

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CASE NO. 5:07-CV-347-D

LULU ENTERPRISES, INC.,)	
)	
Plaintiff,)	
)	PLAINTIFF LULU
v.)	ENTERPRISES, INC.’S MOTION
)	FOR LEAVE TO FILE
N-F NEWSITE, LLC,)	DECLARATION OF KENT
)	VAN LIERE IN SUPPORT OF
and)	MOTION FOR PRELIMINARY
)	INJUNCTION
HULU TECH, INC.,)	
)	
Defendants.)	

Now comes Plaintiff Lulu Enterprises, Inc. (“Lulu”) and respectfully moves this Court for leave to file the Declaration of Kent Van Liere in support of Lulu’s pending Motion for Preliminary Injunction [Docket Entry No. 8]. In support of this motion, Lulu shows the Court as follows:

1. In connection with discovery in this matter, Lulu commissioned a highly relevant consumer confusion focus group study prepared by Kent Van Liere of National Economic Research Associates, Inc. (“NERA”). A true and accurate copy of the Declaration of Kent Van Liere, which includes the results of that study, is attached hereto as Exhibit A.

2. Defendant N-F NewSite, LLC (“N-F”), through counsel, has objected to the Court’s consideration of the Declaration of Kent Van Liere on the ground that the declaration was not provided to N-F in a timely fashion. For the same reasons explained in Lulu’s pending Motion for Leave to File Declaration of Hal L. Poret (which is incorporated here by this reference), however, the Declaration of Kent Van Liere is

highly relevant and, as such, will assist the Court in its resolution of the pending Motion for Preliminary Injunction. Moreover, as explained in Lulu's pending Motion for Leave to File Declaration of Hal L. Poret, N-F would suffer only slight comparative prejudice if this Court were to consider the Declaration of Kent Van Liere.

3. Lulu respectfully suggests that, under the circumstances, good cause exists for this Court to allow the filing of the attached Declaration of Kent Van Liere in Support of its Motion for Preliminary Injunction.

4. As explained above, counsel for N-F has expressed N-F's opposition to the relief Lulu requests.

5. A proposed Order granting this motion is being submitted herewith.

WHEREFORE, for the foregoing reasons and the same reasons set forth in the pending Motion for Leave to File Declaration of Hal L. Poret (which has been incorporated by reference here), Plaintiff Lulu Enterprises, Inc. respectfully requests that this Court grant it leave to file the Declaration of Kent Van Liere in support of its pending Motion for Preliminary Injunction, and such other and further relief as the Court deems just and proper.

Respectfully submitted, this the 12th day of October, 2007.

ELLIS & WINTERS LLP

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CERTIFICATE OF SERVICE

The undersigned attorney for Plaintiff hereby certifies that on this day the foregoing Motion was served upon the parties of record in this action through electronic means by virtue of CM/ECF as follows:

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Attorneys for Defendant N-F NewSite, LLC

This the 12th day of October, 2007.

/s/ Thomas H. Segars
Thomas H. Segars