

1 J. Andrew Coombs (SBN 123881)  
2 Annie S. Wang (SBN 243027)  
3 J. Andrew Coombs, A Prof. Corp.  
4 517 E. Wilson Ave., Suite 202  
5 Glendale, California 91206  
6 Telephone: (818) 500-3200  
7 Facsimile: (818) 500-3201

8 [andy@coombspc.com](mailto:andy@coombspc.com)  
9 [annie@coombspc.com](mailto:annie@coombspc.com)

10 Attorneys for Plaintiff Louis  
11 Vuitton Malletier, S.A.

12 UNITED STATES DISTRICT COURT  
13  
14 NORTHERN DISTRICT OF CALIFORNIA (SAN JOSE)

15 Louis Vuitton Malletier, S.A.,	)	Case No. C 07 3952 JW
	)	
16 Plaintiff,	)	PLAINTIFF'S MOTION FOR LEAVE
	)	TO FILE A FIRST AMENDED
17 v.	)	COMPLAINT; DECLARATION IN
	)	SUPPORT
18 Akanoc Solutions, Inc., et al.	)	
	)	Date: September 8, 2008
19 Defendants.	)	Time: 9:00 a.m.
	)	Court: Hon. James Ware

20 TO THE COURT AND TO THE DEFENDANTS:

21 PLEASE TAKE NOTICE that on September 8, 2008 at 9:00 a.m., or as soon thereafter as  
22 the matter may be heard in the Courtroom of the Hon. James Ware, United States District Judge,  
23 located at Courtroom 8, 4<sup>th</sup> Floor of the United States District Courthouse, 280 South 1<sup>st</sup> Street, San  
24 Jose, California 95113, Plaintiff Louis Vuitton Malletier, S.A. ("Plaintiff" or "Louis Vuitton") will  
25 and hereby does move the Court for leave to file a First Amended Complaint a redline version of  
26 which is attached hereto as Exhibit A.

27 This motion is based on this Notice of Motion, Motion for Leave to File a First Amended  
28 Complaint and accompanying Memorandum of Points and Authorities, the Declarations and  
exhibits attached thereto, the exhibits and evidence to be presented at the hearing hereon, the



1 **INTRODUCTION**

2 Plaintiff Louis Vuitton Malletier, S.A. (“Louis Vuitton” or “Plaintiff”) brings this motion  
3 for leave to file its First Amended Complaint, the purpose of which is to specify the names of some  
4 of the websites at issue. An amendment will address Defendants Akanoc Solutions, Inc., Managed  
5 Solutions Group, Inc. and Steven Chen’s (collectively “Defendants”) concern that websites relating  
6 to this matter be listed in the Complaint, though Plaintiff does not waive its position that these  
7 specifically named websites were already at issue under the original complaint. In view of the  
8 nature of the amendment and the absence of any prejudice or delay in granting the requested leave,  
9 Plaintiff submits leave be freely granted as contemplated by the applicable rules.  
10

11 **STATEMENT OF FACTS**

12 Louis Vuitton alleges claims for infringement of valuable intellectual property rights arising  
13 out of systematic and extensive online sales of pirated goods through websites hosted by  
14 Defendants despite notice of such infringement.  
15

16 Plaintiff independently identified the websites listed in the amendment as Defendants have  
17 never produced any data from any webpage hosted by them, stating the lack of information was  
18 partly due to a “crash” which occurred in or around June of 2007. Declaration of J. Andrew  
19 Coombs (“Coombs Decl.”) at ¶ 4. Plaintiff is also awaiting the order on its motion to compel or, in  
20 the alternative, inspect electronic records due to a continued default in the discovery process by  
21 Defendants. Id. Defendants have been notified since as early as November of 2007, of these  
22 specified websites, most of which were the subject of discovery requests to and from Defendants  
23 and deposition questions by Defendants. Id. at ¶ 3. No website in the amendment has not been  
24 previously brought to Defendants’ attention through counsel. Id.  
25

26 Recently, Defendants claimed that only five (5) websites were at issue despite the  
27 notification letters, discovery history, and clear language of the Complaint which states, “The  
28

1 websites hosted by servers maintained by the ISP Defendants include but are not limited to...”  
2 Compl. p. 10, ¶ 31; Coombs Decl. at ¶¶ 3-5. As the amendment does not require any change to any  
3 preliminary pre-trial date set by the Court pursuant to the Scheduling Order, is requested due to the  
4 position taken by Defendants, and does not prejudice the Defendants, Plaintiff respectfully requests  
5 that the Court grant this motion for leave to file a First Amended Complaint.  
6

### 7 ARGUMENT

8 Fed. R. Civ. P. 15(a) provides that “leave [to amend the pleadings] shall be freely given  
9 when justice so requires” and lies “within the sound discretion of the trial court.” DCD Programs,  
10 Ltd. V. Leighton, 833 F.2d 183, 185 (9<sup>th</sup> Cir. 1987) (quoting United States v. Webb, 655 F.2d 977,  
11 979 (9<sup>th</sup> Cir. 1981).  
12

13 In exercising its discretion, “leave to amend should be granted unless amendment would  
14 cause undue prejudice to the opposing party, is sought in bad faith, is futile, or creates undue  
15 delay.” Martinez v. Newport Beach City, 125 F.3d 777, 785 (9<sup>th</sup> Cir. 1997); see also Foman v.  
16 Davis, 371 U.S. 178, 182 (1962). In making this determination, “a court must be guided by the  
17 underlying purpose of Rule 15, -- to facilitate decision on the merits rather than on the pleadings or  
18 technicalities.” DCD Programs, 833 F.2d at 186 (quoting Webb, 655 F.2d at 979). “In adhering to  
19 Rule 15’s policy favoring amendment, the court should apply that policy with ‘extreme liberality.’”  
20 Id.; Imax Corporation, et al v. In-Three, Inc., 2005 U.S. Dist. Court 24198, at \*3-4 (C.D. Cal. July  
21 8, 2005).  
22

#### 23 I. Plaintiff’s Motion Merely Identifies the Minimum Websites at Issue in Response to 24 Defendants’ Concerns of the Scope of the Original Complaint.

25 The proposed First Amended Complaint merely specifies websites which have been the  
26 subject of numerous cease and desist letters on behalf of Plaintiff to Defendants. Coombs Decl. at  
27 ¶ 3. The specifically listed websites have been identified by Plaintiff as selling counterfeit Louis  
28

1 Vuitton branded goods while hosted by Defendants. No claims are added or changed as to  
2 Defendants.

3 II. Factors Against Granting Leave to Amend are Absent in this Case.

4 Defendants are not prejudiced by the proposed amendment because the underlying claims  
5 remain unchanged and Defendants have been notified of the names of the specified websites post-  
6 filing of the Complaint through letters from Plaintiff dated as early as November of 2007. Coombs  
7 Decl. at ¶ 3. Defendants have conducted discovery as to most of the websites listed in the  
8 amendment and in any event, have claimed they lack associated data which was the subject of  
9 Plaintiff's motion to compel. Id. at ¶ 4. The proposed amendment will make the Complaint more  
10 clear given Defendants' position on the websites at issue. Id. at ¶ 5. Only after Defendants stated  
11 that they did would not change their position on this issue and that they would not stipulate to the  
12 proposed leave, did Plaintiff file the present motion.

13  
14  
15 Second, Plaintiff's proposed amendment is not made in bad faith as Plaintiff merely  
16 attempts to clarify the scope of the claim in response to Defendants' concerns and the websites  
17 were identified as quickly as possible without the aid of Defendants. Defendants have not provided  
18 any webpage data of any websites they host despite repeated requests which prompted Plaintiff's  
19 Motion to Compel. Id. at ¶ 4.

