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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BRAGEL INTERNATIONAL, INC.,

Plaintiff,

vs.

STYLES FOR LESS, INC., et al.,

Defendants.

AND RELATED COUNTERCLAIMS

Case No. 8:15-cv-01756-R-(FFMx)

**MEMORANDUM OF POINTS
AND AUTHORITIES IN
SUPPORT OF BRAGEL
INTERNATIONAL, INC.'S
MOTION FOR SUMMARY
JUDGMENT OF
INFRINGEMENT**

**[PUBLICLY FILED-REDACTED
VERSION]**

Hearing Date: September 6, 2016
Time: 10 A.M.
Courtroom: 8

Hon. Manuel L. Real

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1 I. INTRODUCTION

2 Plaintiff Bragel International, Inc. (“Bragel”) is an industry leading
3 California corporation that designs, manufactures, and distributes strapless bras
4 and attachable breast forms. Bragel’s products are sold worldwide with millions
5 of units sold. Bragel has obtained a number of patents to protect its innovative
6 breast forms, including asserted U.S. Patent No. 7,144,296 (the “’296 Patent” or
7 “Patent-in-Suit”). Bragel’s intellectual property portfolio includes multiple patent
8 filings in twelve different global markets.

9 Bragel seeks summary judgment of infringement of Claims 1, 2, and 5 of
10 the Patent-in-Suit against Defendants PPI Apparel Group, Inc. (“PPI”) and Styles
11 for Less, Inc.’s (“Styles for Less”) accused Lace Silicone Fashion Bra, Microfiber
12 Silicone Fashion Bra, and Oh Baby Silicone Bra (“Accused Products”). PPI (a
13 distributor) supplies Styles for Less (a retailer) with the Accused Products.

14 Here, the claims of the Patent-in-Suit are straightforward. The Accused
15 Products meet all of the limitations of the asserted claims of the Patent-in-Suit.
16 Bragel’s technical expert has demonstrated how each of the accused products
17 infringe. Further, the testimony of PPI’s corporate witness confirms Bragel’s
18 infringement analyses and demonstrates that there are no genuine issues of
19 material fact. Accordingly, this Court should find summary judgment of
20 infringement in favor of Bragel.

21 II. FACTUAL BACKGROUND

22 A. The Patent-in-Suit

23 The Patent-in-Suit generally relates to backless, strapless breast form
24 systems that are designed to be worn in lieu of a traditional bra. Dkt. No. 19-1 at
25 2 (’296 Patent at Abstract); Harder Decl. Ex. A-1 at ¶ 35. The inventors of the
26 Patent-in-Suit recognized an industry need for a backless, strapless bra that not
27 only complemented the user’s breasts with a natural look and/or feel, but also
28 allowed for enhancing a user’s breasts while wearing a full-range of clothing,

such as backless dresses or halter tops. Dkt No. 19-1 at 11 ('296 Patent at 1:60-2:7). The Patent-in-Suit addresses these needs through its inventive breast form system. *Id.* at 2:8-16. By way of example, Figure 1 of the Patent-in-Suit, reproduced and annotated below, depicts one embodiment of the Patent-in-Suit, including two breast forms 12 adjoined by a connector 14.

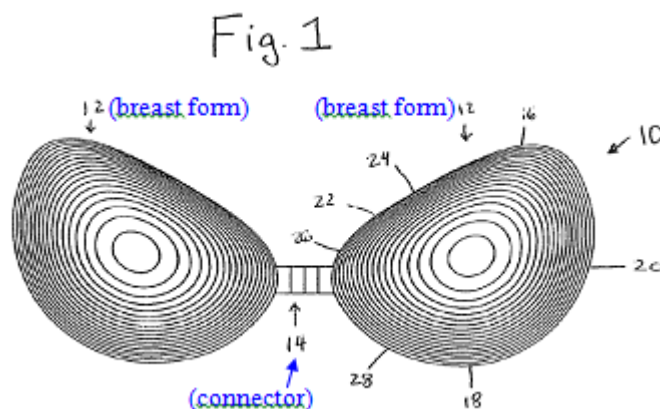


Figure 1 of the Patent-in-Suit (annotated)
(Harder Decl. Ex. A-1 at ¶ 55)

Each breast form 12 comprises a volume of silicone gel encased in a thermoplastic film, helping to provide a natural look and feel. Dkt No. 19-1 at 12-13 ('296 Patent at 4:66-5:7); Harder Decl. Ex. A-1 at ¶ 35. Each breast form also has concave interior surface with a pressure sensitive adhesive layer so that the breast forms 12 can be secured to the user's breasts. Dkt No. 19-1 at 12 ('296 Patent at 4:13-33); Harder Decl. Ex. A-1 at ¶ 35. A connector 14 allows the two breast forms 12 to be adjoined, allowing the user to create varying degrees of breast cleavage depending on where the breast forms 12 are positioned on the user's breasts. Dkt No. 19-1 at 12 ('296 Patent at 3:42-53); Harder Decl. Ex. A-1 at ¶ 35. This is one embodiment of the inventive backless, strapless breast form system of the '296 Patent, which is covered by the asserted claims.

