

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

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

Louis Vuitton Malletier, S.A. et al,

NO. C 07-03952 JW

Plaintiff(s),

**JURY NOTES AND SUPPLEMENTAL
INSTRUCTIONS DURING
DELIBERATIONS**

v.

Akanoc Solutions, Inc. Et al,

Defendant(s).

_____/

Please see the subsequent pages for Jury Notes One through Six and the Court's Supplemental Instructions One through Three that were submitted during jury deliberations.

United States District Court
For the Northern District of California

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Annie S Wang annie@coombspc.com
3 Brian S. Edwards bse@gauntlettlaw.com
4 David A. Gauntlett info@gauntlettlaw.com
5 J. Andrew Coombs andy@coombspc.com
6 James A. Lowe info@gauntlettlaw.com

7

8

9

Dated: August 28, 2009

Richard W. Wieking, Clerk

10

11

By: /s/ JW Chambers

12

13

Elizabeth Garcia

14

15

Courtroom Deputy

16

17

18

19

20

21

22

23

24

25

26

27

28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

PRESIDING: JUDGE JAMES WARE

Case No. C-07-03952 JW

CASE TITLE: Louis Vuitton Malletier, S.A. v. Akanoc Solutions, Inc. et al

NOTE FROM THE JURY DURING DELIBERATIONS

Date: 8-27-09

Time: 9:08

Note No. 1

1. The Jury has reached a unanimous verdict. [Please mark] ()

or

2. The Jury has the following ~~question~~: comment / question

Dear Judge Ware,

① FYI, we expect to be in deliberations until at least until this afternoon.

~~②~~ Fu

DATE: 8-27-09

Robin Samuels
Signature of Jury Foreperson

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

PRESIDING: JUDGE JAMES WARE

Case No. C-07-03952 JW

CASE TITLE: Louis Vuitton Malletier, S.A. v. Akanoc Solutions, Inc. et al

NOTE FROM THE JURY DURING DELIBERATIONS

Date: 8-28-09

Time: 11:20 am

Note No. 2

1. The Jury has reached a unanimous verdict. [Please mark] ()

or

2. The Jury has the following question:

- ① End of question 1, there appears to be an extra "s". What is missing text?
- ② Page 7, line 23. Please clarify "what does 'per counterfeit mark per type of goods' mean? What is the number

DATE: 8-28-09

Rabin Samuels

Signature of Jury Foreperson

1
2
3
4
5
6
7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9 SAN JOSE DIVISION

10 Louis Vuitton Malletier, S.A.,

NO. C 07-03952 JW

11 Plaintiff,

**SUPPLEMENTAL INSTRUCTION
NO 1**

12 v.

13 Akanoc Solutions, Inc., et al.,

14 Defendants.

15 Members of the jury, in compiling the final verdict form, one of the charts of
16 trademarks was inadvertently omitted. A revised verdict form is being provided.

17 The Court has completed the wording of Question No. 1.

18 With respect to your request that the Court clarify “per counterfeit mark per
19 type of goods” you are instructed as follows: If the Plaintiff proves each of the
20 elements for contributory trademark infringement, as statutory damages you may
21 award an amount in the ranges I gave you per trademark. For example, if you find
22 from the evidence that Plaintiff has proved contributory infringement of the “LV”
23 mark, you would apply the statutory damage amount to the “LV” mark. If you also
24 find that Plaintiffs also prove contributory infringement of the “LOUIS VUITTON”
25 mark, you would apply the statutory damage amount to the “LOUIS VUITTON”
26 mark. You would repeat this process for each mark you find was contributorily
27 infringed.

28 The Plaintiff has the burden to prove that each mark is unique.

1 The word “type” in my instructions means “class.” You have received
2 evidence that some marks were registered in multiple “classes.” For example, in the
3 chart attached to the verdict form the “LV” mark is registered in classes: 18, 34, 25,
4 16, 14 and 24. Thus, the mark is registered in six classes. If you find that the “LV”
5 mark was contributorily infringed in all six classes, you could multiply the statutory
6 award for contributory infringement of the “LV” mark times six. You must find that
7 Plaintiff has proved contributory infringement in each class, however. So that if, for
8 example Plaintiff proved contributory infringement in less than all six classes, you
9 would use the lower number.

10 You would repeat this process for each mark that appears in multiple classes.

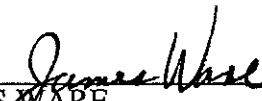
11 Thus, if in a given case handbags and shoes are two different classes of goods
12 and there are four different trademarks that you find were contributorily infringed in
13 each class of goods, then the Defendant in that case would have committed eight
14 contributory trademark infringements.

