

ESTTA Tracking number: **ESTTA325924**

Filing date: **01/08/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91190161
Party	Plaintiff Farouk Systems, Inc.
Correspondence Address	Ben D. Tobor; Mark G. Chretien Greenberg Traurig LLP 1000 Louisiana Street, Suite 1700 Houston, TX 77002 UNITED STATES chretienm@gtlaw.com, toborb@gtlaw.com, laipmail@gtlaw.com, vinsonl@gtlaw.com, taglem@gtlaw.com
Submission	Motion to Suspend for Civil Action
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Signature	/mgc/
Date	01/08/2010
Attachments	Request to Suspend.pdf (33 pages)(860571 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re U.S. Application Serial Nos.: 77/554,386; 77/554,389; and 77/554,383

Opposition Nos.: 91190161; 91190162; and 91190167

For the Mark: SHI

Applicant: Frank Tavakoli

Filed: August 24, 2008

_____)
FAROUK SYSTEMS, INC.,)
)
Opposer,)
)
v.)
)
FRANK TAVAKOLI,)
)
Applicant)
_____)

OPPOSER'S REQUEST FOR SUSPENSION

Dear Sir or Madam:

Pursuant to 37 CFR § 2.117, Opposer Farouk Systems, Inc., through its authorized attorneys, hereby moves for suspension of the three (3) above-indicated proceedings.

In addition to these Opposition proceedings, Opposer and Applicant Frank Tavakoli are parties to Civil Action No. 4:09-cv-04078, now pending in the U.S. District Court for the Southern District of Texas. Pleadings from this litigation matter are attached hereto as Exhibit A. This civil action was filed by Opposer on December 22, 2009, and includes issues in

common with those in the present proceedings before the Board. An initial scheduling conference has been set for April 14, 2010, in this litigation matter.

In addition, a related proceeding, Civil Action No. 4:09-cv-03400, has been filed by the U.S. Department of Justice in the U.S. District Court for the Southern District of Texas seeking forfeiture of certain hair irons and hair dryers that Applicant's related company, Brelian, Inc., attempted to import into the United States, presumably, on behalf of Applicant. Pleadings from this litigation matter are attached hereto as Exhibit B. This matter also includes issues in common with those in the present proceedings before the Board.

The Board has authority under 37 CFR 2.117(a) to suspend a proceeding before it where the parties are also engaged in a concurrent civil action that may have a bearing on the case before the Board, pending final resolution of the civil case. (*See Whopper-Burger, Inc. v. Burger King Corp.*, 181 USPQ 805, 807 (TTAB 1974); *Toro Co. v. Hardigg Industries, Inc.*, 187 USPQ 689, 692 (TTAB 1975)).

Opposer wishes to suspend action in the present Opposition proceedings pending resolution of the aforementioned related matters. This request is made in the interests of justice and not for the purposes of undue delay. Opposer has requested Applicant's consent to this motion to suspend, but Applicant has failed to respond to this request.

WHEREFORE, Opposer hereby requests that the above referenced Opposition proceedings be suspended.

Respectfully submitted this 8th day of January, 2010.

FAROUK SYSTEMS, INC.

By: 

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Ben D. Tobor

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Attorneys for Opposer,
Farouk Systems, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on January 8, 2010, a true and correct copy of the foregoing Opposer's Request for Suspension was served by USPS First Class Mail, on the following:

John R. Casperson
John R. Casperson, PA
PO Box 36369
Pensacola, FL 32516

Larry D. Knippa
3121 Buffalo Speedway, No. 8109
Houston, Texas 77098-1837



Mark G. Chretien

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

FAROUK SYSTEMS, INC.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 4:09-cv-04078
	§	
SHI SALON, LLC, BRELIAN, INC., SHIVA LABORATORIES, INC. and FRANK TAVAKOLI,	§	
	§	
Defendants,	§	Jury Trial Demanded
	§	

PLAINTIFF’S ORIGINAL COMPLAINT

Farouk Systems, Inc. (“FSI” or “Plaintiff”) files this its Original Complaint against SHI Salon, LLC, Brelian, Inc., Shiva Laboratories, Inc., and Frank Tavakoli (collectively “Defendants”) and would respectfully show the Court as follows:

**I.
PARTIES**

1. Plaintiff Farouk Systems, Inc. is a Texas corporation with its principal place of business in Houston, Texas.

2. Defendant SHI Salon, LLC is a Texas limited liability company doing business in the State of Texas. Defendant SHI Salon, LLC has its principal place of business in Houston, Texas and may be served with process in Texas through its registered agent, Frank Tavakoli, 7830 Westpark Dr. Houston, Texas 77063.

3. Defendant Brelian, Inc. is a Texas corporation doing business in the State of Texas. Defendant Brelian, Inc. has its principal place of business in Houston, Texas and may be

served with process in Texas through its registered agent, Frank Tavakoli, 7830 Westpark Dr. Houston, Texas 77063.

