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AMENDED CLAIMS

1. A hair-~~colouring~~treating tool suitable for use in applying hair treatment preparations such as hair colouring and highlighting products to selected strands of hair, the hair-colouring tool comprising:

a tong-like flexible handle (40) having two opposite ends, a first end (42) and a second end (44):

a brush (10) having a plurality of bristle rows attached to the first end for receiving a colour treating agent; and

a slightly concave or shallow tray-shaped ^{base?} hair receiver (20) attached to the second end for receiving selected strands of hair to be treated for highlighting,

the receiver having an end wall (75) attached to it, and having a U-shaped indenting gap (80) in its centre, constituting a hair guide portion for the selected strands of hair,

wherein the hair receiver is laid transversely to the handle, in such a way that the tool can be closed so as to apply the brush to the hair, whereupon the device is drawn along the strand of hair.
2. A hair-~~treating~~colouring tool according to claim 1, wherein the tong-like handle (40) is made of plastic tubing.
3. A hair-~~treating~~colouring tool according to claim 1 or 2, wherein the brush (10) is integrally formed as part of the first handle portion.
4. A hair-~~treating~~colouring tool according to ~~any preceding~~ claim 1 or 2, wherein the brush (10) is removably attached to the distal end of the first handle portion.

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5. A hair-~~treating~~colouring tool according to claim 4, further comprising a plurality of replaceable brushes of different dimensions, wherein the brushes can be interchanged between, or during, hair treatment sessions to achieve differing hair treatment effects.

6. A hair-treating tool according to claim 5, wherein the brushes have a different widths as measured in the transverse direction.

✓

7. A hair-treating tool according to claim 5 or 6, wherein the brushes are removably attached to the tong-like handle by Velcro® straps, snaps, or clips.

✓

~~68.~~ A hair-~~treating~~ colouring tool according to any preceding claim-~~4~~, wherein the hair receiver (20) is removably attached to the second handle portion.

✓

9. A hair-treating tool according to claim 6, wherein the hair receiver is removably attached to the second handle portion by Velcro® straps, snaps, or clips.

~~7~~10. A hair-~~treating~~ colouring tool according to any preceding claim, wherein the hair guide portion (75) consists of~~further comprising~~ a plurality of replaceable hair guide portions (75) forming grooves of different widths, wherein the different replaceable hair guides can be interchanged to treat different volumes of hair.

~~8. A method for treating hair, using a hair-colouring tool according to any preceding claim.~~

11. A hair-treating tool according to any preceding claim, wherein the longitudinally central bristles in a row are shorter than the outer bristles.

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12. A hair-treating tool according to any preceding claim, wherein the hair receiver (20) has a greater extent in the transverse direction than the handle (40).

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13. A hair-treating tool according to any of claims 1 or 3-12, wherein the handle is made of metal or plastic.

14. A kit of parts, comprising a hair-treating tool according to any preceding claims; and at least one of:

i. a plurality of replaceable brushes (10) of different dimensions,

ii. a plurality of replaceable hair guide portions (75) forming grooves of different widths, and

iii. instructions for use.

15. A non-therapeutic, non-surgical method for treating hair, using a hair-treating tool according to any preceding claim.

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LETTER TO IPO

To the Examining Division

Re: Application no: 2323232.3 ('the App')

I attach a completed form PF51 to register myself as the Applicant's agent for the App.

I respond to the Report pursuant to ss17 & 18(3), issued on the App on 15 May 2024, within the deadline of 23 January 2026.

I attach a set of amended claims to substitute the claims currently on file.

Amendments

All old claims are amended. New claims 6, 7, 9, 11, 13, 14 are added. Existing claims and dependencies are renumbered accordingly.

Claim 1 is amended to redefine the hair-colouring tool as a hair-treating tool. Basis can be found throughout the App as filed, and e.g. P5L5 (which specifies colouring is a specific application of the device) and P5L7 (which makes it clear products other than colouring can be used e.g. highlighting products).

Claim 1 is amended to require that the hair receiver (20) be slightly concave or shallow tray-shaped. Basis can be found in the App as filed, e.g. P6L18-19, FIGs 2, 4A, 4B.

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Claim 1 is also amended to require that the tool comprise an end wall (75) attached to the hair receiver, and having an indenting gap (80) in its centre, constituting a hair guide portion for the selected strands of hair. Basis can be found in the App as filed, e.g. P6L20-21 and P5L9-10.

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Claim 4 is amended for clarity to depend on claims 1-2 only.

✓

Basis for new claim 6 can be found in the App as filed, e.g. P5L11-12 and P7L1-2.

Basis for new claim 7 can be found in the App as filed, e.g. P6L12-13.

Old claim 6 (now claim 8) is amended to depend on any previous claim. There is basis for this broadening in the application as a whole, and e.g. P6L14-15. The person skilled in the art understands that this feature is disclosed as a general feature of the invention and not a specific feature of a specific embodiment that is incompatible with other embodiments.

✓

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Basis for new claim 9 can be found in the App as filed, e.g. P6L15-16.

Old claim 7 (new claim 10) is amended in conformity with claim 1 as amended, as the latter now already includes antecedent for hair guide (75).

