

1 Maria Crimi Speth, #012574
David S. Gingras, #021097
2 **JABURG & WILK, P.C.**
3200 North Central Avenue, Suite 2000
3 Phoenix, Arizona 85012
Tel: (602) 248-1000
4 Fax: (602) 248-0522

5 Attorneys for Xcentric Ventures, L.L.C.

6
7 **UNITED STATES DISTRICT COURT**

8 **DISTRICT OF ARIZONA**

9 ECOMMERCE INNOVATIONS, L.L.C.,
a Nevada limited liability company,

Case No.: 2:08-MC-00093

10 Plaintiff,

11 v.

12 DOES 1 through 10,

13 Defendants.

**DECLARATION OF
DAVID S. GINGRAS IN SUPPORT OF
NON-PARTY XCENTRIC VENTURES,
L.L.C.'s SUR-REPLY TO PLAINTIFF'S
MOTION TO COMPEL**

14
15
16 I, DAVID GINGRAS hereby depose and say:

17 1. I am a resident of the State of Arizona, am over the age of 18 years, and if
18 called to testify in court in this matter I could and would truthfully testify to the following.

19 2. I am an attorney licensed to practice law in the states of Arizona and
20 California. I am admitted to practice before, and am in good standing with, all state courts
21 in Arizona and California, and the U.S. District Court for the District of Arizona, the U.S.
22 District Court for the Central District of California, and the U.S. District Court for the
23 Eastern District of California.

24 3. I am currently employed as a litigation associate attorney with the law firm
25 of Jaburg & Wilk, P.C., in Phoenix, Arizona and I represent non-party XCENTRIC
26 VENTURES, L.L.C. with respect to the matter pending before this Court relating to a
27 Motion to Compel filed by Plaintiff ECOMMERCE INNOVATIONS, L.L.C.
28 ("Ecommerce").

1 4. Based on my discussions with counsel for Ecommerce and a review of the
2 pleadings in this case, I am aware that Ecommerce is in the business of selling jewelry
3 from a store in California and from its website located at www.InspiredSilver.com.

4 5. I am aware that Ecommerce alleges that it has been defamed by certain
5 statements anonymously posted on my client's website www.RipoffReport.com. I am
6 aware that among other things, Ecommerce alleges that it has been falsely accused of
7 "knocking off" designs of other jewelry manufacturers and "ripping off" designers.

8 6. I have reviewed a document filed in this matter (Doc. #5; 10/13/2008)
9 which purports to be a declaration signed by David Strager, the manager of Ecommerce.

10 7. In Paragraph 2(a) of his declaration, Mr. Strager stated, among other things,
11 that, "Inspired Silver [Ecommerce] does not engage in, and has never been sued for,
12 trademark, copyright or patent infringement and does not 'knock-off' proprietary designs
13 of other manufacturers or wholesalers."

14 8. After reviewing Mr. Strager's declaration, on October 14, 2008 I visited
15 Ecommerce's website located at www.InspiredSilver.com in order to review the products
16 offered for sale there.

17 9. Immediately upon entering the site, I noticed several items of jewelry
18 advertised for sale that appeared to be identical to jewelry manufactured by Tiffany & Co.
19 ("Tiffany"). These Tiffany products were notable to me because on several occasions in
20 the past year, I have given items of authentic Tiffany jewelry as gifts and I have spent a
21 significant amount of time reviewing Tiffany's official website located at
22 www.Tiffany.com while shopping for these gifts.

23 10. As shown in the screenshots attached hereto as Exhibits A-G and Exhibits
24 A1-G1, I reviewed numerous items listed for sale on Inspired Silver's website and
25 compared them with genuine items listed for sale on Tiffany's website. Based on a short
26 review, I located what appeared to be dozens and dozens of counterfeit Tiffany items
27 offered for sale on Ecommerce's website. In many cases, the items offered by
28 Ecommerce appeared to be exact copies of genuine Tiffany items.

11. In some cases, the names of the items were also copied *verbatim*. For example, **Exhibit B** shows a genuine Tiffany “Bubbles” ring with a retail price of \$9,550. **Exhibit B-1** reflects a ring called “The Bubbles Ring” which appears to be an exact copy of the genuine Tiffany “Bubbles” ring. Inspired Silver offers this counterfeit ring for sale at a retail price of \$29.95.

12. In some cases, Inspired Silver appears to actively promote the fact that its products are fake copies of genuine articles from other famous manufacturers. For example, **Exhibit A** depicts a genuine Tiffany “Atlas” ring which contains a band of Roman numerals with three diamonds for \$1,650.

13. As reflected in **Exhibit A-1**, Inspired Silver offers what appears to be an exact copy of the Tiffany “Atlas” ring at a retail price of \$25.95. The description listed on Inspired Silver’s website states, in part: “This new style will be the rage this season. Enjoy this comfortable fitting ring that looks like the real thing!”