4. Defendant Shiva Laboratories, Inc. is a Texas corporation doing business in the State of Texas. Defendant Shiva Laboratories, Inc. has its principal place of business in Houston, Texas and may be served with process in Texas through its registered agent, Frank Tavakoli, 7830 Westpark Dr. Houston, Texas 77063.

5. Defendant Frank Tavakoli is an individual located in Harris County, Texas. Mr. Tavakoli can be served with process at his place of business located at 7830 Westpark Dr. Houston, Texas 77063.

II. JURISDICTION AND VENUE

6. The United States District Court for the Southern District of Texas has jurisdiction over this action pursuant to the provisions of 28 U.S.C. § 1331 in that this matter is a civil action arising under the Constitution, laws, or treaties of the United States. This action involves federal trademark rights, federal Lanham Act violations, and other federal causes of action. This Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367(a).

7. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391(b) because Defendants are doing business in Harris County, Texas, and a substantial part Defendants' acts and conduct giving rise to the claims herein occurred in Harris County, Texas.

III. FACTUAL BACKGROUND

8. FSI owns U.S. Trademark Registration No. 2,660,257, issued December 10, 2002, for the mark CHI® for electric hair curling irons. A true and correct copy of U.S. Trademark Registration No. 2,660,257 is attached hereto as Exhibit A and is incorporated herein. U.S.

Trademark Registration No. 2,660,257, together with all goodwill associated with the mark CHI®, was assigned to FSI by assignment dated December 18, 2001. U.S. Trademark Registration No. 2,660,257 is valid, subsisting, and in full force and effect.

9. FSI owns U.S. Trademark Registration No. 3,107,769, issued June 20, 2006, for the mark CHI® for electric hand-held dryers. A true and correct copy of U.S. Trademark Registration No. 3,107,769 is attached hereto as Exhibit B and is incorporated herein. U.S. Trademark Registration No. 3,107,769 is valid, subsisting, and in full force and effect.

10. FSI owns U.S. Trademark Registration No. 3,426,769, issued May 13, 2008, for the mark CHI® for hair coloring preparations, namely, hair color lighteners, color lock treatments, color developers, and colors. A true and correct copy of U.S. Trademark Registration No. 3,426,769 is attached hereto as Exhibit C and is incorporated herein. U.S. Trademark Registration No. 3,426,769 is valid, subsisting, and in full force and effect.

11. FSI is also the owner of U.S. Trademark Application Serial No. 77/055,581 for the mark CHI NANO for various hair irons; U.S. Trademark Application Serial No. 76/512,597 for the mark CHI for hair care products, namely, shampoo, thermal hair protective treatment, hair strengthening treatment, hair conditioner; hair care preparations, namely, solutions which bond to the hair to strengthen the hair, and solutions to transform frizzy, curly, or damaged hair; U.S. Trademark Registration No. 3,331,008 for the mark ULTRA CHI for electric hand-held hair dryers and hair dryers for household and professional salon purposes; U.S. Trademark Registration No. 3,341,114 for the mark ULTRA CHI for electric hair curling irons, electric hair flat irons, and electric hair straightening irons; U.S. Trademark Application Serial No. 77/265,353 for the mark BIOCHI for electric hair curling irons, electric hair styling irons, electric hair straightening irons, and electric hair flat irons, among other goods.

12. As set forth above, the trademark CHI® is associated exclusively with FSI for use with hair irons, as well as numerous other hair care products. FSI has used the trademark CHI® in interstate commerce continuously since at least 2002. As a result of FSI's marketing of its products and the extensive advertising and other business generation efforts to promote the trademark CHI®, the trademark CHI® has become well-known in the Houston metropolitan area, the State of Texas, the United States, and globally as identifying FSI's products and business. Customers and potential customers in these areas have come to identify the trademark CHI® as originating with FSI. Consequently, FSI has developed substantial recognition among the consuming public for its high quality products sold under its trademark CHI® and has acquired and enjoys a valuable reputation and significant goodwill associated with its trademark CHI® and products sold under its trademark CHI®.

13. FSI's use of the trademark CHI® in the hair care industry has been exclusive. As a result of this exclusive use of the trademark CHI® and the long and widespread use that has been made by FSI of the trademark CHI®, there is substantial recognition and association of the trademark CHI® with FSI by the consuming public for hair care products.

14. FSI has learned that Defendant Frank Tavakoli is the owner of U.S. Trademark Application Serial No. 77/554,383, for "electric hair curling irons, electric hair straightening irons and electric irons for styling hair;" U.S. Trademark Application Serial No. 77/554,386 for "hair dryers;" and U.S. Trademark Application Serial No. 77/554,389, for "hair care preparations" (collectively the "SHI Applications"). All of the SHI Applications were filed as "intent-to-use" applications and, therefore, on such information and belief, Defendant Frank Tavakoli had not starting using the term "SHI" on the products listed in the SHI Applications

until after August 24, 2008, the filing date of each of the SHI Applications. FSI has opposed registration at the U.S. Patent and Trademark Office of all of the SHI Applications.

