

JS-6

1 MARK BOLAND (*pro hac vice*)  
 mboland@sughrue.com  
 2 SUGHRUE MION, PLLC  
 2100 Pennsylvania Avenue, NW, Suite 800  
 3 Washington, D.C. 20037  
 Tel.: (202) 293-7060  
 4 Fax.: (202) 293-7860

5 JOHN B. SCHERLING (CA Bar No. 122234)  
 jscherling@sughrue.com  
 6 SUGHRUE MION, PLLC  
 4250 Executive Square, Suite 900  
 7 San Diego, CA 92037  
 Tel.: (858) 795-1180  
 8 Fax.: (858) 795-1199

9 Attorneys for Plaintiff and Counterdefendant  
 PENTAIR WATER POOL AND SPA, INC.

10 LEE CARL BROMBERG (*pro hac vice*)  
 lbromberg@mccarter.com  
 11 MCCARTER & ENGLISH, LLP  
 265 Franklin Street  
 12 Boston, Massachusetts 02110  
 Telephone: 617-449-6500  
 13 Facsimile: 617-607-9200

14 DARREN M. FRANKLIN (Cal. Bar No. 210939)  
 dfranklin@sheppardmullin.com  
 15 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
 333 South Hope Street, 43rd Floor  
 16 Los Angeles, California 90071-1422  
 Telephone: 213-620-1780  
 17 Facsimile: 213-620-1398

18 Attorneys for Defendants and Counterclaimants  
 19 HAYWARD INDUSTRIES, INC. and  
 HAYWARD POOL PRODUCTS, INC.

21 **UNITED STATES DISTRICT COURT**

22 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

23 PENTAIR WATER POOL AND SPA,  
 INC.,

24 Plaintiff,

25 v.

26 HAYWARD INDUSTRIES, INC. and  
 27 HAYWARD POOL PRODUCTS, INC.,

28 Defendants.

Case No. **CV 11-10280 GW (MRWx)**

and Related Consolidated Case:  
 CV 12-1535-GW(MRWx)

**JUDGMENT**

1 WHEREAS, Plaintiff Pentair Water Pool and Spa, Inc. (“Pentair”) filed a  
2 Complaint for Declaratory Judgment (D.I. 1) in this action alleging that U.S. Patent  
3 6,026,804 (“the ’804 patent”) is not infringed and is invalid;

4 WHEREAS, Defendants Hayward Industries, Inc. and Hayward Pool  
5 Products, Inc. (“Hayward”) counterclaimed for infringement of the ’804 patent  
6 (D.I. 43), and asserted that the accused Pentair Max-E-Therm, MasterTemp,  
7 MiniMax NT and MiniMax CH products infringed claims 43-47 of the ’804 patent;

8 WHEREAS, pursuant to the November 12, 2014 Rulings on Cross Motions  
9 for Summary Judgment (D.I. 272), liability in this case has been resolved in favor of  
10 Pentair on every claim of the ’804 patent asserted by Hayward against Pentair, with  
11 claim 46 being found non-infringed and claims 43-45 and 47 being found invalid;

12 WHEREAS, the Court’s specific Rulings on Cross Motions for Summary  
13 Judgment (D.I. 272) are summarized in this Judgment, whereby:

14 **IT HEREBY IS ADJUDGED THAT:**

15 (a) claims 43, 44, 45 and 47 of the ’804 patent are invalid for failure to meet  
16 the written description requirement of 35 U.S.C. § 112, first paragraph for the  
17 reasons set forth in D.I. 272; questions of fact remain as to whether each of claims  
18 43-47 is invalid for failure to meet the written description requirement of 35 U.S.C.  
19 § 112, first paragraph based on additional grounds asserted by Pentair, but those  
20 questions of fact do not impact the Court’s conclusion that claims 43, 44, 45 and 47  
21 are invalid for the reasons set forth;

22 (b) the accused MiniMax NT, MiniMax CH, Max-E-Therm and MasterTemp  
23 heaters do not infringe claim 46 of the ’804 patent;

24 (c) each limitation of claims 43-45 and claim 47 of the ’804 patent is present  
25 in the accused MiniMax NT, MiniMax CH, Max-E-Therm and MasterTemp heaters  
26 except that (i) as to claims 43-45 (and claim 46), questions of fact remain  
27 concerning the limitations reciting a combustion chamber with respect to the  
28 accused Max-E-Therm and MasterTemp heaters, (ii) as to claim 44, additional

1 questions of fact remain concerning whether a substantial portion of fluid to be  
2 heated flows through the inlet, and (iii) as to claim 45, additional questions of fact  
3 remain concerning whether the accused heaters include means for shielding the  
4 plastic header from the heat of combustion;

5 (d) Hayward is barred under 35 U.S.C. § 287 from seeking pre-suit damages  
6 for the period after July 31, 2007, but genuine disputes of material fact preclude  
7 summary judgment as to whether Hayward may seek pre-suit damages for any  
8 infringement of the '804 patent between November 23, 2005 and July 31, 2007;

9 (e) genuine disputes of material fact preclude granting summary judgment  
10 that pre-suit damages for any infringement of the '804 patent are barred by laches;

11 (f) any infringement of the '804 patent by Pentair was not willful; and

12 Accordingly, **IT IS FURTHER ADJUDGED THAT** Pentair is the  
13 prevailing party in this action, that Hayward takes nothing from Pentair and that any  
14 and all remaining claims and counterclaims are dismissed as moot or dismissed as  
15 per the proposed Order Dismissing Plaintiff's Invalidity Cause of Action re Claim  
16 46 filed on February 13, 2015.

17

18 This 18<sup>th</sup> day of February, 2015

19

20

21

22

23

24

25

26

27

28



Honorable George H. Wu  
United States District Judge