20  
21 Third, Plaintiff's proposed amendment would not be futile as it would more correctly  
22 clarify the websites at issue. The amendment better states the scope of Plaintiff's claims and  
23 facilitates a more complete resolution of the action.

24 Lastly, Plaintiff's proposed amendment does not create undue delay as it comes before the  
25 court far in advance of the preliminary pre-trial conference which is set for September 8, 2008.  
26 The hearing for the present motion will occur concurrently with the currently set preliminary pre-  
27 trial conference in this matter.

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**CONCLUSION**

For the foregoing reasons, Plaintiff respectfully requests that the Court grant its motion for leave to file a first amended complaint, a copy of which is attached hereto as Exhibit B and separately lodged.

Dated: July 15, 2008

J. Andrew Coombs, A Professional Corp.

/s/ J. Andrew Coombs  
By: J. Andrew Coombs  
Annie Wang  
Attorneys for Plaintiff Louis Vuitton Malletier, S.A.

1 **DECLARATION OF J. ANDREW COOMBS**

2 I, J. Andrew Coombs, declare as follows:

3 1. I am an attorney at law duly admitted to practice before the Courts of the State of  
4 California and the United States District Court for the Northern District of California. I am counsel  
5 of record for Plaintiff Louis Vuitton Malletier, S.A. (“Plaintiff” or “Louis Vuitton”) in an action  
6 styled Louis Vuitton Malletier, S.A. v. Akanoc Solutions, Inc., et al., Case No. C 07 3952 JW. I  
7 submit this declaration in support of Plaintiff’s motion for leave to file a First Amended Complaint  
8 in this matter. Except as otherwise stated to the contrary, I have personal knowledge of the  
9 following facts and, if called as a witness, I could and would competently testify as follows.  
10

11 2. A redlined copy of the proposed First Amended Complaint is attached hereto as  
12 Exhibit A, and a clean copy is attached hereto as Exhibit B. Like the initial Complaint filed in this  
13 matter, the First Amended Complaint pleads causes of action for contributory and vicarious  
14 infringement of valuable intellectual properties owned by Plaintiff. The First Amended Complaint  
15 expressly identifies websites hosted by Defendants which were selling counterfeit Louis Vuitton  
16 branded goods.  
17

18 3. Starting on or about November 26, 2007, my office began sending letters to  
19 Defendants’ counsel identifying more specifically websites which were hosted by Defendants and  
20 selling counterfeit Louis Vuitton merchandise. Most of the websites identified in the amendment  
21 were the subject of discovery requests to and from Defendants and were touched upon in  
22 deposition questions by Defendants. Letters of notice of infringements continued to be sent to  
23 Defendants in March, April, and June and I am informed and believe notification on one occasion  
24 was completed by telephone. The specified websites in the amendment are all those which  
25 Defendants have been previously notified as infringing.  
26  
27  
28



# **EXHIBIT A**

1 J. Andrew Coombs (SBN 123881)  
2 Annie S. Wang (SBN 243027)  
3 J. Andrew Coombs, A Prof. Corp.  
4 517 East Wilson Avenue, Suite 202  
5 Glendale, California 91206  
6 Telephone: (818) 500-3200  
7 Facsimile: (818) 500-3201

8 andy@coombspc.com  
9 annie@coombspc.com

10 Attorneys for Plaintiff Louis  
11 Vuitton Malletier, S.A.

12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA (SAN JOSE)

14 Louis Vuitton Malletier, S.A., )  
15 )  
16 Plaintiff, )  
17 )  
18 v. )  
19 )  
20 Akanoc Solutions, Inc., Managed Solutions )  
21 Group, Inc., Steven Chen and Does 1 through 10, )  
22 inclusive, )  
23 )  
24 Defendants. )

25 Case No.: CV07-3952 JW  
26 First Amended Complaint For:  
27 Contributory and Vicarious Trademark  
28 Infringement; Contributory and  
Vicarious Copyright Infringement

1 Plaintiff Louis Vuitton Malletier, S.A. (“Louis Vuitton” or “Plaintiff”) for its first amended  
2 complaint alleges as follows:

3 **I. Jurisdiction and Venue**

4 1. The claims alleged herein arise under the Trademark Act, 15 U.S.C. § 1051, et seq.,  
5 and under the Copyright Act of 1976, 17 U.S.C. § 101, et seq., for (i) contributory and vicarious  
6 liability for trademark infringement; and (iii) contributory and vicarious liability for copyright  
7 infringement.

8 2. This Court has original jurisdiction over the subject matter of this action pursuant to  
9 15 U.S.C. § 1121, 28 U.S.C. §§ 1331, 1332 and 1338.

Deleted: 450 North Brand Blvd., Suite  
600

Deleted: 91203-2349

Deleted: 291-6444

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1           3.       This Court has personal jurisdiction over the Defendants because they do business  
2 and/or reside in the State of California and, as to the entities, do business, are incorporated, and/or  
3 are authorized to do business in the State of California.

4           4.       Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

5  
6       **II. Introduction**

7           5.       The substantial profits to be reaped from piracy and counterfeiting have led to the  
8 creation, development and proliferation of business models, the object of which is to capitalize on  
9 world famous trademarks and copyrights owned by others, including those owned by Plaintiff. The  
10 opportunities created by the Internet have led to a dramatic increase in the opportunities to profit  
11 from such activity. These opportunities rely upon the active participation and contribution of third  
12 parties which make such illegal activities possible.

13  
14           6.       In particular, the promotion of infringing product and the offer of product for sale  
15 occurs through communications published on the Internet. These promotions, advertisements and  
16 offers are often published on websites which can be accessed by entering Internet addresses or  
17 through hypertext links which direct Internet users to websites containing such offers.  
18 Communications designed to complete sales of such infringing merchandise are transmitted over  
19 servers which host these same websites.

20  
21           7.       Defendants Akanoc Solutions Inc. (“Akanoc”) and Managed Solutions Group, Inc.  
22 (“MSGI”) operate servers hosting websites. Louis Vuitton is informed and believes that Defendant  
23 Steven Chen is an individual with responsibility for the operation and management of Akanoc and  
24 MSGI and that Akanoc and MSGI are under common control and ownership. Louis Vuitton is  
25 further informed and believes that Akanoc and MSGI were formed for and exist primarily to  
26 facilitate the promotion and advertisement of offers for counterfeit and infringing merchandise.  
27 Akanoc and MSGI aid and abet the distribution and sale of counterfeit and infringing merchandise  
28

1 through the provision of Internet hosting services and they do so knowingly and despite having  
2 been provided with full notice of such conduct. Louis Vuitton is informed and believes that  
3 Akanoc, MSGI and Chen benefit financially from the services they render hosting website which  
4 offer counterfeit Louis Vuitton merchandise and through which sales of such merchandise are  
5 consummated.

6  
7 **III. The Parties: Plaintiff**

8 8. Plaintiff is organized and existing under the laws of the Republic of France, with its  
9 principal place of business in Paris, France. Plaintiff owns the trademarks and trade names  
10 “LOUIS VUITTON”, “VUITTON” and “LV” (hereinafter collectively referred to as “Plaintiff’s  
11 Trademarks”). Plaintiff has engaged in services using Plaintiff’s Trademarks and Plaintiff is the  
12 exclusive distributor in the United States of handbags, luggage and accessories, all of which bear  
13 one or more of Plaintiff’s Trademarks. Plaintiff distributes authentic product online through  
14 [www.eluxury.com](http://www.eluxury.com).

15  
16 9. Plaintiff is the sole and exclusive distributor in the United States of leather goods  
17 bearing Plaintiff’s Trademarks, which are exclusively manufactured in France, Spain and San  
18 Dimas, California. Plaintiff is engaged in the manufacture, sale and distribution in interstate and  
19 foreign commerce of prestigious high-quality, luxury merchandise, including a wide variety of  
20 luggage, handbags, trunks, garment bags, wallets, small leather goods, apparel and other similar  
21 items sold throughout the United States in Louis Vuitton boutiques, and high quality retail stores  
22 such as Saks Fifth Avenue, Neiman Marcus and Bloomingdale’s that contain departments operated  
23 by Plaintiff and staffed by Plaintiff’s personnel.