15 You should not use the number of times a particular mark in a class have the
16 used on particular goods.

17 If you find willful infringement, you would use that amount in making your
18 calculation.

19 This instruction only applies to the contributory trademark infringement claim.
20
21

22 Dated: August 27, 2009



JAMES WARE
United States District Judge

23
24
25
26
27
28

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Annie S Wang annie@coombspc.com
3 Brian S. Edwards bse@gauntlettlaw.com
4 David A. Gauntlett info@gauntlettlaw.com
5 J. Andrew Coombs andy@coombspc.com
6 James A. Lowe info@gauntlettlaw.com

7 **Dated: August 26, 2009**

Richard W. Wieking, Clerk

8 **By: /s/ JW Chambers**
9 **Elizabeth Garcia**
10 **Courtroom Deputy**

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

PRESIDING: JUDGE JAMES WARE

Case No. C-07-03952 JW

CASE TITLE: Louis Vuitton Malletier, S.A. v. Akanoc Solutions, Inc. et al

NOTE FROM THE JURY DURING DELIBERATIONS

Date: 8-28-09

Time: 3:20 pm

Note No. 3

1. The Jury has reached a unanimous verdict. [Please mark] ()

or

2. The Jury has the following question:

Trademark 695 has a class 25, and trademark 905 has classes 16 & 25. They look the same. Should we consider 695 & 905 separate instances or 1 instance of infringement? (for ~~category~~ 25)
Please clarify lines 15 & 16 on your class supplemental instructions to us.

DATE: 8-28-09

R. Dring Samuel

Signature of Jury Foreperson

1
2
3
4
5
6
7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9 SAN JOSE DIVISION

10 Louis Vuitton Malletier, S.A.,

NO. C 07-03952 JW

11 Plaintiff,

**SUPPLEMENTAL INSTRUCTION
NO 2**

12 v.

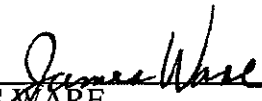
13 Akanoc Solutions, Inc., et al.,

14 Defendants.

15 There is no dispute between the parties that '695 and '905 are the same mark
16 Therefore, if you find that the mark was contributorily infringed in class 16, for
17 example, you would award to the Plaintiffs the statutory amount. If you find that the
18 mark was also contributorily infringed in class 25, you may double the statutory
19 award for infringement of that mark because then you would be finding two
20 contributory infringements of the mark.

21 As to lines 15 and 16. I gave you that instruction to clarify that if you find that
22 a mark was used by a direct infringer, the Plaintiff is not required to prove the number
23 of products on which the mark was used by a direct infringer.

24
25
26
27 Dated: August 27, 2009



JAMES WARE
United States District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

PRESIDING: JUDGE JAMES WARE

Case No. C-07-03952 JW

CASE TITLE: Louis Vuitton Malletier, S.A. v. Akanoc Solutions, Inc. et al

NOTE FROM THE JURY DURING DELIBERATIONS

Date: 8-28-09

Time: 9:25 am

Note No. 4

1. The Jury has reached a unanimous verdict. [Please mark] ()

or

2. The Jury has the following question:

1. Trademark 564. Must LV be stand alone on item or can it be part of a larger pattern?
2. ~~One juror is not satisfied that~~
There is one juror who has a question about 2 classes of goods. We have not found corresponding goods for these 2 classes. 1 juror thinks we can find ~~it~~ for it because trademark is in evidence. But we can't find examples of those 2 items

DATE: 8-28-09

Robin Samuel
Signature of Jury Foreperson

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

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

Louis Vuitton Malletier, S.A.,

NO. C 07-03952 JW

Plaintiff,

**SUPPLEMENTAL INSTRUCTION
NO 3**

v.

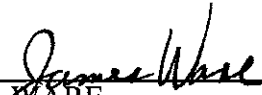
Akanoc Solutions, Inc., et al.,

Defendants.

There is no dispute between the parties that '564 is a different mark from, for example '695 and '905 in which the "LV" mark has no background.

Your verdict must be unanimous. If, based on the evidence, all of you do not agree that Plaintiff has proved that a mark has been infringed by a product or offer containing the mark, you may not include that mark in your decision.

Dated: August 28, 2009



JAMES WARE
United States District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

PRESIDING: JUDGE JAMES WARE

Case No. C-07-03952 JW

CASE TITLE: Louis Vuitton Malletier, S.A. v. Akanoc Solutions, Inc. et al

NOTE FROM THE JURY DURING DELIBERATIONS

Date: 8-28-09

Time:

Note No. 5

1. The Jury has reached a unanimous verdict. [Please mark] ()

or

2. The Jury has the following question:

We believe we will
have a verdict this afternoon.

DATE: 8-28-09

Robin Samuels
Signature of Jury Foreperson

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

PRESIDING: JUDGE JAMES WARE

Case No. C-07-03952 JW

CASE TITLE: Louis Vuitton Malletier, S.A. v. Akanoc Solutions, Inc. et al

NOTE FROM THE JURY DURING DELIBERATIONS

Date: 8-28-09

Time: ~~2:00~~ 1:05pm

Note No. 5

1. The Jury has reached a unanimous verdict. [Please mark] (X)

or

2. The Jury has the following question:

DATE: 8-28-09

Rainhamul
Signature of Jury Foreperson