

Supply Chain + Tech Focus

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Apparel and Footwear Importers Concerned About Changes in First-Sale Rule

By Deborah Belgum *Senior Editor*

U.S. apparel and textile importers are rallying to push back a new proposal that would require more stringent record-keeping requirements to bring in goods under the so-called "First-Sale Rule," which went into effect more than 25 years ago.

Basically, the First-Sale Rule allows importers to pay duties on the initial or lower price of an item charged by the factory rather than the higher value charged by a middleman or distributor who acquires the goods and then exports them to the United States.

U.S. Customs and Border Protection officials would like to see importers produce a host of documents and invoices that start at the factory and go all the way up the ladder to the middlemen. Documents would have to be in English, which means factories in places such as China and Vietnam would have to translate their invoices into English to verify the cost of the goods.

Import specialists believe the proposed changes require so much paperwork that people would stop using the First-Sale Rule, which would result in prices rising by at least 10 percent at the store level. Others believe it would be expensive and time-consuming to get all the necessary documents to prove the exact price paid at the factory level.

"I had a client who contacted me a few weeks ago and was in a panic," said Robert Krieger, president of Los Angeles customs brokerage company **Krieger Worldwide**. "He uses the First-Sale Rule to sell to big-box chains. He was concerned that the changes would majorly affect him."

Customs has never been very happy with the First-Sale Rule. In 2008, it tried to eliminate the rule, which would have meant the government could have collected higher duties on imported goods. Apparel and footwear importers are two of the top users of the rule because tariffs on clothing can reach as high as 33 percent.

Recently, customs officials put together a draft document to modify the so-called "Informed Compliance Publication," which shows how to comply with the various customs regulations. But trade groups and attorneys are trying to keep the rule from being altered.

"We think this attempt is going overboard and could have a chilling effect on the utilization of the First-Sale Rule," said Tom Travis, a partner in the international trade and customs law firm **Sandler, Travis & Rosenberg**. "A good deal of the products that are assigned the highest duty rates are in apparel and footwear."

Many apparel and footwear factories don't want to open up their finances to outside scrutiny. "I don't believe that most importers are going to be able to get the books and records of their vendors, much less the factories," said Richard Wortman, a Los Angeles customs attorney with **Grunfeld, Desiderio, Lebowitz, Silverman, Klestadt**. "Factories don't want it because it will show who else they are doing business with and what other people are paying."

Wortman's law firm is putting together a formal response to the proposed revisions as

is Sandler, Travis & Rosenberg. Attorneys believe that customs does not have the authority to rewrite the recordkeeping requirements to include third-party, foreign entities. To do what it wants to do, the law firms maintain, customs needs to get some kind of legislation to achieve its goals.

The **American Apparel & Footwear Association** recently weighed in on the matter, stating that no revision was necessary. "Trade relationships based around the First-Sale Rule now lay the foundation for many U.S. jobs in the apparel and footwear industries and for valuation structures that ultimately benefit millions of U.S. consumers with affordable fashion," noted Juanita Duggan, the new AAFA president.

The "First-Sale Rule" has been legally



CHECK LIST: A customs official makes a list of incoming cargo.

challenged before when the matter was contested more than 20 years ago. Some of the cases before the U.S. Court of International Trade were argued by Sandler, Travis & Rosenberg.

In *E.C. McAfee Co. v. the United States* (1988), the case involved the importation of made-to-measure suits. The U.S. purchaser ordered the suits from a Hong Kong distributor who then contracted with a tailor in Hong Kong to assemble the clothing. After receiving the completed clothing from the tailor, the Hong Kong distributor delivered the clothing to the freight forwarder for transport to the purchaser in the United States. The issue presented was whether the transaction value should be determined on the basis of the price the U.S. purchaser paid to the distributor or the lower price the distributor paid to the Hong Kong tailor, who assembled the clothing.

The *American Air Parcel Forwarding Co. Ltd. v. the United States* (1987) and *Synergy Sport International Ltd. v. the United States* (1993) cases were about importing apparel. A fourth case, *Nissho Iwai Corp. v. the United States* (1992), involved subway cars.

In these cases, the courts ultimately found that Customs and Border Protection must appraise merchandise and assess duties based on the manufacturer's price as opposed to the higher price paid by the importer or the U.S. customer.