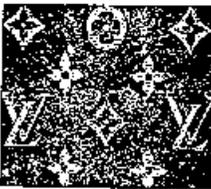
24  
25 10. Plaintiff is responsible for assembling, finishing, marketing and selling in interstate  
26 commerce high quality handbags, luggage, accessories and related products and/or services for  
27 men and women. Plaintiff has acquired an outstanding reputation because of the uniform high  
28

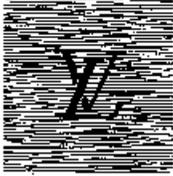
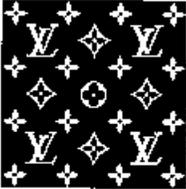
1 quality of its handbags, luggage and accessories and the boutiques through which Plaintiff sells  
2 these products.

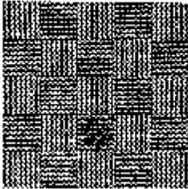
3 11. As a result of the Louis Vuitton boutiques, extensive advertising of Louis Vuitton in  
4 connection with Plaintiff's intellectual properties, the widespread sale of Louis Vuitton  
5 merchandise and the celebrity that Plaintiff and Plaintiff's intellectual properties have achieved,  
6 Louis Vuitton boutiques, handbags, luggage and accessories, all utilizing and/or bearing one or  
7 more of Plaintiff's intellectual properties have been and are now recognized by the public and the  
8 trade as originating from Plaintiff.  
9

10 12. Commencing at least as early as 1932, Plaintiff adopted one or more of Plaintiff's  
11 Trademarks for handbags, luggage, accessories and related products and caused said trademarks to  
12 be registered in the United States Patent and Trademark Office.  
13

14 13. Plaintiff is the owner of all rights in and to numerous trademarks including, but not  
15 limited to, Plaintiff's Trademarks that are the subject of the following trademark registrations:

TRADEMARK	REGISTRATION NUMBER	TRADEMARK PICTURE	CLASS OF GOODS
Louis Vuitton (Interlocked Letters) in a Circle Design	286,345		18
Louis Vuitton (Interlocked Letters) and Monogram Canvas Design	297,594		18
LOUIS VUITTON	1,045,932	LOUIS VUITTON	18

TRADEMARK	REGISTRATION NUMBER	TRADEMARK PICTURE	CLASS OF GOODS
Louis Vuitton (Interlocked Letters) Design	1,519,828		18
LOUIS VUITTON MALLETIER A PARIS in Rectangle	1,615,681		16, 18
Louis Vuitton (Interlocked Letters) on Epi Leather Design	1,655,564		18
Louis Vuitton (Interlocked Letters) and Monogram Canvas Pattern Design	1,770,131		25
Louis Vuitton (Interlocked Letters) Design	1,794,905		16, 25
Louis Vuitton (Interlocked Letters) and Monogram Canvas Design	1,875,198		16

TRADEMARK	REGISTRATION NUMBER	TRADEMARK PICTURE	CLASS OF GOODS
Louis Vuitton (Interlocked Letters)	1,938,808		14, 24
LOUIS VUITTON World Mark	1,990,760	LOUIS VUITTON	16, 18, 24, 25
Louis Vuitton (Interlocked Letters) Design	2,291,907		34
LOUIS VUITTON	2,303,212	LOUIS VUITTON	34
Louis Vuitton (Interlocked Letters) Design	2,361,695		25
LOUIS VUITTON PARIS and Damier (pattern design)	2,378,388		18

14. Plaintiff's Trademarks are in full force and effect, and are used and have never been abandoned. Plaintiff intends to continue to preserve and maintain its rights with respect to Plaintiff's Trademarks.

1           15. Plaintiff's products utilizing and/or bearing one or more of Plaintiff's Trademarks,  
2 by reason of their style, distinctive designs and quality have come to be known by the purchasing  
3 public throughout the United States as being of the highest quality. As a result thereof, Plaintiff's  
4 Trademarks and the goodwill associated therewith are of inestimable value to Plaintiff.  
5

6           16. Based on the Louis Vuitton boutiques and the extensive sales of Plaintiff's products  
7 and their wide popularity, Plaintiff's Trademarks have developed a secondary meaning and  
8 significance in the minds of the purchasing public, and the services and products utilizing and/or  
9 bearing such marks and names are immediately identified by the purchasing public with Plaintiff.  
10

11           17. Those trademarks are vital to Plaintiff, and Plaintiff will suffer irreparable harm if  
12 any third parties, including Defendants herein, are allowed to continue engaging in services and  
13 selling infringing goods utilizing and/or bearing identical or substantially similar trademarks.  
14

15           18. Louis Vuitton has also registered its copyrights in the United States Copyright  
16 Office and uses those copyrights in connection with its sale of luxury products. A significant  
17 aspect of Louis Vuitton's business is the merchandising of product incorporating the distinctive  
18 elements associated with its luxury goods.  
19

20           19. The revenue from products that bear Louis Vuitton designs and are sold in the  
21 United States is substantial. The appearance and other features of the Louis Vuitton designs are  
22 inherently distinctive. The design, configuration, and distinctive features of the Louis Vuitton  
23 copyrighted works, and of works related thereto (hereinafter collectively, the "Louis Vuitton  
24 Copyrighted Designs"), are wholly original with Louis Vuitton and, as fixed in various tangible  
25 media, including merchandise, are copyrightable subject matter under the United States Copyright  
26 Act, 17 U.S.C., Sections 101 et seq. Louis Vuitton is the owner of the Louis Vuitton Copyrighted  
27 Designs, which, as featured in connection with various merchandise, are copyrightable subject  
28 matter under the Copyright Act of 1976, 17 U.S.C. § 101, et seq. (The Plaintiff's Trademarks and

1 the Louis Vuitton Copyrighted Designs are hereinafter collectively referred to as the “Louis  
2 Vuitton Intellectual Properties”).

3 20. Louis Vuitton has complied in all respects with the laws governing copyright and  
4 has secured the exclusive rights and privileges in and to the copyrights to Louis Vuitton  
5 Copyrighted Designs. Louis Vuitton owns certificates of registration for works in which the Louis  
6 Vuitton Copyrighted Designs appear. Copyright registrations secured by Louis Vuitton for the  
7 Louis Vuitton Copyrighted Designs include:  
8

9

<u>Copyright</u>	<u>Reg. No.</u>	<u>Date Published</u>	<u>Date Registered</u>
Multicolor Monogram – Black Print	VA 1-250-121	12/18/02	06/24/04
Multicolor Monogram – White Print	VA 1-250-120	12/18/02	06/24/04

10  
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15 21. Products featuring the Louis Vuitton Copyrighted Designs that are manufactured,  
16 sold, and distributed by Louis Vuitton or under its authority have been manufactured, sold, and  
17 distributed in conformity with the provisions of the copyright laws. Louis Vuitton and those acting  
18 under its authority have complied with their obligations under the copyright laws and Louis  
19 Vuitton, in its own right or as successor-in-interest, has at all times been the sole proprietor or  
20 otherwise authorized to enforce all right, title, and interest in and to the copyrights in the Louis  
21 Vuitton Copyrighted Designs.  
22

23 22. Louis Vuitton maintains strict quality control standards for all its products. All  
24 genuine Louis Vuitton products are inspected and approved by Louis Vuitton prior to distribution  
25 and sale and are sold only through Louis Vuitton stores and Louis Vuitton boutiques within  
26 department stores such as Saks Fifth Avenue, Neiman Marcus, and Bloomingdales, and  
27 ELuxury.com. No Louis Vuitton product is sold by anyone other than Louis Vuitton. By  
28

1 definition, any new (i.e. unused) product bearing any of the Louis Vuitton Intellectual Properties  
2 that is sold anywhere other than at a Louis Vuitton store (or ELuxury.com) is not a genuine Louis  
3 Vuitton product but rather a counterfeit product. Plaintiff does not sell its high-end products  
4 through licensees or franchisees and Plaintiff has not authorized independent retail vendors to  
5 engage in services and advertising utilizing and/or displaying the Louis Vuitton Intellectual  
6 Properties  
7

8 23. At great expense, Louis Vuitton has created, developed, manufactured, advertised,  
9 and marketed its products in such a way that they convey and are associated with luxury products  
10 that meet the highest standards and are used by celebrities and dignitaries around the world.