Claim 1 of the Patent-in-Suit claims an improved backless, strapless breast form system with a pair of breast forms and a connector. Dkt No. 19-1 at 14 ('296 Patent at Claim 1). Each breast form comprises a volume of silicone gel

encased between thermoplastic film material, and has a concave interior surface facing towards a user's breast. The interior surface of the breast forms has a pressure sensitive adhesive layer for securing the breast forms to the user's breasts. The connector is adapted to adjoin the breast forms together, and is positioned between inner sides of each of the breast forms.

B. The Accused Products

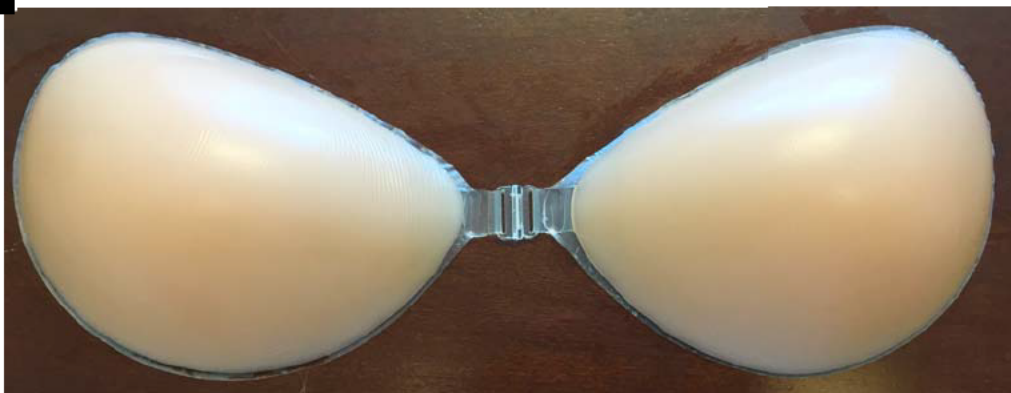
The following products, sold and offered for sale by Defendants PPI and Styles for Less are accused of infringing claims 1, 2, and 5 of the Patent-in-Suit:

- Oh Baby . . . Strapless, Backless Self-Adhesive Silicone Bra ("Oh Baby Silicone Bra");
- Lace Silicone Fashion Bra; and
- Microfiber Silicone Fashion Bra.

Pictures of the Accused Products are shown below.

"Oh Baby . . . Strapless, Backless, Self-Adhesive Silicone Bra," Style #

██████



(Harder Decl. Ex. A-1 at ¶ 67)

Lace “Silicone Fashion Bra,” Style # [REDACTED]

(Harder Decl. Ex. A-1 at ¶ 41)

Microfiber “Silicone Fashion Bra,” Style # [REDACTED]

(Harder Decl. Ex. A-1 at ¶ 26)

Defendant PPI uses style numbers to identify its various product offerings. Quigley Decl. Ex. B-1 (Hanan Depo Tr. at 19:25-20:3). Marketing materials from Defendant PPI identify the Oh Baby Silicone Bra as having style number [REDACTED] (Quigley Decl. Ex. B-2 (PPI-0000006)), the Lace Silicone Fashion Bra as having style number [REDACTED] (*id.* at Ex. B-3 (PPI-0000186)), and the Microfiber Silicone Fashion Bra as having style number [REDACTED] (*id.* at Ex. B-4 (PPI-0000211)).

