

IN THE UNITED STATES DISTRICT COURT
OF WESTERN PENNSYLVANIA

UNITED STATES OF AMERICA, CRIMINAL ACTION

vs.

No. 05-324

MAMADOU DIALLO, a/k/a
MUHAMMAD DIALLO, a/k/a
MOHAMMAD DIALLO,

Defendant.

Transcript of JURY SELECTION AND JURY TRIAL
commencing on APRIL 10, 2006
United States District Court, Pittsburgh, Pennsylvania
BEFORE: HONORABLE THOMAS M. HARDIMAN, DISTRICT JUDGE

APPEARANCES:

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412-201-2660

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1 THE WITNESS: Stuart Drobny, D R O B N Y.

2 DIRECT EXAMINATION

3 BY MR. HULL:

4 Q. Sir, what profession do you work in?

5 A. I'm in the private investigation business.

6 Q. And how long have you been a private investigator?

7 A. 23 years.

8 Q. Are you licensed in Pennsylvania?

9 A. Yes, I am, sir.

10 Q. And what was your background before becoming a private
11 investigator?

12 A. I was an undergrad and went on to graduate school. I was
13 first an investigator prior to that.

14 Q. Sir, is part of your professional duties or services the
15 detection of products that are suspect as an origin in terms
16 of designers?

17 A. Yes, sir.

18 Q. And can you tell us what training you had in that regard?

19 A. Over the course of many years I have been trained in the
20 detection of counterfeit products by various companies by
21 either going to their factories, being trained by company
22 representatives, being at their show rooms, working with their
23 designers, and by various other seminars that they put on
24 during the years.

25 Q. In regard to that training, have you had training in

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1 regard to Chanel?

2 A. Yes, sir.

3 Q. Have you participated in the examination of products that
4 are marked with Chanel's trademark to determine whether they
5 are genuine?

6 A. Regarding these products?

7 Q. Yes. Have you participated in examinations?

8 A. Yes, sir.

9 Q. Has your experience as a private investigator been such
10 that you are familiar with the places in New York where these
11 bags would be bought?

12 A. Among other places, yes.

13 Q. Where in New York can you buy these, and if you can just
14 give, I guess, a street reference?

15 A. I would say from my investigations and what I have been
16 trained and through the course of the years, usually somewhere
17 between the Canal Street area, Chinatown and 1350, 1275, 1250
18 Broadway, in those areas, high-rise buildings been known to
19 sell these items.

20 Q. Tell us how many times you've done examinations of Chanel
21 products or purported Chanel products?

22 A. In excess of a thousand times.

23 Q. Can you tell us what are the legitimate sources of Chanel
24 products?

25 A. Chanel products, specifically leather goods that we're

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1 speaking of, not perfume. That is a whole different ball
2 game. Chanel leather products and clothes imported entry to
3 the United States is only through JFK Airport in Jamaica,
4 Queens, New York.

5 Thereafter, those items are sent to their
6 distribution center and ultimately sent off to one of two
7 types of entities.

8 Chanel has designer stores that are stand-alone
9 stores in various cities in the United States.

10 In addition, Chanel owns stores within department
11 stores such as Bergdorf Goodman's, Saks Fifth Avenue, Neiman
12 Marcus, et cetera, those type of stores, and they are owned by
13 Chanel, and they are Chanel employees. Those are the only two
14 places that Chanel items are sold.

15 Q. Have you been qualified as an expert in determining
16 whether or not products which purport to be Chanel are
17 actually manufactured by Chanel?

18 A. Yes, sir.

19 Q. And have you had an opportunity to testify to that or
20 provide affidavits in legal matters of criminal cases?

21 A. Yes, I have, sir.

22 MR. HULL: Your Honor, at this time we tender
23 Mr. Drobny as an expert in product identification for purposes
24 of Chanel.

25 THE COURT: All right. Would you like to voir dire

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1 the witness?

2 MR. LIVINGSTON: No, Your Honor. I'm satisfied for
3 the purposes that we discussed, that he is qualified as an
4 expert.

