certain of their watches in a manner that is confusingly similar to these distinctive trade dresses of Cartier.

61. Defendants' adoption and use of the TANK FRANCAISE Trade Dress, the PASHA DE CARTIER Trade Dress, the PASHA DE CARTIER GRILLE Trade Dress, and/or the TANK DIVAN Trade Dress constitutes trade dress infringement and deliberate and willful violations of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125 (a).

62. Defendants' actions constitute deceptive acts and practices in violation of New York General Business Law § 349.

63. Defendants' actions constitute trade dress infringement and unfair competition in violation of New York common law.

64. The actions and conduct of Defendants complained of herein have damaged Cartier and will, unless restrained, further impair, if not destroy, the value of the TANK FRANCAISE Trade Dress, the PASHA DE CARTIER Trade Dress, the PASHA DE CARTIER GRILLE Trade Dress, and/or the TANK DIVAN Trade Dress and the goodwill associated with them.

65. Defendants' trade dress infringement has caused Cartier to sustain monetary damage, loss and injury, in an amount to be determined at the time of trial.

66. Defendants' trade dress infringement, unless enjoined by this Court, will continue to cause Cartier to sustain irreparable damage, loss and injury, for which Cartier has no adequate remedy at law.

COUNT II
REGISTERED TRADEMARK INFRINGEMENT
TANK FRANCAISE AND PASHA DE CARTIER GRILLE

67. Plaintiffs repeat and incorporate herein by reference each of the foregoing allegations.

68. Defendants have actual or constructive knowledge of the existence of the TANK FRANCAISE Registration and the PASHA DE CARTIER GRILLE Registration.

69. Defendants' manufacture, promotion, or sale of watches utilizing the distinctive watch case design protected by the TANK FRANCAISE Registered Trademark and/or the PASHA DE CARTIER Registered Trademark creates a likelihood of confusion such

that the purchasing public is likely to believe that Defendants' watches are authentic Cartier TANK Francaise or Cartier Pasha de Cartier watches (as the case may be) or are in some manner sponsored, approved or authorized by, or otherwise connected with Cartier.

70. Defendants' actions constitute willful and deliberate infringement of Cartier's TANK FRANCAISE Registration and/or PASHA DE CARTIER GRILLE Registration in violation of § 32 of the Lanham Act, 15 U.S.C. § 1114.

71. Defendants' actions constitute deceptive acts and practices in violation of New York General Business Law § 349.

72. Defendants' actions constitute trade dress infringement and unfair competition in violation of New York common law.

73. The actions and conduct of defendant have damaged Cartier and will, unless restrained, further impair, if not destroy, the value of Cartier's TANK FRANCAISE Registration and PASHA DE CARTIER GRILLE REGISTRATION and the goodwill associated with them, for which Cartier has no adequate remedy at law.

COUNT III
PATENT INFRINGEMENT
CARTIER PATENT DESIGN

74. Plaintiffs repeat and incorporate herein by reference each of the foregoing allegations.

75. Defendants have sold and are continuing to sell watches that infringe the claim of one or more of Cartier's patents identified above.

76. These acts constitute Patent Infringement.

77. Defendants' infringement of these patents has caused Cartier to sustain monetary damage, loss and injury, in an amount to be determined at the time of trial.

78. Upon information and belief, Defendants acts constitute willful and deliberate infringement of Cartier's patent rights.

COUNT IV
COPYRIGHT INFRINGEMENT
TANK DIVAN AND HYPNOSE

79. Plaintiffs repeat and reincorporate herein by reference each of the foregoing allegations.

80. Defendants have infringed upon Cartier's copyrights in the TANK DIVAN and HYPNOSE designs by reproducing such designs without authorization and distributing copies thereof by sale and other means.

COUNT V
REGISTERED TRADEMARK INFRINGEMENT
15 U.S.C. § 1114(1)
(Against Defendants Hudson News and Drug-Store Direct only)

81. Plaintiffs repeat and reincorporate herein by reference each of the foregoing allegations.

82. Long after Plaintiffs' adoption of the CARTIER Trademark, and long after their federal registrations for same, Defendants Hudson News and Drug-Store Direct have commenced the sale, offer sale and distribution of watches using a colorable imitation of the CARTIER word mark as set forth above, all in violation of 15 U.S.C. § 1114(1).

83. On information and belief, the activities of these two Defendants complained of herein constitute willful and intentional infringement of the above-identified registered trademark, are in total disregard of Plaintiffs' rights and were commenced and have continued in

spite of Defendants' knowledge that the use of such trademark or a copy or a colorable imitation thereof in the manner described here was and is in direct contravention of Plaintiffs' rights.