During the deposition of Defendant PPI’s corporate representative, CEO Abraham Hanan, physically reviewed and identified samples of the three Accused

1 Products with these style numbers.¹ Quigley Decl. Ex. B-1 (Hanan Depo Tr. at
2 20:15-30:1). [REDACTED]

3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]

13 **III. LEGAL PRINCIPLES FOR SUMMARY JUDGMENT OF PATENT** 14 **INFRINGEMENT**

15 Summary judgment is appropriate where “there is no genuine dispute as to
16 any material fact and the movant is entitled to judgment as a matter of law.” Fed.
17 R. Civ. P. 56(a); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986); *Becton*
18 *Dickinson & Co. v. C. R. Bard, Inc.*, 922 F.2d 792, 795 (Fed. Cir. 1990). As the
19 moving party, Bragel bears the initial responsibility of “informing the district
20 court of the basis for its motion” and identifying those portions of the record
21 which it believes demonstrate the absence of a genuine issue of material fact.
22 *Celotex*, 477 U.S. at 323. To defeat a well-founded summary judgment motion,
23 the non-moving party must set forth specific facts showing that there is a genuine
24 issue for trial. Fed. R. Civ. P. 56(c). A fact will only be considered genuinely
25

26
27 ¹ During Mr. Hanan’s deposition, the accused Oh Baby Strapless Bra was marked
28 as Exhibit 3, the accused Lace Silicone Fashion Bra was marked as Exhibit 4, and
the accused Microfiber Silicone Fashion Bra was marked as Exhibit 5.

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1 disputed if the evidence is such that a reasonable jury could return a verdict for
2 the nonmoving party. *Becton Dickinson & Co. v. C. R. Bard, Inc.*, 922 F.2d at
3 796 (citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)).

4 The determination of patent infringement is a two-step process. *Cybor*
5 *Corp. v. Fas Techs.*, 138 F.3d 1448, 1454 (Fed. Cir. 1998) (en banc). First, the
6 Court construes the asserted claims of the patent to determine its scope. *Id.* This
7 is a question of law for the Court. *Id.* Second, the construed claims are compared
8 to the accused products. *Id.* Infringement occurs where every element of a claim
9 is present in the accused product. *Transocean Offshore Deepwater Drilling v.*
10 *Maersk Drilling USA, Inc.*, 699 F.3d 1340, 1356 (Fed. Cir. 2012), *cert. dismissed*,
11 134 S. Ct. 2333 (2014).

12 During claim construction, claim terms are “generally given their ordinary
13 and customary meaning.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312-13 (Fed.
14 Cir. 2005) (en banc). When the ordinary meaning of claim language is readily
15 apparent, claim construction “involves little more than the application of the
16 widely accepted meaning of commonly understood words.” *Id.* at 1314. Further,
17 only those terms that are in controversy are construed, and “only to the extent
18 necessary to resolve the controversy.” *Vivid Techs., Inc. v. American Science &*
19 *Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999).

20
21
22
23 **IV. THE ACCUSED PRODUCTS INFRINGE THE ASSERTED CLAIMS**
24 **OF THE PATENT-IN-SUIT**

25 Bragel is entitled to summary judgment of infringement of Claims 1, 2, and
26 5 as a matter of law. Each element of the asserted claims is present in the
27 Accused Products, and there are no genuine issues of material fact in dispute.
28

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1 Bragel satisfies its burden by presenting the following evidence: (1) the physical
2 products, packaging, and instruction manuals; (2) sworn testimony by Defendant
3 PPI's CEO about how the Accused Products meet the claim elements; (3) the
4 independent infringement analysis of Bragel's technical expert Frances Harder,
5 who is deeply familiar with the field of intimate apparel after spending decades in
6 the fashion industry as a consultant and clothing designer (Harder Decl. Ex. A-1
7 at ¶¶ 6-20); and (4) the independent materials testing of Dr. David Xu, a material
8 scientist who received his Ph.D. in Material Science and Engineering from the
9 University of California, Berkeley with years of experience performing
10 characterization of materials samples (Xu Decl. ¶¶ 3-8, Ex. C-1 (CV)).

13 **A. Claim Construction**

14 Each term in the asserted claims should be given its ordinary and
15 customary meaning. The claims do not contain complicated, technical language
16 that would require special construction. Bragel's technical expert Ms. Harder
17 also applied the plain and ordinary meaning when conducting her infringement
18 analysis. Harder Decl. Ex. A-1 at ¶ 38; *Id.* Ex. A-2 at ¶ 19.

