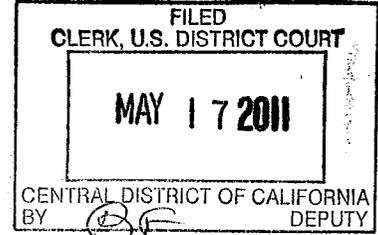


ORIGINAL

1 MARK A. FINKELSTEIN (State Bar No. 173851)
2 mafinkelstein@jonesday.com
3 JONES DAY
4 3161 MICHELSON DRIVE
5 SUITE 800
6 IRVINE, CA 92612-4408
7 949.851.3939
8 949.553.7539 (Facsimile)



6 SUSAN M. KAYSER (*pro hac vice* application pending)
7 skaysers@jonesday.com
8 JESSICA D. BRADLEY (*pro hac vice* application pending)
9 jbradley@jonesday.com
10 JONES DAY
11 51 LOUISIANA AVE, NW
12 WASHINGTON, DC 20001
13 202.879.3939
14 202.626.1700 (Facsimile)

11 Attorneys for Plaintiffs Chloé SAS, Alfred Dunhill Limited,
12 Officine Panerai AG, and Montblanc-Simplo GmbH

13 **UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

14 CHLOE SAS, a French Corporation;)
15 ALFRED DUNHILL LIMITED, a UK)
16 Corporation; OFFICINE PANERAI AG,)
17 a Swiss Corporation; and)
18 MONTBLANC-SIMPLO GMBH, a)
19 German Corporation)

Case No: 11-cv-04147 GAF
(MANx)

17 Plaintiffs,

~~REVISED PROPOSED~~ **EX
PARTE ORDER GRANTING
PLAINTIFFS A TEMPORARY
RESTRAINING ORDER,
SEIZURE ORDER, AND
SUBSTITUTE CUSTODIAN
ORDER**

18 vs.

19 SAWABEH INFORMATION)
20 SERVICES CO.(d/b/a "SISCOM",)
21 tradekey.com, saudicommerce.com,)
22 and b2bfreezezone.com), a Saudi Arabian)
23 Corporation; TRADEKEY (PVT) LTD,)
24 a Pakistani Corporation; TRADEKEY,)
WALEED ABALKHAIL; JUNAID)
MANSOOR; BOSUN)

TO BE FILED UNDER SEAL¹

Date:
Time:
Courtroom:
Judge:

25 ¹ Plaintiffs request that this case be filed under seal so as not to alert the
26 Defendants or other involved parties of the filing of this civil action. The Motion to
27 file this action under seal, an Application seeking an ex parte seizure order, a
28 temporary restraining order, and preliminary injunction, a motion seeking expedited
discovery, an asset freeze as to Defendants' assets and a domain transfer order, and
a motion to appoint counsel as substitute custodians are being filed concurrently
herewith.

1 INTERNATIONAL TRADE CO.;
 2 CCTRUE INTERNATIONAL TRADE
 CO., LTD.; FANCYSALER
 3 TRADING CO.; FUZHOU
 SUNSHINE TRADE CO., LTD;
 4 HENGTAI INTERNATIONAL;
 JAMILAH MOUREH; KK FASHION
 5 LOVE ZONE; LOVE IN APPAREL
 TRADE CO., LTD.; MELCHIC
 6 INTERNATIONAL TRADE
 CO., LTD; MYSTOCKWATCH CO.,
 7 LTD; OFFRUNWAYBAGS.COM;
 ORIENT-ONLINE CO., LTD; PARK
 8 CO. LTD; RICHEN-ONLINE CO.,
 LTD; SEASON-ONLINE CO., LTD;
 9 SEASONS-ONLINE CO. LTD-
 ELAINE; SEVEN STAR REPLICASS;
 10 SHANGHAI TAOLAN
 INTERNATIONAL TRADE LIMITED
 11 COMPANY; SHOP STAR STYLE;
 SINOESTAR CO., LTD;
 12 SUPEROCEANS CO., LTD.; V52
 INTERNATIONAL TRADE CO.,
 13 LTD; VERTEX ONLINE CO., LTD.;
 WIN-WIN TRADE CO., LTD.;
 14 WWW.ECWATCH.NET;
 YONGCHUANG TRADE CORP;
 15 ZHONGSHENG TRADE CO., LTD;
 and JOHN DOES 1 through 5
 16 inclusive,

