

1 Michael J. McCue (NV Bar No. 6055)
mmccue@lrlaw.com
2 Jonathan W. Fountain (NV Bar No. 10351)
jfountain@lrlaw.com
3 LEWIS AND ROCA LLP
3993 Howard Hughes Parkway, Suite 600
4 Las Vegas, Nevada 89169
(702) 949-8200 (tel.)
5 (702) 949-8363 (fax)

6 -and-

7 Brian W. Brokate (BB 5830) (*pro hac vice* pending)
bwbrokate@gibney.com
8 John Macaluso (JM 2058) (*pro hac vice* pending)
jmacaluso@gibney.com
9 Christina L. Winsor (CW 9983) (*pro hac vice* pending)
cwinsor@gibney.com
10 GIBNEY, ANTHONY & FLAHERTY, LLP
665 Fifth Avenue
11 New York, New York 10022
(212) 688-5151(tel.)
12 (212) 688-8315 (fax)

13 Attorneys for Plaintiff
Rolex Watch U.S.A., Inc.

14 **UNITED STATES DISTRICT COURT**
15 **DISTRICT OF NEVADA**

16 ROLEX WATCH U.S.A., INC.,

Case No.

17
18 Plaintiff,

**COMPLAINT FOR TRADEMARK
COUNTERFEITING, TRADEMARK
INFRINGEMENT; FALSE
DESIGNATIONS OF ORIGIN AND
FALSE DESCRIPTION; AND UNFAIR
COMPETITION**

19
20 vs.

21 ANGELIKA RYSKA a/k/a ANGELICA
RYSKA and ROBERT MAYER, individually
22 and d/b/a MOREAFFORDABLE4U.COM,

23 Defendants.

24 Plaintiff Rolex Watch U.S.A., Inc. (“Plaintiff” or “Rolex”), through its attorneys, sues
25 Angelika Ryska a/k/a Angelica Ryska and Robert Mayer (collectively the “Defendants”) d/b/a
26 moreaffordable4u.com (the “Website”) named above, and says:

27 **STATEMENT OF THE CASE**

28 This is a suit by Rolex against Defendants for preliminary and permanent injunctions,

1 statutory damages, treble damages and/or profits, compensatory damages, punitive damages, pre-
2 judgment interest, attorneys fees, investigators fees, costs and expenses from the Defendants for
3 each of Plaintiff's marks that the Defendants have willfully and maliciously counterfeited under
4 the Lanham Act. Defendants are being sued by Rolex as a result of their sale, offers for sale,
5 distribution, promotion and advertisement of watches bearing counterfeits and infringements of
6 Rolex's federally registered trademarks and hosting a website that promotes for sale and sells
7 watches bearing Rolex's federally registered trademarks. As set forth below, Defendants'
8 unlawful acts constitute federal trademark counterfeiting, infringement, false designation of
9 origin and false description and unfair competition.

10 **SUBJECT MATTER JURISDICTION AND VENUE**

11 **JURISDICTION**

12 1. This Court has subject matter jurisdiction over the claims in this action that relate
13 to trademark counterfeiting and infringement, false designations of origin and false descriptions,
14 pursuant to the provisions of 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338(a).

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

19 **VENUE**

20 3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b).

21 **Parties and Personal Jurisdiction**

22 4. Plaintiff Rolex Watch U.S.A., Inc. is a corporation duly organized and existing
23 under the laws of the State of New York, having an office and principal place of business at 665
24 Fifth Avenue, New York, New York 10022.

25 5. Upon information and belief, Defendants Angelika Ryska and Robert Mayor are
26 residents of the State of Nevada, residing at 1954 Magnolia Drive, Henderson, NV 89014.

27 6. Upon information and belief, Defendants are doing business in the State of Nevada
28 at addresses 10624 S. Eastern Ave., #799, Henderson, NV 89052 and 10624 S. Eastern Ave.,

1 #393S, Henderson NV 89052.

2 7. Upon information and belief, Defendants do business and operate under the
3 fictitious name of the Website, moreaffordable4u.com.

4 8. Upon information and belief, Defendants have an established e-mail address at:
5 moreaffordable4u@yahoo.com.

6 9. Defendants are subject to the jurisdiction of this Court because they reside in and
7 conduct substantial business within this District.