5 THE COURT: All right. The Court then qualifies
6 Mr. Drobny as an expert for the purpose offered.

7 Q. Mr. Drobny, I'm going to show you what has been marked as
8 Government Exhibits 12, 13 and 233 through 243. It may help
9 everything along if we can find a place where we can put this.

10 Can you see it if we put it on the floor here?

11 A. I can see it, but I just can't see my markings.

12 Q. We'll bring it up to you. I'll put them on the railing.

13 MR. LIVINGSTON: Could you repeat the numbers so I
14 can keep track.

15 A. I looked at these.

16 THE COURT: The record indicates we are looking at
17 Exhibits 12, 13, and 233 through 243.

18 Q. Do you recognize those as exhibits you have examined
19 before?

20 A. Yes, sir.

21 Q. Do they bear trademarks of Chanel?

22 A. Yes, they do.

23 Q. Can you explain what the trademarks are? What about
24 Government Exhibit 235 is a trademark?

25 A. There are the interlocking Cs which are trademarks. Same

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1 thing on here and also the name "Chanel" with the interlocking
2 Cs, et cetera.

3 Q. Is that generally the case for all of these particular
4 exhibits whether they are pink or black?

5 A. Yes, sir.

6 MR. HULL: May I have a moment, Your Honor.

7 THE COURT: Yes.

8 (Pause in the proceedings.)

9 Q. I am going to show you what has been marked as Government
10 Exhibits 339 through 342. Can you state for the record what
11 they are?

12 A. They are certified copies of several of Chanel's
13 trademarks.

14 MR. HULL: Your Honor, at this point I move
15 admission of Government Exhibits 339 through 342.

16 MR. LIVINGSTON: No objection, Judge.

17 THE COURT: They are admitted.

18 Q. I'm going to show you Government Exhibits 241 and 239 and
19 ask you whether or not the trademarks on these bags you've
20 identified as not being manufactured by Chanel have trademarks
21 identical to those that are in the registrations you just
22 examined?

23 A. Yes, sir.

24 Q. And for the jury's benefit, can you tell us briefly how it
25 is you are able to tell that these particular bags are not

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1 manufactured by Chanel, although they have Chanel's trademark
2 on them?

3 A. Basically, you just want me to explain how they're
4 counterfeit?

5 Q. That's right.

6 MR. LIVINGSTON: Objection, Judge, to the question
7 as asked by the witness and as the answer given by the
8 prosecution and ask for a curative instruction.

9 MR. HULL: I'll rephrase the question.

10 THE COURT: Your question was fine. The witness
11 rephrased the question.

12 Ladies and gentlemen, you heard Mr. Hull ask the
13 witness whether he could tell that the particular bags in
14 front of him, namely, Exhibits 239 and 241 are not
15 manufactured by Chanel even though they have Chanel's
16 trademark on them. That's the question.

17 The witness is going to answer. With respect to
18 the witness' question regarding counterfeit, I'm going to give
19 you instructions on the law at the end of the case regarding
20 the definition of the word "counterfeit," and this witness is
21 not testifying regarding whether it's counterfeit or not.

22 That's going to be an instruction on the law at the
23 end of the case, but the witness is permitted to answer the
24 question that Mr. Hull proposed.

25 I'm instructing the jury to disregard the witness'

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1 reformulation of the question. All right.

2 Mr. Hull, will you ask the question again, please.

3 Q. Can you answer it.

4 A. Yes, I can. I apologize.

5 This bag is not a Chanel handbag for a variety of
6 reasons. The first and foremost, Chanel handbags are packaged
7 in such a way they come in felt, they are wrapped in felt,
8 first of all, if they were made by Chanel.

9 Then they would be placed in a box that would have
10 the Chanel logos on them, and they are individually wrapped.
11 Even when they are shipped into the United States, they are
12 individually wrapped.

13 So that would be my first inclination this bag is
14 not genuinely made by Chanel.

15 Secondly, looking at the bag, the lining is the
16 second give-away, and attached to the lining is a separate
17 give-away. There is a tag there that says Chanel Paris.

18 All Chanel handbags have country of origin, not
19 city of origin. So this should say, if it were appropriately
20 made by Chanel, Chanel France, not Chanel Paris.

21 In addition, the interior of this bag has the CCs
22 interlocking. Genuine Chanel products has the name Chanel
23 running through the interior.

