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**\*E-FILED - 4/2/09\***

8 Attorneys for Plaintiff  
9 E&E Co., Ltd.

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA

13 E&E Co., Ltd., a California Corporation,

14 Plaintiff,

15 v.

16 DIVATEX HOME FASHION, INC., a  
17 New York corporation, DWI HOLDINGS,  
18 INC., a Delaware corporation and  
19 HIMATSINGKA AMERICA, INC., a New  
20 York corporation and DOES 1-100,  
inclusive,

20 Defendant.

Case No. C-08-05660 RMW

**STIPULATION AND []  
ORDER REGARDING FILING OF  
AMENDED COMPLAINT AND BRIEFING  
AND HEARING SCHEDULE  
REGARDING MOTION TO DISMISS**

21 **RECITALS**

23 A. On December 18, 2008, plaintiff E&E Co., Ltd. (“E&E”) filed its Complaint  
24 against Divatex Home Fashion, Inc. (“Divatex”), DWI Holdings, Inc. (“DWI”), and Himatsingka  
25 America, Inc. (“Himatsingka”), alleging claims for copyright infringement and unlawful  
26 competition.

27 B. On January 7, 2009, DWI and Himatsingka filed its Answer and Counterclaim  
28 against E&E. DWI and Himatsingka’s Counterclaim sought declaratory judgment, and alleges

1 claims for tortious interference with business relations and unlawful competition.

2 C. On January 28, 2009, E&E filed its Answer to DWI and Himatsingka's  
3 counterclaim.

4 D. On January 30, 2009, Divatex filed its Answer to E&E's Complaint.

5 E. On February 25, 2009, DWI and Himatsingka filed a Motion to Dismiss for  
6 Failure to State a Claim Under Federal Rule of Civil Procedure 12(b)(6) and for Lack of  
7 Jurisdiction ("Motion").

8 F. Pursuant to this Stipulation by all parties, E&E seeks to file the Amended  
9 Complaint attached hereto as Exhibit A.

10 G. Pursuant to this Stipulation by all parties, the Motion filed by DWI and  
11 Himatsingka shall apply to the Amended Complaint and the May 1, 2009 hearing date for the  
12 Motion shall remain unchanged.

13 **STIPULATION**

14 IT IS HEREBY STIPULATED and agreed by and between E&E, DWI, Himatsingka, and  
15 Divatex, through their respective counsel of record, that:

- 16 1. E&E shall file its Amended Complaint on or before April 3, 2009;  
17 2. E&E shall file its Opposition to DWI and Himatsingka's Motion, on or before  
18 April 6, 2009;  
19 3. DWI and Himatsingka shall file their Reply on or before April 17, 2009; and  
20 4. The hearing for the Motion shall be scheduled for May 1, 2009 at 9:00 a.m.  
21

22 DATED: April 1, 2009

SHARTSIS FRIESE LLP

23 By: /s/ James P. Martin

JAMES P. MARTIN

24 Attorneys for Plaintiff  
25 E&E CO., LTD.  
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DATED: April 1, 2009

MCDERMOTT WILL & EMERY LLP

By: s/ Edwin Wheeler  
EDWIN WHEELER

Attorneys for Defendants DWI HOLDINGS,  
INC. AND HIMATSINGKA AMERICA, INC.

DATED: April 1, 2009

ROPERS, MAJESKI, KOHN & BENTLEY

By: s/ Robert P. Andris  
ROBERT P. ANDRIS

Attorneys for Defendant DIVATEX HOME  
FASHION, INC.

PURSUANT TO THE STIPULATION OF THE PARTIES AND FOR GOOD CAUSE SHOWN,  
IT IS SO ORDERED.

DATED: April 2, 2009

By: Ronald M. Whyte  
HON. RONALD M. WHYTE

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