

# **EXHIBIT 1621**

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
3 SAN JOSE DIVISION  
4

5 LOUIS VUITTON ) C-07-03952-JW  
6 MALLETTIER, S.A., )  
7 PLAINTIFF, ) AUGUST 19, 2009  
8 V. ) VOLUME 2  
9 AKANOC SOLUTIONS, INC., ) PAGES 1 - 230  
10 ET AL., )  
11 DEFENDANTS. )  
----- )

12  
13 THE PROCEEDINGS WERE HELD BEFORE  
14 THE HONORABLE UNITED STATES DISTRICT  
15 JUDGE JAMES WARE

16 A P P E A R A N C E S :

17 FOR THE PLAINTIFF: GAUNTLETT & ASSOCIATES  
18 BY: JAMES A. LOWE  
19 CHRISTOPHER G. LAI  
18400 VON KARMAN  
IRVINE, CALIFORNIA 92612

20 FOR THE DEFENDANTS: J. ANDREW COOMBS  
21 BY: J. ANDREW COOMBS  
22 ANNIE S. WANG  
23 517 E. WILSON AVENUE  
SUITE 202  
GLENDALE, CALIFORNIA 91206

24 (APPEARANCES CONTINUED ON THE NEXT PAGE.)

25 OFFICIAL COURT REPORTER: IRENE RODRIGUEZ, CSR, CRR  
CERTIFICATE NUMBER 8074



A P P E A R A N C E S: (CONT'D)

ALSO PRESENT:

LAW OFFICES OF J. ANDREW  
COOMBS  
BY: RUTH ADLER, PARALEGAL  
517 E. WILSON AVENUE  
SUITE 202  
GLENDALE, CALIFORNIA 91206

LVMH FASHION GROUP  
BY: NIKOLAY LIVADKIN  
2 RUE DU PONT-NEUF 75001  
PARIS, FRANCE

AKANOC SOLUTIONS, INC.  
BY: STEVE CHEN, PRESIDENT  
45535 NORTH PORT LOOP EAST  
FREMONT, CALIFORNIA 94538

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**NIKOLAY LIVADKIN** DIRECT EXAMINATION P. 4  
(RESUMED)  
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FOR THE PLAINTIFF'S:	MARKED	ADMITTED
75.1		29

**CROSS-EXAMINATION**

1  
2 BY MR. LOWE:

3 Q GOOD AFTERNOON, MR. LIVADKIN.

4 A GOOD AFTERNOON.

5 Q ISN'T IT TRUE THAT YOU DO NOT REQUIRE THAT AN  
6 ISP SEND YOU A COMMUNICATION IN RESPONSE TO A  
7 COMPLAINT OF ALLEGED COPYRIGHT OR TRADEMARK  
8 INFRINGEMENT?

9 A THAT I NOT REQUIRE?

10 Q YOU DON'T EXPECT THAT THE ISP THAT YOU SEND  
11 THESE NOTICES TO, TO GIVE YOU A RESPONSE  
12 NECESSARILY; IS THAT RIGHT?

13 A WELL, I EXPECT THE ISP TO COMPLY WITH WHAT I'M  
14 REQUESTING IN THE LETTER.

15 Q TO TAKE SOME ACTION WITH RESPECT TO THE  
16 COMPLAINT?

17 A USUALLY WHAT IS THAT PRACTICE WHEN A COMPLAINT  
18 IS SENT TO AN ISP, WE RECEIVE AT LEAST AN E-MAIL  
19 SAYING THAT OUR NOTIFICATION HAS BEEN RECEIVED.

20 MOST OF THE TIMES WE ARE ASSIGNED A  
21 TICKET, WHICH ALLOWS US TO, IN CASE OF FURTHER  
22 DEALINGS WITH THE ISP, TO REFER TO THE PARTICULAR  
23 MATTER THAT HAS BEEN BROUGHT TO THEIR ATTENTION.