24 In addition, this is an authentication card that
25 are in legitimately made Chanel handbags. There is a number

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1 on the back. This particular one says 7244764. This would
2 match a number that would be in this handbag as a, quote,
3 security code to tell that this bag was, in fact, made by
4 Chanel, and it could tell you where the bag was made, which
5 factory, exactly when it was, where it was shipped, and to
6 whom.

7 If you were to look in the inside of this handbag,
8 there is no such additional indicia showing those numbers, nor
9 is it in the pocket of this handbag. Those points would tell
10 me this bag was not manufactured by Chanel.

11 In addition, the feel of the bag is to me by my
12 training kind of spongy and mushy, whereas leather is more of
13 a grabber, and especially if your hands are perspiring, we
14 kind of grab and makes some marks on it. This is not leather.
15 That's another issue. That's about all I can tell you at this
16 point.

17 In addition, Chanel does not use little price
18 markings like this has on it (indicating), and the bag would
19 sell for considerably more money than this particular bag is
20 marked.

21 Q. Do you know approximately what the price range is for a
22 Chanel product?

23 A. For this one, sir?

24 Q. Actually, for the whole lot, can you give us a range?

25 A. Anywhere from \$900 to \$3,500.

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1 Q. Would you also demonstrate what the pink bag -- I don't
2 know what the number is there.

3 A. This one is Exhibit No. 241, sir. Again, with this
4 particular handbag, it is not packaged or did not come
5 packaged with the felt bag, not being in the box. That's the
6 first thing that one would look at.

7 In addition, on the Chanel bag that's here there's
8 little -- there should be markings on all of the zippers,
9 et cetera. There should be interlocking Cs on all of those.

10 On all the, quote, jewelry and additional items on
11 a Chanel bag that is made by Chanel, it has the interlocking
12 Cs.

13 On this particular bag, the Chanel says Chanel made
14 in France. That's entirely accurate. However, the Chanel,
15 the C begins where the stitching is and it's not centered.
16 Chanel would not do that.

17 In addition to the R and the circle, it is stitched
18 over. Again, something Chanel would not do.

19 The lining again, as I said a few moments ago, does
20 not have Chanel, the name, running through it. It just has
21 its interlocking Cs.

22 Chanel does not pack their handbags with plastic.
23 In addition, and this particular bag there is no care label,
24 there are no -- I take that back. There is a care label and a
25 little booklet that Chanel has not used in many years. This

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1 particular item is now white and pink. This has not been used
2 or manufactured in years.

3 They do have this nice little card in here,
4 however, this card here, again, you do not have any additional
5 markings or hidden serial numbers to indicate that it was, in
6 fact, manufactured by Chanel.

7 Q. Are there Chanel bags that appear as that one does?

8 A. There are bags that appear kind of. I mean this is just
9 not good quality. It just does not --

10 Q. I'm not talking about after you had it in hand and have
11 gone through it, but if you sat that bag next to a Chanel bag,
12 is there one that looks exactly like it?

13 A. Not really.

14 Q. What about the others?

15 A. No. The one I just had in my hand, the black one, it's
16 much taller. It stands by itself. It's not flimsy. They may
17 look like it, but they're just not so.

18 Q. Are there Chanel bags that are pink like that and made in
19 that design and that style?

20 A. Yes, sir.

21 Q. Are there Chanel bags that are in that style of black?

22 A. Yes, sir.

23 Q. Let me ask you also, sir, can you tell us whether or not
24 Chanel would have authorized those bags?

25 A. No, they would not have.

1 Q. Can you tell us whether or not Chanel would authorize
2 someone to sell look-alike bags of theirs?

3 A. No, they do not.

4 MR. HULL: I have nothing further, Your Honor.

5 THE COURT: All right. Thank you.

6 Cross-examination.

7 MR. LIVINGSTON: No questions, Judge.

8 THE COURT: All right. Thank you, Mr. Livingston.

9 You may step down, Mr. Drobny.

10 MR. HULL: At this time, I will call Mr. Smith.

11 THE COURT: Mr. Smith, will you step to the front
12 of the courtroom to be sworn.

13 **RICHARD SMITH, GOVERNMENT WITNESS, WAS SWORN.**

14 THE CLERK: State your name for the record.

15 THE WITNESS: Richard Smith.

16 DIRECT EXAMINATION

17 BY MR. HULL:

18 Q. Sir, by whom are you employed?

19 A. I have my own private detective agency, and I'm retained
20 as part of my duties with that agency, I'm retained by a
21 number of designer trademark holders on an as-needed basis to
22 conduct investigations on their behalf.

