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Attorneys for Defendants

Akanoc Solutions, Inc.,

Managed Solutions Group, Inc.

and Steve Chen

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

LOUIS VUITTON MALLETTIER, S.A.,

Plaintiff,

vs.

AKANOC SOLUTIONS, INC., MANAGED
SOLUTIONS GROUP, INC., STEVEN CHEN
AND DOES 1 THROUGH 10, INCLUSIVE,

Defendants.

Case No.: C 07-3952 JW (HRL)

**SUPPLEMENTAL JURY
INSTRUCTION NO. 4**

JURY INSTRUCTION No. ____

**CONTRIBUTORY COPYRIGHT INFRINGEMENT – INDUCEMENT
OF DIRECT INFRINGEMENT**

You may find that a defendant induced a third party to infringe plaintiff's copyright(s) if you find that defendant provided web hosting services with the intent to promote their use to infringe, as shown by a clear expression or other affirmative steps taken to foster infringement of plaintiff's copyrights at a particular website. Purposeful, culpable expression and conduct by an individual defendant must be shown. Mere knowledge of actual infringing uses or knowledge of potential infringement is not enough to subject a defendant to liability.

1 *Metro-Goldwyn-Mayer Studios Inc. v. Grokster, Ltd.*, 545 U.S. 913, 936-937 (2005) ("[T]he
2 inducement rule, too, is a sensible one for copyright. We adopt it here, holding that **one who**
3 **distributes a device with the object of promoting its use to infringe copyright, as shown by**
4 **clear expression or other affirmative steps taken to foster infringement, is liable for the**
5 **resulting acts of infringement by third parties.** We are, of course, mindful of the need to keep
6 from trenching on regular commerce or discouraging the development of technologies with lawful
7 and unlawful potential. Accordingly, just as Sony did not find intentional inducement despite the
8 knowledge of the VCR manufacturer that its device could be used to infringe, **mere knowledge of**
9 **infringing potential or of actual infringing uses would not be enough here to subject a**
10 **distributor to liability.** Nor would ordinary acts incident to product distribution, such as offering
11 customers technical support or product updates, support liability in themselves. **The inducement**
12 **rule, instead, premises liability on purposeful, culpable expression and conduct, and thus does**
13 **nothing to compromise legitimate commerce or discourage innovation having a lawful**
14 **promise.**