

[REDACTED - PUBLIC VERSION]

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SINCLAIR PHARMA LIMITED, SINCLAIR PHARMA US, INC., VIORA,
INC., EMA AESTHETICS, LTD., AND AESTHETIC MANAGEMENT
PARTNERS, LLC AND AESTHETIC MANAGEMENT PARTNERS, INC.,

Petitioners,

v.

HYDRAFACIAL LLC

Patent Owner.

Case No. IPR2025-00145
U.S. Patent No. 11,865,287

SECOND DECLARATION OF KARL R. LEINSING, MSME, PE

I declare that all statements made herein on my own knowledge are true and that all statements made on information and belief are believed to be true, and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Dated: August 25, 2025

By: 
Karl R. Leinsing, MSME, PE

Karl R. Leinsing
2025.08.25 19:47:53
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I. SECONDARY CONSIDERATIONS OF NON-OBVIOUSNESS

A. HydraFacial Is Entitled to a Presumption of a Nexus Between the Claimed Invention and the Objective Evidence of Secondary Considerations

1. I have been informed by counsel that a nexus is presumed between the claimed invention and the objective evidence of secondary considerations of non-obviousness when the product embodies the claimed invention and is coextensive with it.

2. I have been asked to evaluate whether certain of HydraFacial's products meet the limitations of the claims of the '287 Patent. Specifically, I have been asked to provide expert analysis on whether HydraFacial's Syndeo, Elite, Allegro, and Tower systems (collectively, "the HydraFacial Practicing Systems" or "HydraFacial Systems") embody the claims of the '287 Patent and are coextensive with them to establish a presumed nexus for purposes of secondary considerations. I have analyzed the relevant aspects of each of the HydraFacial Systems in light of the claims of the '287 Patent.

3. As set forth in detail below, it is my opinion that the HydraFacial Systems meet every limitation of the claims of the '287 Patent and therefore embody the claims. As I additionally explain below, it is my opinion that the HydraFacial Systems are coextensive with those claims.

B. The HydraFacial Systems Meet Every Limitation of the Claims and therefore Embody the Claimed Invention

1. Practice of Claim 1

4. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of claim 1 of the '287 Patent.

5. Claim 1 recites as follows:

1. A system for treating skin, the system comprising:
a console configured to receive a first container and at least one additional container;
a handpiece configured to contact skin tissue of a subject; and
a block in the console, wherein the block is:
configured to selectively receive fluid from the first container when the first container is connected to the console;
configured to selectively receive fluid from the at least one additional container when the at least one additional containers is connected to the console; and,
configured to selectively be in fluid communication with the handpiece through a first conduit when the handpiece is connected to the console;
a vacuum source, wherein the console comprises the vacuum source; and
wherein the handpiece is configured to be in fluid communication with the vacuum source through a second conduit when the handpiece is connected to the console;
wherein when the handpiece, the first container, the at least one additional container and a waste container are each connected to the console, the first container contains a first treatment fluid, and the at least one additional container contains an additional treatment fluid, the handpiece is in fluid communication with the vacuum source and the waste container through the second conduit; and
the system is configured to deliver the first treatment fluid contained in the first container and the additional treatment fluid contained in the at least one additional container to the handpiece sequentially.

I address each limitation of this claim below.

a. 1[pre]: “A system for treating skin, the system comprising:”

6. In my opinion, each of the Syndeo, Elite, Allegro, and Tower is “a system for treating skin.”

7. The Syndeo IFU, for example, describes the Syndeo as a “System [that] is intended to abrade (exfoliate) the upper layers of the Skin.” Ex. 2030 at 4. The Syndeo IFU also describes a step of the treatment by stating, “Place tip against skin to occlude and dab skin solution onto skin.” *Id.* at 19.

8. I also confirmed that the Syndeo is “a system for treating skin” after examination of a Syndeo device. Below is a photo of the Syndeo device taken during my inspection of the device:



Ex. 2107.

9. The Elite System also meets this limitation. The Elite IFU, for example, describes the Elite as a “System [that] is intended to abrade (exfoliate) the upper layers of the skin.” Ex. 2031 at 4; *see also* Ex. 2100.

10. I also confirmed that the Elite is “a system for treating skin” after examination of an Elite device. Below is a photo of the Elite device I inspected:



Ex. 2074.

11. The Allegro IFU, for example, describes a system that is “intended to abrade the upper layers of the skin by operator controlled motion, in order to smooth

the skin surface and improve the appearance of skin, i.e. fine lines and wrinkle.” Ex. 2032 at 4.

12. I also confirmed that the Allegro is “a system for treating skin” after examination of an Allegro device. Below is a photo of the Allegro device I inspected:



Ex. 2075.

13. The Tower System also meets this limitation. The Tower Owner’s Manual describes the Tower as a “revolutionary breakthrough in aesthetic technology” that performs a process that “removes dead skin cells and impurities

while simultaneously infusing the new skin with cleansing, hydrating and moisturizing serums and antioxidants.” Ex. 2125 at 3.

14. I also reviewed photographs and videos of a Tower device to confirm my understanding that the Tower is “a system for treating skin.” An image from one of the videos I reviewed is shown below:



Ex. 2151 at 2

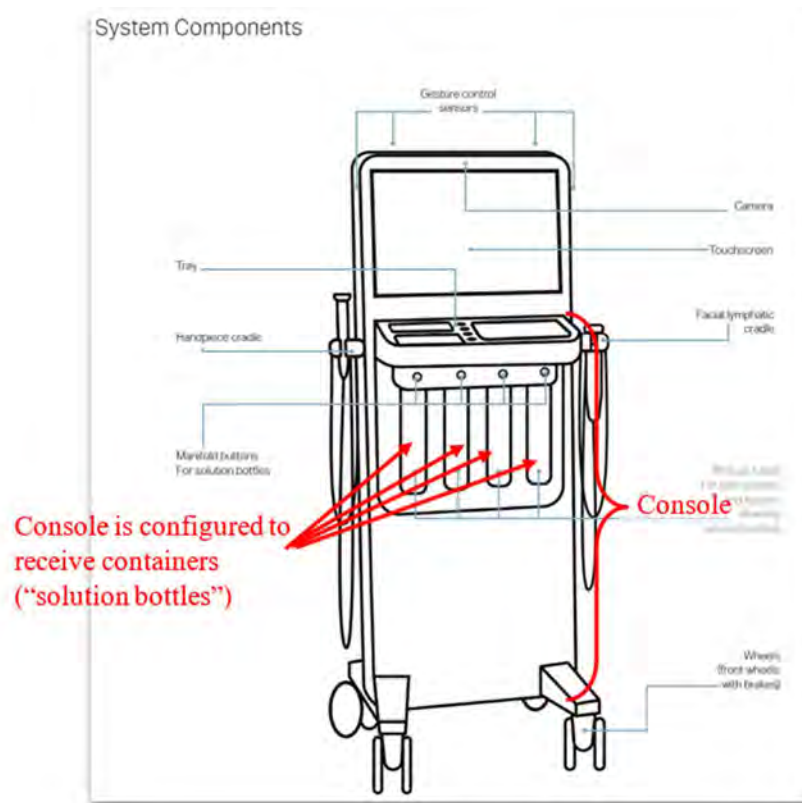
15. Accordingly, it is my opinion that this limitation is satisfied by each of the Syndeo, Elite, Allegro, and Tower.

- b. 1[a]: “a console configured to receive a first container and at least one additional container;”**

16. In my opinion, each of the Syndeo, Elite, Allegro, and Tower has “a console configured to receive a first container and at least one additional container.”

17. Each of the Syndeo, Elite, Allegro, and Tower comprises a console under the term’s plain and ordinary meaning.

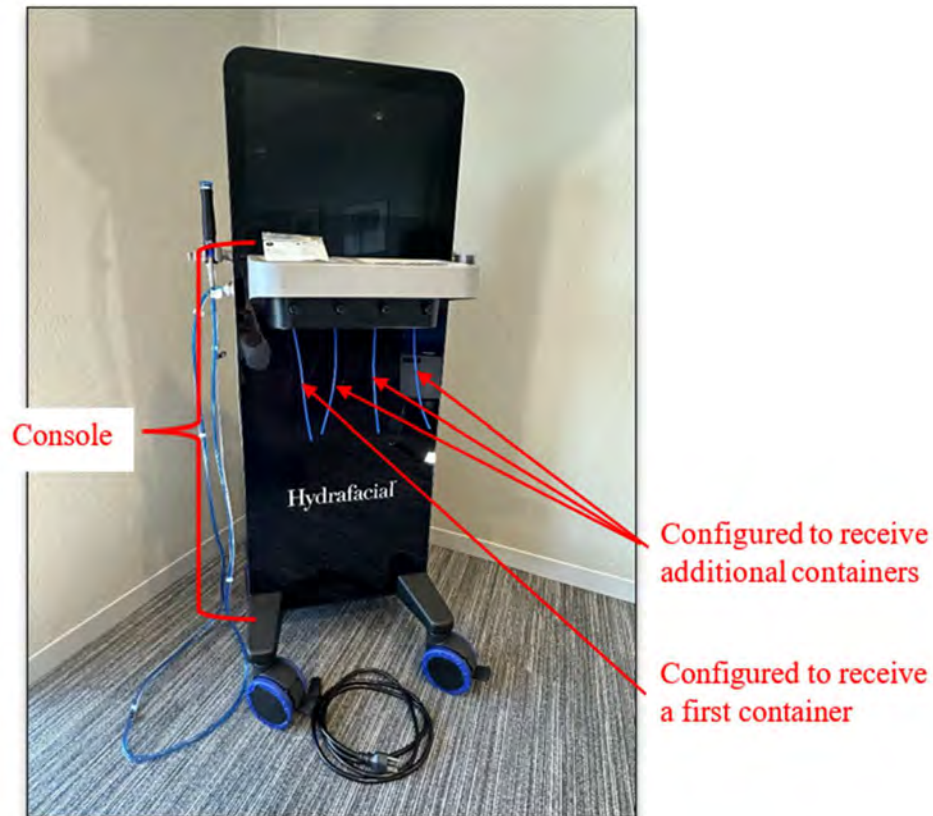
18. I have reviewed the Syndeo IFU, which depicts the Syndeo, including a console:



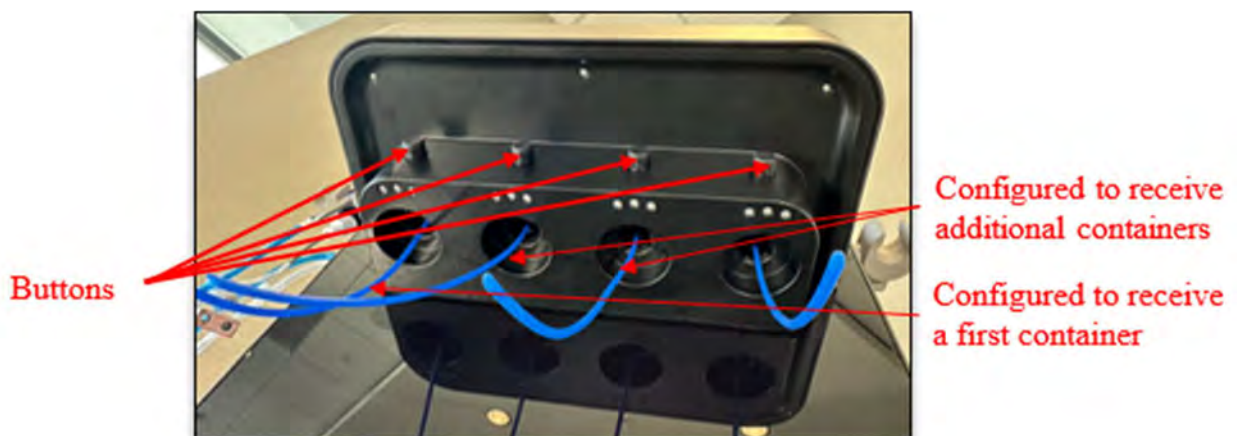
Ex. 2030 at 10. As can be seen in the image above, the console is configured to receive a first container, as well as two additional containers.

19. My inspection of the Syndeo confirmed that the Syndeo has a console configured to receive a first container and at least one additional container. Below

is an image of the Syndeo device I inspected, showing the Syndeo console configured to receive a first container and at least one additional container:

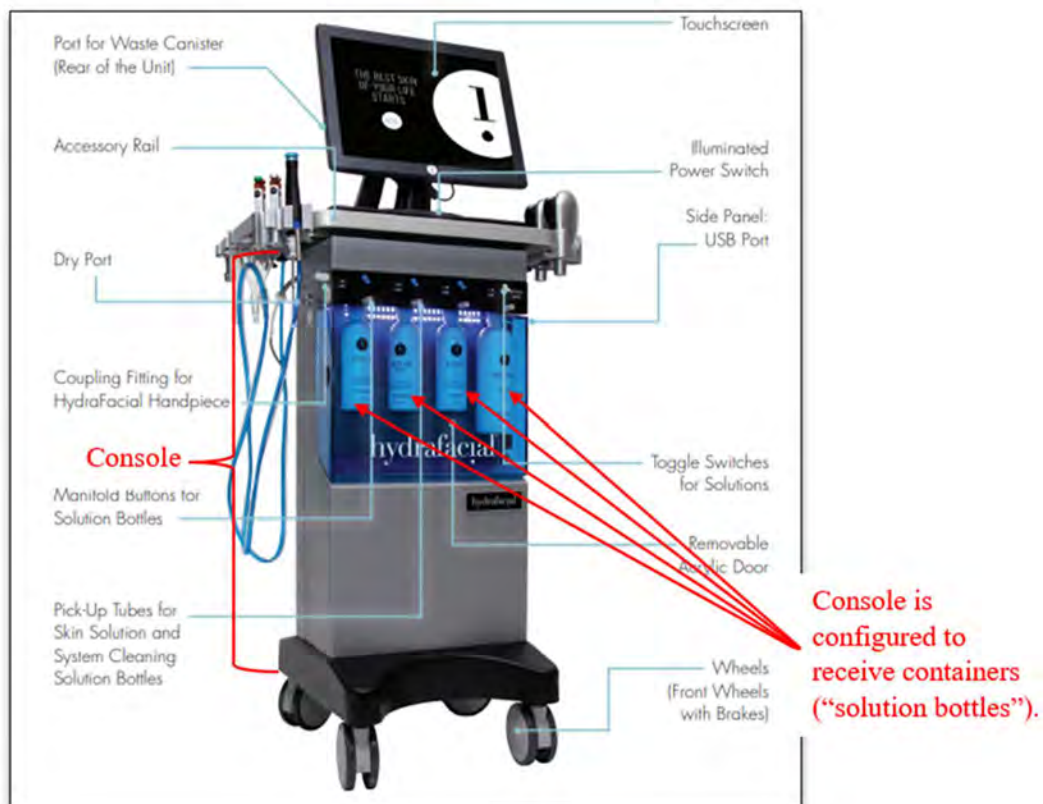


Ex. 2107. The console can receive the containers when a user depresses buttons corresponding to respective containers.

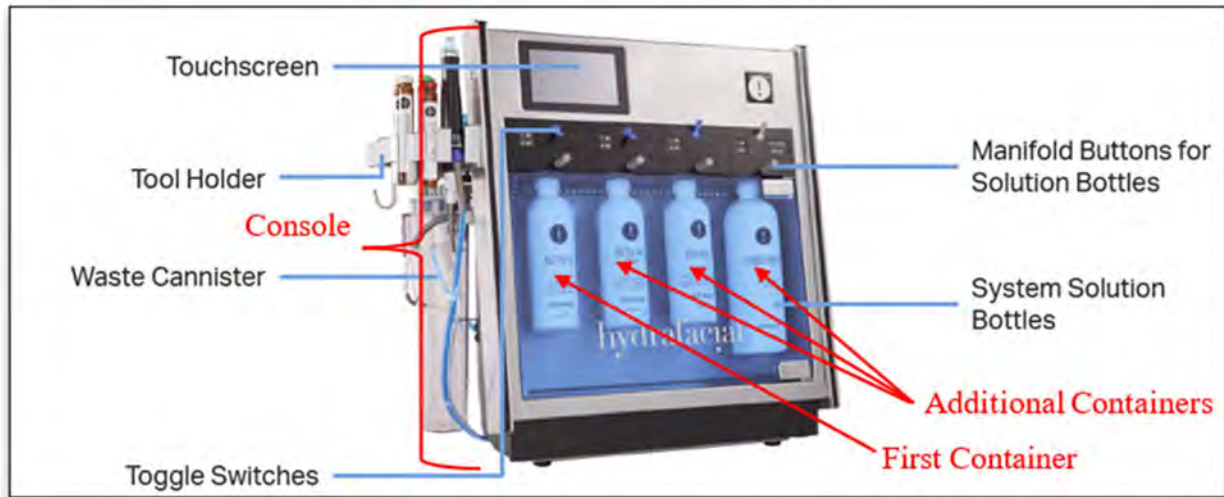


Ex. 2137.

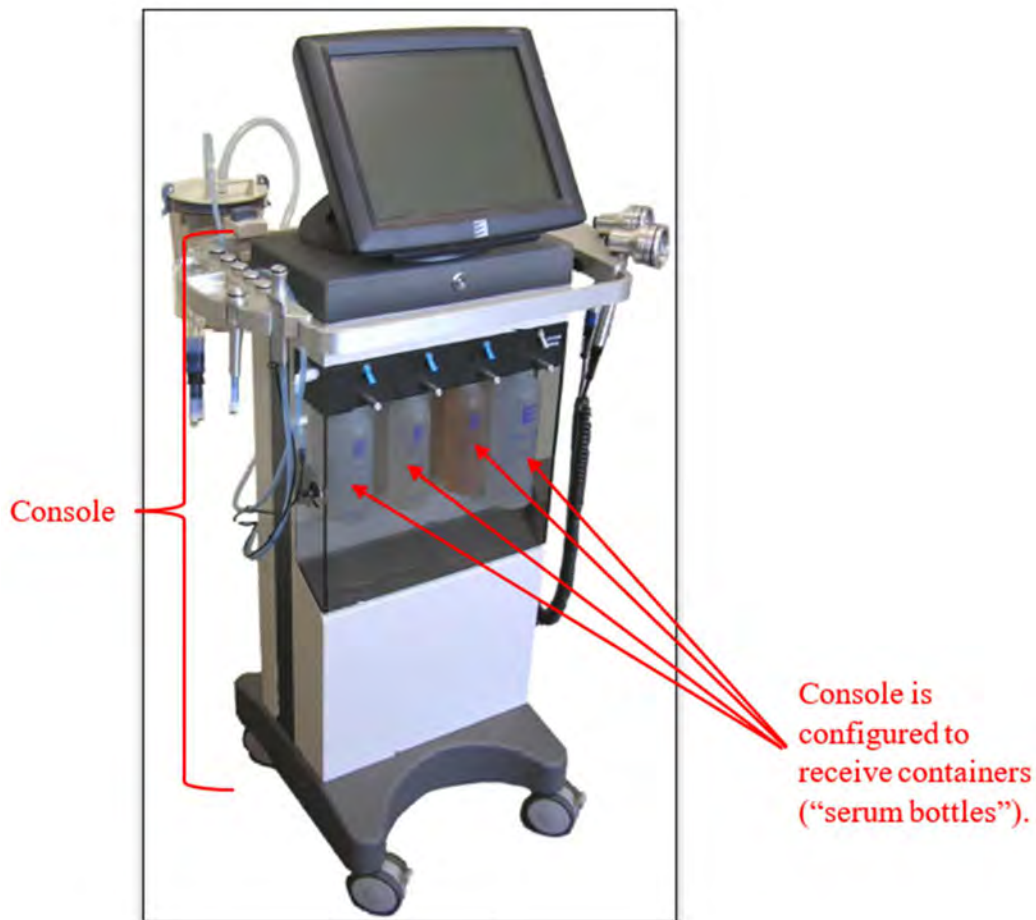
20. I have also reviewed the Elite IFU, Allegro IFU, and Tower Owner's Manual, each of which depicts their respective device as a system and console configured to receive a first container and additional containers. Annotated images from the Elite IFU, Allegro IFU, and Tower Owner's Manual are included below:



Ex. 2031 at 10 (Elite IFU).



Ex. 2032 at 8 (Allegro IFU).

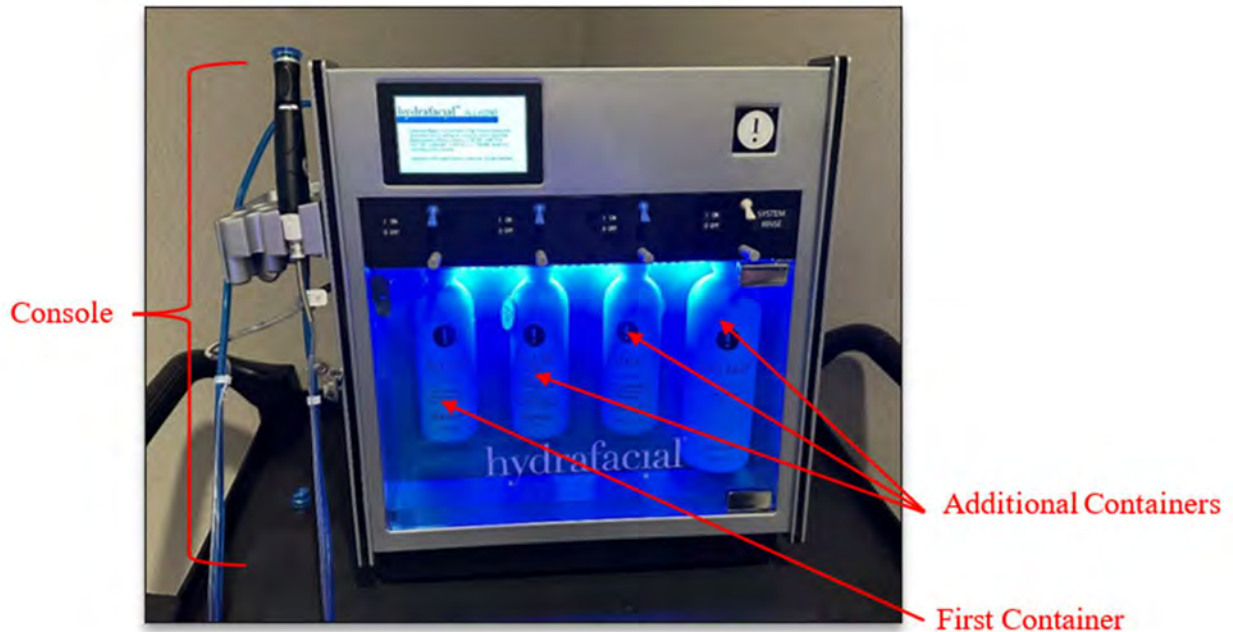


Ex. 2125 (Tower Owner's Manual).

21. My inspections of the Elite and Allegro confirmed that each of the Elite and Allegro has a console configured to receive a first container and at least one additional container. Below are images of the Elite and Allegro devices I inspected, showing the Elite and Allegro consoles, each configured to receive a first container and at least one additional container.



Ex. 2116 (Elite).



Ex. 2117 (Allegro).

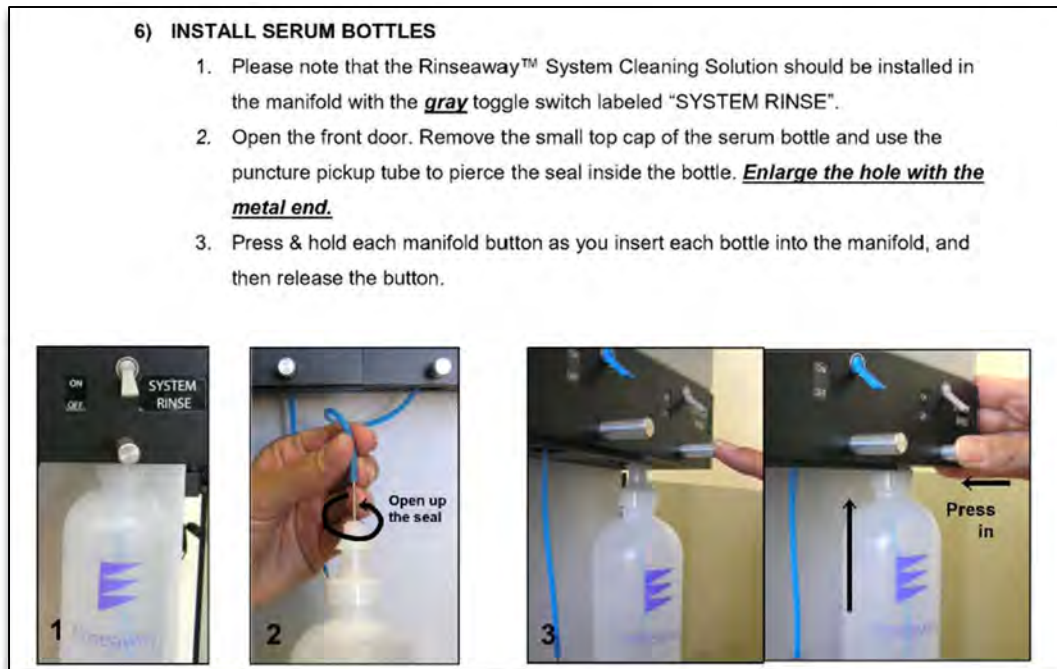
22. In addition, my review of videos and images of the Tower confirmed that it has a console configured to receive a first container and at least one additional container. Below is an image of a Tower device, showing that the Tower is configured to receive a first container and at least one additional container:



Ex. 2151 at 2.

23. As can be seen in the images above, the consoles for the Syndeo, Elite, Allegro, and Tower are each configured to receive a first container, as well as two additional containers.

24. Similarly, the Owner's Manual for the Tower provides guidance for how to "install" (connect) the serum bottles to the manifold [i.e. block], which is part of the console.



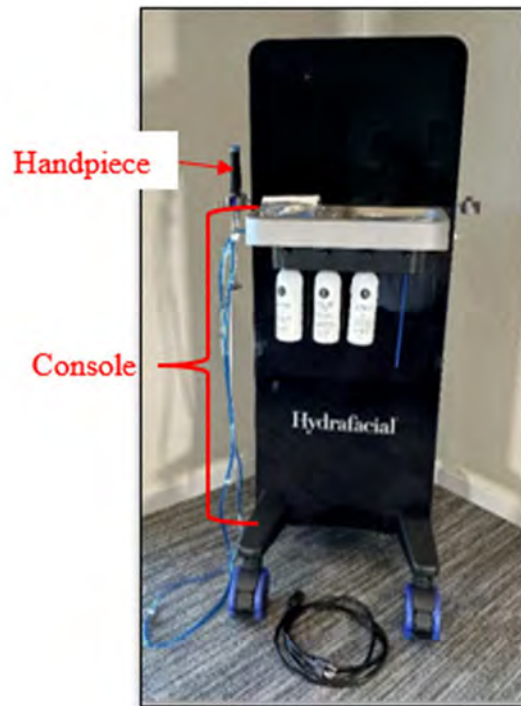
Ex. 2125 at 13.

25. Accordingly, it is my opinion that this limitation is satisfied by each of the Syndeo, Elite, Allegro, and Tower.

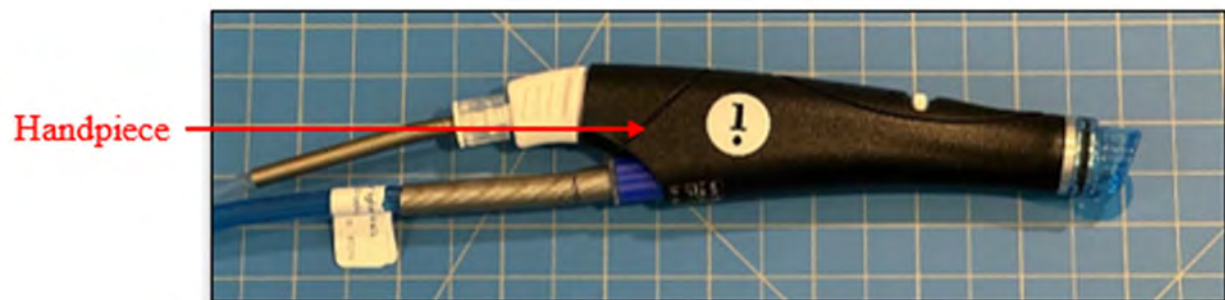
c. 1[b]: “a handpiece configured to contact skin tissue of a subject; and”

26. In my opinion, each of the Syndeo, Elite, Allegro, and Tower has “a handpiece configured to contact skin tissue of a subject.”

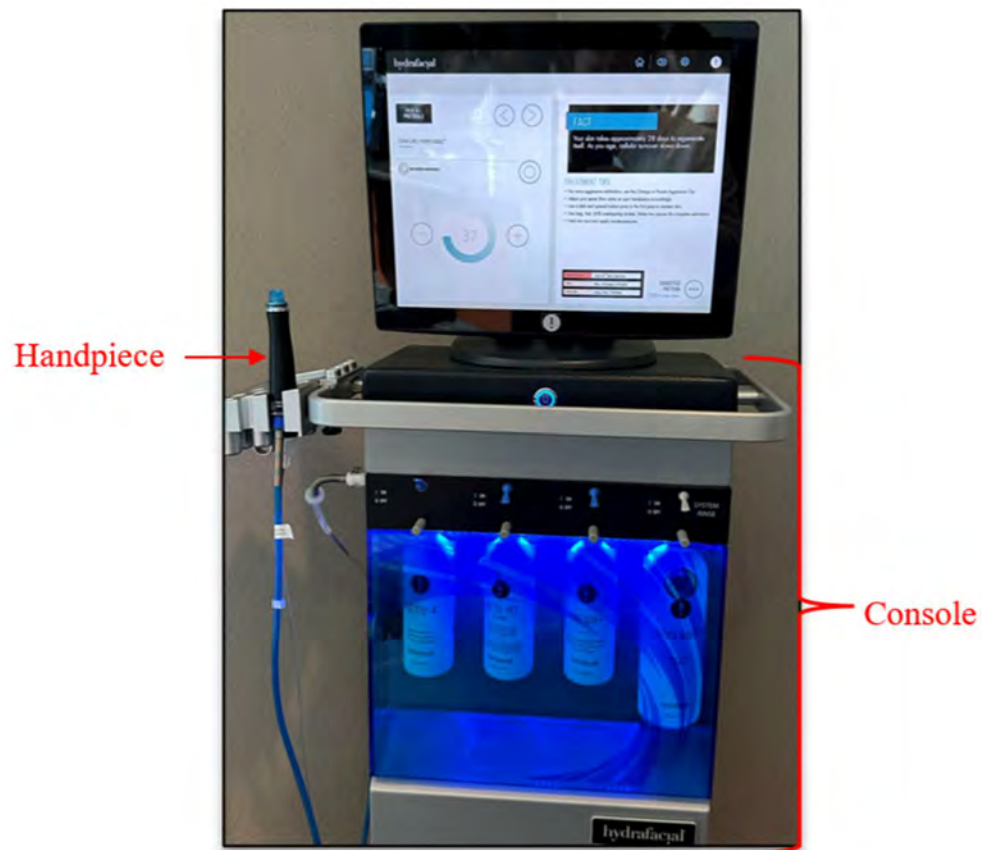
27. During my inspection of each of the Syndeo, Elite, Allegro, and Tower, I observed that each included a handpiece, as shown in the images below.



Ex. 2107 (Syndeo).



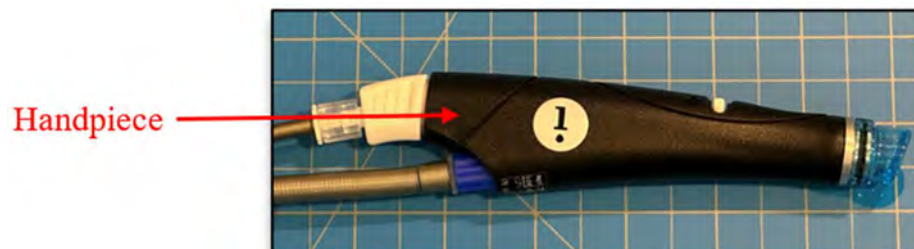
Ex. 2111 (Syndeo).



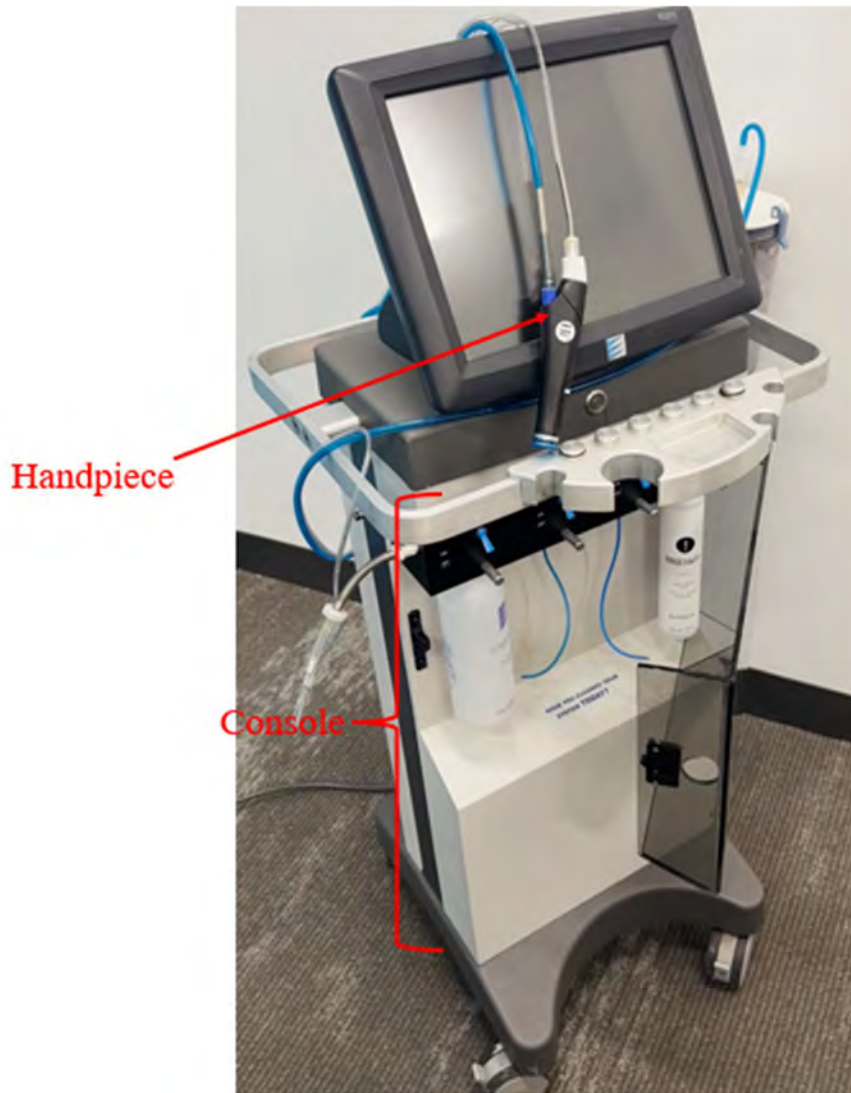
Ex. 2076 (Elite).



Ex. 2077 (Allegro).

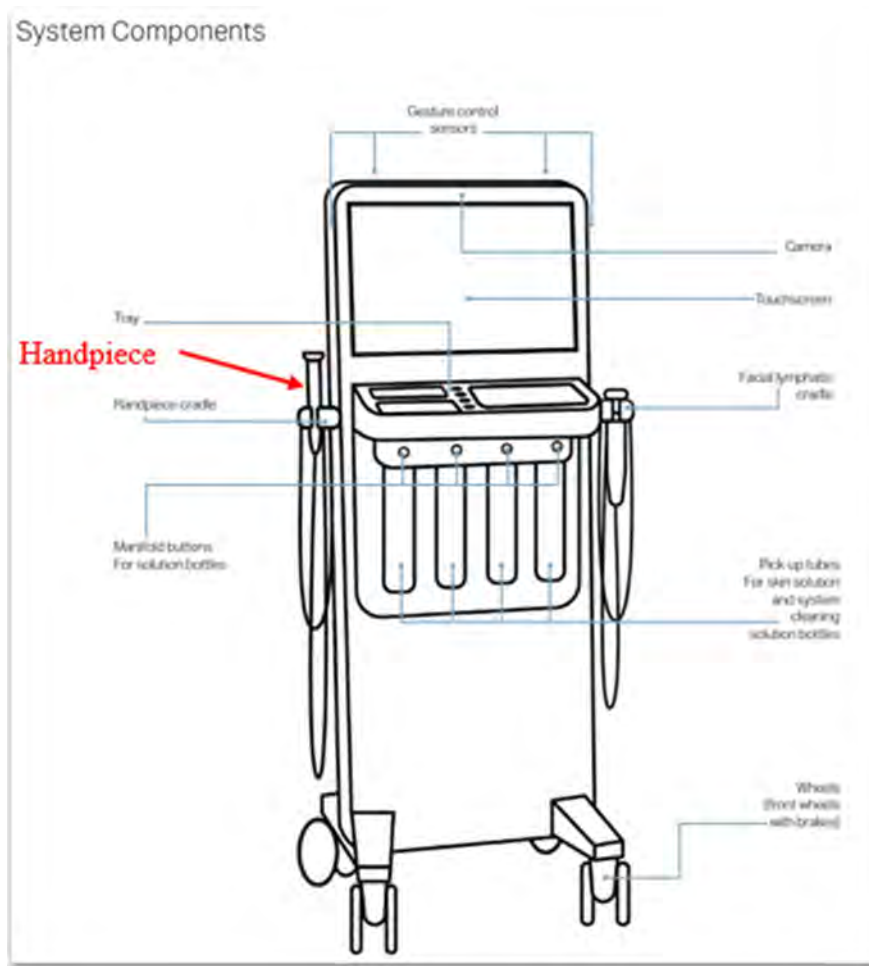


Ex. 2105 (Allegro).



Ex. 2151 at 2 (Tower).

28. In addition, the Syndeo User Manual the Elite IFU, Allegro IFU, and Tower Design File History confirm that each of the four devices includes a handpiece configured to contact skin tissue.



Ex. 2030 at 10. The Syndeo IFU explains that the handpiece is used to contact the skin tissue of a subject, instructing the user to “[p]lace a tip on the handpiece,” and “[p]lace tip against skin to occlude and dab skin solution onto skin.” *Id.* at 19.

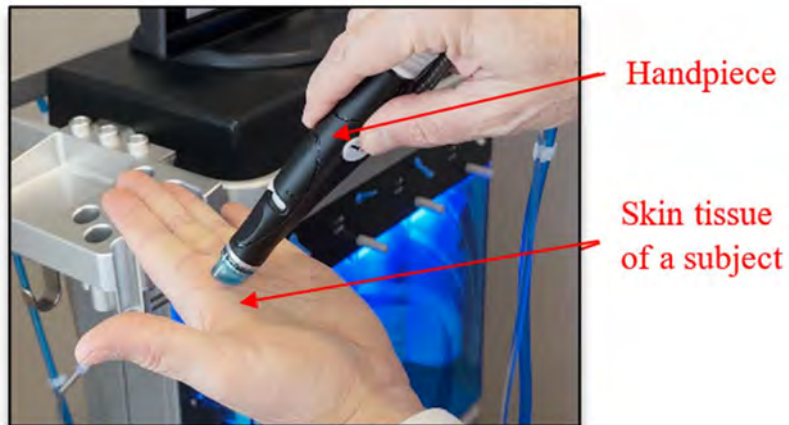
29. The Elite IFU, Allegro IFU, and Tower Design File History each also explains that the handpiece is used to contact the skin tissue of a subject. *See* Ex. 2031 at 17 (Elite IFU instructing user to “place tip against skin to occlude and dab skin solution on face. To exfoliate, do overlapping strokes from the center of face outwards. Make two passes.”); *see also* Ex. 2034 at 4 (Allegro Handpiece IFU

instructing user “[w]hen applying the handpiece to the skin, place index finger over the indented surface.”).

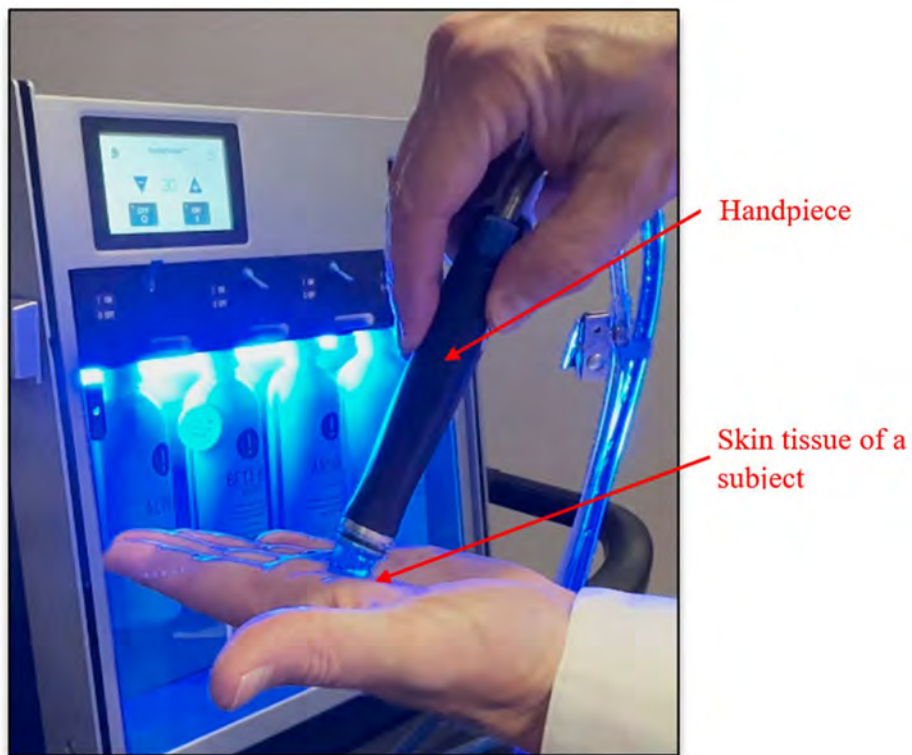
30. For all four devices, in operation, the handpiece is intended to be held in the hand and placed in contact with the skin, as confirmed by videos of the devices in operation. A screenshot from the video shows the handpiece in contact with skin tissue. From this, I concluded the handpiece is configured to contact skin tissue of a subject, as shown below.



See Ex. 2078 at 1 (Syndeo).



Ex. 2079 at 3 (Elite).



Ex. 2146 (Allegro). Given the similarity between the Tower handpiece and Allegro and Elite handpieces, I have concluded that the Tower handpiece would similarly contact the skin tissue of a subject, similar to the images above.