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

Executed on: October 15, 2008



DAVID GINGRAS

- 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

- 2
- 3
- 4

5
6
7

8

10
1112
13

14

15
16
17
18

EXHIBIT A
Genuine Tiffany “Atlas” Ring

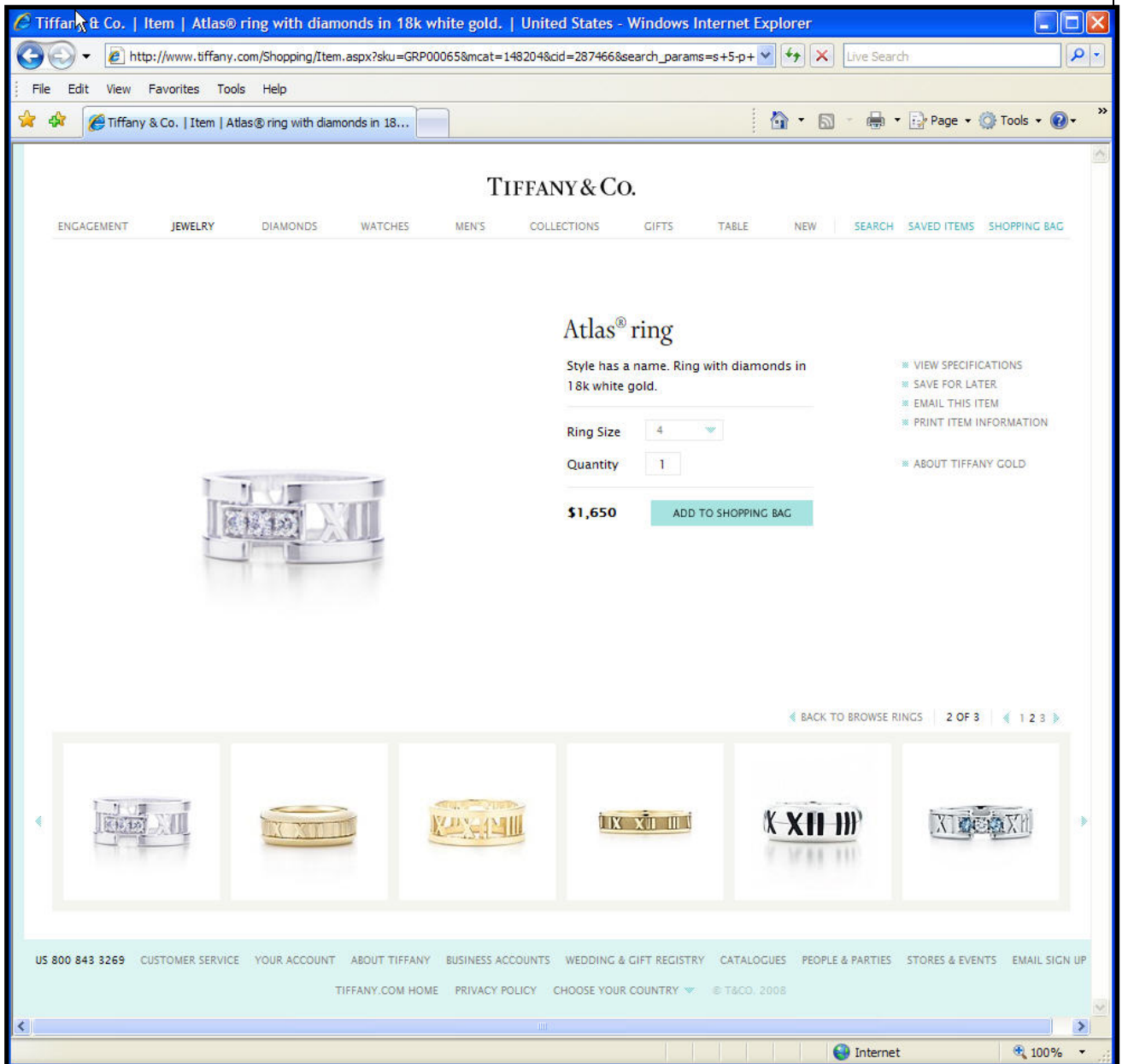


EXHIBIT A-1

Counterfeit Tiffany "Atlas" Ring by Inspired Silver

Inspired Silver Modern Roman Numeral Ring - Windows Internet Explorer

http://www.inspiredsilver.com/index.cfm?fa=site.showproduct&product_id=1630&product_category_id=83&vi

File Edit View Favorites Tools Help

Inspired Silver Modern Roman Numeral Ring

INSPIRED SILVER

Search item # or keywords: Go!

McAfee SECURE
TESTED DAILY 14-OCT

WHAT'S NEW • RINGS • EARRINGS • BRACELETS • NECKLACES • WEDDING SETS • ON SALE • CLEARANCE

Shop By Phone 1-866-547-4583 Home | Shopping Cart (Items: 0) | Order Status | Contact Us | Returns & Exchanges | FAQ

NEED HELP? CHAT LIVE WITH OUR STAFF

request your free catalog

view current catalog

SHOP BY CATEGORY

- What's New
- Silver Rings
- Silver Earrings
- Stud Earrings
- Silver Bracelets
- Pearl Collection
- Silver Necklaces
- Silver Watches
- Silver Anklets
- Silver Charm Bracelets
- Silver Charms
- Matching Sets
- Mens Silver Jewelry
- Accessories

SHOP BY VIDEO

All Products With Video

SHOP BY COLLECTION

- Wedding Ring Sets
- Shop For The Cure
- Designer Inspired Jewelry
- The Mesh Collection
- The Skull Collection
- Studio Line Collection
- The Tungsten Collection
- Wild Things Collection
- Hearts Collection
- The Be Inspired Collection
- Celebrity Inspired Jewelry
- On Sale

Modern Roman Numeral Ring

★★★★★

PHOTOS NEW VIDEO

Back to DESIGNER INSPIRED SALE

Overall Customer Rating: ★★★★★ 4.2 out of 5 (6 reviews)

[Read Reviews\(6\)](#) | [Write a Review](#)

ON SALE TODAY!

Retail Value: \$65.95
Inspired Silver Price: ~~\$39.95~~
Today's Sale Price: **\$25.95**
YOU SAVE 61% (\$40.00)

Availability: In Stock

Size: [Don't know your size?](#)

Quantity:

ADD TO YOUR SHOPPING CART

Buy with Confidence!

