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HON. RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CASCADE YARNS, INC., a Washington Corporation,

Plaintiff,

vs.

KNITTING FEVER, INC., a New York Corporation, DESIGNER YARNS, LTD., a corporation of England, FILATURA PETTINATA V.V.G. DI STEFANO VACCARI & C. (S.A.S.), and entity organized or existing under the laws of Italy, SION ELALOUF, an individual, DIANE ELALOUF, an individual, JAY OPPERMAN, an individual, DEBBIE BLISS, an individual, DAVID WATT, an individual and DOES 1-50,

Defendant.

Case No. 2:10-cv-00861 RSM

REPLY DECLARATION OF ROBERT J. GUTE IN SUPPORT OF CASCADE YARNS, INC.’S MOTION FOR PROTECTIVE ORDER AND ENTRY OF STIPULATION AND ORDER RE CONTINUING GUARANTY

**Note On Motion Calendar:
December 17, 2010**

I, Robert J. Gute, declare as follows:

1. I am an attorney, admitted to practice before all of the courts of the State of Washington and this court, and am Of Counsel at Squire, Sanders & Dempsey L.L.P., counsel of record for Plaintiff Cascade Yarns, Inc. (“Cascade”) in this action. This declaration is based on my personal knowledge and, if called on to do so, I would and could testify competently as to the matters set forth herein.

EXHIBIT A

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
IN SEATTLE

CASCADE YARNS, INC.,)	
)	
Plaintiff,)	No. C10-861RSM
)	
v.)	
)	
KNITTING FEVER, INC.,)	
)	
Defendant.)	
)	
)	

MOTION FOR PRELIMINARY INJUNCTION

BEFORE THE HONORABLE RICARDO S. MARTINEZ

September 29, 2010

APPEARANCES:

For the Plaintiff:	Robert J. Guite
	SQUIRE SANDERS & DEMPSEY

For the Defendant:	Joshua R. Slavitt
	PEPPER HAMILTON
	Warren Rheaume
	DAVIS WRIGHT TREMAINE

1 looking at the four factors the court looks at for preliminary
2 injunction, I am pretty convinced they might have success on the
3 merits here. I guess I am asking you, what would you prefer?

4 MR. SLAVITT: What we would prefer, your Honor? I have
5 a difficult time accepting that Cascade has established the
6 reliability of these tests to the point of a substantial
7 likelihood of success. I think, again, we are not saying that
8 these tests are absolutely worthless and there is nothing to
9 them, but I think it is a far cry from a substantial likelihood.
10 That, coupled with the delay that they have shown, doesn't seem
11 to warrant -- If, at the end of the day, it turns out that they
12 can prove the Lanham Act violation, they would potentially be
13 entitled to injunctive relief at that point. But the urgency of
14 this matter, which is particular to a preliminary injunction
15 matter, I don't think it is found here.

16 To answer your question -- I apologize for the long
17 interruption. To answer your question, I think we would
18 certainly prefer a directive that both parties file a continuing
19 guarantee as compared with an injunction.

20 THE COURT: Would you be willing to agree to that? If
21 so, I think we are done.

22 MR. SLAVITT: I guess it depends on the extent to which
23 your Honor would be inclined to grant the motion.

24 THE COURT: What I would do is this: I would put out an
25 order that actually says, oral argument -- both sides agreed to

1 the alternative of providing the continuing guarantee for each of
2 them; the motion for preliminary injunction is stricken. That's
3 what it would say.

4 MR. SLAVITT: Your Honor, if you would be able to
5 indulge a brief recess for me to speak with my client? Obviously
6 Mr. Guite has his client here and can make that representation to
7 the court presently. If that's at all possible?

8 THE COURT: It sure is. How long do you need?

9 MR. SLAVITT: Assuming I am able to get in touch with
10 people, I would say 10 to 15 minutes.

11 THE COURT: Fifteen minutes. We will be at recess.

12 (At this time a short break was taken.)

13 THE COURT: Counsel.

14 MR. SLAVITT: I have had a chance to speak with my
15 client. KFI would be agreeable to filing a continuing guarantee,
16 provided Cascade were to do the same thing. We would also agree
17 not to use this against Cascade, in terms of touting this, and
18 posting this on ravelry, look what we got Cascade to do, if
19 Cascade would agree not to do that as well.