23 Q. Can you give us some of your background.

24 A. I'm a licensed private detective in the State of
25 Pennsylvania and New Jersey. Prior to that, I retired from

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1 the United States Customs Service in June of 2000.

2 During that time, I was the resident agent in
3 charge of investigations in Philadelphia; and when I retired,
4 I shortly thereafter began my private detective business which
5 involved the various investigations, including
6 anticounterfeiting investigations.

7 Q. Have you been trained in determining whether or not
8 suspected products that are labeled trademark with Louis
9 Vuitton, Burberry, Kate Spade, Prada, and Coach are genuine?

10 A. Yes, I have. I have worked with each of the
11 anticounterfeiting departments for those trademark holders,
12 and they've provided me training as to identifying counterfeit
13 as opposed to authentic merchandise.

14 Q. Can you describe briefly what the training entailed?

15 A. As I said, the anticounterfeiting department provide me
16 with materials, we discuss those materials, we review them,
17 compare authentic with counterfeit and basically reviewing a
18 number of indicators that they would say would indicate a
19 product is not authentic.

20 Q. Did that training also include some training as to how the
21 trademark holder distributes those products?

22 A. Yes. Various trademark holders have their own unique way
23 of distribution.

24 Q. Can you tell us about Louis Vuitton?

25 A. Louis Vuitton is -- all Louis Vuitton products are sold

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1 exclusively only through Louis Vuitton stores and Louis
2 Vuitton employees.

3 They are available on one online, eLuxury, you can
4 get authentic Louis Vuitton products. Aside from that, any
5 Louis Vuitton product would be purchased by and from a Louis
6 Vuitton employee. Even if you were in a Sachs Department
7 Store, the person who sold it to you actually worked for Louis
8 Vuitton.

9 The other brands are similar. Coach has their own
10 stores, a network of Coach stores, and they also sell their
11 products in high end department stores, the same with Kate
12 Spade and the others.

13 Q. Approximately how many examinations have you done, let's
14 say, the last year?

15 A. I would say I've probably examined five to six thousand
16 various handbags, wallets, accessories along these trademark
17 designs.

18 Q. And your training does go to accessories like belts and
19 wallets?

20 A. Yes, wallets, yes.

21 Q. Have you prepared reports for purposes of court
22 litigation?

23 A. Yes. I prepared reports, supplied to police and
24 prosecutors, yes.

25 Q. Have you either testified or had your reports accepted as

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1 evidence in court?

2 A. Yes, they have been accepted as evidence.

3 Q. And has your experience included all the various trademark
4 holders we have been talking about, Louis Vuitton, Kate Spade,
5 Prada, Coach, Burberry?

6 A. Yes. I worked with and have been trained by each one of
7 those.

8 MR. HULL: Your Honor, at this time we would tender
9 him as an expert in product identification for Louis Vuitton,
10 Kate Spade, Burberry, Coach, Prada.

11 MR. LIVINGSTON: No objection, Judge.

12 THE COURT: All right. This witness is qualified
13 as an expert for the purpose offered.

14 BY MR. HULL:

15 Q. I want to direct your attention to March 29 of 2005. On
16 our behalf, did you examine certain items or the items in the
17 back of the courtroom?

18 A. Yes, I did. I came here and identified a number of items,
19 approximately 300 bags and wallets, which I marked each one
20 with my initials after I looked at it and determined that I
21 believed it to be a counterfeit product.

22 Q. The exhibit sticker down below is where you marked the
23 initial to show you examined it, is that correct?

24 A. Yes.

25 Q. I want to refer you to Government Exhibits 1 through 11,

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1 14 through 232, and 244 through 320, which are in the back of
2 the room with additional ones from Chanel. You didn't look at
3 Chanel, is that correct?