- ✓ No Risk
30 Day Money Back
- ✓ Free Shipping
Orders over \$50 ship free,
Orders over \$150 Ship
FEDEX FREE!
- ✓ 100% Secure Shopping

Product Details

Item ID	1630
Metal	.925 Sterling Silver
Approx Weight (g)	5
Gem Type	Cubic Zirconia
Item Type	Ring

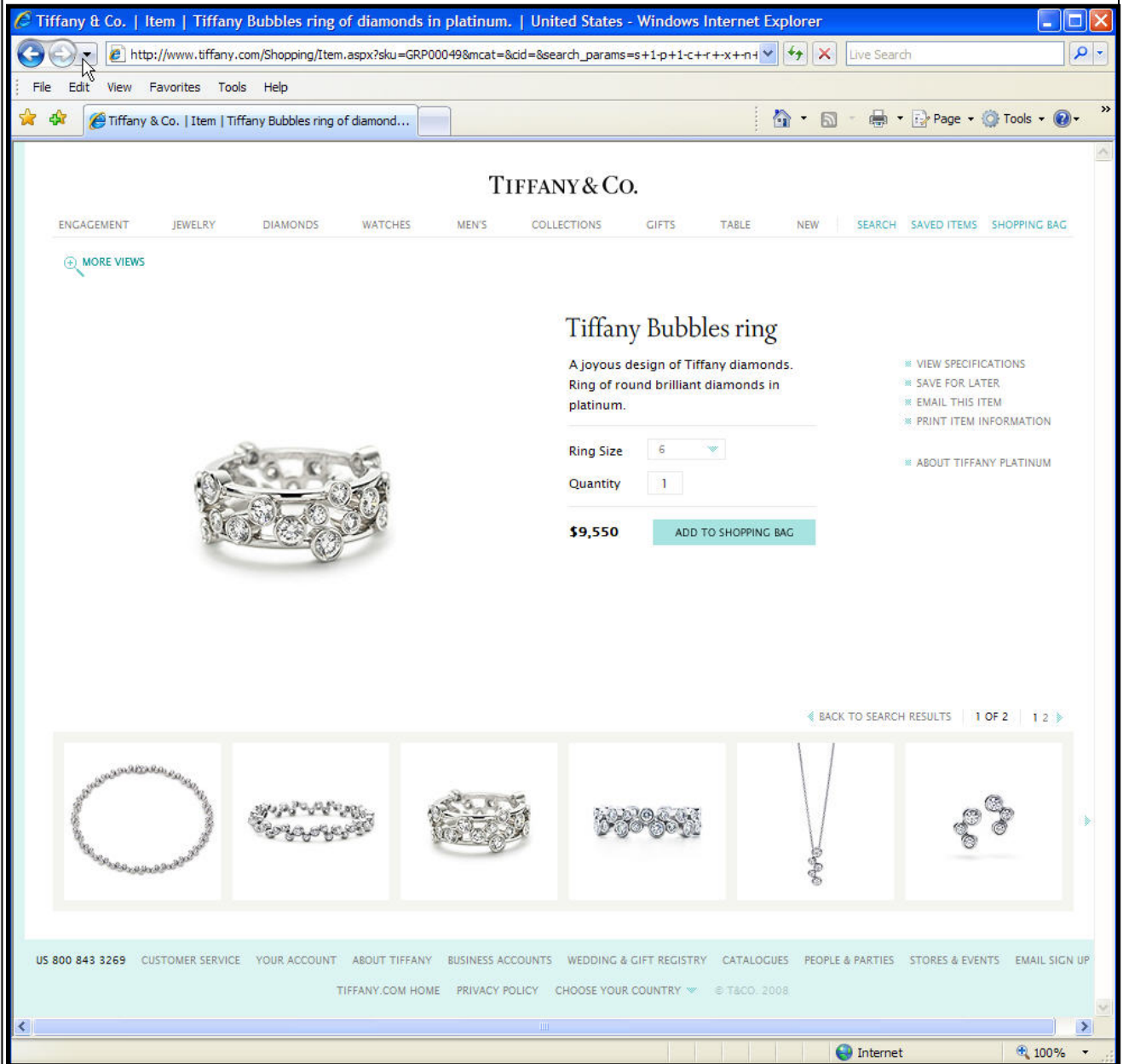
Click images for alternate views

FREE GIFT BOX WITH THIS ITEM

This new style will be the rage this season. Enjoy this comfortable fitting ring that looks like the real thing! 1 Karat of Cz's set in Sterling silver will be sure to turn heads.

Size: [Don't know your size?](#)

EXHIBIT B
Genuine Tiffany “Bubbles” Ring



JARURG & WILK, P.C.
ATTORNEYS AT LAW
3200 NORTH CENTRAL AVENUE
SUITE 2000
PHOENIX, ARIZONA 85012

EXHIBIT B-1

Counterfeit Tiffany "Bubbles" Ring by Inspired Silver

Inspired Silver The Bubbles Ring - Windows Internet Explorer

http://www.inspiredsilver.com/index.cfm?fa=site.showproduct&product_id=513&product_category_id=83&vie

File Edit View Favorites Tools Help

Inspired Silver The Bubbles Ring

INSPIRED SILVER

Search item # or keywords: Go!

