

**PUBLIC VERSION**

**UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C.**

In the Matter of

CERTAIN HANDBAGS, LUGGAGE,  
ACCESSORIES AND PACKAGING  
THEREOF

Inv. No. 337-TA-754

**Order No. 5: Granting Complainants' Motion No. 754-2 To Compel**

In a filing dated March 8, 2011, complainants Louis Vuitton Malletier S.A. and Louis Vuitton U.S. Manufacturing, Inc. (collectively "Louis Vuitton") moved to compel Alice Wang ("Wang"), Meada Corporation d/b/a Diophy International ("Meada") and Pacpro, Inc. ("Pacpro") (collectively "respondents") to produce documents and provide information relating to respondents' dissolved businesses Diophy Int'l Trading USA, Inc. ("Diophy") and T&T Handbag Co. ("T&T"); the manufacturing and importation of the Accused Products; the corporate organization of Pacpro, Meada, T&T, and Diophy; marketing of the Accused Products; sales records and customer information relating to the Accused Products; and financial information, such as annual reports, required financial filings, tax returns, and W-2 forms. (Motion Docket No. 754-2.<sup>1</sup>)

On March 16, 2011, respondents filed an opposition to Louis Vuitton's motion. On March 17, 2011, respondents filed an amended opposition.

The staff, in a filing dated March 16, 2011, argued that Louis Vuitton's motion should be

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<sup>1</sup>On March 4, 2011, the administrative law judge conducted a telephone conference with counsel for complainants, counsel for respondents, and the Commission Investigative Staff (staff) regarding the discovery disputes relating to Wang, Meada, and Pacpro's failure to produce documents and provide information responsive to Louis Vuitton's discovery requests.

granted because the requested documents and information are relevant. With respect to financial information, the staff submitted that “actual financial information, such as income earned and sums deducted, that may be contained in such documents relating to individuals could be redacted.” (Staff Resp. at 2.)

No other party responded to Motion No. 754-2.

Motion No. 754-2 seeks an order compelling respondents “to undertake an adequate search for documents and information and subsequently revisit every interrogatory and document request to supplement where appropriate.” (Mot. Mem. at 5.) Complainants prioritize and specifically identify the deficiencies in respondents’ responses as follows:

inadequate responses to all interrogatories and document requests for Diophy and T&T, as well as, any of Meada or Pacpro’s “predecessor or successor companies or corporations and all companies, corporations, partnerships, associations, or other business entities which are or have been under common ownership or control, in any manner, with Meada and Pacpro” (id. at 6-7);

responses to First Set of Requests for Production Nos. 9, 13, 14, 16, 19, 24, 25, and 68 and First Set of Interrogatories Nos. 17 and 19-22 concerning the manufacture and importation of the Accused Products (id. at 7-8);

responses to First Set of Requests for Production Nos. 4-6 and First Set of Interrogatories Nos. 1 and 4 concerning corporate organization, formation, and management (id. at 8-9);

responses to First Set of Requests for Production Nos. 37-39, 42, 53, and 55 concerning the marketing of the Accused Products (id. at 9-11);

responses to First Set of Requests for Production Nos. 10-12, 18, 21-23, 30, 41, 67 and First Set of Interrogatories No. 2 concerning the sales of the Accused Products and identity of customers who have purchased the Accused Products (id. at 12); and

responses to First Set of Requests for Production Nos. 29 and 60 and First Set of Interrogatories No. 7 concerning financial documents (id. at 12-15).

Complainants also argued that respondents have produced only 140 pages of documents and “made clear in deposition that they have done very little to gather information and produce documents in response to Louis Vuitton’s demands. (Id. at 2.) Complainants further argued that “[t]he fact that [the requested] financial information may be highly confidential or personal does not remove it from the scope of discoverable information and documents” and that “[a]ny concerns over potential harm from the disclosure of the financial information would be resolved by treating the information as confidential and subject to the protective order.” (Id. at 15.)