8 **FACTUAL ALLEGATIONS**


9 **ROLEX’S WORLD FAMOUS PRODUCTS AND MARK**

10 10. Rolex is the exclusive distributor and warrantor in the United States of Rolex
11 watches, all of which bear one or more of Rolex’s trademarks described below. Rolex watches
12 are identified by the trade name and trademark ROLEX and one or more of Rolex’s trademarks.

13 11. Rolex is responsible for assembling, finishing, marketing and selling in interstate
14 commerce high quality Rolex watches, watch bracelets and related products for men and women.

15 12. Rolex owns numerous trademarks, including, but not limited to, the trademarks
16 and trade names ROLEX, PRESIDENT, CROWN DEVICE (design), DATEJUST, OYSTER,
17 OYSTER PERPETUAL, AIR-KING, SUBMARINER, ROLEX DAYTONA, and DAYTONA.

18 13. Rolex is the owner of the following federal trademark registrations in the U.S.
19 Patent and Trademark Office:

Trademark	Reg. No.	Date	Goods
ROLEX	101,819	1/12/15	Watches, clocks, parts of watches and clocks, and their cases.
OYSTER	239,383	3/6/28	Watches, movements, cases, dials, and other parts of watches.
PRESIDENT	520,309	1/24/50	Wristbands and bracelets for watches made wholly or in part or plated with precious metals, sold separately from watches.
 CROWN DEVICE	657,756	1/28/58	Timepieces of all kinds and parts thereof.
DATEJUST	674,177	2/17/59	Timepieces and parts thereof.
OYSTER PERPETUAL	1,105,602	11/7/78	Watches and parts thereof.
SUBMARINER	1,782,604	7/20/93	Watches.
ROLEX DAYTONA	1,960,768	3/5/96	Watches.
DAYTONA	2,331,145	3/21/00	Watches.
AIR-KING	2,953,542	5/17/05	Watches and parts thereof.

1 Correct and true copies of these federal trademark registrations (hereinafter collectively referred to
2 as the “Rolex Registered Trademarks”) are attached as **Exhibit 1**.

3 14. The Rolex Registered Trademarks are arbitrary and fanciful marks that are entitled
4 to the highest level of protection afforded by law.

5 15. The Rolex Registered Trademarks are associated with Rolex in the minds of
6 consumers, the public and the trade.

7 16. The Rolex Registered Trademarks are world-famous.

8 17. Rolex and its predecessors have used the Rolex Registered Trademarks for many
9 years on and in connection with Rolex watches and related products. The Rolex Registered
10 Trademarks identify high quality products originating with Rolex.

11 18. Based upon Rolex’s extensive advertising, sales and the wide popularity of
12 Rolex’s products, the Rolex Registered Trademarks have acquired secondary meaning so that
13 any product and advertisement bearing such marks is immediately associated by consumers, the
14 public and the trade as being a product and affiliate of Rolex.

15 19. The Rolex Registered Trademarks are widely recognized by the general
16 consuming public of the United States as a designation of source of the watches distributed by
17 Rolex.

18 20. Rolex has gone to great lengths to protect its name and enforce the Rolex
19 Registered Trademarks.

20 21. The Rolex Registered Trademarks are in full force and effect and have become
21 incontestable pursuant to 15 U.S.C. § 1065.

22 **Defendant’s Counterfeiting and Infringing Activities**

23 22. Rolex hereby incorporates all prior allegations by reference.

24 23. Upon information and belief, long after Rolex's adoption and use of the Rolex
25 Registered Trademarks on its products and after Rolex’s federal registration of the Rolex
26 Registered Trademarks, Defendants began selling, offering for sale, distributing, promoting and
27 advertising watches in interstate commerce bearing counterfeits and infringements of the Rolex
28 Registered Trademarks as those marks appear on Rolex’s products and as shown in the Rolex

1 Registered Trademarks attached hereto as Exhibit 1. Representative samples of Defendants'
2 Website offering replica Rolex Watches for sale are attached as **Exhibit 2**, and are incorporated
3 herein by this reference.

4 24. Rolex first became aware of the Website in September 2009.

5 25. Upon information and belief, Defendants own, operate and are the controlling
6 forces behind the Website.

7 26. According to the Whois database, the Website's registrant and ISP were both
8 foreign. Upon information and belief, this information is false and the Website is registered to
9 the Defendants.

