



Cosmetics International, Inc.; All Season Professional; Naillogic; LeChat Nail Care Products; and Cina Pro.

### **PARTIES**

2. Plaintiff Janet Smitherman (formerly known as Janet K. Beaver) is an individual, with her principal place of business at 330 Rayford Road, Suite 104, Spring, Texas, 77386.

3. On information and belief, Defendant Trans Design, Inc. (“Trans Design”) is a Georgia corporation with its principal place of business at 4286 Jonesboro Road, Forest Park, GA 30297. On information and belief, Defendant Trans Design may be served with process via its registered agent, Ngu Tran, at 4286 Jonesboro Road, Forest Park, GA 30297.

4. On information and belief, Defendant American Beauty Manufacturing & Distribution LLC d/b/a The Supply Source (“Supply Source”) is a Florida limited liability company with its principal place of business at 4500 Hiatus Rd., Suite 207, Sunrise, Florida, 33351. On information and belief, Defendant Supply Source may be served with process via its registered agent, Izabella D. Udler, at 4500 N. Hiatus Rd., Suite 207, Sunrise, Florida, 33351.

5. On information and belief, Defendant Christrio Corp. (“Christrio”) is a California corporation with its principal place of business at 1950 Compton Ave. #103, Corona, California, 92881. On information and belief, Defendant Christrio may be served with process via its registered agent, Michael Le at 12536 Farmborough Ct., Mira Loma, California, 91752.

6. On information and belief, Defendant Republic Nail, Inc. (“Republic Nail”) is a California corporation with its principal place of business at Commerce Center, 9234-1/2 Hall Rd., Downey, CA 90241. On information and belief, Defendant Republic Nail may be served

with process via its registered agent, Rocio Jimenez, at Commerce Center, 9234-1/2 Hall Rd., Downey, CA 90241.

7. On information and belief, Defendant OPI Products, Inc. (“OPI”) is a Delaware corporation with its principal place of business at 13034 Saticoy St., North Hollywood, California, 91605-3510. On information and belief, Defendant OPI may be served with process via its registered agent, Corporation Service Company, at 2711 Centerville Rd., Suite 400, Wilmington, DE, 19808.

8. On information and belief, Defendant Galaxy Nails Products of the Future, Inc. d/b/a Galaxy Nails Products (“Galaxy Nails”) is a California corporation with its principal place of business at 4375 Prado Rd., Suite 105, Corona, California 92880-7444. On information and belief, Defendant Galaxy Nails may be served with process via its registered agent, Timothy Lee, at 4375 Prado Rd., Suite 105, Corona, California 92880-7444.

9. On information and belief, Defendant Tammy Taylor Nails, Inc. (“Tammy Taylor”) is a California corporation with its principal place of business at 18007 Sky Park Cir., Suite E, Irvine, California, 92614. On information and belief, Defendant Tammy Taylor may be served with process via its registered agent, Edward Taiuil, at 18007 Sky Park Cir., Irvine, CA 92614.

10. On information and belief, Defendant Premier Nail International, Inc., formerly known as Premier Nail Source, Inc., d/b/a PNI Worldwide (“PNI”) is a Florida corporation with its principal place of business at 5454 West Crenshaw Street, Tampa, FL 33634. On information and belief, Defendant PNI may be served with process via its registered agent, Michael Kerzner, at 5454 West Crenshaw Street, Tampa, FL 33634.

11. On information and belief, Defendant EZ Nails, Inc. d/b/a EZ Nails & Beauty Supply (“EZ Nails”) is a California corporation with its principal place of business at 11652 Monarch Street, Garden Grove, California, 92841. On information and belief, Defendant EZ Nails may be served with process via its registered agent, Jeffrey M. Resnick, at 4400 MacArthur Blvd, 9<sup>th</sup> Floor, Newport Beach, CA 92658.

12. On information and belief, Defendant Nubar Cosmetics International, Inc. (“Nubar”) is a California corporation with its principal place of business at 4100 E. Goodwin Ave, Los Angeles, California, 90039-1112. On information and belief, Defendant Nubar may be served with process via its registered agent, Noubar Abrahamian, at 210 N. Brand Ave, Glendale, CA 91203.

