

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CASCADE YARNS, INC.,

Plaintiff/Counterclaim
Defendant,

v.

KNITTING FEVER, INC., et al.,

Defendants/Counterclaim
Plaintiffs/Third-Party
Plaintiffs,

v.

ROBERT DUNBABIN, SR., et al.,

Third-Party Defendants.

CASE NO. C10-861RSM

ORDER ON MOTIONS TO SEAL AND
MOTION TO DE-DESIGNATE
CONFIDENTIAL DOCUMENTS

CASCADE YARNS, INC.,

Plaintiff,

v.

EMMEPIEFFE S.R.L., a foreign limited liability
corporation,

Defendant.

This matter is before the Court for consideration of plaintiff’s motion to “de-designate” documents produced by defendant and labeled “highly confidential,” together with a corresponding motion to seal. Dkt. # 522, 523, 570. Defendants have responded to these motions, stating in relevant part that only seven documents remain at issue, and that those seven are “highly confidential” and

ORDER - 1

1 should remain under seal. Dkt. ## 558, 559, 588. However, the response to the motion to seal fails to
2 comply with the requirements of Local Rule CR 5(g)(3) and (4). These requirements were clearly
3 explained by the Court in the Order dated November 22, 2011. Dkt. # 397. Specifically, “[t]he facts
4 supporting any motion to seal, even an agreed or stipulated motion, must be provided by declaration or
5 by affidavit.” *Id.*, ¶ 2, *citing* Local Rule CR 5(g). The Court further explained that it is the party with
6 an interest in maintaining confidentiality who must make the requisite showing. *Id.*, ¶ 3.

7 Defendants have presented no affidavit or declaration with their responses to the motion to seal.
8 Instead, they refer the Court to their opposition to the motion to de-designate, and accompanying
9 declaration. However, that declaration simply consists of a string of emails discussing the documents at
10 issue, and does not provide the requisite facts under Local Rule CR 5. Declaration of Joshua Slavitt,
11 Dkt. # 559. Apart from this, defendants’ response to the first motion to seal simply states concern
12 regarding plaintiff’s practice of “selectively posting information and documents regarding this lawsuit
13 on its website,” and a fear that unsealing documents “will encourage Cascade to engage further in such
14 conduct.” Dkt. # 558. The Court notes, however, that since June of 2011, starting with Dkt. # 281,
15 plaintiff has posted only letters rogatory and Court Orders on its website, a practice which the Court
16 expects will continue. Defendants’ fears thus appear unfounded.

17 Plaintiff’s motions to seal at Dkt. # 522 and Dkt. # 570 are accordingly DENIED. **The Clerk**
18 **shall UNSEAL the documents filed at Dkt. ## 525 and 573** (comprising Exhibit D to the Declaration
19 of Robert Guite, and Exhibits A and B to the Reply Declaration of Robert Guite), within three days of
20 this date, unless plaintiff has before that date filed notice that the documents shall be withdrawn.

21 This result is dispositive of plaintiff’s motion to de-designate, as documents which are unsealed
22 are no longer “highly confidential”. This result is not prejudicial to defendants. While they have
23 characterized these documents as “strategic plans and competitive strategy,” inventory lists, and other
24 internal documents, they all date from the period 2006-2008, and thus do not reflect current strategy or
25 market plans. Plaintiff’s motion to de-designate documents (Dkt. # 523) is accordingly GRANTED.
26 However, defendants’ redactions shall remain in place.

1 Dated this 5th day of April 2012.

2
3 

4 RICARDO S. MARTINEZ
5 UNITED STATES DISTRICT JUDGE
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27