20 **B. The Accused Products Contain All Elements of Claim 1**

21 Claim 1 of the Patent-in-Suit recites:

22 *1. An improved backless, strapless breast form system to be worn in place*
23 *of a traditional bra, comprising:*

24 *a pair of breast forms, wherein each breast form comprises:*

25 *a volume of silicone gel encased between thermoplastic film material;*

26 *a concave interior surface facing towards a user's breast having a*
27 *pressure sensitive adhesive layer for securing the breast form to the user's*
28

1 *breast; and*

2 *a connector adapted to adjoin the breast forms together, wherein the*
3 *connector is positioned between inner sides of each of the breast forms.*

4 As set forth below, each element of Claim 1 is satisfied by the Accused
5 Products.

6
7 **1. *An improved backless, strapless breast form system to be***
8 ***worn in place of a traditional bra***

9 The preamble of Claim 1 recites “An improved backless, strapless breast
10 form system to be worn in place of a traditional bra.” Visual inspection and
11 analyses of the Accused Products confirm that the Accused Products are backless,
12 strapless breast form systems to be worn in place of a traditional bra. Ms.
13 Harder’s expert reports included photographs of the accused Lace Silicone
14 Fashion Bra, Microfiber Silicone Fashion Bra, and Oh Baby Silicone Bra,
15 demonstrating that the products satisfy the preamble. Harder Decl. Ex. A-1 at ¶¶
16 41-42, 67-68; *Id.* Ex. A-2 at ¶¶ 22-23. The packaging for the Accused Products
17 identifies that the products as strapless, backless, and with a self adhesive:



23 (Microfiber Silicone Fashion Bra Packaging Excerpt)

24 Harder Decl. Ex. A-2 at ¶¶ 28-29; *Id.* Ex. A-1 at ¶¶ 47, 73

25 Further, instruction manuals accompanying the Accused Products include a
26 list of “Product Characteristics,” which state “Bra is strapless and backless . . .
27 invisible even when dressing in thin clothing.” Harder Decl. Ex. A-2 at ¶ 23,
28 Appendix B.

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[REDACTED]

Accordingly, the Accused Products satisfy the preamble.

2. *a pair of breast forms*

Claim 1 further recites “a pair of breast forms.” Visual inspection and analyses of the Accused Products confirm that these products include a pair of breast forms:



(Lace Silicone Fashion Bra)

Harder Decl. Ex. A-1 at ¶¶ 43-44, 69-70; *Id.* Ex. A-2 at ¶¶ 24-25

[REDACTED]

1 [REDACTED]

2 **3. a volume of silicone gel encased between thermoplastic film**

3 **material;**

4 Claim 1 recites that each breast form comprises “a volume of silicone gel

5 encased between thermoplastic film material.” Defendants agree that they do not

6 challenge the fact that the Accused Products include a silicone gel encased in a

7 thermoplastic material. Quigley Decl. Ex. B-5 (Gastron Kroub July 12, 2016

8 email). In addition, the packaging refers to the products as the “Silicone Fashion

9 Bra” and the “Oh Baby . . . Silicone Bra,” and state that the products contain

10 “silicone adhesive cups.” Harder Decl. Ex. A-1 at ¶¶ 47, 73; *Id.* Ex. A-2 at ¶¶ 28-

11 29. [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]²

16 **4. a concave interior surface facing towards a user's breast**

17 **having a pressure sensitive adhesive layer for securing the**

18 **breast form to the user's breast**

19 Claim 1 further recites that each breast form comprises “a concave interior

20 surface facing towards a user's breast having a pressure sensitive adhesive layer³

21 ² Dr. Xu performed materials testing on the Oh Baby Silicone Bra and the Lace

22 Silicone Fashion Bra. *See* Xu Decl. Ex. C-2 (Xu July 13, 2016 Materials Testing

23 Analysis at 1-2). Dr. Xu performed materials testing on these products using a

24 Fourier Transformed Infrared Spectrometer. *Id.* at 1. Dr. Xu determined that the

25 products contained identical silicone material. *Id.* Dr. Xu also determined that

26 the silicone material was encased in a thin film of thermoplastic material called

27 Polyester Urethane, Methylene Bis(Phenylisocyanate). *Id.*

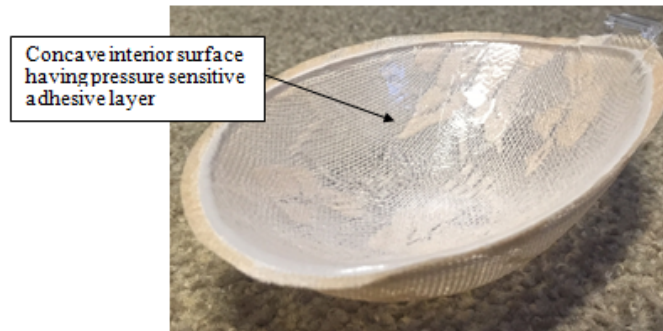
28 ³ In *Brigel International, Inc. v. Telebrands Corp.*, Case No. CV 05-01141