13. On information and belief, Defendant All Season Professional (“ASP”) has its principal place of business at 29120 Avenue Paine, Valencia, California 91355-5402. On information and belief, Defendant ASP may be served with process at 29120 Avenue Paine, Valencia, California 91355-5402.

14. On information and belief, Defendant Xek, Inc. d/b/a Naillogic (“Naillogic”) is a Pennsylvania corporation with its principal place of business at 2782 Botetourt Rd., Fincastle, Virginia, 24090. On information and belief, Defendant Naillogic may be served with process at its registered office of 4542 Horseshoe Pike, PO Box 238, Honey Brook, PA 19344.

15. On information and belief, Defendant Mega Creation, Inc. d/b/a LeChat Nail Care Products (“LeChat”) is a California corporation with its principal place of business at 228 Linus Pauling Dr., Hercules, California 94547. On information and belief, Defendant LeChat may be served with process via its registered agent, Newton Wu a/k/a Newton Luu, at 1002 Francisca Ct., Pinole, California 94564.

16. On information and belief, Defendant Cina Pro, also known as Cina Nail Creations ("Cina Pro") is a California-based company with its principal place of business at 29120 Avenue Paine, Valencia, California 91355-5402. On information and belief, Defendant Cina Pro may be served with process at 29120 Avenue Paine, Valencia, California 91355-5402.

### **JURISDICTION AND VENUE**

17. This action arises under the patent laws of the United States, Title 35 of the United States Code. This court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

18. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, Defendants have transacted business in this district, and have committed and/or induced acts of patent infringement in this district.

19. On information and belief, Defendants are subject to this court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this Judicial District.

### **THE PATENT-IN-SUIT**

20. United States Patent No. 5,830,442 (the '442 Patent'), entitled "Pigmented Artificial Acrylic Fingernail", was duly and lawfully issued on November 3, 1998, based upon an

application filed by the inventor, Janet K. Beaver. A copy of the '442 Patent is attached hereto as Exhibit A.

21. Plaintiff is the owner and inventor of the '442 Patent and has the right to sue, and recover damages, for infringement thereof.

**COUNT I**  
**INFRINGEMENT OF U.S. PATENT NO. 5,830,442**

22. Smitherman repeats and incorporates the allegations contained in paragraphs 1 through 21 above as is set forth fully herein.

23. On information and belief, Trans Design has been and now is directly infringing the '442 Patent in this judicial district, and elsewhere in the United States. Infringements by Trans Design include, without limitation, making, using, offering for sale, and/or selling within the United States, and/or importing into the United States, at least Trans Design's "Sun Acrylic Colors", covered by one or more claims of the '442 Patent. Infringements by Trans Design further include, without limitation, inducing infringement of one or more claims of the '442 Patent. By making, using, importing, offering for sale, and/or selling its "Sun Acrylic Colors", and all like products and related services that are covered by one or more claims of the '442 patent, Trans Design is liable for infringement of the '442 Patent pursuant to 35 U.S.C. § 271 (a). By inducing infringement of the claims of the '442 patent, Trans Design is liable for infringement pursuant to 35 U.S.C. § 271 (b). Photographs of the infringing products are attached as Exhibit B.

24. On information and belief, Supply Source has been and now is directly infringing the '442 Patent in this judicial district, and elsewhere in the United States. Infringements by Supply Source include, without limitation, making, using, offering for sale, and/or selling within

the United States, and/or importing into the United States, at least Supply Source's "Real Color Collection", covered by one or more claims of the '442 Patent. Infringements by Supply Source further include, without limitation, inducing infringement of one or more claims of the '442 Patent. By making, using, importing, offering for sale, and/or selling its "Real Color Collection", and all like products and related services that are covered by one or more claims of the '442 patent, Supply Source is liable for infringement of the '442 Patent pursuant to 35 U.S.C. § 271 (a). By inducing infringement of the claims of the '442 patent, Supply Source is liable for infringement pursuant to 35 U.S.C. § 271 (b). Photographs of the infringing products are attached as Exhibit C.

