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NEWS

L.A. Textile Company Files Copyright Suits

By Deborah Belgum *Senior Editor*

A Los Angeles textile company owner has filed eight lawsuits alleging that a raft of retailers, manufacturers and textile converters have used his copyrighted fabric designs.

The lawsuits were filed by Jae Nah and his company, **L.A. Printex Industries Inc.**, between June and November this year.

Thomas E. Kent, of law firm **Lee & Kent**, the lead attorney for L.A. Printex, did not return phone calls.

At stake are millions of dollars in damages for copyright infringement and a test case for the scores of textile designers, printers and converters who walk a fine line between originality and knockoffs.

Just about every attorney or law firm who represents the Los Angeles apparel industry is working on these cases.

The lawsuits, filed in U.S. District Court in Los Angeles, name several well-known California apparel manufacturers—including **Byer California**; **John Paul Richard Inc.**; **Great Escape**; **Stony Apparel**; **Fortune Casuals LLC**; and **Swat-Fame Inc.**, whose labels include **Speechless**.

Also listed as defendants are a host of big-name retailers who sold the merchandise. They are **Charlotte Russe Holding Inc.**, **The Wet Seal Inc.**, **Macy's West Inc.**, **J.C. Penney Co. Inc.**, **Wal-Mart Stores Inc.**, **Target Inc.**, **Mervyn's**, **Lane Bryant Inc.**, **Fashion Bug Inc.**, **Ross Stores Inc.**, **Charming Shoppes Inc.**, **Gottschalks Inc.**, **TJX Cos. Inc.** and **Burlington Coat Factory Warehouse Corp.**

In addition, several Los Angeles textile converters and printers are listed as defendants, including **Seoul Texprint Inc.**, **Colorway Inc.**, **Spectra USA Print Inc.**, **Fabric Studio Inc.**, **Absolute Textile Inc.**, **UFN Textile Group Inc.** and **Design Collection**.

In their legal replies, the defendants say they "lack sufficient knowledge or information to form a belief as to the truth of the allegations" or that the allegations are false. One case against Target and Mervyn's is scheduled to go to trial in early January.

"L.A. Printex has taken a shotgun approach to this problem without adequately evaluating which parties are liable," said attorney Michael C. Baum, who represents several defendants, including Great Escape and Stony Apparel.

In the lawsuits, Nah says he spends more than \$1 million a year developing and registering original print design works with the U.S. Copyright Office. His company, which employs more than 50 people, can produce up to 40,000 yards of printed fabric a day.

L.A. Printex alleges that several of its creations, ranging from a lace-like design to a floral pattern, were copied by textile converters and manufacturers and used in thousands of garments sold at various retail chains.

Each of the defendants, the lawsuits say, were notified of the copyright on the designs but continued to use them.

In some of the lawsuits, L.A. Printex is asking for damages that range from \$1 million to \$10 million. In other cases, damages have not been determined.

In its complaint against Seoul Texprints Inc. (which also does business as **California Fashion Art**), L.A. Printex is seeking a preliminary injunction

to stop the company from printing a number of patterns that Printex says are copyrighted designs.

But in a recent deposition filed on Dec. 8 in U.S. District Court, Nah states that one design allegedly copied by Seoul Texprints was one he actually took from an Italian company, modified slightly and registered as his own. The origin of several other designs are in question, court papers say.

"Seoul Texprints denies the allegations," said the company's attorney, David Quinto. "From our point of view, this just looks like a massive holdup."

Copycats

The concept of copyrighting an idea in the garment industry has always been a little fuzzy. It is no secret that as soon as a style hits the runways, there is always someone ready to create a knockoff the next day.

But fabric designs are more akin to artwork, according to Greg Weisman, an attorney for Los Angeles-based **Silver & Freedman** whose specialties include trademark/copyright protection.

"There are very few protected intellectual property elements in a garment," he said. "The key to copyright is about originality."

One problem is there is no central place to find out whether a design has been copyrighted.

"There is a troubling lack of available information or a reputable database for who owns what designs," Weisman noted. "So people can be innocently misled into purchasing a 'library print' from a supplier, typically overseas, only to learn later that the 'library print' constituted someone else's intellectual property."

Some textile designers vigorously defend their designs in court. Others send letters informing the manufacturers or textile converters that they are using copyrighted material and should stop.

That was the case for a client of Crystal Zarpas, an attorney who does legal work in the apparel industry through her Woodland Hills, Calif.-based firm, **Mann & Zarpas**. One of her clients, New York-based **Broadway Manufacturing**, received a cease-and-desist letter several years ago from **Lanz Inc.**, the Los Angeles company whose **Lanz of Salzburg** flannel nightgowns are known for their copyrighted floral motifs. Broadway Manufacturing, which had been using similar designs, quickly stopped using the copyrighted fabrics. "Sometimes that is enough," Zarpas said.

Hoffman California Fabrics, an 80-year-old company based in Mission Viejo, Calif., has spent years vigorously defending its original prints, which are widely used by many manufacturers. "You have to protect your assets," said Walter Hoffman, the company's owner.

Hoffman's artists create 3,000 designs a year. While Hoffman said he has never had to go to court over copyrighted creations, he said he has sent his share of legal letters.

"We pay the designers to do the designs," he said. "It is only fair that we can use them. I will go after anybody who steals a design of ours."