10 27. Prior to making the Counterfeit Watch purchase described below, Rolex
11 discovered an advertisement for the Website, titled "wanna show off ROLEX Replica BEST
12 QUALITY-BEST PRICE- 18K GOLD-SWISS-," posted to craigslist.com, advertising in the
13 Las Vegas, Nevada area. A copy of the craigslist.com advertisement is attached hereto as
14 **Exhibit 3**.

15 28. The Website has been used by the Defendants to advertise, distribute, promote,
16 offer for sale, and sell watches bearing counterfeits of one or more of the Rolex Registered
17 Trademarks, as shown in the webpages attached hereto as Exhibit 2

18 29. On September 3, 2009, Rolex's investigator visited the Website and placed an
19 order for a "gold Swiss-made, Rolex Replica DayDate-Swiss (AAA+++)" watch for \$499.00
20 (the "Counterfeit Watch").

21 30. Upon order completion, Rolex's investigator received an email from
22 moreaffordable4u@yahoo.com welcoming its new customer to the Website. A few minutes
23 later, the Rolex investigator received another e-mail from "Angelika Ryska" at
24 moreaffordable4u@yahoo.com confirming the order. Copies of these communications from the
25 Defendants are attached hereto as **Exhibit 4**.

26 31. On September 5, 2009, September 8, 2009, September 12, 2009, September 15,
27 2009, and September 17, 2009 Rolex's investigator received e-mails from
28 moreaffordable4u@yahoo.com with order tracking information and requests that the investigator

1 leave feedback on the Website. Copies of the correspondence from
2 moreaffordable4u@yahoo.com is attached hereto as **Exhibit 5**.

3 32. On September 17, 2009, Rolex's investigator received a package containing the
4 Counterfeit Watch, bearing the following counterfeits of the Rolex Registered Trademarks:
5 ROLEX, the Crown Device, OYSTER PERPETUAL, and DAY-DATE. Digital copies of the
6 Counterfeit Watch and its accompanying box and paperwork are attached hereto as **Exhibit 6**.
7 DAY-DATE is listed on the supplemental register, however, Rolex has used this mark on its
8 watches for decades and is a very popular watch model known to the consuming public to be
9 affiliated with Rolex.

10 33. Rolex technical personnel have examined the Counterfeit Watch and determined
11 that none of its parts, including the dial, bracelet links, bezel, clasp and movement are of Rolex
12 origin.

13 34. The return address on the package containing the Counterfeit Watch was "R + M,
14 10624 S. Eastern Ave. #799, Henderson, NV 89052." A copy of the packaging bearing the
15 return address is attached hereto as **Exhibit 7**.

16 35. On the evening of September 17, 2009, Rolex's investigator received a phone call
17 from phone number (702) 572-0752. A woman who identified herself as "Angelika" called the
18 Rolex investigator to confirm that the Counterfeit Watch was received and asked the investigator
19 to leave positive feedback on the Website. As shown above, the Rolex investigator received
20 several e-mails with the same request.

21 36. Upon information and belief, the phone number (702) 572-0752 is Defendant
22 Ryska's mobile telephone number.

23 37. The Rolex investigator's credit card was billed to "MOREAFFORDABLE4U
24 07025720753 NV."

25 38. Upon further investigation, Rolex determined that 10624 S. Eastern Ave., #799,
26 Henderson, NV 89052 is a UPS Store location at which the Defendants rent a mail box.

27 39. Upon information and belief, the Defendants also rent the mail box #393 at the
28 same UPS Store location in the previous paragraph.

1 40. On September 30, 2009, Rolex's counsel wrote to the Defendants, via first class
2 mail to "R + M" at 10624 S. Eastern Avenue, 3799, Henderson, NV 89052 and e-mail address
3 moreaffordable4u@yahoo.com, informing the Defendants of the illegality and potential penalties
4 for the sale of counterfeit Rolex merchandise through the Website. A copy of this
5 correspondence is attached as **Exhibit 8**.

6 41. To date, no response has been received from Rolex's counsel's September 30,
7 2009 correspondence to the Defendants.

8 42. The spurious marks or designations used by the Defendants in interstate
9 commerce are identical with, or substantially indistinguishable from, the Rolex Registered
10 Trademarks on goods covered by the Rolex Registered Trademarks.

