

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

SHARKNINJA OPERATING LLC and
SHARKNINJA SALES COMPANY,

*Plaintiffs and
Counterclaim-Defendants,*

v.

DYSON, INC. and DYSON TECHNOLOGY
LIMITED,

*Defendants and
Counterclaim-Plaintiffs*

C.A. No. 1:23-cv-11277-ADB

JURY TRIAL DEMANDED

**PLAINTIFF AND COUNTERCLAIM DEFENDANTS' FIRST SUPPLEMENTAL
RESPONSES AND OBJECTIONS TO DYSON'S FOURTH SET OF INTERROGATORIES
(NOS. 17-23)**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and Local Rules 26 and 34.1, Plaintiffs and Counterclaim-Defendants, SharkNinja Operating LLC and SharkNinja Sales Company ("SharkNinja" or "Plaintiffs") hereby provide the following objections and responses to Defendants and Counterclaim-Plaintiffs Dyson, Inc. and Dyson Technology Limited ("Dyson") Fourth Set of Interrogatories (Nos. 17-23) ("Interrogatories").

Plaintiff's responses are based on information currently available to Plaintiff. Plaintiff reserves all rights to supplement, revise, and/or amend these responses should additional information become available through the discovery process or by other means. Plaintiff also reserves the right to produce or use any information or documents that are discovered after service of these responses in support of or in opposition to any motion, in depositions, or at hearings or trial. In responding to Defendant's Fourth Set of Interrogatories, Plaintiff does not waive any objection on the grounds of privilege, confidentiality, competency, relevance, materiality, authenticity, admissibility of the information contained in these responses, or any other objection.

INTERROGATORY NO. 20:

If Shark does not concede that the '979 Patent invention was commercially successful, explain in what way the Shark FlexStyle and Dyson Airwrap were not commercially successful as a result of the '979 Patent invention, and any record evidence that supports that assertion.

RESPONSE TO INTERROGATORY NO. 20:

Plaintiff incorporates all of its General Objections as if specifically set forth herein. Plaintiff specifically objects to this Interrogatory as overly broad and unduly burdensome to the extent it seeks information that is not relevant to the claim or defense of any party and is not proportional to the needs of the case. Plaintiff objects to this Interrogatory as vague, ambiguous, and unduly burdensome at least as to the phrases "'979 Patent invention," "commercially successful," "as a result of," and "any record evidence" as used in this Interrogatory. Plaintiff objects to this Interrogatory to the extent it seeks information protected from disclosure by the attorney-client privilege and/or work-product

doctrine, or any other applicable privilege or protection. Plaintiff specifically objects to this Interrogatory as overly broad and unduly burdensome to the extent it seeks information already within Dyson's possession.

Subject to and without waiving any of the foregoing objections, and based on current information:

Plaintiff will provide its expert disclosures in accordance with the Federal Rules of Civil Procedure, the Court's Scheduling Order (Dkt. 33), and other applicable rules.

Plaintiff's investigation is ongoing and Plaintiff reserves its right to supplement its response to this Interrogatory in light of additional information learned and documents obtained during the course of discovery.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 20 (05/20/2024):

Plaintiff hereby restates and incorporates the General Objections and Objections to Definitions and Instructions above as though fully set forth herein. Plaintiff further restates and incorporates its Response to Interrogatory No. 20 above as though fully set forth herein. As limited by and consistent with Plaintiff's particularized objections detailed above relating to this Interrogatory, Plaintiff responds as follows:

