

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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AMERICAN GIRL, INC. and  
AMERICAN GIRL, LLC,

Plaintiffs,

v.

BATTAT, INC.,

Defendant.

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OPINION AND ORDER

06-C-0566-C

A hearing was held in this case by telephone on October 30, 2006, before United States District Judge Barbara B. Crabb. Plaintiffs American Girl, Inc. and American Girl, LLC, were represented by Edward Colbert and Allen Arntsen. Defendant Battat, Inc. was represented by Andrew Langsam and Eugenia Carter.

The purpose of the hearing was to consider defendant's motion for modification of the scope of the preliminary injunction as it applied to re-labeling defendant's former Molly doll. After hearing the arguments of counsel, I denied the motion for modification. Defendant must re-label its newly renamed Robyn doll to remove any reference to "American Girl," even if the label might be a legitimate and legal nominative fair use in the absence of

defendant's infringing acts. The injunction was granted in order to reduce the confusion to shoppers caused by defendant's using the name Molly for one of its 18" pre-teen dolls, when plaintiffs marketed a trademarked 18" pre-teen doll named Molly.

In the course of the hearing, defendant advised the court that it had evidence that customers were being told that defendant's 18" dolls had been recalled and it asked the court to increase the amount of the bond required of plaintiffs while the preliminary injunction is in effect. That request was denied. One second or third hand report of a problem does not warrant an increase in the bond.

To eliminate the possibility of further court action on re-labeling, defendant is to demonstrate its new label to plaintiffs promptly.

#### ORDER

IT IS ORDERED that defendant Battat's motion for modification of the preliminary injunction entered on October 17, 2006, is DENIED, as is its motion for an increase in

plaintiffs' bond requirement.

Entered this 27th day of October, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge