

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

Defendants.

) Case No. 2:10-cv-00861 RSM
)
) **DECLARATION OF ROBERT A. DUNBABIN, JR. IN SUPPORT OF PLAINTIFF CASCADE YARNS, INC.’S MOTION FOR PRELIMINARY INJUNCTION**

) **Note On Motion Calendar: July 30, 2010**

I, Robert A. Dunbabin, Jr., hereby declare as follows:

1. I am an attorney at law, admitted to practice before all of the courts of the State of Washington and this Court and am in-house counsel with Cascade Yarns, Inc. (“Cascade”) and personally involved in numerous business decisions of the same. I submit this declaration in support of Cascade’s Motion for Preliminary Injunction. This declaration is based on my

1 personal knowledge and, if called upon to do so, I would and could testify competently as to the
2 matters set forth herein.

3 2. Cascade is one of the nation's finest purveyors of natural fiber hand knitting yarns
4 and sells its products through specialty retailers and boutiques throughout the United States.
5 Cascade sells its products and uses its trademarks in interstate commerce.

6 3. Cascade's products include many yarns containing a mix of wool and other natural
7 fibers such as kid mohair, silk and cashmere. Cascade extensively promotes its trade name and
8 products.

9 4. Knitting Fever, Inc. ("KFI") is one of Cascade's chief competitors in the
10 wholesale yarn marketplace. KFI similarly sells its products through retailers and boutiques
11 throughout the United States.

12 5. Apparently seeking unreasonable profits and to undercut its competitors'
13 (including Cascade's) business, beginning sometime in the early 2000s and certainly no later than
14 2006, KFI began selling products that had literally false labels misrepresenting the products'
15 cashmere, kid mohair and/or silk content. The literally false labels allowed KFI to sell their
16 products for a significantly lower price than Cascade's products, thereby damaging Cascade in
17 the form of lost profits and has caused Cascade's business to suffer.

18 6. KFI's prices for its *Cashmerino* yarns are commensurate with the prices of
19 competing yarns, including Cascade's yarns, that actually contain the fibers identified on their
20 labels. Thus, in my experience in the hand knitting yarns industry, KFI's profit margin on its
21 *Cashmerino* is many times greater than it would be if it had included the more expensive
22 cashmere fibers in its products. KFI's sale and marketing of its products as labeled is misleading
23 and is likely to cause customer confusion and damage Cascade.

24 7. KFI's windfall profits from its mislabeled yarns make it more difficult for Cascade
25 to conduct business. Cascade is required to compete against KFI, while it earns windfall profits
26 from its mislabeled yarns and uses those profits to prop up its marketing efforts, such as

1 publishing the expensive full color *Debbie Bliss Magazine*; a publication that has almost no
2 advertisers and, in my experience, could not otherwise be sustaining. Similarly, it benefits by
3 using those profits to pay to fly Ms. Bliss to Seattle to throw out the opening pitch at an upcoming
4 Seattle Mariners baseball game at Safeco Field.

5 8. Given the attention to quality paid by most hand knitters, although they would not
6 be able to detect the absence of cashmere fibers without expert testing, the characteristics of a
7 purportedly cashmere yarn (that actually contains no cashmere, or only a trace of cashmere) are
8 likely to be perceived by consumers as inferior to their expectations. Thus, other products
9 actually containing cashmere (including those sold by Cascade) are likely to suffer decreased
10 sales as a result of being compared to KFI's mislabeled products. Such a comparison would
11 injure competitors like Cascade whose products may be rejected out of hand by consumers who
12 were dissatisfied by KFI's seemingly-comparable products. As detailed herein, I believe that
13 Cascade will likely lose customers and revenue as well as face potentially serious damage to its
14 reputation and goodwill.

15 9. In 2008, I spoke with KFI's president, Sion Elalouf regarding the fiber content of
16 KFI's *Silky Wool* product. In that call, I indicated to Mr. Elalouf that test results confirmed that
17 the product contained nylon even though nylon was not identified as a fiber contained in the
18 product. During that call, Mr. Elalouf was not receptive to re-labeling *Silky Wool*. However,
19 approximately one week after that call, Mr. Elalouf called me back and conceded that *Silky Wool*
20 was not properly labeled and advised that KFI would re-label *Silky Wool*. I understand that KFI
21 changed the label of *Silky Wool* to include nylon and also issued new labels to the stores that had
22 previously purchased the product so that those stores could re-label existing stock. Thus, re-
23 labeling product and notifying customers is within KFI's capabilities and experience.