84. The use by these two Defendants of copies of such trademarks in the manner described herein has been without the consent of Plaintiffs, is likely to cause confusion and mistake in the minds of the purchasing public, including, without limitation, initial interest confusion.

COUNT VI
FEDERAL DILUTION
15 U.S.C. § 1125(c)
(Against Defendants Hudson News and Drug-Store Direct only)

85. Plaintiffs repeat and reincorporate herein by reference each of the foregoing allegations.

86. The CARTIER Trademark is 'distinctive' and 'famous' within the meaning of such terms in 15 U.S.C. § 1125(c), and Defendants' use of a colorable imitation of this trademark commenced long after this trademark became distinctive and famous.

87. These two Defendants' use of a colorable imitation of the CARTIER trademark constitutes trademark dilution in violation of 15 U.S.C. § 1125(c).

COUNT VII
NEW YORK DILUTION STATUTE
N.Y. Gen. Bus L. § 360-1
(Against Defendants Hudson News and Drug-Store Direct only)

88. Plaintiffs repeat and reincorporate herein by reference each of the foregoing allegations.

89. The actions of these two Defendants described herein constitute dilution of the CARTIER Trademark in violation of New York law, N.Y. General Business Law § 360-1.

WHEREFORE, Plaintiffs pray:

1. That Defendants, their officers, agents, servants, employees and attorneys, and those in active concert or participation with them or any of them, be permanently enjoined and restrained:

- (a) From using in any manner the TANK FRANCAISE Trade Dress, the PASHA DE CARTIER Trade Dress, the PASHA DE CARTIER GRILLE Trade Dress, and/or the TANK DIVAN Trade Dress alone or in combination with any other words or designs, in manner likely to cause confusion, deception, or mistake on or in connection with advertising, offering for sale or sale of any goods not manufactured by Cartier, or not authorized by Cartier to be sold in connection with their respective said marks;
- (b) From representing, suggesting in any fashion to any third party, or performing any act that may give rise to the belief that defendants, or any of their goods, are authorized or sponsored by Cartier;
- (c) From passing off, inducing or enabling others to sell or pass off any goods as products produced by Plaintiffs that are not in fact genuine Cartier goods, or not produced under the control and supervision of Cartier and approved by Cartier;
- (d) From infringing Cartier's patent rights;
- (e) From infringing upon any of the copyrights identified herein;
- (f) From infringing upon or diluting the CARTIER word mark; and

(g) From otherwise competing unfairly with Plaintiffs in any manner.

2. That Defendants be required to deliver up to Plaintiffs for destruction, any and all goods in their possession or under their control that were or are being advertised, promoted, offered for sale or sold in connection with the TANK FRANCAISE Trade Dress, the PASHA DE CARTIER Trade Dress, the PASHA DE CARTIER GRILLE Trade Dress, the TANK DIVAN Trade Dress, or the CARTIER word mark or any product that falls within any of Cartier's patents or copyrights whether alone or in combination with any words or designs.

3. That Defendants be required to deliver up to Plaintiffs for destruction, any and all catalogs, circulars and other printed material in their possession or under their control displaying or promoting the goods which were or are being advertising, promoted, offered for sale or sold in connection with TANK FRANCAISE Trade Dress, the PASHA DE CARTIER Trade Dress, the PASHA DE CARTIER GRILLE Trade Dress, the TANK DIVAN Trade Dress, or the CARTIER word mark or any product that falls within any of Cartier's patents or copyrights whether alone or in combination with any words or designs.

4. That Defendants be ordered pursuant to 15 U.S.C. § 1116(a) and 17 U.S.C. § 504 to file, with the Court and serve upon Plaintiffs, within thirty (30) days of the entry of injunction prayed for herein, a written report under oath or affirmed under penalty of perjury setting forth in detail the form and manner in which it has complied with permanent injunction.

5. That Defendants be required, pursuant to 15 U.S.C. § 1117 and 17 U.S.C. § 504, to account to Plaintiffs for any and all profits derived by it, and for all damages sustained by Plaintiffs by reason of Defendants' actions complained of herein, including an award of treble damages as provided for statute.

6. That Plaintiffs be awarded punitive damages.

CERTIFICATE OF SERVICE

TAL S. BENSCHAR declares that:

1. I am an associate with **KALOW & SPRINGUT LLP** attorneys for Plaintiffs in the captioned proceeding, and that on the execution date which appears below, I caused to be served via U.S. Mail the annexed **AMENDED COMPLAINT** upon the following addressees:

Cynthia B. Lovinger, Esq.
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David J. Aronstam, Esq.
Law Offices of David Aronstam
352 East 50th Street, 4th Floor
New York, NY 10022

2. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that all of the foregoing is true and correct.

Executed on May 20, 2005
New York, New York

By: _____ /S/
Tal S. Benschar