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NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Louis Vuitton Malletier, S.A.,

Plaintiff,

v.

Akanoc Solutions, Inc., Managed Solutions
Group, Inc., Steven Chen and Does 1 through 10,
inclusive,

Defendants.

C) 07 3952
Cas No.: 3952

MEJ

Complaint For: Contributory and
Vicarious Trademark Infringement;
Contributory and Vicarious Copyright
Infringement

Plaintiff Louis Vuitton Malletier, S.A. ("Louis Vuitton" or "Plaintiff") for its complaint
alleges as follows:

I. Jurisdiction and Venue

1. The claims alleged herein arise under the Trademark Act, 15 U.S.C. § 1051, et seq.,
and under the Copyright Act of 1976, 17 U.S.C. § 101, et seq., for (i) contributory and vicarious
liability for trademark infringement; and (iii) contributory and vicarious liability for copyright
infringement.

2. This Court has original jurisdiction over the subject matter of this action pursuant to
15 U.S.C. § 1121, 28 U.S.C. §§ 1331, 1332 and 1338.

1 3. This Court has personal jurisdiction over the Defendants because they do business
2 and/or reside in the State of California and, as to the entities, do business, are incorporated, and/or
3 are authorized to do business in the State of California.
4

5 4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

6 **II. Introduction**

7 5. The substantial profits to be reaped from piracy and counterfeiting have led to the
8 creation, development and proliferation of business models, the object of which is to capitalize on
9 world famous trademarks and copyrights owned by others, including those owned by Plaintiff. The
10 opportunities created by the Internet have led to a dramatic increase in the opportunities to profit
11 from such activity. These opportunities rely upon the active participation and contribution of third
12 parties which make such illegal activities possible.
13

14 6. In particular, the promotion of infringing product and the offer of product for sale
15 occurs through communications published on the Internet. These promotions, advertisements and
16 offers are often published on websites which can be accessed by entering Internet addresses or
17 through hypertext links which direct Internet users to websites containing such offers.
18 Communications designed to complete sales of such infringing merchandise are transmitted over
19 servers which host these same websites.
20

21 7. Defendants Akanoc Solutions Inc. ("Akanoc") and Managed Solutions Group, Inc.
22 ("MSGI") operate servers hosting websites. Louis Vuitton is informed and believes that Defendant
23 Steven Chen is an individual with responsibility for the operation and management of Akanoc and
24 MSGI and that Akanoc and MSGI are under common control and ownership. Louis Vuitton is
25 further informed and believes that Akanoc and MSGI were formed for and exist primarily to
26 facilitate the promotion and advertisement of offers for counterfeit and infringing merchandise.
27 Akanoc and MSGI aid and abet the distribution and sale of counterfeit and infringing merchandise
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1 through the provision of Internet hosting services and they do so knowingly and despite having
2 been provided with full notice of such conduct. Louis Vuitton is informed and believes that
3 Akanoc, MSGI and Chen benefit financially from the services they render hosting website which
4 offer counterfeit Louis Vuitton merchandise and through which sales of such merchandise are
5 consummated.

7 **III. The Parties: Plaintiff**

8 8. Plaintiff is organized and existing under the laws of the Republic of France, with its
9 principal place of business in Paris, France. Plaintiff owns the trademarks and trade names
10 "LOUIS VUITTON", "VUITTON" and "LV" (hereinafter collectively referred to as "Plaintiff's
11 Trademarks"). Plaintiff has engaged in services using Plaintiff's Trademarks and Plaintiff is the
12 exclusive distributor in the United States of handbags, luggage and accessories, all of which bear
13 one or more of Plaintiff's Trademarks. Plaintiff distributes authentic product online through
14 www.eluxury.com.

16 9. Plaintiff is the sole and exclusive distributor in the United States of leather goods
17 bearing Plaintiff's Trademarks, which are exclusively manufactured in France, Spain and San
18 Dimas, California. Plaintiff is engaged in the manufacture, sale and distribution in interstate and
19 foreign commerce of prestigious high-quality, luxury merchandise, including a wide variety of
20 luggage, handbags, trunks, garment bags, wallets, small leather goods, apparel and other similar
21 items sold throughout the United States in Louis Vuitton boutiques, and high quality retail stores
22 such as Saks Fifth Avenue, Neiman Marcus and Bloomingdale's that contain departments operated
23 by Plaintiff and staffed by Plaintiff's personnel.