Respondents argued that “[w]ith the exception of Ms. Wang’s personal tax returns, they believe that they have produced all documents in their possession, custody and control that are responsive to Complainants’ discovery requests after a reasonable and diligent search of their files.” (Opp. at 2.) Respondents further argued that complainants have not shown that Wang’s personal tax returns are relevant; that complainants can identify all of the companies from which Wang received earnings “from numerous other means without examining Ms. Wang’s personal financial information;” and that Wang “is concerned that the protective order in this case will not fully protect her interests. (Id. at 15-17.)

The scope of discovery is broad, encompassing any matter, not privileged, that is relevant to the claims or defenses of the parties, including information appearing reasonably calculated to lead to the discovery of admissible evidence. See Commission rule 210.27(b). Commission rule 210.30, which governs requests for production of documents and responses thereto, states in relevant part:

(a) Scope. Any party may serve on any other party a request: (1) To produce and permit the party making the request ... to inspect and copy any designated documents ... that are in the possession, custody, or control of the party upon

whom the request is served ....

Further, due to the breadth of discovery, the burden of proving that an issue is beyond discovery rests with the party resisting discovery. See, e.g., Certain Encapsulated Integrated Circuit Devices and Products Containing Same, Inv. No. 337-TA-501, Order No. 50 at 3 (May 18, 2004).

Respondents' opposition to Motion No. 754-2 reveals numerous inconsistencies in respondents' arguments relating to its discovery responses. Thus, respondents asserted that they "have produced what they have been able to locate after a diligent, good faith search with one exception - Ms. Wang's personal tax returns" and that they "have searched the files and computers of all of the employees of Meada in the U.S., and any additional documents located have been or are being produced." (Opp. at 6 (emphasis added).) However, during the preliminary conference on March 17, 2011, when the administrative law judge heard arguments in the pending motion, counsel for respondents asserted that the hard drives of the four computers at use at Maeda were not searched for responsive documents. (Tr. at 35:24-36:17.) Respondents, in their opposition, also admitted that their search for responsive email was limited to the product code "005" and a subsequent search "using the accused model designation with the prefix 'PA.'" (Opp. at 8.) Respondents also argued that they should not be compelled to search their hard drives because "[i]t would be extremely expensive and burdensome for Respondents to have to inspect their hard drives for information responsive to Complainants' discovery requests, particularly where there is no indication that responsive documents or information would be located on the hard drives" (id. at 14); and that three of the four computers used by Meada have

only been in use for less than eight months.<sup>2</sup> However, they failed to explain how the “information [on the hard drives] is not readily accessible to the Respondents” and failed to quantify the expense or burden to conduct an inspection of computers that have only a few months worth of data that respondents contend is not responsive. (Id.)

In addition, Meada responded to complainants’ First Set of Requests for Production Nos. 4, 5, and 9 that it “does not have documents responsive to this request” and in response to Request No. 69 stated that “documents in its possession responsive to this request, if any exist, will be produced.” (Mot. Ex. 2, Meada’s Response to First Set of Requests for Production of Documents and Things from the Complainants, at 4-5, 25 (emphasis added); see also Mot. Ex. 6, Pacpro’s Response to First Set of Requests for Production of Documents and Things from the Complainants, and Mot. Ex. 10, Wang’s Response to First Set of Requests for Production of Documents and Things from the Complainants.) Respondents, however, did not explain what is meant by the statement that it does not “have” documents and did not explain why they are limiting their search to documents in their possession rather than searching for documents in their possession, custody, or control.

In view of the foregoing, the administrative law judge orders respondents to 1) search for and produce documents and things in their respective possession, custody, or control regardless of geographic location and including documents from Diophy and T&T, as well as, any of Meada or Pacpro’s “predecessor or successor companies or corporations and all companies,

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<sup>2</sup>Respondents failed to attach any declaration or affidavit in support of the arguments contained in said opposition. “Unsworn attorney argument is not evidence.” Perfect Web Technologies, Inc. v. InfoUSA, Inc., 587 F.3d 1324, 1332 (Fed. Cir. 2009).