In 2009, the U.S. International Trade Commission analyzed the First-Sale Rule. The group found that between Sept. 1, 2008, and Aug. 31, 2009, some 23,520 separate importing entities used the First-Sale Rule. That accounted for 8.5 percent of all importing entities.

Out of all the imports, totaling \$1.63 trillion, some \$38.5 billion, or 2.4 percent, was imported under the First-Sale Rule. The top five categories using this rule were machinery and computers, electrical machinery, woven apparel, knitted apparel, and mineral fuels. ●

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Vietnam's Apparel Industry Is on a Rapid-Expansion Plan

China and Vietnam are still the top two providers of apparel and textiles to the United States, but Vietnam is growing quickly as an apparel powerhouse.

During the first six months of this year, Vietnam exported 14.5 percent more in clothing and textiles to the U.S. than during the previous first six months of 2013. It went from \$4 billion in apparel and textile exports to \$4.65 billion.

Another country that gained a significant market share this year was Nicaragua, which saw its exports of apparel and textiles to the United States jump 7 percent during the first six months of this year over last year. The Central American country's exports went from \$660 million to \$707 million.

Nicaragua has the lowest minimum wage in Central America and also has a special tariff preference level under the Dominican Republic-Central

America Free Trade Agreement. That tariff preference level, which expires at the end of this year but could be renewed, allows Nicaragua to use non-regional yarns and fabrics in some of its production and still receive duty-free access for qualifying apparel.

Nevertheless, China is still the big apparel factory to the United States. During the first six months of this year, its exports inched up 2.11 percent to \$21.5 billion from \$21 billion in 2013.—*Deborah Belgium.*



DOCKSIDE: A cargo container ship is berthed at the Port of Los Angeles.

Textile and Apparel Trade Balance Report: General Imports

Jan. through June 2013 vs. Jan. through June 2014 (in millions of dollars)

	2013	2013	2014	YTD		2013	2013	2014	YTD
	Jan.-June	Jan.-June	Jan.-June	% Change		Jan.-June	Jan.-June	Jan.-June	% Change
World					Taiwan				
Yarn	3,734	1,921	1,886	-1.82	Yarn	154	77	86	11.60
Fabric	7,899	3,892	4,141	6.38	Fabric	387	170	191	11.93
Made-up	23,417	11,300	11,699	3.52	Made-up	196	102	95	-6.97
Apparel	82,403	37,655	38,841	3.15	Apparel	370	191	181	-5.17
Total	117,453	54,769	56,566	3.28	Total	1,107	540	553	2.27
Canada					Japan				
Yarn	434	233	190	-18.68	Yarn	184	93	99	6.26
Fabric	795	410	390	-4.96	Fabric	442	216	230	6.26
Made-up	361	187	174	-6.69	Made-up	36	17	15	-9.08
Apparel	551	251	272	8.20	Apparel	43	19	20	4.42
Total	2,142	1,081	1,026	-5.16	Total	705	346	365	5.41
Mexico					EU27				
Yarn	385	203	171	-15.47	Yarn	704	367	365	-0.49
Fabric	534	268	283	5.81	Fabric	1,484	736	814	10.54
Made-up	970	489	518	5.92	Made-up	962	462	489	5.90
Apparel	3,848	1,874	1,870	-0.20	Apparel	2,356	1,061	1,203	13.44
Total	5,738	2,833	2,843	0.34	Total	5,507	2,626	2,872	9.35
India					EU28				
Yarn	187	91	97	6.41	Yarn	704	367	365	-0.48
Fabric	399	197	209	6.26	Fabric	1,484	736	814	10.55
Made-up	2,959	1,416	1,508	6.52	Made-up	962	462	490	5.93
Apparel	3,259	1,746	1,846	5.72	Apparel	2,367	1,066	1,210	13.56
Total	6,804	3,450	3,661	6.10	Total	5,518	2,631	2,879	9.42
Pakistan					ASEAN				
Yarn	17	9	9	5.30	Yarn	286	147	145	-1.60
Fabric	116	56	61	8.08	Fabric	395	206	198	-3.63
Made-up	1,495	766	779	1.73	Made-up	961	487	543	11.50
Apparel	1,499	696	702	0.96	Apparel	18,541	8,933	9,401	5.24
Total	3,125	1,527	1,552	1.63	Total	20,182	9,774	10,288	5.26
China					CBI				
Yarn	725	359	401	11.51	Yarn	0	0	0	-100.00
Fabric	2,087	1,005	1,084	7.94	Fabric	3	1	1	-1.16
Made-up	13,909	6,574	6,744	2.58	Made-up	1	1	1	-20.91
Apparel	31,478	13,077	13,230	1.17	Apparel	810	387	384	-0.71
Total	48,199	21,014	21,458	2.11	Total	814	389	386	-0.76
Korea, South					LDDC exc. Haiti				
Yarn	325	170	166	-2.58	Yarn	9	5	5	1.55
Fabric	602	309	318	2.62	Fabric	9	5	5	3.20
Made-up	119	61	45	-26.30	Made-up	281	160	178	10.93
Apparel	246	101	108	6.70	Apparel	7,919	3,905	3,868	-0.95
Total	1,292	641	636	-0.85	Total	8,218	4,075	4,056	-0.47
Hong Kong					W HEMI				
Yarn	1	1	2	124.64	Yarn	873	463	389	-16.01
Fabric	11	5	5	-6.26	Fabric	1,436	727	728	0.13
Made-up	46	23	29	26.67	Made-up	1,624	829	849	2.45
Apparel	156	69	69	-0.06	Apparel	14,058	6,706	6,826	1.79
Total	214	98	105	6.74	Total	17,991	8,725	8,792	0.77