17 Defendants.

18 This matter is before the Court on Plaintiffs', Chloé SAS ("Chloé"), Alfred
 19 Dunhill Limited ("Alfred Dunhill"), Officine Panerai AG ("Panerai"), and
 20 Montblanc-Simplo GmbH ("Montblanc"), (collectively, the "Plaintiffs"), *Ex Parte*
 21 Application for the issuance of (1) a Temporary Restraining Order, Seizure and
 22 Substitute Custodian Order, and Order to Show Cause for Preliminary Injunction
 23 against Defendants Sawabeh Information Services Co. (d/b/a "SISCOM",
 24 tradekey.com, saudicommerce.com, and b2bfreezezone.com) ("SISCOM"), TradeKey
 25 (Pvt) Ltd. ("TradeKey Pakistan"), TradeKey LLC ("TradeKey US"), Waleed
 26 Abalkhail ("Abalkhail"), and Junaid Mansoor ("Mansoor") (collectively, the
 27 "TradeKey Defendants"), and (2) a Temporary Restraining Order and An Order to
 28

1 Show Cause for Preliminary Injunction as to Defendants Bosun international trade
2 corp, Cctrue International Trade Co., Ltd., Fancysaler Trading Co., Fuzhou
3 Sunshine Trade Co, Ltd., HengTai International, Jamilah Moureh, KK Fashion
4 Love Zone, Love In Apparel Trade Co., ltd., Melchic International Trade CO, .LTD,
5 Mystockwatch Co., Ltd, OffRunwayBags.com, Orient-online Co., Ltd, Park Co.
6 Ltd, Richen-online Co., Ltd, Season-online Co., Ltd, Seasons-online CO. LTD-
7 Elaine, Seven Star Replicass, Shanghai Taolan International Trade Limited
8 Company, Shop Star Style, Sinoestar Co., Ltd, Superoceans Co., Ltd, V52
9 International Trade Co., Ltd, Vertex-online Co., Ltd, Win-Win Trade Co., Ltd,
10 www.ecwatch.Net, Yongchuang Trade Corp, ZhongSheng Trade Co., Ltd, and
11 JOHN DOES 1-5 (“John Does”) (collectively, “Individual Defendants”). Plaintiffs’
12 Application for a Temporary Restraining Order, Seizure Order, Substitute
13 Custodian Order And Order To Show Cause For Preliminary Injunction, submitted
14 in support thereof.

15 The following findings of fact and conclusions of law are made in support of
16 the relief granted below:

17 (1) The TradeKey Defendants are the owners and/or operators of three
18 Business to Business (“B2B”) websites actively engaged in, inducing, and
19 facilitating the wholesale trade of counterfeit luxury goods, in particular for goods
20 bearing the Plaintiffs’ marks as identified in the Verified Complaint and First –
21 Fourth Declarations of Rob Holmes, Declaration of Jason Holmes, Catherine
22 Lebrun, Jean Sebastian Gerondeau, Tim King, Sebastian Huber, Dr. Volker
23 Hillebrand, Allesandro Ficarelli, Carol Pierce, Max Summerskill, and Sandra
24 Midle-Rümke submitted herewith. TradeKey controls its member listings, assists
25 its members with trading counterfeit goods on a massive scale, matches buyers with
26 sellers, inserts common counterfeiting terms as metadata to drive Internet traffic to
27 Tradekey and its members’ counterfeit listings, and uses Plaintiffs’ federally
28 registered trademarks to attract business to TradeKey.com and its members’ listings.

1 (2) The Individual Defendants have imported, manufactured, offered for
2 sale, promoted, advertised, sold and/or distributed the Counterfeit CHLOÉ
3 Handbags, Counterfeit ALFRED DUNHILL Men's Goods, Counterfeit PANERAI
4 Watches, and Counterfeit MONTBLANC Goods without Plaintiffs' permission,
5 authorization, or approval. The Individual Defendants' conduct is likely to cause,
6 and has caused, consumers to mistakenly believe that the products sold and
7 promoted by the Individual Defendants are endorsed by or affiliated with Plaintiffs
8 and/or dilute the distinctive quality of the Plaintiffs' marks.