OK

Basis for new claim 11 can be found in the App as filed, e.g. P6L9-10 (and FIG. 3).

Basis for new claim 12 can be found in the App as filed, e.g. P6L24-25.

Basis for new claim 13 can be found in the App as filed, e.g. P6L3.

Basis for new claim 14 can be found in the application as a whole.

New claim 15 is essentially old claim 8, amended to exclude subject matter covered by statutory patentability exclusions. The Examiner is reminded that amendment of a claim purely to disclaim methods of treatment by therapy or surgery that are excluded

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subject matter does not add subject matter to an application as filed, even when such disclaimer is not present in the application as filed.

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Therefore the amendments add no subject matter to the App as filed, per s76(2) UKPA.

Where subject matter is deleted, this is done without prejudice and the applicant abandons no subject matter. The applicant reserves the right to reintroduce subject matter, and/or file divisional applications.

Patentability exclusions

Re: point 1 of the Report, old claim 8 (new claim 14) is amended so to disclaim subject matter that is excluded from patentability. Therefore, new claim 14 is not excluded from patentability.

Clarity

Re: point 6 of the Report, old claim 4 is amended so as to depend on claims 1-2 only. Therefore, the claim is clear.

✓

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Novelty

D1 arguably discloses multiple embodiments of the device, see P13 2nd paragraph (first line thereof) vs 4th paragraph (whole). None of these differences affect the novelty considerations, thus D1 will be treated as one disclosure for these purposes.

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Independent claim 1 as amended is novel over D1 because claim 1 now requires the hair receiver (20) of the tool to i. be slightly concave or shallow tray-shaped and ii have an end wall (75) attached to it having a U-shaped indenting gap (80) in its centre, constituting a hair guide portion for the selected strands of hair. D1 does not have a slightly concave or shallow tray-shaped hair receiver portion, nor does it have a U-shaped indenting gap. Therefore, claim 1 is novel over D1. Claims 2-13 are novel over D1 at least by virtue of dependency.

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New independent claims 14-15 each comprise the tool of claim 1, therefore they are each novel over D1 at least by virtue of dependency.

Therefore, all claims are novel.

Inventive Step (IS)

D1 was published in 2001, therefore it is 'full' prior art and can be used to assess inventive step.

Using *Windsurfing/Pozzoli*:

1a. The person skilled in the art (SP) is a manufacturer of non-surgical hair treatment devices, particularly hand-held devices and hair-colouring devices.

✓

1b. Their common general knowledge (CGK) likely comprises standard hair colouring approaches that require applying protective sheets/foils/paddles/boards onto the hair, or tress caps with holes, as described in my client's application (P4L10-26). The CGK may not include D1, as it is such an uncommon and not widely advertised design.

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Considering independent claim 1:

2. The inventive concept of claim 1 of the App is that of a hair-colouring tool comprising a tong-like flexible handle (40) with two opposite ends, a brush-like end and, opposite, a slightly concave or shallow tray-shaped hair receiver end, which includes a U-shaped end wall attached to it, which works as a hair guide. The guide and concave receiver, when in use, together ensure that only the intended hair strand is being coloured, and that it is clear to the device user which strands are being coloured.

2

3. D1 arguably discloses multiple embodiments of the device, see P13 2nd paragraph (first line thereof) vs 4th paragraph (whole). These embodiments are considered together for IS assessment.

D1 differs from the inventive concept of claim 1 at least because the selective hair strand colouring action is achieved by actively locking the hair between the application means 4 (whether or not it includes bristles 30, teeth 5, or more than one row thereof, per the various embodiments of D1) and the groove 31.

In the device of claim 1, the equivalent of the D1 groove is only 'slightly concave or shallow', and the strand selection is instead effected by the U-shaped hair guide. In claim 1, it is in fact the *combined* operation of the U-shaped guide portion (for selecting and retaining hair strands) alongside the shallow profile of the receiver 20 (as opposed to a deep groove), that enable the claim 1 design to achieve the colouring action.

probably
by hand

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Instead, the D1 design pushes hair inside the groove 31 as the device is actioned. This exerts considerable pulling action against the hair, and is likely to result in hair

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being trapped and/or pulled, with consequent discomfort to the person having their hair treated. Even absent any discomfort, hair trapping/pulling are noxious in and of themselves, resulting in damaged hair and hair loss.

Yet there is no recognition throughout D1 that hair trapping, hair pulling, and/or ensuing discomfort would be factor to consider improving on. The fact itself that D1 suggests embodiments that include multiple rows of bristles (P13 4th par.), thus increasing the possibility for hair being trapped and pulled between the bristles and the groove 31 and exacerbating the hair damaging/loss and discomfort, makes it plain that D1 is actively teaching away from the claim 1 design.

Therefore, the device of claim 1 comprises an inventive step over D1.

Claims 2-13 comprise an inventive step over D1 at least by virtue of dependency.

Independent claim 14, directed at a kit of parts comprising the above device, necessarily comprises an inventive step over D1 at least by dependency.

