

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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**SHARKNINJA, INC.,  
SHARKNINJA OPERATING LLC,  
SHARKNINJA MANAGEMENT LLC, AND  
SHARKNINJA SALES COMPANY**  
Petitioners,

v.

**DYSON TECHNOLOGY LIMITED,**  
Patent Owner

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Inter Partes Review No.: IPR2024-00993  
U.S. Pat. No. 11,044,979

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**PATENT OWNER'S SUR-REPLY**

**PATENT OWNER'S LISTING OF EXHIBITS**

| <b>Exhibit No.</b> | <b>Description</b>                                                                                                                                                                                                                                                               |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| EX2001             | Expert Declaration of Peter Bressler, FIDSA                                                                                                                                                                                                                                      |
| EX2002             | Claim Chart for Airwrap HS01                                                                                                                                                                                                                                                     |
| EX2003             | Claim Chart for Airwrap HS01 (Tapered Barrel)                                                                                                                                                                                                                                    |
| EX2004             | Claim Chart for Airwrap HS05                                                                                                                                                                                                                                                     |
| EX2005             | Claim Chart for Airwrap HS05 (Tapered Barrel)                                                                                                                                                                                                                                    |
| EX2006             | Claim Chart for SharkNinja FlexStyle                                                                                                                                                                                                                                             |
| EX2007             | Claim Chart for SharkNinja FlexStyle (Tapered Barrel)                                                                                                                                                                                                                            |
| EX2008             | Complaint, <i>SharkNinja Operating LLC v. Dyson, Inc.</i> , No. 1:23-cv-11277-ADB (D. Mass. June 6, 2023), ECF No. 1                                                                                                                                                             |
| EX2009             | "Dyson Airwrap Styles Your Hair With No Heat" Video (accessed: <a href="https://www.youtube.com/watch?app=desktop&amp;v=Ek7jXCQLDig">https://www.youtube.com/watch?app=desktop&amp;v=Ek7jXCQLDig</a> )                                                                           |
| EX2010             | Portions of May 15, 2024 Tweedie Deposition (De-Designated Portions)                                                                                                                                                                                                             |
| EX2011             | Portions of May 30, 2024 Marra Deposition (De-Designated Portions)                                                                                                                                                                                                               |
| EX2012             | Portions of Appellant Brief, <i>Dyson Tech. Ltd. v. SharkNinja France et al</i> , Cour d'appel [CA] [regional court of appeal] Paris, Chambre 1, Apr. 4, 2024, 23/16419 (Fr.).]                                                                                                  |
| EX2013             | Video from Expert Opinion from Nullity Action regarding Chinese Patent Application No.: 201520158687.1                                                                                                                                                                           |
| EX2014             | "Future Of Beauty Awards," Elle Magazine (accessed: <a href="https://www.elle.com/beauty/a41957789/future-of-beauty-awards-2022/">https://www.elle.com/beauty/a41957789/future-of-beauty-awards-2022/</a> )                                                                      |
| EX2015             | "Inside The Success Of Dyson Hair—And Its Decision To Redesign The Bestselling Airwrap Tool," Forbes, June 11, 2022 (accessed: <a href="https://www.forbes.com/sites/gabbyshacknai/2022/06/11/inside-the-">https://www.forbes.com/sites/gabbyshacknai/2022/06/11/inside-the-</a> |