9 (3) The TradeKey Defendants' and the Individual Defendants' actions
10 were taken with full knowledge of Plaintiffs' ownership of and/or exclusive rights
11 to use and license the marks CHLOÉ, ALFRED DUNHILL, PANERAI and
12 MONTBLANC, and with the intent to benefit financially by trading on the
13 significant goodwill symbolized by the strong public recognition of the marks
14 CHLOÉ, ALFRED DUNHILL, PANERAI and MONTBLANC. These actions
15 were taken to deceive purchasers in believing, contrary to fact, that the products on
16 TradeKey.com using counterfeit reproductions of Plaintiffs' marks emanate from,
17 or are otherwise sponsored or approved by Plaintiffs.

18 (4) Defendants SISCOM, TradeKey Pakistan, TradeKey US, Waleed
19 Abalkhail, and Junaid Mansoor enable, induce, and facilitate the sale of Counterfeit
20 CHLOÉ Handbags, Counterfeit ALFRED DUNHILL Men's Goods, Counterfeit
21 PANERAI Watches, and Counterfeit Montblanc Goods on the websites
22 www.tradekey.com, www.b2bfreezone.com and www.saudicommerce.com by
23 knowingly encouraging, assisting, managing and controlling Individual Defendants
24 postings to offer for sale and sell said counterfeit products.

25 (5) Defendants SISCOM, TradeKey Pakistan, TradeKey US, Waleed
26 Abalkhail, and Junaid Mansoor have actual knowledge of Individual Defendants
27 offers to sell and sale of said counterfeit products, induce Individual Defendants to
28 offer to sell and sell said counterfeit products, and control, manage, and manipulate

1 member postings. TradeKey is involved in determining the language used in the
2 postings in the first instance, adds its own keywords and metadata using common
3 terms for counterfeit goods, changes and manipulates the language of postings and
4 controls the posting and content on its website which is infringing Plaintiffs' marks
5 CHLOÉ, ALFRED DUNHILL, PANERAI, and MONTBLANC.

6 (6) Defendants SISCOM, TradeKey Pakistan, TradeKey US, and Junaid
7 Mansour and the counterfeiters that employ their services, including the Individual
8 Defendants, have intentionally used the marks CHLOÉ, ALFRED DUNHILL,
9 PANERAI and MONTBLANC knowing that, or willfully blind to the fact that, the
10 marks are identical to Plaintiffs' registered trademarks.

11 (7) As supported by Plaintiffs' supporting Memorandum of Points and
12 Authorities and the Verified Complaint and declarations submitted herewith,
13 Defendants' conduct has caused, and unless enjoined by this Court, will continue to
14 cause, immediate and irreparable harm to Plaintiffs and to the substantial goodwill
15 embodied in Plaintiffs' registered marks CHLOÉ, ALFRED DUNHILL, PANERAI
16 and MONTBLANC for which it has no adequate remedy at law and an incalculable
17 loss of goodwill and damages.

18 (8) As supported by Plaintiffs' supporting Memorandum of Points and
19 Authorities and the Verified Complaint and declarations submitted herewith,
20 Plaintiffs will be immediately and irreparably injured unless Defendants are
21 temporarily restrained from using counterfeit reproductions of the trademarks
22 CHLOÉ, MONTBLANC, ALFRED DUNHILL or PANERAI, or any other
23 colorable imitations thereof, in designing, creating, manufacturing, distributing,
24 delivering, shipping, importing, exporting, advertising, marketing, promoting,
25 selling, or otherwise offering for sale Counterfeit CHLOÉ Handbags, Counterfeit
26 ALFRED DUNHILL Men's Goods, Counterfeit PANERAI Watches, and
27 Counterfeit MONTBLANC Goods, or any other products produced by Plaintiffs or
28 confusingly similar to Plaintiffs' products, that otherwise bear, contain, display or

1 utilize Plaintiffs' marks CHLOÉ, MONTBLANC, ALFRED DUNHILL, and
2 PANERAI, any derivation or colorable imitations thereof, or any mark confusingly
3 similar thereto or likely to dilute by blurring and/or tarnishing Plaintiffs' famous
4 marks CHLOÉ, MONTBLANC, ALFRED DUNHILL, and PANERAI. The harm
5 to Plaintiffs if this Application is not granted will outweigh the harm to any
6 legitimate interests of Defendants if this application is granted.