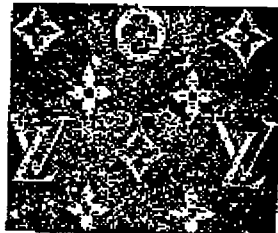
25 10. Plaintiff is responsible for assembling, finishing, marketing and selling in interstate
26 commerce high quality handbags, luggage, accessories and related products and/or services for
27 men and women. Plaintiff has acquired an outstanding reputation because of the uniform high
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1 quality of its handbags, luggage and accessories and the boutiques through which Plaintiff sells
2 these products.



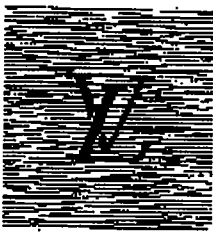
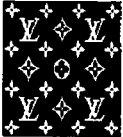

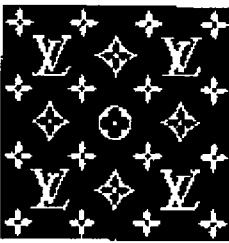
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4 11. As a result of the Louis Vuitton boutiques, extensive advertising of Louis Vuitton in
5 connection with Plaintiff's intellectual properties, the widespread sale of Louis Vuitton
6 merchandise and the celebrity that Plaintiff and Plaintiff's intellectual properties have achieved,
7 Louis Vuitton boutiques, handbags, luggage and accessories, all utilizing and/or bearing one or
8 more of Plaintiff's intellectual properties have been and are now recognized by the public and the
9 trade as originating from Plaintiff.




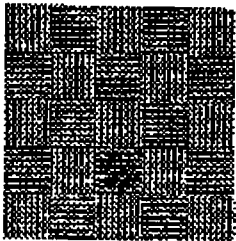
10 12. Commencing at least as early as 1932, Plaintiff adopted one or more of Plaintiff's
11 Trademarks for handbags, luggage, accessories and related products and caused said trademarks to
12 be registered in the United States Patent and Trademark Office.

13
14 13. Plaintiff is the owner of all rights in and to numerous trademarks including, but not
15 limited to, Plaintiff's Trademarks that are the subject of the following trademark registrations:

16 TRADEMARK	17 REGISTRATION NUMBER	18 TRADEMARK PICTURE	19 CLASS OF GOODS
20 Louis Vuitton (Interlocked Letters) in a Circle Design	21 286,345	22 	23 18
24 Louis Vuitton (Interlocked Letters) and Monogram Canvas Design	25 297,594	26 	27 18
28 LOUIS VUITTON	1,045,932	LOUIS VUITTON	18

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TRADEMARK	REGISTRATION NUMBER	TRADEMARK PICTURE	CLASS OF GOODS
Louis Vuitton (Interlocked Letters) Design	1,519,828		18
LOUIS VUITTON MALLETIER A PARIS in Rectangle	1,615,681		16, 18
Louis Vuitton (Interlocked Letters) on Epi Leather Design	1,655,564		18
Louis Vuitton (Interlocked Letters) and Monogram Canvas Pattern Design	1,770,131		25
Louis Vuitton (Interlocked Letters) Design	1,794,905		16, 25
Louis Vuitton (Interlocked Letters) and Monogram Canvas Design	1,875,198		16

TRADEMARK	REGISTRATION NUMBER	TRADEMARK PICTURE	CLASS OF GOODS
Louis Vuitton (Interlocked Letters)	1,938,808		14, 24
LOUIS VUITTON World Mark	1,990,760	LOUIS VUITTON	16, 18, 24, 25
Louis Vuitton (Interlocked Letters) Design	2,291,907		34
LOUIS VUITTON	2,303,212	LOUIS VUITTON	34
Louis Vuitton (Interlocked Letters) Design	2,361,695		25
LOUIS VUITTON PARIS and Damier (pattern design)	2,378,388		18

14. Plaintiff's Trademarks are in full force and effect, and are used and have never been abandoned. Plaintiff intends to continue to preserve and maintain its rights with respect to Plaintiff's Trademarks.