20 We haven't been engaged proactively in that kind of a
21 campaign, but to the extent Cascade has, we have felt the need to
22 respond. We prefer not to do it at all. And we are concerned
23 about -- We are certainly cognizant of individuals' free speech
24 rights. To the extent that this is something that doesn't
25 advance the litigation, I'm not sure what purpose it serves. We

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CERTIFICATE

I, Barry L. Fanning, Official Court Reporter, do hereby certify that the foregoing transcript is true and correct.

S/Barry L. Fanning

Barry L. Fanning

EXHIBIT B

KFI

July 20th, 2006

Dear Customer:

We are writing because we understand that a disgruntled competitor, Cascade – apparently upset because KFI's Ella Rae Classic, a superior 4 ply 100% feltable wool with 220 yards per 100 Gram ball, has been taking market shares away from Cascade 220, its 100% wool yarn – is continuing to maliciously publish false and defamatory statements that Debbie Bliss's Cashmerino yarn, which KFI distributes in the United States, does not contain cashmere.

In an effort to avoid embarrassment to Cascade and the industry at large, we sought to resolve the matter quietly and privately, by explaining the facts to Cascade and asking for a simple apology. Unfortunately, Cascade ignored our request and instead has further disseminated its false allegations. Accordingly, to protect the reputations of KFI, its suppliers, its designers and our industry as a whole, we have no choice but to publicly refute Cascade's scurrilous charges and set the record straight once and for all.

First, please rest assured that Debbie Bliss's Cashmerino yarn contains cashmere. The manufacturer, Filatura Pettinata VVG, has certified this to us in writing. The testing house we are now using – TFT Limited, a CMMI member that many U.S. and international companies use on a regular basis because of its excellent reputation – has confirmed that all six Debbie Bliss Cashmerino samples we furnished to date (ball stocks drawn at random from the warehouse) contain cashmere. And our suppliers had expert textile labs (more than one) in Europe analyze the Cashmerino products, conducting numerous and more extensive tests (on twice the number of fibers each time) than Cascade's lab had performed and found in all cases that the Cashmerino samples contained cashmere.

We even furnished two of these reports to Cascade, which Cascade apparently has chosen to ignore. It is also ignoring the fact that the yarn is a well-established product that has been produced and sold worldwide for five years.

Second, in sharp contrast, Cascade's false allegations are based entirely on a single, free, preliminary test performed by KD Langley. We have been informed that KD Langley always scores lower than TFT on "blind tests" that CMMI members receive from time to time to check their accuracy.

Third, as we have repeatedly pointed out to Cascade, it is difficult to test accurately for cashmere content, which can result in "false negative" results – *i.e.*, findings of no cashmere content where cashmere in fact is present. Specifically, fiber experts we have contacted all state that, when one uses a projection microscope to examine Iranian or Mongolian Cashmere that is blended with extra fine merino wool -- both of which have the same micron of approximately 18 / 19 -- there will be some fibers that can be identified as wool, some as cashmere and others that are "indeterminate." This makes the report on which Cascade has irresponsibly relied even more suspect.

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KFI

Stated simply, it is virtually impossible to differentiate between Iranian cashmere and extra fine merino wool because the two fibers have virtually the same characteristics. It is therefore not surprising that a lab may mistake cashmere fibers for wool fibers in a particular sample and thereby erroneously conclude that there is no cashmere in the sample.

