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06 CV 6409

JUDGE KEENAN

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
YURMAN STUDIO, INC.

Plaintiff,

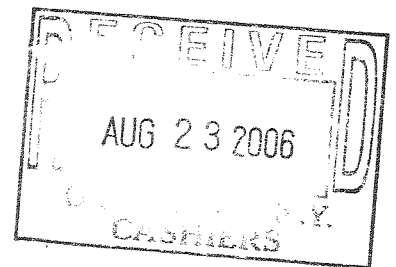
- against -

HOME SHOPPING NETWORK, INC.,  
HSN INTERACTIVE LLC,  
SIGNATURE CLUB A LTD., INC.,  
ADRIEN ARPEL NEWMAN, and  
VIVA TIME CORPORATION,

Defendants.  
----- X

Civil Action No.

COMPLAINT



Plaintiff Yurman Studio, Inc. ("Yurman"), by and through its undersigned attorneys,  
complains of defendants Home Shopping Network, Inc., HSN Interactive, LLC, Signature Club  
A Ltd., Inc., Adrien Arpel Newman and Viva Time Corporation and alleges as follows:

NATURE OF THE ACTION

1. Yurman seeks injunctive relief and damages for acts of copyright infringement  
engaged in by defendants in violation of the laws of the United States and the State of New  
York.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and  
1338 (a). Yurman's claims are predicated upon the Copyright Act of 1976, as amended, 17

U.S.C. § 101 et seq.

3. Defendants are subject to personal jurisdiction within this district because by advertising and selling the complained-of jewelry product, as more fully set forth below, both within and outside this judicial district, they have: (a) committed and threatened to commit acts of copyright infringement in this judicial district; (b) caused injury to Yurman in this judicial district; (c) purposely and directly targeted their activities at parties within this judicial district; and (d) derived substantial revenues from interstate commerce.

4. Venue is properly founded in this judicial district pursuant to 28 U.S.C. § 1391(b) and (c) and 1400(a), because the defendants are subject to personal jurisdiction within this judicial district and/or because a substantial part of the events giving rise to the claims herein occurred within this judicial district.

#### **THE PARTIES**

5. Yurman Studio, Inc. is a corporation duly organized and existing under the laws of New York, and maintains its principal place of business at 24 Vestry Street, New York, New York.

6. Defendant Home Shopping Network, Inc. ("HSN") is a corporation organized and existing under the laws of Delaware, and maintains its principal place of business at 152 West 57th Street, New York, New York.

7. Defendant HSN Interactive LLC ("HSN Interactive") is a limited liability company organized and existing under the laws of Delaware, and maintains its principal place of business at 1 HSN Drive, St. Petersburg, Florida.

8. Defendant Signature Club A Ltd., Inc. ("Signature Club") is a corporation organized and existing under the laws of Delaware, and maintains its principal place of business

at 550 North Reo Street, Tampa, Florida. Upon information and belief, Signature Club also maintains an office in New York, New York.

9. Upon information and belief, defendant Adrien Arpel Newman ("Arpel") is an individual residing at 1020 North Lake Way, Palm Beach, Florida. Upon further information and belief, Arpel is the President of Signature Club, and controls and directs its business activities, including the business activities hereinafter alleged.

10. Defendant Viva Time Corporation ("Viva Time") is a corporation organized and existing under the laws of New York, and maintains its principal place of business at 140 58th Street, Brooklyn, New York. Upon information and belief, Viva Time also maintains an office at 49 West 38th Street, New York, New York.

#### **YURMAN'S VALUABLE INTELLECTUAL PROPERTY RIGHTS**

11. Yurman is a well-known designer, manufacturer and supplier of unique fine jewelry and luxury watch designs sold under the DAVID YURMAN brand name. Since its inception in 1980, Yurman has set new standards for designing and marketing jewelry, infusing the disciplines of art and fashion into the jewelry design process.

12. Yurman products are marketed to fashion-conscious consumers and are sold only through authorized David Yurman retailers, consisting of specialty retail stores and high-end department stores. Yurman is well-known by consumers and the trade for the quality of its products, the innovation and uniqueness of its designs, and its technological developments in jewelry design.