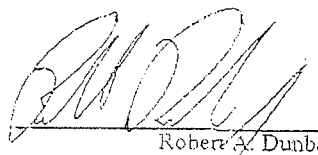
24 10. Attached hereto as Exhibit A is a true and correct copy of a web page from
25 www.yarndex.com, the yarn directory, describing the fiber content of *Elsebeth Lavold Silky Wool*
26 distributed by KFI as "Wool, Silk" along with a subsequent comment indicating that the correct

1 fiber content was 45% wool, 35% silk and 20% nylon. In my experience in the yarn industry,
2 20% of the total content is a substantial quantity of fiber and could not be accurately described as
3 a trace amount.

4 11. Attached hereto as Exhibit B is a true and correct copy of a post from
5 www.yarnscoop.com titled "*Controversy: Silky Wool's Stealth Nylon.*" That posting quotes KFI
6 as having made a label correction to include nylon in the product's fiber content.

7 I declare under penalty of perjury under the laws of the United States of America that the
8 foregoing is true and correct.

9 Executed on July 9, 2010 at Florence, Italy.

10
11 
12 _____

Robert A. Dunbabin, Jr.

EXHIBIT A



Existing Users: [Sign In](#)
[Create Account](#) | [Advertise](#)

you are here: [home](#) > [yarn](#) > [elsebeth lavold](#) > [silky wool](#)

Quick Yarn Search

Yarns by Elsebeth Lavold

- ▷ [Angora](#)
- ▷ [Baby Lima](#)
- ▷ [Bamboo](#)
- ▷ [Cable Cotton](#)
- ▷ [Calm Wool](#)
- ▷ [Chunky AL](#)
- ▷ [Classic AL](#)
- ▷ [Cotton Frappe](#)
- ▷ [Cotton Frappe Mule](#)
- ▷ [Cotton Patine](#)
- ▷ [Hempathy](#)
- ▷ [Silky Cashmere](#)
- ▷ [Silky Flatweave](#)
- ▷ [Silky Tweed](#)
- ▷ [Silky Wool](#)

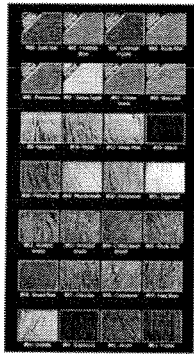
Silky Wool

[Add to My Favorites](#)

From innovative Swedish designer Elsebeth Lavold comes luscious "Silky Wool" yarn. This heathery blend of terrific natural fibers is a great DK-weight option for your multi-season, knitting & crochet projects. Offering sensational feel, marvelous drape & superb stitch definition, it is beautifully crafted in Italy of 65% wool & 35% silk.

Please Note: "Silky Wool" yarn has the same gauge as Elsebeth Lavold's Hempathy, so all patterns are interchangeable for lovely fashions year round.

Shade Cards



Spring 2010: Color Card 1

Click to view full size shade card images:

- [Spring 2010: Color Card 1](#)
- [Spring 2010: Color Card 2](#)
- [Fall 2007](#)
- [Spring 2006 - Card 1](#)
- [Spring 2006 - Card 2](#)
- [Spring 2006 - Card 3](#)
- [Spring 2005: 1](#)
- [Spring 2005: 2](#)

Where to Buy This Yarn

▷ [Yarnmarket](#)
[Your Store Here?](#)

About This Yarn

Brand Elsebeth Lavold
Distributor [Knitting Fever Inc.](#) [wwwj]
Made In Italy
Yardage 192 yds.
Weight 50g
Yarn Weight DK
Fiber Content Wool, Silk
Texture Plied
Gauge (st. /4 in.) 22
Needle Size(s) 6 US (4.25mm)
Availability Currently Produced
MSRP \$7.95
Care Hand Wash & Dry Flat.



