15. Defendant Brelian, Inc. is, on information and belief, a company that is owned by Defendant Frank Tavakoli. Defendant Brelian, Inc. has imported hair irons, hair dryers, and other hair care products into the United States. Those hair care products included the term "SHI" displayed on them. In October, 2009, certain of these products were seized by United States Customs and Border Protection and are the subject of Federal Civil Action No. 4:09-cv-03400, styled *United States of America v. 1,000 Flat Irons, 120 Hair Dryers and 120 Hair Dryer Diffusers*, currently pending in the United States District Court for the Southern District of Texas, Houston Division. Thus, Defendant Brelian, Inc. is an importer of Defendant Frank Tavakoli's infringing hair care products for which the SHI Applications were filed.

16. Defendant SHI Salon, LLC is, on information and belief, owned by Defendant Frank Tavakoli. SHI Salon, LLC was formed in January, 2009, but only recently, in December, 2009, opened for business. SHI Salon, LLC operates as "SHI Salon" at 9738 Katy Freeway, Houston, Texas 77055. And, on information and belief, Defendants jointly and in concert with one another have begun using the term "SHI" on hair irons, hair dryers, and hair care "preparations" which are offered for sale, sold, and otherwise distributed through Defendant SHI Salon, LLC.

17. Defendant Shiva Laboratories, Inc. is, on information and belief, another company owned by Defendant Frank Tavakoli. Defendant Shiva Laboratories, Inc. operates through the websites located at the URL <http://www.shivalaboratory.com> and the URL <http://www.shivalaboratories.com>, both of which are owned by Defendant Brelian, Inc. The domain names [shivalaboratory.com](http://www.shivalaboratory.com) and [shivalaboratories.com](http://www.shivalaboratories.com) immediately hyperlink or resolve to

a website located at the URL <http://www.shisalons.com>. The owner of the domain name shisalons.com is Mike Jameson, an individual located in Sugar Hill, Georgia, who is yet another person involved in or facilitating the Defendants' violation of FSI's trademark rights. Through these domain names, Defendant Shiva Laboratories, Inc. sells and offers for sale shampoos and other liquid hair care products using the term "SHI."

18. As a result of the foregoing, Defendants have jointly imported, advertised, promoted, distributed, offered for sale, and sold hair care products, and provided salon services which use such hair care products, under a mark confusingly similar to FSI's mark CHI® and has, thereby, infringed upon FSI's trademark rights. Specifically, Defendants sell and promote hand held electric hair styling irons, hand held electric hair dryers, hair care "preparations," and salon services using the foregoing products in connection with the term "SHI." By using a mark that is confusingly similar to FSI's mark CHI® in association with their hair care products, Defendants are infringing upon FSI's trademark rights. Given the similarity of Defendants' term SHI to FSI's mark CHI® on the same types of hair care products, as well as in connection with salon services, there is a substantial likelihood that consumers will be confused, misled or deceived.

19. Moreover, Defendants' infringing and competing products diminish the value of FSI's distinctive mark CHI®. And, Defendants' sales of the infringing products using a mark confusing similar to FSI's mark CHI®, and offering salon services using the same confusing similar term, without FSI's permission are diluting the value of FSI's mark CHI® and damaging the goodwill and high quality reputation of FSI's CHI® branded products.

**IV.
CAUSES OF ACTION**

**COUNT I - TRADEMARK INFRINGEMENT
AND UNFAIR COMPETITION UNDER THE LANHAM ACT**

20. FSI repeats and re-alleges the allegations set forth in paragraphs 1-19.

21. Defendants' improper use of, and sale of products under, a mark confusingly similar to FSI's mark CHI® is confusing to consumers and constitutes infringement of FSI's trademark rights in violation of the Lanham Trademark Act ("Lanham Act"). Defendants' unauthorized use of FSI's mark CHI® violates Section 43 of the Lanham Act which prohibits the use of a term by Defendants in such a manner as is likely to cause confusion, mistake, or to deceive as to the affiliation, connection, or association of Defendants with FSI or as to the origin, sponsorship or approval of Defendants' products or services by FSI. *See* 15 U.S.C. § 1125. Defendants' use of the mark CHI® also violates Section 32 of the Lanham Act prohibiting the unauthorized use of a trademark which is likely to cause confusion. *See* 15 U.S.C. § 1114.