Independent claim 15, directed at a non-excluded method of treatment, comprises an inventive step over D1 at least because it necessitates operation of a device constructed in accordance with claim 1 itself.

Thus, all claims 1-15 comprise an inventive step over the prior art.

At point 4, the Examiner asserts modifying the D1 device to be made of tubing is obvious. In light of the above considerations, even were the D1 device made of tubing (pending considerations by the SP as to whether one such design would be sturdy enough to be practicable), it would still result in considerable hair

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trapping/pulling and discomfort per the above considerations. The tubular nature of the claim 1 (and/or D1) device does not undermine these.

At point 5, the Examiner asserts that exchangeable parts are commonplace in the hairdressing trade. Regardless of the correctness of the assertion, the amended versions of each of old claims 4-7 (to which this objection relates) now comprise an inventive step over D1 at least on account of their dependency from amended claim 1.

✓

Concluding remarks

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In light of the above, we request reasonable reconsideration of the application.

Yours faithfully

/Ursula R Worthitt CPA EPA/

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NOTES FOR CLIENT ADVICE

General

Happy to take on representation from M Barber – have included form to this effect with response. No fee (nor, usually, client signature) required.

We have until 23 January 2026 to respond, so we can discuss this response. If that time is not enough, an as-of-right extension can be obtained by responding within 2 months (and requesting the extension) of the missed deadline, at no cost, per s117B(2) UKPA.

1

OA itself

The Examiner found D1 – this was granted over 20 years ago, therefore it counts for novelty and IS both. It will not be a problem from an FTO (freedom to operate) perspective because even if it has run its full course, it will have expired by now – client is not limited in what they can do by that patent.

✓

Examiner contends old claim 1 lacked novelty – indeed there are equivalent features because D1 requires a tong-like device for hair with flexible handles (2, 3), with ends 12 and 15, brushes 30 and a receiver (13+31). Old claim 1 had a flexibly tong-like device with ends (42, 44), brush (10), and a receiver (20). Even adding the subject matter of any/all of old claims 8 would have resulted in claim 1 still lacking novelty. Therefore, amendment was required.

✓
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Old claim 8 apparently covered excluded subject matter – have got around this by including a disclaimer. This amendment does not limit the client, but may allow others to use the device to apply purely therapeutic products, although I do not envisage

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this to be a big problem. They would infringe if the product also has non-therapeutic properties. Importantly, the App includes product claims and now a kit of parts claim so this would capture infringement by sale/rental regardless of the use. Client wants other hairdressers to buy the product (says so in letter) so even though infringement by persons for personal use is probably excluded, importantly this method claim covers possible infringing use by hairdressers.

✓

Clarity was indeed an issue for old claim 4 because something is either integrally formed or removable. I have fixed this by amending the dependency to exclude the incompatible claim.

(✓)

The amendment

I chose to limit by adding both a U-profiled guide AND limiting 20 to be slightly concave or shallow-tray shaped. This is because it is actually the combined effect of both that achieves the inventive concept of guiding the hair without significant pulling. Adding only either may have lacked novelty because arguably the groove 31 of D1 is U-shaped, and arguably the shoulder 10 forms a shallow portion between it and the tip 12. Therefore by requiring both, and by requiring that the U-shaped element be attached to the end 20, we ensure novelty. The inventive step argument is built around the lack of discomfort is use, as suggested by the client.

maybe

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I have added further claims considering there are no excess fees for up to 25 claims. These do not limit the App or what the client can do, but may be useful fall back positions.

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I have broadened claim 1 to a hair-treating device because I consider the basis I gave in the letter to be enough. Colouring and highlighting can be achieved with different chemicals, therefore I thought colouring was too restrictive because the client might want to highlight without applying a colouring chemical.

OK

Other possibilities considered

I chose not try to cover a hinge-based version in claim 1 because i. D1 essentially already has a hinge 4 (so that amendment alone would not have given us novelty), and ii. the App clearly presents it as a separate embodiment altogether (P7L6-8) and I do not believe there is basis to combine it with other elements of all the dependent claims. I also think it may have been objected to as a new independent claim because of lack of unity against the current (much better supported) tubular version which I did not want to remove. That said, if client wants, we can try to add the hinge-version as a new standalone independent claim (we have space in the claim set up to 25 claims), but this may delay application if indeed lack of unity is invoked. For the same reasons I don't think there is enough basis to claim it meaningfully in a divisional application, but we can try to if the client wants so as not to delay this application itself – can file divisional for up to 4years3mon from filing date of this app while the App remains pending – plenty of time to discuss.

OK

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I thought about amending claim 1 just by specifying that the shape of the brush was essentially u-shaped or at least non-uniform (see new claim 11) because it is not so in D1, however I think we would have struggled to claim inventive step just by that. Generally, any other argument to novelty by reference to only the brush would have

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failed I think because the D1 brush may or may not have teeth/brushes. However, suitable as a dependent claim.

I thought about leaving out of claim 1 the restriction on the U-shaped element being U-shaped, but I do not think there is basis enough to argue any other shape – P5L9-10 does not mention its profile but it is U-shaped in all Figures, and at P6L20.

MARKS AWARDED: 13/31

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