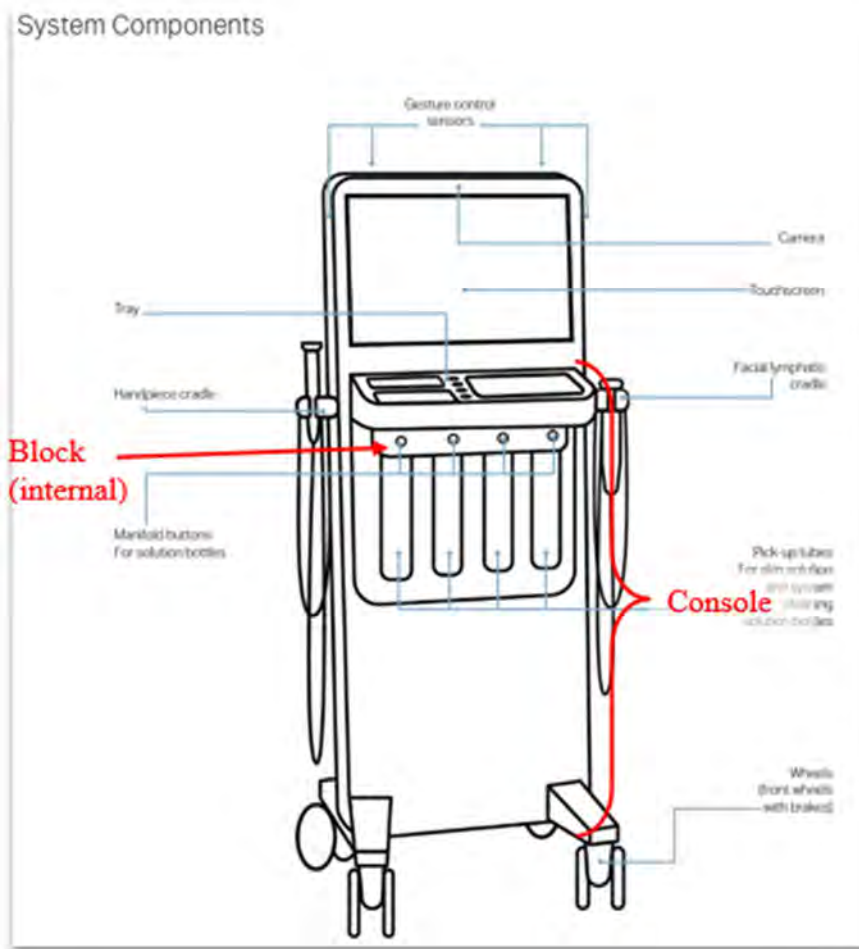
d. 1[c][i]“a block in the console, wherein the block is:”

31. In my opinion, each of the Syndeo, Elite, Allegro, and Tower has “a block in the console.”

32. I understand that during the ITC Investigation, the ALJ held the term “block” to be indefinite. I also understand that during the ITC Investigation, HydraFacial proposed that the term “block” should be given its plain and ordinary meaning. I also understand that HydraFacial proposed, and I agree, that, if “block” is given an express construction, it should be construed to mean “an object with substantially flat sides.” I have applied this construction below.

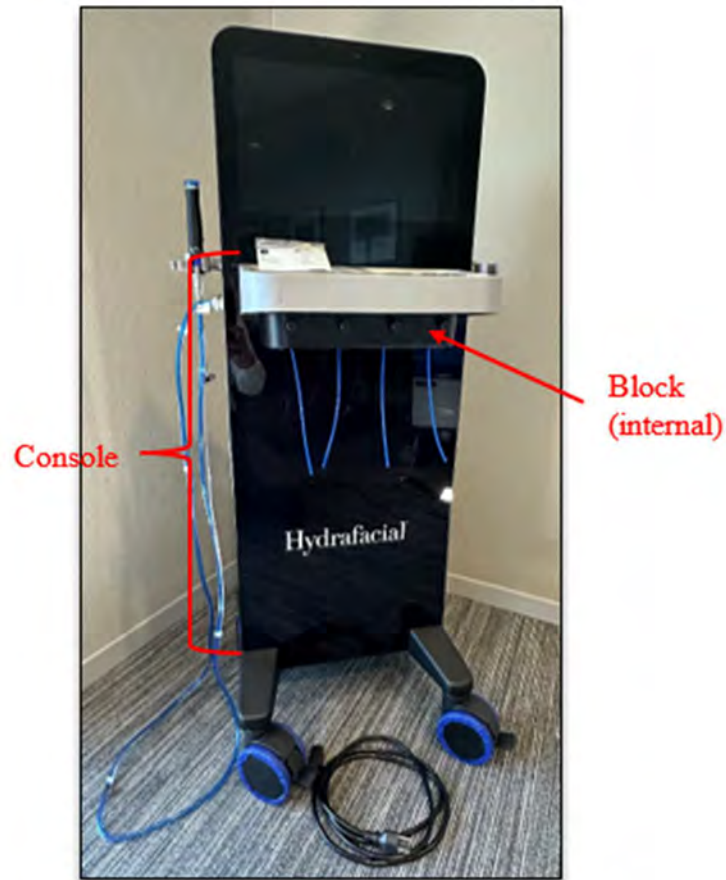
i. Syndeo

33. The Syndeo IFU contains an illustration of the console with system components. I have provided an annotated version of this illustration, identifying the location of the internal block located within the console.



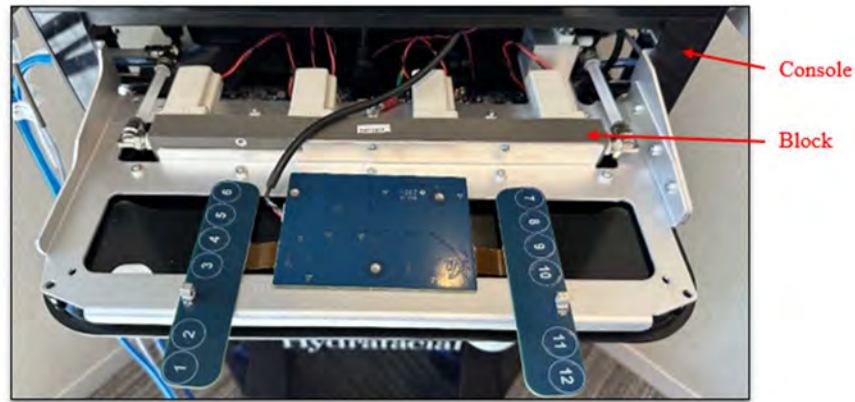
Ex. 2030 at 10.

34. In addition, during my inspection of the Syndeo device, I confirmed that the Syndeo system includes an internal block in the console of the device. An annotated photograph below shows the location of the internal block in the console:



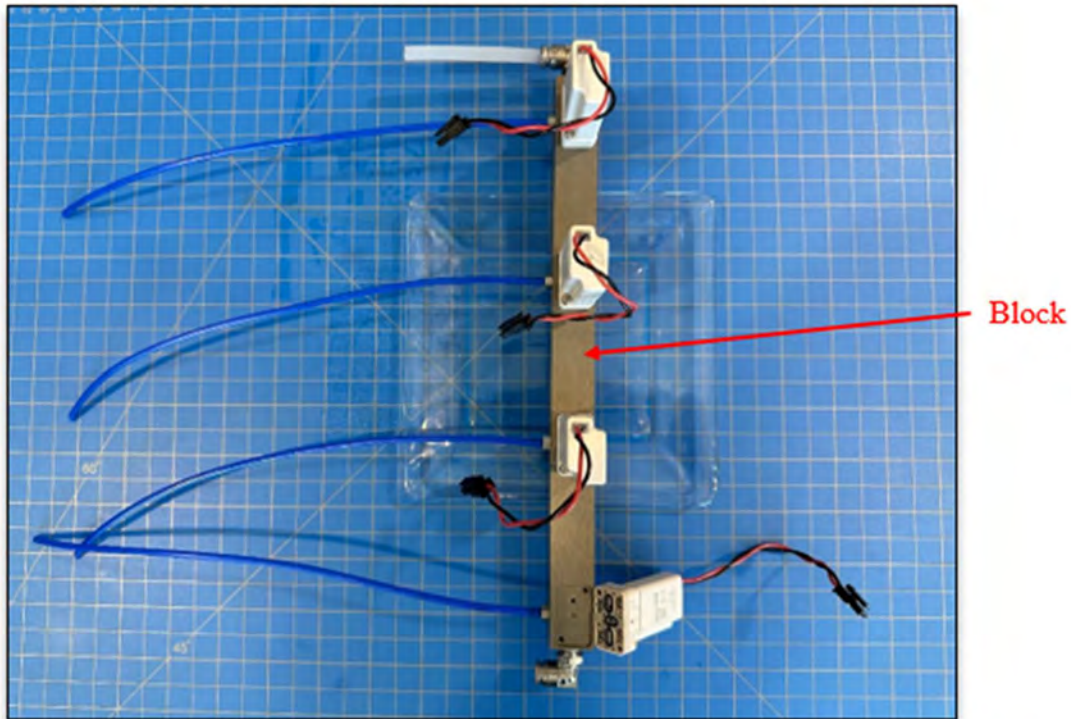
Ex. 2081.

35. As part of my inspection of the Syndeo, I opened the console. In the console, I observed the internal block located in the console – that is, a part with substantially flat sides. An annotated image of the block in the console of the Syndeo system is included below:



Ex. 2085.

36. As part of the disassembly of the Syndeo, I observed the block in detail when removed from the console of the Syndeo system. The below photo depicts the block when removed from the Syndeo console.

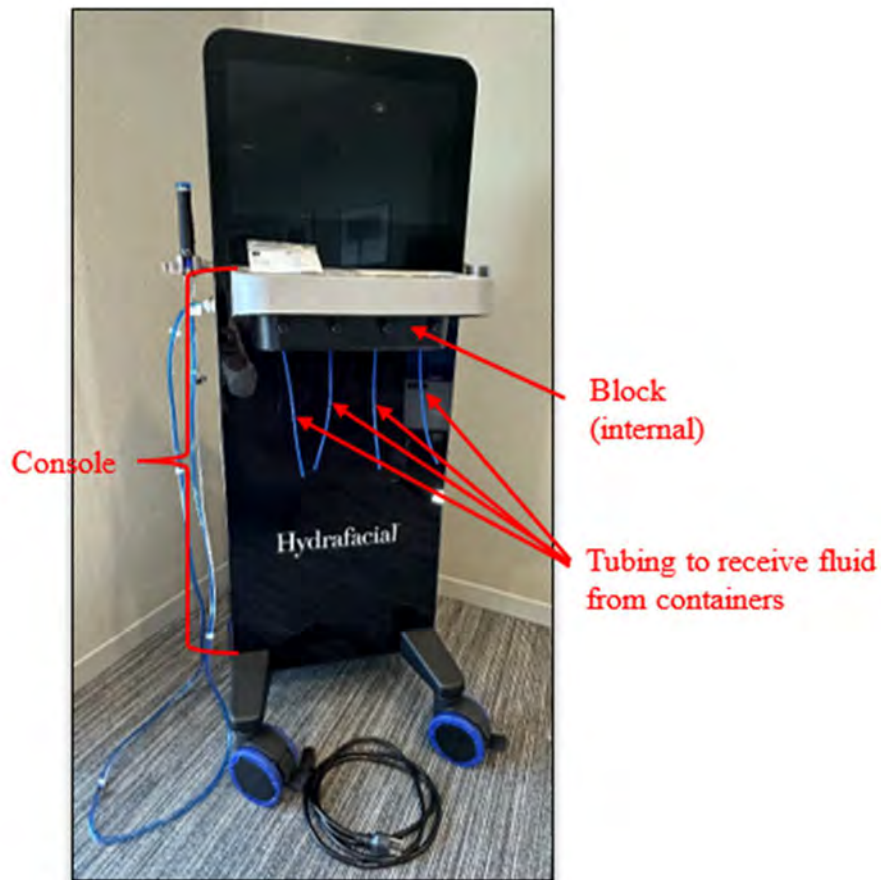


Ex. 2080.

- (a) **1[c][ii]: “configured to selectively receive fluid from the first container when the first container is connected to the console”**

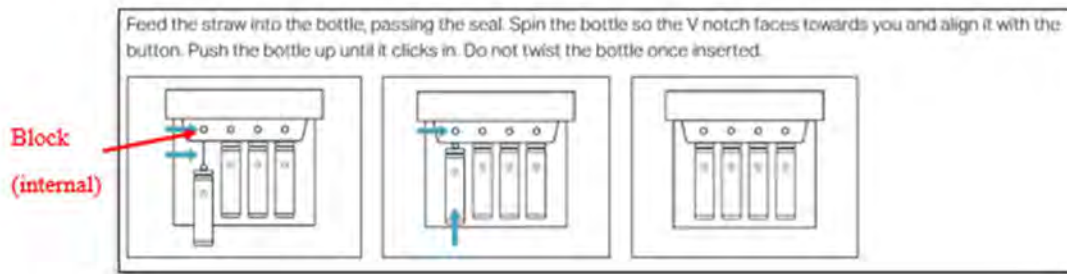
37. In my opinion, the Syndeo has “a block in the console that is configured to selectively received fluid from the first container when the first container is connected to the console.”

38. My inspection of the Syndeo confirms that tubing extends from the “block” into the first container and additional container. The below images show the tubing which extends from the block into the first container and additional containers:



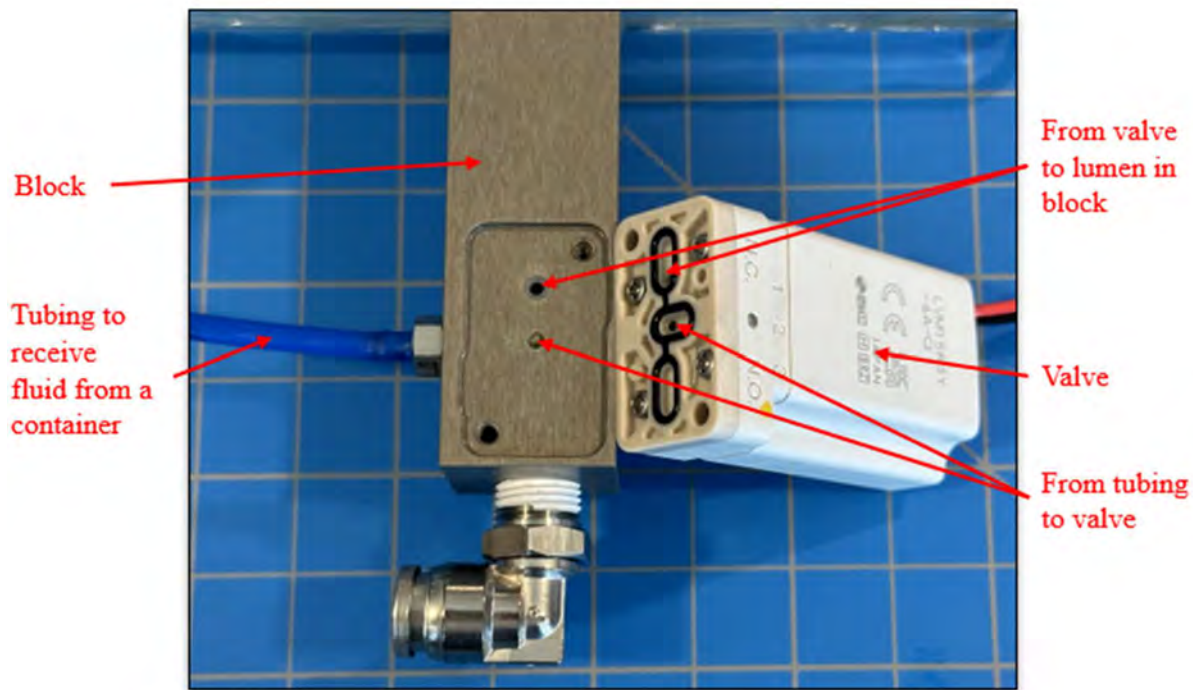
Ex. 2081. As can be seen in the above image, each container is connected to the console.

39. Images from the Syndeo IFU similarly confirm the connection between the block and the solution bottles:



Ex. 2030 at 13. The Syndeo IFU explains the Syndeo includes “solution bottle controls [] located on the bottom of the screen within the treatment steps,” and the system “automatically selects and deselects the recommended solution bottle based on the respective treatment step.” *Id.* at 14.

40. An inspection of the block, separated from the console, provides additional insight regarding how the block is configured to selectively receive fluid from the first container when the first container is connected to the console. During my inspection, I observed the tubing which receives fluid from containers extends to their respective serum valves. The serum valves control which fluid reaches a lumen in the block based on which container a user selects. I have provided an annotated image below depicting how the tubing connects to the block, and the necessary components, including the valve and lumen, which render the block configured to receive fluid from the containers.



Ex. 2084.

41. A POSA would have understood that the tubing shown in the image above allows the block to selectively receive fluid from the first container (or one of the additional containers), when the first container (or additional container) is connected to the console. I note that the selected container must be connected to the console in order to complete the closed system, as the vacuum suction will draw fluid through the tubing, through the block, and through the handpiece to the skin.

42. Accordingly, this limitation is satisfied by the Syndeo.

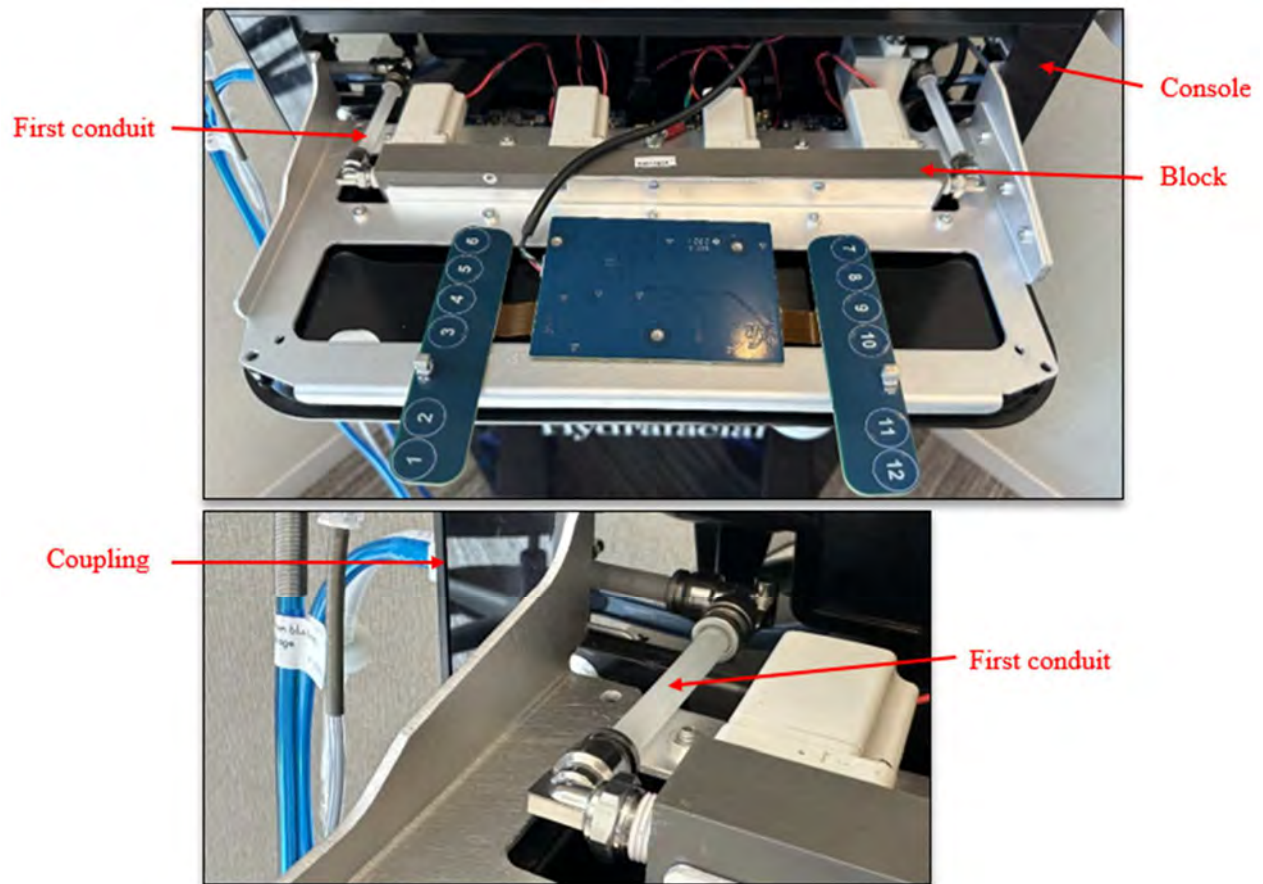
- (b) **1[c][iii]: configured to selectively receive fluid from the at least one additional container when the at least one additional containers is connected to the console; and**

43. This limitation is satisfied by the Syndeo for the same reasons set forth in limitation 1[c][ii] above.

(c) **1[c][iv]: configured to selectively be in fluid communication with the handpiece through a first conduit when the handpiece is connected to the console**

44. In my opinion, the Syndeo has “a block in the console that is configured to selectively be in fluid communication with the handpiece through a first conduit when the handpiece is connected to the console.”

45. Based on my inspection of the Syndeo, I have determined that the block is in fluid communication with the handpiece through a first conduit, as shown in the images below. As shown in the images below, the first conduit extends from the block, where it eventually meets a coupling location.

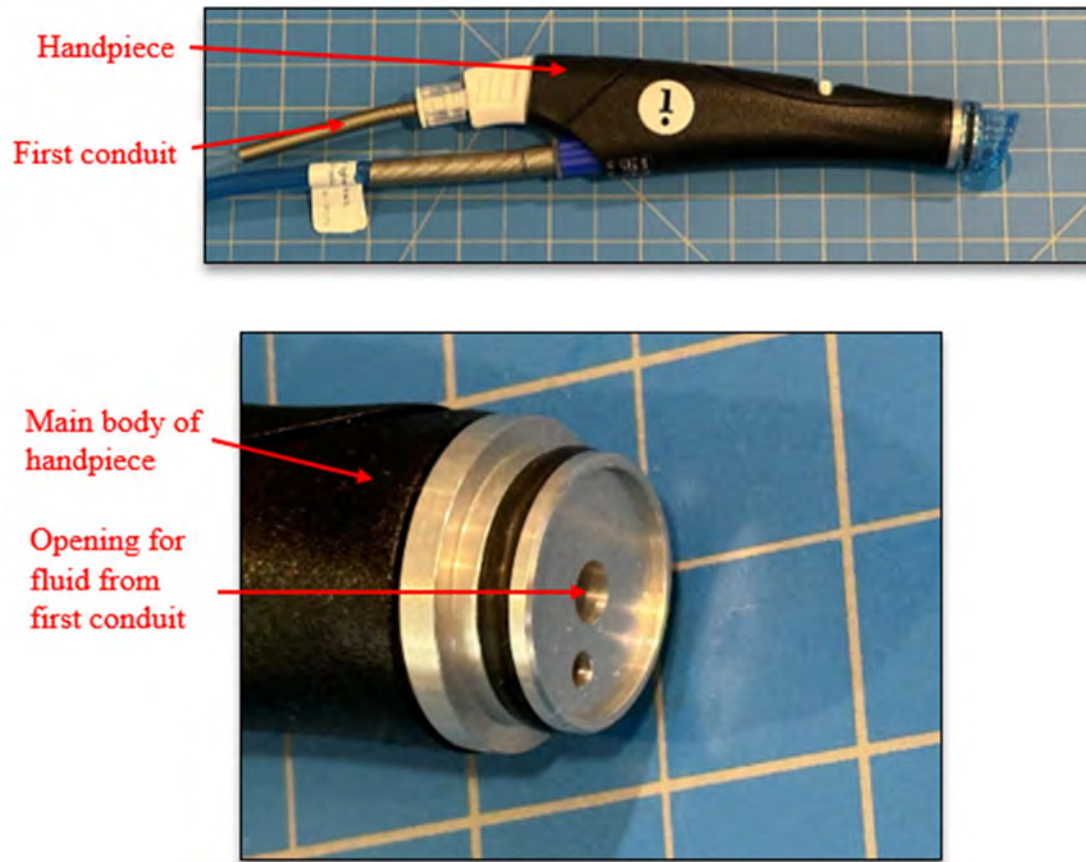


Ex. 2085; Ex. 2086. The first conduit continues through the tubing to the handpiece itself.



Ex. 2087.

46. As illustrated above, the tubing that connects to the handpiece contains the first conduit. This first conduit continues through the handpiece, to an opening in the main body of the handpiece. As designed, fluid flows from the containers, through the block and first conduit (including through the handpiece) and ultimately through the opening in the main body of the handpiece.

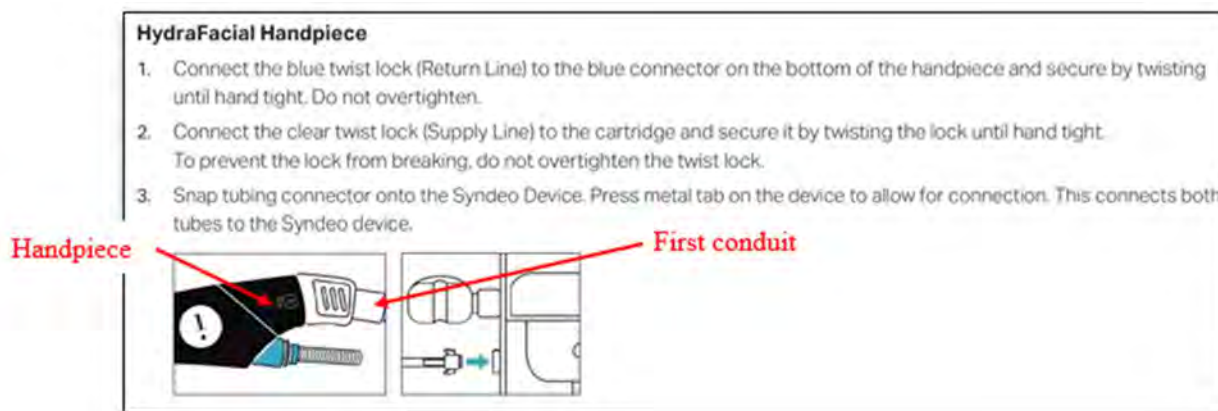


Ex. 2111; Ex. 2112.

47. The block is “selectively in fluid communication” through this first conduit in two ways. First, by selectively attaching a container. When a selected container is disconnected, the circuit cannot be completed and “fluid communication” ceases to exist between the block and the handpiece. Second, the handpiece can be selectively detached from the console. When detached, the circuit cannot be completed and “fluid communication” again ceases to exist between the block and the handpiece.

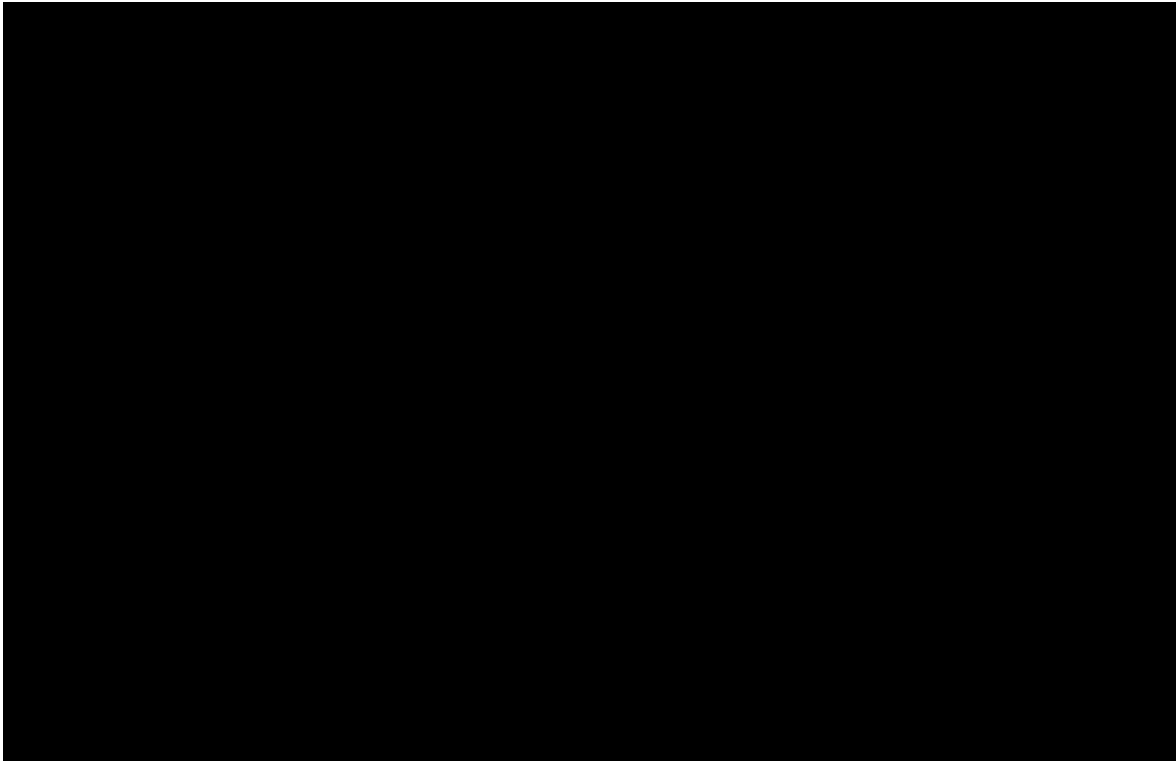
48. The Syndeo IFU confirms my understanding that the Syndeo has a block in the console that is configured to selectively be in fluid communication with the handpiece through a first conduit when the handpiece is connected to the console.

49. The Syndeo IFU describes to connecting the “Supply Line” between the handpiece and the console. I have annotated an image from the IFU below, identifying the handpiece and first conduit, and showing the supply line that connects the handpiece to the console.



Ex. 2030 at 12.

50. The Syndeo fluid schematic illustrates the fluid communication between the block and the handpiece. In the annotated image below the handpiece (“multiplatform handpiece”) is connected to the block through the first conduit (“fluid line”). The flow of fluid is illustrated from the containers, through the block, into the first conduit, and through the handpiece, using arrows to identify the direction of the flow of fluid.



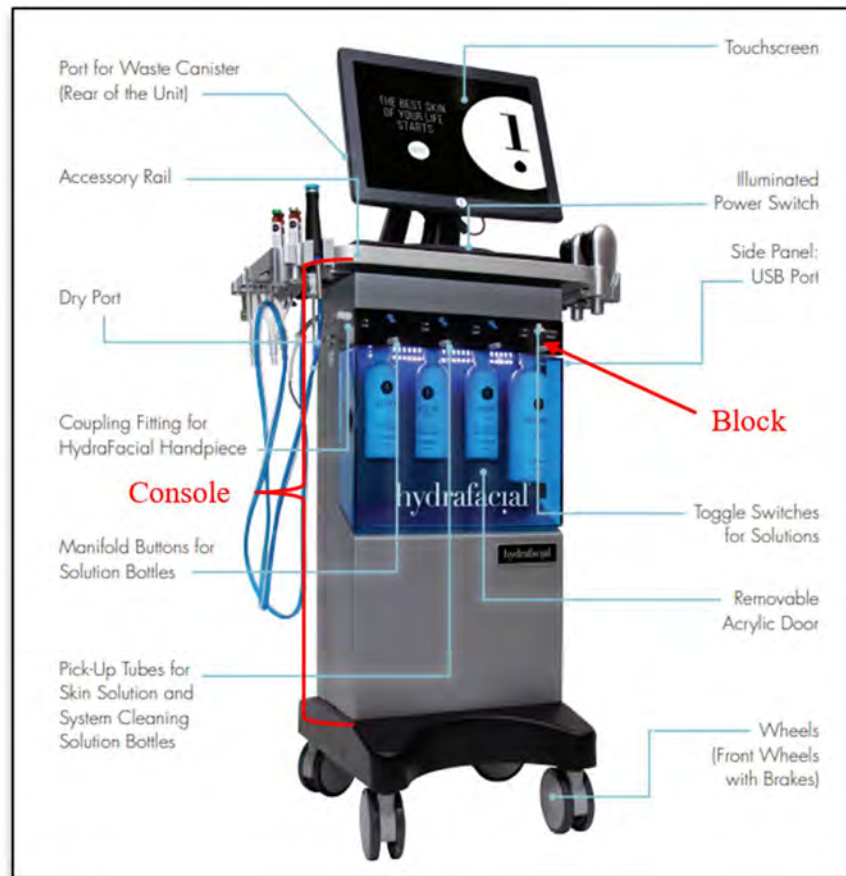
Ex. 2114; *see also* Ex. 2100.

51. A POSA would recognize that the Syndeo satisfies this limitation under the plain and ordinary meaning of “selectively be in fluid communication.”

52. Accordingly, this limitation is satisfied by the Syndeo.

ii. Elite, Allegro, & Tower

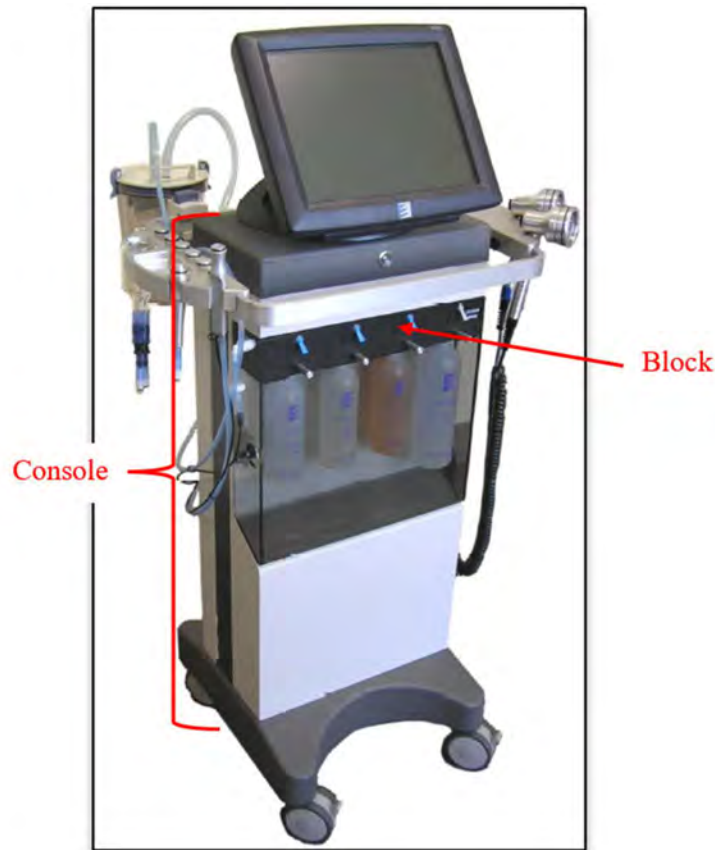
53. The Elite IFU, Allegro IFU, and Tower Owner’s Manual each contains an illustration of the console with system components. I have provided an annotated version of excerpts of these documents, identifying the location of the internal block located within the console for each of the Elite, Allegro, and Tower:



Ex. 2031 at 10 (Elite).

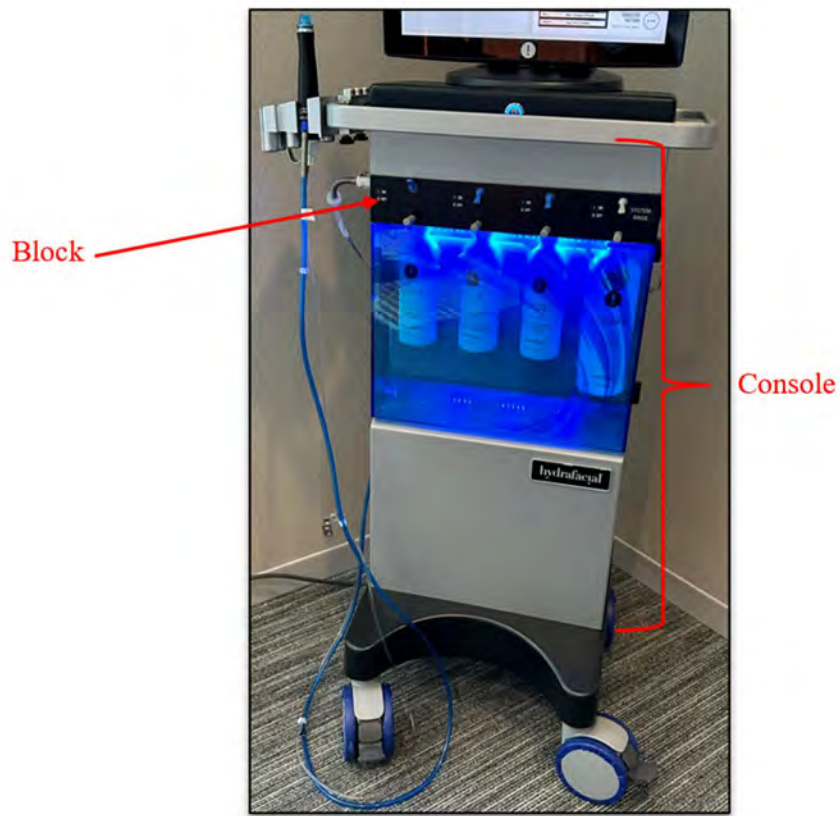


Ex. 2032 at 7 (Allegro).



Ex. 2125 at 1 (Tower); *see also id.* at 13 (Tower Owner’s Manual referring to the Block as the “manifold”).

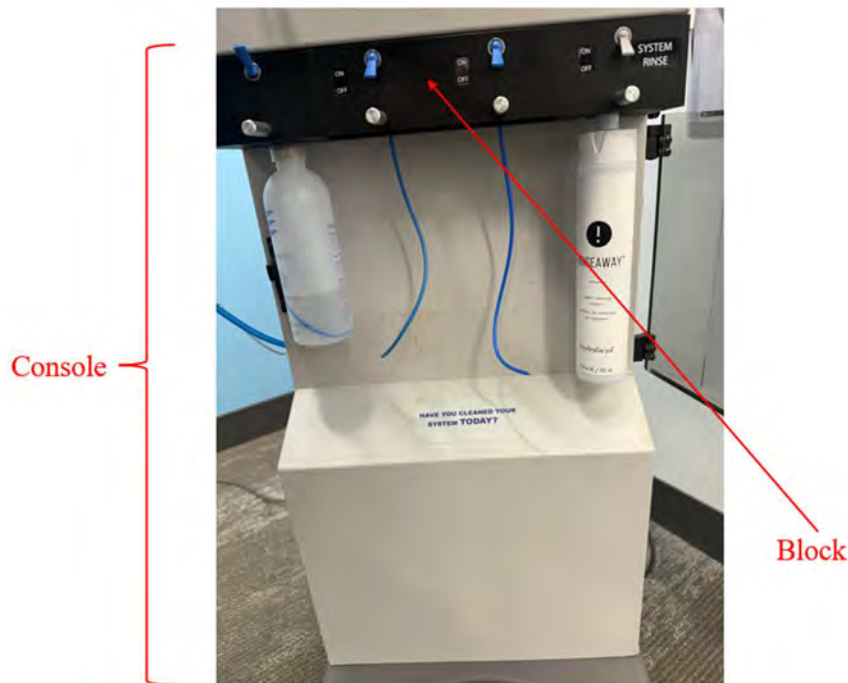
54. In addition, during my inspection of the Elite and Allegro devices, and review of photos and videos from the Tower, I confirmed that each system includes an internal block in the console of the device. An annotated photograph below shows the location of the internal block in the console:



Ex. 2093 (Elite).

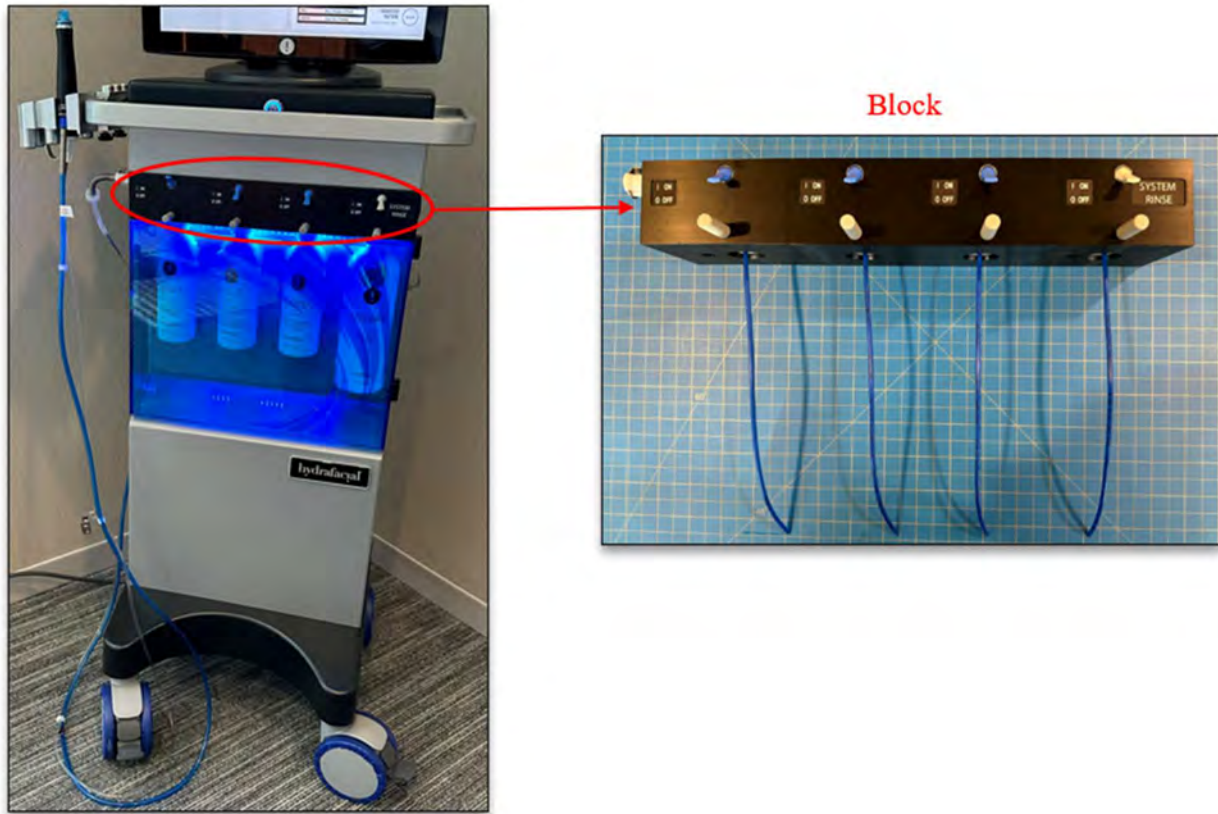


Ex. 2088 (Allegro).

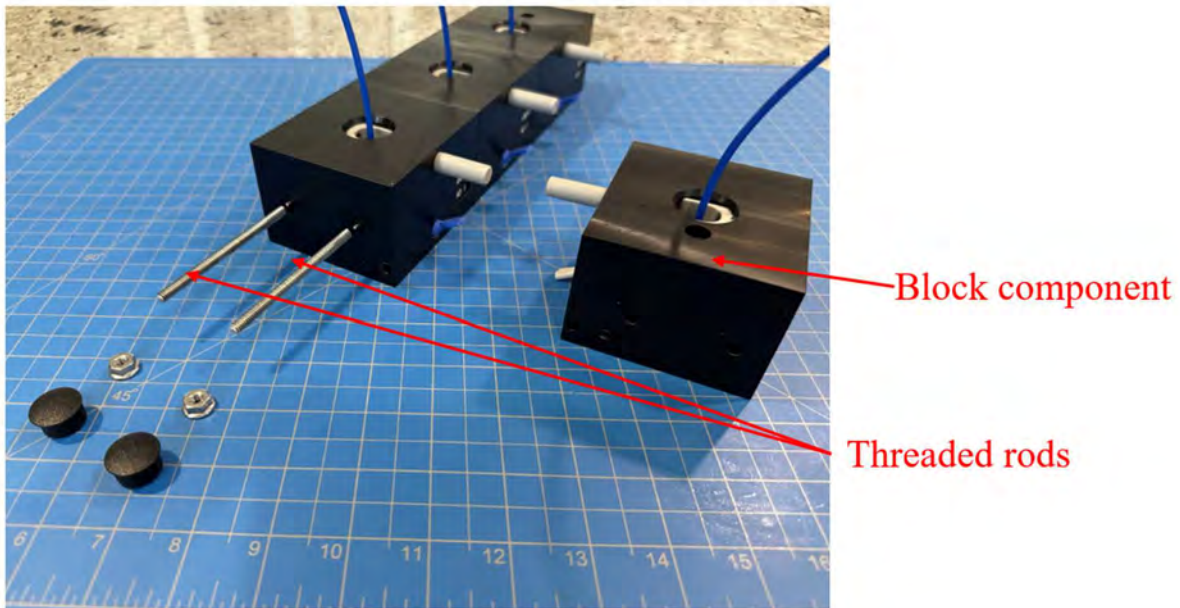


Ex. 2118 (Tower).