| <b>Exhibit No.</b> | <b>Description</b>                                                                                                                                                                                                                                                                                                                                                                                             |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                    | success-of-dyson-hair-and-its-decision-to-redesign-the-bestselling-airwrap-tool/)                                                                                                                                                                                                                                                                                                                              |
| EX2016             | DYSON_0130760-786 – ELLE's 2019 Future of Beauty Awards                                                                                                                                                                                                                                                                                                                                                        |
| EX2017             | DYSON_0129925-943 – ELLE Future of Beauty Winner 2022                                                                                                                                                                                                                                                                                                                                                          |
| EX2018             | DYSON_0130828-830 – One-Step Glam                                                                                                                                                                                                                                                                                                                                                                              |
| EX2019             | DYSON_0130831-914 – The 100 greatest innovations of 2019                                                                                                                                                                                                                                                                                                                                                       |
| EX2020             | <i>Dyson Tech. Ltd. v. SharkNinja Europe Ltd.</i> , EWHC (Pat) Claim No. HP-2023-000027, Amended Reply to Defence to Counterclaim                                                                                                                                                                                                                                                                              |
| EX2021             | Shark's Supplemental Response to Dyson's Interrogatory No. 20 (5/20/2024                                                                                                                                                                                                                                                                                                                                       |
| EX2022             | "The Science Behind Dyson's New Airwrap Hair Styling Tool Is Super Intense," Bustle, October 15, 2018 (accessed: <a href="https://www.bustle.com/p/how-does-the-dyson-airwrap-work-this-innovative-piece-of-tech-will-make-hair-styling-absolute-breeze-12262887">https://www.bustle.com/p/how-does-the-dyson-airwrap-work-this-innovative-piece-of-tech-will-make-hair-styling-absolute-breeze-12262887</a> ) |
| EX2023             | "Dyson AirWrap And The Coanda Effect That Provides A Barrel Of Curls," Women Love Tech, November 28, 2018 (accessed: <a href="https://womenlovetech.com/dyson-airwrap-coanda-effect/">https://womenlovetech.com/dyson-airwrap-coanda-effect/</a> )                                                                                                                                                             |
| EX2024             | DYSON_0130105-121 – Introducing Cosmo's First-Ever Hair Awards                                                                                                                                                                                                                                                                                                                                                 |
| EX2025             | DYSON_0037352-356 – Dyson Just Launched 6 New Airwrap Styler Attachments                                                                                                                                                                                                                                                                                                                                       |
| EX2026             | "The Dyson Airwrap's Secret Sauce Is Jet Engine Tech," Mashable, May 19, 2022 (accessed: <a href="https://mashable.com/article/dyson-airwrap-coanda-effect-review">https://mashable.com/article/dyson-airwrap-coanda-effect-review</a> )                                                                                                                                                                       |
| EX2027             | "The Dyson Airwrap: Because Bad Hair Days are So Last Season," Vogue Arabia, September 18, 2023 (accessed:                                                                                                                                                                                                                                                                                                     |

| <b>Exhibit No.</b> | <b>Description</b>                                                                                                                                                                                                                                                                             |
|--------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                    | <a href="https://en.vogue.me/beauty/dyson-airwrap-coanda-effect-tools-results/#:~:text=With">https://en.vogue.me/beauty/dyson-airwrap-coanda-effect-tools-results/#:~:text=With</a> )                                                                                                          |
| EX2028             | Image of FlexStyle Packaging                                                                                                                                                                                                                                                                   |
| EX2029             | Image of FlexStyle Packaging                                                                                                                                                                                                                                                                   |
| EX2030             | Image of Lindsey Commercial Embodiment                                                                                                                                                                                                                                                         |
| EX2031             | Image of Modified Lindsey Commercial Embodiment                                                                                                                                                                                                                                                |
| EX2032             | Video of Lindsey Commercial Embodiment                                                                                                                                                                                                                                                         |
| EX2033             | Video of Modified Lindsey Commercial Embodiment                                                                                                                                                                                                                                                |
| EX2034             | Image of Lindsey Commercial Embodiment                                                                                                                                                                                                                                                         |
| EX2035             | Image of Lindsey Commercial Embodiment                                                                                                                                                                                                                                                         |
| EX2036             | HD400 Series Shark FlexStyle™ Air Drying & Styling System Style Guide (accessed: <a href="https://support.sharkclean.com/hc/en-us/article_attachments/8830005972764">https://support.sharkclean.com/hc/en-us/article_attachments/8830005972764</a> )                                           |
| EX2037             | “Dyson Airwrap vs. Shark Flexstyle: We put these top-tier multi-stylers to the test,” CNN, April 24, 2023 (accessed: <a href="https://www.cnn.com/cnn-underscored/reviews/shark-flexstyle-vs-dyson-airwrap">https://www.cnn.com/cnn-underscored/reviews/shark-flexstyle-vs-dyson-airwrap</a> ) |
| EX2038             | “I Finally Know How to Style My Hair Thanks to the Shark FlexStyle,” Marie Claire, March 2024 (accessed: <a href="https://www.marieclaire.com/beauty/shark-flexstyle-review/">https://www.marieclaire.com/beauty/shark-flexstyle-review/</a> )                                                 |
| EX2039             | DYSON_0037202-266 – Best of Beauty 2020                                                                                                                                                                                                                                                        |
| EX2040             | “The 20 Best Beauty Splurges of 2021,” Allure, September 15, 2021 (accessed: <a href="https://www.allure.com/gallery/best-of-beauty-luxury-beauty-product-winners">https://www.allure.com/gallery/best-of-beauty-luxury-beauty-product-winners</a> )                                           |
| EX2041             | DYSON_0037267-302 – The 20 Best Beauty Splurges of 2021                                                                                                                                                                                                                                        |