25. On information and belief, Christrio has been and now is directly infringing the '442 Patent in this judicial district, and elsewhere in the United States. Infringements by Christrio include, without limitation, making, using, offering for sale, and/or selling within the United States, and/or importing into the United States, at least Christrio's "Deluxe Acrylic Kit", covered by one or more claims of the '442 Patent. Infringements by Christrio further include, without limitation, inducing infringement of one or more claims of the '442 Patent. By making, using, importing, offering for sale, and/or selling its Deluxe Acrylic Kit, and all like products and related services that are covered by one or more claims of the '442 patent, Christrio is liable for infringement of the '442 Patent pursuant to 35 U.S.C. § 271 (a). By inducing infringement of the claims of the '442 patent, Christrio is liable for infringement pursuant to 35 U.S.C. § 271 (b). Photographs of the infringing products are attached as Exhibit D.

26. On information and belief, Republic Nail has been and now is directly infringing the '442 Patent in this judicial district, and elsewhere in the United States. Infringements by Republic Nail include, without limitation, making, using, offering for sale, and/or selling within

the United States, and/or importing into the United States, at least Republic Nail's "Colored Acrylic Powders Festival Collection", covered by one or more claims of the '442 Patent. Infringements by Republic Nail further include, without limitation, inducing infringement of one or more claims of the '442 Patent. By making, using, importing, offering for sale, and/or selling its "Colored Acrylic Powders Festival Collection", and all like products and related services that are covered by one or more claims of the '442 patent, Republic Nail is liable for infringement of the '442 Patent pursuant to 35 U.S.C. § 271 (a). By inducing infringement of the claims of the '442 patent, Republic Nail is liable for infringement pursuant to 35 U.S.C. § 271 (b). Photographs of the infringing products are attached as Exhibit E.

27. On information and belief, OPI has been and now is directly infringing the '442 Patent in this judicial district, and elsewhere in the United States. Infringements by OPI include, without limitation, making, using, offering for sale, and/or selling within the United States, and/or importing into the United States, at least OPI's "Absolute Precision Liquid and Powders", covered by one or more claims of the '442 Patent. Infringements by OPI further include, without limitation, inducing infringement of one or more claims of the '442 Patent. By making, using, importing, offering for sale, and/or selling its "Absolute Precision Liquid and Powders", and all like products and related services that are covered by one or more claims of the '442 patent, OPI is liable for infringement of the '442 Patent pursuant to 35 U.S.C. § 271 (a). By inducing infringement of the claims of the '442 patent, OPI is liable for infringement pursuant to 35 U.S.C. § 271 (b). Photographs of the infringing products are attached as Exhibit F.

28. On information and belief, Galaxy Nails has been and now is directly infringing the '442 Patent in this judicial district, and elsewhere in the United States. Infringements by Galaxy Nails include, without limitation, making, using, offering for sale, and/or selling within



the United States, and/or importing into the United States, at least Galaxy Nails' "Colorific Colored Acrylic Kits", covered by one or more claims of the '442 Patent. Infringements by Galaxy Nails further include, without limitation, inducing infringement of one or more claims of the '442 Patent. By making, using, importing, offering for sale, and/or selling its "Colorific Colored Acrylic Kits", and all like products and related services that are covered by one or more claims of the '442 patent, Galaxy Nails is liable for infringement of the '442 Patent pursuant to 35 U.S.C. § 271 (a). By inducing infringement of the claims of the '442 patent, Galaxy Nails is liable for infringement pursuant to 35 U.S.C. § 271 (b). Photographs of the infringing products are attached as Exhibit G.