13. Over many years, Yurman has registered numerous copyrights in its unique and innovative jewelry designs with the United States Copyright Office. Currently, Yurman owns over 75 United States copyright registrations covering its individual jewelry designs and collections of jewelry designs.

14. Among the collections of jewelry designs that Yurman has registered with the United States Copyright Office is the Mosaic Collection 2005 (Copyright Registration No. VA 1-337-039), which consists of various unique and innovative ring, bracelet, and pendant designs. A copy of the registration certificate for the Mosaic Collection 2005 is attached hereto as Exhibit A.

15. Yurman owns all right, title and interest in the Mosaic Collection 2005, which constitutes original and copyrightable subject matter under the Copyright Act.

16. The Mosaic Collection 2005 includes two showpiece designs known as the Mosaic Cuff Bracelets. The Mosaic Cuff Bracelets feature Yurman's signature cable design with various, seemingly random, interconnected precious bezel-set gemstones in various colors, shapes and cuts, resulting in unique jewelry designs.

17. Yurman introduced the Mosaic Cuff Bracelet designs at the 2005 Couture Jewelry Collection and Conference in Las Vegas, Nevada. One of the designs served as Yurman's entry into Town & Country Magazine's prestigious annual jewelry design competition.

18. Yurman's Mosaic Cuff Bracelets, which retail for \$40,000 - \$59,000, have attracted significant attention in the jewelry industry. In addition, Yurman has prominently featured the Mosaic Cuff Bracelets in its advertising and promotional campaigns. Specifically, ads featuring the Mosaic Cuff Bracelets have been placed in Vogue, Vanity Fair, The New York Times Magazine, W Magazine, and Robb Report, among others.

19. In late March 2006 at Baselworld, the World Watch and Jewelry Show, taking advantage of the popularity of the Mosaic Cuff Bracelet designs and the market it has created for them, Yurman introduced less expensive versions of the Mosaic Cuff Bracelets, which were offered for sale to all authorized Yurman retailers. These bracelets, which will retail for

approximately \$9,000 - \$10,000, were extremely well received and will be available for purchase by the public beginning in September 2006.

**THE INFRINGING CONDUCT OF DEFENDANTS**

20. Upon information and belief, Signature Club is in the business of designing, manufacturing, advertising, promoting, distributing, selling and/or offering for sale, among other things, articles of jewelry, including, but not limited to, watches, rings, bracelets, necklaces and earrings.

21. Upon information and belief, Signature Club has an exclusive arrangement with HSN, whereby Signature Club and Arpel supply HSN with various products including, but not limited to, jewelry, skin care and cosmetics, for sale through HSN's various retail outlets.

22. Upon information and belief, as part of this arrangement, Signature Club designed, manufactured, sold and/or offered for sale, and/or is causing to be designed, manufactured, sold and/or offered for sale, without authorization or license, watches that are copies of Yurman's Mosaic Cuff Bracelet designs, are substantially similar in appearance to the Mosaic Cuff Bracelet designs, and which infringe Yurman's copyrights in the Mosaic Cuff Bracelet designs. The watches designed, manufactured and sold by Signature Club that are substantially similar in appearance to the Mosaic Cuff Bracelet designs will hereinafter be referred to as the "Mosaic Infringements." Photographic examples of the Mosaic Infringements are attached hereto as Exhibit B.

23. Upon information and belief, the Mosaic Infringements were intended by Signature Club to be sold exclusively by HSN through its television networks and its Internet website.

24. Upon information and belief, Arpel is the President of Signature Club and is the moving, active, conscious force directing Signature Club's unlawful activities as alleged herein.

25. Upon information and belief, Signature Club and Arpel have been engaging in the above-described unlawful activities knowingly and intentionally, or with reckless disregard for Yurman's rights in the Mosaic Cuff Bracelet designs.

26. Upon information and belief, Viva Time is in the business of designing, manufacturing, advertising, promoting, distributing, selling and/or offering for sale watches.

27. Upon information and belief, Viva Time was engaged by Signature Club to assist with the design and manufacture of the Mosaic Infringements.