McAfee SECURE
TESTED DAILY 14-OCT

WHAT'S NEW • RINGS • EARRINGS • BRACELETS • NECKLACES • WEDDING SETS • ON SALE • CLEARANCE

Shop By Phone 1-866-547-4583 Home | Shopping Cart (Items: 0) | Order Status | Contact Us | Returns & Exchanges | FAQ

NEED HELP? CHAT LIVE WITH OUR STAFF

request your free catalog

view current catalog

SHOP BY CATEGORY

- What's New
- Silver Rings
- Silver Earrings
- Stud Earrings
- Silver Bracelets
- Pearl Collection
- Silver Necklaces
- Silver Watches
- Silver Anklets
- Silver Charm Bracelets
- Silver Charms
- Matching Sets
- Mens Silver Jewelry
- Accessories

SHOP BY VIDEO

All Products With Video


SHOP BY COLLECTION

- Wedding Ring Sets
- Shop For The Cure
- Designer Inspired Jewelry
- The Mesh Collection
- The Skull Collection
- Studio Line Collection
- The Tungsten Collection
- Wild Things Collection
- Hearts Collection
- The Be Inspired Collection
- Celebrity Inspired Jewelry
- On Sale

The Bubbles Ring


★★★★★

PHOTOS ☐ NEW VIDEO ☐



zoom in

Click images for alternate views



Overall Customer Rating: ★★★★★ 4.4 out of 5 (21 reviews)

[Read Reviews\(21\)](#) | [Write a Review](#)

ON SALE TODAY!

Retail Value: \$99.95
Inspired Silver Price: ~~\$39.95~~
Today's Sale Price: **\$29.95**
YOU SAVE 70% (\$70.00)

Availability: In Stock

Size: 5 [Don't know your size?](#)

Quantity: 1

ADD TO YOUR SHOPPING CART

Buy with Confidence!

- ✓ No Risk
30 Day Money Back
- ✓ Free Shipping
Orders over \$50 ship free,
Orders over \$150 Ship
FEDEX FREE!
- ✓ 100% Secure Shopping

Product Details

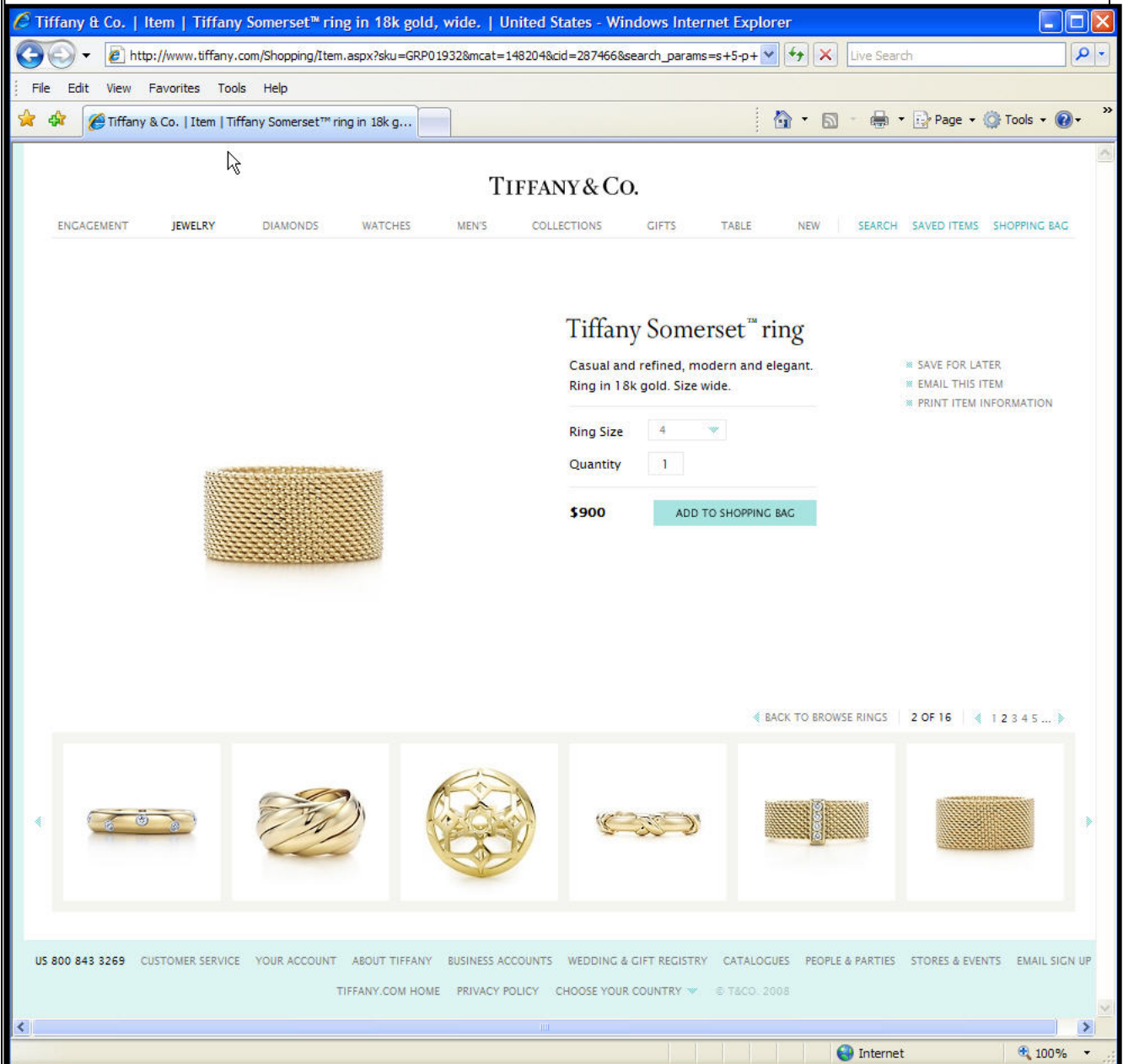
Item ID	513
Weight	3 cts. total weight
Metal	.925 Sterling silver w/Rhodium finish
Approx Weight	-

FREE GIFT BOX WITH THIS ITEM

A favorite among jewelry lovers, this unique ring features small bezel set cubic zirconia circles of varying sizes "floating" in a shiny sterling silver setting. The band is approximately 1/2 an inch wide and the total weight is 3 carats. Look for the matching pendant, earrings and bracelet!!