11 43. To date, the Website is in operation.

12 44. To date, Defendants continue to advertise the Website on the social networking
13 site, myspace.com in willful violation of Rolex's rights. A copy of the advertisement on
14 MySpace is attached hereto as **Exhibit 9**.

15 **DEFENDANTS' ILLEGAL CONDUCT**

16 45. Through the Website, Defendants intentionally, maliciously and willfully sold,
17 offered for sale, distributed, promoted and advertised watches bearing counterfeits of one or
18 more of the Rolex Registered Trademarks, despite knowledge that such sales were illegal.

19 46. The Defendants' acts were calculated to confuse and to deceive the public and are
20 performed with full knowledge of Rolex's rights.

21 47. Defendants are not now, nor have they ever been, associated, affiliated or
22 connected with, or endorsed or sanctioned by, Rolex.

23 48. Rolex has never authorized or consented in any way to the use by Defendants of
24 the Rolex Registered Trademarks or marks confusingly similar thereto.

25 49. The use by Defendants of the Rolex Registered Trademarks or marks
26 substantially indistinguishable and/or confusingly similar thereto in connection with Defendants'
27 services is likely to cause consumers, the public and the trade to erroneously believe that the
28 services provided by Defendants emanate or originate from Rolex, or that said services are

1 authorized, sponsored, or approved by Rolex, even though they are not. This confusion causes
2 irreparable harm to Rolex and weakens and dilutes the distinctive quality of the Rolex Registered
3 Trademarks.

4 50. By using counterfeits and infringements of the Rolex Registered Trademarks on
5 their goods, Defendants are trading on the goodwill and reputation of Rolex and creating the
6 false impression that Defendants' goods are affiliated with Rolex.

7 51. Defendants have been unjustly enriched by illegally using and misappropriating
8 Rolex's intellectual property for their own financial gain. Furthermore, Defendants have unfairly
9 benefited and profited from Rolex's outstanding reputation for high quality products and its
10 significant advertising and promotion of Rolex watches and the Rolex Registered Trademarks.

11 52. Defendants have disparaged Rolex, its Rolex Registered Trademarks and its
12 Rolex Watch products by creating a false association with Rolex, its genuine goods and its Rolex
13 Registered Trademarks.

14 53. Rolex has had no control over the nature and quality of the products sold by
15 Defendants which bear counterfeits and infringements of the Rolex Registered Trademarks.

16 54. Among other things, Defendants' promotion, advertisement and provision of their
17 goods have and will reflect adversely on Rolex as the believed source of origin thereof; hamper
18 continuing efforts by Rolex to protect its outstanding reputation for high quality, originality and
19 distinctive goods; and tarnish the goodwill and demand for genuine Rolex watches and products.

20 55. Upon information and belief, Defendants have acted with reckless disregard for
21 Rolex's rights and/or was willfully blind in connection with their unlawful activities. Upon
22 information and belief, Defendants have willfully and maliciously engaged in their infringing
23 activities. Therefore, this case constitutes an exceptional case under 15 U.S.C. § 1117(a).

24 56. Rolex has suffered irreparable harm and damages as a result of Defendants' acts
25 in an amount thus far not determined. The injuries and damages sustained by Rolex have been
26 directly and proximately caused by the Defendants' wrongful advertisement, promotion,
27 distribution, sale and offers of sale of their goods bearing counterfeits and/or infringements of
28 the Rolex Registered Trademarks.

1 57. Rolex has no adequate remedy at law.

2 58. Defendants' wrongful acts will continue unless enjoined by the Court.
3 Accordingly, Defendants must be restrained and enjoined from any further counterfeiting or
4 infringement of the Rolex Registered Trademarks.

5
6 **FIRST CLAIM FOR RELIEF**
Trademark Counterfeiting 15 U.S.C. § 1114

7 59. Plaintiff hereby incorporates by reference all prior allegations as though fully set
8 forth herein.

9 60. Defendants have used spurious designations that are identical with, or
10 substantially indistinguishable from, the Rolex Registered Trademarks on goods covered by
11 registrations for the Rolex Registered Trademarks.

12 61. Defendants have intentionally used these spurious designations, knowing they are
13 counterfeit, in connection with the advertisement, promotion, sale, offering for sale and
14 distribution of goods.