29. On information and belief, Tammy Taylor has been and now is directly infringing the '442 Patent in this judicial district, and elsewhere in the United States. Infringements by Tammy Taylor include, without limitation, making, using, offering for sale, and/or selling within the United States, and/or importing into the United States, at least Tammy Taylor's "Prizma Acrylic Colours", covered by one or more claims of the '442 Patent. Infringements by Tammy Taylor further include, without limitation, inducing infringement of one or more claims of the '442 Patent. By making, using, importing, offering for sale, and/or selling its "Prizma Acrylic Colours", and all like products and related services that are covered by one or more claims of the '442 patent, Tammy Taylor is liable for infringement of the '442 Patent pursuant to 35 U.S.C. § 271 (a). By inducing infringement of the claims of the '442 patent, Tammy Taylor is liable for infringement pursuant to 35 U.S.C. § 271 (b). Photographs of the infringing products are attached as Exhibit H.

30. On information and belief, PNI has been and now is directly infringing the '442 Patent in this judicial district, and elsewhere in the United States. Infringements by PNI include,

without limitation, making, using, offering for sale, and/or selling within the United States, and/or importing into the United States, at least PNI's "Nouveau Nails Professional City Lights Acrylic Collection", covered by one or more claims of the '442 Patent. Infringements by PNI further include, without limitation, inducing infringement of one or more claims of the '442 Patent. By making, using, importing, offering for sale, and/or selling its "Nouveau Nails Professional City Lights Acrylic Collection", and all like products and related services that are covered by one or more claims of the '442 patent, PNI is liable for infringement of the '442 Patent pursuant to 35 U.S.C. § 271 (a). By inducing infringement of the claims of the '442 patent, PNI is liable for infringement pursuant to 35 U.S.C. § 271 (b). Photographs of the infringing products are attached as Exhibit I.

31. On information and belief, EZ Nails has been and now is directly infringing the '442 Patent in this judicial district, and elsewhere in the United States. Infringements by EZ Nails include, without limitation, making, using, offering for sale, and/or selling within the United States, and/or importing into the United States, at least EZ Nails' "Color Acrylic Powder", covered by one or more claims of the '442 Patent. Infringements by EZ Nails further include, without limitation, inducing infringement of one or more claims of the '442 Patent. By making, using, importing, offering for sale, and/or selling its "Color Acrylic Powder", and all like products and related services that are covered by one or more claims of the '442 patent, EZ Nails is liable for infringement of the '442 Patent pursuant to 35 U.S.C. § 271 (a). By inducing infringement of the claims of the '442 patent, EZ Nails is liable for infringement pursuant to 35 U.S.C. § 271 (b). Photographs of the infringing products are attached as Exhibit J.

32. On information and belief, Nubar has been and now is directly infringing the '442 Patent in this judicial district, and elsewhere in the United States. Infringements by Nubar

include, without limitation, making, using, offering for sale, and/or selling within the United States, and/or importing into the United States, at least Nubar's "Infinity Professional Acrylic Nail System", covered by one or more claims of the '442 Patent. Infringements by Nubar further include, without limitation, inducing infringement of one or more claims of the '442 Patent. By making, using, importing, offering for sale, and/or selling its "Infinity Professional Acrylic Nail System", and all like products and related services that are covered by one or more claims of the '442 patent, Nubar is liable for infringement of the '442 Patent pursuant to 35 U.S.C. § 271 (a). By inducing infringement of the claims of the '442 patent, Nubar is liable for infringement pursuant to 35 U.S.C. § 271 (b). Photographs of the infringing products are attached as Exhibit K.

33. On information and belief, ASP has been and now is directly infringing the '442 Patent in this judicial district, and elsewhere in the United States. Infringements by ASP include, without limitation, making, using, offering for sale, and/or selling within the United States, and/or importing into the United States, at least ASP's "Aspire Acrylic Line", covered by one or more claims of the '442 Patent. Infringements by ASP further include, without limitation, inducing infringement of one or more claims of the '442 Patent. By making, using, importing, offering for sale, and/or selling its "Aspire Acrylic Line", and all like products and related services that are covered by one or more claims of the '442 patent, ASP is liable for infringement of the '442 Patent pursuant to 35 U.S.C. § 271 (a). By inducing infringement of the claims of the '442 patent, ASP is liable for infringement pursuant to 35 U.S.C. § 271 (b). Photographs of the infringing products are attached as Exhibit L.