Source: U.S. Department of Commerce, Office of Textiles and Apparel.

Emsig Manufacturing's Indestructible Fashion Button

Larry Jacobs believes that every garment maker should have a story to tell. "The story is to the consumer," he says. "This is why you should consider our product."

And the story shirt makers should be telling, Jacobs continues, is about a pearl-like button so strong it can withstand 1,800 pounds per square inch of pressure, negating the damaging effects of a buck-press machine. This button is 50 percent thicker than normal shirt buttons. A button that will not burn or support combustion. "These buttons are truly unbreakable," says Jacobs. "You can wash them 100 times and beyond and they will retain their finish, strength, and color. They will outlast the garment."

This shirt button is produced by Emsig Manufacturing Company, one of the oldest and largest button manufacturers in the world. It is the pride and joy of Jacobs, who, as president with 60 years in his family-owned company, has a lot of innovations to be proud of. "You have to be creative and innovative and bring products to the market," he says. Such innovations include

an antibacterial button targeted for medical apparel, producing a thicker button that makes it easier for people with arthritic hands to fasten them, and recycling and selling its waste product as blast media to take paint off airplanes and cars.

The story of Emsig's unbreakable button, however, demonstrates the company's ability to innovate its own innovations. The unbreakable button is made from melamine, a powder substance made primarily of nitrogen, which has fire-retardant properties.

For that, Jacobs took another look at the company's melamine button production. Emsig, which has been a provider of buttons to the U.S. military since 1940, first developed the melamine button in 1942 during World War II, when American troops needed more-durable buttons than the horn or casein ones then in use. Emsig is currently the largest producer in the world of melamine buttons. "Melamine is the strongest material available," Jacobs says. The traditional problem with melamine, however, was its look.

"It was basically a utility button," he says. "We could only offer it in solid opaque colors. That didn't add a lot of fashion or style."

While that might have been fine for military fatigues or other uniform use, it wasn't exactly an acceptable look for dress shirts. Jacobs knew that, for the melamine to be accepted, it needs to have the traditional pearl-like effect of traditional shirt buttons.

For years, the ability to combine style and substance in melamine

seemed impossible. More recently, however, Jacobs began working with a company to produce a pearl coloring that could fuse completely with the melamine material. "It never had been done before in melamine," Jacobs explains. "The material wasn't available or even developed. I knew it was possible, and we did it. We experimented constantly, making one lot over and over, making changes and changes, making it this way and that way so it has a certain effect. That is what it took. But I thought, if we can develop it, it will be the best material."



Jacobs sent his samples to independent labs to confirm the results, and the button received Underwriters Labs (UL) approval. After a year of development, "finally, it was marketable, salable, successful." The pearl coloring, in white, off-white, and smoke, is a permanent part of the button, so it will never fade with washing. The button is also 50 percent thicker than normal, which makes for easier fastening. It comes in sizes 17 and 19 ligne, plus 14 ligne for button-down collars, for which the mold is in process.

