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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 13-8899 GAF (ASx)	Date	June 30, 2014
Title	Design Collection Inc v. Ross Stores Inc et al		

Present: The Honorable	**GARY ALLEN FEESS**	
Stephen Montes Kerr	None	N/A
Deputy Clerk	Court Reporter / Recorder	Tape No.

Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:
None	None

Proceedings: (In Chambers)

ORDER RE: PLAINTIFF'S RESPONSE TO ORDER TO SHOW CAUSE

The Court is in receipt of Plaintiff Design Collection, Inc.'s ("Plaintiff") response to the Court's order to show cause why the claims of copyright infringement against Defendant CAFA Seoul Texprint, Inc. ("CAFA Seoul") should not be dismissed. (Docket No. 50 [Plaintiff's Response to Order to Show Cause ("Response")].) On June 5, 2014, the Court issued an order denying Plaintiff's motion for default judgment against CAFA Seoul because Plaintiff "failed to demonstrate that CAFA Seoul's accused design is substantially similar to [Plaintiff's] DC-10422 design," and therefore could not "establish a prima facie case of copyright infringement against CAFA Seoul." (Docket No. 49 [6/5/14 Order] at 6.) And because there appeared to be no possibility that CAFA Seoul's design infringes on DC-10422, the Court also ordered Plaintiff to show cause why the claims against CAFA Seoul should not be dismissed. (Id. at 7.)

The Court has now reviewed Plaintiff's response to the Court's order to show cause, including a side-by-side comparison of Plaintiff's DC-10422 design and CAFA Seoul's design, which appears to be very different from the image submitted to the Court with Plaintiff's motion for default judgment. (Compare Response at 4 with Docket No. 45 [Motion for Default Judgment] at 7.) However, even after considering this new image, the Court still finds that Plaintiff fails to show that the designs are substantially similar under the Ninth Circuit's two-part test for substantial similarity for all the reasons articulated in this Court's order denying

Plaintiff's motion for default judgment. (See 6/5/14 Order at 4-6.) Accordingly, the Court finds that Plaintiff cannot establish a prima facie case of copyright infringement against CAFA Seoul, and that the claims against CAFA Seoul must therefore be **DISMISSED with prejudice**.

IT IS SO ORDERED.