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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

LOUIS VUITTON MALLETIER, S.A.,

Plaintiff,

vs.

AKANOC SOLUTIONS, INC., et al.,

Defendants.

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

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1 1. Did any defendant contributorily infringe the *Multicolor Monogram Black Print*
2 copyrighted work?

3 As to Managed Solutions Group, Inc.: Yes _____ No _____

4 As to Akanoc Solutions, Inc.: Yes _____ No _____

5 As to Steve Chen: Yes _____ No _____

6 If "no" for all three defendants, please sign and date this form.

7 If yes as to one or more defendants, you must determine an appropriate award of statutory
8 damages. Please answer the following additional questions:

9 2. Was the contributory infringement of the *Multicolor Monogram Black Print*
10 copyrighted work innocent?

11 Yes _____ No _____

12 If yes to Question 2, please state the amount of statutory damages Louis Vuitton is
13 entitled for the contributory infringement of the *Multicolor Monogram Black Print* copyrighted
14 work:

15 \$ _____ (Between \$200 and \$30,000)

16 If no to Question 2, please answer the following question:

17 3. Was the contributory infringement of the *Multicolor Monogram Black Print*
18 copyrighted work willful?

19 Yes _____ No _____

20 If yes to Question 3, please state the amount of statutory damages Louis Vuitton is
21 entitled for the contributory infringement of the *Multicolor Monogram Black Print* copyrighted
22 work:

23 \$ _____ (Between \$750 and \$150,000)

24 If no to Question 3, please state the amount of statutory damages Louis Vuitton is
25 entitled for the contributory infringement of the *Multicolor Monogram Black Print* copyrighted
26 work:

27 \$ _____ (Between \$750 and \$30,000)

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1 4. Did any defendant contributorily infringe the *Multicolor Monogram White Print*
2 copyrighted work?

3 As to Managed Solutions Group, Inc.: Yes _____ No _____

4 As to Akanoc Solutions, Inc.: Yes _____ No _____

5 As to Steve Chen: Yes _____ No _____

6 If "no" for all three defendants, please sign and date this form.

7 If yes as to one or more defendants, you must determine an appropriate award of statutory
8 damages. Please answer the following additional questions:

9 5. Was the contributory infringement of the *Multicolor Monogram White Print*
10 copyrighted work innocent? (Please leave blank if not applicable)

11 Yes _____ No _____

12 If yes to Question 5, please state the amount of statutory damages Louis Vuitton is
13 entitled for the contributory infringement of the *Multicolor Monogram White Print* copyrighted
14 work:

15 \$ _____ (Between \$200 and \$30,000)

16 If no to Question 5, please answer the following question:

17 6. Was the contributory infringement of the *Multicolor Monogram Black Print*
18 copyrighted work willful?

19 Yes _____ No _____

20 If yes to Question 6, please state the amount of statutory damages Louis Vuitton is
21 entitled for the contributory infringement of the *Multicolor Monogram White Print* copyrighted
22 work:

23 \$ _____ (Between \$750 and \$150,000)

24 If no to Question 6, please state the amount of statutory damages Louis Vuitton is
25 entitled for the contributory infringement of the *Multicolor Monogram White Print* copyrighted
26 work:

27 \$ _____ (Between \$750 and \$30,000)

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Date: _____

Jury Foreperson

1 17 U.S.C. § 504(c) Statutory Damages.--

2 (1) Except as provided by clause (2) of this subsection, the copyright owner may elect, at any time
3 before final judgment is rendered, to recover, instead of actual damages and profits, an award of
4 statutory damages for all infringements involved in the action, *with respect to any one work*, for
5 which any one infringer is liable individually, or *for which any two or more infringers are liable*
6 *jointly and severally*, in a sum of **not less than \$750 or more than \$30,000** as the court considers
7 just. For the purposes of this subsection, all the parts of a compilation or derivative work constitute
8 one work.

9 (2) In a case **where the** copyright owner sustains the burden of proving, and the court finds, that
10 **infringement was committed willfully**, the court in its discretion may **increase the award** of
11 statutory damages **to a sum of not more than \$150,000**. In a case **where the infringer** sustains the
12 burden of proving, and the court finds, that such infringer **was not aware and had no reason to**
13 **believe that his or her acts constituted an infringement of copyright**, the court in its discretion
14 **may reduce the award of statutory damages to a sum of not less than \$200**.

15 *Mason v. Montgomery Data, Inc.*, 967 F.2d 135, 143-144 (5th Cir. 1992) (“Under this section
16 [504(c)(1) of the Copyright Act], the total number of “awards” of statutory that a plaintiff may
17 recover in any given action depends on the number of [copyrighted] works that are infringed and the
18 number of individual liable infringers, **regardless of the number of infringements of those**
19 **works.**”)

20 *McClatchey v. Associated Press*, 2007 WL 1630261 (W.D.Pa. June 4, 2007) (“There is only one
21 defendant and one work. McClatchey seeks multiple awards against AP, even though it did not name
22 any other parties, by invoking the doctrine of joint and several liability. In other words, Plaintiff
23 seeks to invoke joint and several liability to overcome the statutory limitation on damages whenever
24 there is joint and several liability. This reasoning is counterintuitive and circular at best and is
25 directly contrary to **the actual statutory text**, which **explicitly limits plaintiff to a single award**
26 **where “any two or more infringers are liable jointly and severally.”** 17 U.S.C.A. § 504(c)(1).
27 Thus, it is not necessary for the Court to reject the Nimmer hypothetical in all circumstances. **Here,**
28 **where the only Defendant is jointly and severally liable with all other alleged downstream**
infringers, Plaintiff is entitled to only a single statutory damages award.”)

A&M Records v. Abdallah, 948 F.Supp. 1449, 1457-58, (C.D.Cal.1996) (“The plaintiffs have
provided a list of 156 different sound recordings that Mr. Abdallah’s *customers* had counterfeited. . .
. Mr. Abdallah was aware that *each* legitimate sound recording that his *customers* were
counterfeiting had its own unique length . . . Given this inference, the Court finds that Mr. Abdallah
knowingly contributed to the copyright infringement of at least 156 different works. . . . According
to the evidence presented at trial, 156 separate instances of infringement is almost certainly a low
estimate. These only represent *the titles* that were known to be *copied by three of Mr. Abdallah’s*
customers. . . . Accordingly, this Court awards statutory damages of \$156,000 for 156 separate
violations of the Copyright Act.”)

MCCARTHY ON TRADEMARKS AND UNFAIR COMPETITION, Fourth Edition, Ch. 30 Remedies for
Infringement and Unfair Competition (March 2009) (“Under the Copyright Act, **one does not**
multiply the minimum and maximum limits by the number of infringing copies. For
infringement of a single copyrighted work by a single infringer, **the statutory ceiling and floor**

1 **dollar limits apply, no matter how many acts of infringement are involved** in the lawsuit, and
2 regardless of whether the acts were separate, isolated, or occurred in a related series.”)

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