4 MR. LIVINGSTON: Would you repeat the numbers?

5 MR. HULL: 1 through 11, 14 through 232, 244
6 through 320.

7 Q. Those are the exhibits you examined, is that correct?

8 A. Yes.

9 Q. Had you reached an opinion as to whether or not those
10 exhibits were manufactured by Louis Vuitton, Kate Spade,
11 Prada, Burberry, and Coach?

12 A. Yes. My determination was they were not manufactured by
13 those particular trademark holders. After my inspection, I
14 reported that it was counterfeit reproductions of those
15 trademark products.

16 MR. LIVINGSTON: Objection, Judge. Qualify
17 instruction.

18 THE COURT: I'm going to instruct the witness to
19 not use the word "counterfeit" and remind the jury that as I
20 said with the prior witness, I'm going to be instructing you
21 at the end of the case on the definition of counterfeit, which
22 is contained in the statute, and you're to disregard the last
23 answer of the witness in that regard.

24 Q. You determined that they were not manufactured by those
25 particular trademark holders, is that correct?

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1 A. Yes.

2 Q. Did you determine that in looking at that mass of material
3 that identical marks as the trademark holder were used on
4 those particular exhibits?

5 A. Yes. The Louis Vuitton, the LV logo, the Coach signature,
6 C, the particular font of Kate Spade and those products, yes,
7 I did.

8 Q. I'm going to show you what has been marked as Government
9 Exhibits 325 through 328. I'm going to take them out of the
10 folders.

11 Can you identify those documents for the record,
12 please?

13 A. These are the United States patent trademark registrations
14 issued by the Department of Commerce.

15 Q. Are they for Louis Vuitton, Burberry, Coach, and Kate
16 Spade?

17 A. Yes. Louis Vuitton, Burberry, Coach, all the particular
18 trademarks.

19 MR. HULL: Your Honor, we move admission of
20 Government Exhibits 325 through 338.

21 MR. LIVINGSTON: No objection.

22 THE COURT: Did you say 325 through 338?

23 MR. HULL: Yes.

24 THE COURT: All right. Those are admitted.

25 Q. The way we are doing this is putting it on the floor and

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1 bring it up to you, whatever you want to look at.

2 A. Okay. If you want --

3 Q. One second. Okay. I'm going to show you what's been
4 marked as examples as Government Exhibits 277, 294, 313, and
5 351, it looks like, and ask you if you examined those?

6 A. Yes.

7 Q. Those are all Louis Vuitton, is that correct?

8 A. Yes. I examined each one of these.

9 Q. Can you demonstrate how you are able to tell whether those
10 were manufactured by Louis Vuitton?

11 A. Initially, some of the issues of packaging, placement of
12 tags or incorrect tags or improper placing of tags.

13 For example, this plastic wrap on the straps, the
14 real Louis Vuitton bag would not have that.

15 There would be dust covers accompanying these.
16 Some of them had dust covers, but the dust cover is always on
17 the top, but the bag is always in a dust cover, not stuffed
18 into the bag.

19 The tissue paper, these hanging tags are not
20 consistent with real Louis Vuitton products, and when you go
21 further, there's other indicators in terms of the stitching,
22 the matching up, the pattern doesn't necessarily match up.

23 Q. We have heard testimony about plastic on the handles.

24 A. Yes.

25 Q. Is that a factor consistent with it not being a Louis

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1 Vuitton?

2 A. That's true. The authentic Louis Vuitton bags are not
3 shipped or in any way have plastic on their straps or in their
4 packaging.

5 Q. And in the course of going through this mass of exhibits,
6 in the bag of Louis Vuitton, did you notice some other things
7 about the particular items that should be indications they
8 were not manufactured by Louis Vuitton?

9 A. Aside from those things I already mentioned, I recall one
10 had a sticker on it, I believe, on the dust cover on the bag.
11 There was an adhesive sticker on it that said made in China,
12 and I know Louis Vuitton bags are not made in China.

13 They are made in U.S., Italy, or France, or Spain,
14 but never in China.

15 Q. Did you see one that was written in Chinese?

16 A. The writing, there was Chinese writing on one.

17 Q. I am going to show you what has been marked as Government
18 Exhibit 9. I ask you to look at the bag inside, I guess the
19 dust cover or whatever they call it.