MMM (VBKx) (C.D. Cal.), Judge Morrow construed certain terms of U.S. Patent

No. 6,852,001, a parent patent to the Patent-in-Suit. In that case, Judge Morrow

construed the term “pressure sensitive adhesive layer” to mean “a layer of any

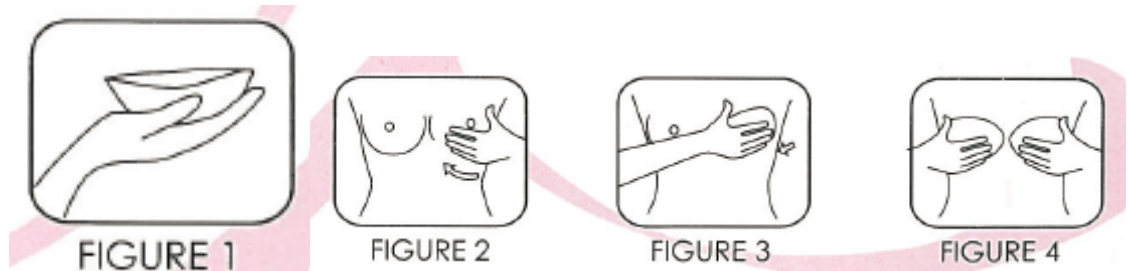
for securing the breast form to the user's breast.” The Accused Products include a concave interior surface with a pressure sensitive adhesive layer, as shown in Ms. Harder’s expert report, Harder Decl. Ex. A-1 at ¶¶ 50-54, 76-80; *Id.* Ex. A-2 at 36-42:



(Lace Silicone Fashion Bra Cup)

Harder Decl. Ex. A-1 at ¶¶ 52

The interior surface of the cups face towards a user's breast, as shown in the Instruction Manuals:



(Instruction Manual Excerpt)

Harder Decl. Ex. A-1 at ¶¶ 51,77; *Id.* Ex. A-2 at ¶ 37

According to its plain and ordinary meaning, a pressure-sensitive adhesive layer is an adhesive layer which adheres when pressure is applied.⁴ Generally,

type of pressure sensitive adhesive that is suitable for removably attaching a breast form to a user’s skin.” Quigley Decl. Ex. B-6 (January 17, 2007 Markman Order at 18-24). While Bragel does not believe that this construction is necessary in this case because the issues in that case don’t exist here, even if this Court adopts the construction from this prior suit, the infringement analysis would still be the same and the claim element met.

⁴ The Patent-in-Suit explains that the pressure sensitive adhesive layer “can

1 the more pressure applied, the greater the adhesion.⁵

2 The adhesive layer of the Accused Products adheres to the user's skin when
3 pressure is applied. Pressing the breast form against the breast allows the
4 adhesive layer to adhere to the skin and remain adhered to the user's breast
5 without requiring a back portion or straps. Harder Decl. Ex. A-1 at ¶¶ 52-54, 78-
6 80; *Id.* Ex. A-2 at ¶¶ 38-39. Further, Dr. Xu performed materials testing on the
7 adhesive layer in the Accused Products. *See* Xu Decl. Ex. C-3 (Xu August 3,
8 2016 Materials Testing Analysis at 1). Dr. Xu applied pressure to the adhesive
9 layer using a force meter and measured the adhesive forces. *Id.* Dr. Xu
10 determined that the adhesive layer is pressure sensitive such that the layer
11 increases its adherence when the applied pressure is increased. *Id.*

12 Descriptions of the steps of usage of the Accused Products from the
13 Instruction Manuals confirm that the adhesive layer is pressure sensitive. The
14 Instruction Manuals instruct the user to "place and stick the bottom edge of the
15 bra cup at the proper place" and to "[p]ress both cups for a few seconds to make

16
17 include any type of pressure sensitive adhesive (PSA) that is suitable for
18 removably attaching a breast form to a user's skin, such as various types and
19 forms of double-sided tape and permanently grown PSAs." Ex 19-1 at 12 ('296
20 Patent at 4:20-24). The dictionary definition for "pressure-sensitive" is
21 "responsive to pressure: adhering or sealing under the influence of pressure alone
22 (*pressure-sensitive* adhesives are normally used in the form of adhesive tapes),"
23 and the dictionary definition of adhesive is "an adhesive substance; esp: a
24 substance that bonds two materials together by adhering to the surface of each (as
25 glue, starch paste, mucilage, rubber latex, or a synthetic resin composition)."
26 Quigley Decl. Ex. B-7 (Webster's Third International Dictionary).