24 Q ARE YOU SAYING THAT YOU DO REQUIRE OR YOU DO  
25 NOT REQUIRE A COMMUNICATION CONFIRMING THAT THE ISP

1 HOST AND WE WOULD FOCUS ON A MORE DETERRENT ACTION.

2 Q AND WHAT MIGHT THAT BE?

3 A THAT MIGHT BE A CRIMINAL OR CIVIL PROSECUTION  
4 AGAINST THE OPERATOR OF THE WEB SITE.

5 Q AND IN THE UNITED STATES OR SOMEWHERE ELSE?

6 A IT DEPENDS ON WHERE HE'S LOCATED.

7 Q ALL OF THE WEB SITES THAT YOU HAVE TESTIFIED  
8 ABOUT IN THE LAST TWO DAYS HAVE BEEN LOCATED IN  
9 CHINA; IS THAT RIGHT?

10 A I THINK SO. I THINK THAT ALL OF THEM HAVE  
11 BEEN LOCATED IN CHINA, YES.

12 Q SO AS FAR AS YOU KNOW BASED ON YOUR  
13 INVESTIGATION ALL OF THE MANUFACTURING AND ALL OF  
14 THE SALES OCCUR IN CHINA?

15 A MOST OF THE COUNTERFEIT PRODUCTS INDEED ARE  
16 PRODUCED IN CHINA. THE SALES -- THESE WEB SITES  
17 STARTED TO THE U.S. MARKET AND THE REASON WHY THESE  
18 WEB SITES ARE HOSTED HERE IN CALIFORNIA IS BECAUSE  
19 THE CHINESE OPERATORS OF THESE WEB SITES REQUIRE  
20 HIGH QUALITY INFRASTRUCTURE BASED HERE IN THE  
21 UNITED STATES TO TARGET AMERICAN CUSTOMERS.

22 THE PROBLEM IS THAT THEIR WEB SITES ARE  
23 HOSTED IN CHINA IS THAT THE CONNECTION TIME IS TOO  
24 LONG; THE RESPONSE TIME IS TOO LONG; AND USUALLY  
25 THEIR AMERICAN CUSTOMERS GIVE UP BECAUSE THE WEB

1 SITE ULTIMATELY DOESN'T WORK WELL.

2 AND BY THE WAY, THIS IS AN ARGUMENT USED  
3 BY DEFENDANTS ON THEIR WEB SITES TO MARKET THEIR  
4 PRODUCTS.

5 Q ALL RIGHT. NOW -- SO YOU AGREE THAT THE  
6 MANUFACTURING OF ALL OF THESE COUNTERFEITS THAT  
7 YOU'RE TALKING ABOUT OCCURRED IN CHINA.

8 ARE THE PEOPLE SELLING THE PRODUCTS IN  
9 CHINA AS FAR AS YOU KNOW?

10 A AS FAR AS I KNOW THE SELLER IS LOCATED IN  
11 CHINA AND THE CUSTOMERS ARE LOCATED IN THE UNITED  
12 STATES.

13 Q ALL RIGHT. WELL, THEY'RE LOCATED ALL OVER THE  
14 WORLD, AREN'T THEY?

15 A OF COURSE.

16 Q WELL, NOW, ISN'T IT ALSO TRUE THAT YOU DON'T  
17 KNOW THE IDENTITY OF ANY OF THE PEOPLE SELLING  
18 THESE PRODUCTS THAT YOU HAVE TALKED ABOUT HERE IN  
19 THE LAST TWO DAYS? YOU DON'T KNOW WHO THE PEOPLE  
20 ARE THAT ARE BEHIND ESHOES99, FOR EXAMPLE?

21 A WELL, THERE ARE MANY WEB SITES. THERE ARE  
22 MORE THAN 100. SOME OF THEM WE HAVE BEEN  
23 SUCCESSFUL TO IDENTIFY THE OPERATOR AND SOME OF  
24 THEM NOT.

