

GAUNTLETT & ASSOCIATES

David A. Gauntlett (SBN 96399)
James A. Lowe (SBN 214383)
Brian S. Edwards (SBN 166258)
18400 Von Karman, Suite 300
Irvine, California 92612
Telephone: (949) 553-1010
Facsimile: (949) 553-2050
jal@gauntlettlaw.com
bse@gauntlettlaw.com

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

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**

LOUIS VUITTON MALLETIER, S.A.,

Plaintiff,

vs.

AKANOC SOLUTIONS, INC., et al.,

Defendants.

) Case No.: C 07-3952 JW

) Hon. James Ware

) **SUPPLEMENTAL DECLARATION**
) **OF JAMES A. LOWE IN SUPPORT**
) **OF DEFENDANTS' MOTION FOR**
) **SUMMARY JUDGMENT**

) Date: September 8, 2008

) Time: 9:00 a.m.

) Dept.: Courtroom 8, 4th Floor

1 I, JAMES A. LOWE, declare:

2 1. I am an attorney duly licensed to practice law before all courts of the State of
3 California, as well as before the United States District Court for the Northern District of California,
4 and I am a partner with the law firm of Gauntlett & Associates, counsel of record for Akanoc
5 Solutions Inc., Managed Solutions Group, Inc. and Steve Chen, the Defendants in this lawsuit. The
6 following attached exhibits to this declaration are true and accurate copies of portions of transcripts
7 in the case and about which I have personal knowledge based upon my involvement in this case.

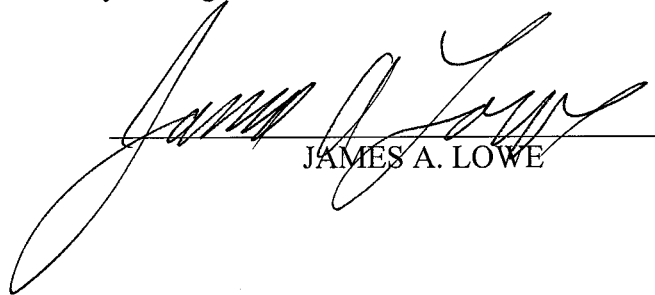
8 2. **Exhibit "1509"** Excerpts from deposition testimony of Robert Holmes

9 3. **Exhibit "1510"** Excerpts from deposition testimony of Will Lone

10 I declare under penalty of perjury under the laws of the United States of America that the
11 foregoing is true and correct.

12 Executed at Irvine, California on this 25th day of August 2008.

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JAMES A. LOWE

EXHIBIT 1509

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

LOUIS VUITTON MALLETTIER, S.A.,)
)
PLAINTIFF)
VS) C.A. NO. C 07 3952 JW
)
AKANOC SOLUTIONS, INC., MANAGED)
SOLUTIONS GROUP, INC., STEVEN)
CHEN AND DOES 1 THROUGH 10,)
INCLUSIVE,)
DEFENDANTS)
_____)

ORAL DEPOSITION OF ROBERT L. HOLMES,
produced as a witness at the instance of the Defendants,
and duly sworn, was taken in the above-styled
and -numbered cause on the 1st day of April, 2008, from
9:31 AM to 6:22 PM, before Ronald R. Cope, a CSR in and
for the State of Texas, Registered Professional Reporter
and Certified Realtime Reporter, reported by machine
shorthand at the offices of U.S. Legal
Support/MillerParker, Inc., 5910 North Central
Expressway, 100 Premier Place, Dallas, Texas, 75206,
pursuant to the Federal Rules of Civil Procedure and the
provisions stated on the record or attached hereto.



1 MR. COOMBS: In connection with this case?

2 MR. LOWE: No. Generally.

3 MR. COOMBS: At any time?

4 MR. LOWE: At any time.

5 Q. (BY MR. LOWE) You say you send things to Louis
6 Vuitton's office in New York. Just asking if you deal
7 with anyone in New York.