22. On information and belief, Defendants are currently selling, offering for sale, and advertising Defendants' hair irons, hair dryers, and hair care "preparations" in connection with the term "SHI" which is confusingly similar to FSI's registered and common law trademarks, all without the consent of FSI, and will continue to do so unless enjoined from doing so by this Court. Defendants also are offering salon services using the infringing products which further infringes FSI's mark CHI®. Because FSI has no way of controlling the quality of Defendants' SHI branded hair care products, or services, if Defendants are allowed to continue to sell Defendants' SHI branded hair care products, and provide their SHI branded services, FSI's goodwill created by its mark CHI® is placed in jeopardy. The continuing acts of Defendants are jeopardizing the goodwill of FSI and its valuable trademarks, and such acts have caused and are causing irreparable injury to FSI and to the consuming public. Unless the acts of the Defendants

complained of herein are enjoined by this Court, they will continue to cause irreparable injury to FSI and to the public, for which there is no adequate remedy at law. Accordingly, FSI seeks injunctive relief prohibiting the infringing acts by Defendants complained of herein.

23. In addition, the acts of Defendants complained of above have resulted in trademark infringement and unfair competition. Therefore, pursuant to 15 U.S.C. § 1117(a), FSI is entitled to recover 1) Defendants' profits; 2) any damages sustained as a result of Defendants' infringing acts; and 3) the costs associated with these causes of action.

24. Moreover, FSI is entitled to an award of treble damages, as well as an award of punitive damages, pursuant to 15 U.S.C. § 1117(b) as a result of the extenuating circumstances of this case, Defendants' intentional use of FSI's trademarks, and its gross, wanton, or willful conduct.

25. Furthermore, as a result of Defendants' actions, FSI has been required to retain the services of counsel to represent it in this matter, and it has been forced to incur and is presently incurring attorneys' fees in order to enforce its trademark rights. These fees and expenses are necessary and reasonable in order to prosecute this matter. Accordingly, FSI requests that it be granted an award of attorneys' fees and costs as a result of Defendants' actions as permitted under 15 U.S.C. § 1117(a).

26. Additionally or in the alternative, FSI seeks an accounting and its actual and consequential damages resulting from Defendants' infringing acts. Moreover, FSI seeks punitive, additional, and enhanced damages from Defendants. FSI also seeks a finding that Defendants SHI Salon, LLC, Brelian, Inc., Shiva Laboratories, Inc., and Frank Tavakoli are jointly and severally liable for all damages, costs, and attorneys' fees awarded to FSI as a result of Defendants' violation of FSI's rights.

**COUNT II - TRADEMARK INFRINGEMENT AND
UNFAIR COMPETITION UNDER TEXAS LAW**

27. FSI repeats and re-alleges the allegations set forth in paragraphs 1-26.

28. The acts of Defendants complained of above constitute trademark infringement and unfair competition under the common law of the State of Texas. As a result of the infringement and unfair competition by Defendants, FSI has suffered and will continue to suffer injury and damage in an amount yet to be determined. Upon information and belief, the acts of infringement by Defendants have resulted in substantial unjust profits and unjust enrichment on the part of Defendants in an amount yet to be determined. Such acts of trademark infringement and unfair competition are causing harm to FSI.

29. The continuing acts of Defendants are jeopardizing the goodwill of FSI and its valuable trademarks, and such acts have caused and will continue to cause irreparable injury to FSI and to the consuming public. Unless the acts of the Defendants complained of herein are enjoined by this Court, they will continue to cause irreparable injury to FSI and to the public, for which there is no adequate remedy at law.

30. Additionally or in the alternative, FSI seeks an accounting and its actual and consequential damages as a result of Defendants' infringing acts which have resulted in confusion among the public. Moreover, FSI seeks punitive and enhanced damages for Defendant's willful conduct. FSI also seeks a finding that Defendants SHI Salon, LLC, Brelian, Inc., Shiva Laboratories, Inc., and Frank Tavakoli are jointly and severally liable for all damages, costs, and attorneys' fees awarded to FSI as a result of their violation of FSI's trademark rights.

COUNT III - TRADEMARK DILUTION UNDER TEXAS LAW

31. FSI repeats and re-alleges the allegations set forth in paragraphs 1-30.

32. The facts set out above demonstrate that Defendants are diluting the exclusivity and distinctiveness of FSI's mark CHI® in violation of the Texas Anti-Dilution Act. Defendants' unauthorized use of the term SHI constitutes a dilution of FSI's mark CHI® and injures FSI's business reputation, in violation of TEX. BUS. & COM. CODE § 16.29.

33. As a result of the dilution by Defendants, FSI has suffered, and is suffering, injury and damage in an amount yet to be determined. Upon information and belief, the acts of dilution by Defendants have resulted in and are currently resulting in substantial unjust profits and unjust enrichment on the part of Defendants in an amount yet to be determined. FSI seeks injunctive relief to prevent this type of injury from continuing. Additionally or in the alternative, FSI seeks an accounting and damages. FSI also seeks a finding that Defendants SHI Salon, LLC, Brelian, Inc., Shiva Laboratories, Inc., and Frank Tavakoli are jointly and severally liable for all damages, costs, and attorneys' fees awarded to FSI as a result of Defendants' dilution of FSI's trademarks.