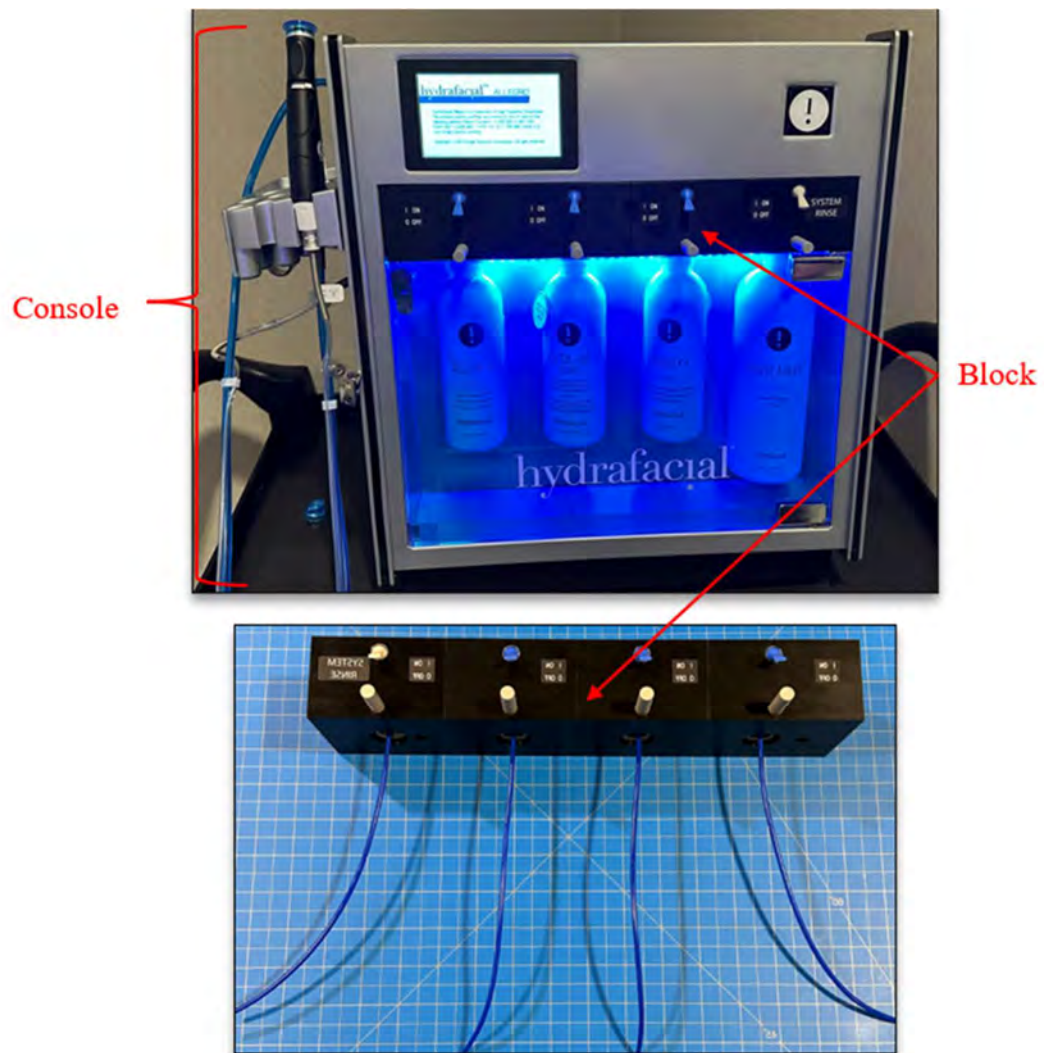
55. As part of my inspection of the Elite and Allegro, I removed the block from the console, and I observed the internal block located in the console – that is a part with substantially flat sides. I made similar observations from the images and videos of the Tower which I reviewed. The below photos accurately depict the block of the Elite, Allegro, and Tower, respectively when removed from the console:



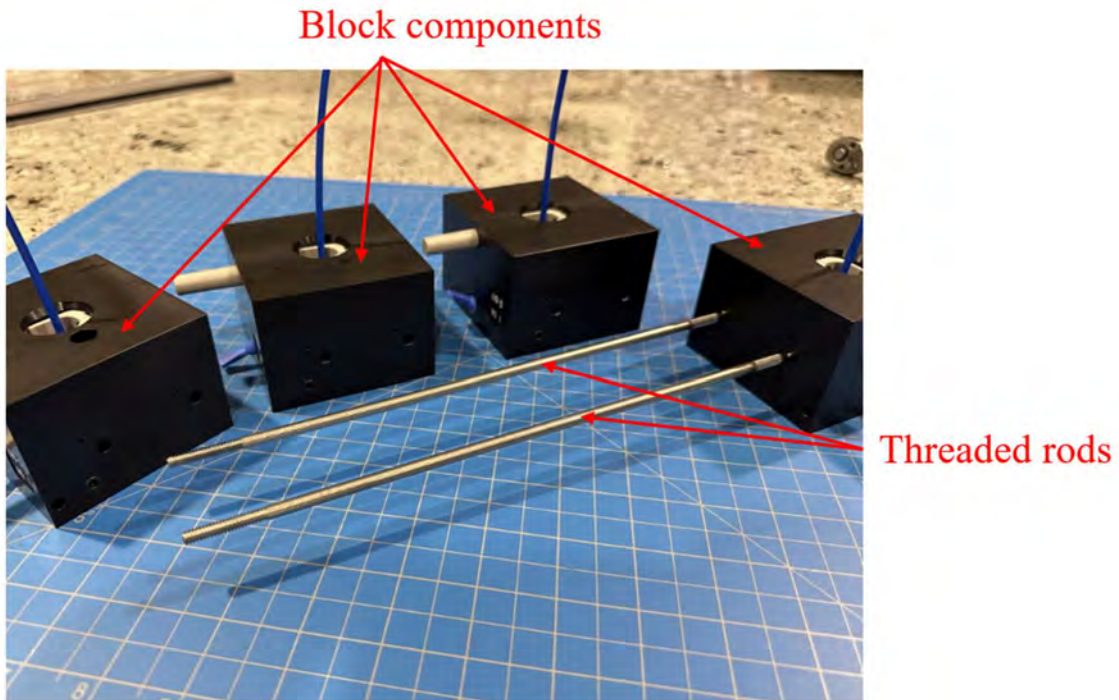
Ex. 2093; Ex. 2094 (Elite).



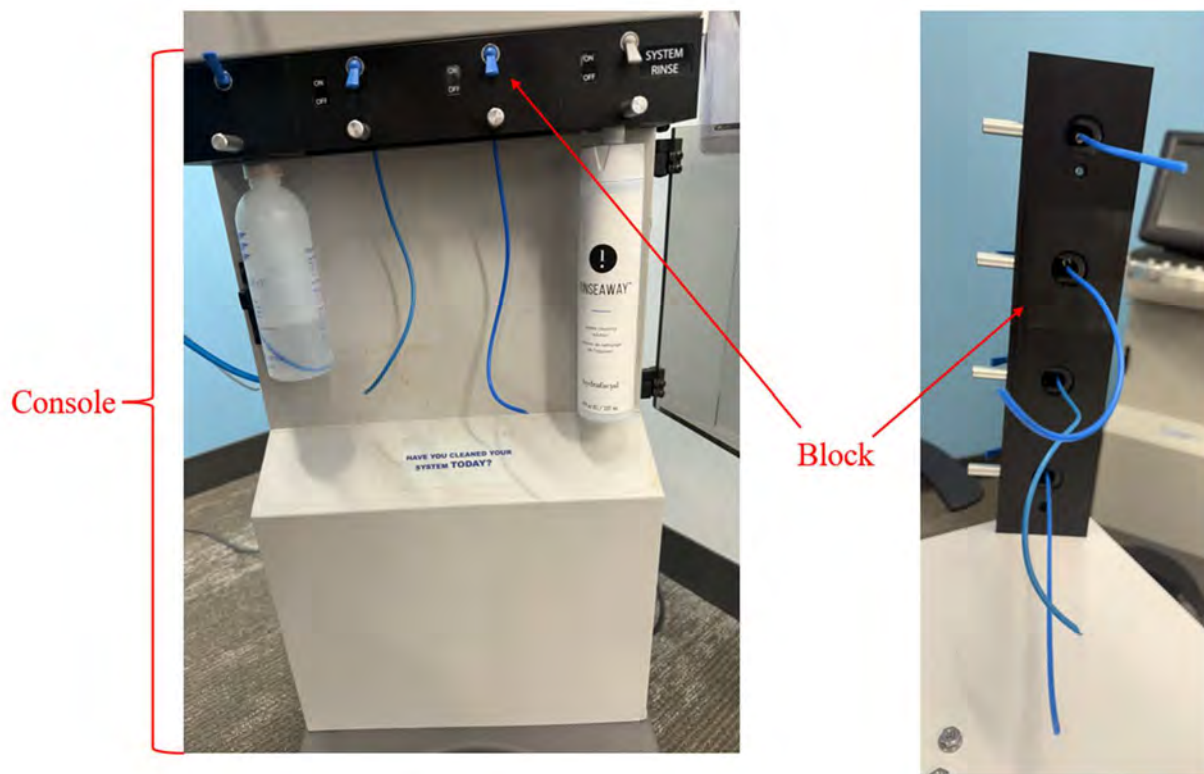
Ex. 2089 (depicting Allegro block comprised of individual components connected by two threaded rods running through the components).



Ex. 2088; Ex. 2095 (Allegro).

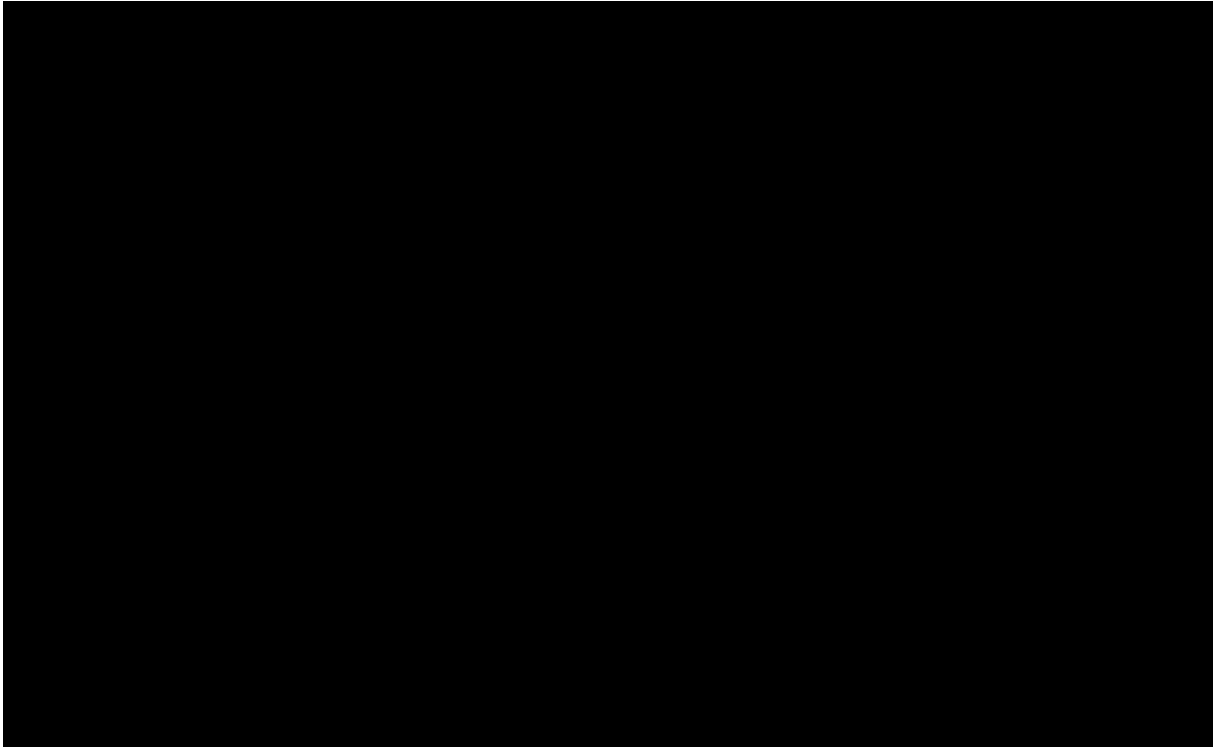


Ex. 2090 (image depicting Allegro block comprised of individual components that are connected together through two threaded rods running through the block); *see also* Ex. 2100.



Ex. 2118; Ex. 2092 (Tower).

56. The technical specifications for each of the Elite and Tower reaffirm the existence of a block in the console. As shown in the annotated technical drawing below, the HydraFacial Elite has a block:



Ex. 2099 at 265 (Elite); *see also* Ex. 2100.

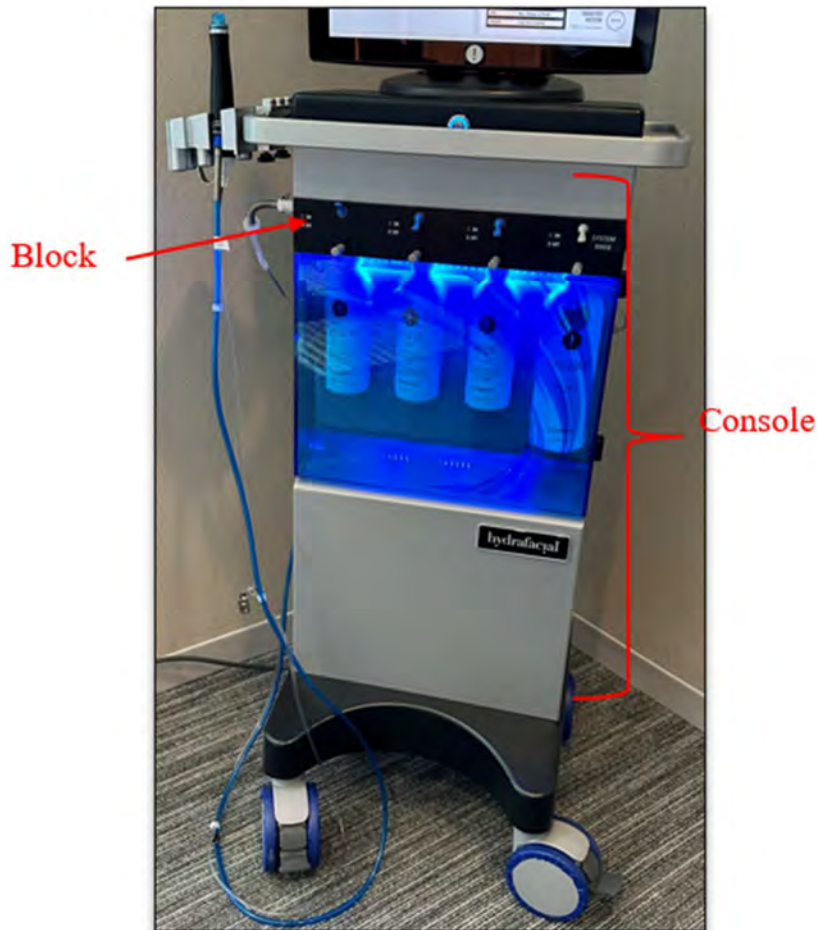
57. Accordingly, this limitation is satisfied by each of the Elite, Allegro, and Tower.

(d) 1[c][ii]: “configured to selectively receive fluid from the first container when the first container is connected to the console”

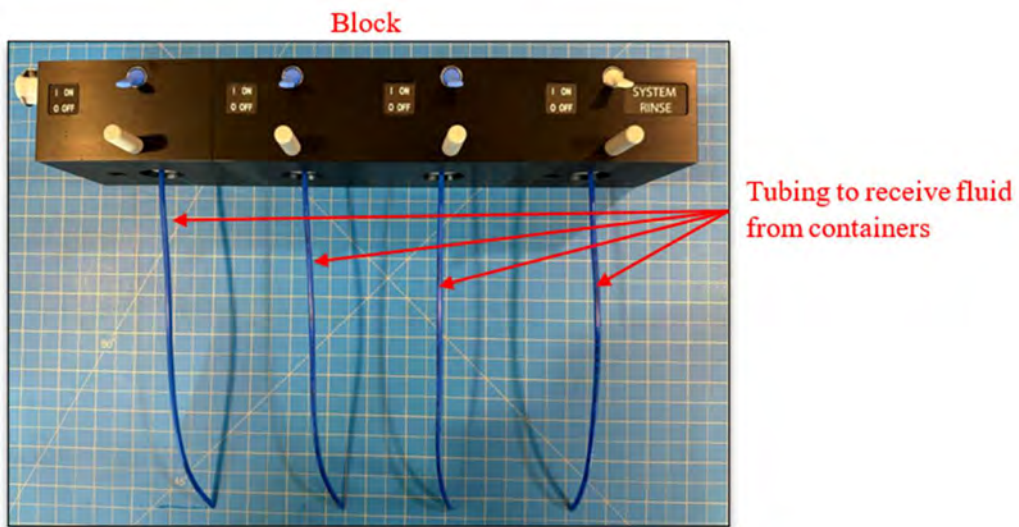
58. In my opinion, the each of the Elite, Allegro, and Tower has “a block in the console that is configured to selectively received fluid from the first container when the first container is connected to the console.”

59. My inspection of the Elite and Allegro, and review of images and videos of the Tower, confirms that tubing extends from the “block” into the first

container and additional container. The below images show the tubing which extends from the block into the first container and additional containers:



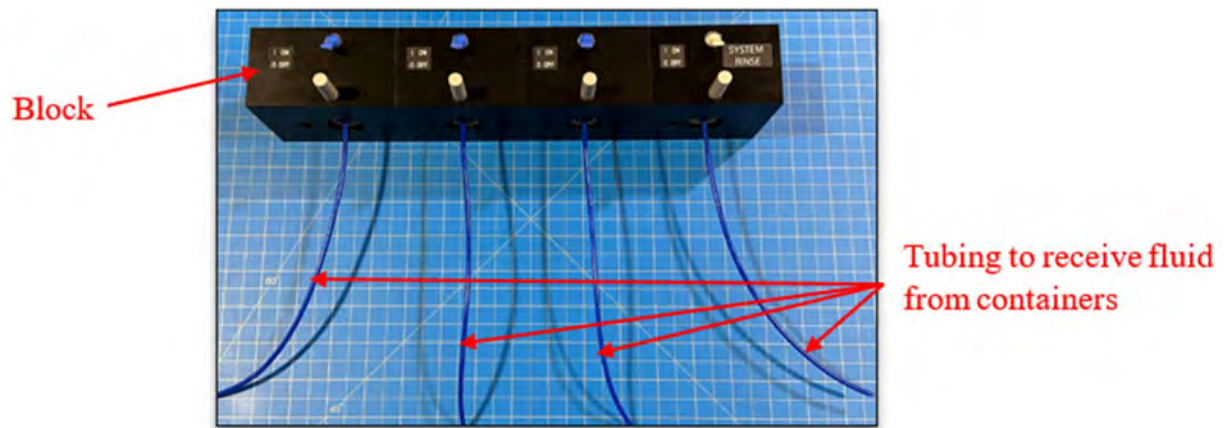
Ex. 2093 (Elite).



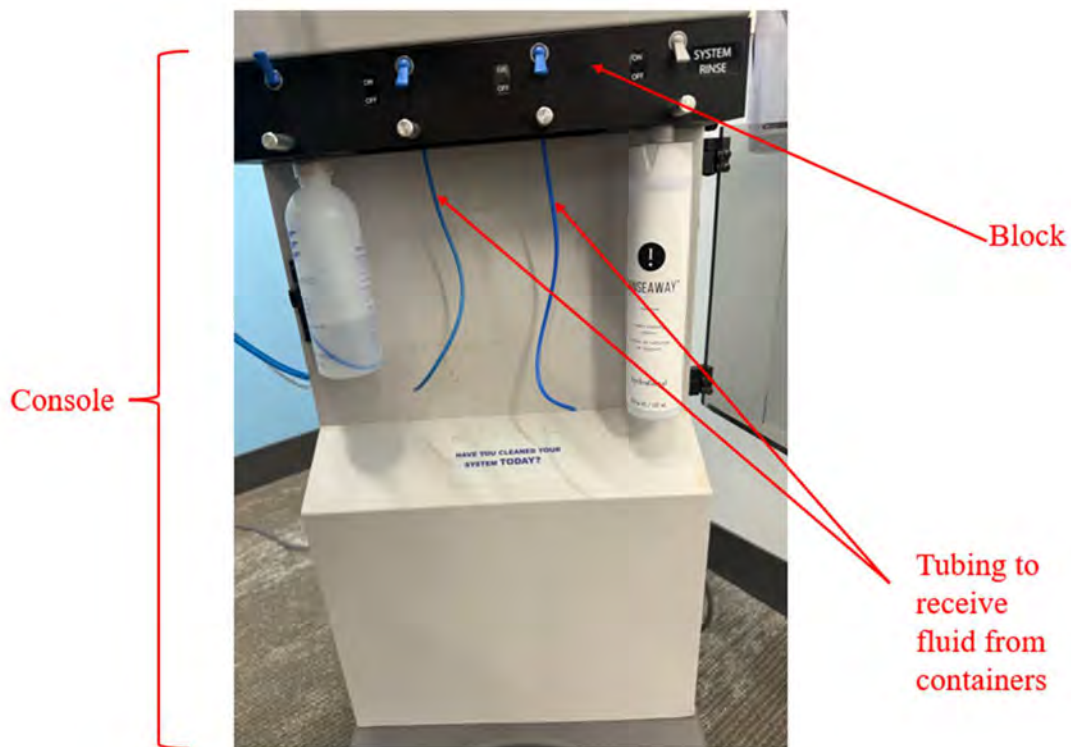
Ex. 2094 (Elite).



Ex. 2088 (Allegro).



Ex. 2095 (Allegro).



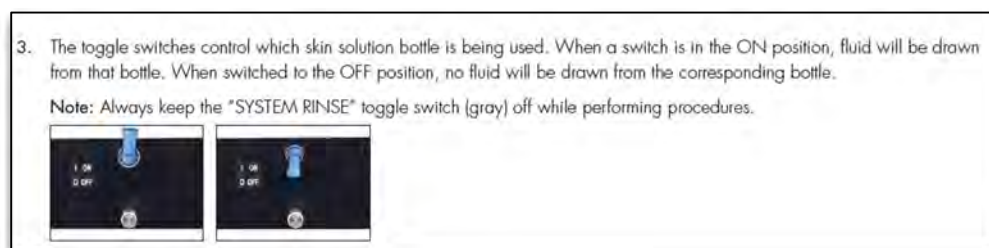
Ex. 2118 (Tower).

60. As can be seen in the above image, for each of the Elite, Allegro, and Tower, multiple containers are or can be connected to the console.

61. The Elite IFU, Allegro IFU, and Tower Owner's Manual similarly confirm the connection between the block and the solution bottles. Specifically, each describes connecting the containers, including the first container, to the console such that the block is configured to selectively receive fluid from the containers:



Ex. 2031 at 13 (Elite IFU).



Ex. 2031 at 14 (Elite IFU).

Skin Solution Bottles

1. Open the front door. Remove the cap of the skin solution bottle and use the puncture tool to pierce the seal inside the bottle.
2. Press and hold each manifold button as you insert each bottle into the manifold, and then release the button.

Note: The Rinseaway™ System Cleaning Solution should be installed in the manifold with the gray toggle switch labeled "SYSTEM RINSE".



3. The toggle switches control which skin solution bottle is being used. When a switch is in the ON position, fluid will be drawn from that bottle. When switched to the OFF position, no fluid will be drawn from the corresponding bottle.

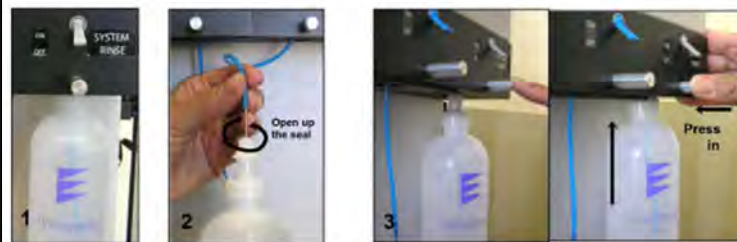
Note: Always keep the "SYSTEM RINSE" toggle switch (gray) off while performing procedures.



Ex. 2032 at 11 (Allegro IFU).

6) INSTALL SERUM BOTTLES

1. Please note that the Rinseaway™ System Cleaning Solution should be installed in the manifold with the gray toggle switch labeled "SYSTEM RINSE".
2. Open the front door. Remove the small top cap of the serum bottle and use the puncture pickup tube to pierce the seal inside the bottle. Enlarge the hole with the metal end.
3. Press & hold each manifold button as you insert each bottle into the manifold, and then release the button.



Ex. 2125 at 13 (Tower)



Ex. 2125 at 13.

62. A POSA would have understood that the tubing shown in the image above allows the block to selectively receive fluid from the first container (or one of the additional containers), when the first container (or additional container) is connected to the console. I note that the selected container must be connected to the console in order to complete the closed system, as the vacuum suction will draw fluid through the tubing, though the block, and through the handpiece to the skin.

63. Accordingly, this limitation is satisfied by each of the Elite, Allegro, and Tower.

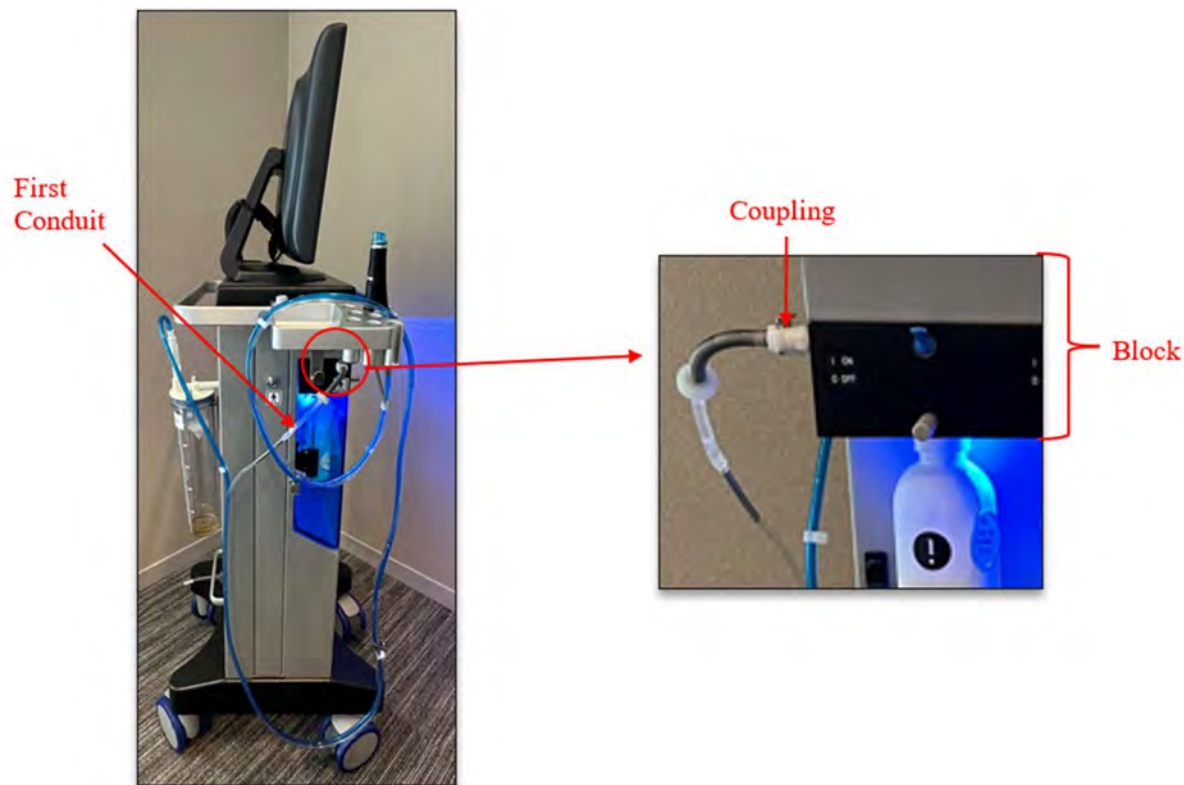
- (e) **1[c][iii]: configured to selectively receive fluid from the at least one additional container when the at least one additional containers is connected to the console; and**

64. This limitation is satisfied by each of the Elite, Allegro, and Tower for the same reasons set forth in limitation 1[c][ii] above.

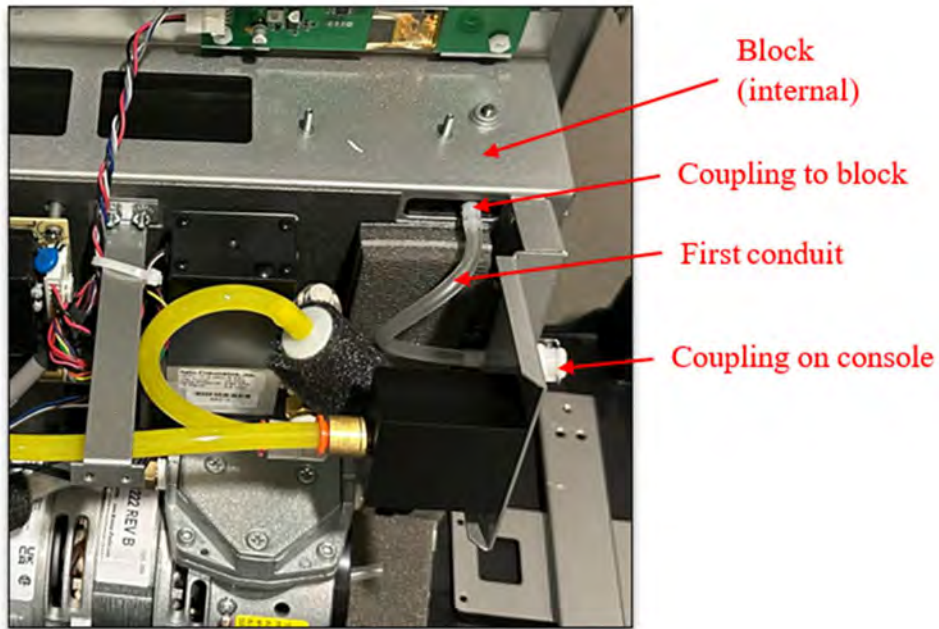
- (f) **1[c][iv]: configured to selectively be in fluid communication with the handpiece through a first conduit when the handpiece is connected to the console**

65. In my opinion, each of the Elite, Allegro, and Tower has “a block in the console that is configured to selectively be in fluid communication with the handpiece through a first conduit when the handpiece is connected to the console.”

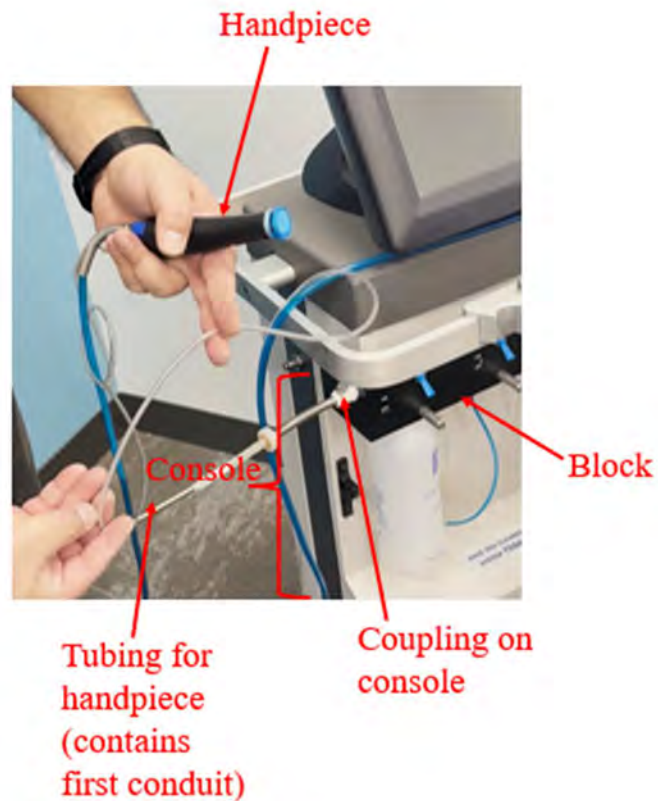
66. Based on my inspection of the each of the Elite and Allegro, review of image and videos of the Tower, and review of technical documents, I have determined that for each of the Elite, Allegro, and Tower, the block is in fluid communication with the handpiece through a first conduit. As shown in the images below, for each device, the first conduit extends from the block, where it eventually meets a coupling location:



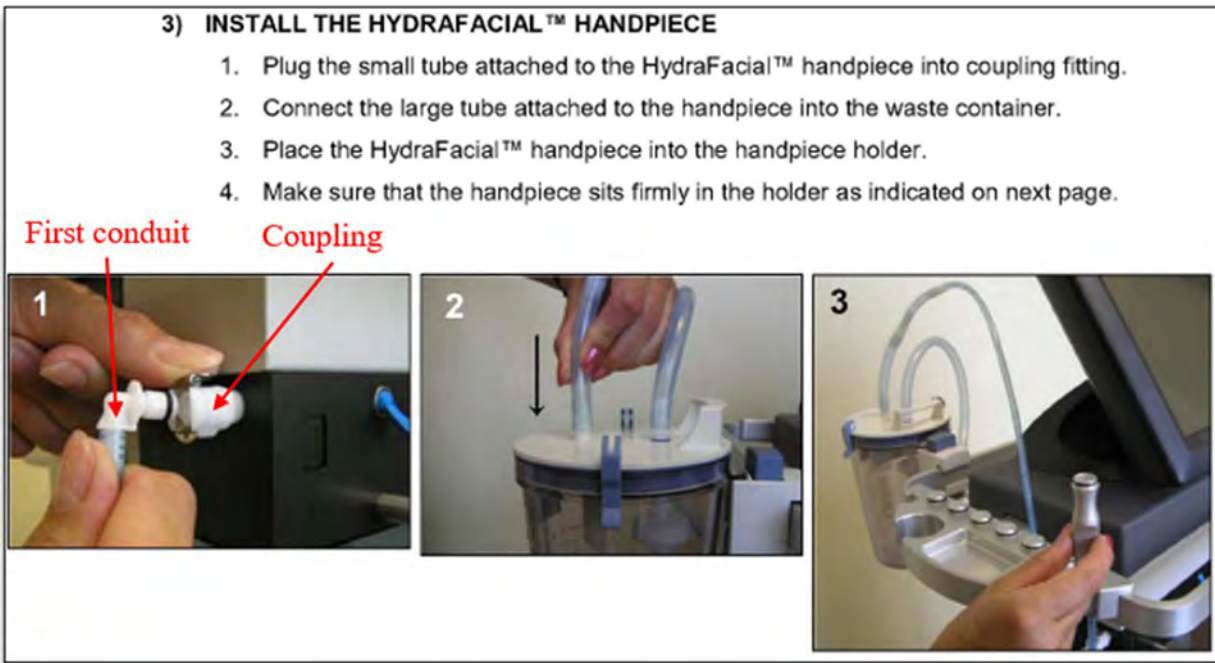
Ex. 2098; Ex. 2096 (Elite).



Ex. 2097 (Allegro).

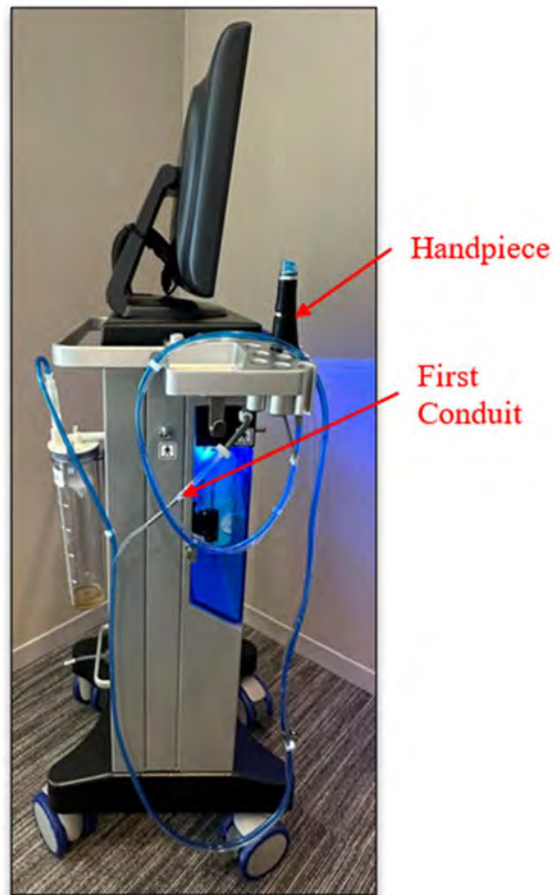


Ex. 2151 at 1 (Tower).

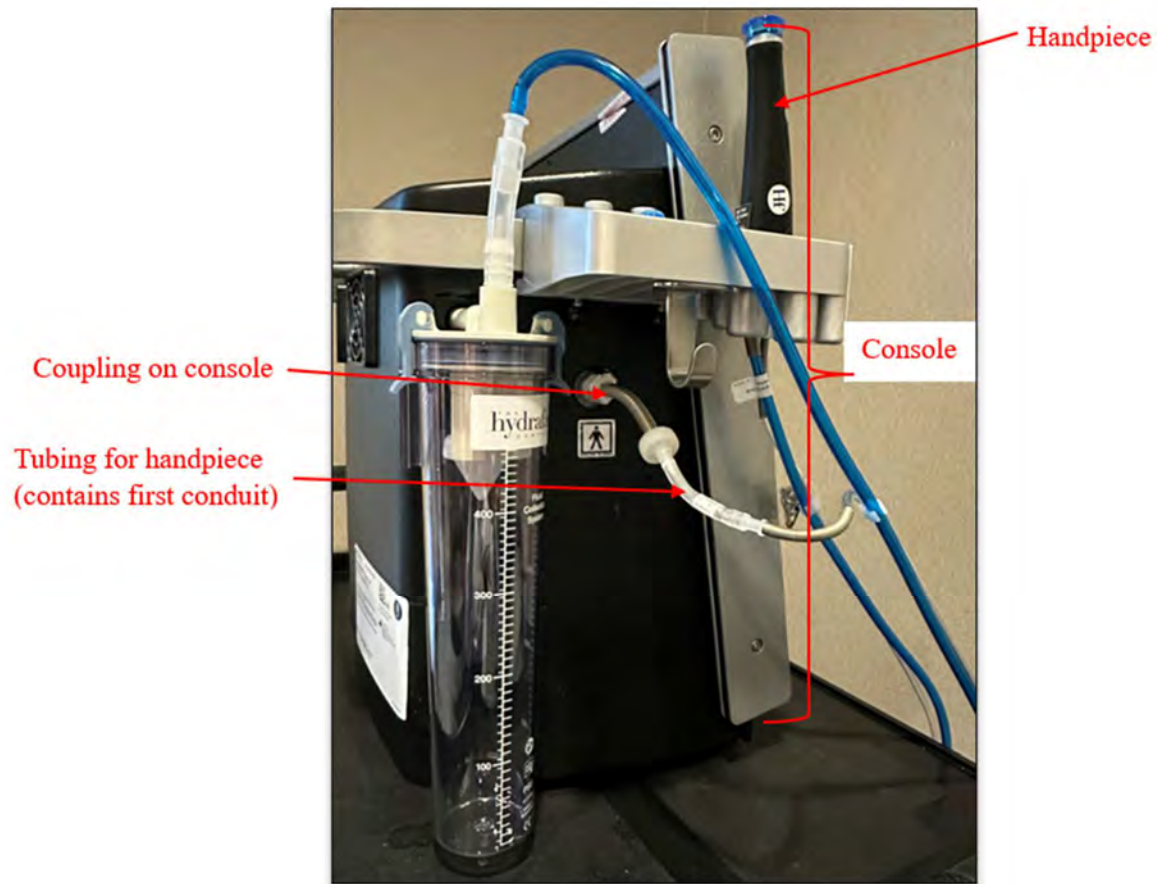


Ex. 2125 at 10 (Tower Owner's Manual).

67. Then, for each device, the identified first conduit continues from the coupling on the console through the tubing to the handpiece itself:



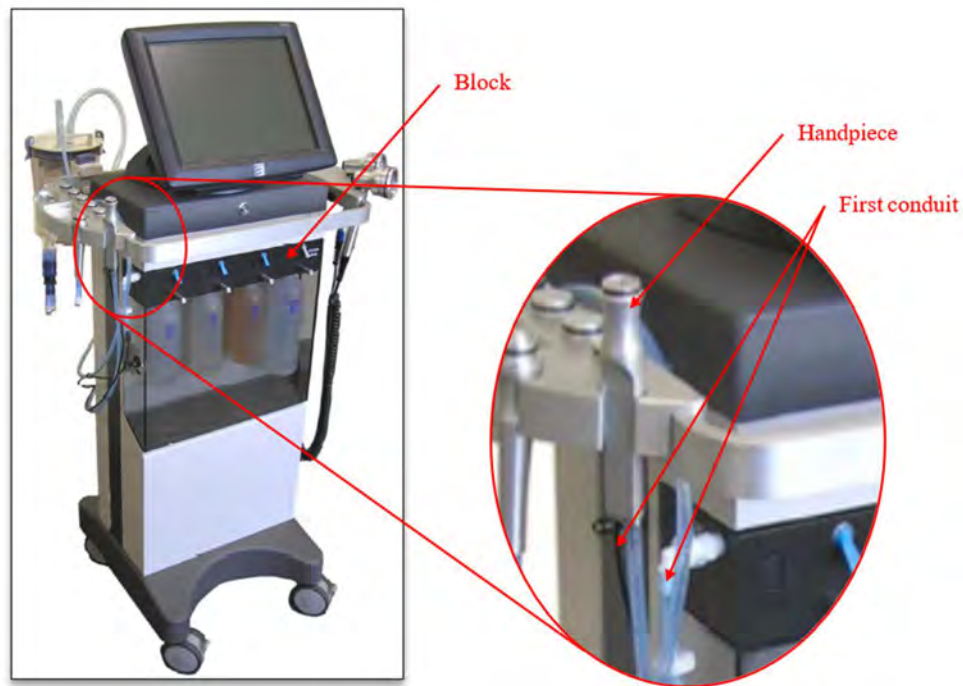
Ex. 2098 (Elite).



Ex. 2121 (Allegro).



Ex. 2147 (Tower).



Ex. 2125 at 1 (Tower Owner's Manual).

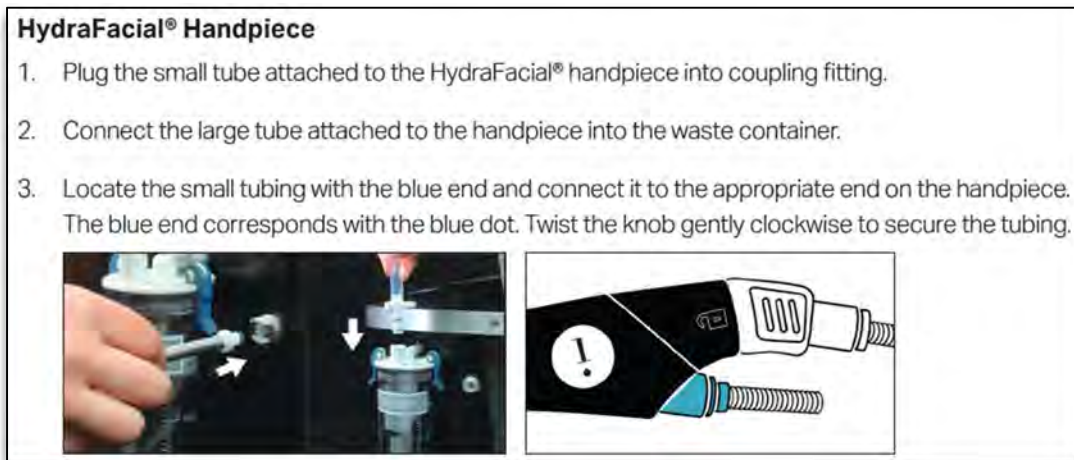
68. As illustrated above, the tubing that connects each of the Elite, Allegro, and Tower, to the handpiece contains the first conduit. This first conduit continues through the handpiece, to an opening in the main body of the handpiece. As designed, fluid flows from the containers, through the block and first conduit (including through the handpiece) and ultimately through the opening in the main body of the handpiece.