8 A. For Louis Vuitton?

9 Q. Yes.

10 A. I send product to someone in New York.

11 Q. Who is that?

12 A. The last name is Klug.

13 Q. Could you spell that?

14 A. K-L-U-G, I believe.

15 Q. First name?

16 A. Ken.

17 Q. And what is his relationship to Louis Vuitton?

18 A. He is the person at Louis Vuitton that I'm
19 instructed to send product to.

20 Q. Is he a lawyer? Is he an investigator? Is he
21 somebody else? Do you know what he does for them?

22 A. No, not specifically.

23 Q. What do you understand that he -- his job is?

24 A. My understanding is that he works in either the
25 legal or the security department of Louis Vuitton. My

1 direct communications typically are with Nikolay.

2 Q. So the products that you purchase on behalf of
3 Louis Vuitton, you typically send to New York?

4 A. Yes, sir.

5 Q. Where else do you send them, if anywhere else?

6 A. I would typically send them to New York, or
7 sometimes I will store them in my office.

8 Q. Until when? Keep them forever, or do you send
9 them somewhere eventually?

10 A. Depends on what the client -- what the client
11 requests. Evidence storage is an ongoing thing. When
12 you store evidence, you preserve it for future need; and
13 future need could be now, it could be in a year, it
14 could be three years, but it's put in storage to
15 preserve the evidence.

16 Q. All right. So assuming that you have stored
17 the evidence, where would you then send it after it's no
18 longer needed to be in storage? Do you send it to New
19 York? Do you send it to Paris? Do you send it to
20 someplace else?

21 MR. COOMBS: Assumes facts not in
22 evidence.

23 A. Is this hypothetical, sir?

24 Q. (BY MR. LOWE) Well, I'm just asking generally
25 what your process is.

1 Q. (BY MR. LOWE) I'm talking about Louis Vuitton.

2 A. I receive, occasionally, training to conduct
3 authentication, but it is not my job, and I avoid that
4 job because it belongs to someone else.

5 Q. Who does that job belong to?

6 A. It's not my job to know whose job it is. It's
7 my job to send it to the people who authenticate the
8 product.

9 Q. Who is that?

10 A. I send my product -- let me see. I sent this
11 product to Ken Klug via Fed Ex. That is the extent of
12 my knowledge of the authentication of this product.

13 Q. Do you know whether or not he authenticates the
14 products?

15 A. I do not.

16 Q. So you're just assuming that somebody does or
17 can authenticate the products?

18 A. I didn't assume anything, sir. I told you I
19 sent it to Ken Klug. Whatever someone else told you is
20 what that person told you, but I didn't assume anything.
21 I told you the truth, that I sent this product to Ken
22 Klug, and that's the end of the story.

23 Q. All right. So you would not be testifying in
24 this lawsuit about the authenticity of any Louis Vuitton
25 product or lack of authenticity of any Louis Vuitton

1 product?

2 A. No, sir.

3 Q. Please take a look at Exhibit 1048. Tell me if
4 you recognize this. It appears to be in the same
5 production sequence from Mr. Coombs' office and appears
6 to be about Bag4sell. Do you recognize it?

7 A. It is a search of DomainTools.

8 Q. And do you recognize it as one that you've done
9 or not?

10 A. No, sir. I recognize it as a search of
11 DomainTools.

12 Q. This is not one you've done; is that correct?

13 A. I believe it is possibly one that I did not do.

14 Q. Why do you say that?

15 A. Because it was most likely printed on a
16 French-speaking computer.

17 Q. Again, because of the page numbering at the
18 top, Page 1 sur 3?

19 A. Yes, sir.

20 MR. COOMBS: Are they in order?

21 THE WITNESS: Yes.

22 Q. (BY MR. LOWE) I'm going to hand you
23 Exhibit 1050. Please take a look at it. It's fairly
24 thick. Tell me if you recognize it.

25 THE WITNESS: Could you do me a favor?

1 STATE OF TEXAS X

2 COUNTY OF DALLAS X

3

4 I, Ronald R. Cope, a Certified Shorthand
5 Reporter duly commissioned and qualified in and for the
6 State of Texas, Registered Professional Reporter and
7 Certified Realtime Reporter, do hereby certify that
8 there came before me on the 1st day of April, 2008, at
9 U.S. Legal Support/MillerParker, Inc. Located at 5910
10 North Central Expressway, 100 Premier Place, Dallas,
11 Texas, 75206, the following named person, to-wit: ROBERT
12 L. HOLMES, who was duly sworn to testify the truth, the
13 whole truth, and nothing but the truth of knowledge
14 touching and concerning the matters in controversy in
15 this cause; and that he was thereupon examined upon oath
16 and his examination reduced to typewriting under my
17 supervision; that the deposition is a true record of the
18 testimony given by the witness.