7 (9) The TradeKey Defendants have records and information that could
8 lead to the identities of the Individual Defendants and others offering for sale and/or
9 selling Counterfeit CHLOÉ Handbags, Counterfeit MONTBLANC Goods,
10 Counterfeit ALFRED DUNHILL Men's Goods, and Counterfeit PANERAI
11 Watches, such as bank account information, corporate records, contact names,
12 phone numbers and email addresses or other forms of contact for whom the
13 TradeKey Defendants provide platform services and/or optimization for the sale of
14 Counterfeit CHLOÉ Handbags, Counterfeit MONTBLANC Goods, Counterfeit
15 ALFRED DUNHILL Men's Goods, and Counterfeit PANERAI Watches. The
16 Third Declaration of Rob Holmes, submitted herewith, shows that the matter to be
17 seized is believed to be located on servers rented from Liquid Web, Inc. located at
18 4210 S. Creyts Rd., Lansing, MI 48917, 4428 S. Creyts Rd., Lansing, MI 48917,
19 and 2703 Ena Dr., Lansing, MI 48917.² The Third Declaration of Rob Holmes
20 also shows that matter to be seized is believed to be located at USA Box, 8345 NW
21 66th St., #6759 and #2568, Miami, FL.³

22 (10) If Plaintiff were required to proceed on notice to Defendants, such
23 notice would result in the immediate disappearance, deletion and/or destruction of
24 all of the Individual Defendants' Counterfeit CHLOÉ Handbags, Counterfeit
25 MONTBLANC Goods, Counterfeit ALFRED DUNHILL Men's Goods, and
26

27 ² ¶¶ 6-7.

28 ³ ¶¶ 5, 13.

1 Counterfeit PANERAI Watches and all related business records which may
2 presently exist on the TradeKey Defendants' servers and at their USA Box
3 mailboxes. It is essential for the preservation of evidence and the granting of
4 effective relief in this case that Plaintiffs be allowed to serve a Temporary
5 Restraining, Seizure, and Substitute Custodian Order on the TradeKey Defendants
6 promptly and without any prior notice.

7 (11) The inadvertent disclosure of the filing of this civil action by the press
8 or others is likely to result in sufficient notice to the TradeKey Defendants to permit
9 them to sell, move, secrete, delete, or otherwise dispose of the business records for
10 the counterfeit products and records identifying the individuals and entities selling
11 counterfeit products on Tradekey.com, b2bfreezezone.com, and saudicommerce.com,
12 thereby rendering ineffective the relief which Plaintiffs seek. In recognition of the
13 risk resulting from inadvertent notice to Defendants, § 34(d)(8) of the Federal
14 Trademark Act, 15 U.S.C. § 1116(d)(8), provides that a seizure order granted under
15 § 34(d), together with the supporting documents, should be sealed until after the
16 TradeKey Defendants are served with the Order and the seizure has been carried
17 out.

18 (12) On May 13, 2011, as required by § 34(d)(2) of the Federal Trademark
19 Act, 15 U.S.C. § 1116(d)(2), as amended, Plaintiff gave reasonable notice of this
20 Application to the United States Attorney for the Central District of California.

21 (13) Plaintiffs have not publicized the requested seizure.

22 Accordingly, it is hereby ORDERED as follows:

23 Pending the hearing and determination of the propriety of issuing a
24 Preliminary Injunction, Defendants, their officers, directors, agents, representatives,
25 successors or assigns, and all persons acting in concert or in participation with any
26 of them be temporarily restrained from:

27 (A) using counterfeit reproductions of the trademarks CHLOÉ,
28 MONTBLANC, ALFRED DUNHILL, or PANERAI, or any other colorable

1 imitation thereof in designing, creating, manufacturing, distributing,
2 delivering, shipping, importing, exporting, advertising, marketing, promoting,
3 selling, or otherwise offering for sale Counterfeit CHLOÉ Handbags,
4 Counterfeit MONTBLANC Goods, Counterfeit ALFRED DUNHILL Men's
5 Goods, and Counterfeit PANERAI Watches, or any other products produced
6 by Plaintiffs or confusingly similar to Plaintiffs' products, that otherwise bear,
7 contain, display or utilize Plaintiffs' marks CHLOÉ, MONTBLANC,
8 ALFRED DUNHILL, and PANERAI, any derivation or colorable imitations
9 thereof, or any mark confusingly similar thereto or likely to dilute by blurring
10 and/or tarnishing Plaintiffs' famous marks CHLOÉ, MONTBLANC,
11 ALFRED DUNHILL, and PANERAI, or facilitating, inducing, or assisting
12 any of the activity set forth above;

