

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

ED TOBERGTE ASSOCIATES COMPANY
d/b/a GEAR 2000,

Plaintiff,

CIVIL ACTION

v.

No: 08-2290-JWL-GLR

BIKE ATHLETIC COMPANY,

Defendant.

ORDER

This matter comes before the Court on Plaintiff's Motion to Amend Complaint (doc. 5). Plaintiff states that it has come to its attention that named Defendant Bike Athletic is a division of Russell Corporation. It therefore requests leave to file its First Amended Complaint naming Russell Corporation as the Defendant.

Federal Rule of Civil Procedure 15(a)(1)(A) allows a party to "amend its pleading once as a matter of course before being served with a responsive pleading." In this case, Defendant has not yet filed a responsive pleading and Plaintiff has not already amended its complaint. Although Plaintiff may not need leave to file its First Amended Complaint, the Court will grant the motion

IT IS THEREFORE ORDERED that Plaintiff's Motion to Amend Complaint (doc. 5) is granted.

Dated in Kansas City, Kansas on this 19th day of November, 2008.

s/ Gerald L. Rushfelt
Gerald L. Rushfelt
United States Magistrate Judge