With the shirt button done, Jacobs is busy "trying to develop other effects and stylish looks in melamine," to reach out more deeply to the fashion industry. "I'm working on all types of ideas," he says, "but, of course, it's a matter of being successful and really creating something that works."

"We've always been a leader in these things," he goes on. "In our 86 years, we never were simply a button seller, we were always innovative and creative as producers, with factories doing our own research and development. You hope you develop a product that is unique and different and makes a difference to people."

Jacobs believes that garment makers who invest in Emsig's melamine buttons will have a great story to tell their customers. And that is the story Emsig is here to tell as well. "We have a truly unbreakable button, something that has never been accomplished by any company in the whole world," Jacobs says. "No other button with a pearl look can make that statement."



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Nester Hosiery: Diving Into the U.S. Supply Chain Feet First

By John McCurry Contributing Writer

A North Carolina sock manufacturer has fully embraced the “made in USA” trend and has taken it to the ultimate level. The company, **Nester Hosiery**, based in the textile region of Surry County, N.C., has achieved considerable success with its U.S.-centric supply chain.

The made-in-USA aspect of the company’s socks has helped boost sales through the years with consumers and retailers. About three years

ago, Nester Hosiery took it a step further with the launch of its **Farm to Feet** sock brand.

“It’s working well,” said company founder Marty Nester. “We are now in more than 60 retail stores that cover 40 states. “We are a U.S. company and teamed up with U.S. suppliers of

all the raw materials. It’s a 100 percent U.S. recipe. It took us a while to get there with not only the yarns but also the packing, dyes and every aspect.”

The Farm to Feet supply chain begins with **American Sheep Industry** ranchers, a federation of 45 state sheep associations representing more than 82,000 sheep producers throughout the U.S. Using ASI wool ensures that Farm to Feet socks are made of U.S.-produced merino wool.

From there the wool goes to the **Chargers** facility in Jamestown, S.C., where it is scoured, combed, sorted and prepared for spinning as wool top. From there, the wool top is trucked about 140 miles north to **Burlington Industries’** spinning and finishing plant in Raeford, N.C., where it is spun and dyed. It is then shipped about 150 miles northwest to Nester Hosiery, where the company produces Farm to Feet socks from the wool yarn.

Socks are either 100 percent wool or wool blended with small percentages of nylon and spandex, both made in the U.S. Nester sources nylon-covered elastic yarns from **McMichael Mills** in Madison, N.C. The American-made supply chain continues with a packaging company and a manufacturer of point-of-purchase displays, both made in North Carolina. Even the inks used for the packaging are U.S.-made.

Nester Hosiery’s domestic production is highlighted on the packaging. Each package contains a photo of someone who works along the U.S. supply chain.

The socks are available at many traditional and online retailers of outdoor apparel and range in retail price from \$15 to \$28 per pair. Nester Hosiery also makes socks for about 20 other brands.

Strategy shift

After 20 years working at some of North Carolina’s major hosiery companies, Marty Nester realized he had the skills and knowledge needed to open his own company. So, he founded Nester Hosiery in 1993.

At first, the new sock maker served as a contract knitter for other hosiery mills and offered no direct sales to retailers. For the first two years, as Nester says, “all we did was knit.” That began to change in 1995 as U.S. sock makers began to lose market share to offshore manufacturers. Nester Hosiery lost about half its sales in one year due to closings of other mills. That led to a rethinking of the company’s long-range strategy.

“We thought it was time to change our customer base a bit and go after retailers,” Nester recalls.

So, Nester Hosiery moved into production of heavyweight, wool and wool-blend outdoor-type socks, and Marty Nester hit the road, calling on some of the major outdoor retailers. He hired nephew Kelly Nester to head up sales. He is now president of the company.

“It took us five to six years before we could end our contract knitting and sell 100 percent of what we made to retailers,” Nester recalls.

Today Nester Hosiery is a thriving manufacturer. It has grown rapidly and now produces 7.5 million pairs of socks annually. About 195 people work at Nester Hosiery. The addition of new machinery in recent years has reduced

the total number of repetitive-motion jobs in the plant.

Sustainable, efficient

Sustainability is a major focus for Nester Hosiery, which began measuring its efforts in waste reduction in 2009. The company is now recycling 85 percent of the waste that used to go into a landfill. Water use has been reduced by 40 percent. New air compressors and energy-efficient finishing equipment have allowed the company to trim its energy costs.