COUNT IV - CIVIL CONSPIRACY

34. FSI repeats and re-alleges the allegations set forth in paragraphs 1-33.

35. Defendants SHI Salon, LLC, Brelian, Inc., Shiva Laboratories, Inc., and Frank Tavakoli have conspired with each other, and with one or more unnamed co-conspirators, to deceive the consuming public as to the source of their infringing SHI-branded products and services. To wit, Defendant Frank Tavakoli is the owner of over a dozen different companies, all for which he is identified either as an officer, director, member, and/or registered agent. On information and belief, these companies are "shell" companies through which Defendant Frank Tavakoli imports, advertises, promotes, sells and offers for sale SHI-labeled hair irons, hair dryers, and hair care preparations, and offers salon services, all of which infringe and dilute FSI's federally registered trademark rights and amount to unfair competition under state and federal law. In addition, as set forth above, each of the named Defendants contribute to the

overall acts of infringement and dilution of FSI's federally registered mark CHI®. Such wrongful acts, omissions, and misrepresentations constitute a civil conspiracy in violation of Texas common law.

36. As a result of the conspiracy engaged in by Defendants, FSI has suffered, and is suffering, injury and damage in an amount yet to be determined. Upon information and belief, the acts of conspiracy by Defendants have resulted in and are currently resulting in substantial unjust profits to, and unjust enrichment of, Defendants in an amount yet to be determined. FSI seeks injunctive relief to prevent this type of injury from continuing. Additionally, or in the alternative, FSI seeks an accounting and damages. FSI also seeks a finding that Defendants SHI Salon, LLC, Brelian, Inc., Shiva Laboratories, Inc., and Frank Tavakoli are jointly and severally liable for all damages, costs, and attorneys' fees awarded to FSI as a result of Defendants' conspiracy in violation of FSI's trademarks.

DEMAND FOR JURY TRIAL

37. FSI demands a trial by jury on all claims and issues.

CONCLUSION AND PRAYER

WHEREFORE, Farouk Systems, Inc. prays for entry of judgment:

- a. finding that Defendants have infringed U.S. Trademark Registration No. 2,660,257, U.S. Trademark Registration No. 3,107,769, U.S. Trademark Registration No. 3,426,769, and Farouk Systems, Inc.'s common law trademark rights in the mark CHI®;
- b. finding that Defendants have engaged in unfair competition;
- c. finding that Defendants have engaged in a civil conspiracy;
- d. enjoining Defendants, their officers, directors, agents, employees, representatives, successors, assigns, if any, and those in privity or concert with Defendants from further acts that would amount to infringement of U.S. Trademark Registration No. 2,660,257, U.S. Trademark Registration No. 3,107,769, U.S. Trademark Registration No. 3,426,769, and Farouk Systems, Inc.'s common law rights in the trademark CHI® or unfair competition;

- e. awarding Farouk Systems, Inc. all damages caused by the acts of Defendants and all profits of Defendants from acts complained of, and/or all costs to Farouk Systems, Inc. caused by Defendants' activities complained of herein;
- f. trebling the damages and profits awarded to Farouk Systems, Inc. as authorized by 15 U.S.C. § 1117;
- g. granting Farouk Systems, Inc. pre-judgment and post-judgment interest on the damages caused to Farouk Systems, Inc. by reasons of Defendants' activities complained of herein at the highest rates allowed by law;
- h. finding that this is an exceptional case and awarding Farouk Systems, Inc. its reasonable and necessary attorneys' fees in accordance with 15 U.S.C. § 1117;
- i. awarding costs to Farouk Systems, Inc.; and
- j. awarding Farouk Systems, Inc. such other and further relief, at law or in equity, as the Court may deem just and proper under the circumstances.

Respectfully submitted,

By: /Anthony F. Matheny/

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ATTORNEYS FOR PLAINTIFF
FAROUK SYSTEMS, INC.

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36, and 38

United States Patent and Trademark Office

Reg. No. 2,660,257

Registered Dec. 10, 2002

**TRADEMARK
PRINCIPAL REGISTER**

CHI

GLOBAL BEAUTY NETWORK, INC. (NEVADA
CORPORATION)
218 JESSE WAY
REDLANDS, CA 92374

FIRST USE 1-18-2001; IN COMMERCE 1-18-2001.

SN 76-073,192, FILED 6-19-2000.

FOR: ELECTRIC HAIR CURLING IRONS, IN
CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

KEVON CHISOLM, EXAMINING ATTORNEY



The United States of America



**CERTIFICATE OF REGISTRATION
PRINCIPAL REGISTER**

The Mark shown in this certificate has been registered in the United States Patent and Trademark Office to the named registrant.

The records of the United States Patent and Trademark Office show that an application for registration of the Mark shown in this Certificate was filed in the Office; that the application was examined and determined to be in compliance with the requirements of the law and with the regulations prescribed by the Director of the United States Patent and Trademark Office; and that the Applicant is entitled to registration of the Mark under the Trademark Act of 1946, as Amended.

A copy of the Mark and pertinent data from the application are part of this certificate.