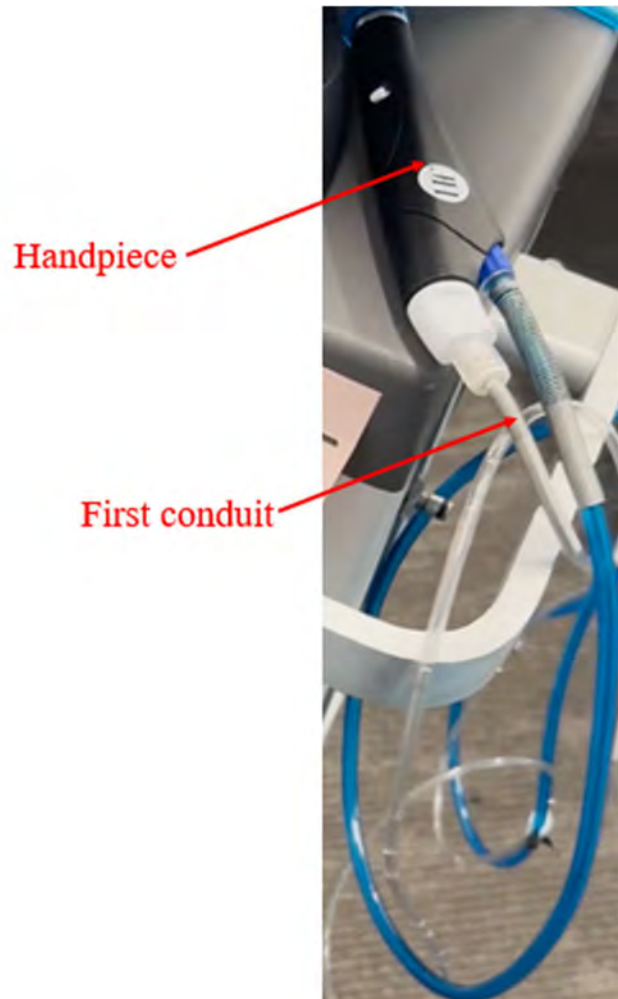
Ex. 2031 at 18 (Elite).



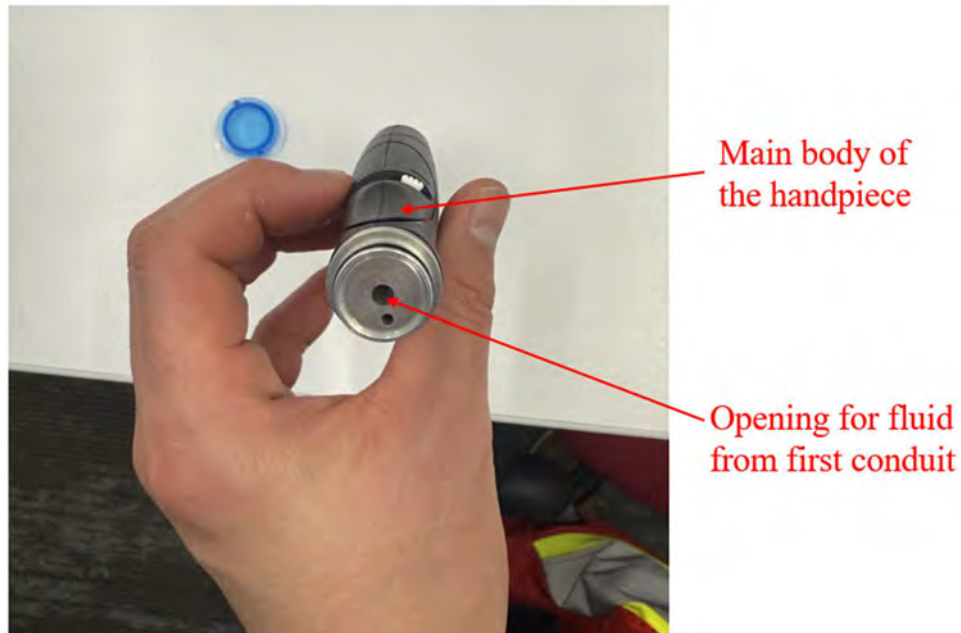
Ex. 2105 (Allegro).



Ex. 2032 at 9 (Allegro).

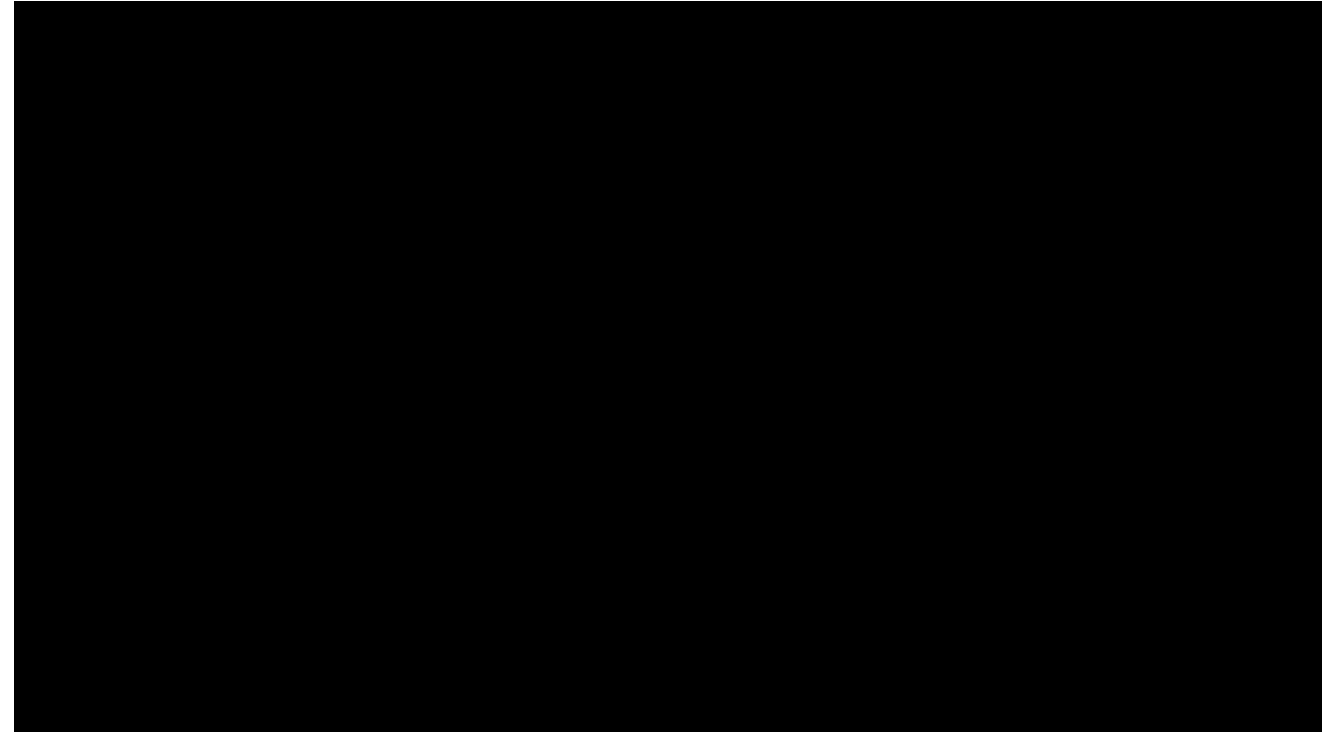


Ex. 2147 (Tower).



Ex. 2106 (Tower).

69. Technical documents for the Elite, Allegro, and Tower confirm this understanding. For example, technical documents for the Elite show a coupling to which tubing to the handpiece (including a portion of the first conduit) connects:



Ex. 2099 at 265 (Elite); *see also* Ex. 2100; The Manifold Assembly (block) of the Tower shares the same part number as the block of the HydraFacial Elite, and therefore this analysis applies equally to the Tower.

70. The block for each of the Elite, Allegro, and Tower devices is “selectively in fluid communication” through this first conduit in two ways. First, by selectively attaching a container. When a selected container is disconnected, the circuit cannot be completed and “fluid communication” ceases to exist between the block and the handpiece. Second, the handpiece can be selectively detached from the console. When detached, the circuit cannot be completed and “fluid communication” again ceases to exist between the block and the handpiece.

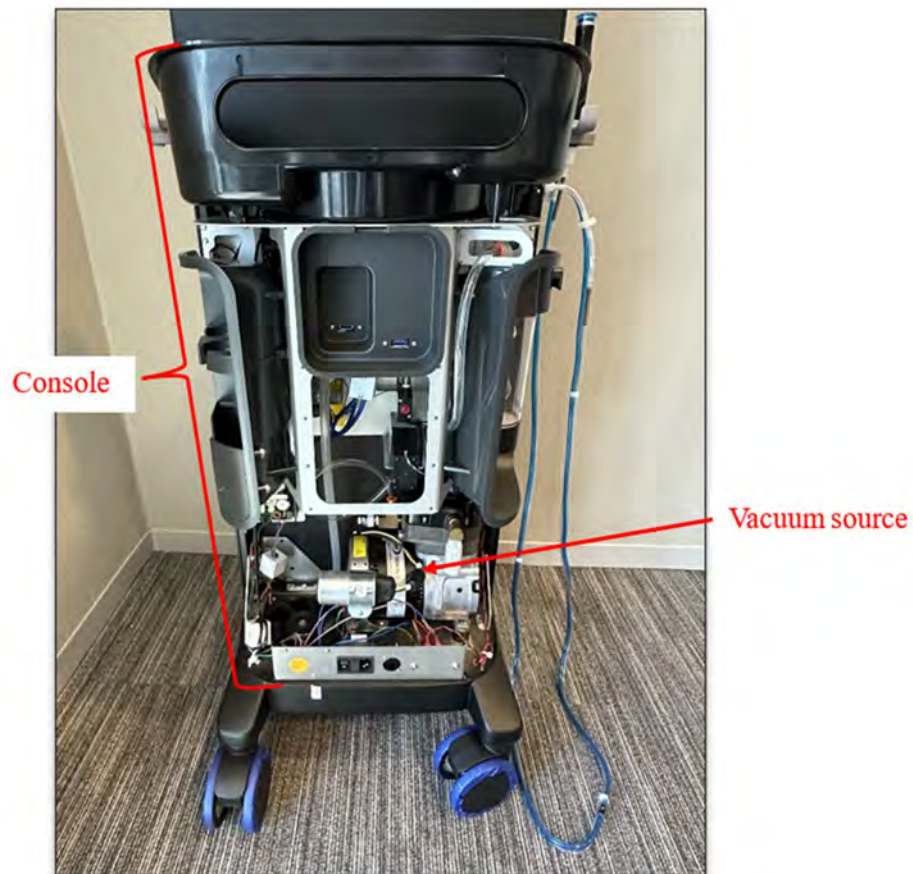
71. A POSA would recognize that the Elite, Allegro, and Tower each satisfies this limitation under the plain and ordinary meaning of “selectively be in fluid communication.”

72. Accordingly, this limitation is satisfied by the Elite, Allegro, and Tower.

e. **1[d]: “a vacuum source, wherein the console comprises the vacuum source; and”**

73. In my opinion, each of the Syndeo, Elite, Allegro, and Tower has “a vacuum source, wherein the console comprises the vacuum source.”

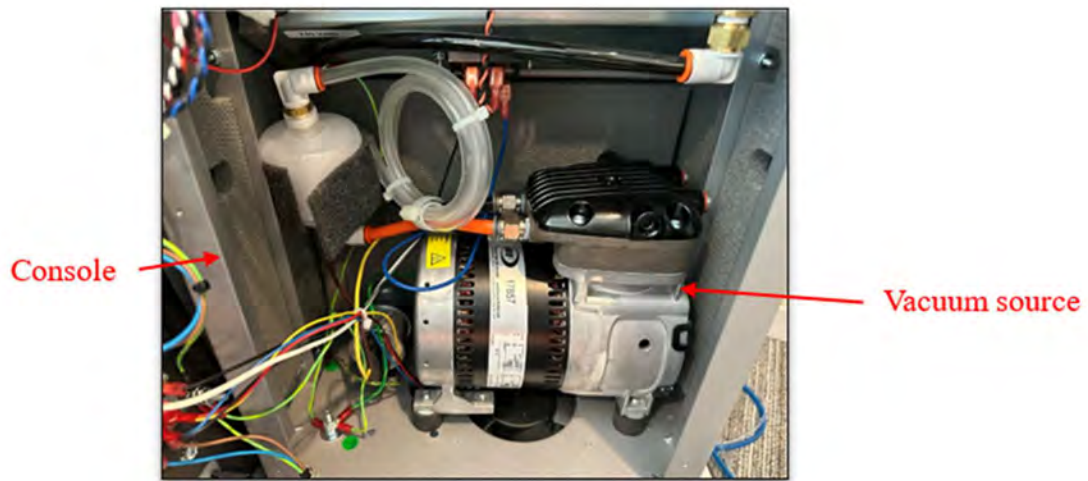
74. As shown in the images below, each of the Syndeo, Elite, Allegro, and Tower includes a vacuum source in the console:



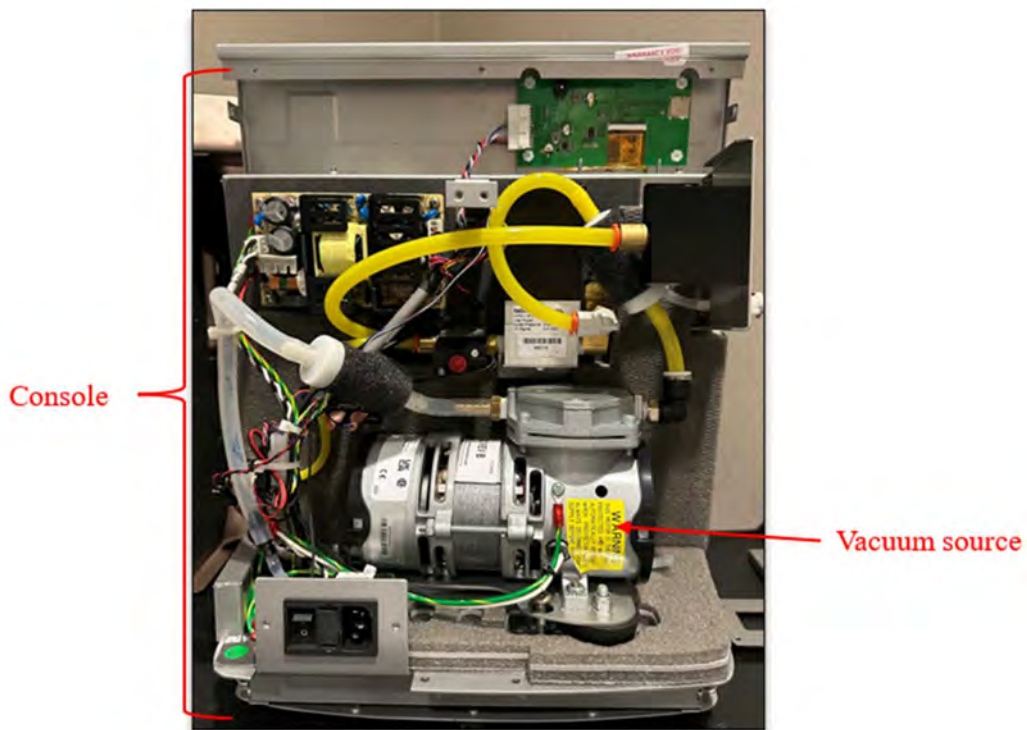
Ex. 2109 (Syndeo).



Ex. 2101 (Syndeo; vacuum source labeled as part number “7200086:”).

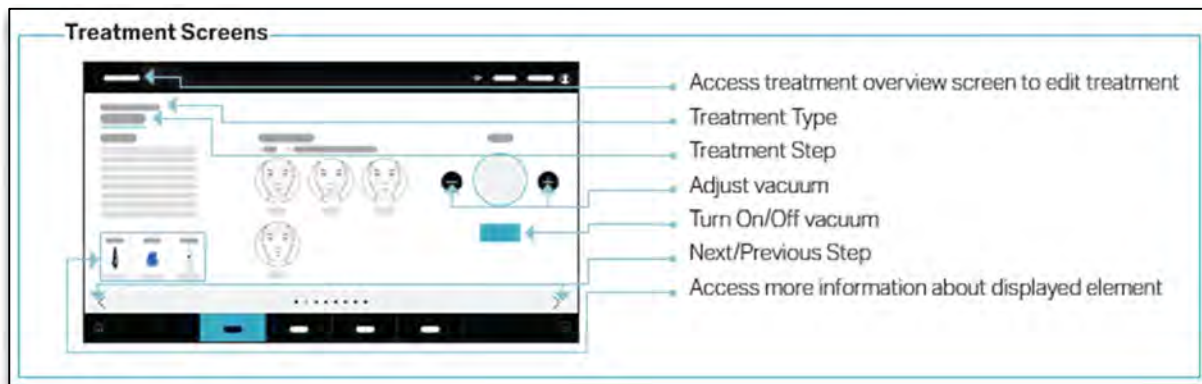


Ex. 2102 (Allegro).

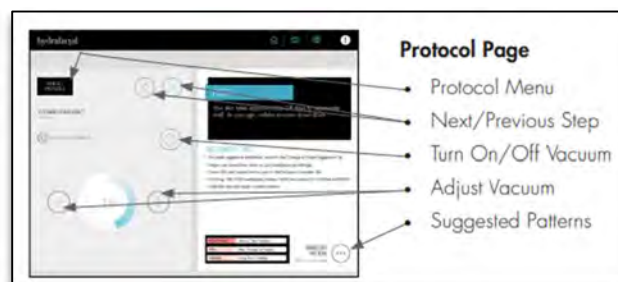


Ex. 2120 (Allegro).

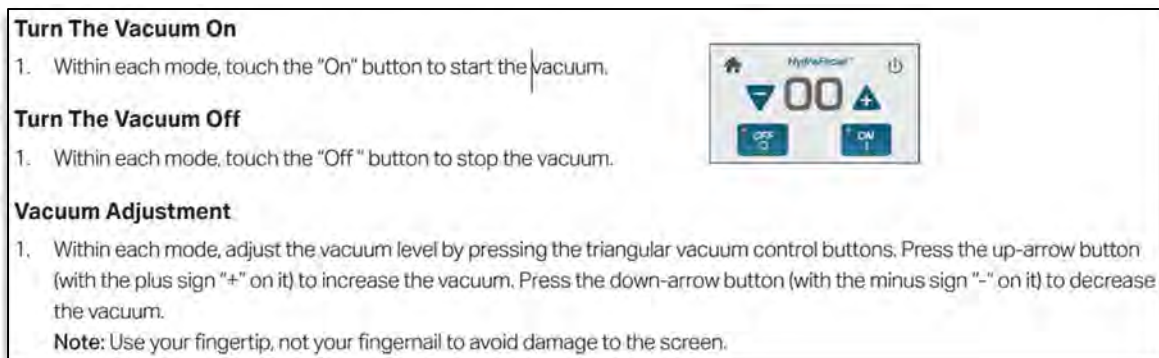
75. Technical documents for each of the Syndeo, Elite, Allegro, and Tower confirm that a vacuum source is inside of the console. For example, the Syndeo, Elite, and Allegro IFUs describe turning the vacuum on and off and adjusting the vacuum:



Ex. 2030 at 13 (Syndeo).



Ex. 2031 at 16 (Elite).



EX. 2032 at 13 (Allegro). And the Tower Owner's Manual similarly describes having an adjustable vacuum:

6. Always start the patient at a low vacuum setting and increase the intensity depending on the patient's comfort. Note: each patient's skin condition and pain threshold are different. In light of these variables the suggested setting will vary for each patient. The settings suggested in the on-screen protocols reflect the pressure when the handpiece is occluded against the skin. Every individual's skin is unique. Refer to the recommended settings as a guide, not a guarantee.

Ex. 2125 at 3 (Tower).

76. My inspection of each of the Syndeo, Elite, Allegro, and Tower devices (in person, via video, or via images) did not identify any external vacuum source, nor any ports to connect to an external vacuum source. Thus, it is my opinion that the console comprises the vacuum source.

77. Accordingly, this limitation is satisfied by each of the Syndeo, Elite, Allegro, and Tower.

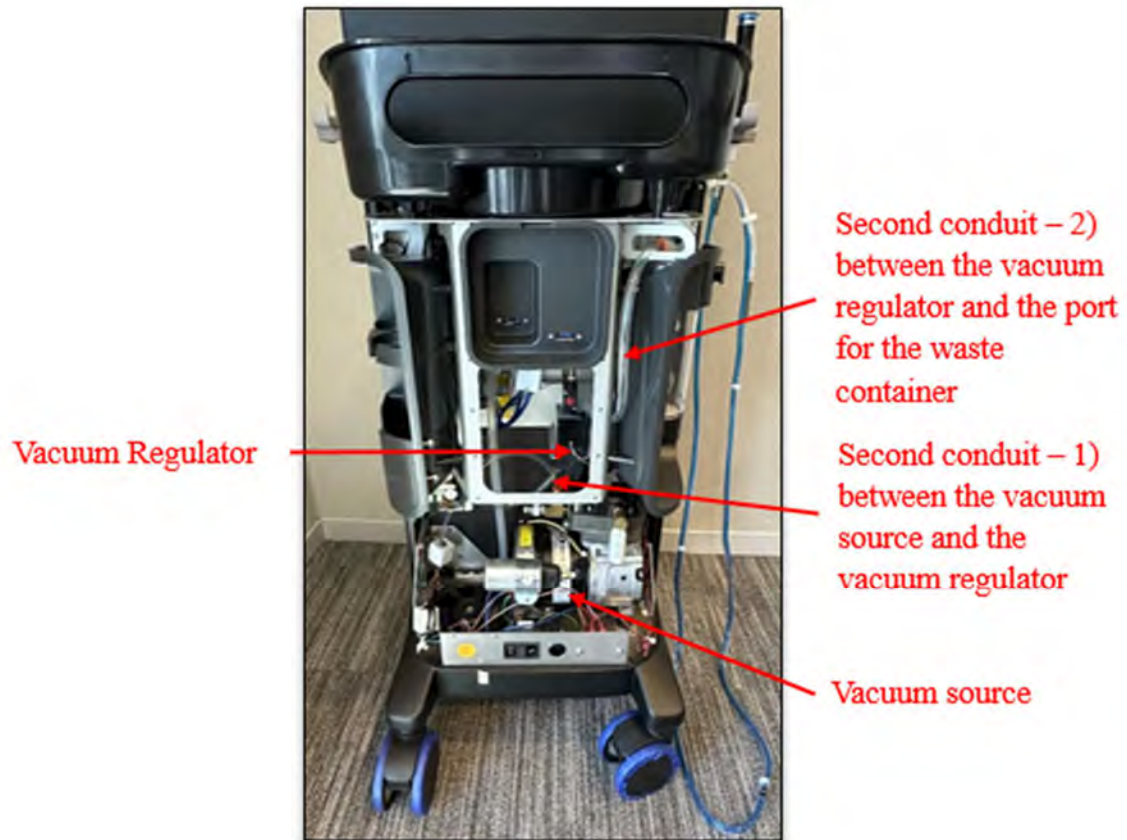
- f. **1[e]: wherein the handpiece is configured to be in fluid communication with the vacuum source through a second conduit when the handpiece is connected to the console;**

78. In my opinion, each of the Syndeo, Elite, Allegro, and Tower has a “handpiece [that] is configured to be in fluid communication with the vacuum source through a second conduit when the handpiece is connected to the console.”

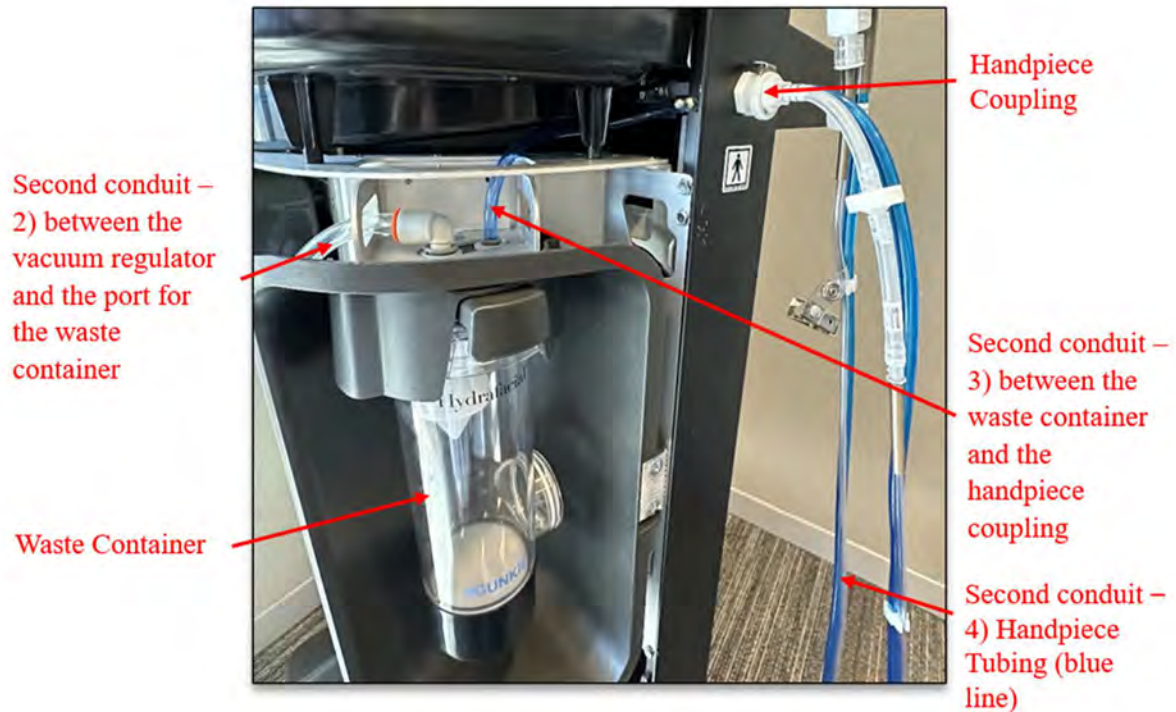
i. Syndeo

79. My inspection of the Syndeo confirmed that this limitation is satisfied. As shown in the below photos, a second conduit extends from the vacuum source to the vacuum port for the waste container, from the vacuum port for the waste container to the waste container, from the handpiece port in the waste container to the coupling for the handpiece, and from the coupling for the handpiece to the handpiece itself.

80. During my inspection of the Syndeo, I observed that the second conduit comprises multiple tubing components that extend 1) between the vacuum source and a vacuum regulator; 2) between the vacuum regulator and a port for the waste container; 3) between the port of the waste container and the coupling for the handpiece tubing via the waste container, and 4) through the coupling for the handpiece to the handpiece itself. I have annotated the photos below using the numbering above to identify the tubing components the comprise the second conduit.

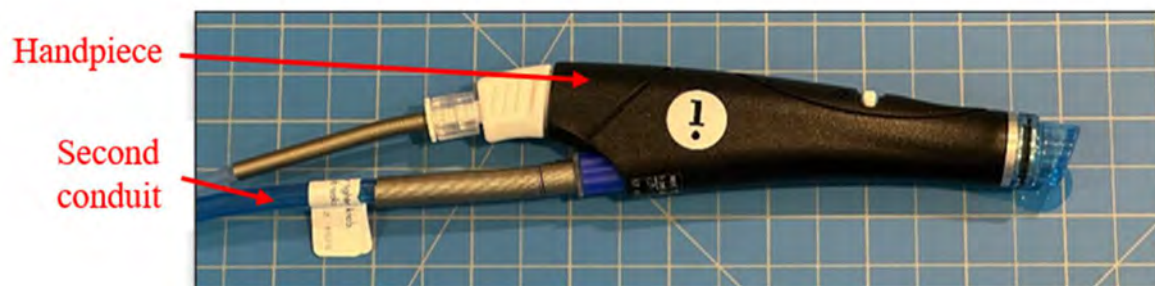


Ex. 2109.



Ex. 2110.

81. Below, I have identified second conduit – 4) Handpiece Tubing (blue line), and the handpiece that it connects to:



Ex. 2111.

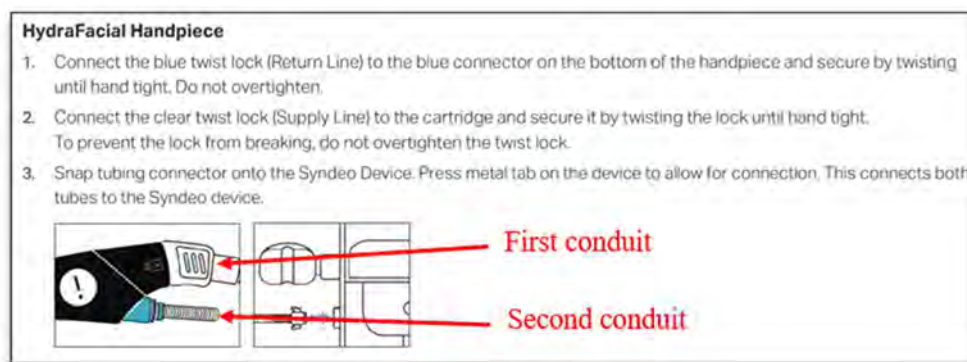
82. After the fluid exits the handpiece from the first conduit, the fluid goes through the handpiece to the second conduit via an opening in the main body of the handpiece, identified below:



Ex. 2112.

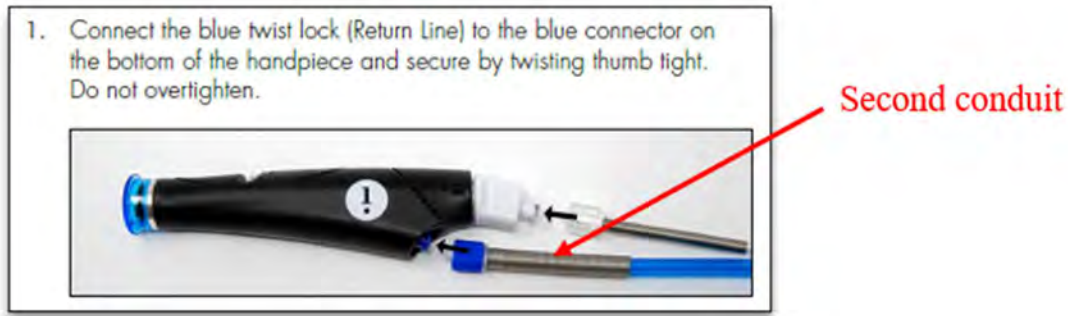
83. The Second Conduit places the handpiece in fluid communication with the vacuum source. I observed that, due to this fluid communication, when the vacuum source is activated and the handpiece is contacting skin, a closed system is formed between a selected container and the vacuum source. Suction from the vacuum source, through the second conduit, the handpiece, the first conduit, and the block allows fluid to be drawn from the selected container and delivered to the skin, while used fluid and debris is simultaneously drawn away from the skin to the waste container.

84. The Syndeo IFU confirms the Syndeo handpiece is configured to be in fluid communication with the vacuum source through a second conduit when the handpiece is connected to the console. The Syndeo IFU illustrates and describes a “Return Line.” In the annotated illustration below the “Return Line” attaches to the handpiece. This “Return Line” serves as a portion of the second conduit through which the handpiece is in fluid communication with the vacuum source. For clarity, I have also labeled the first conduit, which I describe in greater detail above.



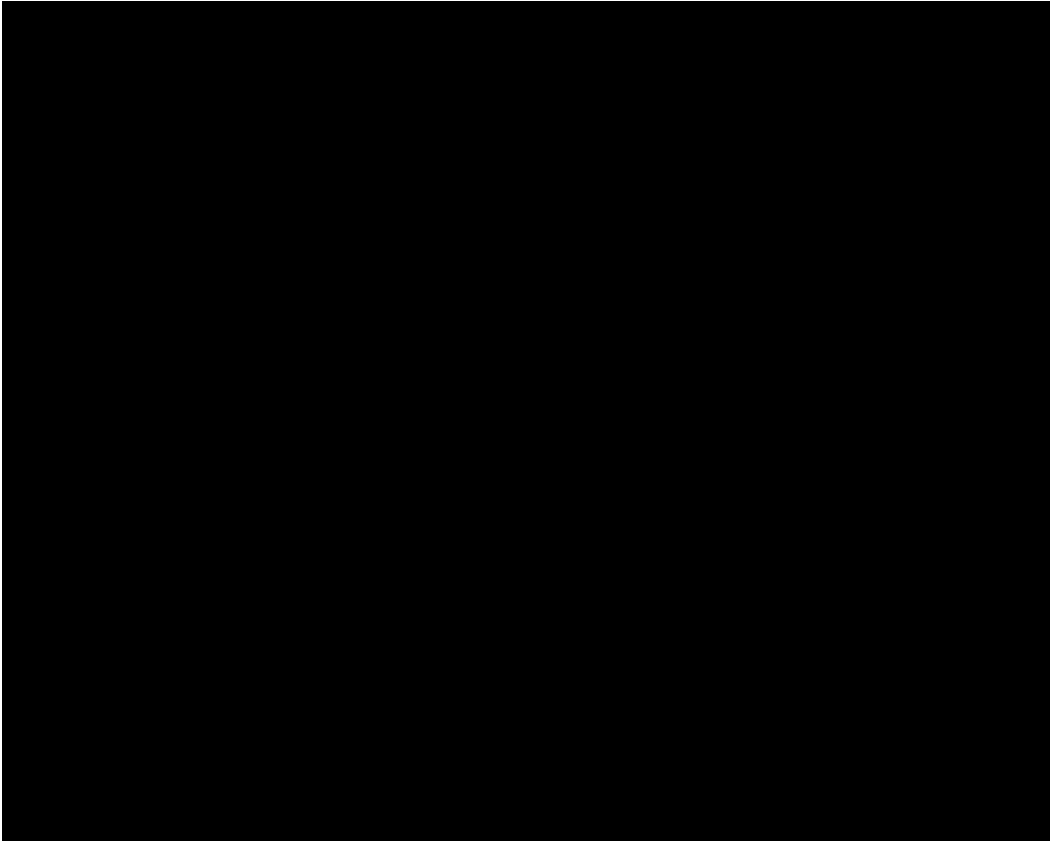
Ex. 2030 at 12.

85. The Syndeo IFU describes the “Return Line” being connected between the handpiece and a waste container, labeled as the “waste canister.” This waste container is, in turn, connected to and in fluid communication with the vacuum source in the console.



Ex. 2034 at 3; *see also* Ex. 2030 at 22 (“Make sure that your HydraFacial handpiece is properly connected to the side of the skin solution station block, and to the waste canister.”).

86. The Syndeo fluid schematic also shows that the second conduit places the handpiece in fluid communication with the vacuum source when the handpiece is connected to the console. Below, I have annotated the Syndeo fluid schematic to illustrate the flow path from the handpiece, through the second conduit, to the vacuum source.



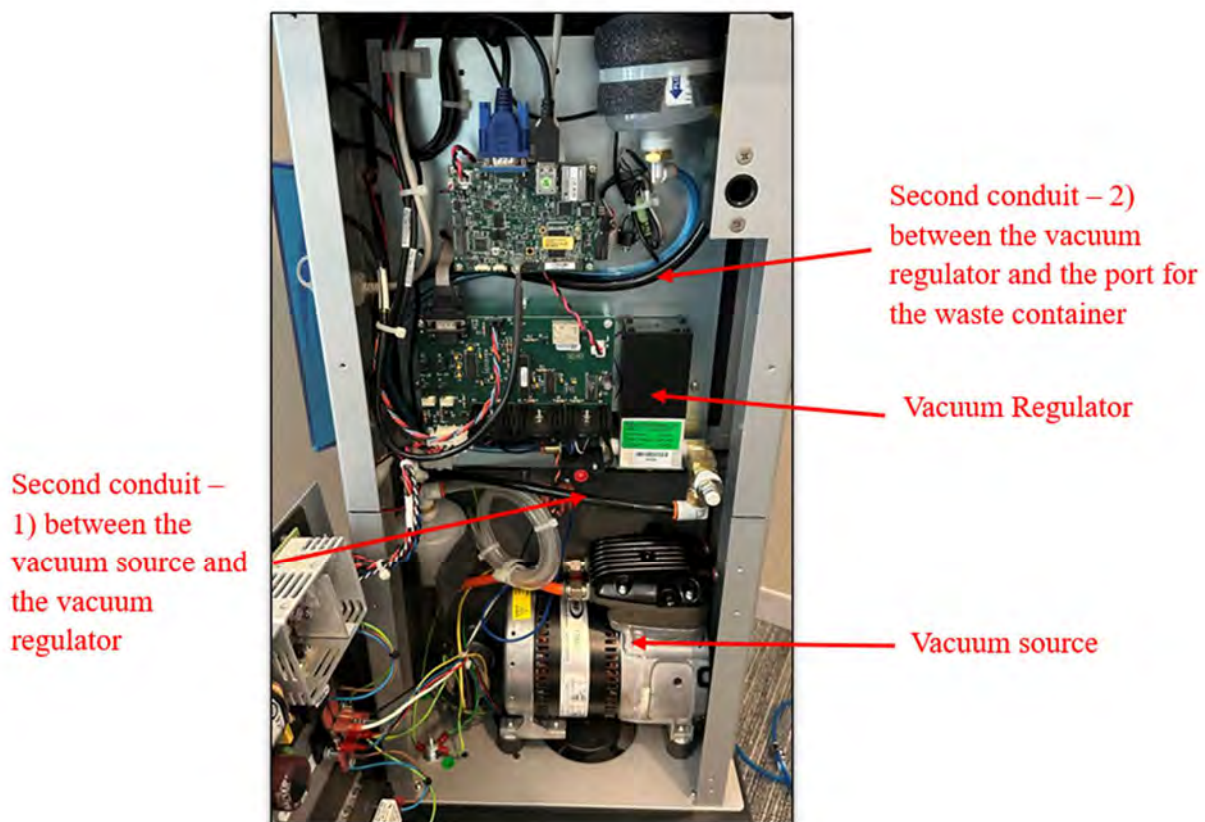
Ex. 2114.

87. Accordingly, this limitation is satisfied by the Syndeo.

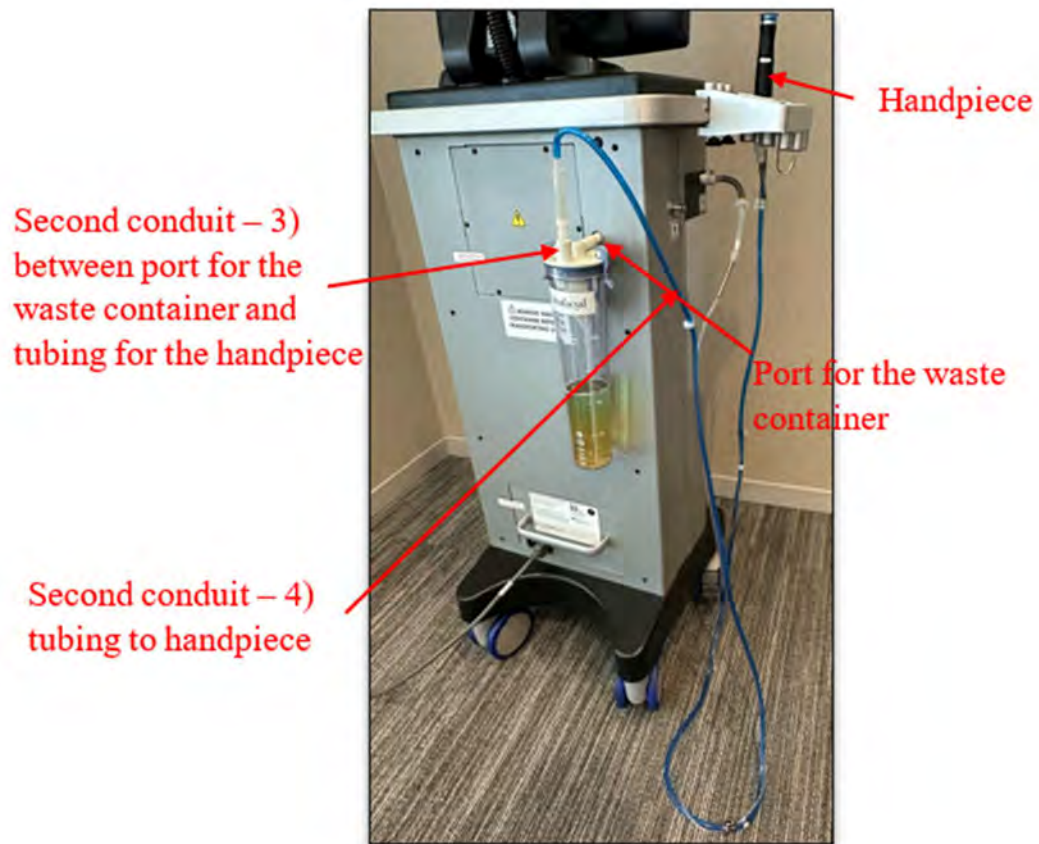
ii. Elite, Allegro, & Tower

88. My inspection of the Elite and Allegro, and review of images, videos, and documents for the Tower, confirmed that this limitation is satisfied. As shown in the below photos, a second conduit extends from the vacuum source to the vacuum port for the waste container, from the vacuum port for the waste container to the waste container, from the handpiece port in the waste container to the coupling for the handpiece, and from the coupling for the handpiece to the handpiece itself.

