



1 ORDERED that Cascade’s Motion for Issuance of Letter Rogatory is hereby GRANTED;  
2 Cascade may seek the production of true and complete copies of all reports of fiber analysis and  
3 related documents (including correspondence, labels, photographs and invoices) for any products  
4 submitted to SGS Cashmere Labs (“SGS”) for fiber analysis or testing by or on behalf of  
5 Designer Yarns, Ltd., Sion Elalouf, David Watt, John Cashell, Knitting Fever, Inc. and/or KFI,  
6 Inc. as permitted by Fed. R. Civ. P. 26(d)(1), Fed. R. Civ. P. 28 and applicable law and treaty.

7 Dated this 11 day of July, 2011.

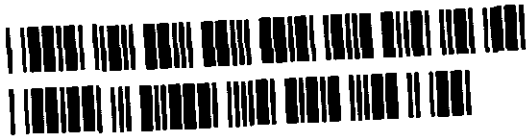
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9 RICARDO S. MARTINEZ  
10 UNITED STATES DISTRICT JUDGE  
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12  
13 Presented by:  
14 SQUIRE, SANDERS & DEMPSEY (US) LLP  
15

16 By /s/ Robert J. Guite  
17 Robert J. Guite, WSBA No. 25753  
18 Attorneys for Plaintiff  
19 Cascade Yarns, Inc.  
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HON. RICARDO S. MARTINEZ



10-CV-00861-CNST

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, EMMEPIEFFE SRL, an entity organized or existing under the laws of Italy, 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, JAY OPPERMAN, an individual, DEBBIE BLISS, an individual, and DOES 1-50

Defendant.

Case No. 2:10-cv-00861 RSM

LETTER OF REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE PURSUANT TO THE HAGUE CONVENTION OF 18 MARCH 1970 ON THE TAKING OF EVIDENCE IN CIVIL OR COMMERCIAL MATTERS

AND RELATED CROSS-ACTIONS

TO: Foreign and Commonwealth Office  
Clive House Petty France  
London SW1, England, U.K.

FROM: The United States District Court  
Western District of Washington  
700 Stewart Street  
Seattle, WA 98101

LETTER OF REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE - I  
Case No. 2:10-cv-00861 RSM

SQUIRE, SANDERS & DEMPSEY (US) LLP  
275 BATTERY STREET, SUITE 2600  
SAN FRANCISCO, CALIFORNIA 94111  
415.954.0200 FAX: 415.393.9887

1 PERSON TO WHOM THIS REQUEST FOR EVIDENCE IS DIRECTED:

2 SGS Cashmere Labs  
3 SGS United Kingdom Ltd.  
4 Unit 73, Warfield Road  
5 Kellythorpe Industrial Estate  
6 Drifffield, East Yorkshire  
7 YO25 9DJ, United Kingdom

8 Please return the evidence directly to the attention of the requesting court.

9 I. NAMES AND ADDRESSES OF THE PARTIES AND THEIR  
10 REPRESENTATIVES

11 Plaintiff  
12 Cascade Yarns, Inc.  
13 1224 Andover Park East  
14 Tukwila, WA 98188

Counsel for Plaintiff  
Robert J. Guite, Esq.  
Squire, Sanders & Dempsey (US) LLP  
275 Battery Street, Suite 2600  
San Francisco, CA 94111

15 KFI Defendants  
16 Knitting Fever, Inc.  
17 315 Bayview Avenue  
18 P.O. Box 336  
19 Amityville, NY 11701-2801

Counsel for KFI Defendants  
Joshua R. Slavitt, Esq.  
Pepper Hamilton LLP  
3000 Two Logan Square  
Philadelphia, PA 19102

20 Designer Yarns, Ltd.  
21 Unit 8-10 Newbridge Industrial Estate  
22 Pitt Street  
23 Keighley, West Yorkshire  
24 United Kingdom BD21 4PQ

Counsel for KFI Defendants  
Warren J. Rheume, Esq.  
Davis Wright Tremaine LLP  
1201 Third Avenue, Suite 2200  
Seattle, WA 98101

25 Sion Elalouf  
26 22 Longwood Road  
Port Washington, NY 11050-1260

Jay Opperman  
78 Clinton Avenue  
Montclair, NJ 07042-2116

Debbie Bliss  
9 Folkestone Road  
Walthamstow, London  
United Kingdom E17 9SD

Emmepieffe S.r.l.  
Via De Ronchi 45/1  
10091 Alpignano (TO) Italia

William O. Ferron, Esq.  
Seed Intellectual Property Law Group PLLC  
701 Fifth Avenue, Suite 5400  
Seattle, WA 98104

1 **II. SUMMARY OF THE CASE**

2 This is a civil action arising under: (a) the United States Trademark Act of 1946, as  
3 amended, 15 U.S.C. § 1051, *et seq.* (“Lanham Act”); (b) the Racketeer Influenced And Corrupt  
4 Organization Act, 28 U.S.C. § 1964 *et seq.* (“RICO”); and (c) RCW 19.86, for unfair competition  
5 and false advertising. Cascade is one of the nation’s finest purveyors of yarns and sells its  
6 products through specialty retailers and boutiques throughout the United States. Cascade’s  
7 products include many yarns containing wool and natural fibers including Alpaca kid mohair, silk  
8 and cashmere. Cascade extensively promotes its trade name and products.