25 Q OFTEN YOU CANNOT?

1 A I'M SORRY?

2 Q YOU OFTEN CANNOT IDENTIFY THE OPERATOR OF THE  
3 WEB SITE; IS THAT RIGHT?

4 A FOR CHINESE OPERATORS, I HAVE TO SAY IT'S NOT  
5 EASY TO IDENTIFY.

6 Q WHY IS IT NOT EASY?

7 A IT'S NOT EASY TO -- THE WEB SITES TARGET  
8 AMERICAN CUSTOMERS OR IN MANY CASES ENGLISH  
9 SPEAKING CUSTOMERS. SO IF AN INVESTIGATOR  
10 APPROACHES THEM IN ANOTHER LANGUAGE THAN CHINESE,  
11 IF A LAWFUL INVESTIGATOR IS USED, FOR EXAMPLE, THE  
12 WEB SITE OPERATORS BECOME SUSPICIOUS AND IT'S VERY  
13 DIFFICULT TO ESTABLISH A PRETEXT COMMUNICATION  
14 WHICH WOULD ALLOW THE INVESTIGATOR TO IDENTIFY WHO  
15 IS BEHIND THE WEB SITE.

16 Q DO THE WEB -- DO THE OPERATORS OF THIEVES WEB  
17 SITES THAT YOU COMPLAIN ABOUT OFTEN GIVE FALSE  
18 INFORMATION ABOUT THEIR IDENTITY IN YOUR  
19 EXPERIENCE?

20 A WELL, THEY JUST DON'T PROVIDE IDENTIFICATION  
21 INFORMATION.

22 Q DO YOU GET FALSE INFORMATION ABOUT THE  
23 ADDRESSES THAT THEY'RE USING FROM THE LOCATIONS  
24 FROM WHICH THEY OPERATE?

25 A VERY OFTEN THEY WILL PROVIDE INFORMATION ABOUT



1 A BOOTH WITHIN THE LEATHER MARKET IN GUANG ZOU IN  
2 CHINA AND ON THIS MARKET THERE ARE HUNDREDS OF  
3 BOOTHS.

4 Q SO A BOOTH IDENTIFICATION REALLY DOESN'T DO  
5 YOU ANY GOOD?

6 A NOT NECESSARILY. AGAIN, YOU'RE ASKING ME TO  
7 RESPOND WITH A GENERAL ANSWER TO HUNDREDS OF  
8 PARTICULAR SITUATIONS.

9 Q WELL, DO YOU EVER TAKE ACTION AGAINST THESE  
10 COUNTERFEITERS IN CHINA?

11 A YES, WE DO.

12 Q IN FACT, YOU TESTIFIED THAT LOUIS VUITTON HAS  
13 AN OFFICE IN HONG KONG?

14 A YES.

15 Q AND WHAT SORT OF ACTIONS DO YOU TAKE THERE IN  
16 ORDER TO STOP THIS COUNTERFEIT?

17 A WELL, FIRST OF ALL, WE COOPERATE WITH LOCAL  
18 CUSTOMS BOTH IN MAINLAND, CHINA AND IN HONG KONG TO  
19 ATTEMPT TO STOP THE COUNTERFEIT GOODS FROM LEAVING  
20 THESE TERRITORIES.

21 WE ALSO ORGANIZE SEVERAL RAIDS EVERY  
22 MONTHS AGAINST PRODUCTION FACILITIES. AND WHEN WE  
23 SUCCEED IN IDENTIFYING SPECIFICALLY A WEB SITE  
24 OPERATOR, WE TRY TO GET PROSECUTION IN CHINA.

25 Q DO YOU, IN FACT, PROSECUTE OR FILE LAWSUITS OR

1 A YES.

2 Q AND DO YOU FIND THAT THEY ROUTINELY BRING YOU  
3 LOTS OF RESULTS OF POTENTIALLY COUNTERFEIT  
4 PRODUCTS?

5 A YES.

6 Q ARE THEY IN THE HUNDREDS OR THOUSANDS WHEN YOU  
7 MAKE A SEARCH OF LOUIS VUITTON BAGS OR SOMETHING?

8 A WELL, WE WOULD USUALLY -- AS I SAID, WE WOULD  
9 GIVE PRIORITY TO THE WEB SITES THAT WE FIND ON THE  
10 FIRST TO SECOND PAGES OF RESULTS ON SEARCH ENGINES.

11 ANYTHING THAT IS BEYOND THE SECOND PAGE  
12 USUALLY WE DO NOT LOOK AT.

13 Q WHY IS THAT?

14 A THEY JUST DON'T BOTHER GOING ON THE FURTHER  
15 PAGES. AND FOR US IF A COUNTERFEIT OFFER IS NOT  
16 VISIBLE OR HAS LOW VISIBILITY ON THE INTERNET, THAT  
17 MAKES IT LESS OF A PROBLEM.

