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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, et al.,

Defendants.

CASE NO. C10-861RSM  
ORDER ON MOTIONS TO COMPEL

This matter is before the Court for consideration of plaintiff’s three motions to compel. Dkt. ## 239, 267, 293. Having considered these motions, defendants’ opposition, and the balance of the record, the Court now finds and rules as follows:

(1) This is a complex action involving third-party practice and counterclaims, as well as continually evolving claims. Plaintiff filed, with leave of Court, a Second Amended Complaint (SAC) on February 17, 2011 (Dkt. # 190) and a Third Amended Complaint (TAC) on May 20, 2011 (Dkt. # 249). Defendants have asserted counterclaims in response to each iteration of the complaint, and plaintiff has asserted third-party claims against a different defendant in responding to the counterclaims. Dkt. # 188. Each new amended complaint triggers a new

1 round of answers and counterclaims, answers to counterclaims, and third-party claims.

2 Defendants only recently filed an answer to the TAC, and plaintiff's answer to the counterclaims  
3 asserted therein has not been filed. Instead, plaintiff has requested leave to file a Fourth  
4 Amended Complaint. Dkt. # 264. This motion, filed on June 9, 2011, remains pending.

5 (2) Although this matter has been pending for over a year, the repeated amendments of  
6 the complaint, three motions for preliminary injunction, and motions to dismiss by various  
7 defendants have delayed the proceedings so that the Court's Scheduling Order was not issued  
8 until June 2, 2011. Dkt. # 261. That Order set a trial date of June 18, 2012, and a discovery cut-  
9 off date of February 21, 2012. The parties at this time have more than seven months of  
10 discovery remaining.

11 (3) Plaintiff filed a first motion to compel on May 12, 2011. Dkt. # 239. Before this  
12 motion was ripe for consideration, plaintiff filed a motion for preliminary injunction which is set  
13 for oral argument on July 13, 2011. While the preliminary injunction motion was under review  
14 by the Court, and before the Court could address the motion to compel, plaintiff filed the motion  
15 for leave to file a Fourth Amended Complaint. Dkt. # 264. Plaintiff filed a second motion to  
16 compel that same day, June 9, 2011.

17 (4) Defendants have opposed the two motions to compel designated above on the basis  
18 that they are premature, as the parties have been engaged in discussions toward a Protective  
19 Order that would resolve confidentiality disputes. Given the early stage of these proceedings and  
20 the evolving status of the complaint, together with the acrimony-tinged nature of competition  
21 between the parties, the Court finds defendants' objections reasonable. Further, although the  
22 issues presented in the third motion to compel (Dkt. # 293) do not revolve around a Protective  
23 Order, the motion is premature in that it seeks to compel answers and responses to a second set  
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1 of interrogatories and requests for production when the first requests have not been answered to  
2 plaintiff's satisfaction. Responses to the first requests after entry of a Protective Order may well  
3 moot the third motion to compel.

4 (5) Accordingly, the Court STRIKES all three motions to compel as premature (Dkt. ##  
5 239, 267, 293). The Court shall promptly rule on defendants' motion for a Protective Order  
6 (Dkt. # 280), and expects that the parties will proceed with discovery in good faith in accordance  
7 therewith.

8 (6) Defendants have incorporated motions to strike into their opposition to the first two  
9 motions to compel. Dkt. ## 250, 283. In each instance, defendants ask the Court to strike  
10 material from plaintiff's motion which they assert is "immaterial, impertinent, and scandalous."  
11 *Id.* One example of the material defendants seek to strike is plaintiff's assertion that "KFI  
12 apparently seeks to hires [sic] sales representatives who are comfortable cheating people."  
13 Plaintiff's Motion, Dkt. # 267, p. 9. Plaintiff has opposed the motions to strike, asserting that  
14 Rule 12(f) motions to strike may only be directed to pleadings, and contending that the  
15 statements are appropriate. Dkt. ## 253, 298. The Court notes that these are not Rule 12(f)  
16 motions to strike but instead are brought under Local Rule CR 7(g), which addresses material  
17 presented in motions and briefs rather than pleadings. Further, the Court is troubled by the tone  
18 of these assertions and deems them inappropriate. Defendants' motions to strike are accordingly  
19 GRANTED, and the material designated by defendants as objectionable is hereby STRICKEN.

20 Dated July 12, 2011.

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23 RICARDO S. MARTINEZ  
24 UNITED STATES DISTRICT JUDGE