1 15. Plaintiff's products utilizing and/or bearing one or more of Plaintiff's Trademarks,
2 by reason of their style, distinctive designs and quality have come to be known by the purchasing
3 public throughout the United States as being of the highest quality. As a result thereof, Plaintiff's
4 Trademarks and the goodwill associated therewith are of inestimable value to Plaintiff.
5

6 16. Based on the Louis Vuitton boutiques and the extensive sales of Plaintiff's products
7 and their wide popularity, Plaintiff's Trademarks have developed a secondary meaning and
8 significance in the minds of the purchasing public, and the services and products utilizing and/or
9 bearing such marks and names are immediately identified by the purchasing public with Plaintiff.
10

11 17. Those trademarks are vital to Plaintiff, and Plaintiff will suffer irreparable harm if
12 any third parties, including Defendants herein, are allowed to continue engaging in services and
13 selling infringing goods utilizing and/or bearing identical or substantially similar trademarks.

14 18. Louis Vuitton has also registered its copyrights in the United States Copyright
15 Office and uses those copyrights in connection with its sale of luxury products. A significant
16 aspect of Louis Vuitton's business is the merchandising of product incorporating the distinctive
17 elements associated with its luxury goods.

18 19. The revenue from products that bear Louis Vuitton designs and are sold in the
19 United States is substantial. The appearance and other features of the Louis Vuitton designs are
20 inherently distinctive. The design, configuration, and distinctive features of the Louis Vuitton
21 copyrighted works, and of works related thereto (hereinafter collectively, the "Louis Vuitton
22 Copyrighted Designs"), are wholly original with Louis Vuitton and, as fixed in various tangible
23 media, including merchandise, are copyrightable subject matter under the United States Copyright
24 Act, 17 U.S.C., Sections 101 et seq. Louis Vuitton is the owner of the Louis Vuitton Copyrighted
25 Designs, which, as featured in connection with various merchandise, are copyrightable subject
26 matter under the Copyright Act of 1976, 17 U.S.C. § 101, et seq. (The Plaintiff's Trademarks and
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1 the Louis Vuitton Copyrighted Designs are hereinafter collectively referred to as the “Louis
2 Vuitton Intellectual Properties”).

3
4 20. Louis Vuitton has complied in all respects with the laws governing copyright and
5 has secured the exclusive rights and privileges in and to the copyrights to Louis Vuitton
6 Copyrighted Designs. Louis Vuitton owns certificates of registration for works in which the Louis
7 Vuitton Copyrighted Designs appear. Copyright registrations secured by Louis Vuitton for the
8 Louis Vuitton Copyrighted Designs include:

9

<u>Copyright</u>	<u>Reg. No.</u>	<u>Date Published</u>	<u>Date Registered</u>
Multicolor Monogram – Black Print	VA 1-250-121	12/18/02	06/24/04
Multicolor Monogram – White Print	VA 1-250-120	12/18/02	06/24/04

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16 21. Products featuring the Louis Vuitton Copyrighted Designs that are manufactured,
17 sold, and distributed by Louis Vuitton or under its authority have been manufactured, sold, and
18 distributed in conformity with the provisions of the copyright laws. Louis Vuitton and those acting
19 under its authority have complied with their obligations under the copyright laws and Louis
20 Vuitton, in its own right or as successor-in-interest, has at all times been the sole proprietor or
21 otherwise authorized to enforce all right, title, and interest in and to the copyrights in the Louis
22 Vuitton Copyrighted Designs.