15 62. Defendants' use of the Rolex Registered Trademarks to advertise, promote, offer
16 for sale, distribute and sell watches bearing counterfeits was and is without the consent of
17 Plaintiff.

18 63. Defendants' unauthorized use of the Rolex Registered Trademarks on and in
19 connection with their advertisement, promotion, sale, offering for sale and distribution of
20 watches on the internet constitute Defendants' use of the Rolex Registered Trademarks in
21 commerce.

22 64. Defendants' unauthorized use of the Rolex Registered Trademarks as set forth
23 above is likely to:

24 (a) cause confusion, mistake and deception;

25 (b) cause the public to believe that their watches are the same as Rolex's
26 watches and/or that they are authorized, sponsored or approved by Rolex or that they
are affiliated, connected or associated with or in some way related to Rolex; and

27 (c) result in Defendants unfairly benefiting from Rolex's advertising and
28 promotion and profiting from the reputation of Rolex and its Rolex Registered
Trademarks all to the substantial and irreparable injury of the public, Rolex and the
Rolex Registered Trademarks and the substantial goodwill represented thereby.

1 65. Defendants' acts constitute willful trademark counterfeiting in violation of
2 Section 32 of the Lanham Act, 15 U.S.C. §1114.

3 66. By reason of the foregoing, Defendants are liable to Rolex for: (a) statutory
4 damages in the amount of up to \$2,000,000 for each mark counterfeited as provided by 15
5 U.S.C. § 1117(c) of the Lanham Act, or, at Rolex's election, an amount representing three (3)
6 times Rolex's damages and/or Defendants' illicit profits; and (b) reasonable attorneys fees,
7 investigative fees and pre-judgment interest pursuant to 15 U.S.C. § 1117(b).

8
9 **SECOND CLAIM FOR RELIEF**
Trademark Infringement, 15 U.S.C. § 1114

10 67. Rolex hereby incorporates by reference the allegations set forth above.

11 68. Based on Rolex's extensive advertising under the Rolex Registered Trademarks,
12 its extensive sales and the wide popularity of Rolex Watches, the Rolex Registered Trademarks
13 have acquired a secondary meaning so that any product and advertisement bearing such
14 trademarks is immediately associated by purchasers and the public as being a product and
15 affiliate of Rolex.

16 69. Defendants' activities constitute Defendants' use in commerce of the Rolex
17 Registered Trademarks. Defendants use the Rolex Registered Trademarks in connection with
18 the Defendants' sale, offers of sale, distribution, promotion and advertisement of their goods
19 bearing infringements and/or counterfeits of the Rolex Registered Trademarks.

20 70. Defendants have used the Rolex Registered Trademarks, knowing they are the
21 exclusive property of Rolex, in connection with their sale, offers for sale, distribution, promotion
22 and advertisement of their goods bearing counterfeits or infringements of the Rolex Registered
23 Trademarks.

24 71. Defendants' activities create the false and misleading impression that Defendants
25 are sanctioned, assigned or authorized by Rolex to use the Rolex Registered Trademarks to
26 advertise, manufacture, distribute, appraise, offer for sale or sell watches bearing the Rolex
27 Registered Trademarks when Defendants are not so authorized.

28 72. Defendants engage in the aforementioned activity with the intent to confuse and

1 deceive the public into believing that the watches they sell are in some way sponsored, affiliated
2 or associated with Rolex, when in fact they are not.

3 73. Defendants' use of one or more of the Rolex Registered Trademarks has been
4 without the consent of Rolex, is likely to cause confusion and mistake in the minds of the public
5 and, in particular, tends to and does falsely create the impression that the goods advertised,
6 promoted, distributed and sold by Defendants are warranted, authorized, sponsored or approved
7 by Rolex when, in fact, they are not.

8 74. Defendants' unauthorized use of the Rolex Registered Trademarks has resulted in
9 Defendants unfairly benefiting from Rolex's advertising and promotion, and profiting from the
10 reputation of Rolex and the Rolex Registered Trademarks, to the substantial and irreparable
11 injury of the public, Rolex and the Rolex Registered Trademarks and the substantial goodwill
12 represented thereby.