18 Q ISN'T IT TRUE YOU HAVE NO EVIDENCE OF THE  
19 PARTNERSHIP BETWEEN THE DEFENDANTS AND THEIR  
20 RESELLERS?

21 A I HAVE NO INFORMATION ABOUT THAT.

22 Q ISN'T IT TRUE THAT YOU HAVE NO EVIDENCE OF ANY  
23 PARTNERSHIP BETWEEN ANY OF THE DEFENDANTS AND ANY  
24 WEB SITE OR COUNTERFEIT?

25 A I HAVE NO INFORMATION ABOUT THAT. AS FAR AS

1 RESELLERS ARE CONCERNED, WE CAN CONDUCT BUSINESS  
2 DEALINGS FROM THE FACT THAT RECENTLY RESELLERS  
3 STARTED APPEARING ON THE IP HOST. SO IF DEFENDANTS  
4 AS AN UPSWING PROVIDER HAS DESIGNATED THEIR  
5 RESELLERS AS A DOWNSTREAM PROVIDER, IT MEANS FOR US  
6 THAT THERE ARE SOME BUSINESS DEALINGS BETWEEN THEM.

7 Q I'M SORRY. HOW DOES IT SHOW THAT THERE'S A  
8 BUSINESS DEALING OTHER THAN RENTING SPACE TO THE  
9 RESELLER?

10 A WELL, RENTING SPACE IS THE BUSINESS IT IS IN.

11 Q WELL, IT'S RENTING SPACE AND AN IP ADDRESS,  
12 BUT IS THERE ANY OTHER EVIDENCE OF ANY OTHER  
13 BUSINESS DEALINGS?

14 A UNLESS I DON'T UNDERSTAND WHAT YOU'RE TELLING  
15 ME, FOR ME RENTING SPACE TO SOMEONE IS A BUSINESS  
16 DEALING.

17 Q MY QUESTION, SIR, DO YOU HAVE ANY EVIDENCE OF  
18 ANY OTHER BUSINESS DEALING BETWEEN ANY OTHER  
19 RESELLER AND ANY OTHER DEFENDANT OTHER THAN RENTING  
20 A SERVER AND AN IP ADDRESS AND SOME BANDWIDTH?

21 A I HAVEN'T SEARCHED FOR THEM BECAUSE IT'S NOT  
22 REALLY MY BUSINESS.

23 Q WELL, THEN YOU HAVE NO INFORMATION ABOUT THAT,  
24 NO EVIDENCE; RIGHT?

25 A YES.

1 Q AND DO YOU KNOW WHAT THE DEFENDANTS AKANOC  
2 SOLUTIONS AND MANAGED SOLUTIONS, INC., CHARGE FOR  
3 SERVERS AND IP ADDRESSES AND BANDWIDTH ON A MONTHLY  
4 BASIS?

5 A I DON'T.

6 Q AND DO YOU KNOW WHETHER IT'S BETWEEN \$55 TO  
7 \$70 TO \$80 A MONTH?

8 A NO.

9 Q AND YOU HAVE NO INFORMATION OR EVIDENCE THAT  
10 THE DEFENDANTS GET ANY PART OF THE PROFIT FROM ANY  
11 SALE OF ANY COUNTERFEIT BAG; ISN'T THAT TRUE?

12 A NO, I DON'T.

13 Q DO YOU HAVE ANY EVIDENCE OF ANY DIRECT  
14 CONNECTION WITH ANY -- BETWEEN ANY DEFENDANT AND  
15 ANYBODY SELLING COUNTERFEIT PRODUCTS?

16 A NO.

17 Q DO YOU HAVE ANY EVIDENCE THAT ANY DEFENDANT  
18 CREATED ANY WEB SITE THAT IS USED BY ANY  
19 COUNTERFEITER?

20 A NO, I DON'T.

21 Q DO YOU HAVE ANY EVIDENCE THAT ANY DEFENDANT  
22 OPERATED OR ADVERTISED OR PROMOTED ANY WEB SITE  
23 SELLING COUNTERFEIT PRODUCTS?