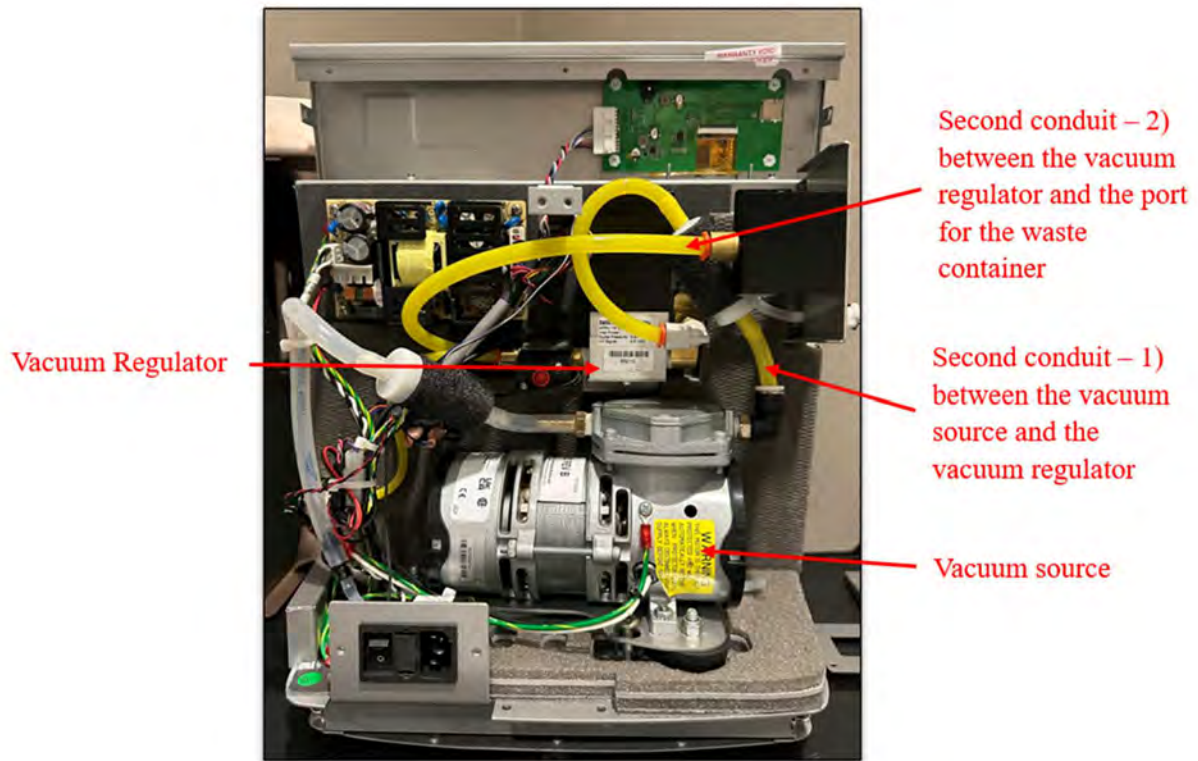
89. During my inspection of the Elite and Allegro, I observed that the second conduit comprises multiple tubing components that extend 1) between the vacuum source and a vacuum regulator; 2) between the vacuum regulator and a port for the waste container; 3) between the port of the waste container and the coupling for the handpiece tubing via the waste container, and 4) through the coupling for the handpiece to the handpiece itself. I have annotated the photos below using the numbering above to identify the tubing components the comprise the second conduit:



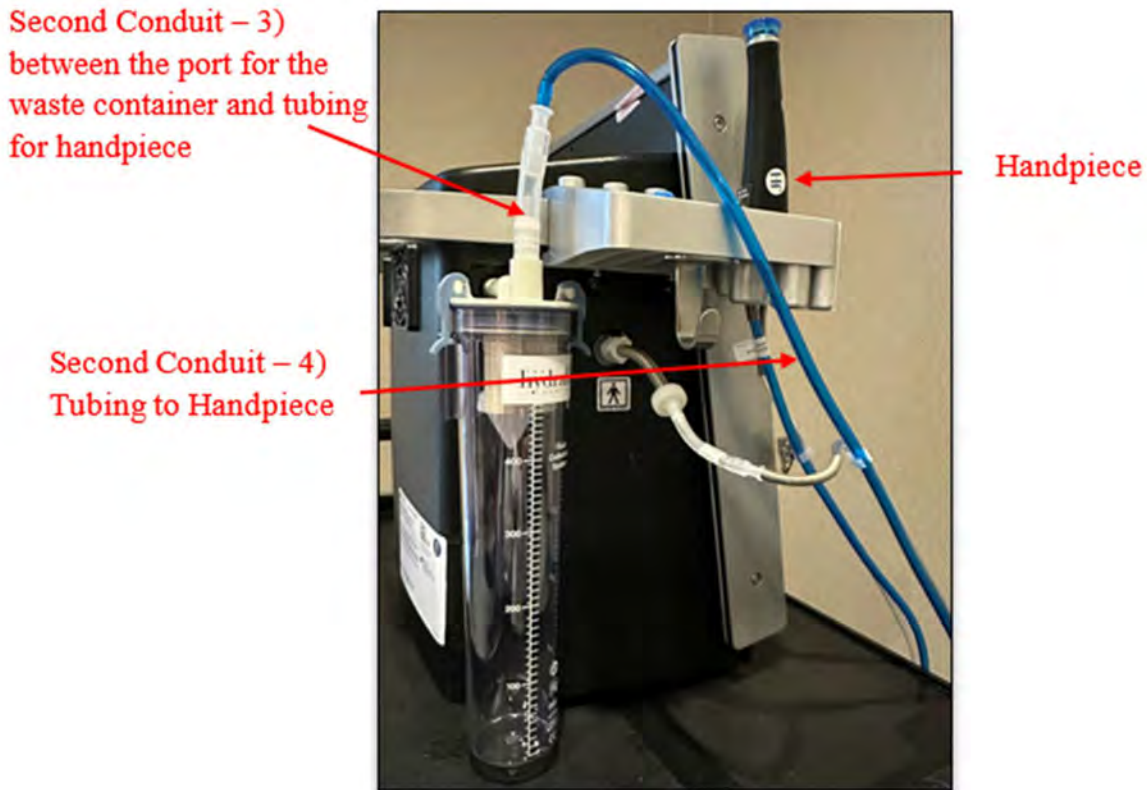
Ex. 2119 (Elite).



Ex. 2115 (Elite).

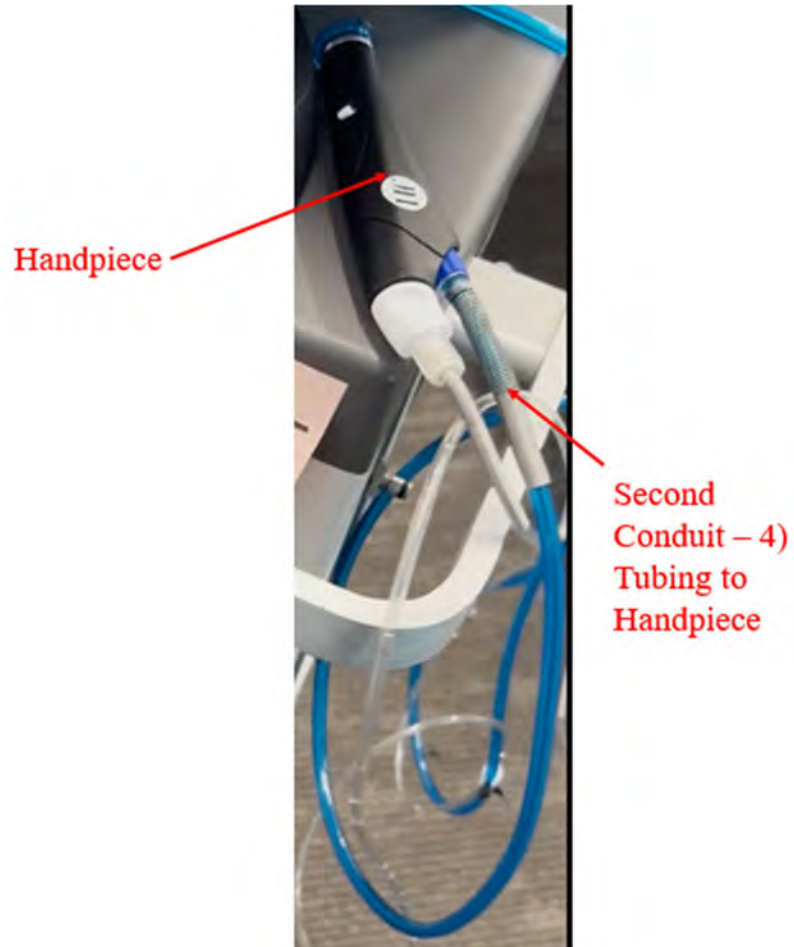


Ex. 2120 (Allegro).

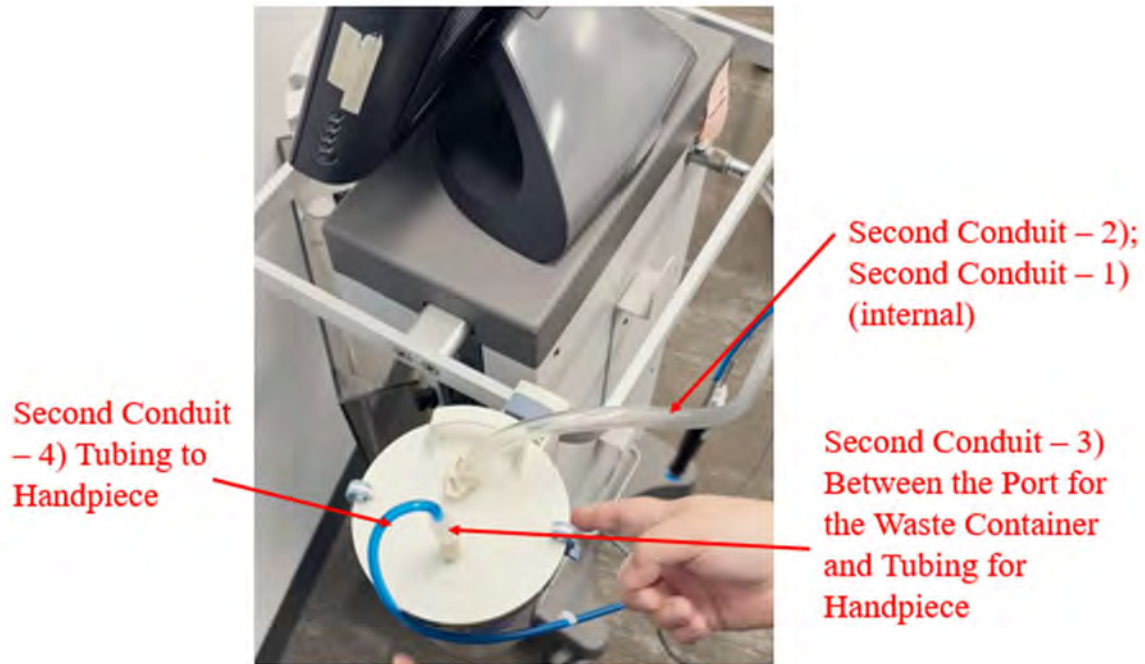


Ex. 2121 (Allegro).

90. The Tower has the same second conduit comprised of multiple tubing components. Below, I have annotated image two images of the Tower Device. The first image identifies the handpiece, and the Second Conduit - 4) Tubing to Handpiece. The second image identifies the Second Conduit - 3) Between the Port for the Waste Container and Tubing for Handpiece.

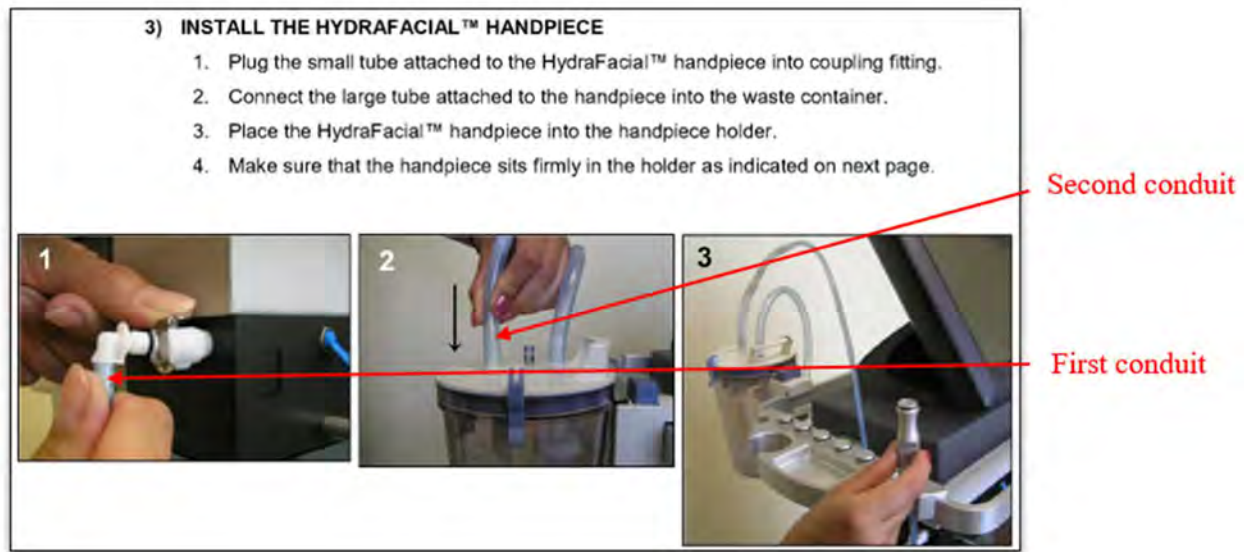


Ex. 2147.

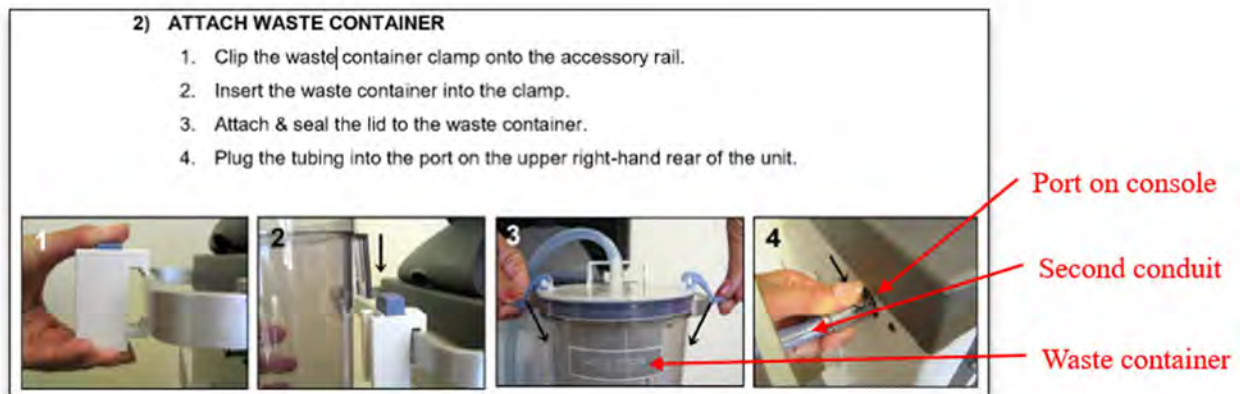


Ex. 2149 at 1 (Tower).

91. In the Tower, second conduit – 4) Tubing to Handpiece) referenced in the image below as attaching to both the handpiece and coupling, serves as a portion of the second conduit through which the handpiece is in fluid communication with the vacuum source.



Ex. 2125 at 10. The second conduit continues through the waste container and through a port for the waste container on the console, shown below:



Id. at 9. As shown in the image above, there is tubing connecting the vacuum source to the port of the waste container, thus placing the handpiece in fluid communication with the vacuum source (Second Conduit -2 and Second Conduit -3).

92. Below, I have identified second conduit – 4) Handpiece Tubing (blue line), and the handpiece that it connects to for each of the Elite and Allegro devices:

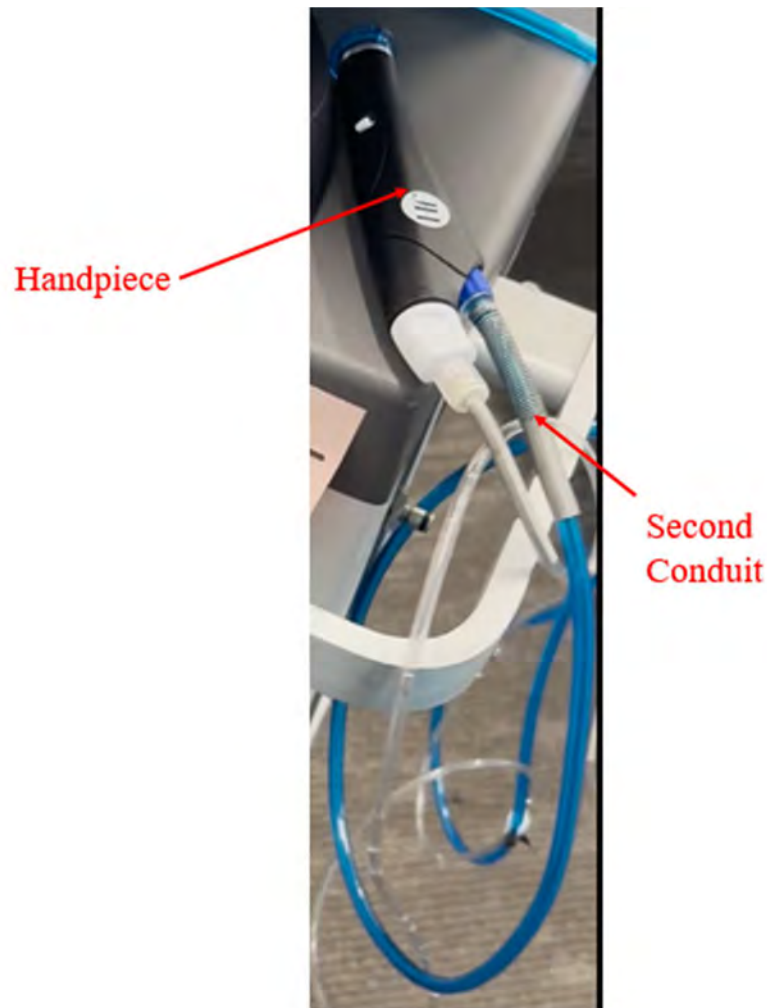


Ex. 2104 (Elite).



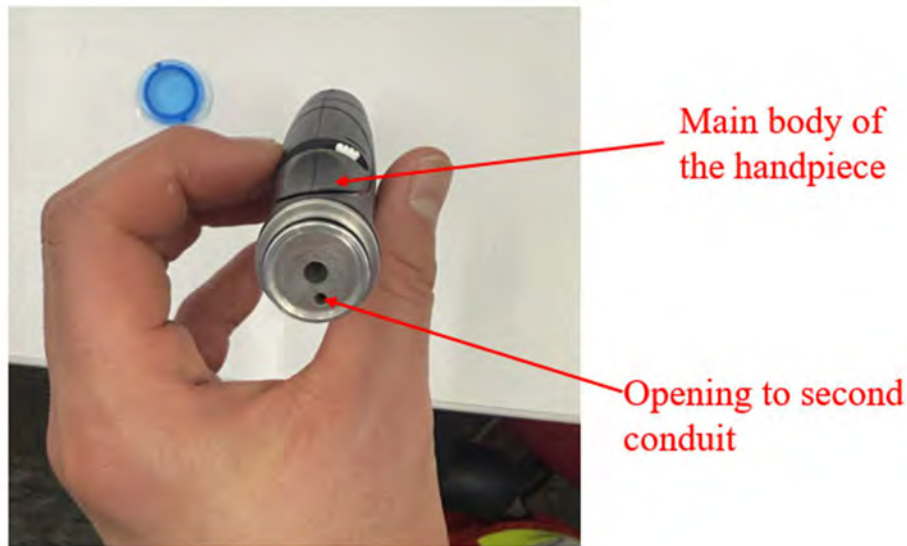
Ex. 2105 (Allegro).

93. From examining images of the handpiece of the Tower, I have determined that a functioning Tower device would have a similar second conduit connected to the handpiece:



Ex. 2147 (Tower).

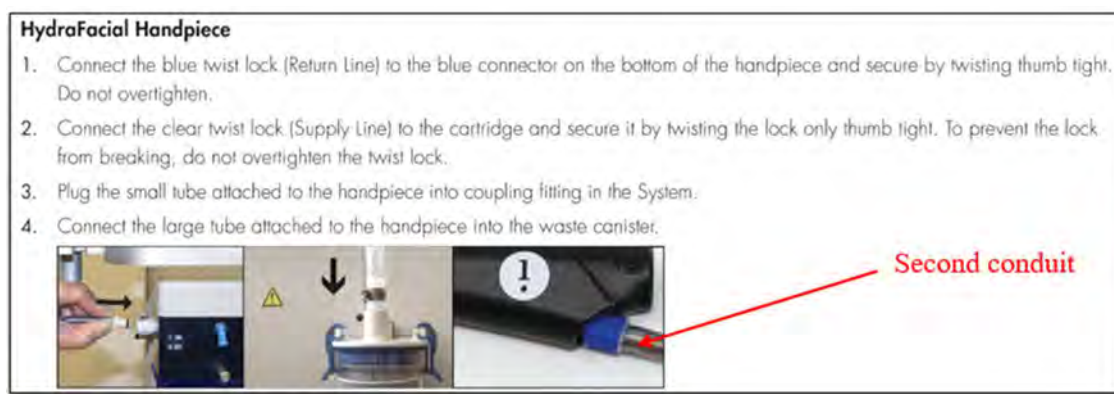
94. After the fluid exits the handpiece from the first conduit, the fluid goes through the handpiece to the second conduit via an opening in the main body of the handpiece. I have illustrated this on the Tower handpiece; however, both the Allegro and Elite have the same opening.



Ex. 2106 (Tower).

95. The Second Conduit places the handpiece in fluid communication with the vacuum source. I observed for both the Elite and the Allegro, due to this fluid communication, when the vacuum source is activated and the handpiece is contacting skin, a closed system is formed between a selected container and the vacuum source. Suction from the vacuum source, through the second conduit, the handpiece, the first conduit, and the block allows fluid to be drawn from the selected container and delivered to the skin, while used fluid and debris is simultaneously drawn away from the skin to the waste container. Based on my review of video of the Tower with the cleaning cap on, it is my understanding that it operates the same as the Elite and Allegro when the handpiece contacts the skin.

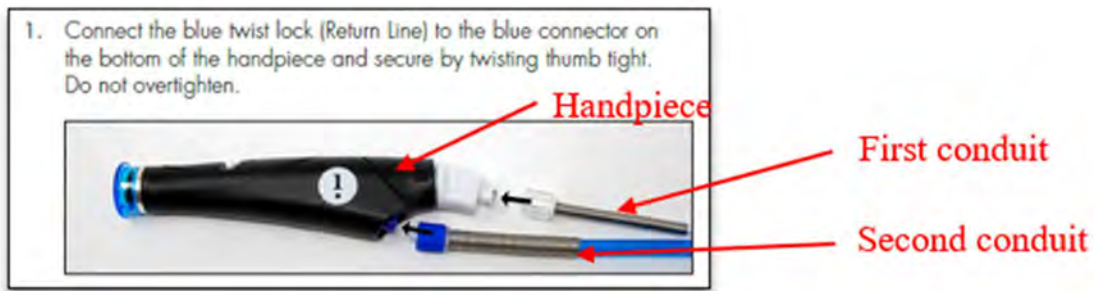
96. The Elite IFU and Allegro IFU confirms each device has a handpiece configured to be in fluid communication with the vacuum source through a second conduit when the handpiece is connected to the console. The Elite IFU and Allegro IFU illustrates and describes a “Return Line.” In the annotated illustrations below, the “Return Line” attaches to the handpiece. This “Return Line” serves as a portion of the second conduit through which the handpiece is in fluid communication with the vacuum source. For clarity, I have also labeled the first conduit, which I describe in greater detail above.



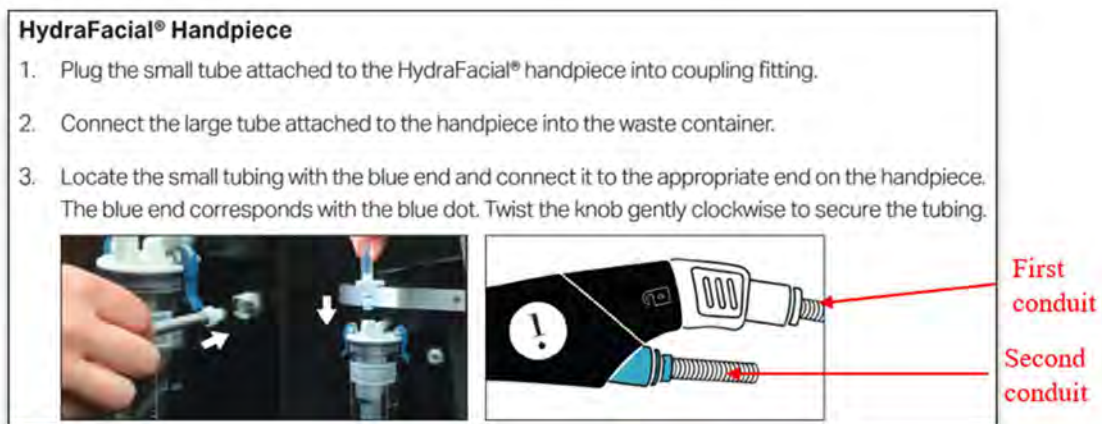
Ex. 2031 at 12 (Elite).



Ex. 2031 at 18 (Elite).



Ex. 2034 at 3 (Elite); *see also* Ex. 2031 at 20 (“Make sure that your HydraFacial handpiece is properly connected to the side of the skin solution station block, and to the waste canister.”).



Ex. 2032 at 9 (Allegro).



Ex. 2034 at 3 (Allegro); *see* Ex. 2032 at 17 (“Make sure that your HydraFacial handpiece is properly connected to the side of the skin solution station block, and to the waste cannister.”).

97. Accordingly, this limitation is satisfied by each of the Elite, Allegro, and Tower devices.

- g. 1[f]: wherein when the handpiece, the first container, the at least one additional container and a waste container are each connected to the console, the first container contains a first treatment fluid, and the at least one additional container contains an additional treatment fluid, the handpiece is in fluid communication with the vacuum source and the waste container through the second conduit; and**

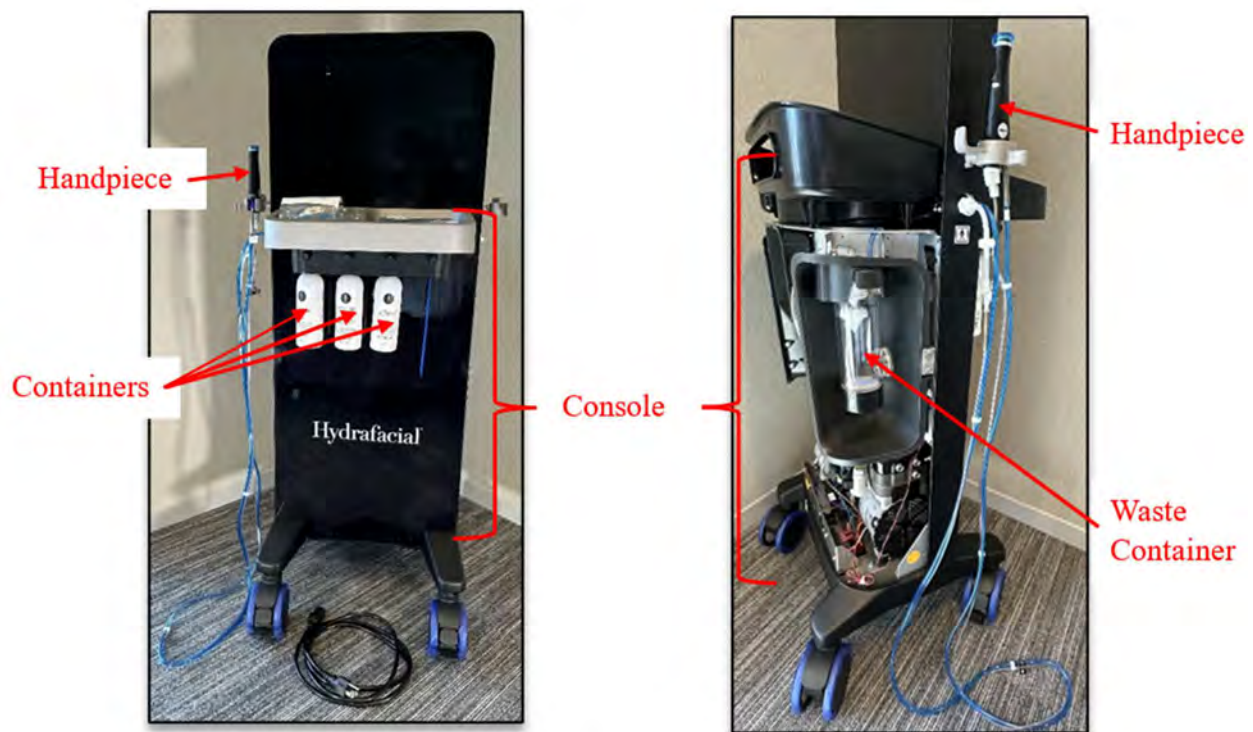
98. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitation “wherein when the handpiece, the first container, the at least one additional container and a waste container are each connected to the console, the first container contains a first treatment fluid, and the at least one additional container contains an additional treatment fluid, the handpiece is in fluid communication with the vacuum source and the waste container through the second conduit.”

i. Syndeo

99. I have inspected the Syndeo and determined that when each of the handpiece, the first container containing a first fluid treatment, the at least one additional container containing an additional fluid treatment, and a waste container

are connected to the console, the handpiece is in fluid communication with the vacuum source and the waste container through the second conduit.

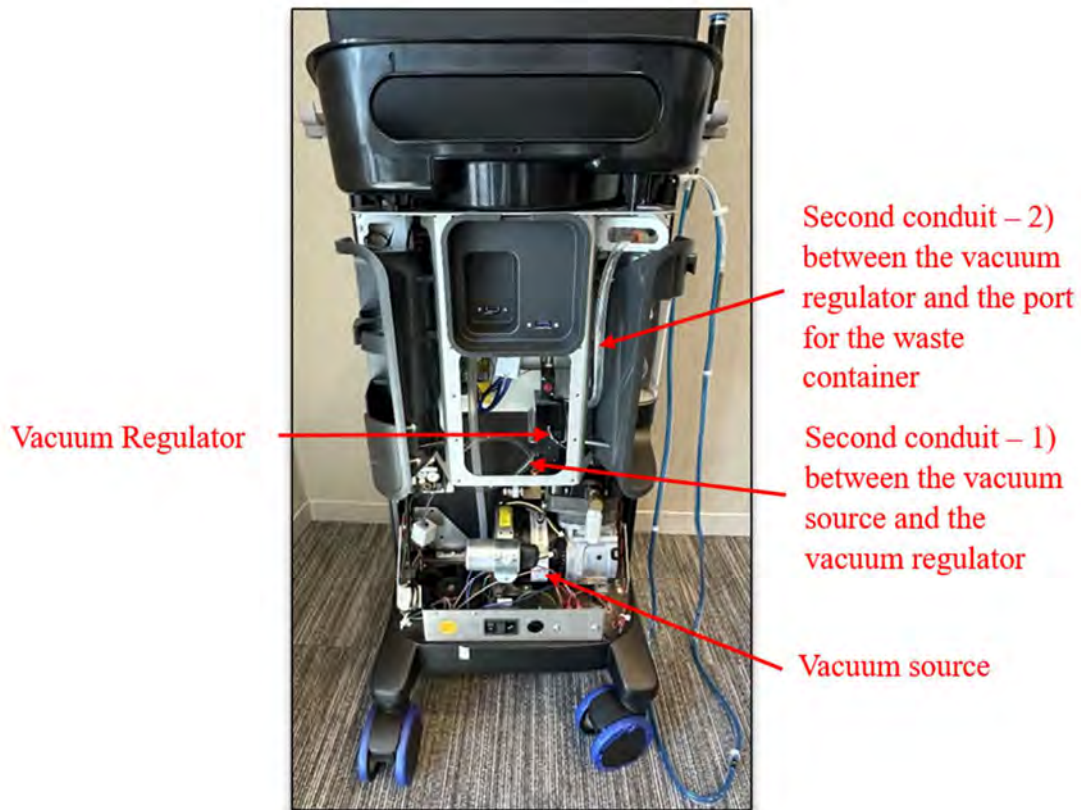
100. In the two images below, the waste container is shown to be connected to the rear of the console, the handpiece is shown to be connected to the console via tubing, and the first container (as well as each additional container) is attached to the console:



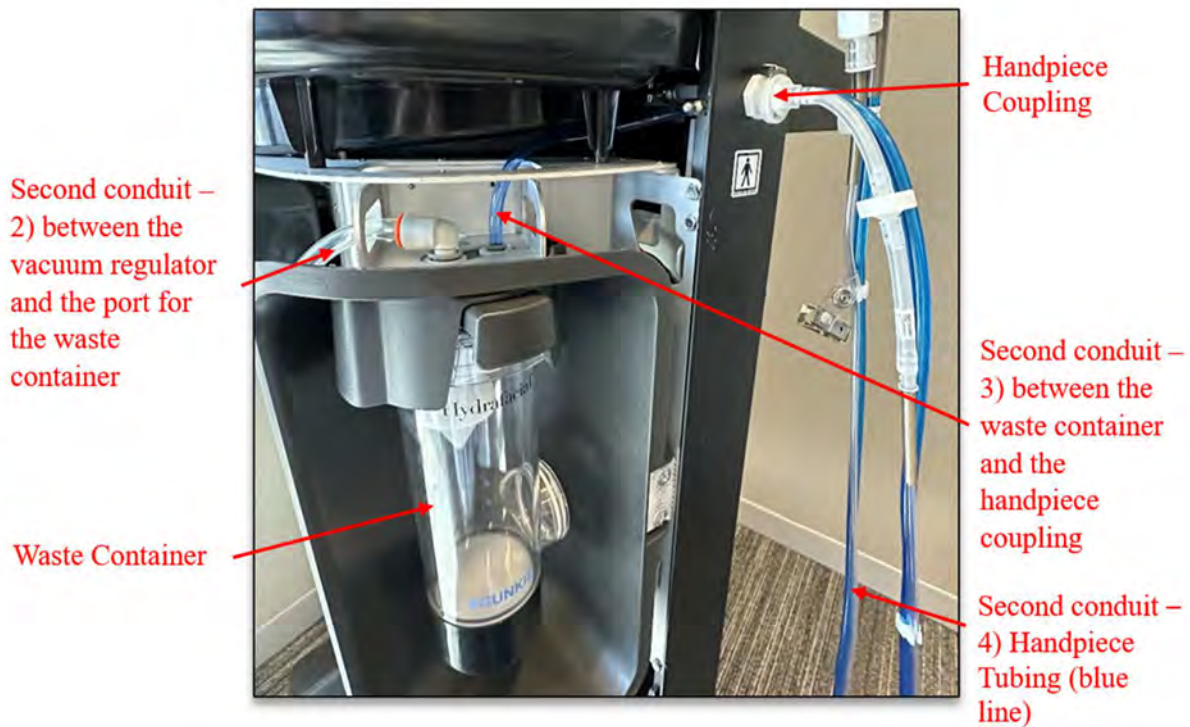
Ex. 2107; Ex. 2108.

101. As explained above, the second conduit comprises multiple tubing components that extend, *inter alia*, between a port of the waste container and the coupling for the handpiece tubing via the waste container and tubing, and through

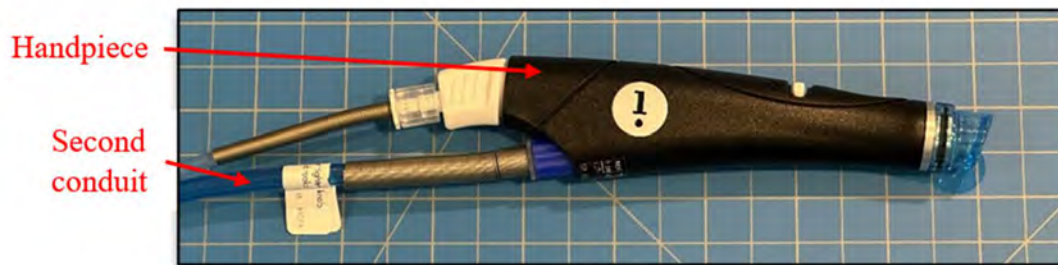
the coupling for the handpiece to the handpiece itself. The images below identify portions 1), 2), 3), and 4) of the second conduit:



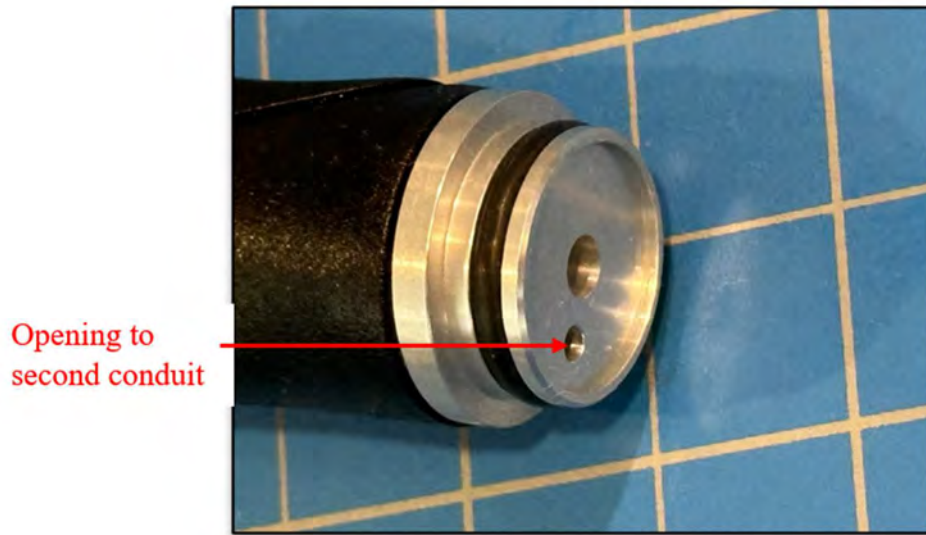
Ex. 2109.



Ex. 2110. As discussed above, and illustrated in the annotated images below, treatment fluid flows through the first conduit contained in the Syndeo handpiece to the second conduit via an opening in the main body of the handpiece.

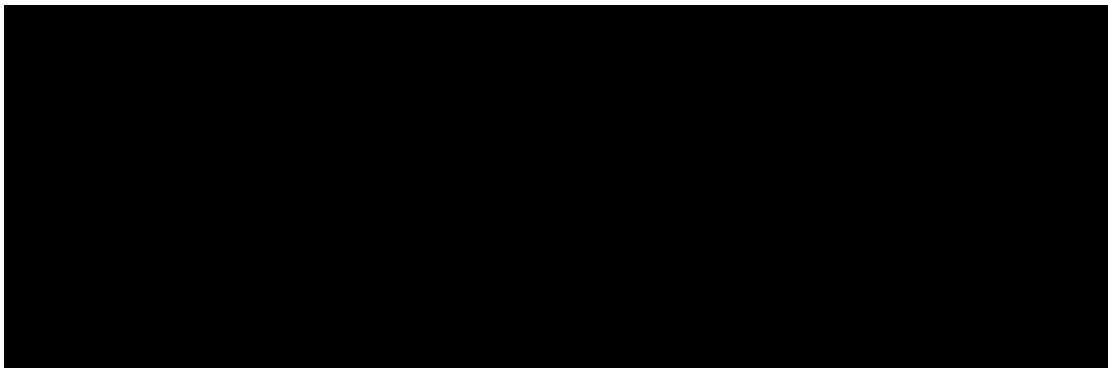


Ex. 2111.



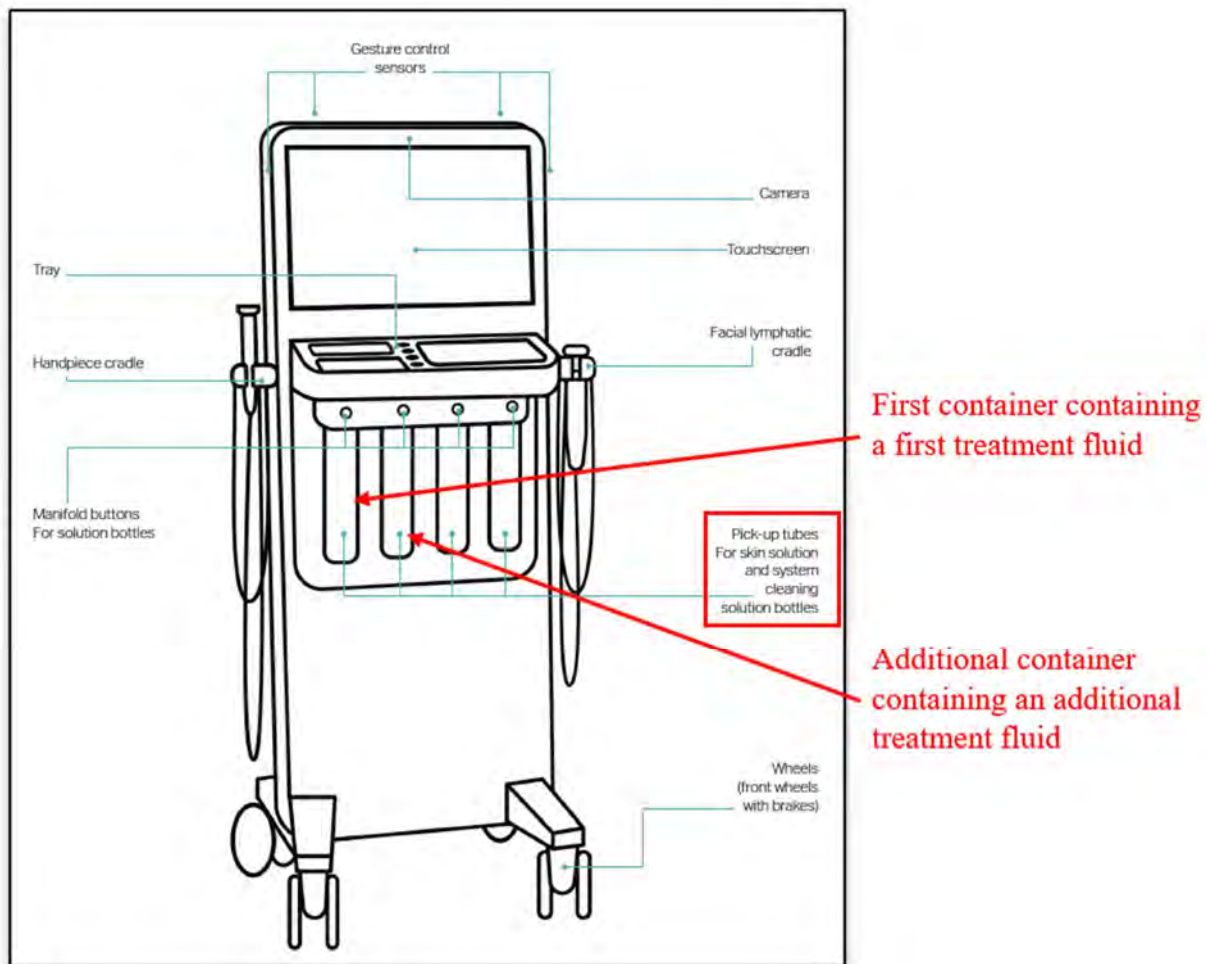
Ex. 2112.

102. In use, the Syndeo includes fluids for use in each of the containers. For example, the Engineering Report Form for the Syndeo identifies “Activ-4,” “Antiox+, Antiox-6,” “Beta-HD,” and “Rinse-away” as the serum containers which can be connected to the Syndeo console. The below image is excerpted from the Engineering Report Form. Thus, “Activ-4,” “Antiox+, Antiox-6,” “Beta-HD,” and “Rinse-away,” each corresponds to a container which may be connected to the Syndeo console.



Ex. 2113 at 2.

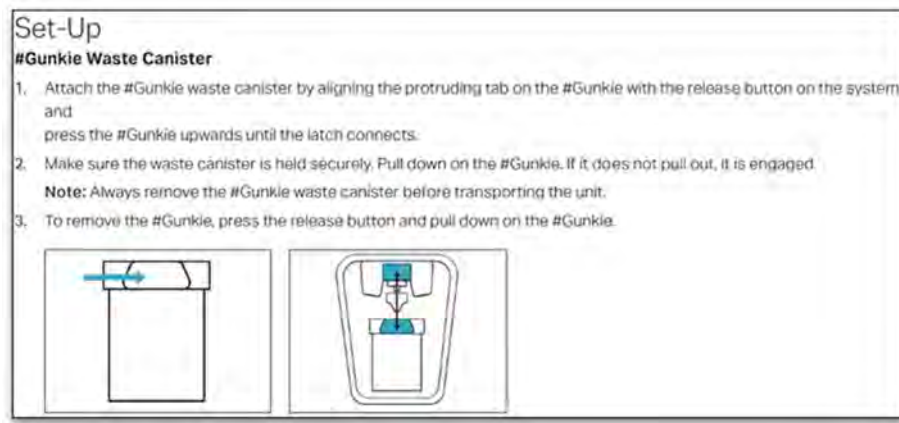
103. The Syndeo IFU further describes placing solutions in the appropriate containers. For example, the Syndeo IFU explains that the bottles inserted into the Syndeo console each contain a “skin solution.” I have annotated, for clarity, an image from the Syndeo IFU showing the console with a first and additional container, each containing a different treatment fluid:



Ex. 2030 at 10; *see also id.* at 13 (“Remove the cap of the skin solution bottle and use the puncture tool to pierce the seal inside the bottle.”); *id.* at 7 (“Always use solution when performing abrasion. Performing the treatment without skin solutions could result in discomfort to the client.”); *id.* at 14 (“The Syndeo system automatically selects and deselects the recommended solution bottle based on the respective treatment step.”); *id.* at 22 (“Make sure your skin solution bottle is not empty.”)