28. Upon information and belief, Viva Time designed, manufactured, sold and/or offered for sale, and/or is causing to be designed, manufactured, sold and/or offered for sale, without authorization or license, the Mosaic Infringements, which watches are copies of the Mosaic Cuff Bracelet designs, are substantially similar in appearance to the Mosaic Cuff Bracelet designs, and which infringe Yurman's copyrights in the Mosaic Cuff Bracelet designs.

29. Upon information and belief, Viva Time has been engaging in the above-described unlawful activities knowingly and intentionally, or with reckless disregard for Yurman's rights in the Mosaic Cuff Bracelet designs.

30. Upon information and belief, HSN is in the business of advertising, promoting, distributing, selling and/or offering for sale, among other things, articles of jewelry, including, but not limited to, watches, rings, bracelets, necklaces and earrings.

31. Upon information and belief, HSN sells its products in the United States and around the world through its Home Shopping Network, Home Shopping Europe, SHOP Channel and TVSN television networks, via the Internet through its (www.hsn.com website), and via mail order catalogs.

32. Upon information and belief, HSN has designed, manufactured, sold and/or offered for sale, and/or is causing to be designed, manufactured, sold and/or offered for sale, without authorization or license, the Mosaic Infringements, which watches are copies of the Mosaic Cuff Bracelet designs, are substantially similar in appearance to the Mosaic Cuff Bracelet designs, and which infringe Yurman's copyrights in the Mosaic Cuff Bracelet designs.

33. Upon information and belief, HSN has been engaging in the above-described unlawful activities knowingly and intentionally, or with reckless disregard for Yurman's rights in the Mosaic Cuff Bracelet designs.

34. Upon information and belief, HSN Interactive in the business of advertising, promoting, distributing, selling and/or offering for sale, among other things, articles of jewelry, including, but not limited to, rings, bracelets, necklaces and earrings, through its website (www.hsn.com).

35. Upon information and belief, HSN Interactive has designed, manufactured, sold and/or offered for sale, and/or is causing to be designed, manufactured, sold and/or offered for sale, without authorization or license, the Mosaic Infringements, which watches are copies of the Mosaic Cuff Bracelet designs, are substantially similar in appearance to the Mosaic Cuff Bracelet designs, and which infringe Yurman's copyrights in the Mosaic Cuff Bracelet designs.

36. Upon information and belief, HSN Interactive has been engaging in the above-described unlawful activities knowingly and intentionally, or with reckless disregard for Yurman's rights in the Mosaic Cuff Bracelet designs.

**FIRST CLAIM FOR RELIEF AGAINST ALL DEFENDANTS**  
**COPYRIGHT INFRINGEMENT**

37. Yurman repeats and realleges each and every allegation set forth in paragraphs 1 through 36 above as if fully set forth herein.

38. Defendants, without authorization from Yurman, have designed, manufactured, sold and/or offered for sale, and/or are causing to be designed, manufactured, sold and/or offered for sale, the Mosaic Infringements, in violation of Yurman's copyrights in the Mosaic Collection Cuff Bracelet designs.

39. Defendants thereby have willfully infringed Yurman's copyrights in the Mosaic Collection Cuff Bracelet designs.

40. Upon information and belief, by their acts, Defendants have made and will make substantial profits and gains to which they are not in law or in equity entitled.

41. Upon information and belief, Defendants intend to continue their willfully infringing acts, and will continue to willfully infringe Yurman's copyrights, unless restrained by this Court.

42. Defendants' acts have damaged and will continue to damage Yurman, and Yurman has no adequate remedy at law.

#### **PRAYER FOR RELIEF**

WHEREFORE, Yurman demands judgment against defendants as follows:

1. That Defendants, and all of those acting in concert with them, including their agents and servants, be permanently enjoined from manufacturing, vending, importing, distributing, selling, promoting or advertising any copy, reproduction, colorable imitation of, or derivative work based upon the Mosaic Cuff Bracelet designs or any other proprietary Yurman design, including those to be identified during discovery, pursuant to §502(a) of the Copyright Act of 1976, as amended (17 U.S.C. §502(a)).
2. That Defendants be required to recall all infringing items and advertising and promotional materials, and thereafter to deliver up for destruction all infringing designs, artwork,



packaging, advertising and promotional materials, and any means of making such infringing items, pursuant to §503 of the Copyright Act of 1976, as amended (17 U.S.C. §503).