11 24. Louis Vuitton's goods, so marked, continue to be recognized by the fashion industry  
12 and public as those of Louis Vuitton.

13 25. The Louis Vuitton Intellectual Properties and the goodwill of Louis Vuitton's  
14 business in connection with its trademarks and copyrights are continuously used and have never  
15 been abandoned.  
16

17 **IV. The Parties: Defendants**

18 26. Louis Vuitton is informed and believes that Akanoc is a California corporation with  
19 its principal office in Fremont, California. Akanoc is an internet service provider which, among  
20 other things, hosts commercial websites.  
21

22 27. Louis Vuitton is informed and believes that MSGI is a California corporation with  
23 its principal office in Fremont, California. MSGI is an internet service provider which, among  
24 other things, hosts commercial websites. Akanoc and MSGI are collectively referred to herein as  
25 the "ISP Defendants".  
26  
27  
28

1 28. Louis Vuitton is informed and believes that Steve Chen is an individual resident in  
2 the City of Fremont and State of California. Louis Vuitton is further informed and believes that  
3 Steve Chen is an officer, owner and/or managing employee of Akanoc and MSGI.

4 29. Plaintiff is informed and believes, and upon that basis alleges, that at all relevant  
5 times each of the defendants Does 1 through 10, inclusive, are unknown to Plaintiff, who therefore  
6 sues such Doe defendants as individuals and/or business entities, agents, partners, and/or  
7 employees of the named Defendants, which, in taking the actions alleged in this Complaint, were  
8 acting within the scope of such agency, partnership, and/or employment.

9  
10 **V. The Infringing Activities**

11 30. The ISP Defendants host websites (the “Counterfeiting Websites”) and facilitate  
12 communications between the sellers of counterfeit product who operate the Counterfeiting  
13 Websites and their customers. The Counterfeiting Websites offer, promote, advertise and facilitate  
14 the offer and sale of counterfeit merchandise which infringes the intellectual property rights of  
15 Louis Vuitton, among others. The Counterfeiting Websites publish unauthorized reproductions of  
16 the Louis Vuitton Copyrighted Designs to promote the sale of counterfeit merchandise. Louis  
17 Vuitton is informed and believes that the servers upon which the Counterfeiting Websites are  
18 hosted are also used to transmit communications by and between the operators of the  
19 Counterfeiting Websites and their customers.

20 31. The websites hosted by servers maintained by the ISP Defendants include but are  
21 not limited to the following: 315EC.com, Ape168.com, Atozbrand.com, At88.com, Bag1881.net,  
22 Bag4Sell.com, Bag925.com, BigWorldShoes.com, Bizyao.com, BrandFashioner.com,  
23 Brandstreets.com.cn, BrandStyleSales.com, Brandtrading.net, BuyMyShoes.net, Cn-nike.us,  
24 DreamyShoes.com, Eastarbiz.com, Eastarbiz.net, EBuyNike.com, ECshoes.com, EGoToBuy.com,  
25 EMSYou.com, EShoes99.com, Eshoes99.net, Famous-Shop.com, Fansjersey.com,  
26  
27  
28

Deleted: atozbrand  
Deleted: bag925  
Deleted: ape168  
Deleted: wendy929  
Deleted: and eshoes99.com.

1 [GucciFendi.com](#), [GZ-Free.com](#), [HandBagSell.com](#), [Imitation-Gold.com](#), [InNike.com](#),  
2 [Lkkfashion2006.com](#), [Ilouisvuitton.com](#), [LongTimeGroup.com](#), [Louis-vuitton-bags.org](#),  
3 [Louisvuittonbagz.com](#), [LoverNike.com](#), [LuxeLike.com](#), [Luxury2Us.com](#), [LVBagz.com](#), [lv-](#)  
4 [handbag.com](#), [lv-nike.com](#), [MailGoods.com](#), [Myshoes99.com](#), [Nike558.com](#), [Nikeexp.com](#),  
5 [NikeShoesOffer.com](#), [NikeWTO.com](#), [NonStopBeauty.com](#), [PFCStation.com](#), [PickHipHop.com](#),  
6 [PickYourGoods.com](#), [PickYourOrder.com](#), [Pro-Jordan.com](#), [Queen-bag.com](#), [Replica-ebags.com](#),  
7 [Replicabc.com](#), [RRGNL.com](#), [Shoes-Order.com](#), [SoApparel.com](#), [Soapparel.net](#), [Sportsvendor.biz](#),  
8 [Sunny7Shoes.com](#), [Super925.com](#), [Swisshours.biz](#), [Top-handbag.com](#), [Tytrade88.com](#),  
9 [Watchesnreplica.com](#), [WatchesReplica.net](#), [WatchNReplica.net](#), [WearOnline.net](#), [Wendy929.com](#),  
10 [Wendy929.net](#), [Wendyluxury.com](#), [WorldKeyTrade.com](#), [YeahEBay.com](#), [Yseenet.net](#). Louis

11  
12 Vuitton is further informed and believes that most, if not all, of the websites hosted by the ISP  
13 Defendants are engaged in the trafficking of counterfeit merchandise, specifically including  
14 merchandise infringing the Louis Vuitton Intellectual Properties.  
15

16 32. Defendants have been repeatedly placed on notice of the counterfeit activity which  
17 occurs using the hosting services offered by the ISP Defendants. Louis Vuitton has not granted  
18 any of the Defendants license to use, exploit any of the Louis Vuitton Intellectual Properties. The  
19 ISP Defendants have taken no steps to limit, curtail, disable, stop or otherwise discontinue the  
20 services they provide which make such infringing activity possible. Louis Vuitton is informed and  
21 believes that the ISP Defendants generate revenue and profit from the Internet traffic and  
22 counterfeit sales which occur as a result of their hosting activity.  
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24 33. Plaintiff has no adequate remedy at law and is suffering irreparable harm and  
25 damages as a result of the acts of Defendants as aforesaid in an amount thus far not determined.  
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**FIRST CLAIM FOR RELIEF**

**(For Contributory Trademark Infringement)**

34. Plaintiff repeats and re-alleges all of the allegations contained in paragraphs 1 through 33, inclusive, as though fully set forth herein.

35. The Counterfeiting Websites are engaging in illegal conduct including but not necessarily limited to the promotion, advertisement, offer for sale, sale and distribution of counterfeit goods in violation of the Lanham Act, as amended.

36. Defendants have actual knowledge of the Counterfeiting Websites' illegal activities from, among other things, written notification by counsel and agents for Plaintiff.

37. Defendants have deliberately disregarded these notifications and have otherwise consciously avoided learning about the full extent of illegal counterfeiting and infringing activities that are continuing at the Counterfeiting Websites.

38. Defendants have materially encouraged, enabled, and contributed to the infringing conduct at the Counterfeiting Websites by providing, among other things, hosting the Counterfeiting Websites, displaying offers for counterfeit products, facilitating communications by and between the sellers of counterfeit goods over the Counterfeiting Websites and their distributors, consumers and vendors.

