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9 Attorneys for Defendants and Cross-Complainants

10 CHARLOTTE RUSSE, INC. and PPI APPAREL GROUP, INC.

11 **UNITED STATES DISTRICT COURT**

12 **CENTRAL DISTRICT OF CALIFORNIA**

13  
14 BRAGEL INTERNATIONAL, INC., a  
California corporation,

15 Plaintiff,

16 vs.

17 CHARLOTTE RUSSE, INC., *et al.*,

18 Defendants.

19  
20 AND RELATED COUNTERCLAIMS

Case No. 2:15-cv-08364-R (FFMx)

**DECLARATION OF GASTON  
KROUB IN SUPPORT OF  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT**

Hearing Information:

Date: September 6, 2016

Time: 10:00 a.m.

Place: Courtroom 8

1 I, Gaston Kroub, declare and state as follows:

2 1. I am an attorney admitted to practice before this Court, and a partner in  
3 the law firm of Kroub Silbersher & Kolmykov PLLC, counsel to Defendants,  
4 Charlotte Russe, Inc. and PPI Apparel Group, Inc (“Defendants”). I submit this  
5 declaration in support of Defendants’ Motion For Summary Judgment. I have  
6 personally knowledge of the matters set forth in this declaration, and if called upon  
7 to testify as a witness, I could and would testify competently.

8 2. Attached hereto as **Exhibit A** is a true and correct copy of the August  
9 27, 2010 letter sent to Panties Plus, Inc. on behalf of Plaintiff, Bragel International,  
10 Inc.

11 3. Attached hereto as **Exhibit B** is true and correct copy of the Assumed  
12 Name Certificate issued by N.Y.S. Department of State Division of Corporations  
13 showing that Panties Plus, Inc.’s assumed name is “PPI Apparel Group”.

14 4. Attached hereto as **Exhibit C** is a true and correct copy of Bragel’s  
15 website as it appeared on August 18, 2010 and October 22, 2010, which expressly  
16 listed U.S. Patent No. 7,144,296 (the “’296 Patent”).

17 5. Attached hereto as **Exhibit D** is a true and correct copy of Plaintiff’s  
18 responses to Defendants’ First Set of Interrogatories in 15-cv-08364, and 15-cv-  
19 01756.

20 6. Attached hereto as **Exhibit E** is a true and correct copy of the  
21 September 22, 2014 letter sent to Charlotte Russe, Inc. on behalf of Plaintiff, Bragel  
22 International, Inc.

23 7. Attached hereto as **Exhibit F** is a true and correct copy of the  
24 Complaint filed October 3, 2014 in *Bragel International, Inc. v. Charlotte Russe,*  
25 *Inc.*, 2-14-cv-017691.

26 8. Attached hereto as **Exhibit G** is a true and correct copy of the email  
27 sent by myself, Gaston Kroub, counsel for PPI Apparel Group, informing Plaintiff’s  
28

1 counsel that PPI Apparel Group would be indemnifying Charlotte Russe, Inc.

2 9. Attached hereto as **Exhibit H** is a true and correct copy of the letter I  
3 was sent on October 6, 2014 from counsel for Plaintiff, Bragel International, Inc.

4 10. Attached hereto as **Exhibit I** is a true and correct copy of the letter I  
5 sent Plaintiff's counsel on October 20, 2014.

6 11. Attached hereto as **Exhibit J** is a true and correct copy of the docket  
7 sheet in *Bragel International, Inc. v. Charlotte Russe, Inc.*, 2-14-cv-017691.

8 12. Attached hereto as **Exhibit K** is a true and correct copy of the Court's  
9 Order to Show Cause Re Dismissal for Lack of Prosecution (Dkt. 11) in *Bragel*  
10 *International, Inc. v. Charlotte Russe, Inc.*, 2-14-cv-017691.

11 13. Attached hereto as **Exhibit L** is a true and correct copy Plaintiff's  
12 request to Dismiss Case without Prejudice Pursuant to Fed.R.Civ.P. 41(a)(1)(A)  
13 filed on February 6, 2015 (Dkt. 12) in *Bragel International, Inc. v. Charlotte Russe,*  
14 *Inc.*, 2-14-cv-017691.

15 14. Attached hereto as **Exhibit M** is a true and correct copy the Complaint  
16 filed October 26, 2015 in *Bragel International, Inc. v. Charlotte Russe, Inc.*, 2-15-  
17 cv-08364.