19 I further certify that pursuant to FRCP
20 Rule 30(e) that the signature of the deponent:

21 X was requested by the deponent or a
22 party before the completion of the deposition, and that
23 signature is to be before any notary public and returned
24 within 30 days from date of receipt of the transcript;

25 _____ was not requested by the deponent or a

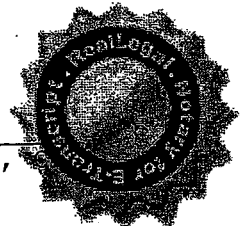
1 party before the completion of the deposition.

2 I further certify that I am neither
3 attorney or counsel for, nor related to or employed by
4 any of the parties to the action in which this
5 deposition is taken, and further that I am not a
6 relative or employee of any attorney or counsel employed
7 by the parties hereto, or financially interested in the
8 action.

9 CERTIFIED TO BY ME on this the 7th day of
10 April, 2008.

11 *Ronald R. Cope*

12 RONALD R. COPE, CSR, RPR, CRR,
13 Texas CSR 1813
14 Expiration Date: 12/31/09
15 US Legal Support/MillerParker
16 CRCB Registration No. 343
17 100 Premier Place
18 5910 North Central Expressway
19 Dallas, Texas 75206-5190
20 (214) 369-3376



21 Charge for transcript and exhibits \$ _____

22 To be paid by Defendant James A. Lowe

23 Job No. 68415
24
25

EXHIBIT 1510

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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LOUIS VUITTON MALLETTIER, S.A.,)
)
Plaintiff,)
)
vs.)
)
AKANOC SOLUTIONS, INC.,)
MANAGED SOLUTIONS GROUP, INC.,)
SOLUTIONS GROUP, INC., STEVEN)
CHEN and DOES 1 through 10,)
inclusive,)
)
Defendants.)
)

CASE No. C073952JW

DEPOSITION OF WILL LONE

Pleasanton, California

Tuesday, April 29, 2008

REPORTED BY: ANDREA M. IGNACIO HOWARD
CSR NO. 9830
NDS Job No.: 128205



1 Q. You're currently employed?

2 A. Yes; I'm working at Akanoc.

3 Q. What is your title at Akanoc?

4 A. Project manager.

5 Q. Can you describe for me the work you do as
6 project manager? Can you describe that job for me?

7 A. The market is Mainland China and Taiwan, the
8 places that speak Chinese.

9 Q. I'm sorry. You were going to describe the
10 services that you perform.

11 A. And then we rent our independent server to our
12 vendors -- distributors.

13 THE INTERPRETER: Interpreter's correction. Not vendors
14 but distributors.

15 MR. COOMBS: Q. And what do you do as project
16 manager in connection with that?

17 A. First of all, I need to make contact with
18 customers. When they need to place orders, then I would
19 provide assistance where necessary and complete the work
20 of the company by assisting other divisions within the
21 company. That's it.

22 Q. You're compensated by Akanoc with a salary?

23 A. Correct.

24 Q. Do you receive any other compensation from
25 Akanoc?

1 A. No.

2 Q. Do you have any other employment at this time?

3 A. No.

4 Q. When did you first become project manager at
5 Akanoc?

6 A. A few years ago. Two, three years ago. Around
7 that time.

8 Q. So around 2005?

9 A. Around that. Around that.

10 Q. Have the services that you've performed as
11 project manager changed at all between the time that you
12 started in about 2005 and the present?

13 A. It's the same as I described earlier. I don't
14 know what you mean by "change."

15 Q. What I mean is do the services as project manager
16 differ from when you first started to what you do today?

17 A. Aside from the customers increasing in number,
18 basically there's been no change.

19 Q. Earlier the word was translated as
20 "distributors," and just now you said "customers." Is
21 there a difference?

22 MR. EDWARDS: Objection; vague as to, "Is there a
23 difference?"

24 THE WITNESS: For me, the only people that I have
25 business communications with are distributors.

1 number of those we had visited the first time became our
2 customers.