39. Defendants therefore bear contributory liability for the Counterfeiting Websites' counterfeiting of the Plaintiff's Trademarks in violation of 15 U.S.C. § 1051, et seq. and the common law.

40. Plaintiff has no adequate remedy at law and has suffered irreparable harm and damage as a result of the contributory counterfeiting conduct of the Defendants.

1 41. Plaintiff has sustained damages as a result of the Defendants' wrongful contributory  
2 conduct in an amount to be ascertained at trial but in no event less than One Million Dollars  
3 (\$1,000,000) per trademark per counterfeit.

4 **SECOND CLAIM FOR RELIEF**

5 **(For Vicarious Trademark Counterfeiting)**

6  
7 42. Plaintiff repeats and re-alleges all of the allegations contained in paragraphs 1  
8 through 41, inclusive, as though fully set forth herein.

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9 43. The illegal sales of products that infringe on the Plaintiff's Trademarks have  
10 generated enormous sums of monies for the Counterfeiting Websites.

11 44. Despite the Defendants' duty and right to control the Counterfeiting Websites, they  
12 have taken no steps to stop or otherwise prevent the ongoing counterfeiting at the websites  
13 operated by the Counterfeiting Websites or to disconnect links directing its users to such websites.

14 45. Defendants are therefore vicariously liable for the damages caused to Plaintiff as a  
15 result of the illegal promotion, advertisement, offer for sale and/or sale of counterfeit merchandise  
16 at the Counterfeiting Websites in violation of 15 U.S.C. § 1051, et seq. and the common law.

17 46. Plaintiff has sustained damages as a result of the Defendants' wrongful vicarious  
18 conduct in an amount to be determined at trial but in no event less than One Million Dollars  
19 (\$1,000,000) per trademark per counterfeited.

20 **THIRD CLAIM FOR RELIEF**

21 **(Contributory and Vicarious Copyright Piracy)**

22  
23 47. Plaintiff repeats and re-alleges all of the allegations contained in paragraphs 1  
24 through 33, inclusive, as though fully set forth herein.

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25 48. Louis Vuitton is informed and believes that Defendants earn revenues for hosting  
26 the Counterfeiting Websites for each Internet user directed to websites operated by the  
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1 Counterfeiting Websites. The ISP Defendants do so pursuant to terms of use which permit them to  
2 discontinue links through websites offering product infringing the rights of third parties.

3 49. Defendants have actual knowledge of the illegal acts of the Counterfeiting Websites  
4 from, among other things, written notification from Louis Vuitton. Defendants have therefore  
5 deliberately disregarded and otherwise consciously avoided learning about the full extent of illegal  
6 counterfeiting and infringing activities that are continuing at the websites operated by the  
7 Counterfeiting Websites.  
8

9 50. Defendants have knowingly and willfully permitted and continue to permit the  
10 Counterfeiting Websites to sell and offer for sale unauthorized copies of products bearing the Louis  
11 Vuitton Intellectual Properties at the Counterfeiting Websites.  
12

13 51. Defendants have therefore materially encouraged, enabled, and contributed to the  
14 infringing conduct at the websites operated by the Counterfeiting Websites.

15 52. Plaintiff has sustained, and will continue to sustain, substantial injuries, loss, and  
16 damage to its exclusive rights in the Louis Vuitton Copyrights, and Plaintiff has sustained and will  
17 continue to sustain damages from the loss of value of the exclusive rights thereunder as a result of  
18 the Defendants' wrongful conduct in an amount to be determined at trial but in no event less than  
19 One Hundred and Fifty Thousand Dollars (\$150,000) per copyright infringed.  
20

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff demands:

23 1) That Defendants and their officers, agents, servants, employees, representatives,  
24 successors, and assigns; and all other persons, firms, or corporations in active concert or  
25 participation with them who receive actual notice of this Order, be temporarily, preliminarily and  
26 permanently enjoined and restrained from:  
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- a) directly or indirectly infringing Plaintiff's Trademarks or any marks similar thereto, in any manner, including generally, but not limited to engaging in services and manufacturing, importing, distributing, advertising, selling, and/or offering for sale any merchandise which infringes said Trademarks and specifically:
  - i) advertising, selling, and/or offering for sale any other unauthorized merchandise, which pictures, reproduces, or utilizes the likenesses of or which copy or are likely to cause consumer confusion with any of Plaintiff's Trademarks;
  - ii) hosting websites which offer product purporting to be Plaintiff's product or any imitation or replica thereof;
- b) indirectly infringing the Louis Vuitton Copyrights and Designs, in any manner, including generally, but not limited to engaging in services and manufacturing, importing, distributing, advertising, selling, and/or offering for sale any merchandise which infringes said Copyrights and specifically:
  - i) advertising, selling, and/or offering for sale any other unauthorized merchandise, which pictures, reproduces, or utilizes the likenesses of or which copy or are substantially similar to any of the Louis Vuitton Copyrights and Designs;
  - ii) hosting websites which offer product purporting to be Plaintiff's product or any imitation or replica thereof;
- c) effecting assignments or transfers, forming new entities or associations or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth in subparagraphs A and B.

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2) That Defendants be required to account to Plaintiff for all profits and damages resulting from Defendants' infringing activities and that the award to Plaintiff be increased as provided for under 15 U.S.C. §1117;

3) That Defendants pay over to Plaintiff in the alternative statutory damages pursuant to 15 U.S.C. § 1117(c);

4) That Plaintiff have a recovery from Defendants of the costs of this action and Plaintiff's reasonable attorneys' fees pursuant to 15 U.S.C. §1117(b);

5) That Defendants be required to account to Plaintiff for all profits and damages resulting from Defendants' respective infringing activities as provided for under 17 U.S.C. §504;

6) That Defendants pay over to Plaintiff in the alternative statutory damages pursuant to 15 U.S.C. § 504;

7) That Plaintiff have a recovery from Defendants of the costs of this action and Plaintiff's reasonable attorneys' fees pursuant to 17 U.S.C. §505;

8) That Plaintiff has all other and further relief as the Court may deem just and proper under the circumstances.

Dated: July 15, 2008

J. ANDREW COOMBS  
A Professional Corporation

/s/ J. Andrew Coombs  
By: J. Andrew Coombs  
Attorneys for Plaintiff Louis Vuitton Malletier,  
S.A.

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# **EXHIBIT B**

1 J. Andrew Coombs (SBN 123881)  
2 Annie S. Wang (SBN 243027)  
3 J. Andrew Coombs, A Prof. Corp.  
4 517 East Wilson Avenue, Suite 202  
5 Glendale, California 91206  
6 Telephone: (818) 500-3200  
7 Facsimile: (818) 500-3201

8 [andy@coombsp.com](mailto:andy@coombsp.com)  
9 [annie@coombsp.com](mailto:annie@coombsp.com)

10 Attorneys for Plaintiff Louis  
11 Vuitton Malletier, S.A.

12 UNITED STATES DISTRICT COURT

13 NORTHERN DISTRICT OF CALIFORNIA (SAN JOSE)

14	Louis Vuitton Malletier, S.A.,	)	Case No.: CV07-3952 JW
15		)	
16	Plaintiff,	)	First Amended Complaint For:
17		)	Contributory and Vicarious Trademark
18	v.	)	Infringement; Contributory and
19		)	Vicarious Copyright Infringement
20	Akanoc Solutions, Inc., Managed Solutions	)	
21	Group, Inc., Steven Chen and Does 1 through 10,	)	
22	inclusive,	)	
23		)	
24	Defendants.	)	

25 Plaintiff Louis Vuitton Malletier, S.A. (“Louis Vuitton” or “Plaintiff”) for its first amended  
26 complaint alleges as follows:

27 **I. Jurisdiction and Venue**

28 1. The claims alleged herein arise under the Trademark Act, 15 U.S.C. § 1051, et seq.,  
and under the Copyright Act of 1976, 17 U.S.C. § 101, et seq., for (i) contributory and vicarious  
liability for trademark infringement; and (iii) contributory and vicarious liability for copyright  
infringement.

