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 19 CONAIR CORPORATION and RITE AID HDQTRS. CORP.

20 **UNITED STATES DISTRICT COURT**
 21 **NORTHERN DISTRICT OF CALIFORNIA**
 22 **SAN FRANCISCO DIVISION**

23 THE TONYTAIL COMPANY, INC.
 24 a Delaware Corporation,

25 Plaintiff,

26 v.

27 CONAIR, a Delaware Corporation;
 28 SCUNCI INTL., Ltd., a Delaware
 Corporation; RITE AID, a Delaware
 Corporation; L&N Sales & Marketing,
 Inc., and DOES 1-10, inclusive,

Defendants.

CASE NO. 3:07-cv-05895-WHA

~~PROPOSED~~ ORDER DISMISSING
 CLAIMS 4 AND 5 OF U.S. PATENT NO.
 6,263,884

1 THIS MATTER having been brought before the Court by Plaintiff The Tonytail
2 Company, Inc. and Defendants Conair Corporation and Rite Aid HDQTRS. Corp,
3 pursuant to the stipulation executed by the parties and submitted to this Court, and for
4 other good cause shown,

5 IT IS HEREBY ORDERED that:

6 (1) all of Plaintiff's causes of action with respect to claims 4 and 5 of U.S.
7 Patent No. 6,263,884, are hereby dismissed with prejudice;

8 (2) Defendants' counterclaim requesting a declaratory judgment of non-
9 infringement with respect to claims 4 and 5 of U.S. Patent No. 6,263,884 is
10 dismissed with prejudice;

11 (3) Defendants' counterclaim requesting a declaratory judgment of invalidity
12 with respect to claims 4 and 5 of U.S. Patent No. 6,263,884 is dismissed without
13 prejudice; and

14 (4) neither party will assert a cause of action against the other (or any related
15 entity, affiliate, assignee, or successor) based in whole or part on the
16 infringement, non-infringement, or invalidity of claims 4 and 5 of U.S. Patent No.
17 6,263,884.

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19 IT IS SO ORDERED.

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21 Dated: September 10, 2008.

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WILLIAM ALSUP
United States District Court Judge
Northern District of California
San Francisco Division