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7 AG GLOBAL PRODUCTS, LLC, a California limited liability company; and
FHI BRANDS, LLC, a Delaware limited liability company
8

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 AG GLOBAL PRODUCTS, LLC, a
California limited liability company; and
12 FHI BRANDS, LLC, a Delaware limited
liability company,

13 Plaintiffs ,

14 vs.

15 JOHN PAUL MITCHELL SYSTEMS,
16 INC., a California corporation; and DOES
1 through 10, inclusive,

17 Defendants.
18

Case No. _____

COMPLAINT FOR

**(1) PATENT INFRINGEMENT
(2) LANHAM ACT TRADE DRESS
INFRINGEMENT**

JURY TRIAL DEMAND

19 Plaintiffs AG Global Products, LLC, a California limited liability company
20 and FHI Brands, LLC, a Delaware limited liability company (jointly "Plaintiffs")
21 hereby assert the following claims for relief against defendant John Paul Mitchell
22 Systems, Inc., a California corporation ("Defendant") as follows:

23 JURISDICTION AND VENUE

24 1. This is an action for patent infringement arising under the Patent Laws
25 of the United States, 35 U.S.C. §§ 1 et seq. In addition, Plaintiffs assert a claim for
26 trade dress infringement arising out of the same infringing hair brush pursuant to 15
27 U.S.C. § 1051, et seq. (the "Lanham Act"). The court has subject matter
28 jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338.

1 to sell the Stylus with the same trade dress.

2 6. Plaintiffs are in the business of promoting and selling beauty products
3 including hair brushes in direct competition with Defendant.

4 7. Plaintiffs are informed and believe, and based thereon allege, that
5 defendant John Paul Mitchell Systems, Inc. (“Defendant”) is and at all times
6 relevant hereto was a corporation duly organized under the laws of the State of
7 California with its principal place of business in Santa Clarita, California. Plaintiffs
8 are informed and believe that Defendant either directly or through its control over
9 other entities make, sells, and/or offers for sale the StyleWand infringing hair brush
10 and other beauty supply products, through hair salons, retail stores and internet
11 websites. Plaintiffs are informed and believe, that Defendant’s StyleWand heated
12 hair brush infringes and/or contributory infringes the ‘384 Patent.

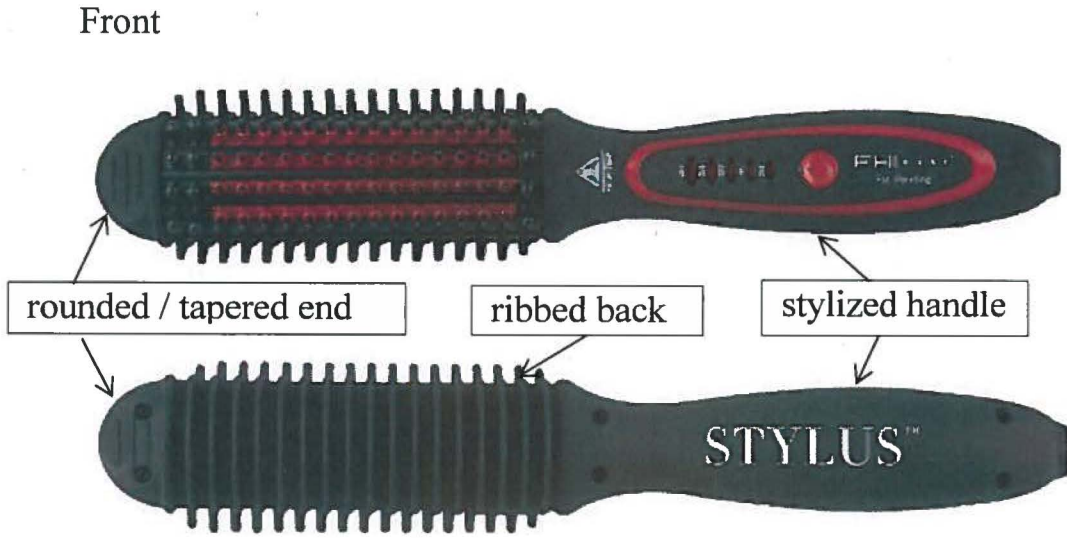
13 8. Plaintiffs are presently unaware of the true names of the Defendants
14 identified in the Complaint under the fictitious names DOES 1-10. On information
15 and belief, DOES 1-10 are infringing, contributorily infringing, the ‘384 Patent and
16 Plaintiff’s trade dress, and confusingly similar variations thereof as set forth below.
17 Plaintiffs will amend its Complaint to identify the names of the DOE Defendants as
18 they are discovered.