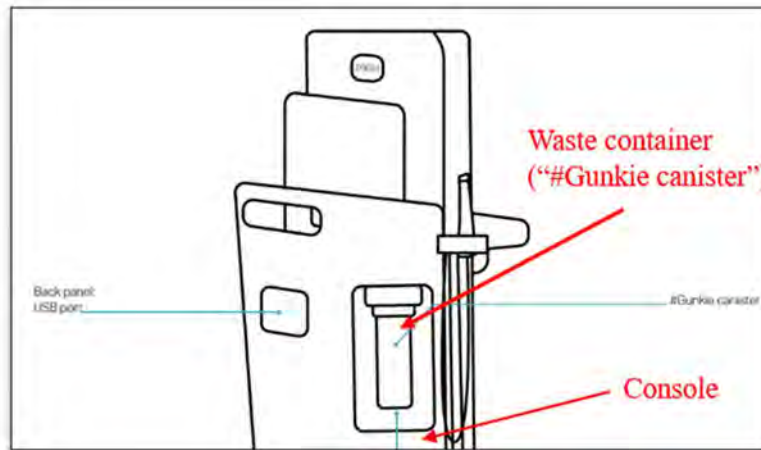
104. When the above conditions (fluid containers have fluid and are connected to the console, handpiece is connected to the console, waste container is connected to the console) are satisfied the handpiece of the Syndeo is in fluid communication with the vacuum source and the waste container through the second conduit.

105. For the same reasons set forth in limitation 1[e] above, the handpiece is in fluid communication with the vacuum source through the second conduit. The handpiece is also in fluid communication with the waste container through the second conduit. As shown in the image below, the Syndeo includes a waste container (“#Gunkie Waste Canister”) connected to the console. The image below, excerpted from the Syndeo IFU, illustrates attaching the waste container to the console of the Syndeo system.



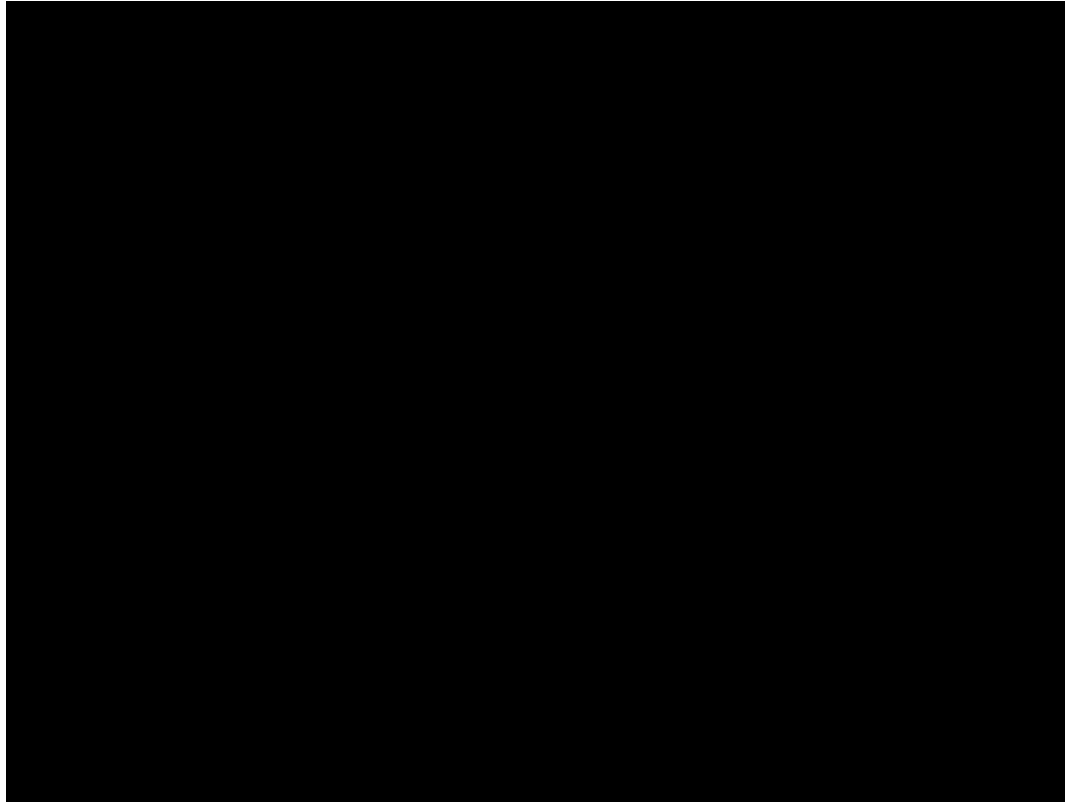
Ex. 2030 at 12. The Syndeo IFU also describes that the handpiece is connected, through the Return Line, to the waste container (“waste canister”). Ex. 2030 at 22 (“Make sure that your HydraFacial handpiece is properly connected to the side of the skin solution station block, and to the waste canister.”); *id.* (“Do not let the waste canister fill above 450 mL. If the canister becomes overfull, a built-in float will occlude the vacuum opening and skin solution flow through the handpiece will cease.”).

106. The Syndeo IFU also includes the figure below, which I have annotated for clarity, depicting the system having a waste container attached to the console:



Id. at 11.

107. The Syndeo fluid schematic confirms that the waste container and handpiece are in fluid communication. In the annotated Syndeo fluid schematic below, I have identified the second conduit which place the handpiece in fluid communication with the waste container.



Ex. 2114.

108. I also observed the fluid communication between the handpiece and the vacuum source and waste container during my examination of the Syndeo. When the vacuum source was activated and the handpiece placed in contact with skin, vacuum suction force passed from the vacuum source through the waste container and to the handpiece, where it could be felt against the skin.

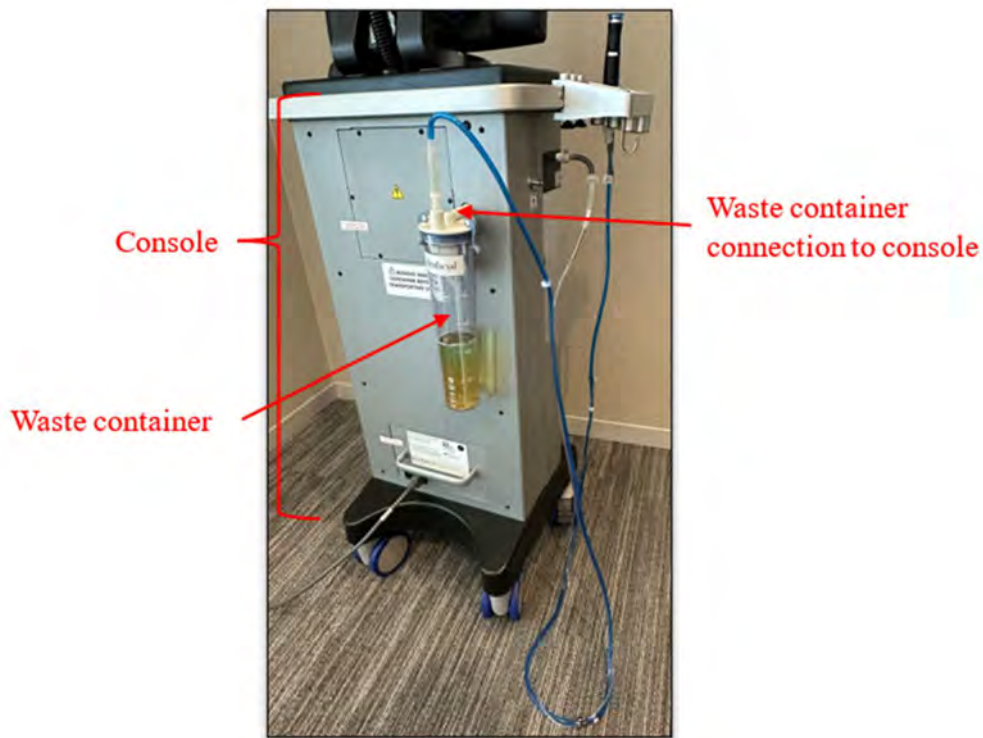
109. Accordingly, this limitation is satisfied by the Syndeo.

ii. Elite, Allegro, and Tower

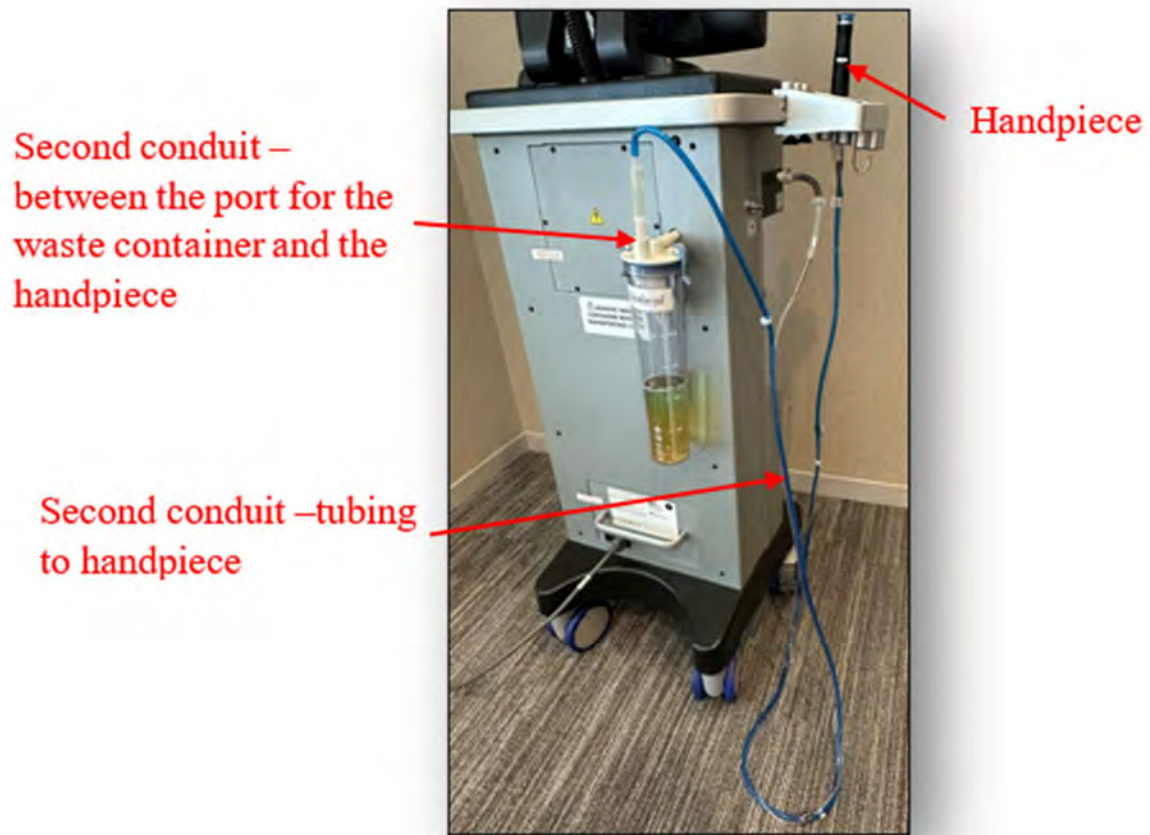
110. I have inspected the Elite, Allegro, and Tower and determined that when each of the handpiece, the first container containing a first fluid treatment, the at least one additional container containing an additional fluid treatment, and a waste

container are connected to the console, the handpiece is in fluid communication with the vacuum source and the waste container through the second conduit.

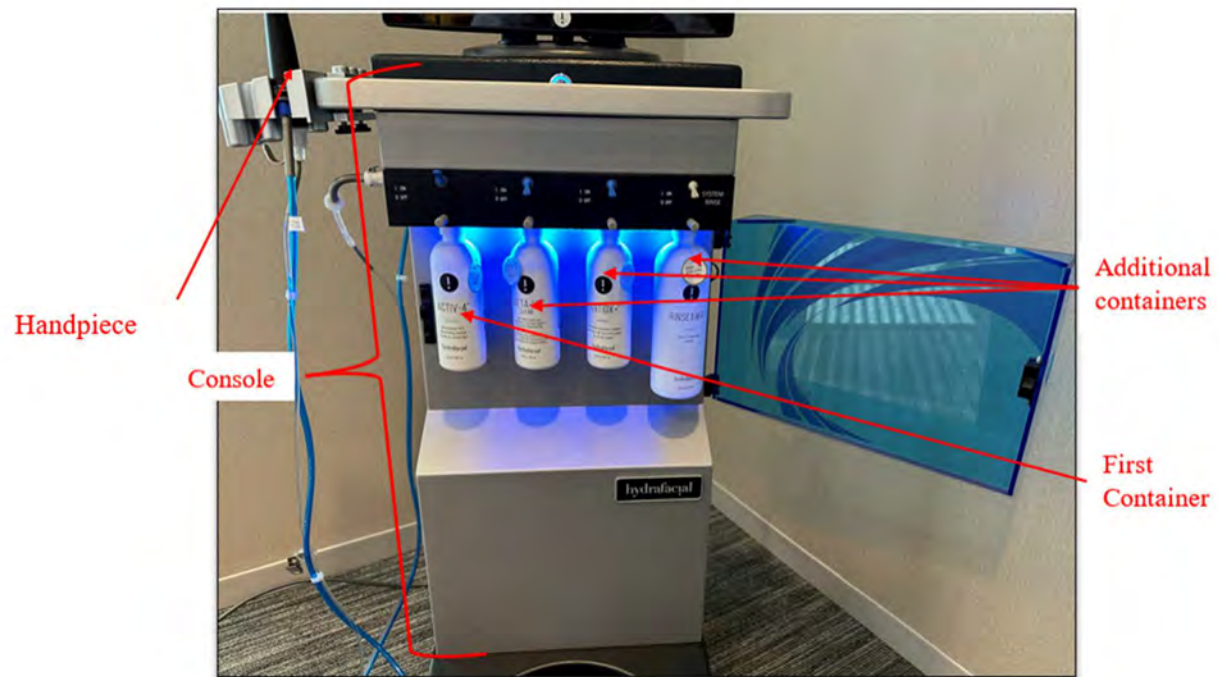
111. In the images below, the waste container is shown to be connected to the rear of the console, the handpiece is shown to be connected to the console via tubing, and the first container (as well as each additional container) is attached to the console:



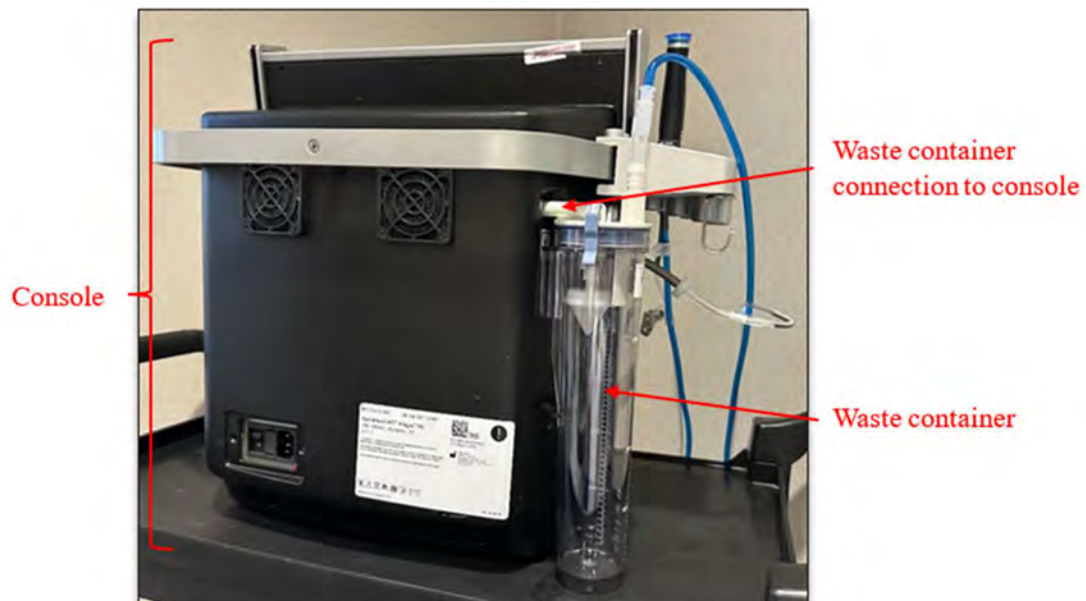
Ex. 2115 (Elite).



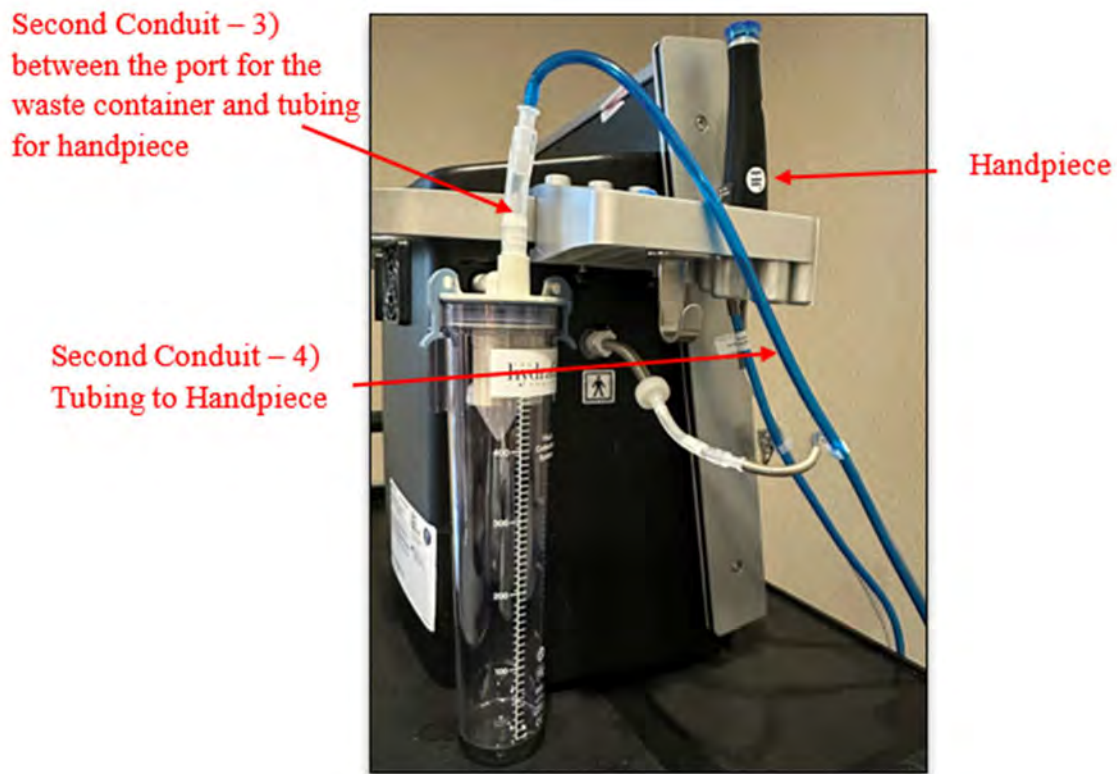
Ex. 2115 (Elite).



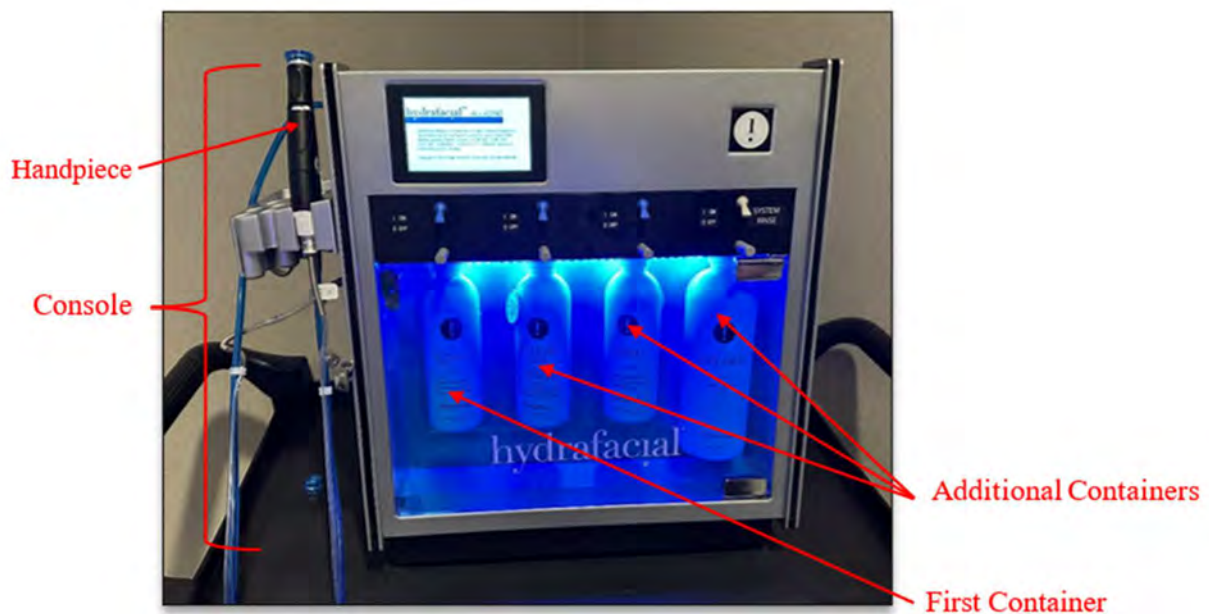
Ex. 2116 (Elite).



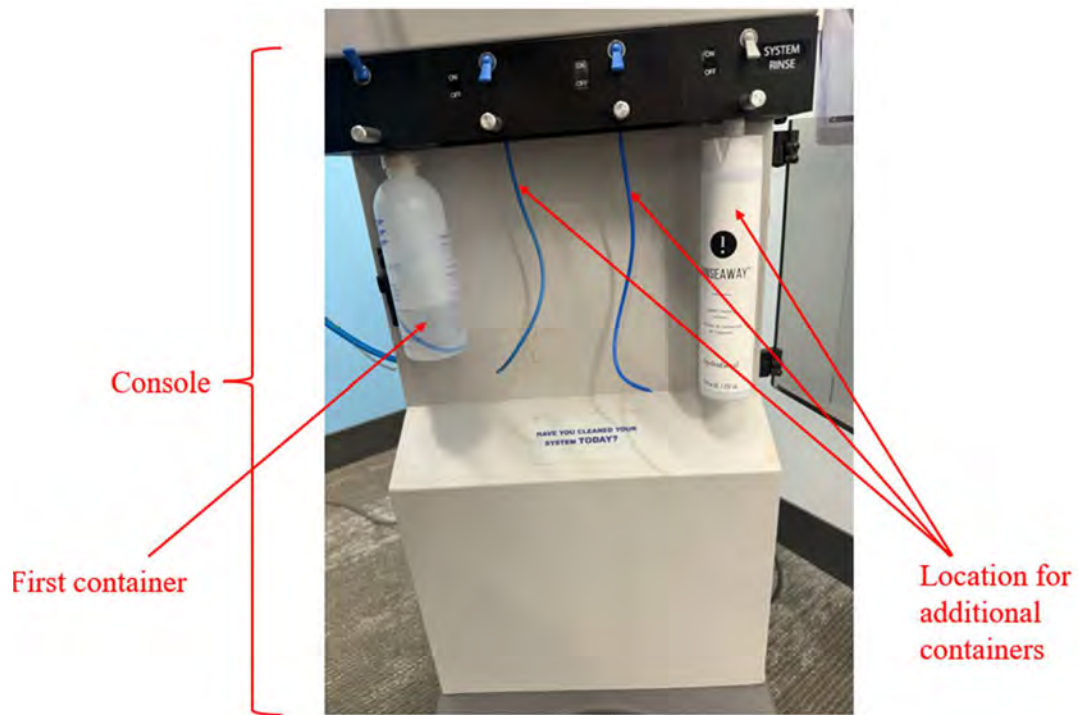
Ex. 2120 (Allegro).



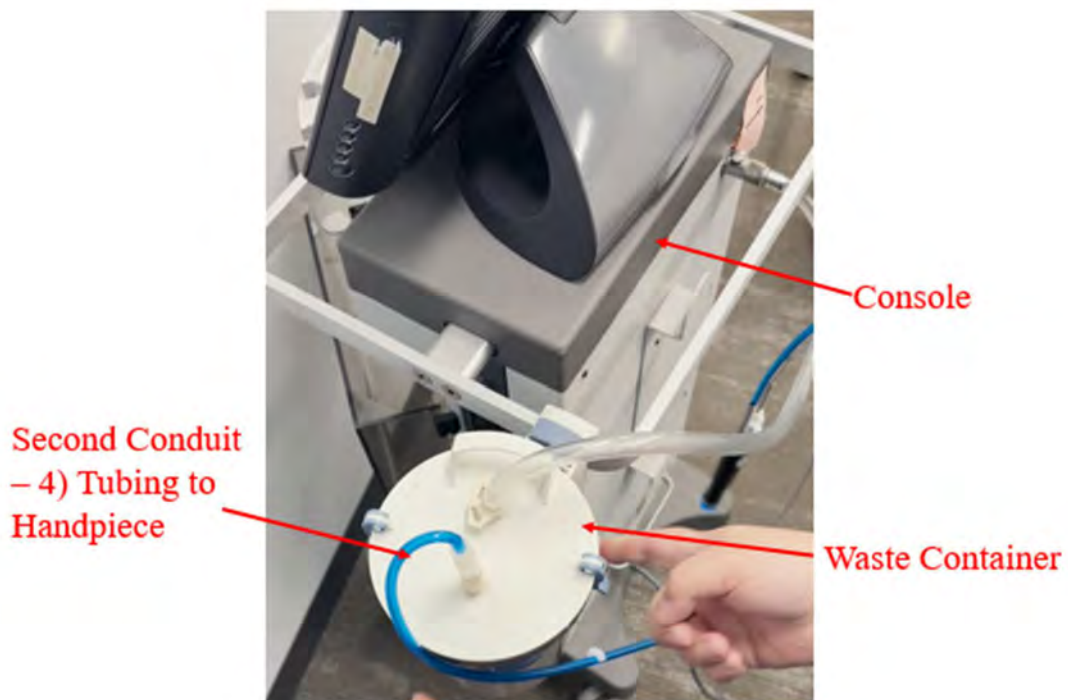
Ex. 2121 (Allegro).



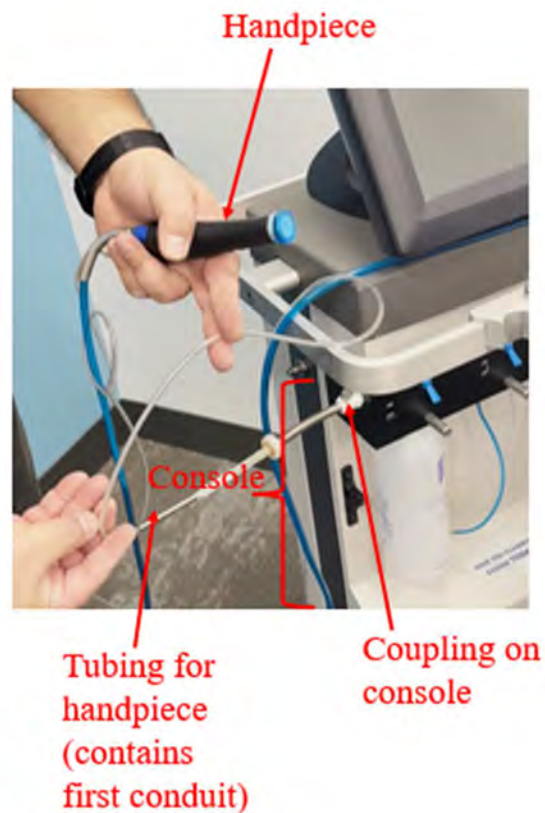
Ex. 2117 (Allegro)



Ex. 2118 (Tower).

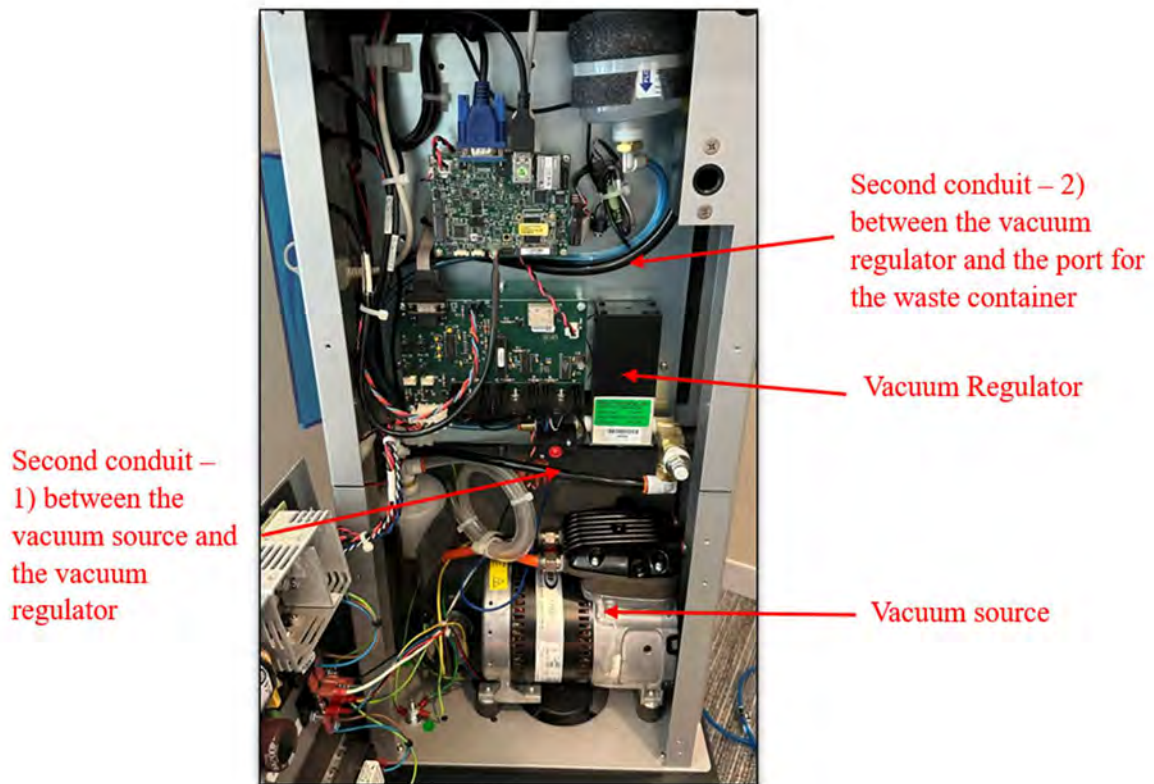


Ex. 2149 at 1 (Tower).

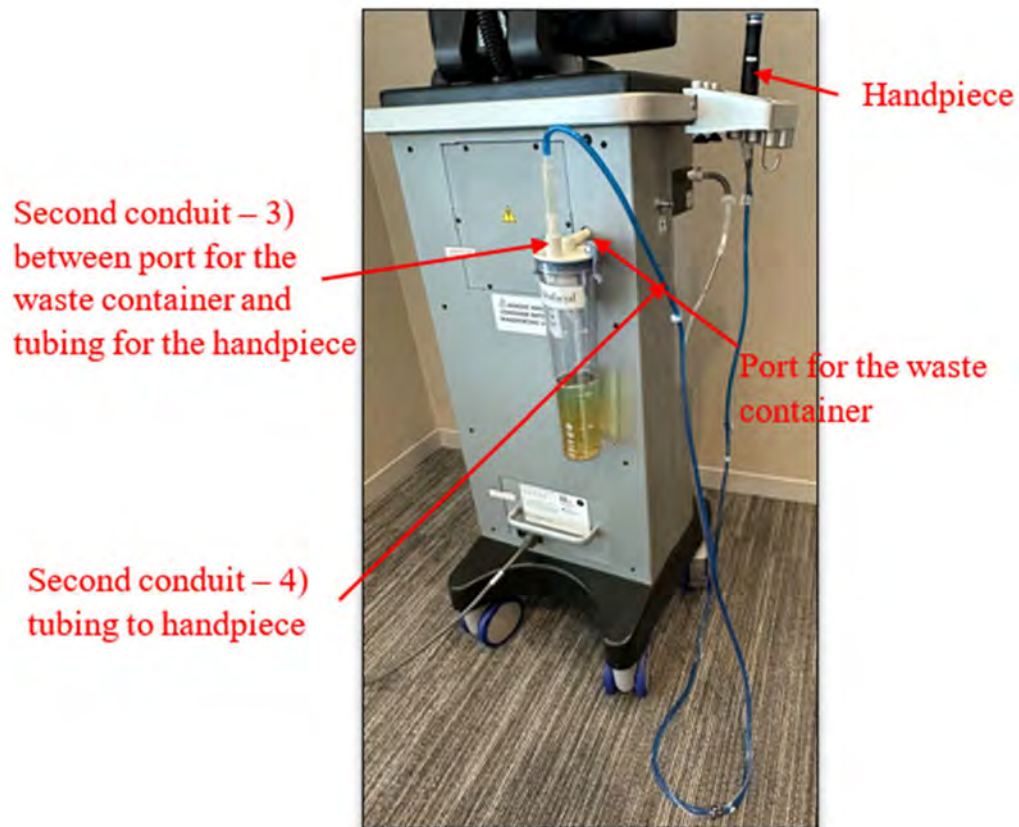


Ex. 2151 at 1 (Tower).

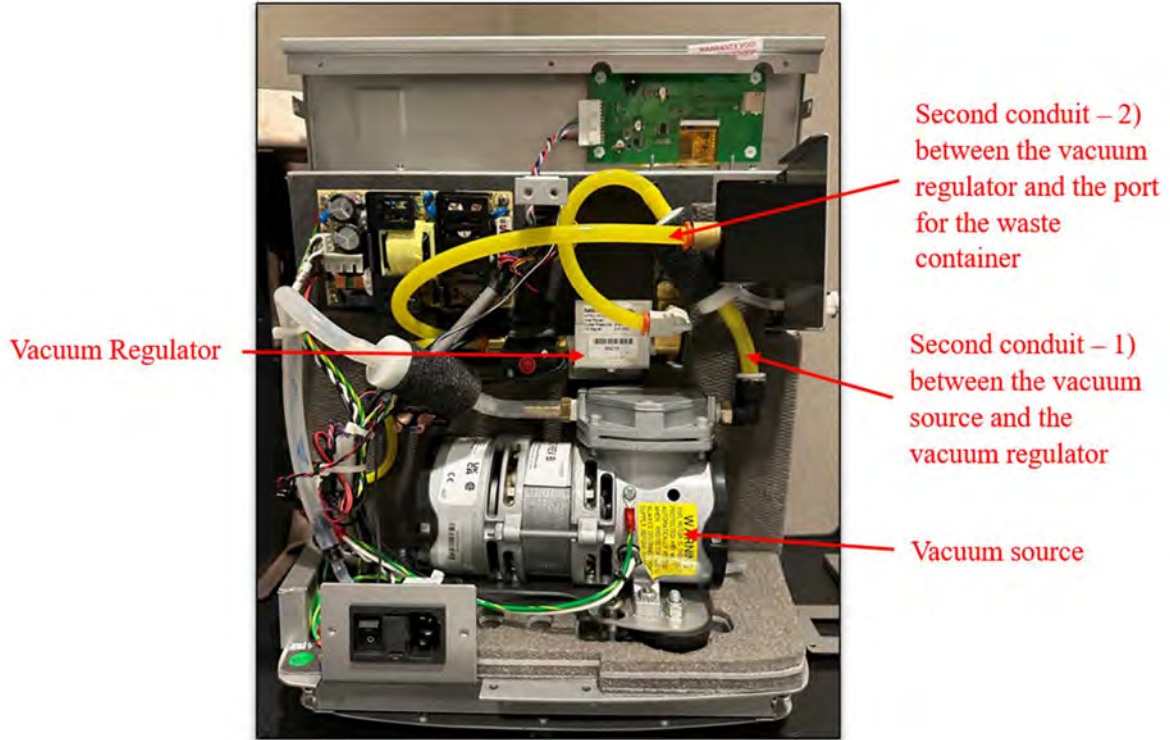
112. As explained above, the second conduit comprises multiple tubing components that extend, *inter alia*, between a vacuum source and the coupling for the handpiece tubing via the waste container and tubing, and through the coupling for the handpiece to the handpiece itself. The images below identify portions 1), 2), 3), and 4) of the second conduit for the Elite and Allegro:



Ex. 2119 (Elite).



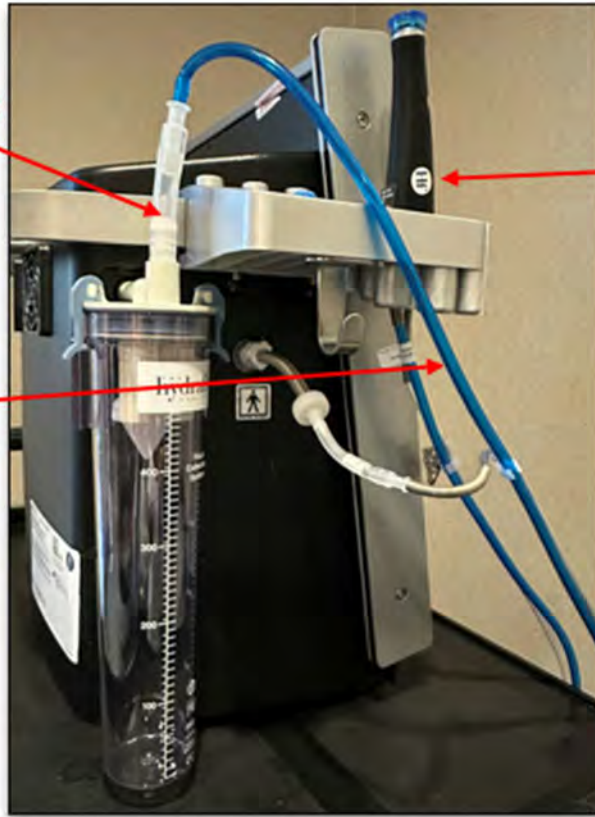
Ex. 2115 (Elite).



Ex. 2120 (Allegro).

Second Conduit – 3)
between the port for the
waste container and tubing
for handpiece

Second Conduit – 4)
Tubing to Handpiece



Ex. 2121 (Allegro). The Tower has the same second conduit comprised of multiple tubing components. *See supra* limitation 1[e].

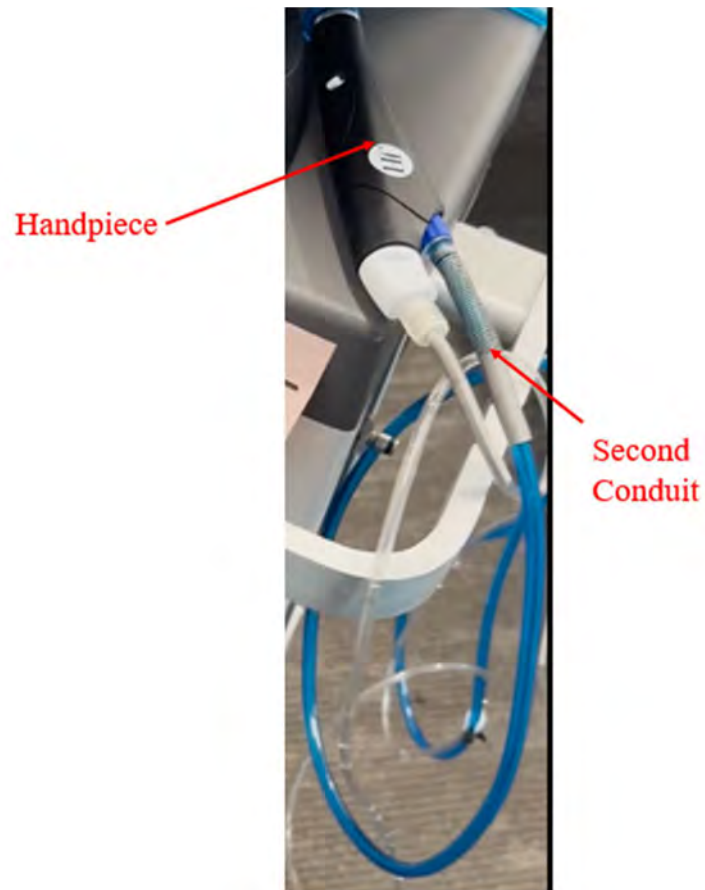
113. As discussed above, and illustrated in the annotated images below, treatment fluid flows through the first conduit contained in the Elite, Allegro, and Tower handpiece to the second conduit via an opening in the main body of the handpiece.



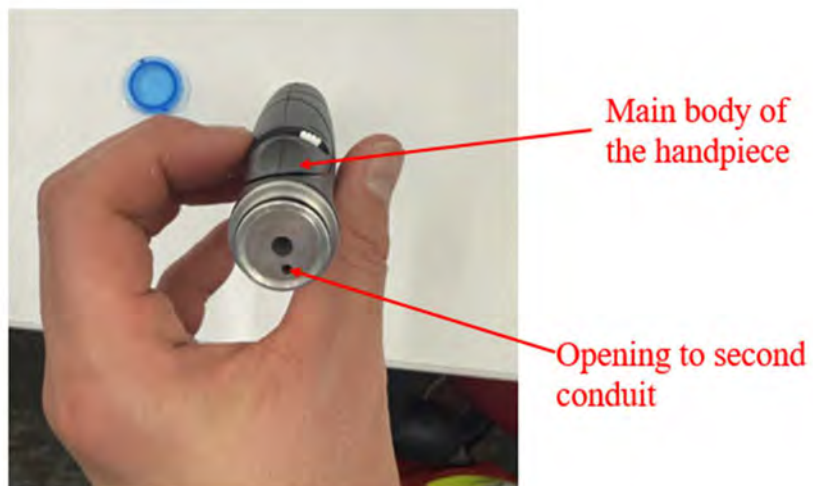
Ex. 2104 (Elite).



Ex. 2105 (Allegro).



Ex. 2147 (Tower).



Ex. 2106 (Tower).

114. As explained in detail above, the user is instructed to connect the handpiece to the console for each device. *See supra* limitation 1[e]. The user is also instructed to connect a first container and at least one additional container to the console. *See supra* limitation 1[a]. In addition, each container which connects to the console for the Elite, Allegro, and Tower contains a different treatment material. *See, e.g.,* Ex. 2125 at 3 (describing a HydraFacial™ as “remov[ing] dead skin cells and impurities while simultaneously infusing the new skin with cleansing, hydrating and moisturizing serums & antioxidants”).

115. When the above conditions (fluid containers have fluid and are connected to the console, handpiece is connected to the console, waste container is connected to the console) are satisfied the handpiece of each of the Elite, Allegro, and Tower is in fluid communication with the vacuum source and the waste container through the second conduit.