2. This Court has original jurisdiction over the subject matter of this action pursuant to  
15 U.S.C. § 1121, 28 U.S.C. §§ 1331, 1332 and 1338.

1           3.       This Court has personal jurisdiction over the Defendants because they do business  
2 and/or reside in the State of California and, as to the entities, do business, are incorporated, and/or  
3 are authorized to do business in the State of California.

4           4.       Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

5  
6       **II. Introduction**

7           5.       The substantial profits to be reaped from piracy and counterfeiting have led to the  
8 creation, development and proliferation of business models, the object of which is to capitalize on  
9 world famous trademarks and copyrights owned by others, including those owned by Plaintiff. The  
10 opportunities created by the Internet have led to a dramatic increase in the opportunities to profit  
11 from such activity. These opportunities rely upon the active participation and contribution of third  
12 parties which make such illegal activities possible.

13  
14           6.       In particular, the promotion of infringing product and the offer of product for sale  
15 occurs through communications published on the Internet. These promotions, advertisements and  
16 offers are often published on websites which can be accessed by entering Internet addresses or  
17 through hypertext links which direct Internet users to websites containing such offers.  
18 Communications designed to complete sales of such infringing merchandise are transmitted over  
19 servers which host these same websites.

20  
21           7.       Defendants Akanoc Solutions Inc. (“Akanoc”) and Managed Solutions Group, Inc.  
22 (“MSGI”) operate servers hosting websites. Louis Vuitton is informed and believes that Defendant  
23 Steven Chen is an individual with responsibility for the operation and management of Akanoc and  
24 MSGI and that Akanoc and MSGI are under common control and ownership. Louis Vuitton is  
25 further informed and believes that Akanoc and MSGI were formed for and exist primarily to  
26 facilitate the promotion and advertisement of offers for counterfeit and infringing merchandise.  
27 Akanoc and MSGI aid and abet the distribution and sale of counterfeit and infringing merchandise  
28

1 through the provision of Internet hosting services and they do so knowingly and despite having  
2 been provided with full notice of such conduct. Louis Vuitton is informed and believes that  
3 Akanoc, MSGI and Chen benefit financially from the services they render hosting website which  
4 offer counterfeit Louis Vuitton merchandise and through which sales of such merchandise are  
5 consummated.  
6

7 **III. The Parties: Plaintiff**

8 8. Plaintiff is organized and existing under the laws of the Republic of France, with its  
9 principal place of business in Paris, France. Plaintiff owns the trademarks and trade names  
10 “LOUIS VUITTON”, “VUITTON” and “LV” (hereinafter collectively referred to as “Plaintiff’s  
11 Trademarks”). Plaintiff has engaged in services using Plaintiff’s Trademarks and Plaintiff is the  
12 exclusive distributor in the United States of handbags, luggage and accessories, all of which bear  
13 one or more of Plaintiff’s Trademarks. Plaintiff distributes authentic product online through  
14 [www.eluxury.com](http://www.eluxury.com).  
15

16 9. Plaintiff is the sole and exclusive distributor in the United States of leather goods  
17 bearing Plaintiff’s Trademarks, which are exclusively manufactured in France, Spain and San  
18 Dimas, California. Plaintiff is engaged in the manufacture, sale and distribution in interstate and  
19 foreign commerce of prestigious high-quality, luxury merchandise, including a wide variety of  
20 luggage, handbags, trunks, garment bags, wallets, small leather goods, apparel and other similar  
21 items sold throughout the United States in Louis Vuitton boutiques, and high quality retail stores  
22 such as Saks Fifth Avenue, Neiman Marcus and Bloomingdale’s that contain departments operated  
23 by Plaintiff and staffed by Plaintiff’s personnel.  
24

25 10. Plaintiff is responsible for assembling, finishing, marketing and selling in interstate  
26 commerce high quality handbags, luggage, accessories and related products and/or services for  
27 men and women. Plaintiff has acquired an outstanding reputation because of the uniform high  
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1 quality of its handbags, luggage and accessories and the boutiques through which Plaintiff sells  
2 these products.

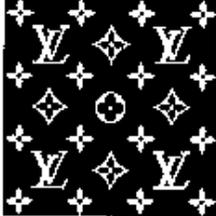
3  
4 11. As a result of the Louis Vuitton boutiques, extensive advertising of Louis Vuitton in  
5 connection with Plaintiff's intellectual properties, the widespread sale of Louis Vuitton  
6 merchandise and the celebrity that Plaintiff and Plaintiff's intellectual properties have achieved,  
7 Louis Vuitton boutiques, handbags, luggage and accessories, all utilizing and/or bearing one or  
8 more of Plaintiff's intellectual properties have been and are now recognized by the public and the  
9 trade as originating from Plaintiff.

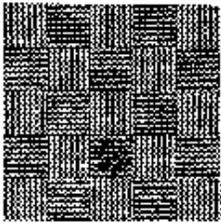
10 12. Commencing at least as early as 1932, Plaintiff adopted one or more of Plaintiff's  
11 Trademarks for handbags, luggage, accessories and related products and caused said trademarks to  
12 be registered in the United States Patent and Trademark Office.

13  
14 13. Plaintiff is the owner of all rights in and to numerous trademarks including, but not  
15 limited to, Plaintiff's Trademarks that are the subject of the following trademark registrations:

TRADEMARK	REGISTRATION NUMBER	TRADEMARK PICTURE	CLASS OF GOODS
Louis Vuitton (Interlocked Letters) in a Circle Design	286,345		18
Louis Vuitton (Interlocked Letters) and Monogram Canvas Design	297,594		18
LOUIS VUITTON	1,045,932	LOUIS VUITTON	18

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TRADEMARK	REGISTRATION NUMBER	TRADEMARK PICTURE	CLASS OF GOODS
Louis Vuitton (Interlocked Letters) Design	1,519,828		18
LOUIS VUITTON MALLETIER A PARIS in Rectangle	1,615,681		16, 18
Louis Vuitton (Interlocked Letters) on Epi Leather Design	1,655,564		18
Louis Vuitton (Interlocked Letters) and Monogram Canvas Pattern Design	1,770,131		25
Louis Vuitton (Interlocked Letters) Design	1,794,905		16, 25
Louis Vuitton (Interlocked Letters) and Monogram Canvas Design	1,875,198		16

TRADEMARK	REGISTRATION NUMBER	TRADEMARK PICTURE	CLASS OF GOODS
Louis Vuitton (Interlocked Letters)	1,938,808		14, 24
LOUIS VUITTON World Mark	1,990,760	LOUIS VUITTON	16, 18, 24, 25
Louis Vuitton (Interlocked Letters) Design	2,291,907		34
LOUIS VUITTON	2,303,212	LOUIS VUITTON	34
Louis Vuitton (Interlocked Letters) Design	2,361,695		25
LOUIS VUITTON PARIS and Damier (pattern design)	2,378,388		18

14. Plaintiff's Trademarks are in full force and effect, and are used and have never been abandoned. Plaintiff intends to continue to preserve and maintain its rights with respect to Plaintiff's Trademarks.