20 A. This is what I was referring to. This is an adhesive
21 sticker, and it appears to be Chinese characters, which would
22 not be consistent with a Louis Vuitton product.

23 Q. I'm going to show you what's been marked as Government
24 Exhibits 363 and 362 and ask you to identify what they are.

25 At my request, were you able to secure samples for

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1 the jury to compare with legitimate Louis Vuitton products.

2 A. Yes. These are legitimate Louis Vuitton. This Louis
3 Vuitton product is genuine, and this also is a legitimate
4 Louis Vuitton pochette I believe it's referred to.

5 Q. In the course of your examination, I asked you to see if
6 you can provide pictures of some of the other more common ones
7 that were in the particular material in the back that you
8 already indicated are not manufactured by Louis Vuitton.

9 A. Yes.

10 Q. I'm going to show you what's been marked as Government
11 Exhibit 364. Are those the photographs of genuine Louis
12 Vuitton purses that you obtained for us?

13 A. Yes.

14 MR. HULL: Your Honor, for purposes of comparison
15 by the jury, I want to move in Government Exhibits 362 and
16 363, but I want to -- I don't own it. I want to substitute
17 pictures for it after the closing is over and after the jury's
18 deliberation, so that's not in our custody and not in yours,
19 if that's okay with the defense.

20 MR. LIVINGSTON: Judge, I believe it's going to be
21 okay, but we haven't specifically inspected 362 and 363, and
22 my question is once we get a good look at it and see the items
23 Mr. Hull wants to compare them to, we won't have any objection
24 to that, just so I have a clear grasp of what the one looks
25 like and the other.

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1 MR. HULL: Which one?

2 MR. LIVINGSTON: Both sets together.

3 MR. HULL: To do that, I want to introduce them in,
4 but I want to make sure I'm not stuck with having to pay Louis
5 Vuitton for the purses.

6 MR. LIVINGSTON: No objection to those physical
7 objects 362, 363 not remaining with the pool of evidence that
8 will be available to go out with the jury.

9 THE COURT: All right.

10 MR. HULL: It's after the case. They won't be
11 available for appellate, whatever.

12 THE COURT: All right. Just so the record is
13 clear, there's a stipulation between counsel that Exhibits 362
14 and 363, which are the products that this witness testified
15 are or were manufactured by Louis Vuitton, at the conclusion
16 of the case, picture printouts of those products will be
17 substituted for the original evidence at the conclusion of the
18 case.

19 MR. HULL: Yes. I have those printouts here. In
20 case you want to see them with the original, I can do that
21 now.

22 THE COURT: You moved them into evidence as well?

23 MR. HULL: Yes.

24 THE COURT: Is there any objection to that?

25 MR. LIVINGSTON: No.

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1 THE COURT: All right. 362 and 363 are admitted.

2 MR. LIVINGSTON: Judge, just to clarify the record.

3 We have no objection to the proposal that Mr. Hull has

4 mentioned. For clarification, the two photographs of the two

5 items labeled 362 and 363, do the photographs also have those

6 same exhibit numbers on them?

7 MR. HULL: Yes.

8 THE COURT: All right. Thank you.

9 Q. I'm going to show you what's been marked as Government
10 Exhibit 362 and Government Exhibit 303. That's the one you
11 identified as the pouchette?

12 A. Yes.

13 THE COURT: Would you pull that microphone closer
14 to you.

15 A. Yes.

16 Q. What is Government Exhibit 303? I think I handed you, is
17 that the pouchette as well?

18 A. Yes. This appears to be a pouchette model.

19 Q. That was taken during the course of the seizure, is that
20 correct?

21 A. That's correct. These are my initials on it. I
22 identified it on March 29th.

23 Q. There are other pouchettes in the material that were
24 seized that night. This is just one of them, is that correct?

25 A. Yes.

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1 MR. HULL: Your Honor, at this time I would like to
2 exhibit them to the jury and give them to them so they can do
3 a comparison.

