

A Court Order Is Not a Suggestion: Federal Court Finds Counterfeiter in Contempt

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In *Louis Vuitton Malletier SA v. Wang*, 2026 FC 1244, the Federal Court found the Defendant, Audrey Wang also known as Ni Ni Yang also known as Ni Yang (Ms. Wang), guilty of contempt for breaching a permanent injunction in the 2019 judgment, *Louis Vuitton Malletier SA v. Wang*, 2019 FC 1389 (the 2019 Injunction), which prohibited her from infringing Louis Vuitton's trademarks, depreciating the value of the trademarks, and engaging in passing off. The Court found beyond a reasonable doubt that Ms. Wang offered for sale and sold counterfeit Louis Vuitton goods, notwithstanding her knowledge of the 2019 Injunction.

The Court's Contempt Finding

The Court found that Louis Vuitton had established all three elements of contempt beyond a reasonable doubt:

- i. the 2019 Injunction was clear and unequivocal in prohibiting further trademark infringement, passing off, and related conduct;¹
- ii. Ms. Wang had actual knowledge of the 2019 Injunction;² and
- iii. Ms. Wang intentionally engaged in conduct prohibited by the 2019 Injunction by offering for sale and selling counterfeit Louis Vuitton products, which constituted infringement, depreciation of goodwill and passing off.³

Justice McHaffie of the Federal Court emphasized that contempt is an exceptional and discretionary remedy that should be used cautiously and only as a measure of last resort: even where the three elements of contempt are proven beyond a reasonable doubt, the Court retains discretion to decline to make a finding of contempt and should only enter a conviction for contempt where it is genuinely necessary to safeguard the administration of justice.⁴

In the case at hand, the Court confirmed that it was satisfied it should enter a conviction for contempt as it was necessary to safeguard the administration of justice.⁵ The Court found that Ms. Wang had previously been found to have sold counterfeit goods and had been ordered to stop. Despite knowing of that order, she again deliberately sold counterfeit Louis Vuitton goods, complete with counterfeit packaging and false receipts. The conduct was not a momentary lapse: it involved ongoing advertising and sale of counterfeit goods, confirmed through two sales about seven weeks apart. The finding was further reinforced by

evidence that she continued to offer counterfeit and infringing goods several months later and failed to deliver up counterfeit goods when given the opportunity.⁶

The penalty for the contempt will be determined at a separate sentencing hearing, where Ms. Wang will have an opportunity to present evidence relevant to sentencing.

Arguments Rejected by the Court

The Court rejected various objections and alternative explanations advanced by Ms. Wang, including the assertions that:

- **Certain evidence should be excluded for late disclosure.** The Court rejected Ms. Wang's objections to allegedly late-disclosed evidence, holding that late disclosure does not automatically render a contempt proceeding unfair or require exclusion of evidence. To the contrary, the Court confirmed that the importance of its truth-seeking function, and the importance of trial fairness to all parties and society more broadly, means that evidence should only be excluded for late disclosure in exceptional cases. In this matter, any potential prejudice was adequately addressed through adjournments that provided Ms. Wang with additional time to review the materials and prepare her response.⁷
- **The 2019 Injunction may not have been understood because Ms. Wang was self-represented, English was not her first language, and the judgment was legally complex.** The Court found that the injunction clearly prohibited the sale of counterfeit Louis Vuitton goods and concluded that it “defie[d] common sense” to suggest that she may have misunderstood that prohibition given the extensive summary trial proceedings and subsequent enforcement measures.⁸
- **An inconsistency concerning where a WeChat QR code was displayed undermined the credibility of one of the investigator’s pieces of evidence.** The Court accepted the investigator's explanation and found that the inconsistency concerned a peripheral matter. Her evidence on the sales and goods was consistent, survived cross-examination, and was corroborated by video and photographic evidence.⁹
- **Louis Vuitton’s witness was not reliable since she did not physically inspect the products at issue (instead relying on photographs) and was an employee of Louis Vuitton rather than an independent expert.** The Court accepted that the witness could identify the goods as counterfeit from photographs and that no third-party individuals would be more qualified than Louis Vuitton’s witness to determine whether Louis Vuitton goods were genuine or counterfeit, given that details regarding Louis Vuitton’s product manufacturing are known only by Louis Vuitton employees.¹⁰
- **Louis Vuitton had to prove an “ongoing commercial enterprise.”** The Court held that the injunction prohibited further infringement regardless of the scale or sophistication of the operation. A business licence, employee records, supplier invoices, accounting records or other indicia of an established enterprise were therefore unnecessary for establishing contempt.¹¹

Cassels

Ultimately, the Court found that Ms. Wang's various challenges to the evidence and her alternative explanations for what had occurred – without actually testifying to the same – did not undermine Louis Vuitton's case. The evidence established beyond a reasonable doubt that she knowingly continued to offer for sale and sell counterfeit Louis Vuitton goods in breach of the 2019 Injunction, warranting a finding of contempt.

Takeaways

This decision illustrates the Federal Court's willingness to use its contempt jurisdiction to enforce intellectual property injunctions where a defendant resumes the very conduct previously prohibited by the Court. Although contempt remains an exceptional and discretionary remedy of last resort, Justice McHaffie emphasized that the Court will not hesitate to exercise that discretion where doing so is necessary to safeguard the administration of justice and ensure that intellectual property rights holders receive the benefit of the remedies they have obtained.

Louis Vuitton was represented by [Karen MacDonald](#) and [Claire Stempien](#) of our Vancouver office.

¹ *Louis Vuitton Malletier SA v Wang*, 2026 FC 1244 at paras 30-35.

² *Ibid* at paras 36-40.

³ *Ibid* at paras 41-80.

⁴ *Ibid* at para 85.

⁵ *Ibid* at para 86.

⁶ *Ibid* at paras 88-90.

⁷ *Ibid* at paras 25-29.

⁸ *Ibid* at para 35.

⁹ *Ibid* at paras 48-51.

¹⁰ *Ibid* at paras 60-68.

¹¹ *Ibid* at paras 81-83.