corporations, partnerships, associations, or other business entities which are or have been under common ownership or control, in any manner, with Meada and Pacpro that are responsive to each discovery request propounded by complainants on or before April 8, 2011; 2) supplement their respective responses to each interrogatory and request for production as necessary on or before April 8, 2011; and 3) submit an appropriate affidavit to the administrative law judge by April 8, 2011, detailing each respondents' efforts in collecting said documents and things in its respective possession, custody, or control responsive to First Set of Requests for Production Nos. 4-6, 9-10, 12-14, 16, 18-19, 21-25, 29-30, 37-39, 41-42, 53, 55, 60, and 67-68 and First Set of Interrogatories Nos. 1, 2, 4, 7, 17 and 19-22. Said search shall include the hard drives of the four computers in use at Meada and any other electronic files and email stored in any form within the possession, custody, or control of the respondents. Said affidavit shall include an identification of all electronic media that was searched and the search terms and/or search methodologies that were utilized.

Respondents' production should include Wang's personal financial documents which the administrative law judge finds could lead to admissible evidence.<sup>3</sup>

The administrative law judge further agrees with complainants that Document Request No. 29 requesting, inter alia, "other financial statements" includes bank records. (Tr. at 34:5-40:25.) Document Request No. 29 states:

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<sup>3</sup>The Protective Order in this Investigation (Order No. 1 (Jan. 3., 2011)) combined with the staff's proposal that "actual financial information, such as income earned and sums deducted, that may be contained in such documents relating to individuals could be redacted" (Staff Resp. at 2) which complainants agreed to at the preliminary conference (Tr. 28:9-30:8) adequately address Wang's privacy concerns with respect to the production of these documents.

Your annual reports, required financial filings, and other financial statements including income statements, statements of operations, balance sheets, statements of changes in retained earnings and notes thereto, and any other tax reporting documentation whether prepared for internal or external purposes since January 1, 2003.

(Mot. Ex. 2, Meada's Response to First Set of Requests for Production of Documents and Things from the Complainants, at 12.)

The administrative law judge does disagree with complainants that Document Request No. 67 calls for "basically any document showing sales or purchases of accused products or any other products." (Tr. 38:20-23.) Thus, Document Request No. 67 states:

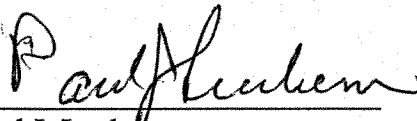
All documents relating to any and all business conducted between You (or affiliates thereof) and any other Respondent (or affiliates thereof) in this investigation, including without limitation, documents showing any sales and/or purchases of the Accused Product or other products between You and any other Respondent, the volumes of those sales in unites and U.S. dollars, and any proposals for sales and/or purchases or handbags, luggage, accessories, packaging, or other product between You and any other Respondent.

(Mot. Ex. 2, Meada's Response to First Set of Requests for Production of Documents and Things from the Complainants, at 24-25.) The administrative law judge finds that the language of said request is self limiting to business conducted between Meada and "any other Respondent" and does not include "basically any document showing sales or purchases of accused products or any other products."

Based on the foregoing, Motion No. 754-2 is granted to the extent indicated.

On March 30, 2011, each of the parties received a copy of this order.

This order will be made public unless a bracketed confidential version is received no later than the close of business on April 8, 2011.



Paul J. Luckern  
Chief Administrative Law Judge

Issued: March 30, 2011

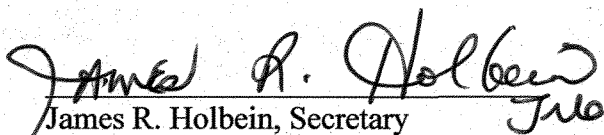


**CERTAIN HANDBAGS, LUGGAGE, ACCESSORIES AND  
PACKAGING THEREOF**

**337-TA-754**

**CERTIFICATE OF SERVICE**

I, James R. Holbein, hereby certify that the attached **Public Version Order** has been served by hand upon the Commission Investigative Attorney, Juan S. Cockburn, Esq., and the following parties as indicated, on July 26, 2011.

  
James R. Holbein, Secretary  
U.S. International Trade Commission  
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