JARBURG & WILK, P.C.
ATTORNEYS AT LAW
3200 NORTH CENTRAL AVENUE
SUITE 2000
PHOENIX, ARIZONA 85012

EXHIBIT C
Genuine Tiffany Gold Mesh Ring



JARURG & WILK, P.C.
ATTORNEYS AT LAW
3200 NORTH CENTRAL AVENUE
SUITE 2000
PHOENIX, ARIZONA 85012

EXHIBIT C-1
Counterfeit Tiffany Gold Mesh Ring by Inspired Silver

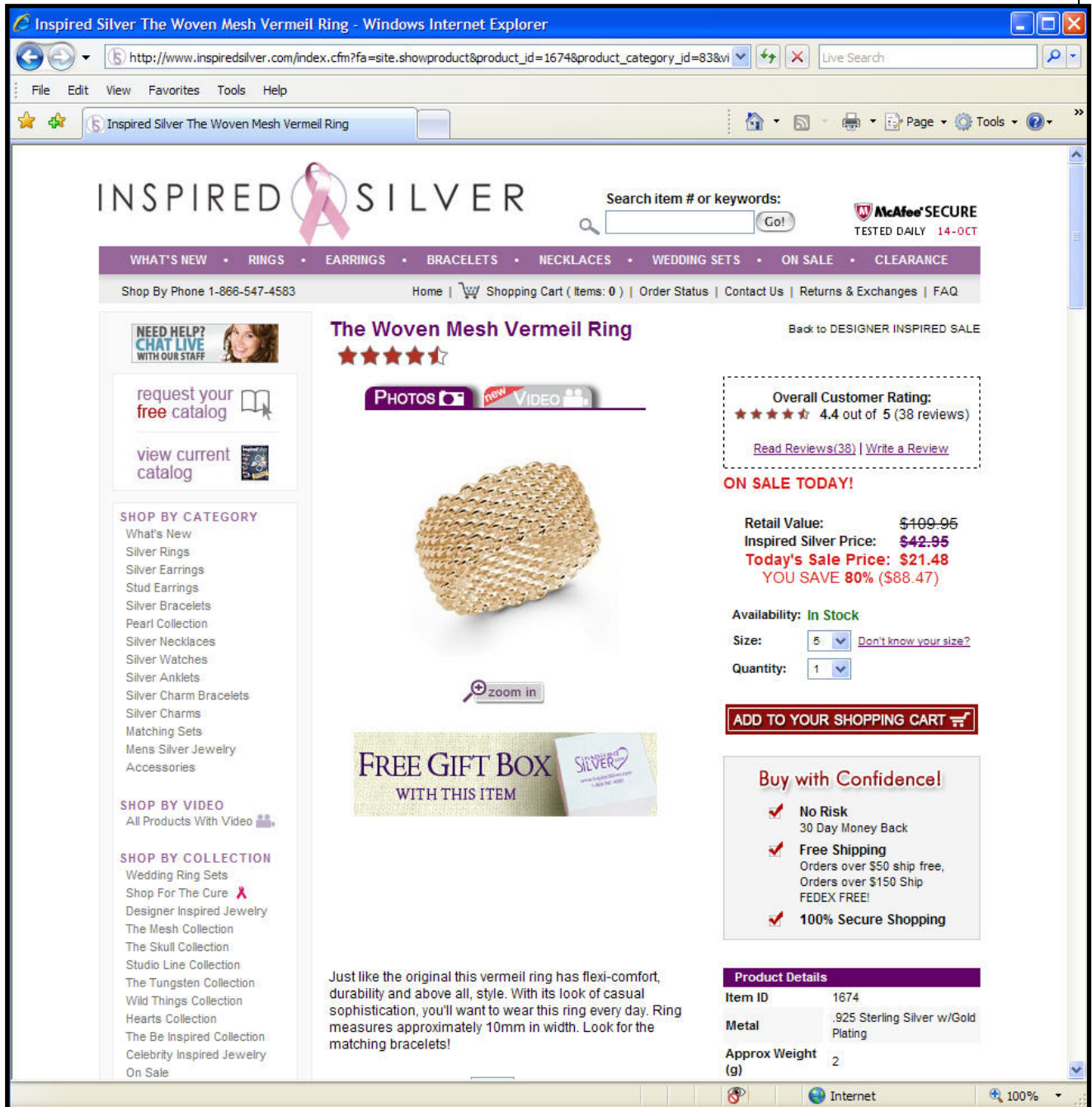