This registration shall remain in force for TEN (10) years, unless terminated earlier as provided by law, and subject to compliance with the provisions of Section 8 of the Trademark Act of 1946, as Amended.



A handwritten signature in cursive script, appearing to read "James H. Moore".

Director of the United States Patent and Trademark Office



United States Patent and Trademark Office

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Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title

Total Assignments: 1

Serial #: 76073192 Filing Dt: 06/19/2000 Reg #: 2660257 Reg. Dt: 12/10/2002
Registrant: Global Beauty Network, Inc.
Mark: CHI

Assignment: 1

Reel/Frame: 2577/0983 Received: 09/10/2002 Recorded: 09/05/2002 Pages: 3
Conveyance: ASSIGNS THE ENTIRE INTEREST
Assignor: GLOBAL BEAUTY NETWORK, INC.

Exec Dt: 12/18/2001
Entity Type: CORPORATION
Citizenship: NONE
Entity Type: CORPORATION
Citizenship: TEXAS

Assignee: FAROUK SYSTEMS, INC.
250 PENNBRIGHT, SUITE 150
HOUSTON, TEXAS 77090

Correspondent: BRACEWELL & PATTERSON L. L. P.
BEN D. TOBOR
711 LOUISIANA, STE. 2900
HOUSTON, TX 77002-2781

Search Results as of: 08/03/2007 04:50 PM
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Web interface last modified: April 20, 2007 v.2.0.1

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Int. Cl.: 11

Prior U.S. Cls.: 13, 21, 23, 31, and 34

United States Patent and Trademark Office

Reg. No. 3,107,769

Registered June 20, 2006

TRADEMARK
PRINCIPAL REGISTER

CHI

FAROUK SYSTEMS, INC. (TEXAS CORPORATION)
250 PENNBRIGHT, SUITE 150
HOUSTON, TX 77090

FOR: ELECTRIC HAND-HELD HAIR DRYERS,
IN CLASS 11 (U.S. CLS. 13, 21, 23, 31 AND 34).

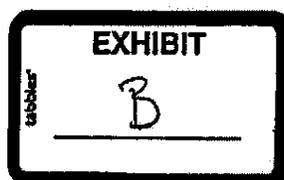
FIRST USE 12-1-2005; IN COMMERCE 12-1-2005.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 2,660,257.

SN 78-414,762, FILED 5-7-2004.

JOHN LINCOSKI, EXAMINING ATTORNEY



The United States of America



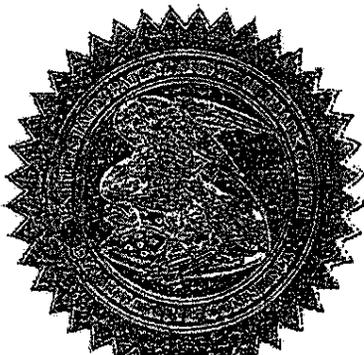
CERTIFICATE OF REGISTRATION
PRINCIPAL REGISTER

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The records of the United States Patent and Trademark Office show that an application for registration of the Mark shown in this Certificate was filed in the Office; that the application was examined and determined to be in compliance with the requirements of the law and with the regulations prescribed by the Director of the United States Patent and Trademark Office; and that the Applicant is entitled to registration of the Mark under the Trademark Act of 1946, as Amended.

A copy of the Mark and pertinent data from the application are part of this certificate.

To avoid CANCELLATION of the registration, the owner of the registration must submit a declaration of continued use or excusable non-use between the fifth and sixth years after the registration date. (See next page for more information.) Assuming such a declaration is properly filed, the registration will remain in force for ten (10) years, unless terminated by an order of the Commissioner for Trademarks or a federal court. (See next page for information on maintenance requirements for successive ten-year periods.)



Jon W. I. Dudas

Director of the United States Patent and Trademark Office

Int. Cl.: 3

Prior U.S. Cls.: 1, 4, 6, 50, 51 and 52

United States Patent and Trademark Office

Reg. No. 3,426,769

Registered May 13, 2008

**TRADEMARK
PRINCIPAL REGISTER**

CHI

FAROUK SYSTEMS, INC. (TEXAS CORPORATION)
250 PENNBRIGHT, SUITE 150
HOUSTON, TX 77090

FOR: HAIR COLORING PREPARATIONS, NAMELY, HAIR COLOR LIGHTENERS, COLOR LOCK TREATMENTS, COLOR DEVELOPERS, AND COLORS, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

FIRST USE 11-29-2004; IN COMMERCE 11-29-2004.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 78-524,660, FILED 11-30-2004.

BENJAMIN OKEKE, EXAMINING ATTORNEY

EXHIBIT

C

The United States of America



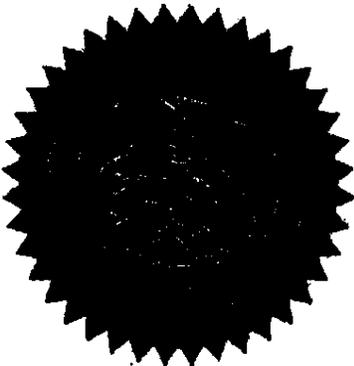
**CERTIFICATE OF REGISTRATION
PRINCIPAL REGISTER**

The Mark shown in this certificate has been registered in the United States Patent and Trademark Office to the named registrant.