3 At the second and third visit, I visited
4 customers, and at the same time the customer pool
5 increased as well.

6 Q. During the second and third visits, did you also
7 visit people with businesses that were not yet Akanoc
8 distributors?

9 A. Somebody had initiated communication, but we
10 needed to meet face-to-face. Only then could you develop
11 mutual trust. So if you want me to point to an
12 independent person and tell you what came before and
13 after, I don't have a very clear recollection.

14 Q. You mentioned initial communications, were those
15 usually started by the prospective customer or by Akanoc?

16 A. We or myself, in particular, for the development
17 of the company, we would go out and seek new customers.
18 From an independent point of view, Akanoc already has a
19 reputation in Mainland China. There will be many clients
20 or customers who would come and look for us.

21 Q. When customers come and look for Akanoc, do they
22 do it through the website or otherwise?

23 A. Clients looking for me, for us, that is, even
24 though there are business circles, there will be
25 communication within business circles. When they know

1 THE INTERPRETER: These are two different ones,
2 Z-H-A-O, Y-I-T-I-A-N. Interpreter's note.

3 THE WITNESS: If you need more details, right now
4 I can't give you anything more clearer than that.

5 MR. COOMBS: That's all I ask.

6 Your counsel has asked if we can go off the
7 record for a moment.

8 MR. EDWARDS: Briefly.

9 (Recess taken.)

10 MR. COOMBS: Back on the record.

11 Q. Are these companies you've identified as partners
12 the same as the customers or distributors or something
13 else?

14 A. They are distributors. Sorry. We can't say
15 distributor. They rent our machines, and then they sell
16 it to their customers. Reseller may be the more
17 appropriate word.

18 Q. I guess what I was trying to understand, these
19 companies whose names you've just listed though are among
20 the customers or resellers that we've been talking about?

21 A. Resellers.

22 Q. Okay. So in terms of the Google results that
23 you're describing, when you search U.S. servers, many of
24 the first search results are going to be Akanoc's
25 resellers?

1 MR. EDWARDS: Objection; calls for speculation.

2 You can answer.

3 THE WITNESS: Generally resellers. The majority
4 of resellers are not only reselling our independent
5 servers, they're also reselling the independent servers of
6 other companies.

7 MR. COOMBS: Q. Do you transmit to potential
8 customers in PRC descriptions of the services that Akanoc
9 provides?

10 A. Can you say the question again please, using
11 simple language?

12 Q. How do you describe to potential customers of
13 Akanoc the services that Akanoc offers?

14 A. Generally, I would look out for, among
15 distributors within the industry, those that are using
16 overseas servers. Akanoc's strength is we provide Chinese
17 language services. This is something that other
18 companies, server companies, cannot provide.

19 The machine quality, as well as our speed for connectivity
20 is also very competitive in this industry. So what I tell
21 my potential customers is the Chinese language services
22 are fast connectivity, as well as the quality of our
23 machines and technical support capabilities.

24 Q. And how do you communicate these features to
25 potential customers of Akanoc?

1 to "deal with."

2 THE WITNESS: What do you mean by an acceptance
3 policy?

4 MR. COOMBS: Q. Does Akanoc have a policy that
5 prohibits certain activity on its servers?

6 MR. EDWARDS: Objection; calls for speculation.
7 You can answer.

8 THE WITNESS: On our website, there is a legal
9 document related to this. Resellers, if they want to rent
10 a machine, it's only after they accept the stipulations
11 stated within the document that they are allowed to rent
12 our machines.

13 MR. COOMBS: Q. And are there occasions when the
14 resellers do not honor those agreements?

15 MR. EDWARDS: Objection; calls for speculation;
16 lacks foundation.

17 THE WITNESS: That's their duty.

18 MR. COOMBS: Q. Well, for example, does the
19 policy, as you just described, have restrictions as it
20 relates to the use of servers for spam?