EXHIBIT D

Genuine Tiffany Floating Heart Pendant

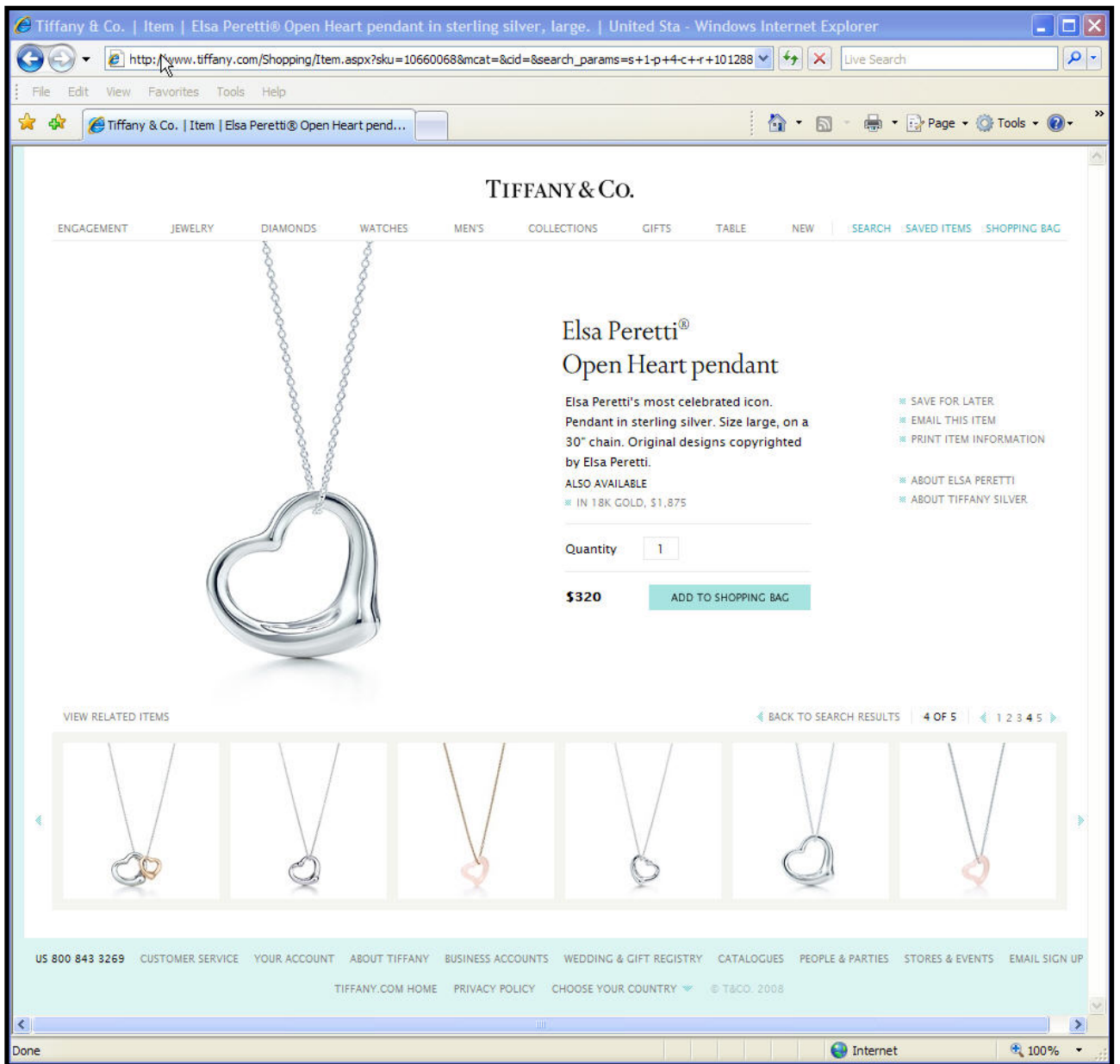


EXHIBIT D-1

Counterfeit Tiffany Floating Heart Pendant by Inspired Silver

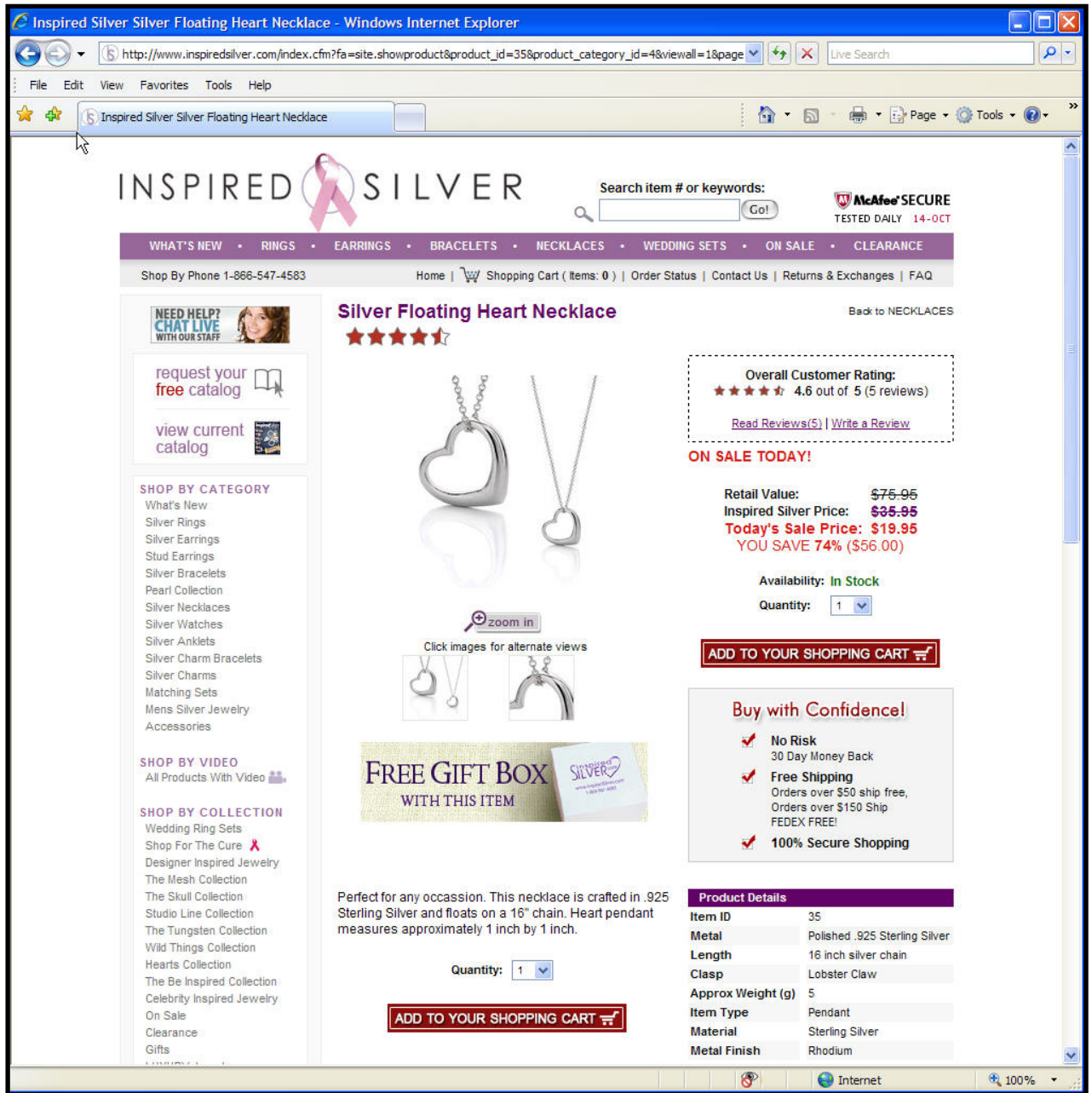


EXHIBIT F

Genuine Tiffany Heart Tag Keychain

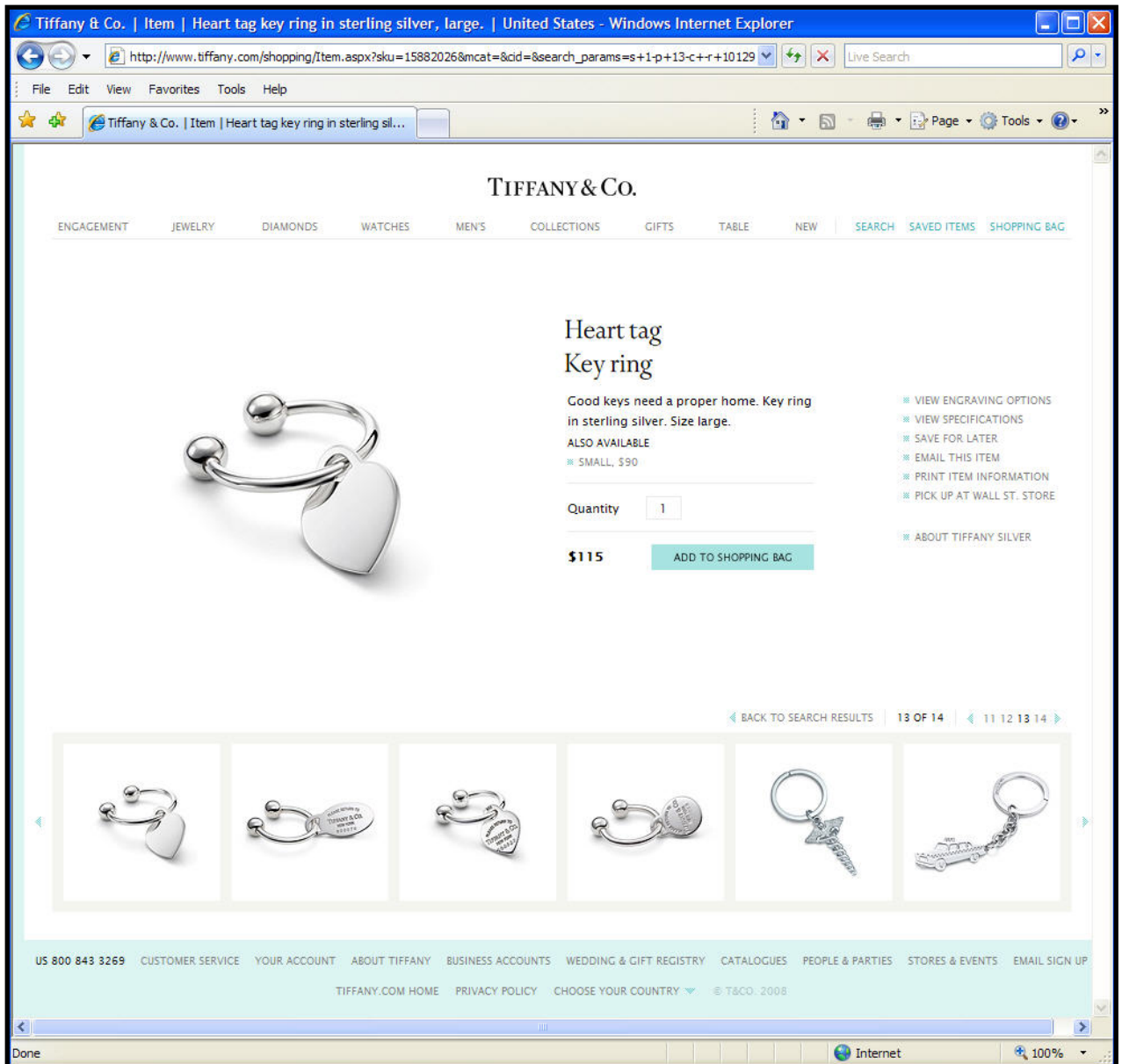


EXHIBIT F-1

Counterfeit Tiffany Heart Tag Keychain by Inspired Silver

Inspired Silver Heart Tag Keychain - Windows Internet Explorer

http://www.inspiredsilver.com/index.cfm?fa=site.showproduct&product_id=1852&product_category_id=83&vi

File Edit View Favorites Tools Help

Inspired Silver Heart Tag Keychain

INSPIRED SILVER

Search item # or keywords: Go!