The records of the United States Patent and Trademark Office show that an application for registration of the Mark shown in this Certificate was filed in the Office; that the application was examined and determined to be in compliance with the requirements of the law and with the regulations prescribed by the Director of the United States Patent and Trademark Office; and that the Applicant is entitled to registration of the Mark under the Trademark Act of 1946, as Amended.

A copy of the Mark and pertinent data from the application are part of this certificate.

To avoid CANCELLATION of the registration, the owner of the registration must submit a declaration of continued use or excusable non-use between the fifth and sixth years after the registration date. (See next page for more information.) Assuming such a declaration is properly filed, the registration will remain in force for ten (10) years, unless terminated by an order of the Commissioner for Trademarks or a federal court. (See next page for information on maintenance requirements for successive ten-year periods.)



A handwritten signature in black ink, reading "Jon W. I. Dudas".

Director of the United States Patent and Trademark Office

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
 Farouk Systems, Inc.

(b) County of Residence of First Listed Plaintiff Harris
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
 Greenberg Traurig LLP, 1000 Louisiana Street, Suite 1700, Houston, Texas 77002; 713-374-3583

DEFENDANTS
 SHI Salon, LLC, Brelia, Inc., Shiva Laboratories, Inc., and Frank Tavakoli

County of Residence of First Listed Defendant Harris
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

2 U.S. Government Defendant

3 Federal Question (U.S. Government Not a Party)

4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Mod. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from another district (specify)

6 Multidistrict Litigation

7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 USC 1114; 15 USC 1125

Brief description of cause:
Trademark infringement and unfair competition action

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ _____

CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE Sim Lake DOCKET NUMBER 4:09-cv-03400

DATE 12/22/2009

SIGNATURE OF ATTORNEY OF RECORD [Signature]

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFF _____ JUDGE _____ MAG. JUDGE _____

EXHIBIT B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA,	§	
Plaintiff	§	
	§	
V.	§	CASE NO.
	§	
1,000 FLAT IRONS, 120 HAIR DRYERS,	§	
AND 120 HAIR DRYER DIFFUSERS,	§	
Defendants.	§	

COMPLAINT FOR FORFEITURE IN REM

The United States of America, Plaintiff, files this action for forfeiture and alleges upon information and belief:

Nature of Action

1. This is a civil forfeiture action in rem brought under 19 U.S.C. §1595a(c)(2)(C) and 15 U.S.C. §1124.
2. Subsection (c)(2)(C) of section 1595a of Title 19 provides that merchandise which is introduced or attempted to be introduced into the United States contrary to law shall be seized and forfeited if it is merchandise or packaging in which copyright, trademark, or trade name protection violations are involved.
3. Section 1124 of Title 15 provides that, except as provided in subsection (d) of section 1526 of Title 19, no article of imported merchandise which shall copy or simulate a trademark registered in accordance with the provisions of Chapter 22 of Title 15 or shall bear a name or mark calculated to induce the public to believe that the article is manufactured in the United States, or that it is manufactured in any foreign country or locality other than the country or locality in which it is

in fact manufactured, shall be admitted to entry at any customhouse of the United States.

4. Additionally, Defendant Property is labeled "Professional product By Houston, TX" notwithstanding the fact that China is the country of origin. In addition to the bases for forfeiture under 19 U.S.C. §1595a(c)(2)(C) and 15 U.S.C. §1124, 15 U.S.C. §1125 prohibits importation into the United States of goods bearing a false designation of origin and Title 19 U.S.C. §1304(a) requires conspicuous marking of the country of origin on every article (or its container) of foreign origin imported in to the United States. In accordance with 19 C.F.R. §§134.2 and 134.3(a), delivery of unmarked items into the United States is prohibited until such time as the articles (or their containers) have been marked in accordance with statutory requirements.

Jurisdiction and Venue

5. This Court has subject-matter jurisdiction of this action pursuant to 28 U.S.C. §§ 1345, 1355, and 1395.

6. Venue is proper in the Southern District of Texas under 28 U.S.C. §§ 1391 and 1395.

Defendant Property

7. The Defendant is 1,000 flat irons, 120 hair dryers, and 120 hair dryer diffusers and their respective packaging and containers (hereinafter collectively referred to as "Defendant Property"). Defendant Property was imported at George Bush Intercontinental Airport in Houston, Texas, (hereinafter referred to as "IAH") on or about May 28, 2009. Law enforcement officers with the United States Customs and Border Protection (hereinafter referred to as "CBP") seized Defendant Property on or about June 23, 2009. Defendant Property is currently stored at a CBP storage facility in Houston, Texas.