Colors

Currently Produced Colors













































 009: Verdigris (Turquoise)	 010: Wood (Blue)	 012: Dawn Rose (Pink)	 0282: Mustard (Green)	 033: Deep Black (Black) Released: Spring 2006
 035: Petrol (Blue) Released: Spring 2006	 048: Woodsmoke (Green) Released: Spring 2007	 051: Eggshell (Off White) Released: Spring 2007	 052: Hunters Green (Green) Released: Fall 2007	 053: Bronzed Green (Green)
 054: Coffee Bean Brown (Brown) Released: Fall 2007	 055: Rusty Red (Orange) Released: Fall 2007	 056 (Red) Released: Fall 2007	 057 (Purple) Released: Fall 2007	 058: Columbine (Blue) Released: Fall 2007
 059 (Blue) Released: Fall 2007	 060: Granite (Gray)	 061: Espresso (Black)	 062: Acom (Orange)	 063: Purple (Purple)
 064: Fire Red (Red)	 065: Spruce (Blue)	 066: Lime Juice (Green)	 067: Tree Bark (Brown)	 068: White (White)

Most Popular Yarns Today

1. [Needful Yarns Athena Solid](#)
2. [Bouton d'Or Arpege Painted](#)
3. [Araucania Ranco Multi](#)
4. [Bouton d'Or Yak](#)
5. [Filati Bertagna Cielo](#)
6. [Araucania Quellon](#)
7. [Garnstudio Cotton Viscose](#)
8. [King Cole Big Value Baby Knits As 4 Ply](#)
9. [Rowan Scottish Tweed DK](#)
10. [Berroco Zen Colors](#)

 069: Light Purple (Purple)	 070: Medium Blue (Blue)	 071: Fluorite Blue (Blue)	 072: Viridian (Green)	 073: Parrot Green (Green)
 074: Orange (Orange)	 075: Griseldis Rose (Pink)	 076: Gooseberry (Gray)	 077: Vintage Rose (Pink)	 078: Dusty Lavender (Purple)
 079: Thundercloud (Gray)	 080: Vintage Denim (Blue)	 081: Burnt Orange (Orange)	 082: Mustard (Green)	 083: Sapling (Green)
 084: Emerald Green (Green)	 085: Azure (Blue)	 086: Dark Oak (Brown) Released: Spring 2010	 088: Lavender Purple (Purple) Released: Spring 2010	 089: Rusty Pink (Orange) Released: Spring 2010
 090: Persimmon (Orange) Released: Spring 2010	 091: Yellow Apple (Gold) Released: Spring 2010	 092: Winter Grass (Green) Released: Spring 2010	 093: Bay Leaf (Green) Released: Spring 2010	

Discontinued Colors

 001: Chalk (Off White)	 002: White Sand (Pink)	 003: Granite (Gray)	 004: Charcoal (Gray)	 005: Lava (Purple)
 006: Ferrous Red (Tan)	 007: Yellow Ochre (Yellow)	 008: Moss (Green)	 011: Driftwood (Brown)	 013: Sky Blue (Blue)
 014: Sweet Green (Green)	 015: Brick Yellow (Yellow)	 016: Mahogany (Red)	 017: Sandstone (Yellow) Discontinued: Fall 2007	 018: Chocolate (Brown)
 019: Graphite (Gray) Discontinued: Fall 2007	 020: Teal (Turquoise)	 021: Bilberry (Blue) Discontinued: Fall 2007	 022: Deep Purple (Purple)	 023: Plum (Purple) Discontinued: Fall 2007
 024: Claret (Red)	 025: Flax (Off White) Discontinued: Fall 2007	 026: Shocking Pink (Pink)	 027: Periwinkle (Blue)	 028: Bright Turquoise (Turquoise) Discontinued: Fall 2007
 029: Vibrant Green (Green)	 030: Sunflower (Yellow)	 031: Pumpkin (Orange) Discontinued: Fall 2007	 032: Denim Blue (Blue)	 034: Warm Red (Orange) Discontinued: Fall 2007
 036: Cinnamon (Yellow) Discontinued: Fall 2007	 037: Reed (Off White) Discontinued: Fall 2007	 038 (Blue)	 039 (Off White)	 040 (Green)
 041 (Yellow)	 042: Rosehip (Red)	 043: Hazel (Brown)	 044: Golden (Gold)	 045: Forest (Green)
 046: Midnight Blue	 047: Greige (Off White)	 049: Parchment (Brown)	 050: Sandstone (Brown)	

