

The Honorable Ricardo S. Martinez

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CASCADE YARNS, INC., a Washington)
corporation,)

Plaintiff,)

v.)

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.) an entity organized or existing)
under the laws of Italy, SION ELALOUF, a)
natural person, JAY OPPERMAN, an individual,)
DEBBIE BLISS, a natural person,)
EMMEPIEFFE, SRL, an entity organized and)
existing under the laws of Italy, and DOES 1-50,)

Defendants,)

v.)

ROBERT A. DUNBABIN, SR., a natural person,)
JEAN A. DUNBABIN, a natural person,)
ROBERT A. DUNBABIN, JR., a natural person,)
and SHANNON M. DUNBABIN, a natural)
person,)

Third Party Defendants.)

Civil Action No. 2:10-cv-00861 RSM

**DECLARATION OF MAUREEN
REITMAN IN OPPOSITION TO
CASCADE'S THIRD MOTION
FOR A PRELIMINARY
INJUNCTION**

DECLARATION OF MAUREEN REITMAN
(No. 2:10-cv-00861 RSM) — 1

1 I, Maureen Reitman, do hereby declare and state as follows:

2 1. I am over the age of 18, the information contained herein is based on my
3 personal knowledge, and if called upon to do so, I could testify competently as to the
4 matters set forth herein.

5 2. I previously submitted a declaration in this matter dated March 14, 2011, in
6 which I addressed the analysis Kenneth D. Langley provided in a declaration (Document
7 193) related to fibers derived from milk or milk protein. Since that time, I have received
8 the Reply Declaration of Mr. Langley (Document 209) and have been asked to address the
9 additional technical information provided.

10 3. I have been provided examples of five yarns to assist in my analysis. The
11 five yarns are - Ella Rae Milky Soft, Knitting Fever, Inc. (KFI) Baby Milk, Ella Rae Latte,
12 Queensland Leche, and Viking Milk and Honey. These were shipped directly from KFI
13 and analyzed in my laboratory with an optical microscope and with micro-Fourier
14 transform infrared (FTIR) spectroscopy. I have also been provided a test report from
15 National Textile Quality Supervision Testing Center (Jiangyin) containing an FTIR
16 reference spectra for milk fiber.

17 4. In Document 193, Mr. Langley opines that Ella Rae Milky Soft, KFI Baby
18 Milk and Ella Rae Latte, “do not contain Casein fiber or any fiber that was derived from
19 milk or milk protein.” He provided no analysis of Queensland Leche or Viking Milk and
20 Honey yarns in this document. His conclusions are based on testing that he reports is
21 conducted, “according to AATCC (American Association of Textile Chemists and
22 Colorists) protocols 20-2007 Fiber Analysis: Qualitative, and 20A-2008 Quantitative
23 (reference: section Chemical Analysis Procedures and Microscopical Analysis

DECLARATION OF MAUREEN REITMAN
(No. 2:10-cv-00861 RSM) — 2

1 Procedures).” His summary reports, which do not contain the underlying data, were part of
2 the appendices to Document 193.

3 5. Microscopic examination of synthetic fibers, such as those based on milk
4 protein or acrylic, is not sufficient to determine the chemical nature of the fibers. It is
5 sufficient to discriminate between different fiber sizes and textures.

6 6. In my original declaration, I reported that the microscopic evaluation
7 section of AATCC protocol TM20 states, “The man-made fibers are best identified by . . .
8 properties which relate to chemical nature rather than physical shape.” Mr. Langley has
9 criticized my use of ellipses. The full citation is, “The man-made fibers are best identified
10 by micro-FTIR, solubility, melting point, refractive indices and other optical
11 characteristics, and density: properties which relate to chemical nature rather than physical
12 shape.” There is no data or description of the use or results of micro-FTIR, solubility,
13 melting point, refractive index or density measurements in Document 193, and there is still
14 no evidence that he performed any of these analyses.

15 7. In his second declaration, Document 209, Mr. Langley reveals that he used
16 a specialized form of sample preparation and polarized light microscopy to observe
17 negative birefringence in some of the fibers in three yarns he analyzed. This is his basis
18 for concluding these fibers are acrylic. Birefringence is an optical property linked to
19 refractive indices, which is related to the polarity and orientation of a material. The
20 methodology is not a direct measure of the specific composition, and is not a sufficient
21 method for determining that milk protein is absent from the fibers of the three yarns he
22 evaluated.

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DECLARATION OF MAUREEN REITMAN
(No. 2:10-cv-00861 RSM) — 3

1 8. Mr. Langley did not employ a chemical analysis technique that would
2 reasonably be expected to identify the presence of milk or milk protein if it were present.
3 One such technique, which is cited in AATCC TM20 is micro-FTIR. I applied this
4 technique to fibers of the five yarns provided.