3. That Defendants be directed to file with the Court and serve upon Yurman within thirty (30) days after service of the judgment upon defendants, a written report under oath setting forth in detail the manner in which the defendants have complied with the requirements set forth above in paragraphs 1 and 2.

4. That Defendants be directed to account to Yurman for all gains, profits and advantages derived from their wrongful acts pursuant to §504(b) of the Copyright Act of 1976, as amended (17 U.S.C. §504(b)).

5. That Defendants pay to Yurman any damages sustained by Yurman by reason of the defendants' purposefully wrongful acts, together with interest thereon, pursuant to §504(b) of the Copyright Act of 1976, as amended (17 U.S.C. §504(b)).

6. That Yurman be awarded statutory damages of (a) not less than \$750 or more than \$30,000 per individual infringing article of jewelry pursuant to 17 U.S.C. §504(c)(1), or, upon a finding of willful infringement pursuant to 17 U.S.C. §504(c)(2), up to \$150,000 per individual infringing article of jewelry.

7. That Defendants pay to Yurman its reasonable attorney's fees incurred in connection with this action, pursuant to §505 of the Copyright Act of 1976, as amended (17 U.S.C. §505).

8. That Defendants pay to Yurman the costs and disbursements of this action pursuant to §505 of the Copyright Act of 1976, as amended (17 U.S.C. §505).

9. That Yurman be awarded pre-judgment interest on any monetary award made part of the judgment against Defendants.

10. That Yurman be awarded punitive damages.

11. That Yurman be awarded such additional and further relief as the Court deems

just and proper.

Dated: New York, New York  
August 23, 2006

TORYS LLP

By:



Louis S. Ederer (LE 7574)

John Maltbie (JM 3658)

237 Park Avenue

New York, New York 10017

(212) 880-6000

Attorneys for Plaintiff



# Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Marybeth Peters*  
Register of Copyrights, United States of America

**Form VA**  
For a Work of the Visual Arts

VA 1-337-039



EFFECTIVE DATE OF REGISTRATION

10 28 05  
Month Day Year

DATE CONTINUATION SHEET.

1

Title of This Work ▼

MOSAIC COLLECTION 2005

NATURE OF THIS WORK ▼ See Instructions

JEWELRY DESIGN

Previous or Alternative Titles ▼

Publication as a Contribution If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared Title of Collective Work ▼

If published in a periodical or serial give Volume ▼ Number ▼ Issue Date ▼ On Pages ▼

2

NOTE

Under the law, the "author" of a "work made for hire" is generally the employer, not the employee (see instructions). For any part of this work that was "made for hire" check "Yes" in the space provided, give the employer (or other person for whom the work was prepared) as "Author" of that part, and leave the space for dates of birth and death blank.

NAME OF AUTHOR ▼

a DAVID YURMAN

DATES OF BIRTH AND DEATH

Year Born ▼ Year Died ▼

1942

Was this contribution to the work a "work made for hire"?

☐ Yes  
☐ No

Author's Nationality or Domicile  
Name of Country

OR { Citizen of U.S.A.  
Domiciled in

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☒ No

Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions

Nature of Authorship Check appropriate box(es) See Instructions

☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing  
☐ 2-Dimensional artwork ☐ Photograph ☐ Text  
☐ Reproduction of work of art ☒ Jewelry design ☐ Architectural work

Name of Author ▼

b

Dates of Birth and Death

Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?

☐ Yes  
☐ No

Author's Nationality or Domicile  
Name of Country

OR { Citizen of  
Domiciled in

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☒ No

Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions

Nature of Authorship Check appropriate box(es) See Instructions

☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing  
☐ 2-Dimensional artwork ☐ Photograph ☐ Text  
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work

3

Year in Which Creation of This Work Was Completed

2004

This information must be given Year in all cases.

