

CLAIM NO. HP-2023-000027

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INTELLECTUAL PROPERTY LIST (ChD)
PATENTS COURT
B E T W E E N:

DYSON TECHNOLOGY LIMITED

Claimant

- and -

SHARKNINJA EUROPE LIMITED

Defendant

AMENDED REPLY TO DEFENCE TO COUNTERCLAIM

References to all numbered paragraphs are references to paragraphs in the Re-Amended Reply and Defence to Counterclaim.

1. Save in so far as it consists of admissions or as expressly indicated below, the Defendant joins issue with the Claimant on its Defence to Counterclaim.
2. Paragraphs 6 and 6A are noted. The Defendant's case concerning the validity of GB 304 (as granted and as proposed to be amended) is set out in its Defence and Counterclaim (and any amended versions thereof).
3. As to the Claimant's plea of commercial success at paragraphs 6B-6J the Defendant pleads as follows:
 - a. Paragraph 6B is admitted.
 - b. Paragraphs 6C and 6D are not admitted. In particular, the Claimant is required to prove that the "basic concept of claim 1 as granted" is as set out in paragraph 6C.

- c. The second sentence of paragraph 6E is admitted. The first and third sentences of paragraph 6E are not admitted.
- d. As to paragraph 6F:
 - i. It is admitted that various hair styling appliances had been on sale for many years prior to GB 304.
 - ii. Save as aforesaid, paragraph 6F is not admitted and the Claimant is required to prove the matters alleged.
- e. The first sentence of paragraph 6H is not admitted. The second sentence of paragraph 6H is denied.
- f. As to paragraph 6I and the particulars thereto:
 - i. It is not admitted that the Dyson Airwrap range of products is made in accordance with GB 304 and the Claimant is required to prove the same. In particular, the Claimant is required to prove that the Dyson Airwrap range of products comprise an attachment in accordance with each of the claims of GB 304 (as granted and as proposed to be amended) which the Claimant will contend is independently valid.
 - ii. Pending disclosure (including but not limited to the schedule referred to in paragraph 6I(a)), it is not admitted that the Dyson Airwrap products have been well received in the art and/or have been commercially successful.
 - iii. No admissions are made as to (1) the content of reviews by relevant trade press and by consumers, (2) the content of the marketing for the Dyson Airwrap products, or (3) the reason(s) for any commercial success to the extent that such exists.
 - iv. In particular, if and to the extent that the Dyson Airwrap products have been well received in the art and/or have been commercially successful as alleged, the Claimant is put to proof that the same is substantially owed to any implementation of the alleged invention as opposed to other facts and matters including without limitation the goodwill associated with the Dyson brand, the appearance of the products in the range and the marketing of the range.

g. As to paragraph 6J and the particulars thereto:

- i. The existence and success of the Defendant's Products is admitted. As pleaded in the Defence and Counterclaim and Grounds of Invalidity (and any amended versions thereof), it is denied that (1) the manufacture and sale of the Defendant's Products infringes GB 304 (as granted and as proposed to be amended) and (2) that the claims thereof are in respect of a patentable invention.
- ii. It is admitted that some of the Defendant's advertising of the Defendant's Products promotes their implementation of the Coanda effect.
- iii. Paragraph 6J(b) assumes that the claims of GB 304 (as granted and as proposed to be amended) are in respect of a patentable invention, which for the reasons pleaded in the Defence and Counterclaim and Grounds of Invalidity (and any amended versions thereof), is denied.

LINDSAY LANE KC

JOE DELANEY

Instructed by Freshfields Bruckhaus Deringer LLP

STATEMENT OF TRUTH

The Defendant believes that the facts stated in this Amended Reply to Defence to Counterclaim are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

I am duly authorised by the Defendant to sign this statement.

Signed: *Christopher Stothers*

Name: CHRISTOPHER MICHAEL STOTHERS

Position: PARTNER, FRESHFIELDS BRUCKHAUS DERINGER LLP

Dated: 23/02/2024

SERVED this 23 day of February 2024 by Freshfields Bruckhaus Deringer LLP, Solicitors for the Defendant