5 9. My micro-FTIR analysis provides chemical evidence consistent with the
6 presence of milk protein in fibers of Ella Rae Milky Soft, KFI Baby Milk, Ella Rae Latte,
7 Queensland Leche and Viking Milk and Honey. For each yarn, fibers were visually sorted.
8 Fibers with scales (e.g. wools) gave spectra consistent with animal proteins, while
9 convoluted fibers (e.g. cotton) gave spectra consistent with cotton. For each yarn, an
10 additional fiber gave a spectrum consistent with milk protein fiber. Notably, the spectra
11 matched the reference spectrum provided in the test report. An example of this is shown in
12 Appendix A. All spectra for this fiber type contained a strong peak around 1650 cm^{-1} , a
13 broad peak of medium intensity around 1530 cm^{-1} and a broader peak of moderate intensity
14 around 3400 cm^{-1} assignable to milk protein. Representative spectra for each fiber of this
15 type are provided in Appendix B.

16 10. I continue to hold the opinion that Mr. Langley has not provided sufficient
17 scientific basis to conclude that Ella Rae Milky Soft, KFI Baby Milk, and Ella Rae Latte,
18 “do not contain casein fiber or any fiber that was derived from milk or milk protein.”
19 Based on my analysis and direct testing, as well as my education, training and experience
20 in macromolecular and fiber characterization, it is my opinion that Ella Rae Milky Soft,
21 KFI Baby Milk, Ella Rae Latte, Queensland Leche, and Viking Milk and Honey contain
22 fibers derived from milk or milk protein.
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DECLARATION OF MAUREEN REITMAN
(No. 2:10-cv-00861 RSM) — 4

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

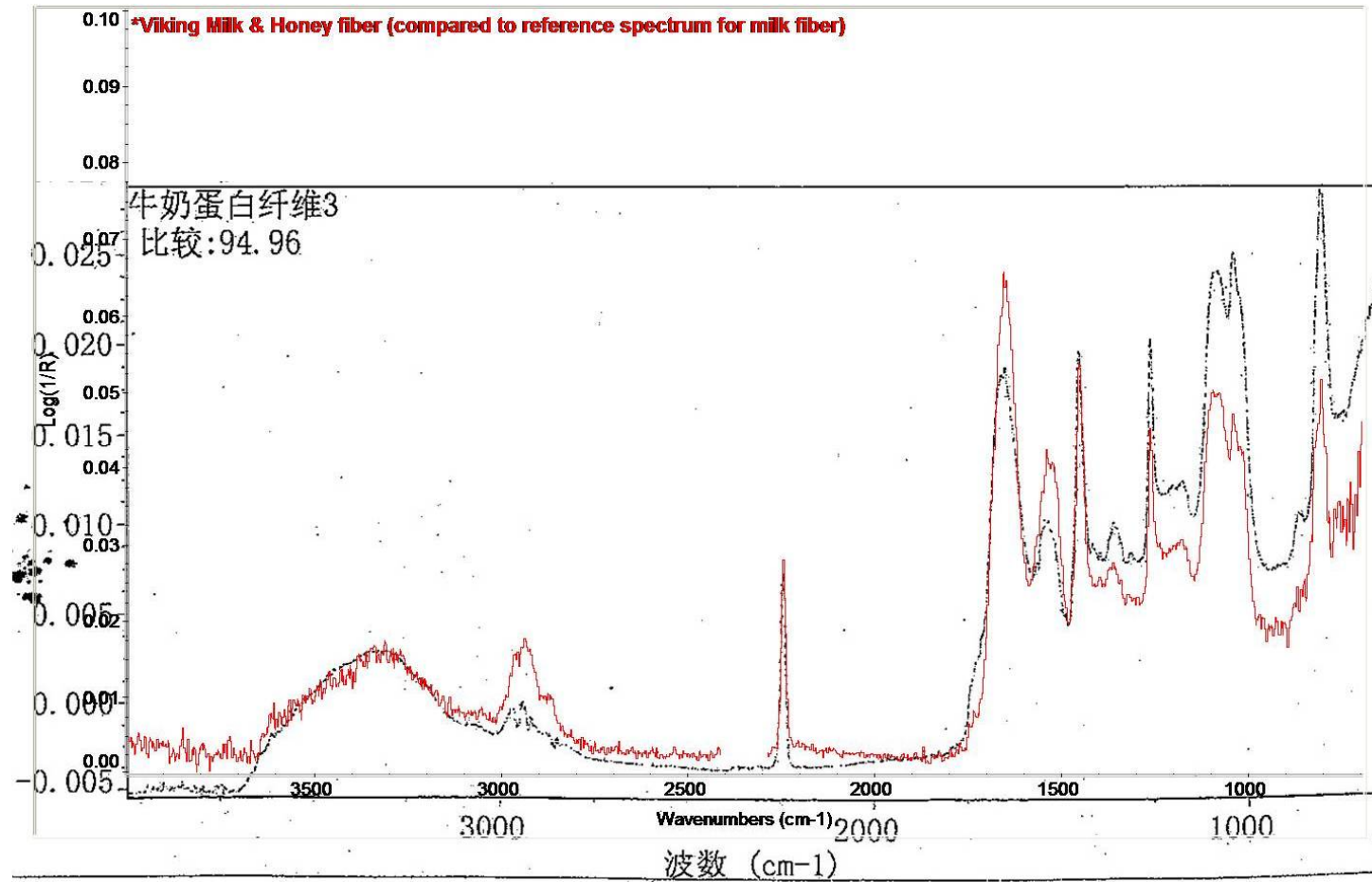


DATED this 10th day of June, 2011.