21 MR. EDWARDS: Objection; calls for speculation;
22 lacks foundation; calls for a legal conclusion.

23 MR. COOMBS: Q. You can still answer the
24 question.

25 MR. EDWARDS: You can answer.

1 A. I would assist, but it was not my responsibility
2 to deal with this matter or handle this matter. I would
3 assist. I would parallel the efforts of others.

4 Q. I guess I'm trying to understand what you mean by
5 "assist" in this context.

6 You would facilitate communications in Chinese
7 consistent with what was already communicated by other
8 divisions within the company, or something else?

9 A. I continue to say that my English is not very
10 good, but I would do my best, tell the resellers that are
11 in the security division that there may be complaints. We
12 would tell the security department about these complaints
13 and hopefully seek a resolution to the problem.

14 Q. What kinds of resolutions have you become aware
15 of in the course of communicating on issues related to the
16 violation of the acceptable use policy?

17 MR. EDWARDS: Objection; lacks foundation; vague
18 and ambiguous as to "acceptable use policy."

19 THE WITNESS: There are specialized individuals
20 within Akanoc that are responsible for this.

21 MR. COOMBS: Q. Who are they?

22 A. Security.

23 Q. Anyone else?

24 A. These or related e-mails, if they were to be sent
25 to me, I would forward that to

1 security@akanoc.com. Exactly who would be responsible,
2 that's something for the security department to worry
3 about.

4 Q. To your knowledge, has any reseller that you have
5 engaged -- I'm sorry. Strike that.

6 Has any reseller that has engaged Akanoc's servers or
7 rented its servers, that you identified and brought on
8 board, been terminated by Akanoc, to your knowledge?

9 MR. EDWARDS: Objection; vague and ambiguous as
10 to "terminated."

11 You can answer.

12 THE WITNESS: The security department, based on
13 needs, will take measures to handle the situation. At
14 this time, e-mail notification or issues about shutting
15 down a machine, sometimes the customer will have questions
16 about. They'll ask why was the machine turned off, and
17 then I would tell them for whatever reason.

18 If there is a suspension of service, then I would tell
19 them to send an e-mail to the security department.

20 THE INTERPRETER: Clarification.

21 THE WITNESS: To have them directly resolve the
22 issue with security.

23 MR. COOMBS: Q. When talking with prospective
24 Akanoc customers, have you ever had occasion to discuss
25 with them the application of Akanoc's acceptable use

1 STATE OF CALIFORNIA)
) ss:
2 COUNTY OF ALAMEDA)
3

4 I, ANDREA M. IGNACIO HOWARD, do hereby certify:

5 That I am a duly qualified Certified Shorthand
6 Reporter, in and for the State of California, holder of
7 certificate number 9830, which is in full force and
8 effect and that I am authorized to administer oaths and
9 affirmations;

10 That the foregoing deposition testimony of the
11 herein named witness was taken before me at the time and
12 place herein set forth;

13 That prior to being examined, the witness named
14 in the foregoing deposition, was duly sworn or affirmed
15 by me, to testify the truth, the whole truth, and
16 nothing but the truth;

17 That the testimony of the witness and all
18 objections made at the time of the examination were
19 recorded stenographically by me, and were thereafter
20 transcribed under my direction and supervision;

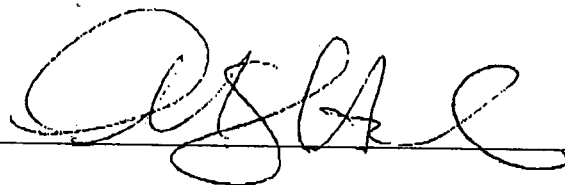
21 That the foregoing pages contain a full, true
22 and accurate record of the proceedings and testimony to
23 the best of my skill and ability;

24 That prior to the completion of the foregoing
25 deposition, review of the transcript was requested.

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I further certify that I am not a relative or
employee or attorney or counsel of any of the parties,
nor am I a relative or employee of such attorney or
counsel, nor am I financially interested in the outcome
of this action.

IN WITNESS WHEREOF, I have subscribed my name
this 5th day of May, 2008.



ANDREA M. IGNACIO-HOWARD, CSR No. 9830