8. Brelian, Inc. is the importer of Defendant Property. Brelian, Inc. is located at 7830

Westpark Dr., Houston, Texas 77063. Brelian, Inc. filed a claim with CBP contesting the seizure and forfeiture of Defendant Property.

Factual Basis

9. On or about May 28, 2009, entry AMT-2797760-0 was filed on behalf of importer Brelian, Inc. at IAH. The entry was for iron/steel and other household tools, and electric hair dryers bearing the "SHI" name or mark. CBP officers examined the entry and took samples for further inspection.

10. The "SHI" name or mark is not registered with the United States Patent and Trademark Office (hereinafter referred to as "PTO"). The "SHI" name or mark so copies or simulates the "CHI" trademark which was registered with the PTO on December 10, 2002. under Registration No. 2,660,257 as to be likely to cause the public to associate the "SHI" name or mark with the "CHI" trademark. The use of the "SHI" name or mark on Defendant Property is substantially similar to the same type of goods that are currently packaged and sold under the "CHI" trademark, and the ordinary consumer would likely be confused by the similar marking.

11. On or about June 12, 2009, CBP notified the broker, FNS Customs Brokers, Inc., that: (a) the "SHI" name or mark was confusingly similar to the CBP recorded mark, "CHI", as found in CBP recordation number TMK 07-01367 (U.S. Trademark Registration Number 2,660,257); (b) Defendant Property was being detained under 19 C.F.R. 133.25; and, barring receipt of a release from the "CHI" trademark holder within the thirty day detention period, Defendant Property would be subject to seizure under 19 U.S.C. §1595a(c)(2)(C) for violation of 15 U.S.C. §1124.

12. On or about July 17, 2009, the Fines, Penalties & Forfeiture Office of CBP (hereinafter referred to as "FP&F") notified Brelian, Inc. that Defendant Property would be forfeited

and disposed of in accordance with 19 C.F.R. §133.52 unless FP&F received either the trademark owner's consent for importation of Defendant Property or a petition for relief under 19 C.F.R. §171.12(b).

13. By letter dated July 23, 2009, Brelian, Inc., acting through its attorney, Mr. Larry D. Knippa, filed a petition for relief and elected to have the notice of seizure published.

14. Mr. Frank Tavakoli, President of Brelian, Inc., filed an application for registration of the "SHI" name or mark for "electric hair curling irons, electric hair straightening irons and electric irons for styling hair" with the PTO on or about August 24, 2008. Farouk Systems, Inc., a Texas corporation with the principal place of business at 250 Pennbriht, Suite 150, Houston, Texas 77090, filed a notice of opposition to the application alleging, among other things, that the "SHI" name or mark is confusingly similar to the "CHI" trademark. The matter is still pending before PTO.

Notice to Any Potential Claimants

YOU ARE HEREBY NOTIFIED that if you assert an interest in Defendant Property which is subject to forfeiture and want to contest the forfeiture, you must file a verified claim which fulfills the requirements set forth in Rule G of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions. The verified claims must be filed no later than thirty-five (35) days from October 20, 2009, the date this Complaint has been sent in accordance with Rule G(4)(b).

An answer or motion under Rule 12 of the Federal Rules of Civil Procedure must be filed no later than twenty (20) days after filing the claim. The claim and answer must be filed with the United States District Clerk for the Southern District of Texas and a copy must be served upon the undersigned Assistant United States Attorney at the address provided in this Complaint.

Prayer

Wherefore, the United States of America prays that judgment of forfeiture be entered against Defendant Property in favor of the United States of America and for such costs and other relief to which the United States of America may be entitled.

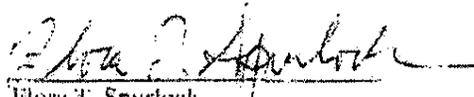
Respectfully submitted,

Tim Johnson
United States Attorney

By: /S/ Gerald Doyle
Gerald Doyle
Assistant U. S. Attorney
Admission ID No. 1453
919 Milam, Suite 1500
P. O. Box 61129
Houston, Texas 77208
Phone: 713.567.9599
Fax: 713.718.3300

Verification

I, Flora T. Spurlock, an officer with the Bureau of Customs and Border Protection of the United States Department of Homeland Security, hereby affirm and verify that the facts set forth in the foregoing Complaint for Forfeiture in Rem are true and correct to the best of my knowledge and belief


Flora T. Spurlock
Officer, Bureau of Customs and Border Protection

Sworn and subscribed before me, the undersigned authority, on OCTOBER 20, 2009.


Notary Public in and for the State of Texas

My commission expires: 2/2/2013



Certificate of Service

I hereby certify that a copy of the foregoing has been served upon the following persons in the manner indicated on October 21, 2009:

Counsel for Brelian, Inc. (certified mail/rrr)

Mr. Larry D. Knippa

Attorney at Law

3121 Buffalo Speedway, No. 8109

Houston, Texas 77098

/S/ Gerald Doyle
Gerald Doyle