13 75. Defendants' acts constitute willful trademark infringement in violation of Section
14 32 of the Lanham Act, 15 U.S.C. § 1114.

15 76. By reason of the foregoing, the Defendants are liable to Rolex for: (a) an amount
16 representing three (3) times Rolex's damage and/or Defendants' illicit profits; and (b) reasonable
17 attorney's fees, investigative fees and pre-judgment interest pursuant to 15 U.S.C. § 1117(b).

18
19 **THIRD CLAIM FOR RELIEF**
False Designation of Origin & False Description 15 U.S.C. § 1125(a)

20 77. Rolex hereby incorporates by reference all prior allegations set forth above.

21 78. In connection with Defendants' advertisement, promotion, distribution, offers of
22 sale and sales of their goods, Defendants have used the Rolex Registered Trademarks in
23 commerce.

24 79. In connection with Defendants' advertisement, promotion, distribution, offers of
25 sale and sales of their goods, Defendants have affixed, applied and/or used false designations of
26 origin and false and misleading descriptions and representations, including the Rolex Registered
27 Trademarks, which tend falsely to describe the origin, sponsorship, association or approval by
28 Rolex of the goods Defendants sell.

1 80. Defendants have used one or more of the Rolex Registered Trademarks with full
2 knowledge of the falsity of such designations of origin, descriptions and representations, all to
3 the detriment of Rolex.

4 81. Defendants' use of the Rolex Registered Trademarks on the Website and on their
5 goods bearing counterfeits or infringements of the Rolex Registered Trademarks constitutes false
6 descriptions and representations tending falsely to describe or represent Defendants and their
7 products as being authorized, sponsored, affiliated or associated with Rolex.

8 82. Defendants have used one or more of the Rolex Registered Trademarks on their
9 Website and goods with the express intent to cause confusion and mistake, to deceive and
10 mislead the public, to trade upon the reputation of Rolex and to improperly appropriate to
11 themselves the valuable trademark rights of Rolex.

12 83. Defendants' acts constitute the use in commerce of false designations of origin
13 and false and/or misleading descriptions or representations, tending to falsely or misleadingly
14 describe and/or represent their products as those of Rolex in violation of Section 43(a) of the
15 Lanham Act, 15 U.S.C. § 1125(a).

16 **FOURTH CLAIM FOR RELIEF**
17 **State Statutory and Common Law Trademark Infringement**
Nevada Statutes Chapter 600

18 84. Rolex hereby incorporates by reference the allegations set forth above.

19 85. Plaintiff states, upon information and belief and thereupon alleges, that the
20 Defendants knew their acts would cause confusion, mistake or deception.

21 86. Plaintiff states, upon information and belief and thereupon alleges, that
22 Defendants' acts have caused a likelihood of injury to Plaintiff's goodwill and business
23 reputation and impaired the effectiveness of the Plaintiff's Rolex Registered Trademarks.

24 87. Plaintiff states, upon information and belief and thereupon alleges, that the acts of
25 Defendants have violated the trademark laws of the State of Nevada.

26 88. Plaintiff has no adequate remedy at law. The conduct of Defendants have caused
27 and, if not enjoined, will continue to cause, irreparable damage to the rights of Plaintiff in its
28 Trademarks, and to Plaintiff's business, reputation, and goodwill, and Plaintiff is entitled to all

1 remedies available under Nevada Statute § 600.430.

2 89. By reason of the foregoing, Defendants are liable to Rolex for all remedies
3 available under Nevada Statutes § 600.430, including injunctive relief, treble damages as
4 compensatory damages and reasonable attorney's fees and costs under the statute.

5
6 **FIFTH CLAIM FOR RELIEF**
Common Law Unfair Competition

7 90. Rolex hereby incorporates by reference the allegations set forth above.

8 91. This is a claim against Defendants for unfair competition under the laws of the
9 State of Nevada.

10 92. Rolex has built up valuable goodwill in its Rolex Registered Trademarks and the
11 distinctive appearance of its watches and other products.

12 93. Defendants' use of the Rolex Registered Trademarks is likely to and does permit
13 Defendants to pass off their products as those of Rolex, all to the detriment of Rolex and the
14 unjust enrichment of Defendants.

