

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

**THE BEAR MILL, INC., an Idaho
corporation, and JANIS FENTON, an
individual,**

Plaintiffs,

vs.

**TEDDY MOUNTAIN INC., a Canadian
corporation,**

Defendant.

CASE NO: CV07-492-N-EJL

ORDER

Plaintiffs, The Bear Mill, Inc. and Janis Fenton, have filed an Ex Parte Motion for Temporary Restraining Order and a Motion for Preliminary Injunction requesting that the Court order Defendant Teddy Mountain, Inc. “to cease and desist their use of The Bear Mill, Inc.’s registered trademarks.” (Docket No. 2). Federal Rule of Civil Procedure 65(b) provides that a temporary restraining order may be granted ex parte only if “it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party . . . can be heard in opposition.” The verified Complaint and affidavits filed in support of the Ex Parte Motion for Temporary Restraining Order fail to clearly set forth “specific facts” that demonstrate the Plaintiffs will experience “immediate and irreparable injury” before the Defendant “can be heard in opposition.” Accordingly, this Court will not entertain the Plaintiffs’ motion ex parte. Instead, the Court will permit briefing on the Motion for Preliminary Injunction.

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ORDER

Based on the foregoing, the Court being fully advised in the premises it is **HEREBY ORDERED** that

1. Plaintiffs' Ex Parte Motion for Temporary Restraining Order (docket no. 2-1) is **DENIED**.

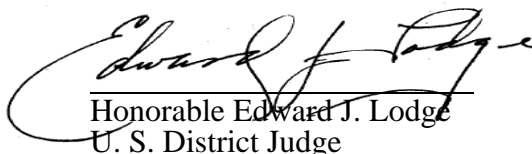
2. Plaintiffs' Motion for Preliminary Injunction (docket no. 2-2) and ALL pretrial matters are referred to United States Magistrate Judge Larry M. Boyle. With regards to the Motion for Preliminary Injunction and any other motion falling under 28 U.S.C. § 636(b)(1)(B) Magistrate Judge Boyle may conduct any hearings, including evidentiary hearings, and submit to the United States District Court proposed findings of fact and recommendations as to disposition. A party objecting to the proposed findings and recommendations shall file written objections with the court within ten (10) days. The Court will make a de novo determination of those portions to which objection is made. 28 U.S.C. 636(b)(1)(C); District of Idaho Local Civil Rule 72.1.

With regard to any non-dispositive motion, Magistrate Judge Boyle is directed to enter an appropriate order as to disposition. A party contending the order is clearly erroneous or contrary to law shall file written objections with the court within ten (10) days. 28 U.S.C. 636(b)(1)(A); District of Idaho Local Civil Rule 72.1.

3. Unless ordered otherwise by Magistrate Judge Boyle, Defendant's response to the Motion for Preliminary Injunction and Plaintiffs' reply, if any, shall be filed in accordance with District of Idaho Local Civil Rule 7.1.



DATED: **November 15, 2007**


Honorable Edward J. Lodge
U. S. District Judge