116. For the same reasons set forth in limitation 1[e] above, the handpiece is in fluid communication with the vacuum source through the second conduit. The handpiece is also in fluid communication with the waste container through the second conduit. As explained above, the handpiece for each of the Elite, Allegro, and Tower is in fluid communication with the waste container through the second conduit – 3) (Return line). Limitation 1[e].

117. Additionally, the Elite IFU describes that the handpiece is connected, through the Return Line, to the waste container (“waste canister”). Ex. 2031 at 20 (“Make sure that your HydraFacial handpiece is properly connected to the side of the skin solution station block, and to the waste canister.”); *id.* (“Do not let the waste canister fill above 450 mL. If the canister becomes overfull, a built-in float will occlude the vacuum opening and skin solution flow through the handpiece will cease.”).

118. Similarly, the Allegro IFU describes that the handpiece is connected, through the second conduit, to the waste canister. Ex. 2032 at 17 (“Make sure that your HydraFacial® handpiece is properly connected to the side of the skin solution station block, and to the waste container. Also, make sure that the lid is firmly attached to the waste container.”); *Id.* (“Do not let the waste container fill above 450 mL. If the container becomes overfull, a built-in float will occlude the vacuum opening and skin solution flow through the handpiece will cease.”).

119. The Tower functions the same, for the reasons stated above. *See supra* Limitation 1[f].

120. Accordingly, this limitation is satisfied by each of the Elite, Allegro, and Tower.

121. I also observed the fluid communication between the handpiece and the vacuum source and waste container during my examination of the Elite, Allegro, and Tower. When the vacuum source was activated and the handpiece placed in contact with skin (or when the cleaning cap was placed on the handpiece for the Tower, replicating contact with the skin)), vacuum suction force passed from the vacuum source through the waste container and to the handpiece, where it could be felt against the skin. *See* Ex. 2151. Accordingly, this limitation is satisfied by each of the Syndeo, Elite, Allegro, and Tower.

- h. 1[g]: “the system is configured to deliver the first treatment fluid contained in the first container and the additional treatment fluid contained in the at least one additional container to the handpiece sequentially.”**

122. In my opinion, each of the Syndeo, Elite, Allegro, and Tower is “configured to deliver the first treatment fluid contained in the first container and the additional treatment fluid contained in the at least one additional container to the handpiece sequentially.”

123. As discussed above, I have inspected each device and observed that in use, the user selects a fluid container from the system menus in order to treat a patient with that fluid.

124. For example, below is an excerpt from a video of the Syndeo in operation. The image shows the system is configured to deliver treatment fluid

contained in the first container and additional treatment fluid contained in an additional container to the handpiece sequentially via a user selecting the appropriate container from which to draw treatment fluid.



See Ex. 2078 at 2 (beginning treatment by delivering the first treatment fluid contained in the first container, then selecting a different container from which to draw fluid for treatment) (Syndeo). Similarly, the images below show the Elite and Allegro systems are configured to deliver treatment fluid contained in the first container and additional treatment fluid contained in an additional container to the handpiece sequentially via a user selecting the appropriate container from which to draw treatment fluid.



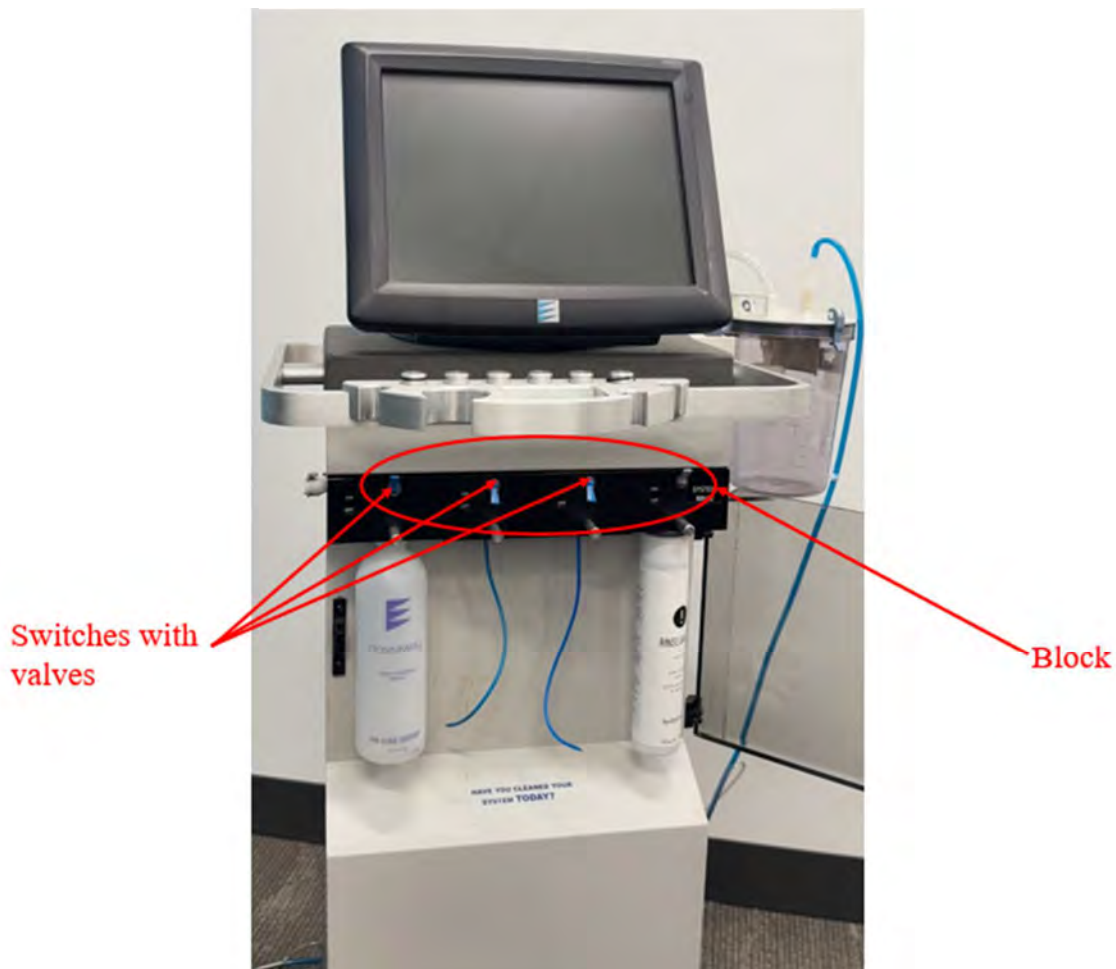
See Ex. 2126 (Elite)



Ex. 2088 (Allegro).

125. Finally, the images of the Tower below show the system is configured to deliver treatment fluid contained in the first container and additional treatment

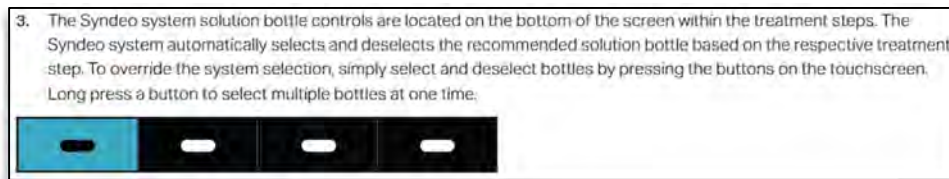
fluid contained in an additional container to the handpiece sequentially via a user selecting the appropriate container from which to draw treatment fluid, consistent with the Elite and Allegro devices.



Ex. 2149 at 2 (Tower).

126. Technical documents for the Syndeo, Elite, Allegro and Tower confirm my opinions. For example, the Syndeo IFU provides further details regarding these containers and treatment fluids, and the delivery of fluids from the solution bottles.

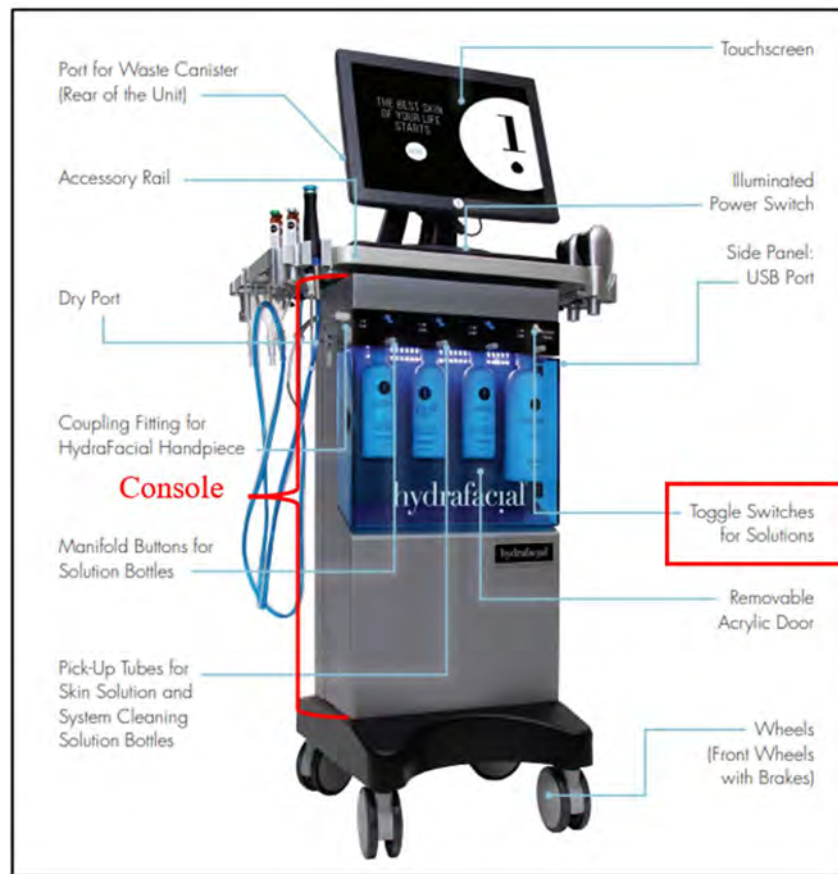
The Syndeo IFU explains that the Syndeo includes “solution bottle controls [] located on the bottom of the screen within the treatment steps.”



Ex. 2030 at 14. The Syndeo IFU explains the Syndeo “automatically selects and deselects the recommended solution bottle based on the respective treatment step.”

Id. Based on this disclosure, a POSA would understand that the Syndeo is configured to deliver the treatment fluids to the handpiece sequentially “based on the respective treatment step.” *Id.* The Syndeo IFU’s troubleshooting section similarly describes the following scenario: “[i]f using only one station at a time, deselect current station and try another station.” *Id.* at 22.

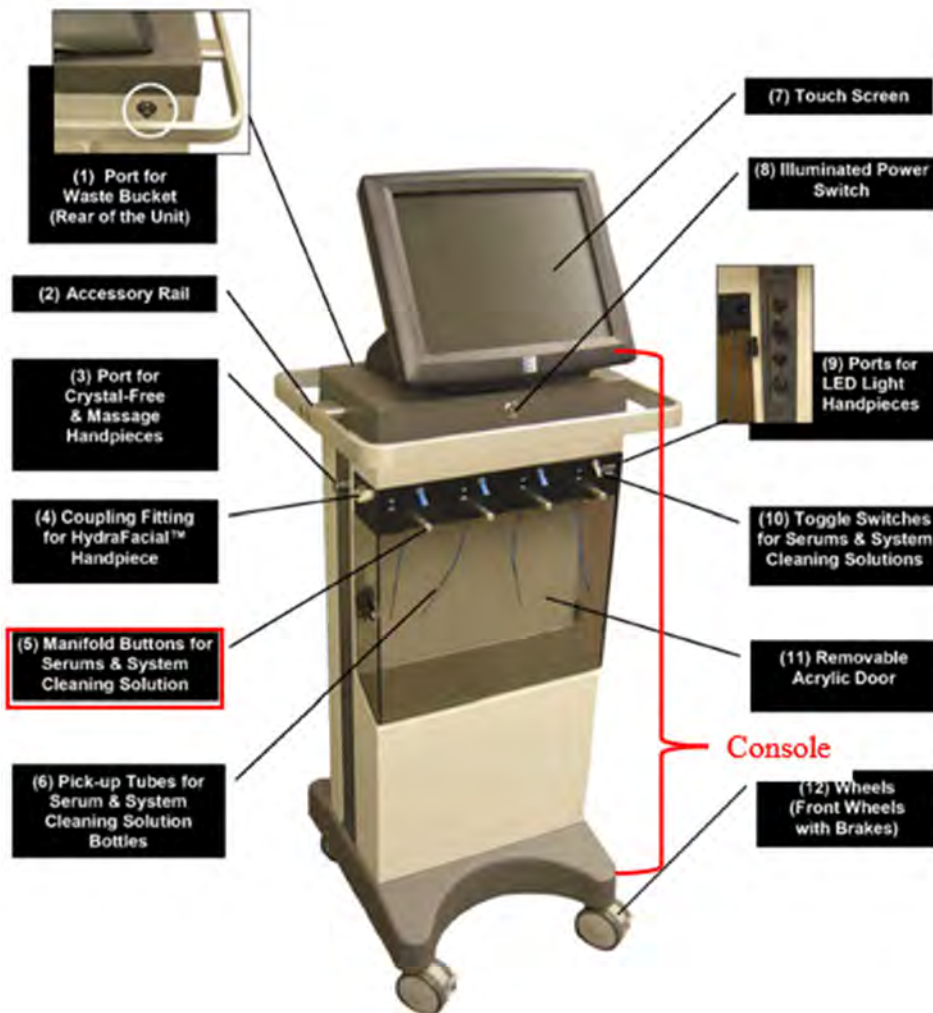
127. The Elite IFU, Allegro IFU, and Tower Owner’s Manual each shows toggle switches on the console to control the delivery of the treatment fluids from the containers sequentially:



Ex. 2031 at 10 (Elite).



Ex. 2032 at 8 (Allegro).



Ex. 2125 at 8 (Tower).

128. The Elite IFU explains that the “toggle switches [on the console] control which skin solution bottle is being used.” Ex. 2031 at 14. It further states that “[w]hen a switch is in the ON position, fluid will be drawn from that bottle” and “[w]hen switched to the OFF position, no fluid will be drawn from the corresponding bottle.” *Id.* Thus, for example, when the switch for the first container is ON and the switch for the at least one additional container is OFF, treatment fluid will be

delivered to the handpiece from the first container only. Thereafter, when the switch for the first container is OFF and the switch for the at least one additional container is ON, treatment fluid will be delivered to the handpiece from the at least one additional container only. In this manner, through operation of the toggle switches, the system is configured to deliver the treatment fluids to the handpiece sequentially. Further, the Elite IFU's troubleshooting section describes the scenario, "[i]f using only one station at a time, turn current station off and try another station." *Id.* at 20.

129. The Allegro IFU contains similar disclosures. The Allegro IFU further explains that the "toggle switches control which skin solution bottle is being used. When a switch is in the ON position, fluid will be drawn from that bottle. When switched to the OFF position, no fluid will be drawn from the corresponding bottle." Ex. 2032 at 11. Thus, for example, when the switch for the first container is ON and the switch for the at least one additional container is OFF, treatment fluid will be delivered to the handpiece from the first container only. Thereafter, when the switch for the first container is OFF and the switch for the at least one additional container is ON, treatment fluid will be delivered to the handpiece from the at least one additional container only. In this manner, through operation of the toggle switches, the system is configured to deliver the treatment fluids to the handpiece sequentially. The Allegro IFU refers to the individual block components as "stations" and

describes a troubleshooting scenario where, “[i]f using only one station at a time, turn current station off and try another station.” *Id.* at 17.

130. The Owner’s Manual for the Tower includes similar disclosures regarding the toggle switches. The Tower Owner’s Manual explains that the “toggle switches control which serum bottle is being used. When a switch is in the OFF position, no fluid will be drawn from that bottle. When a switch is in the ON position, fluid will be drawn from that bottle.” Ex. 2125 at 8. Thus, for example, when the switch for the first container is ON and the switch for the at least one additional container is OFF, treatment fluid will be delivered to the handpiece from the first container only. Thereafter, when the switch for the first container is OFF and the switch for the at least one additional container is ON, treatment fluid will be delivered to the handpiece from the at least one additional container only. In this manner, through operation of the toggle switches, the system is configured to deliver the treatment fluids to the handpiece sequentially. Further, the Tower Owner Manual’s troubleshooting section describes the scenario, “[i]f using only one station at a time, turn current station off and try another station.” *Id.* at 18.

131. Accordingly, this limitation is satisfied by each of the Syndeo, Elite, Allegro, and Tower.

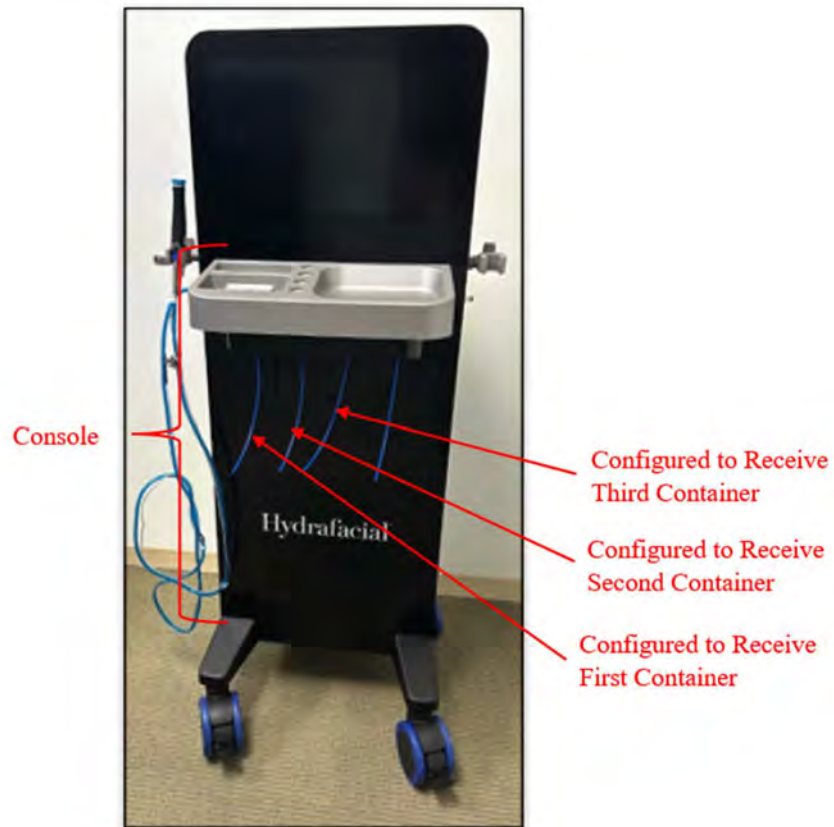
132. For all of these reasons, it is my opinion that each of the Syndeo, Elite, Allegro, and Tower practices Claim 1 of the ’287 Patent.

2. Practice of Claim 2

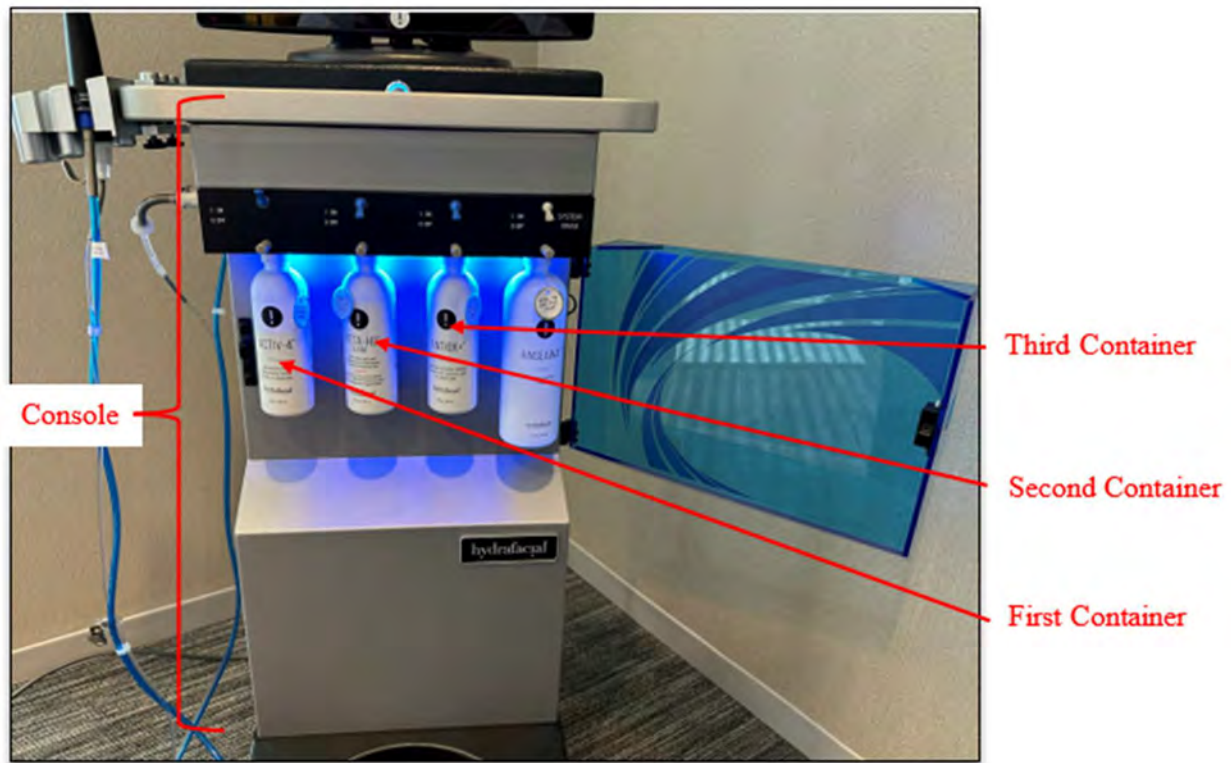
133. Claim 2 of the '287 Patent recites: The system of claim 1, wherein the at least one additional container comprises a second container and a third container such that the console is configured to receive at least three containers. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

134. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 1, as explained above. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “wherein the at least one additional container comprises a second container and a third container such that the console is configured to receive at least three containers.”

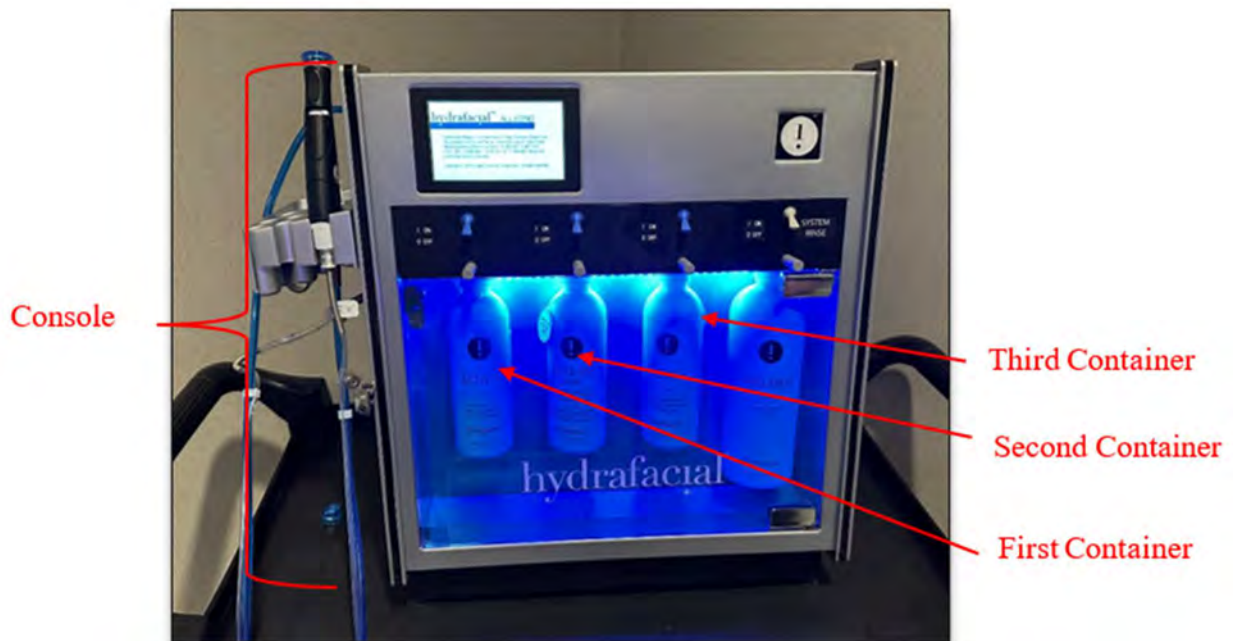
135. I have inspected each of the Syndeo, Elite, Allegro, and Tower practices (in person, via video, or via images). As shown below, each of the Syndeo, Elite, Allegro, and Tower comprises three fluid containers.



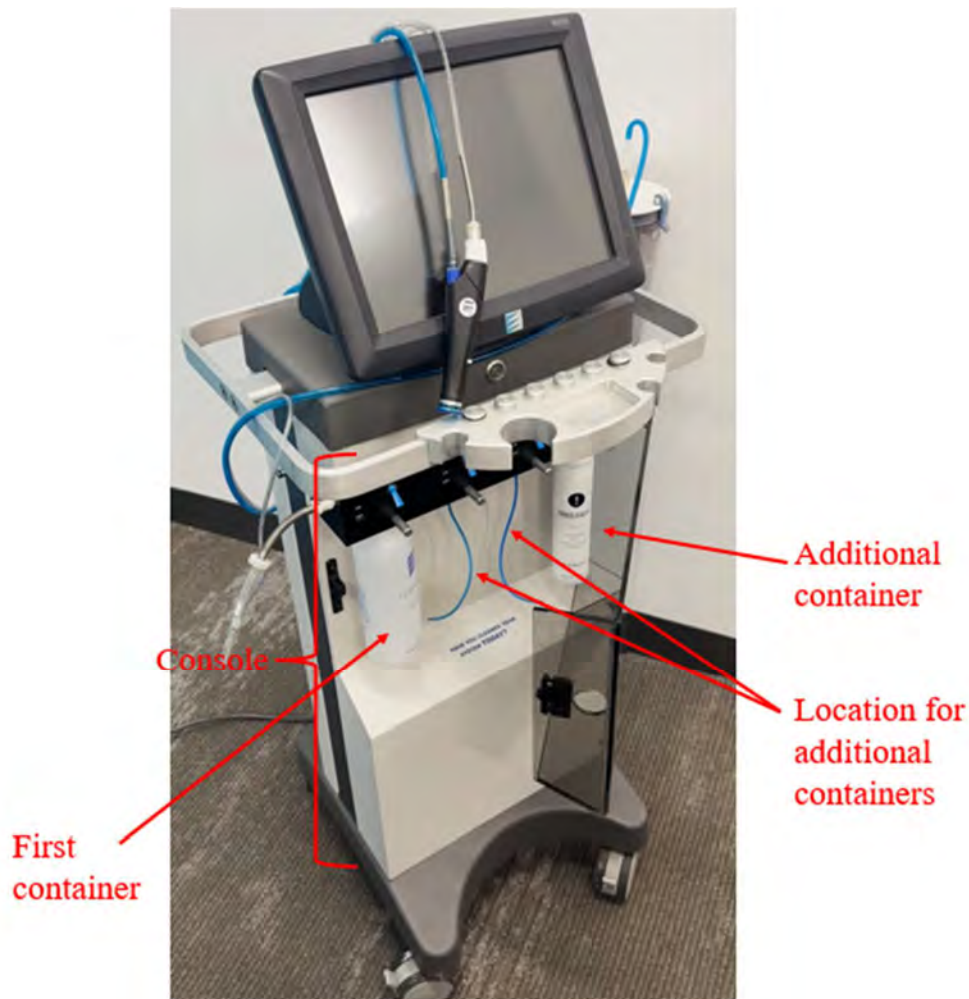
Ex. 2127 at 1; *see also* Ex. 2030 at 10, 13.



Ex. 2116 (Elite); *see also* Ex. 2031 at 10 (Elite), Ex. 2031 at 13-14 (Elite).



Ex. 2117 (Allegro); *see also* Ex. 2032 at 8, 11 (Allegro).



Ex. 2151 at 2 (Tower); *see also* Ex. 2125 at 1, 13.

136. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of Claim 2 of the '287 Patent.

3. Practice of Claim 3

137. Claim 3 of the '287 Patent recites: The system of claim 2, when the handpiece is connected to the console and the first container, the second container and the third container each contains fluid and is connected to the console, the system is configured to deliver to the handpiece one at a time fluid contained in the first

container, fluid contained in the second container, and fluid contained in the third container. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

138. First, as explained above, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 2. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “when the handpiece is connected to the console and the first container, the second container and the third container each contains fluid and is connected to the console, the system is configured to deliver to the handpiece one at a time fluid contained in the first container, fluid contained in the second container, and fluid contained in the third container.”

139. As discussed above in limitation 1[a], in each of the four devices, each container, including the second and third container, is connected to the console. And, as discussed in connection with limitation 1[c][iv], in each of the four devices the handpiece is connected to the console. In addition, as discussed in limitation 1[f], in each of the four devices, each of the containers contains a treatment fluid.

140. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices Claim 3 of the '287 Patent.

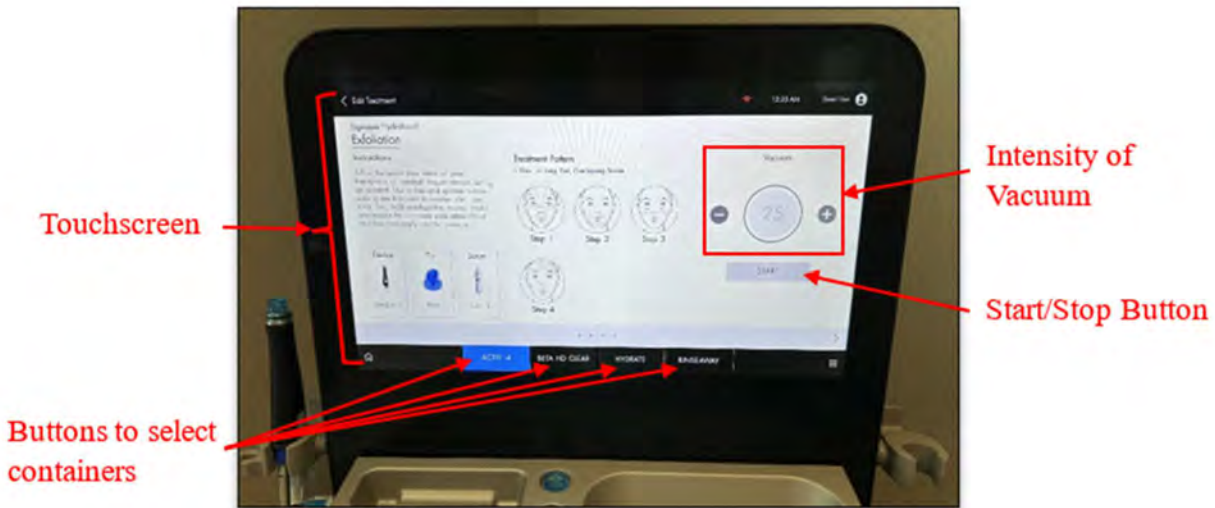
4. Practice of Claim 4

141. Claim 4 of the '287 Patent recites: The system of claim 1, further comprising a computing device configured to control at least one function of the system. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

142. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 1, as explained above. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “further comprising a computing device configured to control at least one function of the system.”

i. Syndeo

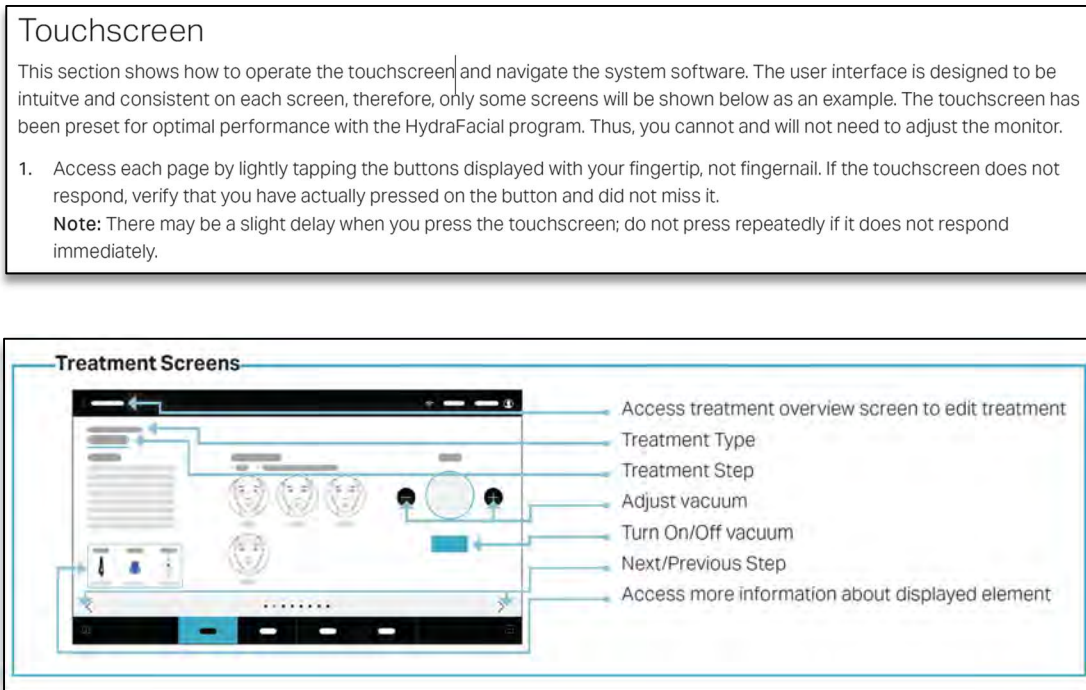
143. As shown in the images below, the computing device of the Syndeo assists in operation of the touch screen of the Syndeo, which is used to select containers as well as treatment modes.



See Ex. 2128. The above image was derived from a video showing the Syndeo in operation. In the video, the Syndeo touchscreen is visible, and displays options for controlling at least (1) the containers from which the solution dispensed through the handpiece will flow, (2) the start and stop functions for dispensing of a solution through the handpiece, and (3) the intensity of the vacuum generated by the vacuum source. *Id.*; see also Ex. 2078 at 3 (showing operation of Syndeo touchscreen to select container).

144. In addition, the Syndeo IFU confirms that the Syndeo has a “touchscreen” that “navigate[s] the system software.” Ex. 2030 at 15-16. The Syndeo IFU states that a user can use the display screen (i.e. computing device) to control (1) the containers from which the solution dispensed through the handpiece

will flow, (2) the start and stop functions for dispensing of a solution through the handpiece, and (3) the intensity of the vacuum generated by the vacuum source. *Id.*



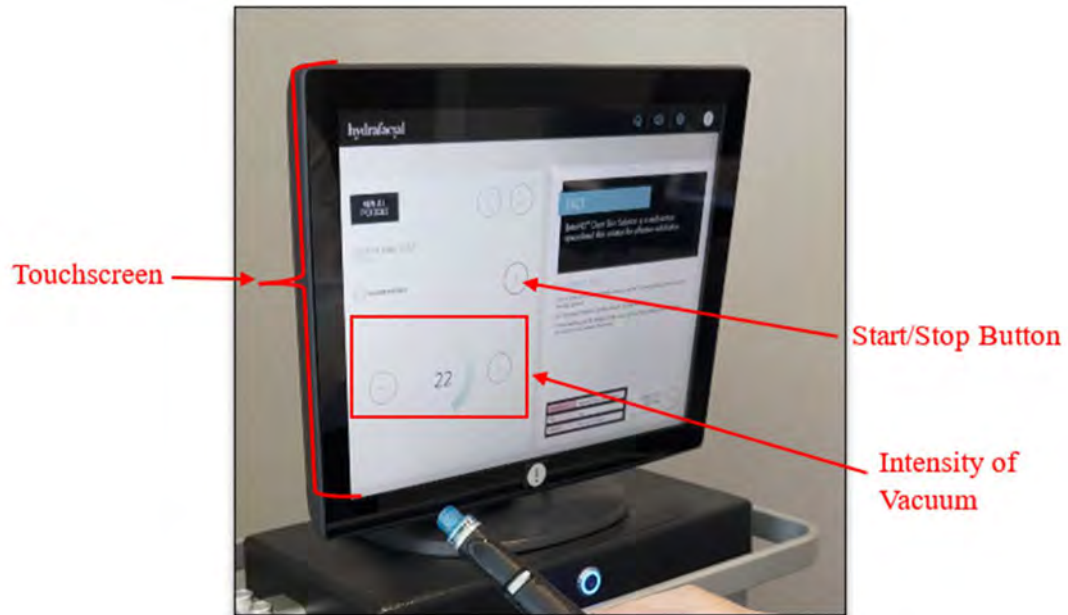
Ex. 2030 at 15-16; *see also id.* at 14.

ii. Elite, Allegro, & Tower

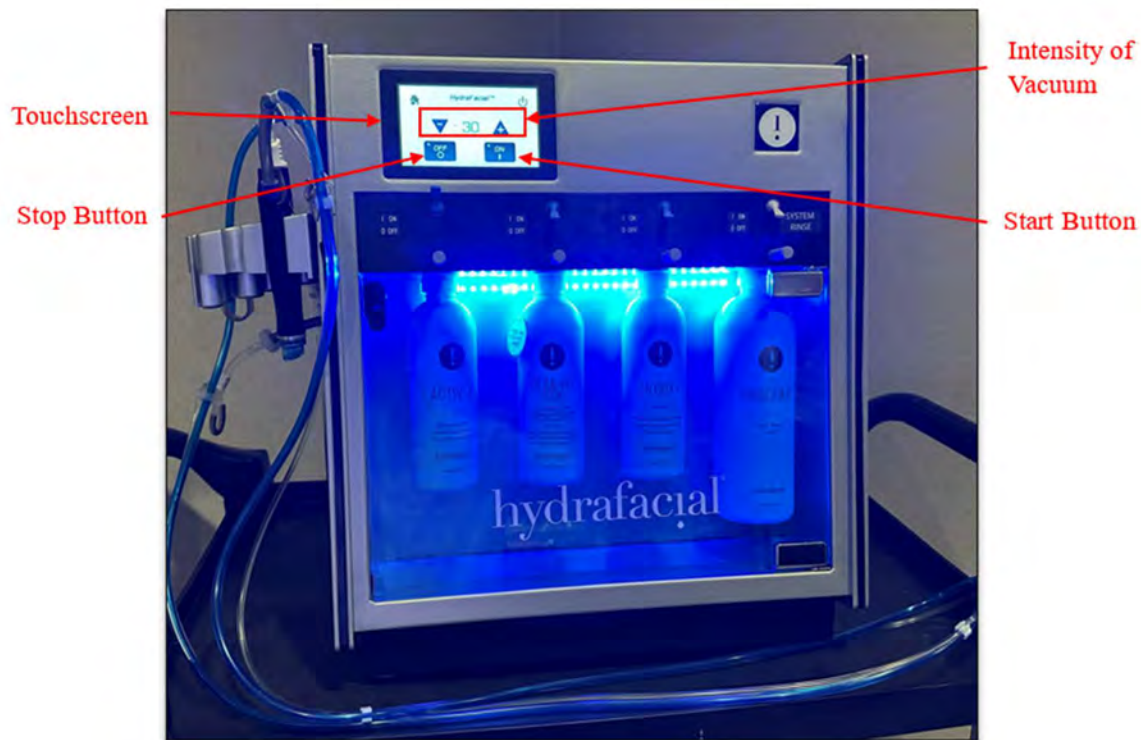
145. As shown in the images below, the computing device of the Elite and Allegro assists in operation of the touch screen of the Elite and Allegro, which is used to select containers as well as treatment modes.



Ex. 2079 at 1 (Elite).



Ex. 2079 at 2 (Elite).



Ex. 2153 (Allegro).

146. In the above images, the Elite and Allegro touchscreens are visible. Each touchscreen displays options for controlling at least (1) the start and stop functions for dispensing of a solution through the handpiece, and (2) the intensity of the vacuum generated by the vacuum source. *See* Ex. 2079 at 2 (Elite); Ex. 2153 (Allegro).

147. In addition, the Elite IFU and Allegro IFU confirms that the devices have a “touchscreen” that “navigate[s]” the system software.” Ex. 2031 at 10 (Elite); Ex. 2032 at 8 (Allegro).



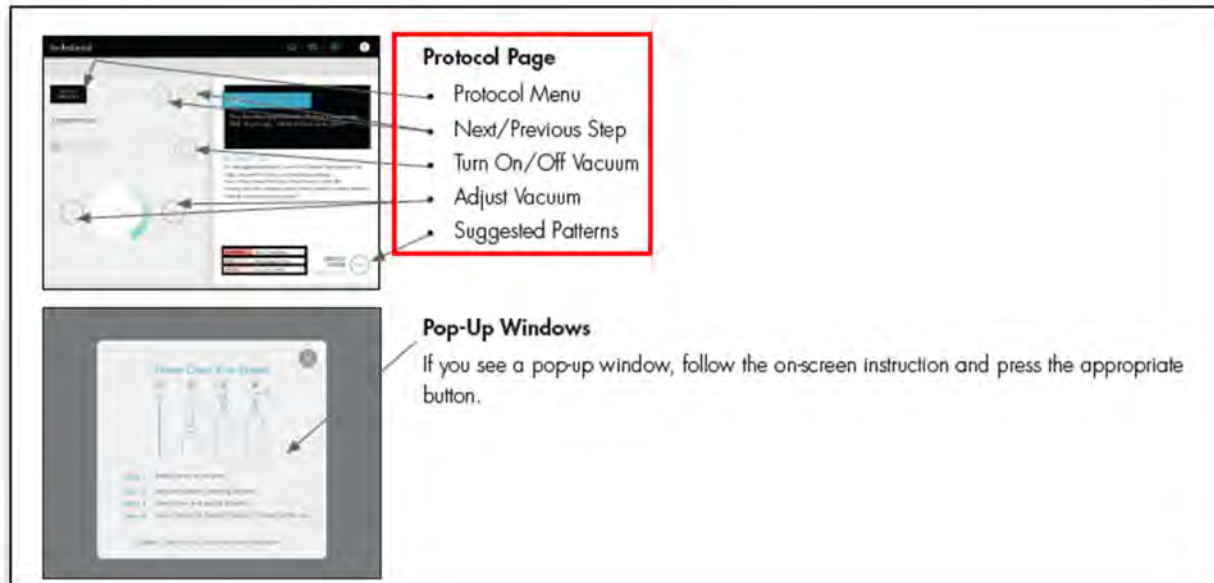
Ex. 2031 at 10.



Ex. 2032 at 8.

148. The Elite IFU and Allegro IFU each state that a user can use the touchscreen to control at least (1) the start and stop functions for dispensing of a solution through the handpiece, (2) the intensity of the vacuum generated by the

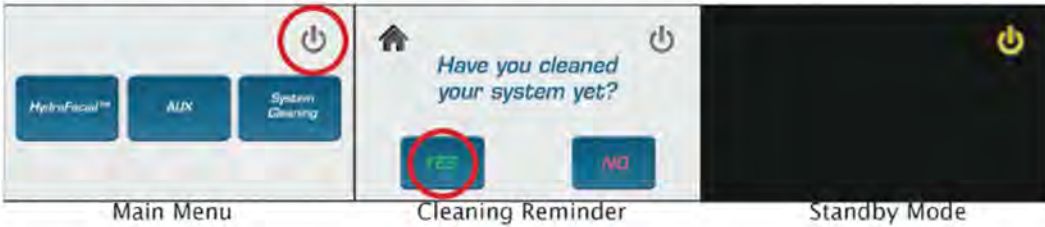
vacuum source, and (3) the desired protocol (Elite) or mode (Allegro). Ex. 2031 at 16 (Elite); Ex. 2032 at 12-13 (Allegro).