27 ⁵ During the deposition of Bragel's 30(b)(6) witness, David Chen, Mr. Chen
28 defined pressure-sensitive adhesive layer consistent with the dictionary
definitions. Quigley Decl. Ex. B-8 (Chen Depo Tr. at 49:5-17) ("Q. Okay.
What's a pressure-sensitive adhesive? A. Pressure-sensitive adhesive is sensitive
to pressure. It tells you, pressure sensitive. That means if you push one gram, it
will give you one-gram force. If you push one kilogram, it will give you one-
kilogram force.")

1 sure they are secure.” Harder Decl. Ex. A-2 at ¶ 39. In other words, the manuals
 2 instruct the user to apply pressure on the cups and against the breasts to properly
 3 adhere the adhesive layer.

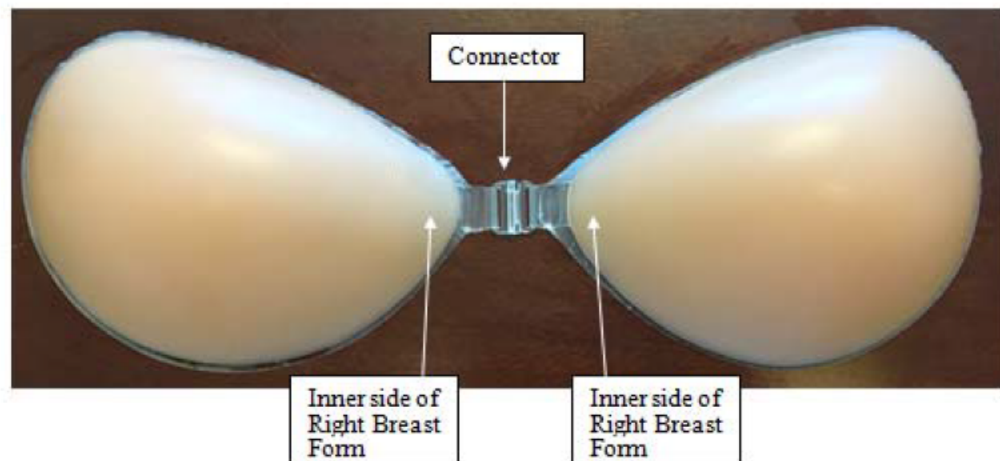
4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 [REDACTED]
 13 [REDACTED]
 14 [REDACTED]
 15 [REDACTED]

16 The pressure sensitive adhesive layer of the Accused Products is
 17 configured to be used and re-used multiple times. A “Maintenance Note” in the
 18 Instruction Manuals for the Accused Products identifies that the breast forms
 19 include “special adhesive materials,” and “will last from three months to one year
 20 [subject to] your maintenance.” Harder Decl. Ex. A-2 at ¶ 40. As such, the
 21 instruction manuals identify that the adhesive layer is intended to last for multiple
 22 uses to secure the breast forms to the user’s breasts. *Id.*

23 **5. a connector adapted to adjoin the breast forms together,**
 24 **wherein the connector is positioned between inner sides of**
 25 **each of the breast forms.**

26 Claim 1 recites “a connector adapted to adjoin the breast forms together,
 27 wherein the connector is positioned between inner sides of each of the breast
 28 forms.” The Accused Products include a connector that joins the breast forms

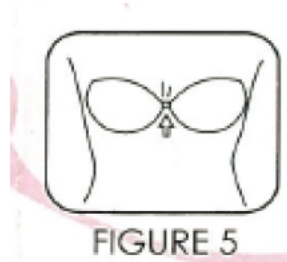
1 together and is positioned between inner sides of each of the breast forms, as
 2 shown in Ms. Harder's expert report, Harder Decl. Ex. A-1 at ¶¶ 55-61, 81-87; *Id.*
 3 A-2 at ¶¶ 43-49:



(Oh Baby Silicone Bra)

Harder Decl. Ex. A-1 at ¶ 85

Further, the instruction manuals for the Accused Products advertise the
 connector (referred to as a “clip”), which fastens the breast forms together. The
 Instruction Manual also explains to “Fasten the clip in the front,” as show in
 Figure 5:



(Instruction Manual Excerpt)

Harder Decl. Ex. A-1 at ¶¶ 58, 84; *Id.* Ex. A-2 at ¶ 46

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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C. The Accused Products Contain All Elements of Claim 2

Claim 2 of the Patent-in-Suit recites:

2. The breast form system of claim 1 wherein the connector comprises a first portion attached to the inner side of one of the breast forms and a second portion attached to the inner side of the other breast form, and the first portion and the second portion are adapted to cooperatively engage.