| <b>Exhibit No.</b> | <b>Description</b>                                                                                                                                                                                                                         |
|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| EX2042             | DYSON_0037591-620 – <i>Allure</i> Best of Beauty Awards 2023: Luxury & Splurges                                                                                                                                                            |
| EX2043             | DYSON_0130105-121 – Introducing Cosmo's First-Ever Hair Awards                                                                                                                                                                             |
| EX2044             | DYSON_0130030-059 – Summer Beauty Awards 2022                                                                                                                                                                                              |
| EX2045             | DYSON_0129693-710 – The High-Tech Beauty Tools We Geeked Out Over This Year – and Think You Will, Too                                                                                                                                      |
| EX2046             | DYSON_0129892-924 – Good Housekeeping's 2019 Beauty Awards                                                                                                                                                                                 |
| EX2047             | DYSON_0129954-971 – Women's Health Beauty Awards 2019: Meet the Winners                                                                                                                                                                    |
| EX2048             | DYSON_0130270-296 – Introducing The Women's Health 2021 Healthy Hair Awards Winners                                                                                                                                                        |
| EX2049             | DYSON_0037448-530 – Glamour Beauty Power List 2020                                                                                                                                                                                         |
| EX2050             | DYSON_0130131-164 – The 2020 Esquire Gadget Awards                                                                                                                                                                                         |
| EX2051             | DYSON_0130730-734 – The 2021 Gloss Angeles Awards Ceremony                                                                                                                                                                                 |
| EX2052             | DYSON_0129972-994 – The Harper's Bazaar Best of Beauty Awards 2022 Winners                                                                                                                                                                 |
| EX2053             | DYSON_0129833-848 - 2022 Hair Awards: The Best Products of the Year                                                                                                                                                                        |
| EX2054             | DYSON_0129805-819 - Hair Awards: The 31 Best Hair Products of 2023                                                                                                                                                                         |
| EX2055             | "#ELLEReveals: All The Products That Won At ELLE Beauty Awards 2022," Elle, November 15, 2022 (accessed: <a href="https://elle.in/elle-beauty-awards-2022-product-winners/">https://elle.in/elle-beauty-awards-2022-product-winners/</a> ) |
| EX2056             | DYSON_0130019-029 – TheBeauLife Beauty Awards 2022                                                                                                                                                                                         |