23
24 22. Louis Vuitton maintains strict quality control standards for all its products. All
25 genuine Louis Vuitton products are inspected and approved by Louis Vuitton prior to distribution
26 and sale and are sold only through Louis Vuitton stores and Louis Vuitton boutiques within
27 department stores such as Saks Fifth Avenue, Neiman Marcus, and Bloomingdales, and
28 ELuxury.com. No Louis Vuitton product is sold by anyone other than Louis Vuitton. By

1 definition, any new (i.e. unused) product bearing any of the Louis Vuitton Intellectual Properties
2 that is sold anywhere other than at a Louis Vuitton store (or ELuxury.com) is not a genuine Louis
3 Vuitton product but rather a counterfeit product. Plaintiff does not sell its high-end products
4 through licensees or franchisees and Plaintiff has not authorized independent retail vendors to
5 engage in services and advertising utilizing and/or displaying the Louis Vuitton Intellectual
6 Properties
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8 23. At great expense, Louis Vuitton has created, developed, manufactured, advertised,
9 and marketed its products in such a way that they convey and are associated with luxury products
10 that meet the highest standards and are used by celebrities and dignitaries around the world.
11

12 24. Louis Vuitton's goods, so marked, continue to be recognized by the fashion industry
13 and public as those of Louis Vuitton.

14 25. The Louis Vuitton Intellectual Properties and the goodwill of Louis Vuitton's
15 business in connection with its trademarks and copyrights are continuously used and have never
16 been abandoned.

17 **IV. The Parties: Defendants**

18 26. Louis Vuitton is informed and believes that Akanoc is a California corporation with
19 its principal office in Fremont, California. Akanoc is an internet service provider which, among
20 other things, hosts commercial websites.
21

22 27. Louis Vuitton is informed and believes that MSGI is a California corporation with
23 its principal office in Fremont, California. MSGI is an internet service provider which, among
24 other things, hosts commercial websites. Akanoc and MSGI are collectively referred to herein as
25 the "ISP Defendants".
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1 28. Louis Vuitton is informed and believes that Steve Chen is an individual resident in
2 the City of Fremont and State of California. Louis Vuitton is further informed and believes that
3 Steve Chen is an officer, owner and/or managing employee of Akanoc and MSGI.
4

5 29. Plaintiff is informed and believes, and upon that basis alleges, that at all relevant
6 times each of the defendants Does 1 through 10, inclusive, are unknown to Plaintiff, who therefore
7 sues such Doe defendants as individuals and/or business entities, agents, partners, and/or
8 employees of the named Defendants, which, in taking the actions alleged in this Complaint, were
9 acting within the scope of such agency, partnership, and/or employment.
10

11 **V. The Infringing Activities**

12 30. The ISP Defendants host websites (the "Counterfeiting Websites") and facilitate
13 communications between the sellers of counterfeit product who operate the Counterfeiting
14 Websites and their customers. The Counterfeiting Websites offer, promote, advertise and facilitate
15 the offer and sale of counterfeit merchandise which infringes the intellectual property rights of
16 Louis Vuitton, among others. The Counterfeiting Websites publish unauthorized reproductions of
17 the Louis Vuitton Copyrighted Designs to promote the sale of counterfeit merchandise. Louis
18 Vuitton is informed and believes that the servers upon which the Counterfeiting Websites are
19 hosted are also used to transmit communications by and between the operators of the
20 Counterfeiting Websites and their customers.
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22 31. The websites hosted by servers maintained by the ISP Defendants include but are
23 not limited to atozbrand.com, bag925.com, ape168.com, wendy929.net and eshoes99.com. Louis
24 Vuitton is further informed and believes that most, if not all, of the websites hosted by the ISP
25 Defendants are engaged in the trafficking of counterfeit merchandise, specifically including
26 merchandise infringing the Louis Vuitton Intellectual Properties.
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1 and between the sellers of counterfeit goods over the Counterfeiting Websites and their
2 distributors, consumers and vendors.

3 39. Defendants therefore bear contributory liability for the Counterfeiting Websites'
4 counterfeiting of the Plaintiff's Trademarks in violation of 15 U.S.C. § 1051, et seq. and the
5 common law.
6

7 40. Plaintiff has no adequate remedy at law and has suffered irreparable harm and
8 damage as a result of the contributory counterfeiting conduct of the Defendants.