24 A NO.

25 Q DO YOU HAVE ANY EVIDENCE THAT ANY OF THE

1 DEFENDANTS ADVERTISED ANY INFRINGING USE OF THE  
2 SERVERS SUCH AS "COME HERE AND WE'LL HELP YOU SELL  
3 COUNTERFEIT PRODUCTS"? HAVE YOU SEEN ANY  
4 ADVERTISEMENT LIKE THAT?

5 A NO.

6 Q THANK YOU. DO YOU HAVE ANY EVIDENCE THAT THE  
7 DEFENDANTS EVER INSTRUCTED ANY OUTSIDE OPERATOR OF  
8 HOW TO ENGAGE IN THE INFRINGING USE OF ITS SERVERS?

9 A CAN YOU REPEAT, PLEASE.

10 Q DO YOU HAVE ANY EVIDENCE THAT ANY OF THE  
11 DEFENDANTS HAVE EVER INSTRUCTED ANY WEB SITE  
12 OPERATOR HOW TO USE THEIR SERVERS FOR INFRINGEMENT?

13 A WELL, I BELIEVE I HAVE CIRCUMSTANTIAL EVIDENCE  
14 OF ALL OF THIS. I DON'T HAVE DIRECT EVIDENCE. I  
15 HAVE CIRCUMSTANTIAL EVIDENCE, EVEN THE PATTERN OF  
16 CONDUCT OF THE DEFENDANTS, THAT'S WHAT I CAN  
17 DEDUCT.

18 Q WOULD YOU PLEASE TAKE A LOOK AT YOUR  
19 DEPOSITION. I WOULD DIRECT YOUR ATTENTION TO PAGE  
20 159. IN PARTICULAR LINES 18 TO 22. DURING YOUR  
21 DEPOSITION ON APRIL 23RD, 2008 --

22 A I'M SORRY. WHAT PAGE?

23 Q I'M SORRY. 159.

24 A 159?

25 Q YES. HAVE YOU FOUND IT?

1 A YES.

2 Q LINES 18 TO 22 IS WHAT I'M DIRECTING YOUR  
3 ATTENTION TO.

4 IN THAT DEPOSITION WAS THIS QUESTION  
5 ASKED AND THIS ANSWER GIVEN: "WHAT EVIDENCE DOES  
6 LOUIS VUITTON HAVE THAT ANY OF THE DEFENDANTS  
7 ADVERTISED AN INFRINGING USE OF ITS SERVERS OR  
8 INSTRUCTED ANY WEB SITE OPERATORS HOW TO ENGAGE IN  
9 ANY INFRINGING USE OF ITS SERVER?

10 "ANSWER: I DON'T THINK WE HAVE ANY."

11 WAS THAT QUESTION ASKED AND THAT ANSWER  
12 GIVEN?

13 A YES.

14 Q THANK YOU. ISN'T IT TRUE THAT YOU HAVE NO  
15 EVIDENCE THAT THE DEFENDANTS HAD ANY AFFIRMATIVE  
16 INTENT THAT THEIR INTERNET HOSTING SERVICES WERE  
17 USED TO -- WOULD BE USED TO INFRINGE ANY RIGHTS OF  
18 LOUIS VUITTON?

19 A NO.

20 Q NO YOU DON'T HAVE ANY EVIDENCE? IS THAT WHAT  
21 YOU'RE SAYING?

22 A YES.

23 Q THANK YOU. ISN'T IT TRUE THAT YOU HAVE NO  
24 EVIDENCE THAT THE DEFENDANTS RECEIVED ANY MONEY  
25 FROM THE SALE OF INFRINGING PRODUCTS THAT MAY HAVE

1 BEEN HOSTED ON THEIR SERVERS?

2 A NO, I DON'T.

3 Q ISN'T IT TRUE THAT YOU HAVE NO EVIDENCE THAT  
4 THE DEFENDANTS RECEIVED ANY COMMISSION OR  
5 PERCENTAGE OF SALES OR ANY EXTRA MONEY, EXCEPT FOR  
6 THE HOSTING FEE FROM ANY WEB SITE SELLING  
7 INFRINGING PRODUCTS?

