

GAUNTLETT & ASSOCIATES

David A. Gauntlett (SBN 96399)

James A. Lowe (SBN 214383)

Brian S. Edwards (SBN 166258)

Christopher Lai (SBN 249425)

18400 Von Karman, Suite 300

Irvine, California 92612

Telephone: (949) 553-1010

Facsimile: (949) 553-2050

jal@gauntlettlaw.com

bse@gauntlettlaw.com

cl@gauntlettlaw.com

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., et al.,

Defendants.

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

) **DEFENDANTS' MOTION FOR**
) **ADMINISTRATIVE RELIEF FOR**
) **LEAVE TO FILE MOTIONS IN**
) **LIMINE #13, #14 AND #15**

1 Pursuant to Civil L.R. 7-11,¹ Defendants Managed Solutions Group, Inc., Akanoc Solutions,
 2 Inc. and Steve Chen (“Defendants”) respectfully submit this motion for administrative relief for an
 3 order granting leave to file its Motion in Limine #13 to Exclude the Testimony of Joseph T. Murin
 4 and Phil Cooper, its Motion in Limine #14 to Exclude Plaintiff Louis Vuitton Malletier’s
 5 (“Vuitton’s”) Untimely Trial Exhibits and its Motion in Limine #15 to Preclude Vuitton’s Expert
 6 Witness From Providing Additional Testimony About Actions Or Opinions Not Disclosed Prior To
 7 His Deposition.

8 This motion for administrative relief is required because the Court’s June 5, 2009 deadline
 9 for filing motions in limine has passed and because the Court has no available motion hearing dates
 10 remaining prior to the trial, making it impossible for Defendants to file a motion for leave to file its
 11 additional motions in limine pursuant to Northern District Civil Local Rule 7-2.

12 Good cause for Defendants’ motion for administrative relief exists because (1) the
 13 admissibility of the testimony of Murin and Cooper, two lay witnesses recently designated by
 14 Vuitton on May 22, 2009, and the admissibility of Vuitton’s untimely filed trial exhibits are urgent
 15 matters that must be determined by the Court prior to the inception of trial, (2) Defendants were
 16 unable to file these motions in limine by Court’s deadline of June 5, 2009 because Vuitton did not
 17 produce to Defendants a number of objectionable exhibits until June 5, 2009² and (3) Defendants
 18 were not informed until June 27, 2009 of Vuitton’s expert witness’s intent to testify about additional
 19 matters, investigations and opinions he expected to reach.³

20 Vuitton will not be significantly prejudiced if the Court grants Defendants’ motion for
 21 administrative relief. For instance, Defendants’ two-page Motion in Limine #13 will not present the
 22 Court with any additional legal argument that has not already been presented in its prior motions in
 23 limine, nor will the filing of this additional motion prejudice Vuitton. This is because Defendants’
 24

25 ¹Defendants contacted plaintiff’s counsel via telephone and e-mail on July 2, 2009, requesting that
 26 plaintiff stipulate to the filing of this motion for administrative relief. Plaintiff’s counsel refused to
 stipulate to the filing of this motion. Declaration of Christopher Lai (“Lai Decl.”) ¶6.

27 ²Lai Decl. ¶¶4-5

28 ³Declaration of James A. Lowe (“Lowe Decl.”) ¶4-5.

1 sole legal argument in their Motion in Limine #13 is the same legal argument made in their Motion
 2 in Limine #9, namely, that testimony by a lay witness that is technical and specialized in nature is
 3 inadmissible lay witness testimony under Fed. R. Evid. 701(c). The filing of this additional motion
 4 in limine will not prejudice Vuitton because Vuitton may simply re-apply its legal argument from its
 5 Opposition to Motion in Limine #9 to any opposition that it wishes to file in response to Defendants'
 6 Motion in Limine #13. Motion in Limine #14 also incorporates several arguments previously
 7 articulated in Defendant's previously filed motions in limine and merely applies these arguments to
 8 additional, more recently-filed exhibits. Motion in Limine #15 does not require additional legal
 9 analysis and instead only requests that the Court enforce its own order regarding the limitation on
 10 testimony by expert witnesses.

11 Granting this motion will expedite this trial of this matter because it allows resolution of
 12 evidence objections that would otherwise have to be raised during the trial. Advance resolution of
 13 these issues will benefit the jury, the Court and the trial preparation of both parties.

14 **I. CONCLUSION**

15 Defendants respectfully request that the Court enter an order granting Defendants leave to
 16 file their Motion in Limine #13 to exclude the testimony of Joseph T. Murin and Phil Cooper, its
 17 Motion in Limine #14 to Exclude Vuitton's Untimely Trial Exhibits and its Motion in Limine #15 to
 18 Preclude Vuitton's Expert Witness From Providing Additional Testimony About Actions Or
 19 Opinions Not Disclosed Prior To His Deposition.

20
 21 Dated: July 2, 2009

GAUNTLETT & ASSOCIATES

22 By: /s/James A. Lowe

23 David A. Gauntlett
 24 James A. Lowe
 25 Brian S. Edwards
 26 Christopher Lai

27 Attorneys for Defendants
 28 Akanoc Solutions, Inc.,
 Managed Solutions Group, Inc.,
 and Steve Chen