9 41. Plaintiff has sustained damages as a result of the Defendants' wrongful contributory
10 conduct in an amount to be ascertained at trial but in no event less than One Million Dollars
11 (\$1,000,000) per trademark per counterfeit.
12

13 **SECOND CLAIM FOR RELIEF**

14 **(For Vicarious Trademark Counterfeiting)**

15 42. Plaintiff repeats and re-alleges all of the allegations contained in paragraphs 1
16 through 40, inclusive, as though fully set forth herein.

17 43. The illegal sales of products that infringe on the Plaintiff's Trademarks have
18 generated enormous sums of monies for the Counterfeiting Websites.
19

20 44. Despite the Defendants' duty and right to control the Counterfeiting Websites, they
21 have taken no steps to stop or otherwise prevent the ongoing counterfeiting at the websites
22 operated by the Counterfeiting Websites or to disconnect links directing its users to such websites.

23 45. Defendants are therefore vicariously liable for the damages caused to Plaintiff as a
24 result of the illegal promotion, advertisement, offer for sale and/or sale of counterfeit merchandise
25 at the Counterfeiting Websites in violation of 15 U.S.C. § 1051, et seq. and the common law.
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1 the Defendants' wrongful conduct in an amount to be determined at trial but in no event less than
2 One Hundred and Fifty Thousand Dollars (\$150,000) per copyright infringed.

3
4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff demands:

6 1) That Defendants and their officers, agents, servants, employees, representatives,
7 successors, and assigns; and all other persons, firms, or corporations in active concert or
8 participation with them who receive actual notice of this Order, be temporarily, preliminarily and
9 permanently enjoined and restrained from:

10 a) directly or indirectly infringing Plaintiff's Trademarks or any marks similar
11 thereto, in any manner, including generally, but not limited to engaging in
12 services and manufacturing, importing, distributing, advertising, selling,
13 and/or offering for sale any merchandise which infringes said Trademarks
14 and specifically:

15
16 i) advertising, selling, and/or offering for sale any other
17 unauthorized merchandise, which pictures, reproduces, or
18 utilizes the likenesses of or which copy or are likely to cause
19 consumer confusion with any of Plaintiff's Trademarks;

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21 ii) hosting websites which offer product purporting to be
22 Plaintiff's product or any imitation or replica thereof;

23 b) indirectly infringing the Louis Vuitton Copyrights and Designs, in any
24 manner, including generally, but not limited to engaging in services and
25 manufacturing, importing, distributing, advertising, selling, and/or offering
26 for sale any merchandise which infringes said Copyrights and specifically:
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- i) advertising, selling, and/or offering for sale any other unauthorized merchandise, which pictures, reproduces, or utilizes the likenesses of or which copy or are substantially similar to any of the Louis Vuitton Copyrights and Designs;
- ii) hosting websites which offer product purporting to be Plaintiff's product or any imitation or replica thereof;
- c) effecting assignments or transfers, forming new entities or associations or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth in subparagraphs A and B.

2) That Defendants be required to account to Plaintiff for all profits and damages resulting from Defendants' infringing activities and that the award to Plaintiff be increased as provided for under 15 U.S.C. §1117;

3) That Defendants pay over to Plaintiff in the alternative statutory damages pursuant to 15 U.S.C. § 1117(c);

4) That Plaintiff have a recovery from Defendants of the costs of this action and Plaintiff's reasonable attorneys' fees pursuant to 15 U.S.C. §1117(b);

5) That Defendants be required to account to Plaintiff for all profits and damages resulting from Defendants' respective infringing activities as provided for under 17 U.S.C. §504;

6) That Defendants pay over to Plaintiff in the alternative statutory damages pursuant to 15 U.S.C. § 504;

7) That Plaintiff have a recovery from Defendants of the costs of this action and Plaintiff's reasonable attorneys' fees pursuant to 17 U.S.C. §505;

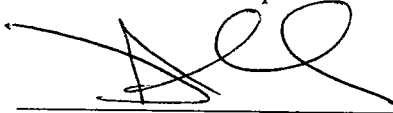
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8) That Plaintiff has all other and further relief as the Court may deem just and proper under the circumstances.

Dated: July 30, 2007

J. ANDREW COOMBS
A Professional Corporation



By: J. Andrew Coombs
Attorneys for Plaintiff Louis Vuitton Malletier,
S.A.