1           15. Plaintiff's products utilizing and/or bearing one or more of Plaintiff's Trademarks,  
2 by reason of their style, distinctive designs and quality have come to be known by the purchasing  
3 public throughout the United States as being of the highest quality. As a result thereof, Plaintiff's  
4 Trademarks and the goodwill associated therewith are of inestimable value to Plaintiff.  
5

6           16. Based on the Louis Vuitton boutiques and the extensive sales of Plaintiff's products  
7 and their wide popularity, Plaintiff's Trademarks have developed a secondary meaning and  
8 significance in the minds of the purchasing public, and the services and products utilizing and/or  
9 bearing such marks and names are immediately identified by the purchasing public with Plaintiff.  
10

11           17. Those trademarks are vital to Plaintiff, and Plaintiff will suffer irreparable harm if  
12 any third parties, including Defendants herein, are allowed to continue engaging in services and  
13 selling infringing goods utilizing and/or bearing identical or substantially similar trademarks.  
14

15           18. Louis Vuitton has also registered its copyrights in the United States Copyright  
16 Office and uses those copyrights in connection with its sale of luxury products. A significant  
17 aspect of Louis Vuitton's business is the merchandising of product incorporating the distinctive  
18 elements associated with its luxury goods.  
19

20           19. The revenue from products that bear Louis Vuitton designs and are sold in the  
21 United States is substantial. The appearance and other features of the Louis Vuitton designs are  
22 inherently distinctive. The design, configuration, and distinctive features of the Louis Vuitton  
23 copyrighted works, and of works related thereto (hereinafter collectively, the "Louis Vuitton  
24 Copyrighted Designs"), are wholly original with Louis Vuitton and, as fixed in various tangible  
25 media, including merchandise, are copyrightable subject matter under the United States Copyright  
26 Act, 17 U.S.C., Sections 101 et seq. Louis Vuitton is the owner of the Louis Vuitton Copyrighted  
27 Designs, which, as featured in connection with various merchandise, are copyrightable subject  
28 matter under the Copyright Act of 1976, 17 U.S.C. § 101, et seq. (The Plaintiff's Trademarks and

1 the Louis Vuitton Copyrighted Designs are hereinafter collectively referred to as the “Louis  
2 Vuitton Intellectual Properties”).

3 20. Louis Vuitton has complied in all respects with the laws governing copyright and  
4 has secured the exclusive rights and privileges in and to the copyrights to Louis Vuitton  
5 Copyrighted Designs. Louis Vuitton owns certificates of registration for works in which the Louis  
6 Vuitton Copyrighted Designs appear. Copyright registrations secured by Louis Vuitton for the  
7 Louis Vuitton Copyrighted Designs include:  
8

9

<u>Copyright</u>	<u>Reg. No.</u>	<u>Date Published</u>	<u>Date Registered</u>
Multicolor Monogram – Black Print	VA 1-250-121	12/18/02	06/24/04
Multicolor Monogram – White Print	VA 1-250-120	12/18/02	06/24/04

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15 21. Products featuring the Louis Vuitton Copyrighted Designs that are manufactured,  
16 sold, and distributed by Louis Vuitton or under its authority have been manufactured, sold, and  
17 distributed in conformity with the provisions of the copyright laws. Louis Vuitton and those acting  
18 under its authority have complied with their obligations under the copyright laws and Louis  
19 Vuitton, in its own right or as successor-in-interest, has at all times been the sole proprietor or  
20 otherwise authorized to enforce all right, title, and interest in and to the copyrights in the Louis  
21 Vuitton Copyrighted Designs.  
22

23 22. Louis Vuitton maintains strict quality control standards for all its products. All  
24 genuine Louis Vuitton products are inspected and approved by Louis Vuitton prior to distribution  
25 and sale and are sold only through Louis Vuitton stores and Louis Vuitton boutiques within  
26 department stores such as Saks Fifth Avenue, Neiman Marcus, and Bloomingdales, and  
27 ELuxury.com. No Louis Vuitton product is sold by anyone other than Louis Vuitton. By  
28

1 definition, any new (i.e. unused) product bearing any of the Louis Vuitton Intellectual Properties  
2 that is sold anywhere other than at a Louis Vuitton store (or ELuxury.com) is not a genuine Louis  
3 Vuitton product but rather a counterfeit product. Plaintiff does not sell its high-end products  
4 through licensees or franchisees and Plaintiff has not authorized independent retail vendors to  
5 engage in services and advertising utilizing and/or displaying the Louis Vuitton Intellectual  
6 Properties  
7

8 23. At great expense, Louis Vuitton has created, developed, manufactured, advertised,  
9 and marketed its products in such a way that they convey and are associated with luxury products  
10 that meet the highest standards and are used by celebrities and dignitaries around the world.

11 24. Louis Vuitton's goods, so marked, continue to be recognized by the fashion industry  
12 and public as those of Louis Vuitton.

13 25. The Louis Vuitton Intellectual Properties and the goodwill of Louis Vuitton's  
14 business in connection with its trademarks and copyrights are continuously used and have never  
15 been abandoned.  
16

17 **IV. The Parties: Defendants**

18 26. Louis Vuitton is informed and believes that Akanoc is a California corporation with  
19 its principal office in Fremont, California. Akanoc is an internet service provider which, among  
20 other things, hosts commercial websites.  
21

22 27. Louis Vuitton is informed and believes that MSGI is a California corporation with  
23 its principal office in Fremont, California. MSGI is an internet service provider which, among  
24 other things, hosts commercial websites. Akanoc and MSGI are collectively referred to herein as  
25 the "ISP Defendants".  
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1           28.     Louis Vuitton is informed and believes that Steve Chen is an individual resident in  
2 the City of Fremont and State of California. Louis Vuitton is further informed and believes that  
3 Steve Chen is an officer, owner and/or managing employee of Akanoc and MSGI.  
4

5           29.     Plaintiff is informed and believes, and upon that basis alleges, that at all relevant  
6 times each of the defendants Does 1 through 10, inclusive, are unknown to Plaintiff, who therefore  
7 sues such Doe defendants as individuals and/or business entities, agents, partners, and/or  
8 employees of the named Defendants, which, in taking the actions alleged in this Complaint, were  
9 acting within the scope of such agency, partnership, and/or employment.  
10

11           **V. The Infringing Activities**

12           30.     The ISP Defendants host websites (the “Counterfeiting Websites”) and facilitate  
13 communications between the sellers of counterfeit product who operate the Counterfeiting  
14 Websites and their customers. The Counterfeiting Websites offer, promote, advertise and facilitate  
15 the offer and sale of counterfeit merchandise which infringes the intellectual property rights of  
16 Louis Vuitton, among others. The Counterfeiting Websites publish unauthorized reproductions of  
17 the Louis Vuitton Copyrighted Designs to promote the sale of counterfeit merchandise. Louis  
18 Vuitton is informed and believes that the servers upon which the Counterfeiting Websites are  
19 hosted are also used to transmit communications by and between the operators of the  
20 Counterfeiting Websites and their customers.  
21

22           31.     The websites hosted by servers maintained by the ISP Defendants include but are  
23 not limited to the following: 315EC.com, Ape168.com, Atozbrand.com, At88.com, Bag1881.net,  
24 Bag4Sell.com, Bag925.com, BigWorldShoes.com, Bizyao.com, BrandFashioner.com,  
25 Brandstreets.com.cn, BrandStyleSales.com, Brandtrading.net, BuyMyShoes.net, Cn-nike.us,  
26 DreamyShoes.com, Eastarbiz.com, Eastarbiz.net, EBuyNike.com, ECshoes.com, EGoToBuy.com,  
27 EMSYou.com, EShoes99.com, Eshoes99.net, Famous-Shop.com, Fansjersey.com,  
28

1 GucciFendi.com, GZ-Free.com, HandBagSell.com, Imitation-Gold.com, InNike.com,  
2 Lkkfashion2006.com, Ilouisvuitton.com, LongTimeGroup.com, Louis-vuitton-bags.org,  
3 Louisvuittonbagz.com, LoverNike.com, LuxeLike.com, Luxury2Us.com, LVBagz.com, lv-  
4 handbag.com, lv-nike.com, MailGoods.com, Myshoes99.com, Nike558.com, Nikeexp.com,  
5 NikeShoesOffer.com, NikeWTO.com, NonStopBeauty.com, PFCStation.com, PickHipHop.com,  
6 PickYourGoods.com, PickYourOrder.com, Pro-Jordan.com, Queen-bag.com, Replica-ebags.com,  
7 Replicabc.com, RRGNL.com, Shoes-Order.com, SoApparel.com, Soapparel.net, Sportsvendor.biz,  
8 Sunny7Shoes.com, Super925.com, Swisshours.biz, Top-handbag.com, Tytrade88.com,  
9 Watchesnreplica.com, WatchesReplica.net, WatchNReplica.net, WearOnline.net, Wendy929.com,  
10 Wendy929.net, Wendyluxury.com, WorldKeyTrade.com, YeahEBay.com, Yseenet.net. Louis  
11 Vuitton is further informed and believes that most, if not all, of the websites hosted by the ISP  
12 Defendants are engaged in the trafficking of counterfeit merchandise, specifically including  
13 merchandise infringing the Louis Vuitton Intellectual Properties.