“It is something we are proud of,” Nester says. “We try to keep involved in all aspects of sustainability and with our suppliers as well.”

The sustainability aspect of the company’s operations is an important feature for many of its outdoor-apparel customers, such as **Patagonia**, which touts the Nester Hosiery sustainability story on its

website.

Two designers and three knitting technicians handle most of the company’s product development. Business is strong for Nester Hosiery, and its founder believes that pace will continue for the foreseeable future.

“We are ahead of our 2014 goals in terms of sales, revenue and inventory control,” Nester said. “Looking into 2015, everything we hear from our retailers is positive. We are looking at at least 10 percent annual growth this year and the same for 2015.” ●

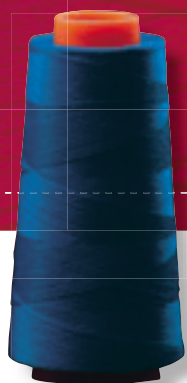


BUSINESS SHIFT: Founded in 1993, Nester Hosiery started as a contract knitter, but, as the U.S. sock business began moving offshore, Nester Hosiery shifted its business model. Today, the company produces 7.5 million pairs of socks annually for sale to bricks-and-mortar and online retailers.



U.S.-MADE: Nester Hosiery’s Farm to Feet sock brand is 100 percent made in America, including yarns, knitting, dyeing and packaging.

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Cargo-Container Volumes Rise at U.S. Ports as Contract Talks Continue on the Waterfront

As contract talks between West Coast longshore workers and their employers continued into their 14th week, importers were playing it cautious and bringing in as much merchandise as they could to fill holiday orders.

In August, cargo container–import volumes at the nation’s ports are expected to hit an all-time high of 1.54 million 20-foot containers coming through the country’s major ports, according to the recent **National Retail Federation’s** “Global Port Tracker” report. That would make it the highest monthly volume since the National Retail Federation began tracking U.S. port traffic in 2000. The previous high was set in July at 1.53 million cargo containers.

Importers are still concerned about the lack of a contract between longshore workers at 29 West Coast ports—including Long Beach and Los Angeles—and their employers, who are terminal operators and shipping lines. The six-year contract expired July 1.

“The negotiations appear to be going well, but each week that goes by makes the situation more critical as the holiday season approaches,” said Jonathan Gold, the NRF’s vice president for supply chain and customs policy.

The contract between the **Pacific Maritime Association**, based in San Francisco, and the **International Longshore and Warehouse Union**, also based in San Francisco, covers nearly 20,000 full and part-time workers. Dock workers remain on the job as the negotiations have stopped and started since beginning in mid-May.

The NRF reported that cargo-container volumes in June were up 9.1 percent over last year with 1.48 million cargo containers crossing the waterfront.

July was estimated to be at 1.53 million, up 5.8 percent over the previous year, and August is forecast to hit 1.54 million containers, a 3.6 percent increase over last year. September will also be strong at 1.48 million cargo containers, 2.8 percent more than last year.

The rest of the year will be in positive territory. October’s volume will reach 1.48 million cargo containers, up 3.3 percent. November will see a predicted 1.37 million containers, or a 2 percent rise, and December will taper off with 1.34 million cargo containers coming through the ports, up 2.1 percent over the previous December.

For 2014, port traffic should total 17.1 million cargo containers, a 5.2 percent jump over 2013, which totaled 16.2 million containers. Imports in 2012 reached 15.8 million containers.

Ben Hackett, the founder of **Hackett Associates**, which works with the NRF to research and write the “Global Port Tracker” report, said the healthy cargo-container traffic reflects an improving economy and merchants’ concerns about the contract negotiations. “U.S. GDP [gross domestic product] has increased in 11 out of the last 12 quarters, confirming that we are in a sustained period of expansion,” Hackett said. “A significant portion of the strong upswing in imports has been due to the labor negotiations with importers moving up shipments just in case.”—*Deborah Belgun*

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WFX Launches Business Intel Platform

WFXOnDemand, a software solutions provider for the apparel and consumer-goods industries, has launched **WFX BI**, a business intelligence platform to help customers manage and share data across internal teams and departments.