(Blue)

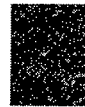
Additional Images



Garment



Detail



Ball

Projects

- 

Anisrom Bedice Sweater
 Source: www.yarnmarket.com
- 

Crocheted Asymmetrical Cardigan
 Source: www.yarnmarket.com
- 

Bvnd Top
 Source: www.yarnmarket.com
- 

Moderne Log Cabin Blanket
 Source: www.yarnmarket.com
- 

Silky Wool Astaug Pullover
 Source: www.yarnmarket.com
- 

Silky Wool Bibi Jacket
 Source: www.yarnmarket.com
- 

Silky Wool Crocheted Herringbone Skirt
 Source: www.yarnmarket.com
- 

Silky Wool Cropped Vest Top
 Source: www.yarnmarket.com
- 

Silky Wool Exact Pullover
 Source: www.yarnmarket.com
- 

Silky Wool Greip Shoulder Bag
 Source: www.yarnmarket.com
- 

Silky Wool Hester Cardigan Vest
 Source: www.yarnmarket.com
- 

Silky Wool Hjalte Pullover
 Source: www.yarnmarket.com
- 

Silky Wool Hunter Pullover
 Source: www.yarnmarket.com
- 

Silky Wool Ingns Pullover
 Source: www.yarnmarket.com
- 

Silky Wool Lena Turtleneck
 Source: www.yarnmarket.com
- 

Silky Wool Markka Pullover
 Source: www.yarnmarket.com
- 

Silky Wool Max Pullover
 Source: www.yarnmarket.com
- 

Silky Wool Point Gloves
 Source: www.yarnmarket.com
- 

Silky Wool Slinky Ribs Top
 Source: www.yarnmarket.com
- 

Silky Wool Thumbelina Cardigan
 Source: www.yarnmarket.com
- 

Silky Wool Tulipa Pullover
 Source: www.yarnmarket.com
- 

Silky Wool Ymer Cardigan
 Source: www.yarnmarket.com
- 

Ylva Silky Wool Top
 Source: www.yarnmarket.com

Reviews & Comments

- hm004j**
 Rochester, New York
 2 Posts

Friday September 2 1:33:00 PM PST
 Delicious! Reasonably priced, soft, light, warm. I made a cardigan which is currently being pieced together and I cannot wait to wear it! I knit the entire cardigan double stranded and it is still light enough to wear on a cool summer night.

- susanknits**
 san francisco, California
 7 Posts

Thursday May 11 11:30:00 PM PST
 This is a very nice yarn to knit with; silky and soft in your hands. However, it pilled horribly after just one washing--does not wear well at all.

- hpaisan**
 New Haven, Connecticut
 1 Posts

Friday January 2 5:17:39 PM PST
 The current fiber content is 45% wool, 35% silk, 20% Nylon (source: http://www.ingenkonst.se/sw_e.htm).

There are 3 comments on this yarn. [View All Comments](#)

[Add Your own Review/Comment](#)

[tell a friend](#) | [newsletter](#) | [about us](#) | [submit yarn info](#) | [about us](#) | [advertise](#) | [contact us](#) | [privacy policy](#) | [terms & conditions](#)

© 2010 Yarnmarket, LLC. YarnDex® is a registered trademark of Yarnmarket, LLC. All rights reserved.

EXHIBIT B

Yarn Scoop

Your online news source for all things knitting, crochet, spinning, and fiber-related.

- [About](#)
- [Privacy Policy](#)

-

Ads by Google

[Premium Mohair Socks](#)

Sports and Executive Models

Mohair Socks
Feel Absolutely Great!

www.raymondsp.com

- **Search Yarn Scoop**

Search...