15 94. Defendants, upon information and belief, with full knowledge of the notoriety of
16 the Rolex Registered Trademarks, intended to and did trade on the goodwill associated with the
17 Rolex Registered Trademarks and have misled and will continue to mislead the public into
18 assuming a connection between Rolex and Defendants' services by Defendants' advertisement,
19 promotion, distribution, and provision of services using a mark that is confusingly similar to the
20 Rolex Registered Trademarks.

21 95. Defendants' unauthorized use of the Rolex Registered Trademarks has caused and
22 is likely to continue to cause damage to Rolex's valuable reputation and image associated with
23 Rolex and its goods. Defendants have passed off their goods and services as those of Rolex by
24 Defendants' misrepresentations to the public, members of which are likely to believe that
25 Defendants' watches emanate from, or are associated with, Rolex.

26 96. Defendants' acts are likely to have caused confusion and deceived the public as to
27 the source of Defendants' goods. Defendants' goods falsely suggest a connection with Rolex.

28 ///

1 97. Defendants' conduct constitutes unfair competition in violation of Nevada State
2 law.

3 98. Upon information and belief, Defendants' actions have been willful and
4 malicious.

5 99. By reason of the foregoing, Defendants are liable to Rolex for compensatory
6 damages and/or Defendants' illicit profits.

7 **PRAYER FOR RELIEF**

8 **WHEREFORE**, Rolex respectfully requests that the Court order the following relief:

9 I. That the Court enter an injunction ordering that the Defendants, their agents,
10 servants, employees, and all other persons in privity or acting in concert with them be enjoined
11 and restrained from:

12 (a) using any reproduction, counterfeit, copy, or colorable imitation of the Rolex
13 Registered Trademarks, to identify any goods or the rendering of any services not authorized by
14 Rolex;

15 (b) engaging in any course of conduct likely to cause confusion, deception or
16 mistake, or injure Rolex's business reputation or weaken the distinctive quality of the Rolex
17 Registered Trademarks;

18 (c) using a false description or representation including words or other symbols
19 tending to falsely describe or represent Defendants' unauthorized goods as being those of Rolex
20 or sponsored by or associated with Rolex and from offering such goods in commerce;

21 (d) further infringing the Rolex Registered Trademarks by manufacturing, producing,
22 distributing, circulating, selling, marketing, offering for sale, advertising, promoting, displaying
23 or otherwise disposing of any products not authorized by Rolex bearing any simulation,
24 reproduction, counterfeit, copy or colorable imitation of the Rolex Registered Trademarks;

25 (e) using any simulation, reproduction, counterfeit, copy or colorable imitation of the
26 Rolex Registered Trademarks, including, in connection with the promotion, advertisement,
27 display, sale, provision of services, offering for sale, manufacture, production, circulation or
28 distribution of any unauthorized products in such fashion as to relate or connect, or tend to relate

1 or connect, such products in any way to Rolex, or to any goods sold, manufactured, sponsored or
2 approved by, or connected with Rolex;

3 (f) making any statement or representation whatsoever, or using any false
4 designation of origin or false description, or performing any act, which can or is likely to lead the
5 trade or public, or individual members thereof, to believe that any products manufactured,
6 distributed, sold or offered for sale, or rented by Defendants are in any way associated or
7 connected with Rolex, or is provided, sold, manufactured, licensed, sponsored, approved or
8 authorized by Rolex;

9 (g) engaging in any conduct constituting an infringement of any of the Rolex
10 Registered Trademarks, of Rolex's rights in, or to use or to exploit, said Trademarks, or
11 constituting any weakening of Rolex's name, reputation or goodwill;

12 (h) using or continuing to use the Rolex Registered Trademarks or trade names or any
13 variation thereof on the Internet (either in the text of a websites, as a domain name, or as a key
14 word, search word, metatag, or any part of the description of the site in any submission for
15 registration of any Internet site with a search engine or index) in connection with any goods or
16 services not directly authorized by Rolex;

17 (i) hosting or operating any websites that offer for sale any products bearing
18 counterfeits of the Rolex Registered Trademarks;

19 (j) using any e-mail addresses to offer for sale any non-genuine products bearing
20 counterfeits of the Rolex Registered Trademarks;

21 (k) having any connection whatsoever with any websites that offer for sale any
22 merchandise bearing counterfeits of the Rolex Registered Trademarks;

23 (l) secreting, destroying, altering, removing, or otherwise dealing with the
24 unauthorized products or any books or records which contain any information relating to its
25 advertising, promoting, or provision of services which infringe the Rolex Registered
26 Trademarks; and

27 (m) acquiring any domain names that include the Rolex Registered Trademarks or any
28 mark confusingly similar thereto, activating any website under said domain names, or selling,

1 transferring, conveying, or assigning any such domain names to any entity other than Rolex; and
2 (n) effecting assignments or transfers, forming new entities or associations or
3 utilizing any other device for the purpose of circumventing or otherwise avoiding the
4 prohibitions set forth in subparagraphs (a) through (m).