Fourth, Cascade's assertion that it did not request the lab test is false. Cascade admitted to Yarn Market News and to Filatura Pettinata VVG's principal weeks ago that it had asked for the test because it could not believe that KFI was able to sell a product containing cashmere at such a competitive price. In other words, despite its being in the market for years, Cascade did not become interested in Debbie Bliss's Cashmerino until now, when KFI's Ella Rae Classic yarn is taking market share from Cascade. And any suggestion that Cascade was not specifically targeting KFI is belied by the fact that Cascade sought no such tests of any of the numerous, competitively-priced cashmere blends on the market, such as:

- Gedifra Cashmerino - 55% wool, 35% acrylic, and 10% superwash cashmere*
- Rowan's Cashsoft baby DK - 57% Wool, 33% Microfiber Acrylic, 10% cashmere*
- Rowan's Cashsoft 4 ply - 57% Wool, 33% Microfiber Acrylic, 10% cashmere*
- Rowan's Cashsoft Aran - 57% Wool, 33% Microfiber Acrylic, 10% cashmere*
- Rowan's Cashsoft DK - 57% Wool, 33% Microfiber Acrylic, 10% cashmere*
- Lion Cashmere Blend - by Lion Brand- 72% Merino Wool, 15% Nylon, 13% Cashmere*
- Knit One Purl Two - Ambrosia - 70% Baby Alpaca, 20% Silk, 10% Cashmere*
- Knit Picks - Ambrosia - 80% baby alpaca, 20% cashmere*
- Knit Picks - Panache - 40% baby alpaca, 20% cashmere, 20% silk, & 20% extrafine merino*
- Adrienne Vitadini - Trina - 55% merino wool, 35% microfiber, and 10% cashmere*
- GGH - Taj-Mahal - 70% wool, 22% Silk, 8% Cashmere*
- JO SHARP SILKROAD DK TWEED - 85% Merino Wool, 10% Silk, 5% Cashmere*
- JO SHARP SILKROAD Aran TWEED - 85% Merino Wool, 10% Silk, 5% Cashmere*
- JO SHARP SILKROAD Aran - 85% Merino Wool, 10% Silk, 5% Cashmere*
- JO SHARP SILKROAD Ultra - 85% Merino Wool, 10% Silk, 5% Cashmere*
- Filatura Cervinia (Le Fibre Nobili). Taj Mahal - 8% Cashmere, 22% silk and 70% extrafine Merino*
- Classic Elite - Princess (40% merino, 28% viscose, 10% cashmere, 15% nylon, 7% angora*
- Classic Elite - Duchess - 40% wool, 28% rayon, 10% cashmere, 7% angora and 15% nylon*
- FILATURA DI GRIGNASCO - 50% New Wool Super 100s S.R., 42% Viscose, 8% Cashmere*
- Peruvian Collection Baby Cashmere - 60% Baby Alpaca, 30% Merino Wool, 10% Cashmere*
- Karabela Yarns - Chameleon - 70% Merino, 20% Silk, 10% cashmere*
- Karabela Yarns - Margrite - 80% Merino, 20% cashmere*

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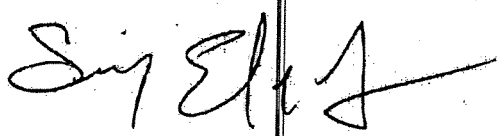
*Karabela Yarns - Margrite Bulky - 80% Merino, 20% cashmere
Anny Blatt -Cashmere Anny - 85% wool and 15% cashmere,
Nandian Cashmere - 40% wool, 28% rayon, 15% nylon, 10% cashmere and 7%
angora*

We are sure that, while random tests of these blends may not always identify the cashmere content, our competitors' products in fact contain the requisite amounts of cashmere. Unlike Cascade, even if we had an ax to grind with our competitors, we would never consider publicly disseminating inherently unreliable information about their yarns falsely labeled as "fact."

Fifth, According to Filatura Pettinata VVG's principal, Cascade actually apologized to him for its initial publication of the erroneous lab report, stating that it respected Filatura Pettinata VVG and never would have gone public in the first place had it known that it was the supplier. Nevertheless, Cascade has continued to disseminate the information to KFI's customers in an effort to damage our reputation.

If you have any questions about any of the above, please do not hesitate to contact us, as we are anxious to furnish you with whatever information you need to put your mind at ease about this matter. In the meantime, we hope you recognize Cascade's charges for what they are – a desperate, "sour grapes" ploy by a defeated competitor. It is a disgrace that – rather than seek to compete on a level playing field – Cascade feels the need to resort to such dirty tricks, jeopardizing our entire industry's reputation in the process.

Sincerely,



Sion Elalouf

KFI

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