



# Update

Media, Entertainment & Communications

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## Deckers Outdoor Corporation INC V Farley Update

The outcome of Deckers Outdoor Corporation INC V Farley [2009] FCA 1298 was reported in the Summer Edition of Insight (February 2010). As a result of subsequent conduct, described as falling within the most serious category of criminal contempt, three of the respondents in that case have now received custodial sentences for contempt.

It was held that Leonid Mykhalovskyi (**Mr Mykholovskyi**) and Hepbourne Pty Ltd (**Hepbourne**), a company owned and operated by members of the Vaysman family, had infringed the copyright of Deckers Outdoor Corporation INC (**Deckers**) by manufacturing and selling counterfeit copies of its "UGG Australia" branded Ugg boots. This had been a substantial business for Mykholovskyi and Hepbourne over a period of years, with turnover in the millions of dollars.

In the recent Federal Court decision for contempt Justice Tracey made the point that despite numerous attempts by Deckers to protect its rights via restraining orders against Vladimir and Victoria Vaysman, their father Josef Vaysman and Leonid Mykholovskyi, each of these had at one time or another since 2003 contravened orders made by the Court on multiple occasions.

The manufacturing and sale of the footwear had continued largely unabated. The judgment details a litany of events with which the Vaysmans and Mykholovskyi treated the court process with disdain. Vladimir Vaysman gave undertakings only to proceed with business as usual as nothing had happened. His sister expressed remorse but given her behaviour this was received with scepticism.

It was held that the blatant disregard with which the Court orders were treated warranted custodial sentences. It was noted that the sentences were imposed not only for the benefit of the plaintiff but also to protect the effective administration of justice by demonstrating that the court's orders will be enforced and to vindicate the authority of the court. The sentences will result in 3 years jail for Vladimir, 12 months for his sister and 3 months for their associate Mykholovskyi.

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