Date and Nation of First Publication of This Particular Work

Complete this information ONLY if this work has been published.

Month MARCH

Day 1

Year 2005

U.S.A.

Nation

4

See instructions before completing this space.

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2 ▼

YURMAN STUDIOS INC.  
24 VESTRY STREET  
NEW YORK NY 10013

Transfer If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright ▼

ASSIGNMENT: from DAVID YURMAN

APPLICATION RECEIVED

OCT 28 2005

ONE DEPOSIT RECEIVED

OCT 28 2005

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

MORE ON BACK ►

• Complete all applicable spaces (numbers 1-4) on the reverse side of this page  
• See detailed instructions • Sign the form at line 8

DO NOT WRITE HERE

Page 1 of 2 pages

EXAMINED BY WLS

FORM VA

CHECKED BY

☒ CORRESPONDENCE  
YesFOR  
COPYRIGHT  
OFFICE  
USE  
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☒ No If your answer is "Yes," why is another registration being sought? (Check appropriate box) ▾a. ☐ This is the first published edition of a work previously registered in unpublished formb. ☐ This is the first application submitted by this author as copyright claimant.c. ☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give Previous Registration Number ▾

Year of Registration ▾

5

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work, complete only 6b for a compilation

a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates ▾

a **6**  
See instructions  
before completing  
this space

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed ▾

b

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account  
Name ▾ Account Number ▾

a

7

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP ▾

b

SUSAN SPAGNA, ESQ.  
YURMAN STUDIOS INC.  
24 VESTRY STREET: NEW YORK, NY 10013

Area code and daytime telephone number (212) 896-1550

Fax number (212) 223-0196

Email

CERTIFICATION\* I, the undersigned, hereby certify that I am the

check only one ▸

☐ author☐ other copyright claimant☐ owner of exclusive right(s)☒ authorized agent of YURMAN STUDIOS INC.

Name of author or other copyright claimant, or owner of exclusive right(s) ▾

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge

Typed or printed name and date ▾ If this application gives a date of publication in space 3, do not sign and submit it before that date

Susan Spagna

Date 10/24/05

Handwritten signature (X) ▾

X

Certificate  
will be  
mailed in  
window  
envelope  
to this  
address:

Name ▾

Susan Spagna, Esq.

Number/Street/Apt ▾

24 Vestry Street

City/State/ZIP ▾

New York, NY 10013

YOU MUST:

• Complete all necessary spaces

• Sign your application in space 8

• Attach all necessary materials

• Attach all necessary materials

1. Application form

2. Nonreturnable filing fee in check or money

order payable to Registrar of Copyrights

3. Deposit material

4. Fee to

Library of Congress

Copyright Office

101 Independence Avenue, S E

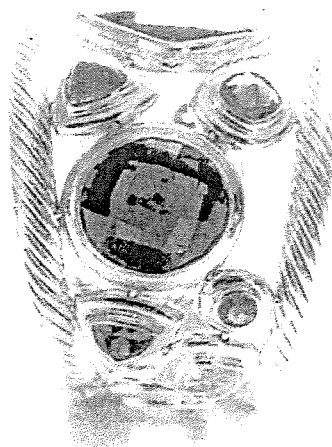
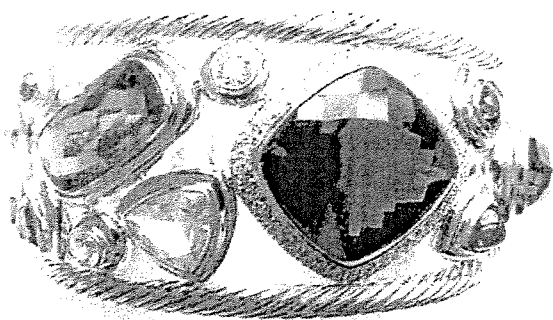
Washington, D C 20559-6000

From one official to  
another, for correct  
form, direct fee  
deposits, etc.  
with the Copyright  
Office, or call  
(202) 707-3000