| <b>Exhibit No.</b> | <b>Description</b>                                                                                                                                                                                                                                                                           |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| EX2057             | DYSON_0130434-461 – Unveiling the Winners of the Tatler Beauty Awards 2022                                                                                                                                                                                                                   |
| EX2058             | DYSON_0130602-633 – The 27 Best Hair Styling Products and Tools of 2022                                                                                                                                                                                                                      |
| EX2059             | DYSON_0130324-355 – Best in Black Beauty Awards 2023: Hair                                                                                                                                                                                                                                   |
| EX2060             | DYSON_0129944-945 – Best Beauty Tools & Devices                                                                                                                                                                                                                                              |
| EX2061             | DYSON_0129644-665 – The Stylist Best Beauty Awards 2023: Haircare Winners                                                                                                                                                                                                                    |
| EX2062             | DYSON_0129711-717 – Cosmetic Executive Women (CEW) Honors the Best in Beauty                                                                                                                                                                                                                 |
| EX2063             | DYSON_0129782-793 – Bustle, 16 Makeup Hair & Skin Care Gifts That Will Thrill Your Favorite Beauty Lover                                                                                                                                                                                     |
| EX2064             | DYSON_0129799-804 – The Best Hair Hot Tools                                                                                                                                                                                                                                                  |
| EX2065             | DYSON_0130010-018 – Canstar Blue's Innovation Excellence Awards 2024                                                                                                                                                                                                                         |
| EX2066             | DYSON_0129824-832 – 2 Best Beauty Devices of 2023 Tried and Tested                                                                                                                                                                                                                           |
| EX2067             | “Sharper Image Revel Hair 6-in-1 Multi-Styler,” Sharper Image website (accessed: <a href="https://www.sharperimage.com/view/product/Sharper+Image+Revel+Hair+6-in-1+Multi-Styler/209383">https://www.sharperimage.com/view/product/Sharper+Image+Revel+Hair+6-in-1+Multi-Styler/209383</a> ) |
| EX2068             | Disclosure of Amy Johnson                                                                                                                                                                                                                                                                    |
| EX2069             | Refurbished first-generation Dyson Airwrap™ styler Complete (Nickel/Fuchsai) (accessed: <a href="https://www.dyson.com/outlet/refurbished-hair-stylers/airwrap/complete/nickel-fuchsia">https://www.dyson.com/outlet/refurbished-hair-stylers/airwrap/complete/nickel-fuchsia</a> )          |

| <b>Exhibit No.</b> | <b>Description</b>                                                                                                                                                                                                                                                                                              |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| EX2070             | “Hair Styler   Soft Curls for Wavy Hair with the Shark FlexStyle™ .95” Auto-Wrap Curlers” Video (accessed: <a href="https://www.youtube.com/watch?v=kMKtGb2wWrk">https://www.youtube.com/watch?v=kMKtGb2wWrk</a> )                                                                                              |
| EX2071             | “How to Use the Shark Flexstyle – Shark Flexstyle Review” Video by Stacy Rody (accessed: <a href="https://youtu.be/aSmaPyE4HQQ">https://youtu.be/aSmaPyE4HQQ</a> )                                                                                                                                              |
| EX2072             | “Hair Styler   Soft Curls for Straight Hair (Shark FlexStyle™) Video (accessed: <a href="https://www.youtube.com/watch?v=rurcIIhIvmo">https://www.youtube.com/watch?v=rurcIIhIvmo</a> )                                                                                                                         |
| EX2073             | “How to create voluminous curls with the Dyson Airwrap™ styler” Video (accessed: <a href="https://www.youtube.com/watch?v=5IBhaI2JeEo">https://www.youtube.com/watch?v=5IBhaI2JeEo</a> )                                                                                                                        |
| EX2074             | “Dyson Airwrap™ Tutorial: A guide on how to get started with your Dyson Airwrap™ multi-styler” Video (accessed: <a href="https://www.youtube.com/watch?v=5Auip2NyP8A">https://www.youtube.com/watch?v=5Auip2NyP8A</a> )                                                                                         |
| EX2075             | “Winner of an Allure Best of Beauty Award 2023, Dyson Airwrap™ multi-styler and dryer Complete Long Nickel/Copper” (accessed: <a href="https://www.dyson.com/hair-care/hair-stylers/airwrap/complete-long-nickel-copper">https://www.dyson.com/hair-care/hair-stylers/airwrap/complete-long-nickel-copper</a> ) |
| EX2076             | “Dyson Airwrap™ multi-styler and dryer Complete Long Nickel/Copper” (accessed: <a href="https://www.dyson.com/hair-care/hair-stylers/airwrap">https://www.dyson.com/hair-care/hair-stylers/airwrap</a> )                                                                                                        |
| EX2077             | Portions of September 5, 2024 Carl Meinhart, Ph.D. Deposition (De-Designated Portions)                                                                                                                                                                                                                          |