9 KFI imports and distributes a variety of hand knitting yarns generally identified as its  
10 *Cashmerino* lines. The labels and marketing materials for KFI’s *Cashmerino* yarns, marketed  
11 under various trade names including Sirdar, Debbie Bliss and Elsebeth Lavold, provide that the  
12 products contain 12% cashmere 55% merino wool and 33% acrylic. Contrary to the labels, and  
13 contrary to the WPLA, independent testing completed in 2006 confirmed that these yarns did not  
14 contain the fibers listed on their labels. The testing revealed that the yarns contained no cashmere  
15 or considerably less cashmere than as represented on the labels.

16 Following this testing, KFI provided written statements that its products were then  
17 accurately labeled but also admitted that it had earlier imported and sold yarn that did not contain  
18 cashmere -- contrary to the product labels. Indeed, KFI and its supplier corresponded regarding  
19 the lack of cashmere in the yarns and KFI’s supplier (Filatura Pettinata V.V.G. Di Stefano  
20 Vaccari&C. (“VVG”)) wrote to KFI to suggest “alternative” approaches. VVG recognized that  
21 the absence of cashmere could be “quite dangerous” and suggested that KFI “try stopping the  
22 rumors.” VVG further wrote:

- 23 a) we continue so as done so far if we think that the risks are not too big;  
24 b) we stop using this kind of blend;  
25 c) we change the blend and use the best possible cashmere quality, which will be  
26 easier to find in case of lab checks. Of course, the price would change.

1 Also included with VVG's correspondence were test reports from a laboratory in Italy  
2 confirming that no more than 6.4% cashmere was found in any of the samples tested. On July 20,  
3 2006, KFI issued a three-page letter addressing the lack of cashmere in its *Cashmerino* yarns. In  
4 that letter, KFI asserted that the yarns contained cashmere; KFI did not provide a separate  
5 guaranty or a continuing guaranty pursuant to section 68g of the WPLA. Tellingly, KFI issued  
6 letters to its customers purportedly affirming the accuracy of its labels but did not issue any  
7 continuing guaranty under section 68g of the Act. Contrary to these assertions, test results of the  
8 *Cashmerino* yarns obtained during this time, and confirmed by a second independent laboratory,  
9 show that the *Cashmerino* yarns contained 57% wool and 43% acrylic.

10 KFI's prices for its *Cashmerino* yarns are commensurate with the prices of competing  
11 yarns, including Cascade's yarns, that actually contain the fibers identified on their labels. Thus,  
12 KFI's profit margin on its *Cashmerino* is many times greater than it would be if it had included  
13 the more expensive cashmere fibers in its products. KFI's sale and marketing of its products as  
14 labeled is misleading and causes customer confusion and damage to Cascade. Such harm  
15 includes, but is not limited to: (i) unfair competition and violation of the WPLA; (ii) damages to  
16 Cascade's reputation and goodwill; (iii) diminution in the market value and acceptance of  
17 Cascade's wool and cashmere yarns; and (iv) damage to Cascade's reputation in that KFI's  
18 inferior product may be confused with Cascade's product that actually contains a similar  
19 percentage of cashmere to the content represented on KFI's labels thereby causing further harm to  
20 Cascade.

21 KFI is attempting hide the fact that its yarns do not contain the labeled quantities of  
22 cashmere, wool, alpaca and silk (or labeling yarns as containing milk protein fiber when the yarns  
23 contain no such constituent fiber) in order to unfairly compete with hand knitting yarns that are  
24 accurately labeled, including Cascade's products. Of course, if the products were accurately  
25 labeled they would also sell for a much lower price; KFI charges a higher price for the  
26 *Cashmerino* yarns because they purport to contain cashmere. KFI's marketing, sale and

1 promotion of its products including those marketed under its Sirdar, Debbie Bliss and Elsebeth  
2 Lavold brands is inconsistent with the labeling requirements of the WPLA and with the  
3 reasonable expectations of retailers and consumers purchasing wool yarns. Labeling of the  
4 purported milk fiber yarns is inconsistent with the requirements of the WPLA and/or the Textile  
5 Products Identification Act and applicable regulations, including 16 C.F.R. § 300.3(a)(1) and 16  
6 C.F.R. § 303.16(a)(1).