4 THE COURT: 362, that is fine. I don't believe 303
5 has been admitted into evidence.

6 MR. LIVINGSTON: Yes.

7 THE COURT: I'm sorry. Since they are both in
8 evidence, you may publish them to the jury.

9 (Whereupon, the jury examined the exhibits.)

10 Q. For comparison purposes, I'm going to show you what has
11 been marked Government Exhibit 363 and Government Exhibit 274.
12 Are they the same? I don't know what model that is. Can you
13 tell us?

14 A. It's a backpack model. I forget the exact name, but it is
15 a standard backpack model. This is authentic.

16 THE COURT: We can't hear you, sir.

17 A. I'm sorry. I keep hitting the microphone. This is an
18 authentic backpack model, and this is the one that I
19 determined not to be manufactured by Louis Vuitton.

20 MR. HULL: Again, Your Honor, I would like to
21 publish 274 and 363 to the jury.

22 THE COURT: Very well.

23 (Whereupon, the jurors examined the exhibits.)

24 Q. Mr. Smith, we've completed allowing the jury to do a
25 comparison. Can you tell us how much those two legitimate or

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1 genuine Louis Vuitton products cost?

2 A. This product --

3 Q. What number is that, sir?

4 A. 363, \$920 for this particular product, retail on it, and
5 for this product, \$540.

6 Q. Before we --

7 A. \$540.

8 Q. Before we finish with Louis Vuitton, I'm going to show you
9 what is Government Exhibit 364. You mentioned that Louis
10 Vuitton had an Internet portal in the United States. What's
11 the name of the outfit?

12 A. eLuxury.com.

13 Q. Are those photos of some of the other bags in the mass in
14 the back of the courtroom?

15 A. Yes.

16 MR. HULL: Your Honor, I move 364 in.

17 MR. LIVINGSTON: Judge, I was conferring with
18 Mr. Diallo. 364 is a photograph of other --

19 THE COURT: Of the Internet store.

20 MR. LIVINGSTON: Okay. We saw that before. We
21 have no objection to its admission.

22 THE COURT: All right. 364 is admitted.

23 MR. HULL: Your Honor, for purposes I guess for
24 security, do you want to keep these?

25 THE COURT: We'll keep them locked up.

Richard Smith - Direct

1 Q. Now, sir, with respect to some of the other designer
2 outfits that you examined bags on, I'm going to show you
3 what's been marked as Government Exhibits 223 and 226. Can
4 you identify what trademark holder those bags are from?

5 A. The trademark -- this is a Kate Spade. The trademark
6 identified on this particular bag is Kate Spade trademark,
7 which I identified on the 29th as being not manufactured by
8 Kate Spade.

9 Q. Can you briefly explain how you know? Let me get some of
10 the other ones off of there so you have a little room.

11 A. Initially, these tags are not removable. They wouldn't be
12 removable in the authentic product. Kate Spade product labels
13 are sewn on. These are removable. That would be one
14 indicator.

15 Another indicator is the label on the inside peels
16 off, which is not consistent to the authentic Kate Spade
17 product.

18 Q. Is that the same with respect to Government Exhibit 223?

19 A. Yes, it is.

20 Q. I placed before you some exhibits that were Prada, I
21 believe. Would you tell us what exhibits you are looking at?

22 A. I'm looking at Exhibit 232 and 227, two bags containing
23 Prada, the name Prada on it.

24 These I also identified as being not manufactured
25 by Prada or not consistent with the Prada products, and,

Richard Smith - Direct

1 again, the labeling, peel-off labels and the actual lining and
2 some of the documentation that would be with an authentic
3 Prada bag is not present, the certification of authentication.

4 Q. I'll hand you Government Exhibit 217. I believe that's a
5 Burberry-looking handbag, is that correct?

6 A. Okay. This bag appears to have the Burberry trademark,
7 plaid. It has Burberry markings on it. Again, the indicators
8 that I thought that made me believe, determine it was not an
9 actual Burberry product is the peel-off label in the side
10 saying Burberry, the pattern itself is off centered. In the
11 authentic bags the plaid is always exactly matching, matched
12 and centered.

