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The Tonytail Company, Inc.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

THE TONYTAIL COMPANY, INC.
a Delaware Corporation,

Plaintiff,

v.

CONAIR, a Delaware Corporation; 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

PLAINTIFF'S NOTICE OF MOTION AND PARTIAL MOTION TO DISMISS DEFENDANTS RITE AID AND CONAIR'S COUNTERCLAIM FOR LACK OF SUBJECT MATTER JURISDICTION

Date: June 5, 2008

Time: 8:00 a.m.

Courtroom: 9

Notice of Motion and Partial Motion to Dismiss Defendants Conair and Rite Aid's, counterclaim, set for hearing on June 5, 2008 at 8:00 am in Court Room 9.

Plaintiff hereby moves the Court to dismiss portions of defendants', Rite Aid and Conair's, counterclaim for lack of subject matter jurisdiction pursuant to Federal Rule of

Civil Procedure 12(b)(1), for the reasons more fully set forth in plaintiff's accompanying memorandum of points and authorities.

Dated May 2, 2008

Respectfully Submitted,

ANNE-LEITH MATLOCK
Attorneys for the Plaintiff
The Tonytail Company