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 SEAL

This matter is before the Court for consideration of plaintiff's pending motion to seal documents. Dkt. ## 356, 361, 374, 381, 399, 405, 411. As to these motions, the Court finds and rules as follows:

(1) On November 22, 2011, the Court re-noted four of these motions, Dkt. ## 356, 361, 374, and 381, so that the opposing party would have an opportunity to provide a basis for maintaining the documents under seal, as required by Local Rule 5(g). Dkt. # 397. The Court noted in the Order that it will not grant broad authority to file documents under seal simply because the parties have designated them as confidential in the course of discovery. "There is a strong presumption of public access to the court's files and records which may be overcome only on a compelling showing that the public's right of access is outweighed by the interests of the public and the parties in protecting files, records, or documents from public review." Local Rule CR 5(g)(2).

(2) <u>Plaintiff's Motions to Seal at Dkt. ## 356, 361, 374 and 381</u>

Defendants have acknowledged the requirements set forth in the previous Order, and have stated that they have no objection to the unsealing of the documents addressed in that Order. Dkt. # 398.

Accordingly, plaintiff's motions to seal at Dkt. ## 356, 361, 374, and 381 are all DENIED. **The Clerk shall accordingly UNSEAL the following documents which were addressed in these motions to seal: Dkt. ## 359, 368, 376, 382, 385, and 391.**

(3) Plaintiff's Motion to Seal, Dkt. # 405

No party has either supported or opposed plaintiff's motion to seal filed at Dkt. # 405. Accordingly, this motion to seal is DENIED. **The Clerk is directed to UNSEAL the document filed at Dkt. # 408**.

(4) Plaintiff's Motion to Seal, Dkt. # 399

Defendants have filed a response to this motion, arguing that the documents filed at Dkt. # 402, namely Exhibits B, C, and G to the declaration filed in support of the Local Rule CR 37 motion filed at Dkt. # 400, should remain under seal. Dkt. # 410. Defendants assert that the unsealing of these documents "would reveal confidential proprietary information and result in harm to the business and competitive interests of the KFI defendants." *Id*., p. 2. However, defendants have not provided the supporting facts for this assertion by declaration or affidavit as required by Local Rule CR 5(g)(4). Moreover, the Court has reviewed the documents and finds no confidential proprietary information; instead the documents contain email discussions that go to the merits of plaintiff's claims and thereby could prove harmful to defendants. The Court thus agrees with defendants' argument that by filing these documents, plaintiff "is seeking to litigate the merits of the case through its discovery motion." *Id*., p. 5.

While these documents technically do not violate the Court's prior directive that parties may not file documents as exhibits unless they are actually referenced in the underlying motion, the Court finds that they are not relevant to the merits of the discovery motion to which they are directed. They do not fall within the type of exhibits contemplated as supporting documents for a Local Rule 37(a)(1)(B) motion. *See*, Local Rule CR 37(a)(1)(B)(vi). Accordingly, the Court shall *sua sponte* STRIKE these documents, Exhibits B, C, and G to the Declaration of Robert Guite, filed under seal at Dkt. # 402. **The Clerk is directed to maintain this stricken document, Dkt. # 402, under seal**.

(5) Plaintiff's Motion to Seal, Dkt. # 411

Defendant Emmepieffe S.R.L. has filed a response to this motion, arguing that the document

filed at Dkt. # 414, namely Exhibit F to the Declaration of Robert Guite filed at Dkt. # 413, should remain under seal simply because it has been designated as "highly confidential." Dkt. # 423. As noted in the Court's prior Order on sealing documents, while the parties may agree on confidentiality among themselves, when they ask for the involvement of the Court in sealing documents, they must make the required showing under Local Rule CR 5(g) as to each document. This defendant has provided no affidavit or declaration as required, and the Court finds upon reviewing the single statement in the document which has been designated as "highly confidential" that it is not proprietary information and does not otherwise meet the standards required for shielding a document from public view. Further, this document, which is a copy of this defendant's responses to Requests for Admission, is the type of exhibit which is proper as an attachment to a discovery motion, and it was duly referenced therein.

The December 8, 2011 motion to seal (Dkt. # 411) is accordingly DENIED. **The Clerk shall unseal the document filed at Dkt. # 414 three days after the date of this Order, unless plaintiff has before that time filed notice that it has been withdrawn.**

DATED this 23 day of December 2011.

RICARDO S. MARTINEZ
UNITED STATES DISTRICT JUDGE