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8 *CONAIR CORPORATION and BABYLISS FACO SPRL*

9
10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF NEVADA**

12 CONAIR CORPORATION and BABYLISS
13 FACO SPRL,

14 Plaintiffs,

15 v.

16 TAIZHOU JINBA HEALTH
17 TECHNOLOGY CO., LTD.,

18 Defendant.

19 **Case No. 2:15-cv-01328-JCM-CWH**

20 Hon. Judge James C. Mahan
21 Magistrate Judge Carl W. Hoffman

22 **[PROPOSED] ORDER**

23 Having read and considered Plaintiffs' motion for final default judgment as to liability
24 and order for a permanent injunction, Plaintiffs' motion is hereby GRANTED.

25 It is herewith ORDERED, ADJUDGED, AND DECREED that:

26 A. U.S. Patent Nos. 8,607,804, 8,651,118, and 8,733,374 are valid and enforceable;

27 B. The making, having made, using, causing to be used, selling, causing to be sold,
28 offering for sale, and causing to be offered for sale in the United States, and importing and
causing to be imported into the United States, of Defendant's accused products (including the
"Fineness" hair-curling device), infringes at least one claim of the '804 patent;

C. The making, having made, using, causing to be used, selling, causing to be sold,
offering for sale, and causing to be offered for sale in the United States, and importing and
causing to be imported into the United States, of Defendant's accused products (including the
"Fineness" hair-curling device), infringes at least one claim of the '118 patent;

1 D. The making, having made, using, causing to be used, selling, causing to be sold,
2 offering for sale, and causing to be offered for sale in the United States, and importing and
3 causing to be imported into the United States, of Defendant's accused products (including the
4 "Fineness" hair-curling device), infringes at least one claim of the '374 patent;

5 E. The Defendant in default has infringed the '804, '118, and '374 patents;

6 F. The Defendant in default, as well as those persons and entities in active concert
7 with it who have notice of this Order, are herewith permanently enjoined from committing any
8 act that infringes or causes or induces infringement of any claim of the '804, '118, or '374
9 patents, including but not limited to making, having made, using, causing to be used, selling,
10 causing to be sold, offering for sale, and causing to be offered for sale in the United States, and
11 importing and causing to be imported in the United States, any product that infringes any claim
12 of the '804, '118, or '374 patents, including but not limited to the "Fineness" hair-curling device
13 and products not colorably different;

14 G. U.S. Patent No. D696,456 is valid and enforceable;

15 H. The making, having made, using, causing to be used, selling, causing to be sold,
16 offering for sale, and causing to be offered for sale in the United States, and importing and
17 causing to be imported into the United States, of Defendant's accused products (including the
18 "Fineness" hair-curling device), infringes the '456 patent;

19 I. The Defendant in default by its actions has infringed the '456 patent;

20 J. The Defendant in default, as well as those persons and entities in active concert
21 with it who have notice of this Order, are herewith permanently enjoined from committing any
22 act that infringes or causes or induces infringement of any claim of the '456 patent, including but
23 not limited to making, having made, using, causing to be used, selling, causing to be sold,
24 offering for sale, and causing to be offered for sale in the United States, and importing and
25 causing to be imported in the United States, any product that infringes any claim of the '456
26 patent, including but not limited to the "Fineness" hair-curling device and products not colorably
27 different;

1 K. Plaintiffs have enforceable trademark rights under the Lanham Act in the
2 unregistered trade dress of their Miracurl® and Curl Secret® products;

3 L. Plaintiffs have enforceable trademark rights under Nevada unfair competition law
4 in the unregistered trade dress of their Miracurl® and Curl Secret® products;

5 M. The Defendant has made unauthorized use of Conair's enforceable trademark
6 rights with its accused products (including the "Fineness" hair-curling device) such that
7 consumers were likely to confuse the two;

8 N. The Defendant in default by its actions has infringed the unregistered trade dress
9 of Conair's Miracurl® and Curl Secret® products;

10 O. The Defendant in default, as well as those persons and entities in active concert
11 with it who have notice of this Order, are herewith permanently enjoined from committing any
12 act that infringes or causes or induces infringement of Plaintiffs' unregistered trade dress of its
13 Miracurl® and Curl Secret® products;

14 P. Upon receipt of actual notice of this Order, United States Customs and Border
15 Protection ("CBP") shall, within thirty (30) days and according to its internal procedures,
16 effectuate the prohibition on importation as contained in this Order, such that automatic hair-
17 curling devices of the type described and depicted herein, and components thereof, that are
18 manufactured by or on behalf of, or imported by or on behalf of, Taizhou Jinba Health
19 Technology Co., Ltd. or its affiliated companies, parents, subsidiaries, or other related business
20 entities, or their successors or assigns, such as, Jinba Health Technology Co., Ltd. and China
21 Jinba Health Tech. Co.