13 (B) making or employing any other commercial use of Plaintiffs' marks
14 CHLOÉ, MONTBLANC, ALFRED DUNHILL, and PANERAI, any
15 derivation or colorable imitations thereof, or any mark confusingly similar
16 thereto or likely to dilute or tarnish Plaintiffs' marks CHLOÉ,
17 MONTBLANC, ALFRED DUNHILL, and PANERAI;

18 (C) using any other false designation of origin, false description or
19 representation, or any other thing calculated or likely to cause confusion or
20 mistake in the mind of the trade or public or to deceive the trade or public
21 into believing that Defendants' activities, including the sale of Counterfeit
22 CHLOÉ Handbags, Counterfeit MONTBLANC Goods, Counterfeit
23 ALFRED DUNHILL Men's Goods, and Counterfeit PANERAI Watches, are
24 in any way sponsored, licensed, endorsed, authorized, affiliated, or connected
25 with and/or originated from Plaintiffs;

26 (D) doing any other acts or things calculated or likely to cause confusion
27 or mistake in the mind of the public or to lead purchasers, consumers, or
28 investors into the belief that the products or services promoted, offered, or

- 1 sponsored by Defendants emanate from or originate with Plaintiffs or their
- 2 licensees, or are somehow sponsored, licensed, endorsed, authorized,
- 3 affiliated, or connected with Plaintiffs and/or originate from Plaintiffs;
- 4 (E) removing, returning, or otherwise disposing of, in any manner, any
- 5 Counterfeit CHLOÉ Handbags, Counterfeit MONTBLANC Goods,
- 6 Counterfeit ALFRED DUNHILL Men's Goods, and Counterfeit PANERAI
- 7 Watches, or any other products confusingly similar to Plaintiffs' products, or
- 8 that otherwise bear, contain, display or utilize Plaintiffs' marks CHLOÉ,
- 9 MONTBLANC, ALFRED DUNHILL, and PANERAI, any derivation or
- 10 colorable imitations thereof, or any mark confusingly similar thereto or likely
- 11 to dilute or tarnish Plaintiffs' famous marks CHLOÉ, MONTBLANC,
- 12 ALFRED DUNHILL, and PANERAI;
- 13 (F) secreting, destroying, altering, removing, deleting all electronic copies,
- 14 or otherwise dealing with the unauthorized products or means of making
- 15 such marks and products, or any books, documentation or records thereto
- 16 (electronic or otherwise) which contain any information relating to designing,
- 17 creating, importing, manufacturing, producing, distributing, circulating,
- 18 selling, marketing, offering for sale, advertising, promoting, or displaying of
- 19 all unauthorized products which infringe Plaintiffs' marks CHLOÉ,
- 20 MONTBLANC, ALFRED DUNHILL, and PANERAI;
- 21 (G) further diluting and infringing Plaintiffs' marks CHLOÉ,
- 22 MONTBLANC, ALFRED DUNHILL, and PANERAI and damaging
- 23 Plaintiffs' goodwill;
- 24 (H) otherwise competing unfairly with Plaintiffs or any of their authorized
- 25 licensees in any manner; and
- 26 (I) facilitating, inducing, assisting, aiding, abetting, or supplying the
- 27 means for any other person or business entity to engage in or perform any of
- 28 the activities referred to in the above subparagraphs (a) through (h), or

1 effecting any assignments or transfers, forming new entities or associations
2 or utilizing any other device for the purpose of circumventing or otherwise
3 avoiding the prohibitions set forth in subparagraphs (a) through (i).