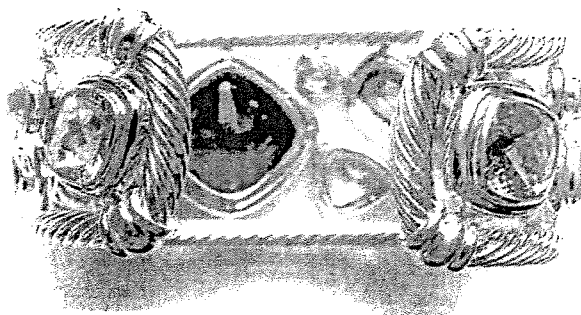
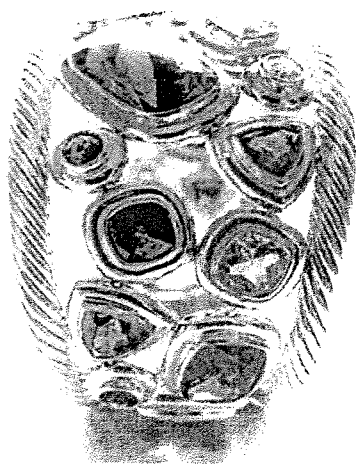
9

\*17 U.S.C. § 505(a) Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500

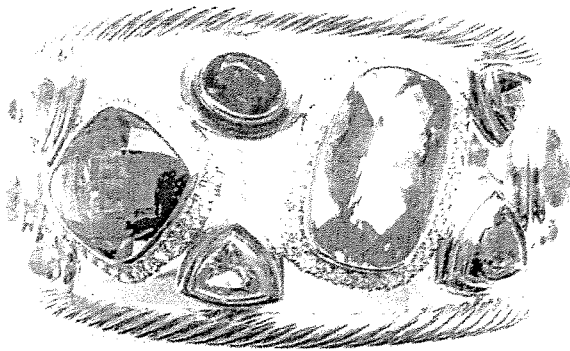
**Mosaic Collection 2005**



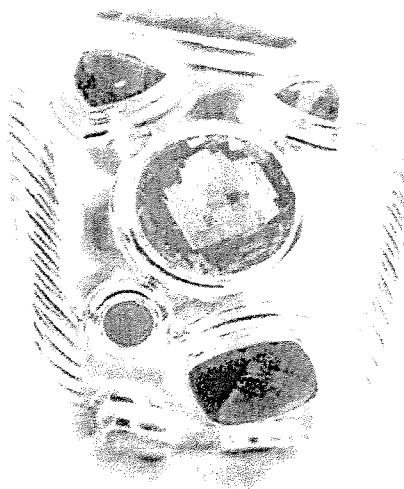
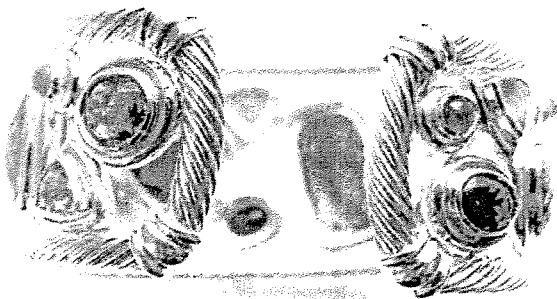
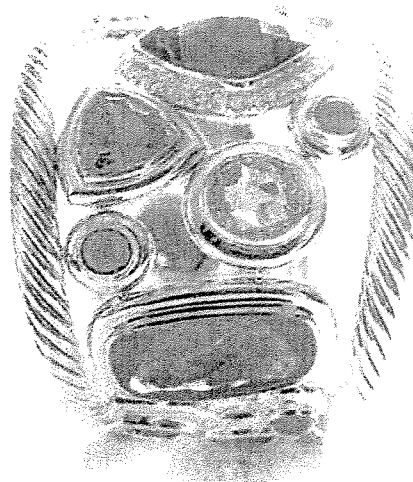
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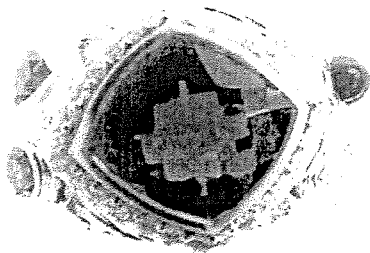
**Mosaic Collection 2005**



