Fashion Apparel Law Blog

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The Hottest Trend: Refinancing

For the fashion industry, one of the must-have, but hard to come by, items this season is a favorable refinancing deal. The recent volatility in the fashion market has reflected not just the ever-changing tastes of the cognoscenti, but also the rapidly shifting economic landscape confronting designers and retailers. The fashion industry has suffered acutely in the global financial crisis as consumers curb their spending, particularly in the luxury goods market. In fact, analysts have estimated that 12% of fashion companies will not survive the recession.

Yet after months of economic stagnation, there may be signs of improvement: this summer, a number of companies in the fashion industry successfully refinanced their debts, reflecting an improving climate among credit markets and offering some struggling firms a desperately needed lifeline. But even as some companies successfully refinance their debts, a number of others have been unable to reach refinancing deals and have filed for bankruptcy protection.

Refinancing is In…

Some analysts have suggested that firms' ability to reach favorable refinancing terms depends on the strength of the company's brand and the prominence of its position within the industry. For example, one high-end department store, widely regarded as an industry leader, successfully refinanced its credit facility, on very favorable terms and with a potential for added borrowing, in July. A number of other retailers and clothing manufacturers have also refinanced in recent months.

In early August, Charming Shoppes, Inc., better known for its brands Lane Bryant, Fashion Bug, Catherines Plus Sizes and Petite Sophisticates Outlet, announced that it had replaced a $375 million credit facility due in July 2010 with a three-year secured revolving $225 million credit facility. In this case, the reduced revolving credit facility is a better match for Charming Shoppes, which has simplified its business in the last year by shutting down several catalogs, Figure magazine, and shoetrader.com.

Quiksilver Inc., the youth-oriented apparel company with a focus on surf culture, which includes the Quiksilver, Roxy, and DC brands, announced in August that it had entered into an agreement with its European banking partners to consolidate its European debt obligations into a new four-year committed facility totaling €268 million. In addition, one of Quiksilver's European bankers agreed to extend the maturity of a €50 million term loan due to mature in July 2010 until July

2013.

Kellwood Co., the owner of the Phat Farm, Baby Phat, Sag Harbor, and XOXO brands, successfully avoided bankruptcy in July when it reached an agreement with its lenders to allow the firm to defer payment on $140 million in bonds. The lenders agreed to exchange the bonds, which were originally due in July, with new notes that mature in 2014.

…Unless Refinancing is Out

Not all have succeeded in their efforts to refinance their debt obligations with lenders. Internationally renowned firms such as Escada and Christian Lacroix have resorted to insolvency protection, and Barneys New York, the famed luxury retailer, is currently teetering on the brink of bankruptcy…again.

In August, Escada AG, the German luxury fashion group, initiated insolvency proceedings in Munich after a failed debt exchange with its bondholders. Escada needed 80% of its bondholders to agree to a swap for new securities, but only 46% of the bondholders did so. Because Escada could not implement its restructuring program with its lenders, it could not finance its operation. A day after Escada AG filed in Germany, the company's US subsidiary, Escada (USA) Inc., filed for chapter 11 bankruptcy protection. Escada (USA) attributed its chapter 11 filing to its failure to restructure its indebtedness out of court, as well as a two-year sales decline and softened demand for luxury goods amidst the global recession. Escada AG intends to restructure through an insolvency plan under German laws, or else a structured sale process of its assets. Investors have already expressed interest in purchasing Escada's brand, licensing rights, inventory, and store network.

Christian Lacroix SNC, the iconic French fashion label, filed for insolvency protection in Paris in May. According to executives, Christian Lacroix filed for protection after talks with potential financial partners and investors collapsed due to conditions in the financial markets. Under French law, the company will have six months to restructure and find a buyer. Christian Lacroix's owner, who had been looking for a buyer for a year prior to the filing, will continue to finance the firm's operations until a buyer is found.

Barneys New York is currently embroiled in its own financial struggles. Barneys' owner, Istithmar PJSC of Dubai, is considering a debt restructuring or a bankruptcy filing to address the firm's recent decline in sales and its debt load. Due to the $942 million price tag that Istithmar paid for the company in 2007, Barneys is now shouldering $660 million in loans maturing through 2016. Istithmar recently infused $25 million into the retailer to maintain normal business operations. As Barneys considers its next step, and as the industry watches, other parties are indicating their interest in acquiring the company.

Looking Ahead

As the fashion industry reels from the effects of the global economic downturn, companies are discovering that there are no guarantees when it comes to refinancing. Some industry leaders have been able to secure favorable credit facilities on the strength of their reputation and past performance. At the same time, other luminous names, such as Barneys, struggle to find solid ground in this time of crisis. It is difficult to distinguish patterns or indicators that suggest whether a firm will be successful in its efforts to refinance. Numerous factors enter the equation – a company's existing credit facility, its debt load, the strength of the brand, the bondholders' commitment and flexibility – and the end result is anything but predictable. Although the recent refinancing arrangements should be welcomed as a sign that the credit markets are slowly thawing, the steady drumbeat of fashion insolvencies demonstrates that the industry has not yet regained its footing.