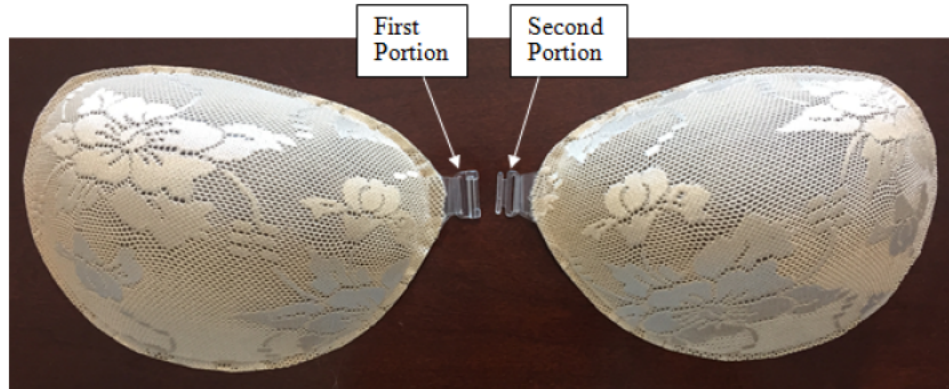
Each element of Claim 2 is contained in the Accused Products.

- 1. *the connector comprises a first portion attached to the inner side of one of the breast forms and a second portion attached to the inner side of the other breast form***

Claim 2 depends from Claim 1 and further recites that the connector comprises “a first portion attached to the inner side of one of the breast forms and a second portion attached to the inner side of the other breast form.” As described above, each of the Accused Products practices all of the limitations of Claim 1. In addition, visual inspection and analyses of the Accused Products confirm that the connector of these products include two portions attached to the inner side of each of the two breast forms. Ms. Harder’s expert reports included photographs of the Accused Products and identify that the products contain this limitation. Harder Decl. Ex. A-1 at ¶¶ 62, 88; *Id.* Ex. A-2 at ¶ 50.

Ms. Harder explains that the connector of the Accused Products include two connectable pieces that make up the connector. *Id.* The two portions (or pieces) are attached to the inner side of each of the two breast forms (e.g., the

right and left breast forms). *Id.* A depiction of the two portions of the connector for the Lace Silicone Fashion Bra, as shown in Ms. Harder's expert report, is reproduced here:



(Lace Silicone Fashion Bra)

Harder Decl. Ex. A-1 at ¶ 62.

2. *the first portion and the second portion are adapted to cooperatively engage*

Claim 2 further recites that “the first portion and the second portion [of the connector] are adapted to cooperatively engage.” Visual inspection and analyses of the Accused Products confirm that these products meet this limitation. Ms. Harder's expert reports included photographs of the Accused Products and identify that the products contain this limitation. Harder Decl. Ex. A-1 at ¶¶ 63-64, 89-90; *see also id.* at ¶¶ 57-59, 83-85; *Id.* Ex. A-2 at ¶¶ 51-52. The portions

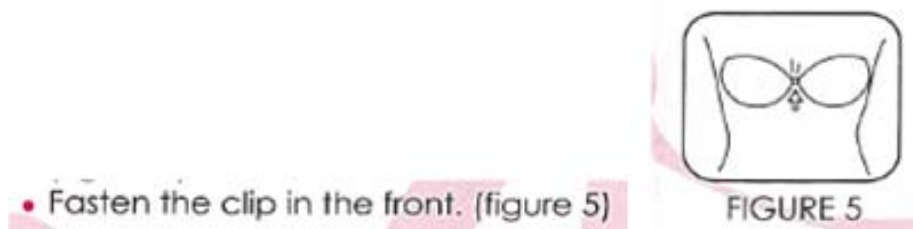
of the connector of the two breast forms cooperatively engage, thereby bringing together the right breast form and the left breast form. *Id.* Further, the instruction manual for the Accused Products state that the connector (called a “clip”) is fastened in the front and depicts closure of the breast forms. The “adapted to cooperatively engage” is also evident from viewing the Accused Products:



