

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

E-FILED 09-11-09
JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

OPI Products, Inc., a California corporation,

Plaintiff,

v.

Beauty Treats International Co., Inc., a California corporation and Does 1 through 10, Inclusive

Defendant.

Case No. CV09-05383 PSG (CWx)

[PROPOSED] STIPULATED FINAL JUDGMENT AND PERMANENT INJUNCTION

Assigned for All Purposes:
Judge Philip S. Gutierrez
Courtroom 790

Action Filed: July 23, 2009
Trial Date: None

Based upon the Stipulation signed by counsel for Plaintiff OPI Products, Inc. (“OPI”) and counsel for Defendant Beauty Treats International Co., Inc. (“Beauty Treats”) for a final resolution of this action, the Court believes this is a proper action to make a Final Judgment including a Permanent Injunction as part of a comprehensive settlement.

1 Therefore, IT IS ORDERED that:

2

3 Defendants Beauty Treats and its officers, employees, and all those in active
4 concert or participation with any of them, are permanently restrained and enjoined
5 from:

6

7 1. Using in commerce the bottle and label as embodied in the “Accused
8 Product” shown in Exhibit A, for so long as the OPI Bottle Design Mark (USPTO
9 Registration No. 3,569,558) is being used by OPI or any successor-in-interest, by itself
10 or in connection with any other word, symbol or alphanumeric characters, in connection
11 with the sale, offering for sale, distribution, or advertising of any goods or services
12 which use is likely to cause confusion, or to cause mistake, or to deceive;

13

14 2. Reproducing, counterfeiting, copying, or colorably imitating the registered
15 trademark “OPI” (USPTO Registration No. 2,300,077), for so long as the mark is being
16 used by OPI or any successor-in-interest, and applying such reproduction, counterfeit,
17 copy, colorable imitation to labels, sign, prints, packages, wrappers, receptacles, or
18 advertisements intended to be used in commerce in connection with the sale, offering
19 for sale, distribution, or advertising of goods or services on or in connection with which
20 such use is likely to cause confusion, or to cause mistake, or to deceive;

21

22 3. Using in commerce any reproduction, counterfeit, copy, or colorable
23 imitation of the “OPI Bottle Design Mark” for so long as the mark is being used by OPI
24 or any successor-in-interest, by itself or in connection with any other word, symbol or
25 alphanumeric characters, in connection with the sale, offering for sale, distribution, or
26 advertising of any goods or services which use is likely to cause confusion, or to cause
27 mistake, or to deceive;

28

1 4. Reproducing, counterfeiting, copying, or colorably imitating the registered
2 “OPI Bottle Design Mark”, as embodied in the Accused Product, or otherwise, for so
3 long as the mark is being used by OPI or any successor-in-interest and applying such
4 reproduction, counterfeit, copy, colorable imitation to labels, sign, prints, packages,
5 wrappers, receptacles, or advertisements intended to be used in commerce in
6 connection with the sale, offering for sale, distribution, or advertising of goods or
7 services on or in connection with which such use is likely to cause confusion, or to
8 cause mistake, or to deceive.

9
10 5. Soliciting, assisting, aiding, or abetting any other person or business entity
11 in engaging in or performing any of the activities referred to in the above Paragraphs 1
12 through 4.

13
14 6. By agreement of the parties, this order allows Beauty Treats to use its
15 registered trademark shown below on goods other than nail polish, nail lacquer, or nail
16 care products:



22 Word Mark BT
23 Registration Number 3142244

1 7. The Court shall retain jurisdiction to enforce the terms of the Settlement
2 Agreement and the Permanent Injunction in this matter.

3
4 8. All remaining claims between the parties in this matter are hereby
5 dismissed with prejudice.

6
7 9. Final judgment is hereby entered, with no award of monetary damages,
8 and with each party responsible for its own costs and attorney fees.

9
10 So Ordered.

11
12 Dated: 9/11/09

PHILIP S. GUTIERREZ

Honorable Philip S. Gutierrez
U.S. District Court Judge

13
14
15 Respectfully submitted by
16 Conkle, Kremer & Engel, PLC
17 s/William C. Conkle/s
18 William C. Conkle
19 Attorneys for Plaintiff OPI Products, Inc.

20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