19 **FACTUAL ALLEGATIONS**

20 9. Plaintiffs designed and sell the Stylus, with its EZ-hold ridged tip,
21 heated collared bristles, and ergonomic no-slide handle. The Stylus has a unique
22 ornamental design protected by the ‘384 Patent. The unique design of the Stylus
23 also served as trade dress identifying the Stylus as coming from a single source to
24 consumers.

25 10. Plaintiffs made and sold the Stylus prior to Defendant placing its
26 competing heated hair brush, the StyleWand (the “Infringing Brush”), on the
27 market. Plaintiffs’ Stylus has unique features and consumers identify those features
28 with a single source of the hair brush. These unique features are protected by both

1 the '384 Patent as well as trade dress under the Lanham Act. The unique features
2 include a stylized handle, back ribs, and tapered ends, as shown below:

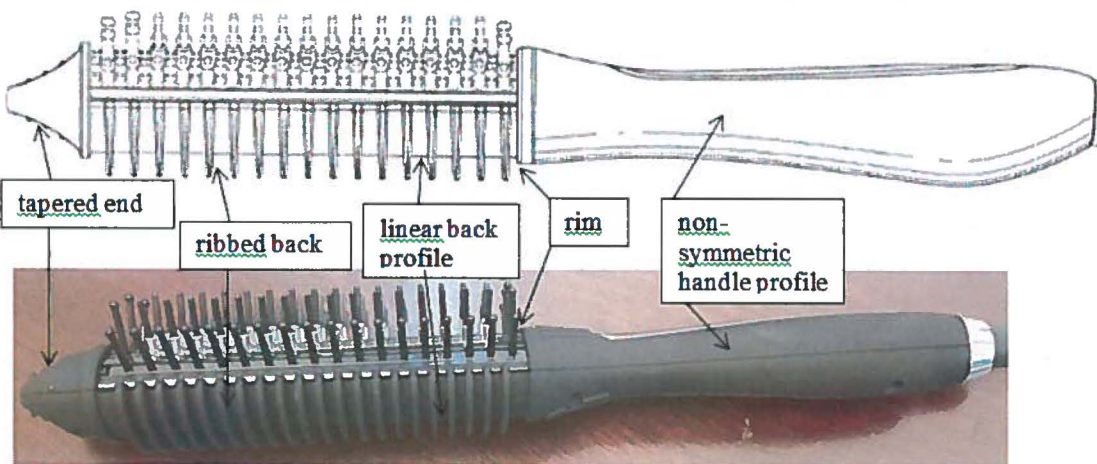
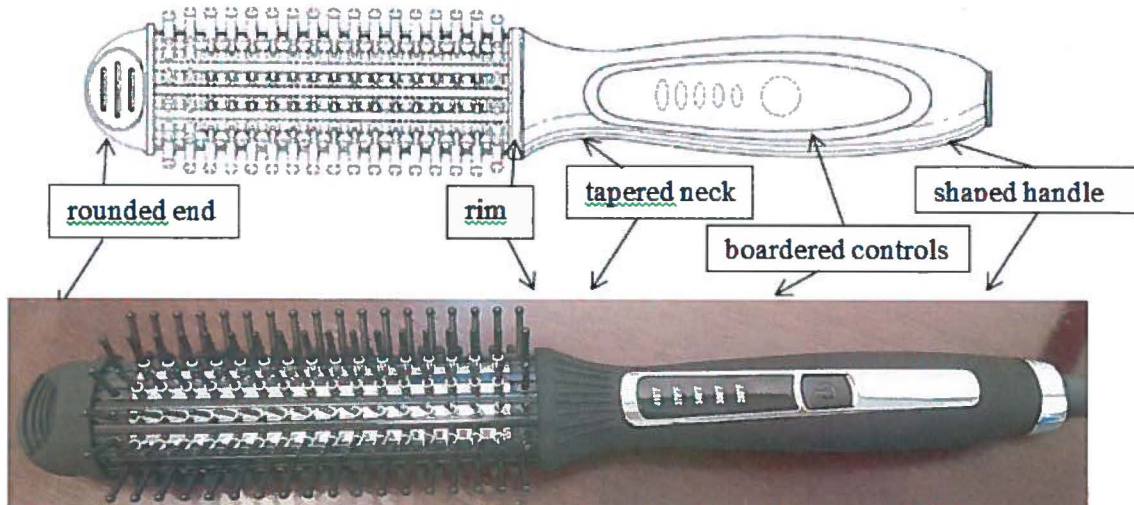


