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UNITED STATES DISTRICT COURT
District of Connecticut

INTERMARK FABRIC CORPORATION :
:
v. : Case Number: 3:02 CV 1267 (AVC)
:
MICROFIBRES, INC. :

MICROFIBRES, INC.'S MOTION TO RECONSIDER

Microfibres, Inc. hereby moves this Court to reconsider its August 18, 2005, Order in which it granted Intermark permission to amend its complaint, withdraw counts five through eight and to withdraw certain orders.

As grounds, Microfibres states that Intermark's motion was filed on August 15, 2005. The Court granted the motion three days later, on August 18, 2005. As a result, Microfibres was denied the opportunity to respond. The Court's Local Rules provide that

3:03cv91 (AVC). November 21, 2005. The defendant, Microfibres, Inc., seeks reconsideration of the court's August 18, 2005 order granting Intermark permission to amend its complaint to withdraw counts five through eight alleging antitrust violations, and to withdraw as moot two discovery orders relating to these claims. In Microfibres view, the claims were baseless and cost thousands of dollars to defend - costs that Microfibres seeks to recoup from Intermark as a condition of allowing the amendment. The motion for reconsideration is GRANTED. Although the court has discretion under Rule 15(a) to require Intermark to pay costs incurred by Microfibres in preparing to meet those portions of a pleading that are sought to be eliminated by amendment, see SL Waber, Inc v. American Power Conversion Corp., 135 F. Supp. 2d 521, 527 (D.N.J. 1999), the court declines to do so here. Microfibres has failed to show that Intermark acted in bad faith in pressing the claims. Moreover, Intermark has withdrawn the claims with prejudice, giving Microifibres the benefit of knowing that it will not again have to answer for them, and "in light of this result, [Microfibres] should consider the costs and attorneys' fees it has incurred in defending against [Intermark's] claim[s]. . . [as] money well spent." SL Waber, Inc., 135 F. Supp.2d at 527. The relief requested is therefore DENIED.

SO ORDERED.

Alfred V. Covello, U.S.D.J.

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