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7 FERRERO U.S.A, INC.

8  
9 UNITED STATES DISTRICT COURT  
10 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

11 ATHENA HOHENBERG, individually and on )  
12 behalf of all others similarly situated, )

13 Plaintiffs, )

14 v. )

15 FERRERO U.S.A., INC., a foreign corporation, )

16 Defendant. )  
17 )  
18 )

19 LAURA RUDE-BARBATO, on behalf of herself )  
20 and all others similarly situated, )

21 Plaintiffs, )

22 v. )

23 FERRERO U.S.A., INC., )

24 Defendant. )  
25 )  
26 )  
27 )  
28 )

CASE NO.: 11 CV 0205 (H CAB)

**DECLARATION OF BERNARD F.  
KREILMANN IN SUPPORT OF  
DEFENDANT'S MOTION TO  
TRANSFER VENUE TO THE  
DISTRICT OF NEW JERSEY**

Date: May 2, 2011

Time: 10:30 AM

Before: Hon. Marilyn L. Huff

1 I, Bernard F. Kreilmann, hereby declare and state as follows:

2 1. I am the President and Chief Executive Officer of Ferrero U.S.A., Inc., ("Ferrero  
3 U.S.A." or "the Company") and have been employed by Ferrero U.S.A. since August 1, 2004. I  
4 submit this Declaration in support of Defendant's Motion to Transfer Venue to the District of  
5 New Jersey. The following facts are within my personal knowledge and, if called and sworn as a  
6 witness, I could and would competently testify thereto.

7 2. Ferrero U.S.A. is incorporated in the State of Delaware with its principal place of  
8 business and executive headquarters at 600 Cottontail Lane, Somerset, New Jersey (the "New  
9 Jersey Headquarters"). Ferrero U.S.A. has maintained its headquarters in New Jersey since 1994  
10 (between 1994 and 2004 its offices were located in Carlstadt, New Jersey). Prior to that time,  
11 Ferrero U.S.A.'s corporate offices were located in New York City. To the best of my  
12 knowledge, Ferrero U.S.A. has never maintained corporate offices in California.

13 3. All of Ferrero U.S.A.'s executives and corporate employees, including its  
14 employees responsible for marketing, advertising and labeling the Nutella product, work at the  
15 Company's New Jersey Headquarters.

16 4. In addition to its corporate employees, Ferrero U.S.A. employs 159 field sales  
17 personnel (including 96 part time employees) who are located throughout the United States,  
18 including 15 in California. The field sales employees are not responsible for developing,  
19 implementing or analyzing the labeling, marketing campaigns or advertisements for any of  
20 Ferrero U.S.A.'s products. Approximately half of the sales personnel work for Ferrero U.S.A.  
21 part-time or seasonally.

22 5. The Nutella product is not manufactured in the United States. Rather, Ferrero  
23 U.S.A. sells product that is manufactured by Ferrero Canada Ltd., which is headquartered in  
24 Toronto, Ontario. The Nutella sold within the United States by Ferrero U.S.A. is primarily  
25 manufactured in Brantford, Ontario. Nutella is distributed in the United States using third party  
26 distributors at various facilities, including one that is operated out of Ferrero U.S.A.'s New  
27

1 Jersey Headquarters (600 Cottontail Lane, Somerset, New Jersey), one that is located in Granite  
2 City, Illinois, and one that is located in Ontario, California.

3 6. I am informed and believe that Ferrero U.S.A.'s third-party vendors used in  
4 connection with the labeling, marketing and advertising of Nutella are primarily located in New  
5 Jersey and New York, including Ferrero U.S.A.'s advertising agency, media planning & buying  
6 agency, and agency used to design its labels. Although some vendors have offices elsewhere, it  
7 is my understanding that Ferrero U.S.A.'s contacts within those companies are located in New  
8 Jersey and New York.

9 I certify under penalty of perjury under the laws of the United States that the foregoing is  
10 true and correct.

11 Executed this 24<sup>th</sup> day of March, 2011, at Somerset, New Jersey.

12  
13   
14 \_\_\_\_\_  
15 Bernard F. Kreilmann

16 President and  
17 Chief Executive Officer  
18 Ferrero U.S.A., Inc.