**Introduction.** The Board limited Petitioners to addressing three narrow issues that Petitioners told the Board were “unanticipated.” But their Reply instead argues “new evidence” or “newly raised” arguments, not “unanticipated” ones. Reply at 1-2. Because the POPR was the first time that PO got to address the Petition, any argument or supporting evidence in the POPR was necessarily “new.”

And PO’s arguments were not “unanticipated.” Petitioners were absolutely aware of PO’s prior experiments with the Conair/Lindsey product from a foreign patent proceeding. POPR at 44-45 (citing EX2013, a video from a related Chinese nullity action). The revised allegation that “Patent Owner introduces *new evidence* that allegedly shows objective indicia of non-obviousness,” Reply at 2, is false because Petitioners were aware of secondary considerations evidence both from the marketplace and because the parties have litigated this patent and related foreign patents. POPR at 6, 7, 69-84. Yet the Petition states only “[t]here are no secondary considerations of non-obviousness tied to the Challenged Claims.” *Id.*

The Reply ultimately abandons the “no evidence” approach, arguing instead that nexus was addressed in the Petition by five words: “tied to the Challenged Claims.” Reply at 4. This backfill misses the point. The Board told Petitioner to explain why “Petitioner asserts *it was not aware of* any secondary evidence that had a sufficient nexus to the challenged claims,” Board 10/11/24 authorization email, but the Reply makes only conclusory allegations about nexus. Reply at 4-5.

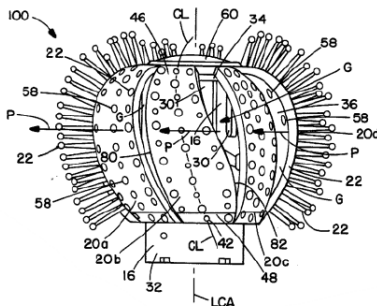
**Nothing In The Reply Or Petition Warrants Institution.** The Reply adds nothing that fixes the Petition's shortcomings as detailed in the POPR.

**1. Petitioner's Model.** The Reply argues that "Petitioner's Model was intended to *approximate* the slot structure of the Saito/Lindsey combination—not to reflect each and every nuance from Saito and Lindsey ...." Reply at 2. But there are several problems. First, the Reply contradicts the Petition, which stated that "*the model [ ] approximates the combination of Saito and Lindsey*, modifying Saito to use an array of vanes as taught by Lindsey, in place of Saito's bristle base, would have likewise resulted in a cylindrical attachment (as taught by Saito) with outlets formed between the adjacent vanes (as taught by Lindsey)." Petition at 33 (emphasis added); *see also* 40 ("model that approximates *the combination of Saito and Lindsey*"). Petitioners' expert later confirmed that the "model" was "intended to approximate *the overall structure and resultant air flow in such a combination.*" EX1003, ¶15 (emphasis added); ¶107 ("an example model that approximates a *cylindrical attachment (as taught by Saito) outfitted with vanes (as taught by Lindsey)*"). Petitioner nowhere stated that the "model" approximated only "slot structure." Thus, Dr. Meinhart's testimony (POPR at 56-57) showing flaws in the "model" is highly relevant -- just like the other evidence of other numerous flaws noted in the POPR (POPR at 41-55), which the Reply fails to address.