5 II. That Defendants, within ten (10) days of Judgment, take all steps necessary to
6 remove from all websites they own or control, including, but not limited to the Website and all
7 text or other media offering for sale any merchandise bearing the Rolex Registered Trademarks
8 or any mark confusingly similar thereto.

9 III. Directing that Defendants, within thirty (30) days of Judgment, file and serve
10 Rolex with a sworn statement setting forth in detail the manner in which Defendants have
11 complied with this injunction pursuant to 15 U.S.C. § 1116(a).

12 IV. Directing that Defendants deliver up for destruction to Rolex all unauthorized
13 products and advertisements in their possession or under their control bearing any of the Rolex
14 Registered Trademarks or any simulation, reproduction, counterfeit, copy or colorable imitation
15 thereof, and all plates, molds, matrices or other means of production of same pursuant to 15
16 U.S.C. § 1118.

17 V. Directing such other relief as the Court may deem appropriate to prevent the trade
18 and public from deriving any erroneous impression that any services provided, advertised, or
19 promoted by Defendants are authorized by Rolex or related in any way to Rolex's products.

20 VI. Requiring Defendants pay to Rolex such damages as Rolex has sustained as a
21 consequence of Defendants' willful infringement of the Rolex Registered Trademarks and unfair
22 competition and to account for all gains, profits and advantages derived by Defendants from the
23 provision of their products using the Rolex Registered Trademarks, which are infringements of
24 the Plaintiff's Rolex Registered Trademarks and that the award to Rolex be trebled as provided
25 for under 15 U.S.C. §1117.

26 VII. Ordering that Rolex recover the costs of this action, together with reasonable
27 attorneys' and investigators' fees and prejudgment interest in accordance with 15 U.S.C. § 1117.

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1 VIII. Ordering that Rolex be awarded punitive damages for Defendants' willful,
2 malicious and bad faith conduct.

3 IX. Ordering that, pursuant to 11 U.S.C. § 523(a)(6), Defendants be prohibited from a
4 discharge under 11 U.S.C. § 727 for malicious, willful and fraudulent injury to Rolex.

5 X. Directing that this Court retain jurisdiction of this action for the purpose of
6 enabling Rolex to apply to the Court at any time for such further orders and interpretation or
7 execution of any order entered in this action, for the modification of any such order, for the
8 enforcement or compliance therewith and for the punishment of any violations thereof.

9 XI. Awarding to Rolex such other and further relief as the Court may deem just and
10 proper, together with the costs and disbursements which Rolex has incurred in connection with
11 this action.

12 DATED: this 29th day of October, 2009.

13 LEWIS AND ROCA LLP

14 By: /s/ Michael J. McCue
15 Michael J. McCue (NV Bar No. 6055)
16 mmccue@lrlaw.com
Jonathan W. Fountain (NV Bar No. 10351)
17 jfountain@lrlaw.com
3993 Howard Hughes Parkway, Suite 600
18 Las Vegas, Nevada 89169
(702) 949-8200 (tel.)
(702) 949-8363 (fax)

19 -and-

20 GIBNEY, ANTHONY & FLAHERTY, LLP
21 Brian W. Brokate (BB 5830) (*pro hac vice* pending)
bwbrokate@gibney.com
22 John Macaluso (JM 2058) (*pro hac vice* pending)
jmacaluso@gibney.com
23 Christina L. Winsor (CW 9983) (*pro hac vice* pending)
cwinsor@gibney.com
24 665 Fifth Avenue
New York, New York 10022
25 (212) 688-5151 (tel.)
(212) 688-8315 (fax)

26 Attorneys for Plaintiff
27 Rolex Watch U.S.A., Inc.