4 It is further ordered that:

5 (A) The United States Marshal, his or her deputy and/or persons
6 acting under his or her supervision, or any other Federal, state or local law
7 enforcement officer, assisted by one or more of Plaintiffs' attorneys and
8 agents, seize and impound (using whatever reasonable force may be
9 necessary to carry out the provisions of this Order, including utilizing the
10 services of a locksmith), all data, documents, records, and/or information
11 electronic or otherwise relating to: the identity (including contact names,
12 phone numbers, and email addresses or other forms of contact) of the
13 TradeKey members offering for sale any counterfeit goods bearing the
14 trademarks CHLOÉ, MONTBLANC, ALFRED DUNHILL or PANERAI;
15 the services provided by TradeKey to said members; the design, manufacture,
16 purchase, importation, distribution, offering for sale and/or sale of products
17 under counterfeit reproductions of the trademarks CHLOÉ, MONTBLANC,
18 ALFRED DUNHILL or PANERAI on Tradekey.com, b2bfreezezone.com, and
19 saudicommerce.com, including but not limited to publicly posted Internet
20 content evidencing offers made of CHLOÉ, MONTBLANC, ALFRED
21 DUNHILL, and PANERAI merchandise; traffic logs evidencing the volume
22 of underlying counterfeit activity; bank account information for TradeKey
23 and said members referenced above; documents and/or corporate records said
24 members referenced above provided to TradeKey; member data, email
25 communications and/or payment records for said members referenced above,
26 which are in the possession, custody or control of the TradeKey Defendants:

- 27 (1) on the servers for Tradekey.com (IP address: 69.16.197.36),
28 B2BfreeZone.com (IP address: 69.16.197.247),

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Saudicommerce.com (IP address: 69.16.197.74), and Siscom.com.sa (IP address: 67.255.156.222), which servers are located at 4210 S. Creyts Rd., Lansing, MI 48917, 4428 S. Creyts Rd., Lansing, MI 48917, and 2703 Ena Dr., Lansing, MI 48917; and/or

b) at mailbox #6759 and #2568 located at USA Box, 8345 NW 66th St., Miami, FL,

and allow Plaintiffs’ attorneys and agents immediately to inspect, photograph, videotape, photocopy, download and copy electronic files, and inventory the same. The United States Marshal, or other law enforcement officer, assisted by one or more of Plaintiffs’ attorneys and agents, is further empowered and directed to search the aforesaid premises to identify all such merchandise and related documents, records and materials and is further empowered to instruct any security officers at Liquid Web and USA Box to refrain from informing the TradeKey Defendants of the impending execution of the Seizure Order.

(B) Plaintiffs’ counsel Susan M. Kayser, Mark A. Finkelstein, Jessica D. Bradley, Eric M. Kennedy, and Jason C. Wright, are appointed as substitute custodian(s) to take custody of all items seized by the Office of the United States Marshal pursuant to the Seizure Order entered by the Court concurrently herewith.

(C) The Clerk of Court shall maintain the file of the above-captioned civil action in its entirety under seal temporarily pending service of the Summons, Complaint and Temporary Restraining, Seizure and Substitute Custodian Order on all Defendants, or further order of the Court.

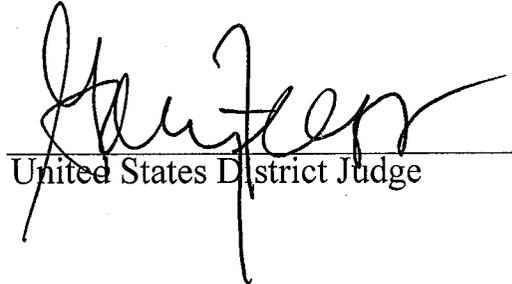
(D) An Order to Show Cause shall be served on Defendants setting a date for an evidentiary hearing as to whether Plaintiffs are entitled to the preliminary injunctive relief requested and permitting expedited discovery in

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

advance of that hearing.

(E) Plaintiffs may serve on all Defendants identified in the Fourth Declaration of Rob Holmes Exhibit 97 the Summons and Complaint, along with all other papers filed in this action, via e-mail.

SO ORDERED at Los Angeles, California this 17th day of May, 2011.


United States District Judge

I HEREBY CERTIFY THAT THIS DOCUMENT WAS SERVED BY FIRST CLASS MAIL, POSTAGE PREPAID, TO ALL COUNSEL For Plaintiff (OR PARTIES) AT THEIR RESPECTIVE MOST RECENT ADDRESS OF RECORD IN THIS ACTION ON THIS DATE.

DATED: 5/17/11
Benee Fisher
DEPUTY CLERK