12 Back

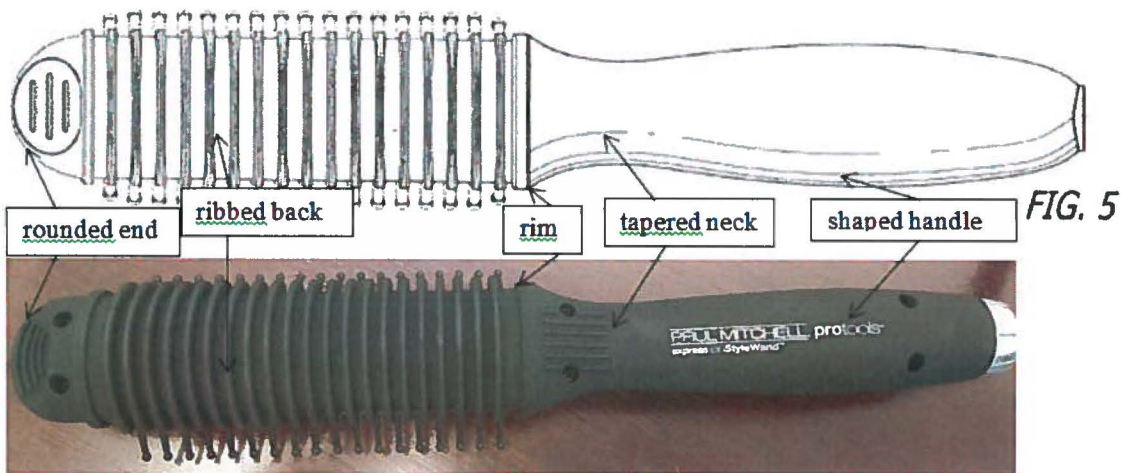
13 11. Defendant's Infringing Brush copies the look and feel of Plaintiffs'
14 Stylus hair brush and infringes elements of the '384 Patent. The elements from the
15 Infringing Brush that infringe the '384 Patent include (a) it uses the same stylized
16 handle, (b) it uses identical back ribs, and (c) it uses the same tapered ends. The
17 specific elements of infringement are identified in the images below from the '384
18 Patent (Black & White) and the Infringing Brush (color):

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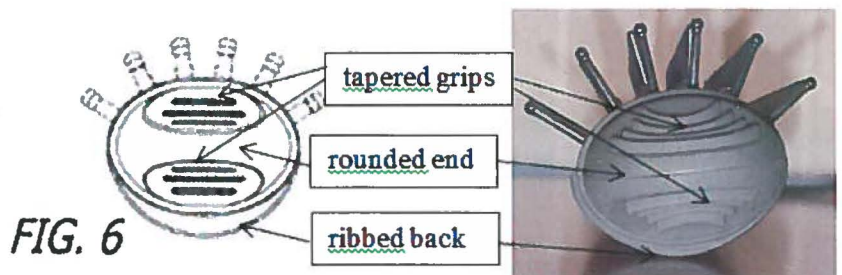
BRUSHES VIEWED FROM FRONT



BRUSHES VIEWED FROM THE BACK



BRUSHES VIEWED FROM THE END



12. As demonstrate by the foregoing images comparing Plaintiffs’ patented design for its Stylus hair brush with the Infringing Brush, there are numerous elements protected both under the ‘384 Patent and as Plaintiffs’ trade dress. The foregoing elements were unique to Plaintiffs’ hair brush prior to Defendant’s infringement.

FIRST CLAIM FOR RELIEF
PATENT INFRINGEMENT

13. Plaintiffs hereby incorporate all of the allegations set forth in paragraphs 1 through 12 above, as if set for in full herein.

14. Plaintiffs are informed and believe, and on that basis allege, that Defendant had notice of the existence of the ‘384 Patent.