7 In reliance upon the Defendants' representations made in the Fall of 2006 regarding the  
8 accuracy of KFI's labels, Cascade took no further immediate actions in 2006. Nevertheless,  
9 Cascade's lingering concerns remained. In 2010, it commissioned fiber tests of certain of KFI's  
10 yarns. Independent testing of the subject yarns -- and other KFI yarns -- was conducted in 2010  
11 and again confirmed that the KFI yarns did not contain the fiber content identified on their labels.  
12 For example, the *Cashmerino* yarns contained no cashmere at all -- or if they did that they  
13 contained 10% to 50% of the amounts listed on the labels. In addition, KFI has been sued by one  
14 of its customers for breach of warranty and other causes of action arising out of the mislabeled  
15 *Cashmerino* yarns. Testing conducted by plaintiff in that matter similarly confirms that the  
16 misbranding and mislabeling is ongoing. Testing of samples of *Cashmerino Baby* yarn offered to  
17 customers by KFI at a national trade show held June 12-14, 2010 confirms that the yarn presently  
18 being sold contains *no cashmere*, although its label purports that it contains 12% cashmere.

19 In July 2010, Cascade moved for a preliminary injunction asking that KFI be enjoined  
20 from selling improperly labeled yarns. Cascade sought a preliminary injunction pursuant to 15  
21 U.S.C. § 1116 restraining KFI, its officers, directors, agents, servants, employees and all persons  
22 in active concert or participation with it who receive actual notice of the injunction by personal  
23 service or otherwise from doing, abiding, causing, aiding or abetting any of the following:

- 24 (1) marketing, offering for sale or shipping/delivering products whose fiber content is  
25 not as provided on its product labels; and  
26



1 correspondence, statements and invoices regarding those tests and/or fiber analysis. The  
2 documents sought are outlined in Exhibit A attached hereto. **Any responses and/or evidence**  
3 **returned to this court will be submitted as evidence at trial. The requested evidence is**  
4 **necessary for the continuance of these proceedings.** As allowed by the internal laws of  
5 the United Kingdom, please have all returned evidence verified and/or certified as to  
6 completeness and authenticity.

7 If any portion of this Request is deemed to be unacceptable under the laws of the United  
8 Kingdom, please disregard that portion and continue to comply with as much of the Request as is  
9 legally permissible.

10 **IV. LOCAL COUNSEL**

11 Plaintiff has obtained local counsel who will be assisting in the matter. Plaintiff has  
12 appointed the following as its local counsel in the United Kingdom:

13 Christopher J. Hubbard  
14 Squire, Sanders & Dempsey (UK) LLP  
15 7 Devonshire Square  
16 London EC2M 4YH  
17 England

18 The Court should make record of this representation. Mr. Hubbard is also authorized by  
19 the Plaintiff to participate in the proceedings for testimony and to examine the witnesses in such  
20 proceedings.

21 **V. REIMBURSEMENT**

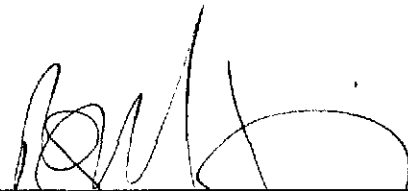
22 This Court understands that any fees and costs incurred in the execution of this Request  
23 are reimbursable under the second paragraph of Article 14 or under Article 26 of the Hague  
24 Evidence Convention.

25 These fees and costs will be reimbursed by the above-named counsel for the Defendants  
26 up to US \$500.00. Robert J. Guite, Esq. (Squire, Sanders & Dempsey (US) LLP, 275 Battery  
Street, Suite 2600, San Francisco, California 94111, USA; Telephone: +1.415.954.0235;

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Facsimile: +1.415.393.9887; E-mail: robert.guite@ssd.com) should be informed before the costs exceed this amount.

DATED this 11<sup>th</sup> day of July, 2011.



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Honorable Ricardo S. Martinez  
United States District Judge  
The United States District Court  
for the Western District of Washington  
700 Stewart Street  
Seattle, Washington 98101  
U.S.A.

# **EXHIBIT A**

**EXHIBIT A to**  
**LETTER OF REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE**  
**Pursuant to the Hague Convention of 18 March 1970 on the Taking**  
**Of Evidence in Civil or Commercial Matters**

PERSON TO WHOM REQUEST FOR EVIDENCE IS DIRECTED:

SGS Cashmere Labs  
SGS United Kingdom Ltd.  
Unit 73, Warfield Road  
Kellythorpe Industrial Estate  
Driffield, East Yorkshire  
YO25 9DJ, United Kingdom

True and complete copies of all reports of fiber analysis and related documents (including product labels, photographs, invoices, facsimiles, correspondence) for any yarns submitted for testing or fiber analysis to SGS by or on behalf of Designer Yarns, Limited, Sion Elalouf, David Watt, John Cashell, KFI, Inc. and/or Knitting Fever, Inc.