8 A I DON'T HAVE SUCH EVIDENCE.

9 Q ISN'T IT TRUE THAT YOU HAVE NO EVIDENCE THAT  
10 THE DEFENDANTS, ANY OF THEM, INTENTIONALLY INDUCED  
11 OR CAUSED ANY WEB SITE OPERATORS TO INTENTIONALLY  
12 INFRINGE THE RIGHTS OF LOUIS VUITTON?

13 A AGAIN, CIRCUMSTANTIAL EVIDENCE WE HAVE.  
14 DIRECT EVIDENCE, NO.

15 Q DIRECTING YOUR ATTENTION TO PAGE 171 OF YOUR  
16 DEPOSITION, AND PARTICULARLY LINES 21 TO 24.

17 DURING THAT DEPOSITION WAS THIS QUESTION  
18 ASKED AND THIS ANSWER GIVEN: WHAT EVIDENCE DOES  
19 LOUIS VUITTON HAVE THAT ANY OF THE DEFENDANTS  
20 INTENTIONALLY INDUCED OR CAUSED THE THIRD PARTY WEB  
21 SITE OPERATORS TO INFRINGE ANY RIGHTS OF LOUIS  
22 VUITTON?

23 A I'M SORRY. WHAT PAGE WAS THAT?

24 Q 171, LINES 21 TO 24.

25 WAS THIS QUESTION ASKED AND THIS ANSWER

1 GIVEN: "WHAT EVIDENCE DOES LOUIS VUITTON HAVE THAT  
2 ANY OF THE DEFENDANTS INTENTIONALLY INDUCED OR  
3 CAUSED THE THIRD PARTY WEB SITE OPERATORS TO  
4 INFRINGE ANY RIGHTS OF LOUIS VUITTON?

5 "ANSWER: I DON'T."

6 A THE QUESTION THAT YOU'RE ASKING ME TODAY IS  
7 DOES IT REFER TO THE ACTUAL MOMENT OR ARE YOU  
8 PLACING YOURSELF IN THE TIME WHEN I WAS DEPOSED?

9 Q IS IT TRUE THAT AT THE TIME THAT YOU WERE  
10 DISPOSED YOU SAID YOU HAD NO EVIDENCE?

11 A AT THE TIME I WAS DEPOSED, NO.

12 Q THANK YOU.

13 A YES, IT WAS TRUE.

14 Q WHAT EVIDENCE DO YOU HAVE TODAY, IF ANY, THAT  
15 IS DIFFERENT THAN THE TESTIMONY AT YOUR DEPOSITION  
16 THAT THERE IS ANY INTENTIONAL INDUCEMENT BY THE  
17 DEFENDANTS TO CAUSE ANY WEB SITE OPERATOR TO  
18 INFRINGE ANY RIGHT OF LOUIS VUITTON?

19 A I BELIEVE WE HAVE CIRCUMSTANTIAL EVIDENCE.

20 Q WELL, WHAT IS THAT?

21 A WE -- FROM THE PATTERN OF CONDUCT OF THE  
22 DEFENDANTS WHICH HAVE BEEN TO SYSTEMATICALLY ALLOW  
23 ALL OF THESE DOZENS OF COUNTERFEIT WEB SITES TO  
24 PERSISTENTLY COME ON THEIR SERVICE, WE HAVE  
25 DEDUCTED THAT IN A CERTAIN, IN A CERTAIN WAY



1 DEFENDANTS ARE ENCOURAGING THIS INFRINGING  
2 ACTIVITY.

3 Q ISN'T THAT JUST SPECULATION?

4 A NO.

5 Q YOU HAVE NO EVIDENCE OF ANY DIRECT CONNECTION  
6 BETWEEN ANY OF THE INFRINGEMENTS AND THE  
7 DEFENDANTS; ISN'T THAT TRUE?

8 A BETWEEN WHAT? I'M SORRY.

9 Q YOU HAVE NO DIRECT EVIDENCE OF ANY CONNECTION  
10 BETWEEN ANY INFRINGEMENTS AND THE DEFENDANTS; ISN'T  
11 THAT TRUE?

