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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

CASCADE’S REPLY IN SUPPORT OF MOTION FOR LIMITED EXPEDITED DISCOVERY AND LETTER ROGATORY

Note On Motion Calendar: November 12, 2010

I. REPLY

While Philadelphia and local counsels’ opposition is replete with circular arguments, bluster, and unsupported factual assertions, it lacks any legally or factually based challenge to the discovery sought. First, defendant Knitting Fever, Inc.’s (“KFI”) opposition does not factually dispute any of the myriad circumstantial evidence that Cascade offers for its suspicion regarding the provenance of the proffered tests. Second, KFI offers no dispute regarding the legal

1 availability of the relief sought, or the standard for seeking the same. Third, KFI offers
 2 conflicting testimony regarding who collected the samples and arranged for the tests¹², and offers
 3 **absolutely no provenance** as to how the purported tests found their way from SGS Cashmere
 4 Labs in England to the photocopies that were filed with this Court. Fourth, KFI offers neither
 5 allegation nor evidence of prejudice or burden that it may suffer if this motion is granted. As
 6 Cascade explained in its opening motion, there is none.

7 In summary, KFI offers nothing of substance to balance against the undisputed need that
 8 Cascade has demonstrated for the discovery sought. There can be only one of two explanations
 9 for KFI's opposition: (a) KFI has the provenance, but tactically seeks to create suspicion purely
 10 for the purpose of increasing the costs of litigation and burdening the Court with an unnecessary
 11 motion; or (b) KFI is aware that the tests lack provenance and are suspect, and seeks to frustrate
 12 Cascade's efforts to discover the same. Either explanation forms the basis for granting the
 13 motion. Simply put, Defendants present no sufficient factual or legal basis³ to oppose Cascade's
 14 request.

SQUIRE, SANDERS & DEMPSEY L.L.P.

15 Dated: November 12, 2010

16 By: /s/ Robert J. Guite
 Robert J. Guite, WSBA No. 25753

17 Attorneys for Plaintiff
 18 Cascade Yarns, Inc.

19 _____
 20 ¹ Mr. Elalouf testified that Designer Yarns arranged for the tests Dkt. Nos. 68 & 78, while Mr.
 Denecke seems to indicate that KFI did so. Dkt. No. 101.

21 ² The curious contradiction between the testimony of Mr. Denecke, the argument of Philadelphia
 22 and local counsel, and the contrasting testimony of Mr. Elalouf could easily be resolved in an
 evidentiary hearing.

23 ³ Defendants do not address Cascade's legal authorities or dispute that permitting discovery in
 24 advance of the Rule 26(f) conference is within the sound discretion of this Court. As the courts
 25 recognized in *Yokohama Tire Corp. v. Dealers Tire Supply, Inc.*, 202 F.R.D. 612, 613 (D. Ariz.
 2001) ("the Court opines that it has the discretion to order the expedited production of documents
 26 if the appropriate circumstances exist.") and *Arista Records, LLC v. Doe*, 2007 U.S. Dist. LEXIS
 97283, *5 (S.D. Ohio, Nov. 5, 2007), such discovery is proper where, as here, good cause is
 shown.

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CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2010, I made arrangements for my assistant to electronically file the aforementioned Cascade’s Reply in Support of Motion for Limited Expedited Discovery and Letter Rogatory with the Clerk of Court using the Court’s CM/ECF system which will send notice to counsel as follows:

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I declare under penalty of perjury under the laws of the State of Washington, the State of California and the United States of America that the foregoing is true and correct.

Executed this 12th day of November, 2010 at San Francisco, California.

SQUIRE, SANDERS & DEMPSEY L.L.P.

By: /s/ Robert J. Gutie
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