McAfee SECURE
TESTED DAILY 14-OCT

WHAT'S NEW • RINGS • EARRINGS • BRACELETS • NECKLACES • WEDDING SETS • ON SALE • CLEARANCE

Shop By Phone 1-866-547-4583 Home | Shopping Cart (Items: 0) | Order Status | Contact Us | Returns & Exchanges | FAQ

NEED HELP? CHAT LIVE WITH OUR STAFF

request your free catalog

view current catalog

SHOP BY CATEGORY

- What's New
- Silver Rings
- Silver Earrings
- Stud Earrings
- Silver Bracelets
- Pearl Collection
- Silver Necklaces
- Silver Watches
- Silver Anklets
- Silver Charm Bracelets
- Silver Charms
- Matching Sets
- Mens Silver Jewelry
- Accessories

SHOP BY VIDEO

All Products With Video

SHOP BY COLLECTION

- Wedding Ring Sets
- The Skull Collection
- Shop For The Cure
- Designer Inspired Jewelry
- The Mesh Collection
- The Skull Collection
- Studio Line Collection
- The Tungsten Collection
- Wild Things Collection
- Hearts Collection
- The Be Inspired Collection
- Celebrity Inspired Jewelry
- On Sale

Heart Tag Keychain

Back to DESIGNER INSPIRED SALE

Overall Customer Rating:
Be the first to write a review!

ON SALE TODAY!

Retail Value: \$125.95
Inspired Silver Price: **\$55.95**
Today's Sale Price: **\$45.95**
YOU SAVE 64% (\$80.00)

Availability: In Stock

Quantity: 1

ADD TO YOUR SHOPPING CART

FREE GIFT BOX WITH THIS ITEM

Buy with Confidence!

- No Risk
30 Day Money Back
- Free Shipping
Orders over \$50 ship free,
Orders over \$150 Ship
FEDEX FREE!
- 100% Secure Shopping

Product Details

Item ID	1852
Metal	.925 Sterling Silver

This .925 Sterling Silver keychain is as great looking as it is useful! It is accented with a heart charm that measures approximately 1 inch across. Horseshoe measures approximately 1 inch in length.

Quantity: 1

ADD TO YOUR SHOPPING CART

Internet 100%

EXHIBIT G

Genuine Tiffany Dragonfly Ring

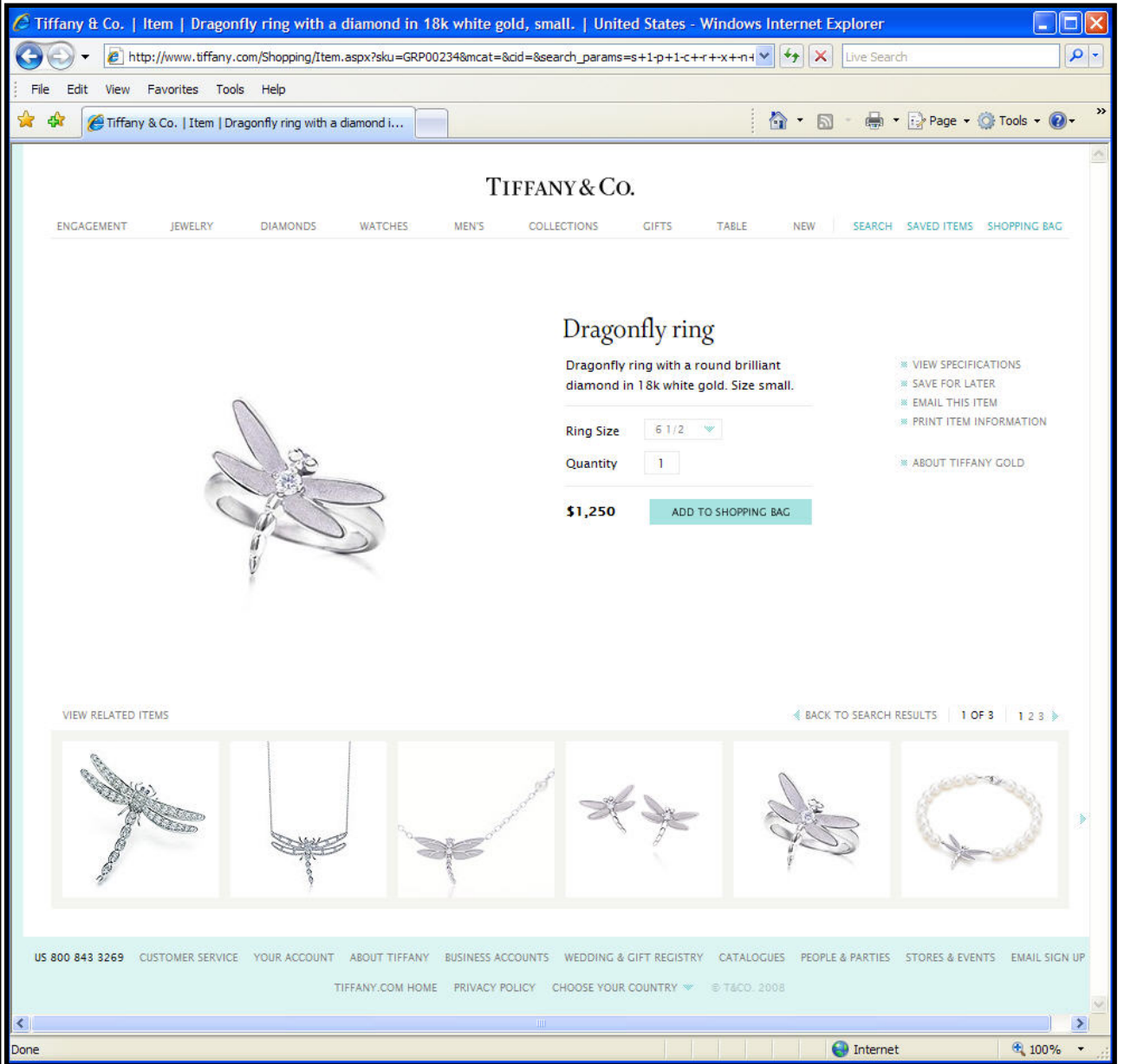


EXHIBIT G-1
Counterfeit Tiffany Dragonfly Ring by Inspired Silver