(Lace Silicone Fashion Bra)

Harder Decl. Ex. A-1 at ¶ 63

The associated instruction manual demonstrates the same:



Harder Decl. Ex. A-1 at ¶¶ 58, 84; *Id.* Ex. A-2 ¶ 61

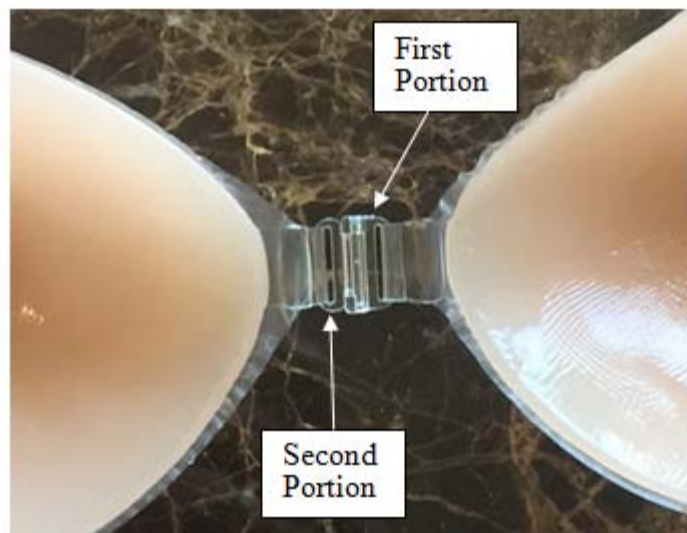
D. The Accused Products Contain All Elements of Claim 5

Claim 5 of the Patent-in-Suit recites:

5. The breast form system of claim 2 wherein the first portion and the second portion are permanently attached to the breast forms.

Claim 5 depends from Claim 2 and further recites “wherein the first portion and the second portion are permanently attached to the breast forms.” As described above, each of the Accused Products practices all of the limitations of

Claim 2. In addition, visual inspection and analyses of the Accused Products confirm that the portions of the connectors of these products are permanently attached to the breast forms. Ms. Harder's expert reports included photographs of the Accused Products and identify that the products contain this limitation. Harder Decl. Ex. A-1 at ¶¶ 65-66, 91-92; *Id.* Ex. A-2 at ¶¶ 53-55. In particular, the connectors are permanently attached such that they cannot be removed. *Id.* A depiction of the permanently attached connector of the accused Oh Baby Silicone Bra, as shown in Ms. Harder's expert report, is reproduced below.



(Oh Baby Silicone Bra)

Harder Decl. Ex. A-1 at ¶ 91

E. Both PPI and Styles for Less Are Liable For Patent Infringement

Whoever without authority “makes, uses, offers to sell, or sells” a product covered by a patent claim is liable for infringement. It is undisputed that PPI sells and offers for sale the Accused Products. Mr. Hanan, as CEO of PPI, confirmed during his deposition that the accused Lace Silicone Fashion Bra, Microfiber Silicone Fashion Bra, and Oh Baby Silicone Bra, are products sold by PPI. Quigley Decl. Ex. B-2 (Hanan Depo Tr. at 20:15-30:1). Further, summary sales information from PPI demonstrate that PPI sells the Accused Products to Styles

1 for Less. Quigley Decl. Exs. B-9 to B-11 (PPI-0000217, 219-220).

2 Styles for Less is a retailer which advertises the Accused Products on its
3 website for purchase by customers. Quigley Decl. Exs. B-12 to B-13 (B0001616-
4 17). Styles for Less advertises the “Lady Princess Adhesive Silicone Bra,” which
5 has the same packaging as the Oh Baby Silicone Fashion Bra sold by PPI. *Id.* at
6 Ex. B-12. Styles for Less further advertises the “Lace Silicone Adhesive Bra,”
7 which is the same as the Lace Silicone Fashion Bra sold by PPI. *Id.* at Exs. B12
8 to B13 (B0001616-17).

9 Accordingly, PPI and Styles for Less are liable for infringement of the
10 Accused Products.

11 **V. CONCLUSION**

12 For all of the foregoing reasons, Bragel respectfully requests that the Court
13 enter summary judgment that the Oh Baby Strapless, Backless Self-Adhesive
14 Silicone Bra, the Lace Silicone Fashion Bra, and the Microfiber Silicone Fashion
15 Bra each infringe claims 1, 2, and 5 of the Patent-in-Suit.

16
17
18 DATED: August 4, 2016

Respectfully submitted,

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