Maureen T.F. Reitman, Sc.D.

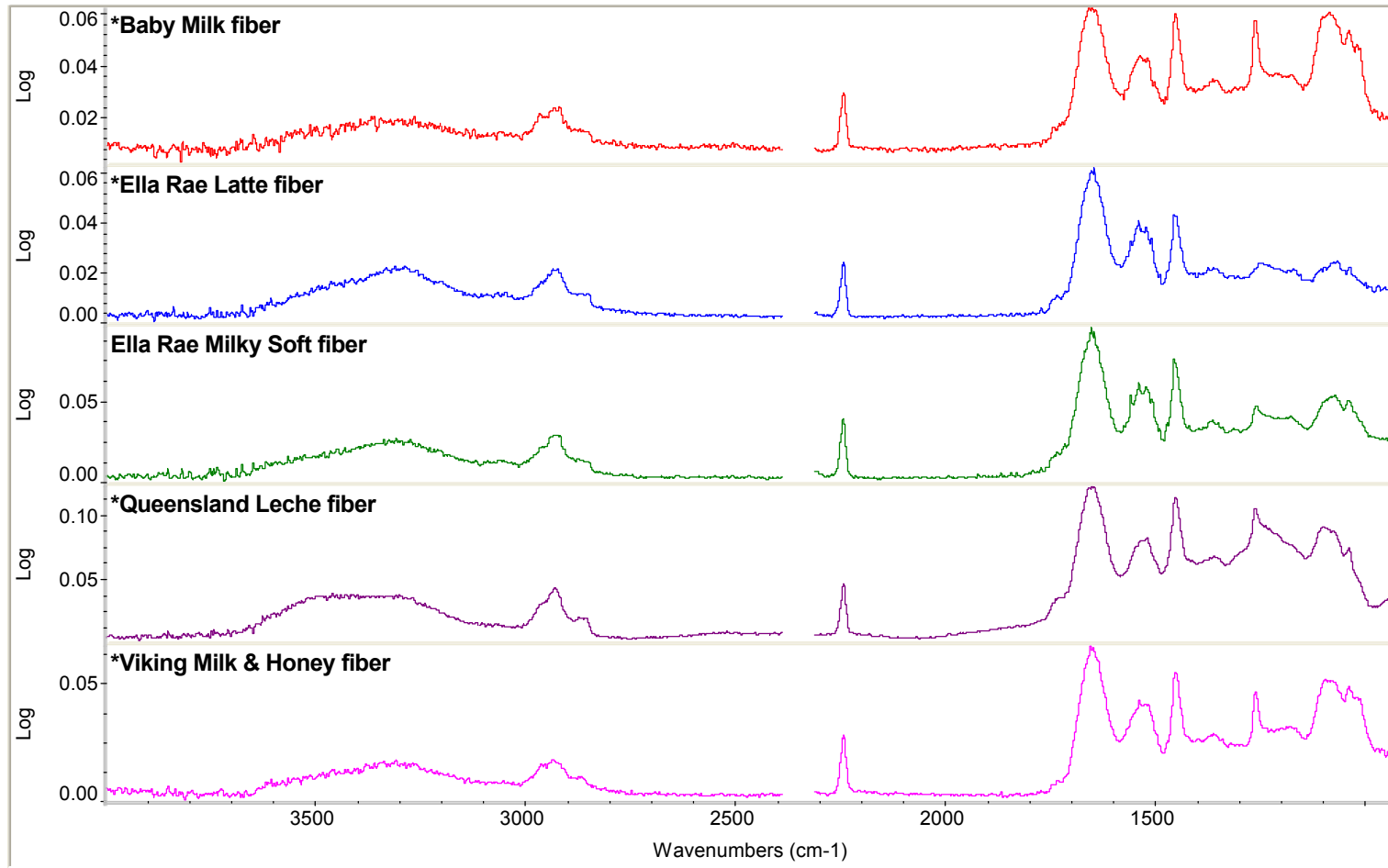
DECLARATION OF MAUREEN REITMAN
(No. 2:10-cv-00861 RSM) — 5

Appendix A



FTIR reference spectrum for milk fiber (black) compared with spectrum collected for fiber from Viking Milk and Honey (red)

Appendix B



micro-FTIR spectra collected from fibers obtained from the five different yarns