13 THE COURT: Mr. Hull, do you have much more with
14 this witness?

15 MR. HULL: I don't think so. It may be a little
16 longer than you want to wait.

17 THE COURT: All right. Let's take a break at this
18 time. Let me ask the jurors. I would like to go to 5:00
19 today. I want to make sure that will not present any problem
20 with the jurors. Please raise your hand if it will be a
21 problem for you to hear testimony until 5:00.

22 We'll take a break now and return as close to 4:00
23 as we can.

24 Again, I remind the jurors do not discuss the case
25 at all with one another.

Richard Smith - Direct

1 (Whereupon, a break was taken.)

2 Q. Mr. Smith, I placed before you Government Exhibits 50, 47,
3 and 72 as examples of Coach purses. Would you give a brief
4 description to the jury how you are able to tell those are not
5 manufactured by Coach?

6 A. A number of indicators here, the packaging, the plastic on
7 the handles, the hang tags are not consistent with Coach hang
8 tags. Another example here in this particular bag where it
9 says Coach made in Italy, but when you actually go into what
10 they call the Coach store, there's an imprinted identification
11 where the bag is made.

12 On the inside it says it was made in China. On the
13 outside it says Italy. On the outside it says made in China.
14 These are not the zippers consistent with Coach manufactured
15 products.

16 Q. Thank you. With respect to all of the bags you examined,
17 did they have trademarks related to the trademark known as
18 Louis Vuitton, Coach, Prada, Kate Spade?

19 A. Yes. Every bag I marked identification had a trademark on
20 it.

21 Q. Were those trademarks identical to the originals or the
22 actual trademarks from the trademark holders?

23 A. Yes. The signature C or the LV logo or Kate Spade font.

24 Q. Did the Louis Vuitton have something called the monogram
25 pattern? What is that?

Richard Smith - Direct

1 A. The monogram pattern has the little LV and has the
2 fleur-de-lis flower design and a consistent pattern known as
3 the monogram collection.

4 Q. Can you tell us the price ranges for the bags that you've
5 examined, if you can start with Louis Vuitton.

6 A. Louis Vuitton bags in the small to medium range may start
7 at \$470, in that range, and go up to \$1,160 or \$1,200 to small
8 to medium range.

9 The Coach bags, small to medium would start around
10 \$170, maybe go up to \$245, \$170 up to like \$398, \$400. The
11 larger bags would go up to \$400 to \$600.

12 Kate Spade would go in the area of \$245 to \$500,
13 and the Burberrys also would start around \$275 and go up to
14 almost \$700, in that price range for the small to medium bags.

15 Q. What about the Pradas?

16 A. Pradas for their bags, they run from \$700 to around a
17 thousand dollars.

18 Q. Now, sir, does Louis Vuitton or -- well, let's start with
19 does Louis Vuitton authorize others to manufacture their
20 products for them?

21 A. No. Louis Vuitton strictly controls their manufacturer,
22 and their sale, as I said, is only done by Louis Vuitton
23 employees.

24 Q. Was Mr. Diallo authorized to sell their merchandise?

25 A. I'm not aware of Mr. Diallo being authorized for any sales

Richard Smith - Direct

1 of products.

2 Q. With respect to the other particular bags, are you aware
3 of him being authorized to sell those particular bags?

4 A. No. They're very strictly controlled in the sense of only
5 sold through authorized dealerships and department stores and
6 not giving individual authorizations.

7 MR. HULL: I have no further questions of the
8 witness, Your Honor.

9 THE COURT: All right. Cross-examination.

10 MR. LIVINGSTON: No questions, Judge.

11 THE COURT: Okay. Thank you. You may step down,
12 Mr. Smith.

13 MR. HULL: Your Honor, at this time I'm going to
14 change up, I'm going to call Mrs. Roudebush.

15 THE COURT: All right. Will you step to the front
16 of the courtroom to be sworn.

17 **JANE ROUDEBUSH, GOVERNMENT WITNESS, WAS SWORN.**

18 THE CLERK: Your name, please.

19 THE WITNESS: Jane Roudebush.

20 THE CLERK: Spell that.

21 THE WITNESS: R O U D E B U S H.

22 DIRECT EXAMINATION

23 BY MR. HULL:

24 Q. Would you please pull the mic. toward you. Are you
25 employed, ma'am?