Second, and more importantly, if Petitioner's Saito/Lindsay "model"

intentionally omitted or changed aspects of the Saito/Lindsay combination or made other unannounced changes to the combination's structure (as the POPR showed in detail, and the Reply now concedes), then the "model" shows how the Saito/Lindsay combination fails to teach or suggest the claimed invention. The POPR demonstrated that Saito/Lindsay fails to teach or suggest all elements of any challenged claim, and the Reply confirms that the "model" included changes - none of which come from Saito or Lindsey, and which are contrary to their teachings as detailed in the POPR - in order to make a functional attachment.

**2. PO's Experiment.** The Reply argues that "[t]he POPR fails to show that the product it tested represents *every single embodiment and implementation* taught by the Lindsey patent." Reply at 3. But PO's expert testified otherwise. EX2001, n.4 ("I have not identified any material, relevant structural differences between Lindsey and the Conair Hot Air Round Combo Styling Brush..."). And the Lindsey embodiment in the Petition and the tested product are materially identical:



Petition at 20 (FIG. 11)



EX2001, ¶69 (showing EX2030)

The Reply also states that “the testing of Lindsey alone is irrelevant to the Saito/Lindsey combination.” But the Petition argued that Lindsey’s vanes are used “to provide slots for tangential air output” Reply 3-4. PO’s experiment with the Lindsay embodiment proves Lindsay lacks tangential air output, POPR at 36-40, which is also consistent with PO’s expert’s conclusions based on the Lindsey patent itself. POPR at 29-36; EX2001, ¶¶57-68. Petitioners do not rely on Saito to show “tangential air output” or “encouraging hair to wrap,” because Saito is silent on these. Reply at 3-4, Petition at 26-29. Notably, the Reply also criticizes PO’s experiment because it used a “Conair blower from the 1990s ... whereas the model in the Petition was tested using a *modern blower* that generates significantly more airflow.” Reply at 4. But this is yet another admission that confirms that Petitioners’ “model” did not replicate any prior art -- instead using a “modern blower” not contemplated by Saito or Lindsey (which were from the 1990s).

**3. Secondary Considerations.** The Reply argues that “[t]he Petition stated that no evidence presented by Patent Owner has *a sufficient nexus* to the Challenged Claims.” Reply at 4. A quick review confirms the Petition said no such thing. Petition at 89. The word “nexus” never appears. And the POPR demonstrated several indicia, included 6 claim charts, and cited mounds of evidence to support the indicia and nexus to the claims. POPR at 63-84. PO established nexus via both the “coextensive” (*Fox Factory* Step 1) and “direct

result of the unique characteristics of the claimed invention” (*Fox Factory* Step 2) tests. The Reply fails to discuss this evidence or even discuss why the Board should not find nexus, particularly for *Fox Factory* Step 2.<sup>1</sup> Reply at 4-5.

Finally, Petitioner's belated attempt to rebut PO's "unanticipated" secondary considerations evidence should be rejected because Petitioners admittedly contemplated at least some of this evidence (commercial success), but their expert failed to analyze or discuss it. EX1003, ¶253; POPR at 66-68.

**Conclusion.** The Reply fixes none of the defects in the Petition, nor refutes anything in the POPR. PO respectfully submits that this IPR should not be instituted for at least the reasons set forth in the POPR.

Dated: October 22, 2024

Respectfully Submitted,

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<sup>1</sup> The Reply at 5 focuses only on the coextensive test, erroneously stating: "Patent Owner's evidence focuses only on the Airwrap product generally and fails to establish that the Airwrap is coextensive with the Challenged Claims."

**Patent Owner's Sur-Reply**  
**IPR2024-00993**

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Patent Owner's Sur-Reply has been served via electronic mail upon the following:

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Dated: October 22, 2024

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