18 15. Attached hereto as **Exhibit N** is a true and correct copy of the First  
19 Amended Complaint filed January 26, 2016 (Dkt. 19) in *Bragel International, Inc.*  
20 *v. Charlotte Russe, Inc. et al.*, 2-15-cv-08364.

21 16. Attached hereto as **Exhibit O** is a true and correct copy the Complaint  
22 filed October 26, 2015 in *Bragel International, Inc. v. Charlotte Russe, Inc.*, 2-15-  
23 cv-08364.

24 17. Attached hereto as **Exhibit P** is a true and correct copy the First  
25 Amended Complaint filed March 2, 2016 (Dkt. 17) in *Bragel International, Inc. v.*  
26 *Styles for Less, Inc. et al.*, 8-15-cv-01756.

27 18. Attached hereto as **Exhibit Q** is a true and correct copy the Notice of  
28

1 Dismissal filed by Plaintiff on April 8, 2016 (Dkt. 28) as to Defendant Gina Group,  
2 LLC in *Bragel International, Inc. v. Styles for Less, Inc. et al.*, 8-15-cv-01756.

3 19. Attached hereto as **Exhibit R** is a true and correct copy of PPI Apparel  
4 Group's website as it appeared on January 3, 2014 and showed that "Lady  
5 Princess" was one of PPI Apparel Group's brands.

6 20. Attached hereto as **Exhibit S** is a true and correct copy of a docket  
7 sheet from www.DocketNavigator.com showing a list of all cases involving U.S.  
8 Patent No. 7,144,296.

9 21. Attached hereto as **Exhibit T** is a true and correct copy of production  
10 documents showing pictures of ACC002, ACC100 and ACC101 bearing Bates Nos.  
11 PPI-0000001, 186, and 211.

12 22. Attached hereto as **Exhibit U** is a true and correct copy of a page from  
13 Amoena's website showing the evolution of breast forms.

14 23. Attached hereto as **Exhibit V** is a true and correct copy of a webpage  
15 showing "Bragel's Amazing Enhancer" or "Illusion".

16 24. Attached hereto as **Exhibit W** is a true and correct excerpted copy of  
17 the transcript of the deposition of Bragel's 30(b)(6) corporate witness, David Chen,  
18 taken on **July 19, 2016**.

19 25. Attached hereto as **Exhibit X** is a true and correct excerpted copy of  
20 the transcript of the deposition of PPI's 30(b)(6) corporate witness, Abraham  
21 Hanan, taken on July 19, 2016.

22 26. Attached hereto as **Exhibit Y** is a true and correct copy of the 2/5/2004  
23 Amendment in Reply to Office Action for Patent Application No. 10/159,251.

24 27. Attached hereto as **Exhibit Z** is a true and correct copy of U.S. Patent  
25 No. 6,231,424 ("Valentin").

26 28. Attached hereto as **Exhibit AA** is a true and correct copy of U.S.  
27 Patent No. 5,755,611 ("Noble").  
28



29. Attached hereto as **Exhibit BB** is a true and correct copy of U.S. Patent No. 5,922,023 ("Mulligan").

30. Attached hereto as **Exhibit CC** is a true and correct copy of U.S. Patent No. 6,200,195 ("Furuno").

31. Attached hereto as **Exhibit DD** is a true and correct copy of U.S. Patent No. 4,553,550 ("Hattori").

32. Attached hereto as **Exhibit EE** is a true and correct copy of U.S. Patent No. 5,538,502 ("Johnstone").

33. Attached hereto as **Exhibit FF** is a true and correct copy of U.S. Patent No. 2,882,905 ("Barg").

34. Attached hereto as **Exhibit GG** is a true and correct copy of U.S. Patent No. 2,579,365 ("Conde").

35. Attached hereto as **Exhibit HH** is a true and correct copy of U.S. Patent No. 2,793,369 ("Panghini").

36. Attached hereto as **Exhibit II** is a true and correct copy of U.S. Patent No. 3,196,878 ("Hedu").

37. Attached hereto as **Exhibit JJ** is a true and correct copy of the 03/25/2004 Commercial Success Declaration submitted to the USPTO for Patent Application No. 10/159,251.

I declare, certify, verify and state under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 9th day of August, 2016, in New York, New York.

By: 

Gaston Kroub