UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

MM&R PRODUCTS, INC., a California corporation, and TRĒ MILANO, LLC, a California limited liability company,

Plaintiffs,

v.

STITCH N' GENIUS, INC., a California corporation, ELIAS AMKIE, an individual; and DOES 1 – 10, inclusive,

Defendants.

STITCH N' GENIUS, INC. a California Corporation; and ELIAS AMKIE, an individual,

Counterclaimaints,

Vs.

MM&R PRODUCTS, INC., a California corporation; and TRĒ MILANO, LLC, a California

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Case No. CV 09-04082 VBF (RBx)

[PROPOSED] ORDER GRANTING MOTION TO STRIKE PORTIONS OF COUNTERCLAIMS PURSUANT TO FRCP 12(f); TO DISMISS COUNTERCLAIMS PURSUANT TO FRCP 12(b)(6), and TO STRIKE COUNTERCLAIMS PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE 425.16

Date: August 31 , 2009
Time: 1:30 P.M.
Place: Courtroom 9
Hon. Valerie Baker Fairbank

Limited Liability Company,

Counterclaim-Defendants.

Plaintiffs/Counterdefendants MM&R Products, Inc. and Tre Milano, LLC's Motion to Strike Portions of Counterclaims, etc., is before this Court. After having fully considered the papers, evidence and authorities filed in support of and in opposition to the motion, the Court hereby grants the motion as follows:

IT IS HEREBY ORDERED that:

(1) pursuant to Federal Rule of Civil Procedure 12(f) and 26(b)(5)(B) and Federal Rule of Evidence 502(b), Exhibit 3 to the First Amended Counterclaim and all allegations pertaining thereto, including but not limited to all such allegations in paragraphs 9, 10, 11, 13, 16, 17, 49, 55, 56, 58, and the incorporation thereof in paragraphs 22, 27, 32, and 43 is hereby STRICKEN;

(2) pursuant to Federal Rule of Civil Procedure 12(b)(6) to dismiss Defendants/Counterclaimants' second, third, fourth, fifth, sixth, and seventh counterclaims in the First Amended Counterclaim are hereby DISMISSED for failure to state a claim upon which relief can be granted; and

(3) pursuant to California Code of Civil Procedure § 425.16, the second, third, fourth, fifth, and seventh counterclaims in the First Amended Counterclaim are hereby STRICKEN.

IT IS SO ORDERED.

DATED: _____ _____
United States District Court Judge

Submitted By:

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