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15  
16 32. Defendants have been repeatedly placed on notice of the counterfeit activity which  
17 occurs using the hosting services offered by the ISP Defendants. Louis Vuitton has not granted  
18 any of the Defendants license to use, exploit any of the Louis Vuitton Intellectual Properties. The  
19 ISP Defendants have taken no steps to limit, curtail, disable, stop or otherwise discontinue the  
20 services they provide which make such infringing activity possible. Louis Vuitton is informed and  
21 believes that the ISP Defendants generate revenue and profit from the Internet traffic and  
22 counterfeit sales which occur as a result of their hosting activity.

23  
24 33. Plaintiff has no adequate remedy at law and is suffering irreparable harm and  
25 damages as a result of the acts of Defendants as aforesaid in an amount thus far not determined.  
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28

1 **FIRST CLAIM FOR RELIEF**

2 **(For Contributory Trademark Infringement)**

3 34. Plaintiff repeats and re-alleges all of the allegations contained in paragraphs 1  
4 through 33, inclusive, as though fully set forth herein.

5  
6 35. The Counterfeiting Websites are engaging in illegal conduct including but not  
7 necessarily limited to the promotion, advertisement, offer for sale, sale and distribution of  
8 counterfeit goods in violation of the Lanham Act, as amended.

9 36. Defendants have actual knowledge of the Counterfeiting Websites' illegal activities  
10 from, among other things, written notification by counsel and agents for Plaintiff.

11 37. Defendants have deliberately disregarded these notifications and have otherwise  
12 consciously avoided learning about the full extent of illegal counterfeiting and infringing activities  
13 that are continuing at the Counterfeiting Websites.

14 38. Defendants have materially encouraged, enabled, and contributed to the infringing  
15 conduct at the Counterfeiting Websites by providing, among other things, hosting the  
16 Counterfeiting Websites, displaying offers for counterfeit products, facilitating communications by  
17 and between the sellers of counterfeit goods over the Counterfeiting Websites and their  
18 distributors, consumers and vendors.

19 39. Defendants therefore bear contributory liability for the Counterfeiting Websites'  
20 counterfeiting of the Plaintiff's Trademarks in violation of 15 U.S.C. § 1051, et seq. and the  
21 common law.

22 40. Plaintiff has no adequate remedy at law and has suffered irreparable harm and  
23 damage as a result of the contributory counterfeiting conduct of the Defendants.  
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1 Counterfeiting Websites. The ISP Defendants do so pursuant to terms of use which permit them to  
2 discontinue links through websites offering product infringing the rights of third parties.

3 49. Defendants have actual knowledge of the illegal acts of the Counterfeiting Websites  
4 from, among other things, written notification from Louis Vuitton. Defendants have therefore  
5 deliberately disregarded and otherwise consciously avoided learning about the full extent of illegal  
6 counterfeiting and infringing activities that are continuing at the websites operated by the  
7 Counterfeiting Websites.  
8

9 50. Defendants have knowingly and willfully permitted and continue to permit the  
10 Counterfeiting Websites to sell and offer for sale unauthorized copies of products bearing the Louis  
11 Vuitton Intellectual Properties at the Counterfeiting Websites.  
12

13 51. Defendants have therefore materially encouraged, enabled, and contributed to the  
14 infringing conduct at the websites operated by the Counterfeiting Websites.

15 52. Plaintiff has sustained, and will continue to sustain, substantial injuries, loss, and  
16 damage to its exclusive rights in the Louis Vuitton Copyrights, and Plaintiff has sustained and will  
17 continue to sustain damages from the loss of value of the exclusive rights thereunder as a result of  
18 the Defendants' wrongful conduct in an amount to be determined at trial but in no event less than  
19 One Hundred and Fifty Thousand Dollars (\$150,000) per copyright infringed.  
20

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff demands:

23 1) That Defendants and their officers, agents, servants, employees, representatives,  
24 successors, and assigns; and all other persons, firms, or corporations in active concert or  
25 participation with them who receive actual notice of this Order, be temporarily, preliminarily and  
26 permanently enjoined and restrained from:  
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- a) directly or indirectly infringing Plaintiff's Trademarks or any marks similar thereto, in any manner, including generally, but not limited to engaging in services and manufacturing, importing, distributing, advertising, selling, and/or offering for sale any merchandise which infringes said Trademarks and specifically:
  - i) advertising, selling, and/or offering for sale any other unauthorized merchandise, which pictures, reproduces, or utilizes the likenesses of or which copy or are likely to cause consumer confusion with any of Plaintiff's Trademarks;
  - ii) hosting websites which offer product purporting to be Plaintiff's product or any imitation or replica thereof;
- b) indirectly infringing the Louis Vuitton Copyrights and Designs, in any manner, including generally, but not limited to engaging in services and manufacturing, importing, distributing, advertising, selling, and/or offering for sale any merchandise which infringes said Copyrights and specifically:
  - i) advertising, selling, and/or offering for sale any other unauthorized merchandise, which pictures, reproduces, or utilizes the likenesses of or which copy or are substantially similar to any of the Louis Vuitton Copyrights and Designs;
  - ii) hosting websites which offer product purporting to be Plaintiff's product or any imitation or replica thereof;
- c) effecting assignments or transfers, forming new entities or associations or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth in subparagraphs A and B.

1           2)     That Defendants be required to account to Plaintiff for all profits and damages  
2 resulting from Defendants' infringing activities and that the award to Plaintiff be increased as  
3 provided for under 15 U.S.C. §1117;

4           3)     That Defendants pay over to Plaintiff in the alternative statutory damages pursuant  
5 to 15 U.S.C. § 1117(c);

6           4)     That Plaintiff have a recovery from Defendants of the costs of this action and  
7 Plaintiff's reasonable attorneys' fees pursuant to 15 U.S.C. §1117(b);

8           5)     That Defendants be required to account to Plaintiff for all profits and damages  
9 resulting from Defendants' respective infringing activities as provided for under 17 U.S.C. §504;

10          6)     That Defendants pay over to Plaintiff in the alternative statutory damages pursuant  
11 to 15 U.S.C. § 504;

12          7)     That Plaintiff have a recovery from Defendants of the costs of this action and  
13 Plaintiff's reasonable attorneys' fees pursuant to 17 U.S.C. §505;

14          8)     That Plaintiff has all other and further relief as the Court may deem just and proper  
15 under the circumstances.

16 Dated: July 15, 2008

J. ANDREW COOMBS,  
A Professional Corporation

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21                /s/ J. Andrew Coombs  
22                By: J. Andrew Coombs  
23                Attorneys for Plaintiff Louis Vuitton Malletier,  
24                S.A.