WBI BI allows users to create reports and dashboards from a library of configurable data models depending on specific business areas and information needs. The models can be interlinked and, using report design

tools, can deliver customized information to specific users. Businesses can quickly create custom reports and build dashboards to highlight specific information.

Based in New York, WFX provides cloud-based enterprise resource planning (ERP) and product lifecycle management (PLM) software for more than 15,000 fashion users worldwide. For more information, visit www.wfxcloud.com or www.wfxondemand.com.

—Alison A. Nieder

ICIX Releases Product Safety Compliance Application

ICIX has introduced **Direct Test**, a cloud-based application to help retailers and manufacturers collect and manage third-party product test results to meet safety and regulatory requirements.

"With more than 38 million products recalled in 2013, product safety is clearly an issue for both consumers and businesses," said Matt Smith, co-founder and chief strategy officer for San Francisco-based ICIX, in a company statement. "The globalization of supply chains and increased regulation have made it much more difficult to manage extended supply-chain risk. We developed Direct Test in collaboration with leading brands, retailers and testing labs to help them proactively and efficiently meet the challenge of validating product safety."

By integrating with testing labs, Direct Test automates and streamlines the management of product testing and regulatory

documents. The application will match a company's purchase orders with existing test results and certifications and will alert the company, trading partners and testing labs when any of the required information is missing. Regulatory paperwork is automatically generated, and products without the required paperwork are identified before they are shipped.

ICIX recently secured a \$25 million Series C investment from Perth, Australia-based **Wesfarmers Limited** and Walnut Creek, Calif.-based **Vertical Venture Partners**. The current round of investment, coupled with the original investment by Menlo Park, Calif.-based **Draper Fisher Jurvetson** and East Melbourne, Australia-based **Starfish Ventures**, brings ICIX's total venture capital investment to \$50 million.

For more information, visit www.icix.com.—A.A.N.

Simparel Taps IT Operations Veteran as LA-Based Senior Project Manager

New York-based **Simparel Inc.** has hired Lawrence Mora as senior project manager.

Based in Los Angeles, Mora will work to help brands, manufacturers and vertical retailers add and implement **Simparel Enterprise Solutions**, including enterprise resource planning (ERP), product lifecycle management (PLM), sourcing and supply chain management (SCM), electronic data interchange (EDI) and warehouse management solutions (WMS).

With more than 20 years of industry experience, Mora has worked with a broad range of ERP solutions, including ACS, **Apparel Business Systems**, AIMS, **Apparel Magic**, **BlueCherry**, **Full Circle**, **Garpac**, **NGC Red Horse** and **Vantage Point**. He spent 10 years consulting as a senior analyst, project manager and ERP implementation specialist

and served as director of information systems for **Baby Guess** and **Group B Clothing** (owners of the **Democracy** label) and as manager of EDI and logistics systems for **I.e.i.** and **Circa Corp.**

"With such impressive expertise and a solid industry reputation, Larry was in a position to work with virtually any technology provider out there," said Steve G. Vogel, Simparel's chief executive officer, in a company statement. "The fact that he chose Simparel not only confirms the strength of our technology but our commitment to providing the best customer experience in the business. He is a perfect fit with the team of trustworthy and customer-focused professionals that are taking Simparel and its customers to new levels."

For more information, visit www.simparel.com.—A.A.N.

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Products and Services: Simparel Inc is a leading provider of concept-to-consumer business solutions tailored specifically for fashion and softgoods brands, manufacturers, and retailers. Its flagship Simparel® all-in-one enterprise software delivers the full range of capabilities large and small companies need to manage their entire business and supply chain. Leveraging the latest technologies and industry best practices, this breakthrough solution empowers clients with previously unattainable process visibility, control, and collaboration across their product development (PLM), supply chain(SCM), manufacturing (MRP), warehousing and distribution (WMS), retail compliance and collaboration (EDI), and other critical business processes. With the power and simplicity of this single system, apparel and fashion-related companies can accelerate cycle times, reduce costs, and improve customer service. Los Angeles-based Koi Happiness, a leading developer of designer scrubs for the medical market, is one of the many companies that have replaced multiple systems and generic software with the comprehensive Simparel solution to better manage growth and changing business requirements. Simparel clients also include Ballin, Bonobos, Hanky Panky, Mamiye Brothers, Outerstuff, R.G. Barry, and other leading and emerging brands.

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