22 To aid CBP in its enforcement of this Order, depictions of both the patented device and
23 prohibited devices follow.

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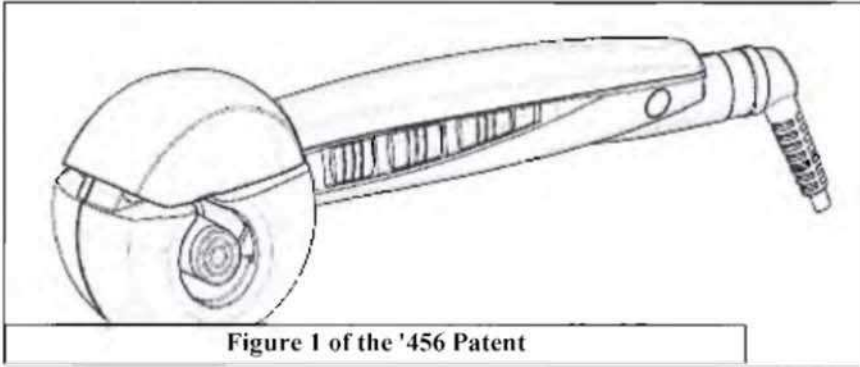
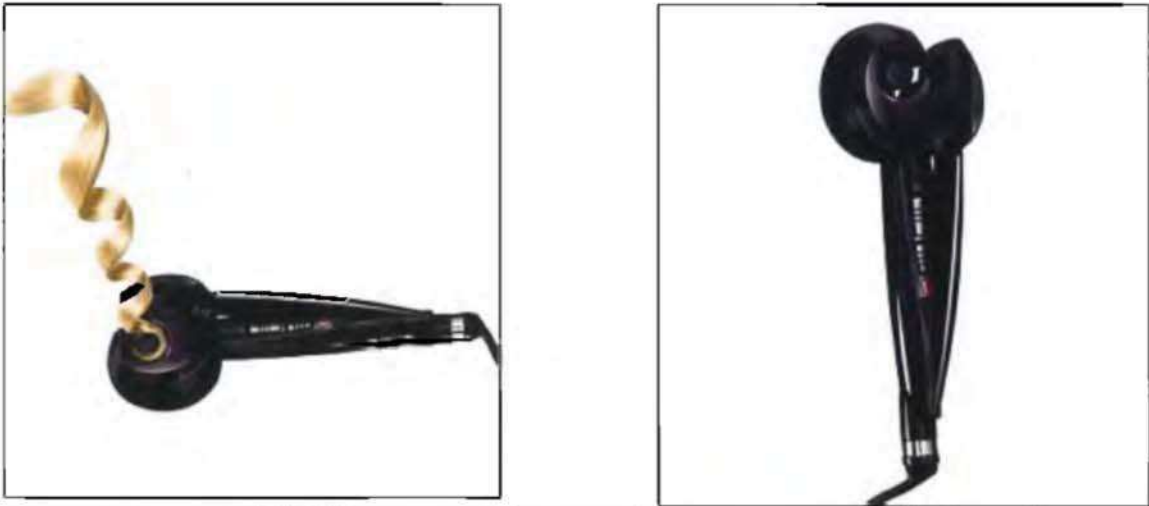


Figure 1 of the '456 Patent

Two views of Plaintiffs' Curl Secret product



Examples of Defendant's infringing products



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Automatic Curl Machine



FINNESS 833
Automatic Curl Machine



Fineness
STYLIST TOOLS



Powered by dry steam with easy-to-adjust dial for hair temperature

2.5" ceramic plates for fast straightening and styling

Heat Keratin Infusion and Ion-Infused technology for shine and frizz control

Speed with big LCD display

0-15 seconds microcomputer chip time controlling

Set free rotation mode

Max. 1.5" PRO straightness plates for professional styling and longer life

Salon length cord

230°C
Auto
LED

01

Automatic Curl Machine



FINNESS 833S
Automatic Curl Machine




2.5" ceramic plates for fast straightening and styling

Heat Keratin Infusion and Ion-Infused technology for shine and frizz control

Speed with big LCD display

0-15 seconds microcomputer chip time controlling

Set free rotation mode

Max. 1.5" PRO straightness plates for professional styling and longer life

Salon length cord

230°C
Auto
LED

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Q. CBP may, at its discretion and pursuant to the procedures it establishes, require persons seeking to import automatic hair-curling devices of the type described and depicted herein, and components thereof, that are potentially subject to this Order to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are not prohibited under the preceding paragraphs of this Order. At its discretion, CBP may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate this certification.

R. Plaintiffs are hereby given leave to take discovery under Fed. R. Civ. P. 26, 30, 33, 34, and 36 to determine the amount of damages, if any.

The only remaining issue before this Court concerns the amount of damages to be awarded to Plaintiffs. A hearing will be held on **1/20/2016 at 11:00 am** in Las Vegas, NV at the United States Courthouse at 333 S. Las Vegas Blvd., Las Vegas, NV 89101, to determine what, if any, damages including lost profits and/or reasonable royalty to impose on the Defendant in default for its infringement of the '804, '118, '374, '456 patents and Plaintiffs'

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unregistered trade dress.

DONE AND ORDERED in Las Vegas, Nevada, December 17, 2015.


UNITED STATES DISTRICT JUDGE

Submitted by:
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