12 A CAN YOU DEFINE "INFRINGEMENTS"?

13 Q WHAT YOU SUED THESE DEFENDANTS FOR, THE DIRECT  
14 INFRINGEMENTS YOU'RE SAYING THAT THEY CONTRIBUTED  
15 TO, THAT INFRINGEMENT OF COUNTERFEIT -- OF  
16 TRADEMARK AND COPYRIGHTS OF LOUIS VUITTON THAT YOU  
17 TESTIFIED TO THE LAST TWO DAYS?

18 A NO.

19 Q YOU HAVE NO EVIDENCE OF THAT; IS THAT RIGHT?

20 A YES.

21 Q ISN'T IT TRUE THAT YOU HAVE NO EVIDENCE THAT  
22 THE DEFENDANTS PROVIDED ANY WEB HOSTING SERVICES  
23 WITH THE OBJECT OR INTENT OF PROMOTING ITS USE TO  
24 INFRINGE LOUIS VUITTON'S TRADEMARKS OR THE  
25 TRADEMARKS OF ANYONE?

1 A I DO NOT HAVE DIRECT EVIDENCE.

2 Q ISN'T IT TRUE THAT YOU HAVE NO ACTUAL EVIDENCE  
3 THAT THE DEFENDANTS ENGAGED IN ANY PURPOSEFUL  
4 CULPABLE EXPRESSION OR CONDUCT AS OPPOSED TO ANY  
5 MERE KNOWLEDGE WITH REGARD TO ANY MERE INFRINGEMENT  
6 BY ALLEGED WEB SITES USING ITS SERVERS?

7 A NO.

8 Q ISN'T IT TRUE THAT YOU HAVE NO ACTUAL EVIDENCE  
9 THAT THE DEFENDANTS ACTUALLY CONTROLLED ANY WEB  
10 SITES, SUCH AS OPERATING THEMSELVES OR CAUSING  
11 SOMEONE ELSE TO OPERATE THEM OR MANIFESTING ANY  
12 CONTROL OVER THOSE WEB SITES?

13 A WE HAVE EVIDENCE THAT THEY HAVE CONTROL.

14 Q WHAT EVIDENCE DO YOU HAVE OF CONTROL?

15 A WELL, WE HAVE TESTIMONY OF OUR EXPERT.

16 THE COURT: LET'S USE THIS SUBJECT MATTER  
17 CHANGE CONTROL, IF YOU'RE GOING TO PURSUE THAT, AS  
18 AN OPPORTUNITY TO TAKE A MID-AFTERNOON BREAK. IT'S  
19 ABOUT 2:30. WE'LL COME BACK IN ABOUT TEN MINUTES.

20 MR. LOWE: THANK YOU.

21 (WHEREUPON, A RECESS WAS TAKEN.)

22 THE COURT: VERY WELL. YOU MAY RESUME  
23 YOUR EXAMINATION.

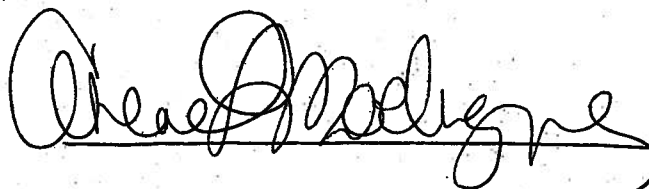
24 MR. LOWE: MAY IT PLEASE THE COURT.

25 Q MR. LIVADKIN, IN YOUR TESTIMONY EARLIER TODAY

1  
2  
3  
4 CERTIFICATE OF REPORTER  
5  
6  
7

8 I, THE UNDERSIGNED OFFICIAL COURT  
9 REPORTER OF THE UNITED STATES DISTRICT COURT FOR  
10 THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH  
11 FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY  
12 CERTIFY:

13 THAT THE FOREGOING TRANSCRIPT,  
14 CERTIFICATE, INCLUSIVE, CONSTITUTED A TRUE, FULL  
15 AND CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN  
16 AS SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS  
17 HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED  
18 TRANSCRIPTION TO THE BEST OF MY ABILITY.  
19  
20

21   
22

23 IRENE RODRIGUEZ, CSR, CRR  
24 CERTIFICATE NUMBER CSR 8074  
25