34. On information and belief, Naillogic has been and now is directly infringing the '442 Patent in this judicial district, and elsewhere in the United States. Infringements by Naillogic

include, without limitation, making, using, offering for sale, and/or selling within the United States, and/or importing into the United States, at least Naillogic's "Color Acrylic Powders", covered by one or more claims of the '442 Patent. Infringements by Naillogic further include, without limitation, inducing infringement of one or more claims of the '442 Patent. By making, using, importing, offering for sale, and/or selling its "Color Acrylic Powders", and all like products and related services that are covered by one or more claims of the '442 patent, Naillogic is liable for infringement of the '442 Patent pursuant to 35 U.S.C. § 271 (a). By inducing infringement of the claims of the '442 patent, Naillogic is liable for infringement pursuant to 35 U.S.C. § 271 (b). Photographs of the infringing products are attached as Exhibit M.

35. On information and belief, LeChat has been and now is directly infringing the '442 Patent in this judicial district, and elsewhere in the United States. Infringements by LeChat include, without limitation, making, using, offering for sale, and/or selling within the United States, and/or importing into the United States, at least LeChat's "Nail Architecture Acrylic System", covered by one or more claims of the '442 Patent. Infringements by LeChat further include, without limitation, inducing infringement of one or more claims of the '442 Patent. By making, using, importing, offering for sale, and/or selling its "Nail Architecture Acrylic System", and all like products and related services that are covered by one or more claims of the '442 patent, LeChat is liable for infringement of the '442 Patent pursuant to 35 U.S.C. § 271 (a). By inducing infringement of the claims of the '442 patent, LeChat is liable for infringement pursuant to 35 U.S.C. § 271 (b). Photographs of the infringing products are attached as Exhibit N.

36. On information and belief, Cina Pro has been and now is directly infringing the '442 Patent in this judicial district, and elsewhere in the United States. Infringements by Cina

Pro include, without limitation, making, using, offering for sale, and/or selling within the United States, and/or importing into the United States, at least Cina Pro's "Candy for Your Nails Colored Acrylic Powder Kit", covered by one or more claims of the '442 Patent. Infringements by Cina Pro further include, without limitation, inducing infringement of one or more claims of the '442 Patent. By making, using, importing, offering for sale, and/or selling its "Candy for Your Nails Colored Acrylic Powder Kit", and all like products and related services that are covered by one or more claims of the '442 patent, Cina Pro is liable for infringement of the '442 Patent pursuant to 35 U.S.C. § 271 (a). By inducing infringement of the claims of the '442 patent, Cina Pro is liable for infringement pursuant to 35 U.S.C. § 271 (b). Photographs of the infringing products are attached as Exhibit O.

37. Defendants have committed these infringing acts without license from Smitherman.

38. As a result of Defendants' infringement of the '442 Patent, Smitherman has suffered monetary damages that are adequate to compensate her for the infringement under 35 U.S.C. § 284, but in no event less than a reasonable royalty.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this court enter:

39. A judgment in favor of Smitherman that Defendants have directly infringed the '442 Patent, pursuant to 35 U.S.C. § 271 (a);

40. A judgment in favor of Smitherman that Defendants have induced the infringement of the '442 Patent, pursuant to 35 U.S.C. § 271 (b);

41. A judgment and order requiring the Defendants to pay Smitherman damages, costs, expenses, and pre-judgment and post-judgment interest for Defendants' infringement of the '442 patent as provided under 35 U.S.C. § 284;

42. A judgment and order finding that this is an exceptional case within the meaning of U.S.C. § 285 and awarding to Smitherman reasonable attorneys' fees; and

43. Any and all other relief to which Smitherman may show herself to be entitled.

**DEMAND FOR JURY TRIAL**

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Dated: June 16, 2011

Respectfully submitted,  
By: /s/ Andrew W. Chu  
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