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

20
 21 **UNITED STATES DISTRICT COURT**

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

23 PENTAIR WATER POOL AND SPA,
 INC.,
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 Plaintiff,
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 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.

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18 This 18th day of February, 2015

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Honorable George H. Wu
United States District Judge