- **Archives**

- o [June 2010](#)
- o [May 2010](#)
- o [April 2010](#)
- o [November 2009](#)
- o [July 2009](#)
- o [June 2009](#)
- o [September 2008](#)
- o [August 2008](#)
- o [July 2008](#)
- o [June 2008](#)

• Info

- o [About](#)
- o [Privacy Policy](#)

theme by [spaceperson](#)

powered by [WordPress](#)

follow via [RSS](#)

« [Sale: Interweave Press](#) | [Yarn Prices Rising in the Industrial Sector](#) »

Controversy: Silky Wool's Stealth Nylon

Until recently, the label for [Elsebeth Lavold's Silky Wool](#) listed the contents as 65% wool, 35% silk. About a month ago, the label was changed to 45% wool, 35% silk, 20% nylon.

It's not terribly unusual for a yarn line to change its contents. But in this case, things were a little more complicated.

According to [the yarn's Ravelry page](#),

“This composition change happened shortly after this yarn was released in 2006[*]. The mill found that the yarn as designed was too weak & added the nylon for strength. Unfortunately the Elsebeth Lavold yarns wasn't notified by the mill of the change until now. So, the yarn hasn't changed, it's just a label correction.”



In his post to the inevitable Ravelry thread-slash-flame-war, KFI's Manager of Operation states that they were notified of the problem in early June, 2008. At that time they shipped a correction/apology letter to retailers, and attempted to re-label as much yarn as they could.

It's easy to see a conspiracy/cover-up in this scenario, and certainly many people do. However, experience has taught us that what looks like a shadowy corporate conspiracy is often just a case of everyday blunders.

Nevertheless, many questions remain. How did KFI learn of the change? Is it common practice for a mill to make such a significant change to a yarn blend without notifying the distributor? Has KFI switched mills? What does the mill have to say about this?

Got any info or leads on Silky Wool-Gate? [Contact us!](#)

* The "2006" in this Ravelry entry seems to be inaccurate. In KFI's post to the Ravelry thread, their Manager of Operations gives the date as "five years ago," and later says that only the first two lots were nylon-free.

Silky Wool was released in 2003, and KFI says that only the first two lots of Silky Wool were nylon-free. I think it's safe to assume that the Ravelry page is off by three years.

Posted on Wednesday, July 9th, 2008 at 2:47 pm in [Yarn Companies](#) | [RSS feed](#) | [Respond](#) | [Trackback URL](#)

Tags: [Elsebeth Lavold Silky Wool](#), [KFI](#), [nylon content controversy](#), [Silky Wool-Gate](#)

Leave a Reply

Name (required)

Mail (will not be published) (required)

Website

Tags

[Acrylic afghans](#) [for afghans](#) [Ann Budd](#) [berroco](#) [carbon footprint](#) [charity](#)
[knitting](#) [Classic Elite Yarns](#) [contest](#) [Cotton](#) [crochet](#) [discontinued](#) [Eco-Knitting](#) [fiber festival](#) [fire geek](#)
[knitting](#) [HOWTO](#) [knit](#) [local](#) [knit](#) [picks](#) [Knitting Green](#) [Knitting Is Not A Crime](#) [Knitting News](#)
[knitting tv](#) [knitty](#) [knitty.com](#) [Linen](#) [malabrigo](#) [new yarn](#) [noro](#) [off](#) [oregon](#) [flock and fiber](#) [organic yarn](#) [patterns](#)
[recycled yarn](#) [red scarf](#) [project](#) [rowan](#) [Steven Wells](#) [the death of knitting](#) [tutorial](#) [Twist Collective](#)
[upcycling](#) [vickie howell](#) [Viscose](#) [yarn](#) [yarn carbon footprint](#) [yarn news](#)

Calendar

July 2010

S	M	T	W	T	F	S
		1	2	3		
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31
« Jun						

Archives

- [June 2010](#)
- [May 2010](#)
- [April 2010](#)
- [November 2009](#)
- [July 2009](#)
- [June 2009](#)
- [September 2008](#)
- [August 2008](#)
- [July 2008](#)
- [June 2008](#)

Blogroll

- [Development Blog](#)
 - [Documentation](#)
 - [Plugins](#)
 - [Suggest Ideas](#)
 - [Support Forum](#)
 - [Themes](#)
 - [WordPress Planet](#)
 - [Yahoo news rss](#)
-