15. Plaintiffs are informed and believe, and based thereon allege, that Defendant’s Infringing Brush infringes each of the elements of the ‘384 Patent identified in the figures set forth above. Plaintiffs are further informed and believe, and based thereon allege, that Defendant has infringed the ‘384 Patent by developing, making, using, offering to sell, selling and/or importing the Infringing Brush; and/or actively inducing others to infringe the ‘384 Patent.

16. Plaintiffs have sustained damages and will continue to sustain damages as a result of the acts of infringement alleged above.

17. Plaintiffs are entitled to recover damages sustained as a result of Defendant’s infringement and other wrongful acts. Plaintiffs are further entitled to disgorgement of all of Defendant’s wrongfully obtained revenues arising from its

1 sale of the Infringing Brush.

2 18. Plaintiffs are informed and believe, and based thereon allege, that
3 Defendant willfully infringed the '384 Patent and is thereby entitled to increased
4 damages and attorney's fees. Plaintiffs are also entitled to injunctive relief barring
5 Defendant from further infringing the '384 Patent.

6 **SECOND CLAIM FOR RELIEF**

7 **TRADE DRESS INFRINGEMENT (LANHAM ACT)**

8 19. Plaintiffs reallege all of the allegations set forth in paragraphs 1
9 through 18, above, as if set forth in full herein.

10 20. Plaintiffs have manufactured, advertised, distributed, marketed,
11 promoted and offered their hair brush covered by the '384 Patent since about June
12 24, 2014. Plaintiffs are informed and believe, and based thereon allege, that
13 consumers recognize the features of the Stylus hair brush as coming from a unique
14 source which is Plaintiffs.

15 21. Plaintiffs are informed and believe, and based thereon allege, that
16 Defendant's Infringing Brush uses the look and feel of Plaintiffs' Stylus hair brush
17 and is likely to cause confusion as to the source of the brush with Plaintiff's brush.

18 22. Plaintiffs are informed and believe, and based thereon allege, that
19 Defendant knew of the considerable commercial success of Plaintiffs' Stylus brush
20 and that Defendant willfully used the look and feel of Plaintiffs' Stylus brush's
21 trade dress in connection with the sale, offering for sale, distribution and/or
22 advertising of the Infringing Brush in a manner likely to cause confusion, or to
23 cause mistake, or to deceive customers that Defendant's Infringing Brush are
24 products from Plaintiffs or otherwise associated with or authorized by Plaintiffs.

25 23. Defendant's conduct described above constitutes trade dress
26 infringement in violation of 15 U.S.C. § 1125.

27 24. The actions of Defendant, if not enjoined, will continue. Plaintiffs
28 have suffered and continue to suffer damages in an amount to be proven at trial.

1 Plaintiffs are further entitled to injunctive relief to prevent Defendant’s
2 infringement.

3 25. Pursuant to 15 U.S.C. §§ 1117 and 1125, Plaintiffs are entitled to
4 recover damages, profits made by Defendant and the costs of this action.

5 Wherefore, Plaintiffs seek relief as follows:

6 1. For all general, special, consequential, incidental and other damages
7 sustained by Plaintiffs as a result of the conduct alleged above;

8 2. For all of Defendant’s revenues, profits, and other monetary gains
9 resulting from the sale of the Infringing Brush and additional sales of other
10 products resulting from the infringement described above;

11 3. For treble damages and other exemplary damages as may be available
12 under the law;

13 4. For Plaintiffs’ attorney’s fees incurred herein;

14 5. For preliminary and permanent injunctive relief barring infringement
15 of the ‘384 Patent and/or Plaintiffs’ trade dress;

16 6. For all costs incurred herein; and

17 7. For any other relief that the court deems just and proper.

18
19 DATED: April 6, 2016

BUCHALTER NEMER
A Professional Corporation

20
21 By: /Michael L. Meeks/
22 MICHAEL L. MEEKS
23 LOUISE TRUONG
24 Attorneys for Plaintiffs
25 AG GLOBAL PRODUCTS, LLC,
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DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial for all claims and issues to which the right to jury trial exists.

DATED: April 6, 2016

BUCHALTER NEMER
A Professional Corporation

By: *Michael L. Meeks*
MICHAEL L. MEEKS
LOUISE TRUONG
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