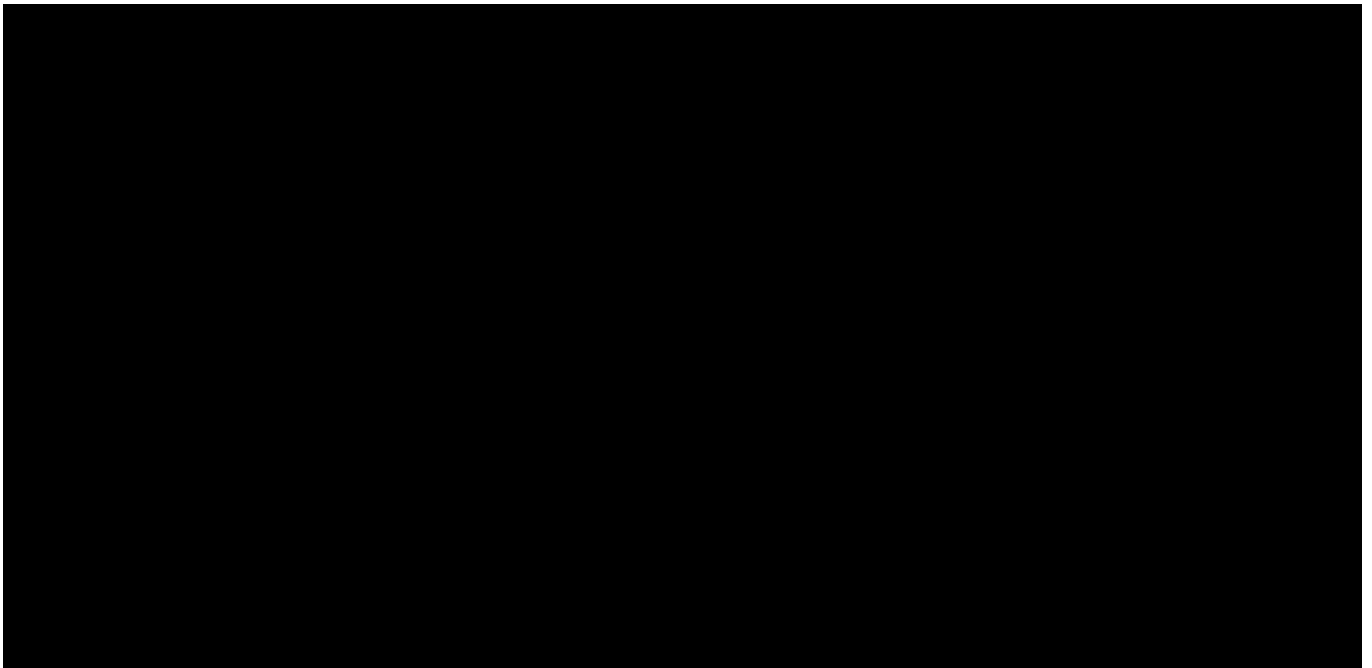
SharkNinja does not dispute that the Dyson Airwrap or SharkNinja FlexStyle were commercially successful products. However, Dyson has not shown that any version of the Airwrap embodies the inventions of the '979 patent. Nor has Dyson shown that any version of the Airwrap is successful because of any of the Asserted Patent claims. The Airwrap's most popular and/or most used attachment is the Coanda smoothing dryer, not its curler attachments. *See* Marthina Sochodolak Deposition (4/18/2024) at Exs. 27, 28.

In addition, the SharkNinja FlexStyle is not commercially successful as a result of any of the Asserted Patent claims because it does not practice the claims of the '979 Patent. SharkNinja's

customers buy the FlexStyle for reasons other than its inclusion of a Coanda curler. For example, other hot air stylers available on the market have significant sales despite not having a curler attachment in their offering, including at least the popular Revlon One-Step Hair Dryer and Volumizer Hot Air Brush. *See* Dep. Tr. Marthina Sochodolak (4/18/2024); Dep. Tr. Danielle Lessing (4/4/2024); Dep. Tr. Angela Eori (4/2/2024). In fact, these other hot air stylers are commercially successful even though they do not use a curler that leverages the Coanda effect. Furthermore, not only is there no evidence regarding what aspect of the Airwrap curler attachment drives commercial success, but there is no evidence that the Dyson Airwrap is commercially successful *due to* only one of its attachments (the curler attachment).

SharkNinja incorporates the deposition testimony of Colby Higgins, Danielle Lessing, and Angela Eori. Dep. Tr. Colby Higgins (4/3/2024); Dep. Tr. Danielle Lessing (4/4/2024); Dep. Tr. Angela Eori (4/2/2024). SharkNinja reserves the right to rely on exhibits to the Kellerman and Sochodolak depositions, as well as any documents produced by Dyson, third parties and/or documents in the public domain in response to this interrogatory and at trial.

INTERROGATORY NO. 21:



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Dated: May 20, 2024

/s/ Brian Rosenthal

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CERTIFICATE OF SERVICE

I, Wendy W. Cai, an attorney, hereby certify that this document was served on May 20, 2024 via electronic mail to all counsel of record for Defendant Dyson, Inc. and Dyson Technology Limited.

/s/ Wendy W. Cai
Wendy W. Cai