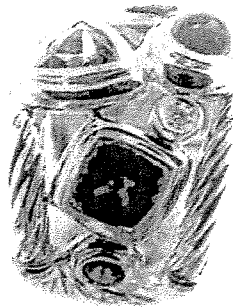
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**Mosaic Collection 2005**

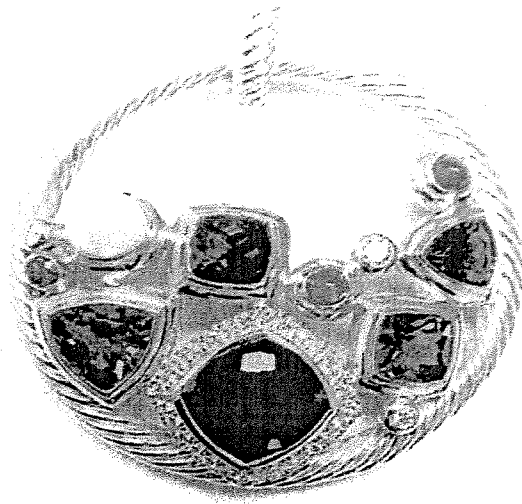


**R00464**





**Mosaic Collection 2005**



**D00209**




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## Real Collectibles by Adrienne "Floating Colored Jewels" Crystal Goldtone Cuff Bracelet Watch - Item: 806-838

HSN Price: \$69.95

Shipping &amp; Handling: \$5.95

 first select size

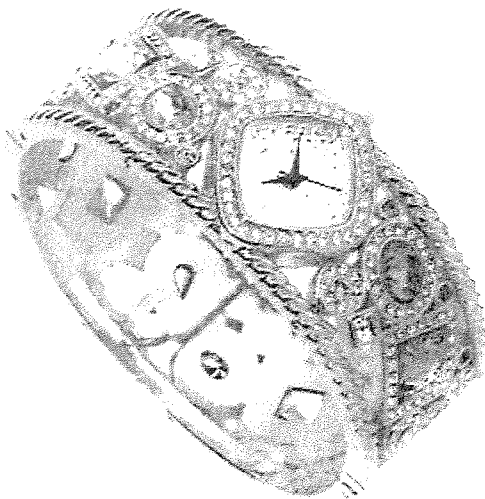
 then select color

 1 payment of \$69.95 what is flexpay?
Quantity:  1
☐ Include a Gift Receipt/Message  
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ADD TO CART

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**BUY MORE  
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Avg Customer Rating ★★☆☆ read reviews

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Get an email alert when Real Collectibles by Adrienne products will be on TV. [see details](#)

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### MORE CHOICES



Real Collectibles by Adrienne™ Multicolor Herringbone-Pattern Goldtone Bracelet Watch

HSN Price: \$59.95



Real Collectibles by Adrienne™ "The Glamour Years of Hollywood" Crystal Watch

HSN Price: \$69.95



Real Collectibles by Adrienne™ "Modern"

### Product Description

More than just a pretty face. Brimming with multicolor Swarovski crystals, this stunning "Floating Colored Jewels" goldtone cuff bracelet watch makes for a reliable timepiece, too. Choose S/M (6-1/2" fits up to 7") or M/L (7-1/4" fits up to 8").

The watch's off-set square case houses a light-loving, pavé-style dial. Quartz movement guides black hour, minute and second hands past slash hour markers at 3, 6, 9 and 12. A glass crystal protects the arrangement.

The piece's bezel flaunts a sparkling team of round, clear pavé-set crystals. A bangle-style, hinged cuff features a polished and textured frame. The frame borders an openwork design studded with multishaped, bezel- and pavé-set crystals wearing clear, pink, yellow, blue, green and purple coats. Other details of this ladies' crystal goldtone timepiece include:

- Band measures approx. 6-1/2" or 7-1/4" x 7/8"W
- Case measures approx. 1"L x 1"W x 3/8"H
- Boxed
- Comes with a manufacturer's 3-year limited warranty

[About Real Collectibles...](#)