Ex. 2031 at 16 (Elite).

Standby Mode

1. Touch the power symbol on the top right corner of the screen to place the system into standby mode. A cleaning reminder will appear. If you have already cleaned your system, press the 'Yes' button to finish putting the system into standby mode. Remember to always clean your system before turning it off or placing it into standby.



Main Menu Cleaning Reminder Standby Mode

Touchscreen Interface

1. Use your finger to operate the touchscreen interface. Simply touch any icon or button on the screen to invoke its function.

HydraFacial® MODE

1. From the Main Menu, touch the button indicating "HydraFacial®".



Auxiliary Mode

1. From the Main Menu, touch the button indicating "AUX".

System Cleaning Mode

1. From the Main Menu, touch the button indicating "System Cleaning".

Turn The Vacuum On

1. Within each mode, touch the "On" button to start the vacuum.

Turn The Vacuum Off

1. Within each mode, touch the "Off" button to stop the vacuum.



Vacuum Adjustment

1. Within each mode, adjust the vacuum level by pressing the triangular vacuum control buttons. Press the up-arrow button (with the plus sign "+" on it) to increase the vacuum. Press the down-arrow button (with the minus sign "-" on it) to decrease the vacuum.

Note: Use your fingertip, not your fingernail to avoid damage to the screen.

Adjust Fluid Flow

1. Turn the flow control valve towards the + sign to increase fluid flow.
Turn towards the - sign to decrease fluid flow.

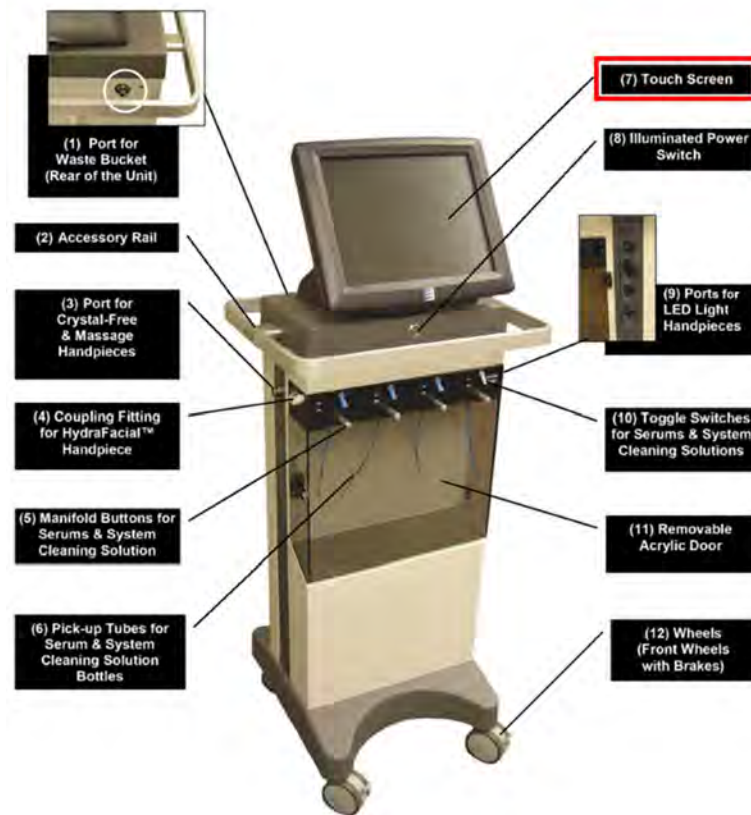


Return To Main Menu

1. Touch the "Home" button to return to the Main Menu.

Ex. 2032 at 12-13 (Allegro).

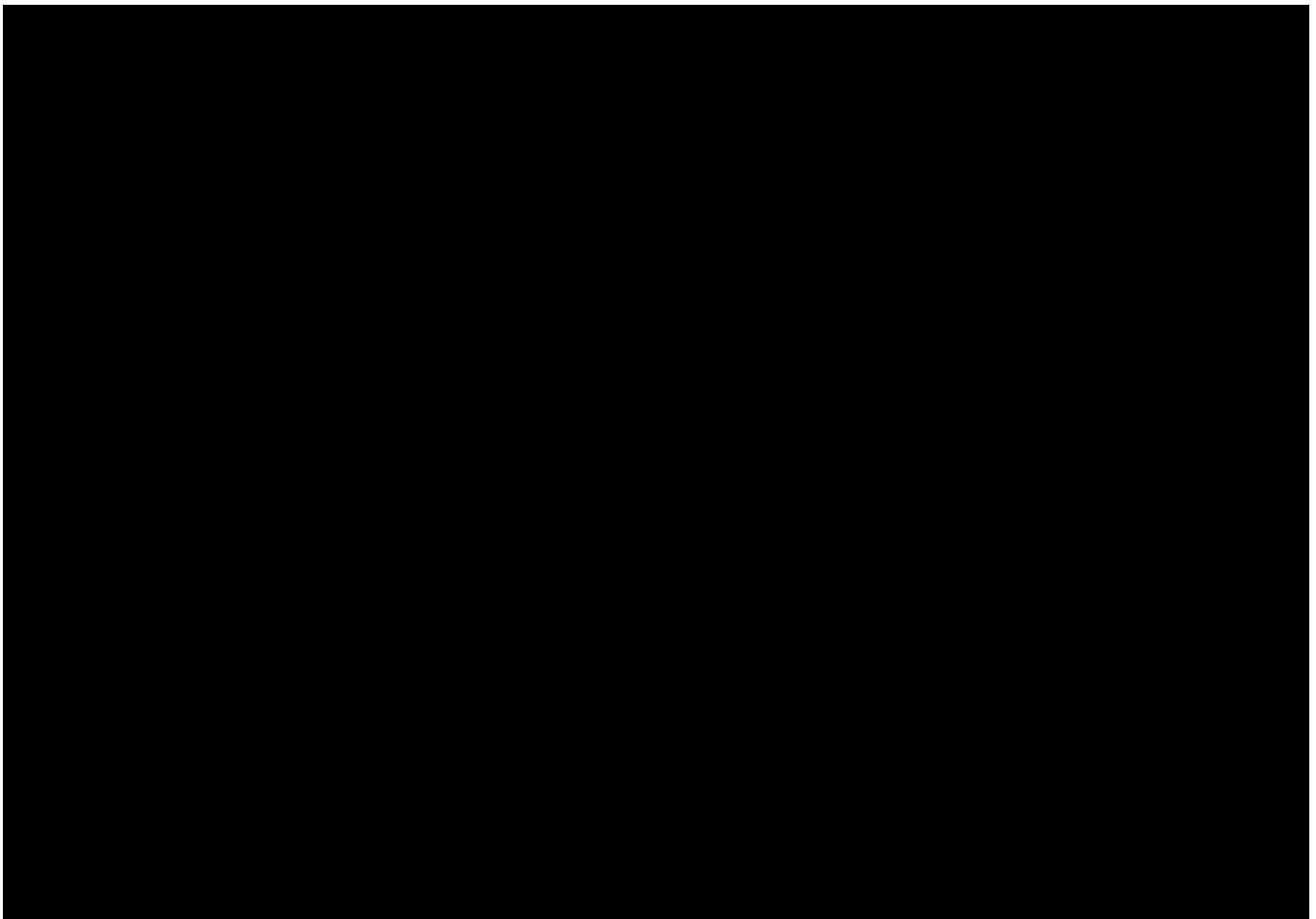
149. The Tower Owner's Manual discloses a similar touch screen where and "[m]ost of the controls for operating HydraFacial™ are accessed via the touch screen":



Ex. 2125 at 8. Specifically, the Tower touchscreen includes display options for controlling at least (1) the start and stop functions for dispensing of a solution through the handpiece, and (2) the intensity of the vacuum generated by the vacuum source.

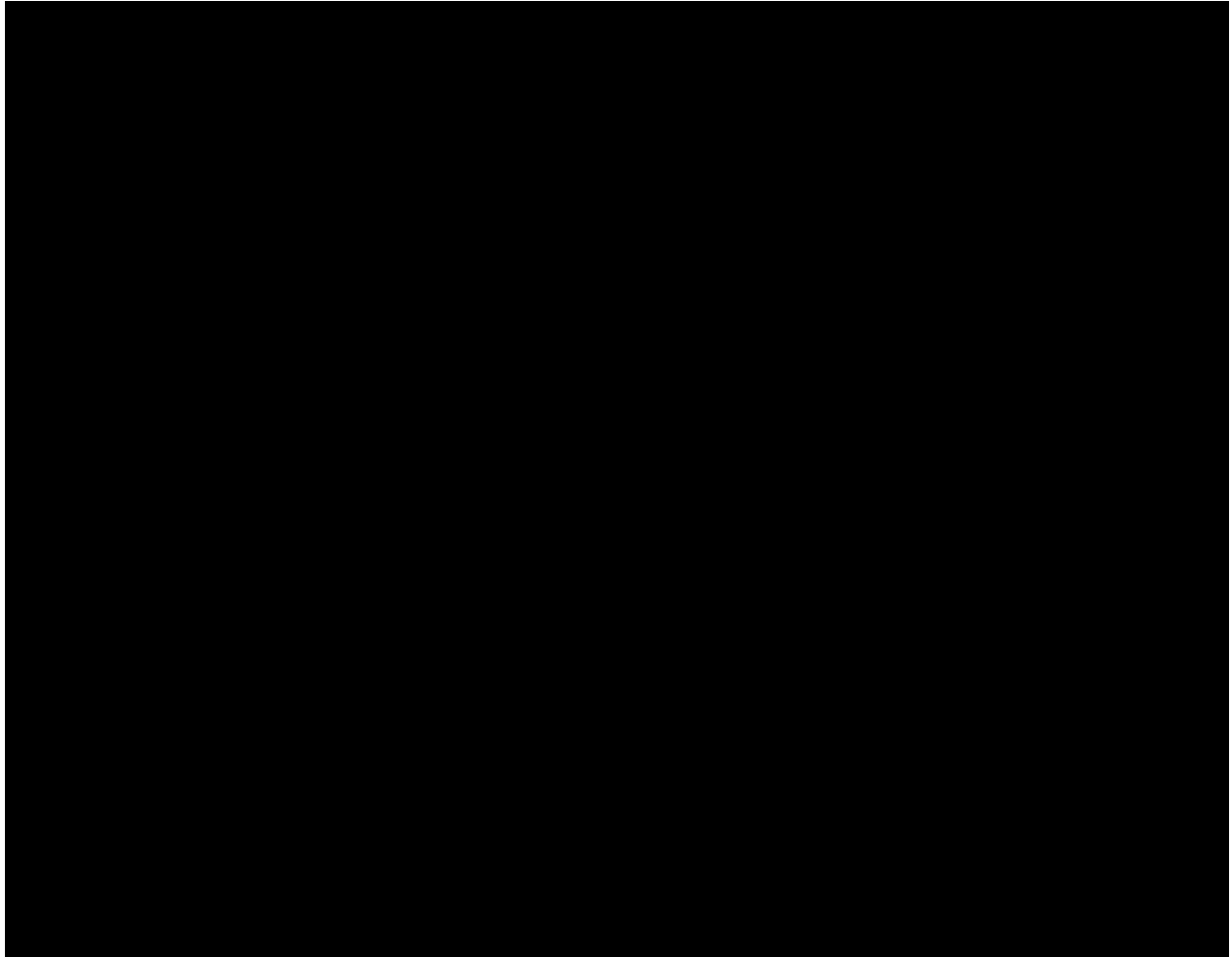
150. Technical specifications for each of the Elite, Allegro, and Tower confirm each product has a computing device configured to control several functions of the system.

151. The electrical block diagram for the Elite Tower shows that each has an “I/O Controller PCBA” that controls the “Vacuum Regulator,” “3 Way Valve,” and “Red/Blue LED Therapy”:



Ex. 2100 at 18 (Elite and Tower).

152. The electrical block diagram of the Allegro shows that the Allegro has a “I/O Controller PCBA” that controls, inter alia, the “Vacuum Regulator,” “3 Way Valve,” and “LCD Touch Screen.”



Ex. 2100 at 18 (Allegro).

153. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of Claim 4 of the '287 Patent.

5. Practice of Claim 5

154. Claim 5 of the '287 Patent recites: The system of claim 4, further comprising a user input device to select a flow of fluids from the first container and the at least one additional container to the handpiece. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

155. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 4, as explained above. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “further comprising a user input device to select a flow of fluids from the first container and the at least one additional container to the handpiece.”

156. As explained above in connection with Claim 4, each of the Syndeo includes a touchscreen that controls, *inter alia*, which container is selected for the flow of fluids to the handpiece. Because the touchscreen requires user input, the Syndeo has a user input device to select a flow of fluids from the first container and the at least one additional container to the handpiece.

157. As discussed above, each of the Elite, Allegro, and Tower includes toggles that the user must switch in order to select a flow of fluids from a container. *See supra* limitation 1[g]. Because the toggles require user input, the Tower has a user input device to select a flow of fluids from the first container and the at least one additional container to the handpiece.

158. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of Claim 5 of the '287 Patent.

6. Practice of Claim 6

159. Claim 6 of the '287 Patent recites: The system of claim 5, wherein the user input device comprises a touch screen. In my opinion, the Syndeo practices every limitation of this claim.

160. In my opinion, the Syndeo practices the limitations of claim 5, as explained above. In my opinion, the Syndeo further satisfies the limitation requiring “the user input device comprises a touch screen.”

161. As discussed above in connection with Claims 4 and 5, the Syndeo includes a user input device which is a touch screen.

162. Accordingly, the Syndeo practices Claim 6 of the '287 Patent.

7. Practice of Claim 7

163. Claim 6 of the '287 Patent recites: The system of claim 6, further comprising a display. In my opinion, the Syndeo practices every limitation of this claim.

164. In my opinion, the Syndeo practices the limitations of claim 6, as explained above. In my opinion, the Syndeo further satisfies the limitation requiring “further comprising a display.” As discussed above in connection with Claims 4-6, the Syndeo includes a user input device which is a touch screen and a display.

165. Accordingly, the Syndeo practices Claim 7 of the '287 Patent.

8. Practice of Claim 8

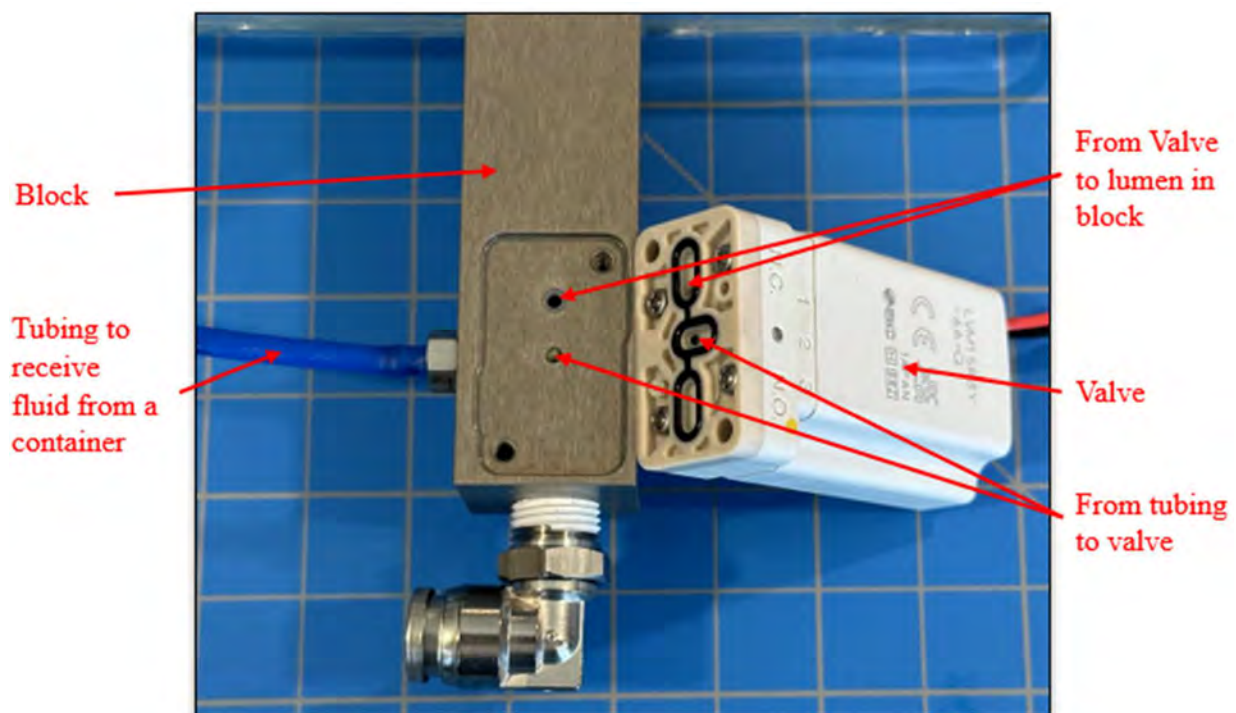
166. Claim 8 of the '287 Patent recites: The system of claim 1, wherein the block is configured to control a flow of the first treatment fluid contained in the first container and the additional treatment fluid contained in the at least one additional container into the block with a valve when the first container and the at least one additional container are connected to the console. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

167. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 1, as explained above. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “wherein the block is configured to control a flow of the first treatment fluid contained in the first container and the additional treatment fluid contained in the at least one additional container into the block with a valve when the first container and the at least one additional container are connected to the console.”

168. As explained above in connection with Claim 1, in all four devices, during use the first container and the at least one additional container are connected to the console. *See supra* limitation 1[a]. In addition, as explained above, in all four devices the first container and the at least one additional container include treatment fluids. *See supra* limitation 1[f].

i. Syndeo

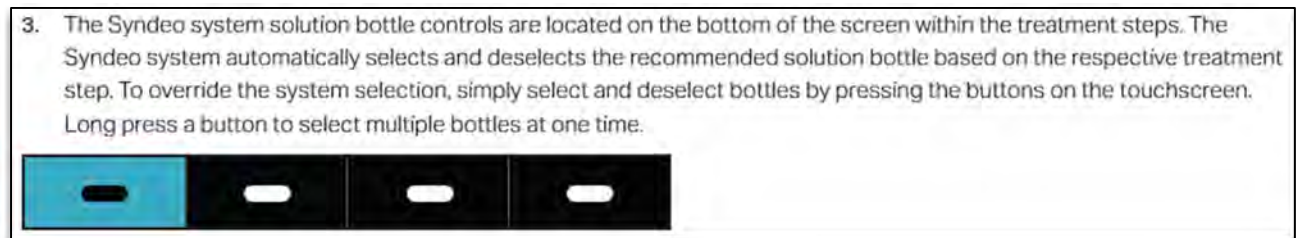
169. The Syndeo has a block that is configured to control the flow of the first treatment fluid contained in the first container and the additional treatment fluid contained in the at least one additional container into the block with a valve. The block includes multiple valves, one for each of the four tubing which receives fluid from the container, and each of which control a flow of fluid from a respective fluid container. One of the valves is shown below.



Ex. 2084.

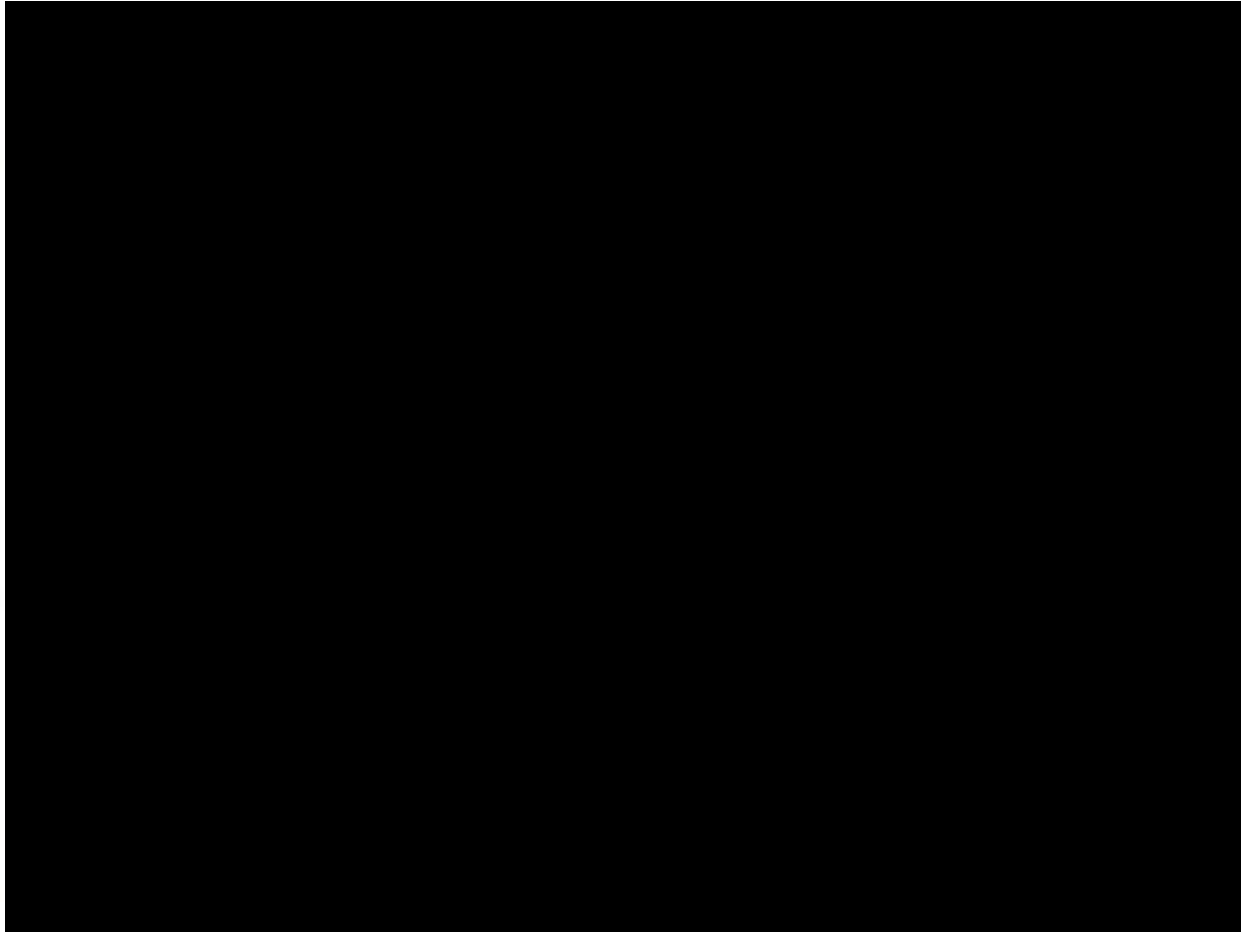
170. There are multiple valves which control flow of the treatment fluid from a selected container (e.g., the first container and the additional container) into

the block. A user selects a container using the “solution bottle controls [that] are located on the bottom of the [touch] screen within the treatment tests.”



Ex. 2030 at 14. The system “automatically selects and deselects the recommended solution bottle based on the respective treatment step.” *Id.* However, a user can “[l]ong press a button to select multiple bottles at one time.” *Id.* The selection of multiple bottles would reduce the vacuum force effectuated on system and thus reduce the flow of the first treatment fluid contained in the first container and the additional treatment fluid contained in the at least one additional container into the block via a valve allowing flow from more than one container at once. *Id.*

171. The Syndeo fluid schematic, annotated below illustrates the flow of fluid from the containers through the four valves into the block:



Ex. 2114.

ii. Elite, Allegro, & Tower

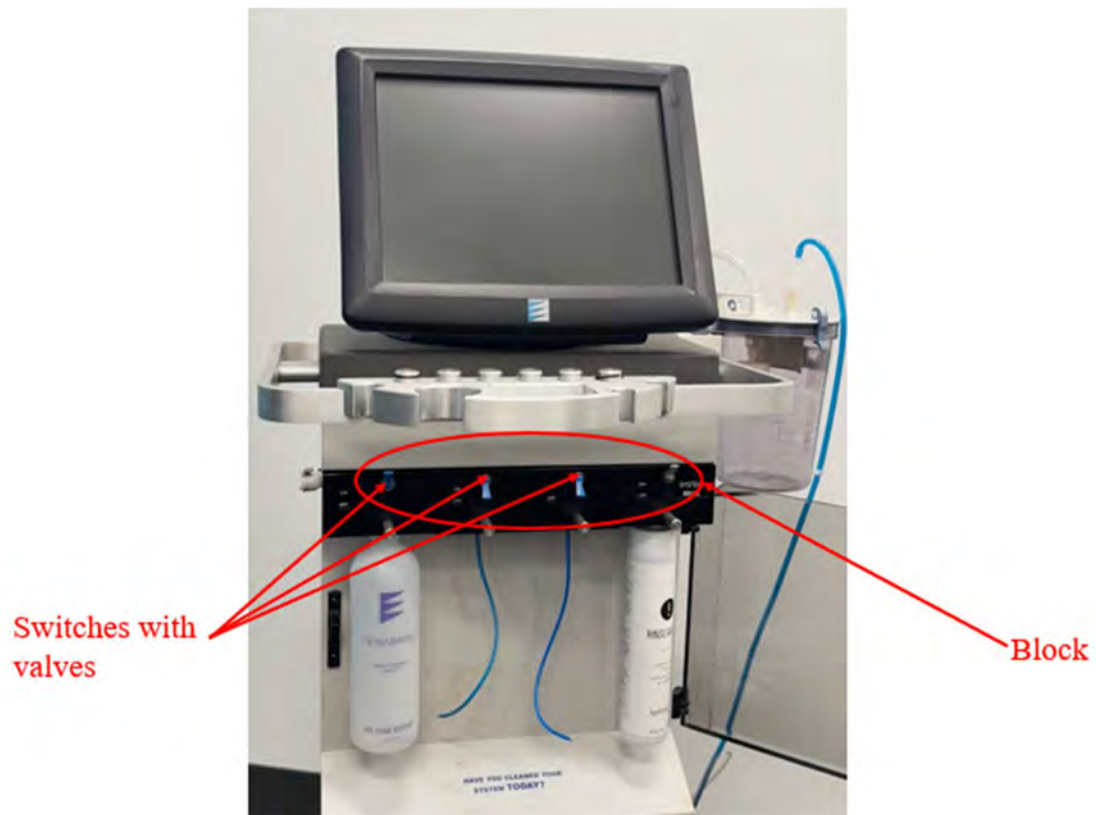
172. The Elite, Allegro, and Tower each have a block that is configured to control the flow of the first treatment fluid contained in the first container and the additional treatment fluid contained in the at least one additional container into the block with a valve. As shown in the images below, containers are connected to the console with valves, thus allowing the block to selectively receive fluid from the selected container, including the first container, when the first container is connected to the console.



Ex. 2126 (Elite).

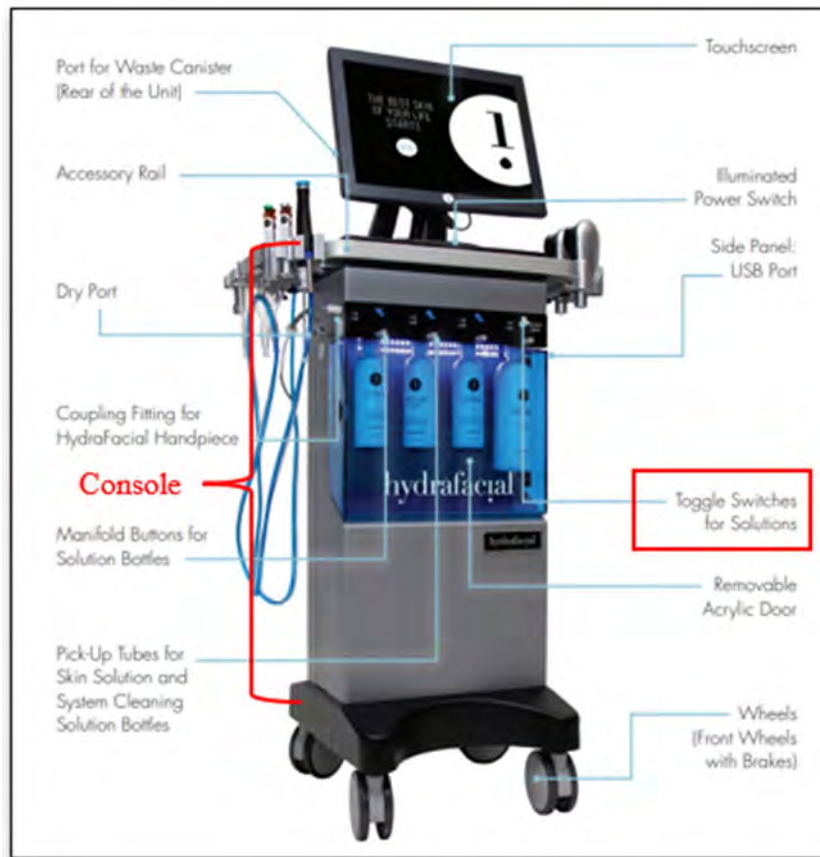


Ex. 2088 (Allegro).



Ex. 2149 at 2 (Tower).

173. The Elite IFU, Allegro IFU, and Tower Owner's Manual each provide an illustration of the toggle switches on the console which control the delivery of treatment fluid from the containers using valves.



Ex. 2031 at 10 (Elite).



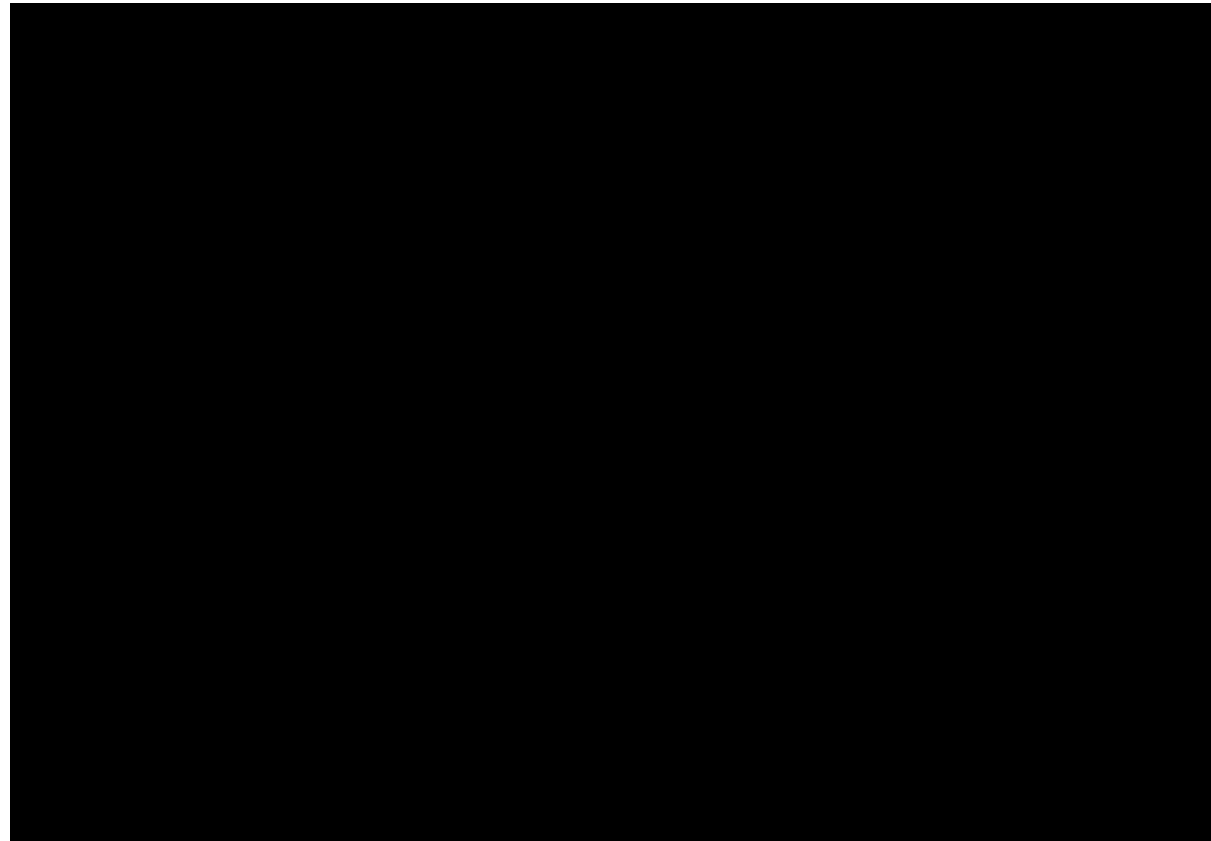
Ex. 2032 at 8 (Allegro).



Ex. 2125 at 13 (Tower).

174. The Elite IFU, Allegro IFU, and Tower Owner's Manual explain that the "toggle switches [on the console] control which skin solution bottle is being used." Ex. 2031 at 14 (Elite); Ex. 2032 at 8 (Allegro); Ex. 2125 at 13 (Tower). Each further states that "[w]hen a switch is in the ON position, fluid will be drawn from that bottle" and "[w]hen switched to the OFF position, no fluid will be drawn from the corresponding bottle." Ex. 2031 at 14 (Elite); Ex. 2032 at 8 (Allegro).

175. The technical specifications for the Elite detail the valves configured to control the flow of the first treatment fluid contained in the first container and the additional treatment container contained in the at least one additional container. The annotated image below shows both the Elite block, and valves associated with each of the four tubings to receive fluid from the four containers:



Ex. 2099 at 265.

176. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices Claim 8 of the '287 Patent.

9. Practice of Claim 9

177. Claim 9 of the '287 Patent recites: The system of claim 1, wherein the system is configured to control a flow of the first treatment fluid contained in the first container to the handpiece through the block when each of the first container and the handpiece is connected to the console. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

178. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 1, as explained above. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “wherein the system is configured to control a flow of the first treatment fluid contained in the first container to the handpiece through the block when each of the first container and the handpiece is connected to the console.”

179. As explained above in connection with Claim 1, for all four devices the user is instructed to connect each of the first container and the handpiece to the console. *See supra* limitation 1[a]-limitation 1[c][iv]. As also explained above in connection with Claim 1, in all four devices, the first container is in fluid communication with the handpiece through the block, when each of the first container and the handpiece is connected to the console. *See supra* limitation 1[c][i], limitation 1[c][ii], limitation 1[c][iv]. As also explained above, in all four devices the first container contains a first treatment fluid. *See supra* limitation 1[f].

i. Syndeo

180. The Syndeo is configured to control the flow of the first treatment fluid to the handpiece in several ways. First, as discussed above in connection with Claim 8, the user can use a touch screen to select treatment fluid from the first container. In so selecting, the valve corresponding to the first container is placed in the open position. Because the first container is in fluid communication with the handpiece,

the selection allows the first treatment fluid to flow from the first container through the block to the handpiece. *See, e.g., supra* limitation 1[c][ii], limitation 1[f], and limitation 1[g].

181. The Syndeo is also configured to control flow of the first treatment fluid contained in the first container to the handpiece through the block via a flow control knob located on the handpiece. As shown in the photo below, the Syndeo handpiece has a flow control slider that controls the flow of treatment fluid contained in the selected container, including the first container, to the handpiece through the block.



Ex. 2130.

182. The flow control slider operates by controlling a valve through which fluid from the block flows; when a user moves the dial in a direction indicating higher flow (towards the “+” sign), the valve of the flow control dial permits the passage of more fluid through the block. Conversely, moving the dial in a direction indicating reduced flow (towards the “-” sign) causes the valve to restrict the flow

of fluid through the block. Moving the slider fully towards the “-” sign causes the valve to fully restrict the flow of fluid through the block.

183. The Syndeo IFU similarly describes a “flow control valve,” which a user can move to control the flow of the treatment fluid delivered to the skin from a selected container, including the first container, through the block. Ex. 2034 at 4. The Syndeo IFU also provides guidance for resolving Low or No Fluid Flow by “[m]ak[ing] sure the flow control valve on the handpiece is open. To increase fluid flow, turn the flow control valve towards the + sign.” Ex. 2030 at 22.

ii. Elite, Allegro, & Tower

184. The Elite, Allegro, and Tower are configured to control the flow of the first treatment fluid to the handpiece in several ways. First, as discussed above in connection with Claim 8, the user can use a toggle to select treatment fluid from the first container. In so selecting, the valve corresponding to the first container is placed in the open position. Because the first container is in fluid communication with the handpiece, the selection allows the first treatment fluid to flow from the first container through the block to the handpiece. *See, e.g., supra* limitation 1[c][ii], limitation 1[f], and limitation 1[g].

185. The Elite, Allegro, and Tower are each also configured to control flow of the first treatment fluid contained in the first container to the handpiece through

the block via a flow control knob located on the handpiece. As shown in the photos below, the Elite, Allegro, and Tower handpieces each have a flow control slider that controls the flow of treatment fluid contained in the selected container, including the first container, to the handpiece through the block.



Ex. 2104 (Elite and Allegro).



Ex. 2151 at 3 (Tower).

186. The flow control slider operates by controlling a valve through which fluid from the block flows; when a user moves the dial in a direction indicating higher flow (towards the “+” sign), the valve of the flow control dial permits the passage of more fluid through the block. Conversely, moving the dial in a direction indicating reduced flow (towards the “-” sign) causes the valve to restrict the flow of fluid through the block. Moving the slider fully towards the “-” sign causes the valve to fully restrict the flow of fluid through the block.

187. The Elite IFU and Allegro IFU each similarly describes a “flow control valve,” which a user can move to control the flow of the treatment fluid delivered to the skin from a selected container, including the first container, through the block. Ex. 2031 at 20 (Elite); Ex. 2032 at 17 (Allegro). The Elite IFU and Allegro IFU also provide guidance for resolving Low or No Fluid Flow by “[m]ak[ing] sure the flow control valve on the handpiece is open. To increase fluid flow, turn the flow control valve towards the + sign.” Ex. 2031 at 20 (Elite); Ex. 2032 at 17 (Allegro).

188. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of Claim 9 of the ’287 Patent.

10. Practice of Claim 10

189. Claim 10 of the ’287 Patent recites: The system of claim 9, wherein the system is configured to separately control a flow of a second treatment fluid

contained in the at least one additional container to the handpiece through the block when each of the first container, the at least one additional container, and the handpiece are connected to the console. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

190. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 9, as explained above. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “wherein the system is configured to separately control a flow of a second treatment fluid contained in the at least one additional container to the handpiece through the block when each of the first container, the at least one additional container, and the handpiece are connected to the console.”

191. As explained above in connection with Claim 9, each of the Syndeo, Elite, Allegro, and Tower is configured to control a flow of a treatment fluid contained by a selected container, including first treatment fluid contained in the first container, to the handpiece through the block when each of the first container and the handpiece is connected to the console. As also explained above, each of the Syndeo, Elite, Allegro, and Tower is configured to separately control a flow of a second treatment fluid contained in the at least one additional container to the handpiece through the block because the user can select which fluid is being delivered. *See supra* claim 9 and limitation 1[g].

192. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices Claim 10 of the '287 Patent.

11. Practice of Claim 11

193. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of claim 11 of the '287 Patent.

194. Claim 11 recites as follows:

11. A skin treatment apparatus comprising:
a console that includes a fluid control member that is configured to be in fluid communication with at least a first container and a second container when the first container and the second container are connected to the fluid control member;
a handpiece assembly configured to contact a skin surface of a subject;
a waste conduit configured to be in fluid communication with the handpiece assembly and a vacuum source to move waste away from the handpiece assembly when the waste conduit and the handpiece assembly are each connected to the console; and
wherein when each of the first container and the second container are connected to the console, the fluid control member is configured to be in fluid communication with each of the first container and the second container;
wherein when the handpiece assembly is connected to the console, the fluid control member is configured to be in fluid communication with the handpiece assembly;
wherein when (i) each of the first container and the second container contains treatment material, (ii) the first container and the second container are connected to the console, and (iii) the handpiece assembly is connected to the console, the skin treatment apparatus is configured to selectively draw treatment material from the first container or the second container to the handpiece assembly using, at least in part, a vacuum created along a distal end of the handpiece assembly by the vacuum source.

I address each limitation of this claim below.

i. 11[pre]: “A skin treatment apparatus comprising:”

195. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in limitation 1[pre] above.

j. 11[a]: “a console that includes a fluid control member that is configured to be in fluid communication with at least a first container and a second container when the first container and the second container are connected to the fluid control member;”

196. In my opinion the Syndeo, Elite, Allegro, and Tower each have a console that includes a fluid control member that is configured to be in fluid communication with at least a first container and a second container when the first container and the second container are connected to the fluid control member.”

197. As discussed above, each of the Syndeo, Elite, Allegro, and Tower comprise a console under the term’s plain and ordinary meaning. *See supra* limitation 1[a].

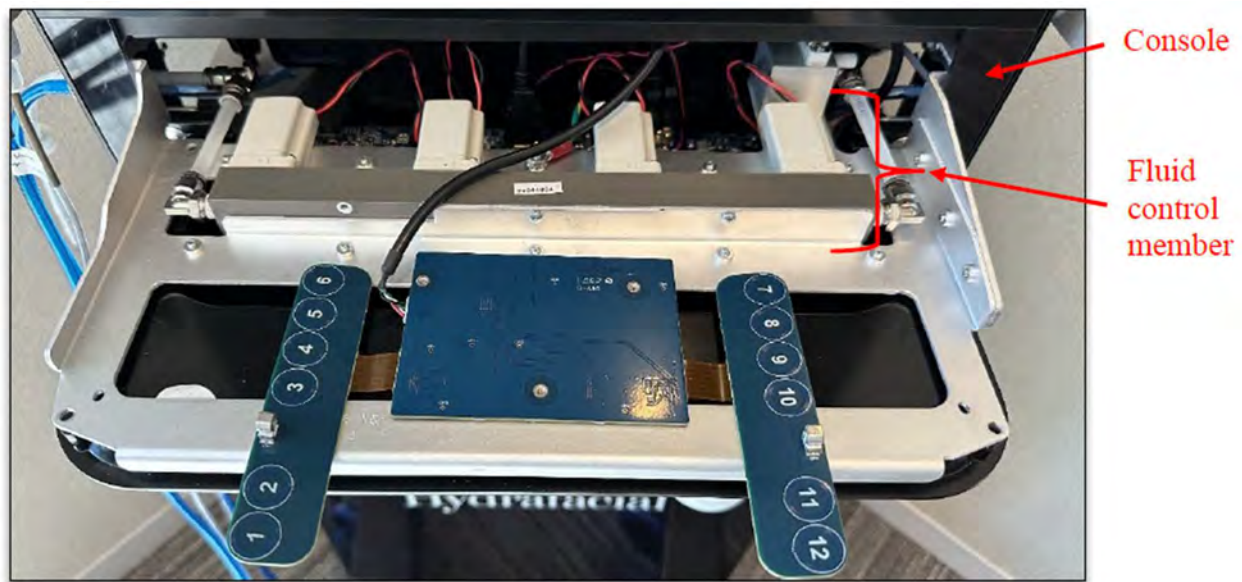
198. I understand that the ALJ construed “fluid control member” in the ITC 1408 Investigation as subject to 35 U.S.C. § 112, ¶6. The function was construed as “be in fluid communication with at least a first container and a second container when the first container and the second container are connected to the fluid control member” and “be in fluid communication with the handpiece assembly.” The structure was construed as “switches” (17:21-22), or “lumen 171” (18:15-18), or “valves, fluid lines, and the like” (18:38-42), and equivalents of these structures.”

199. I understand that HydraFacial provided a proposed construction of “fluid control member” during the ITC 1408 Investigation, which aligned with the ALJ’s construction but also included “manifold system” as part of the structure. I have applied HydraFacial’s construction below.

i. Syndeo

200. The Syndeo includes a fluid control member in the console.

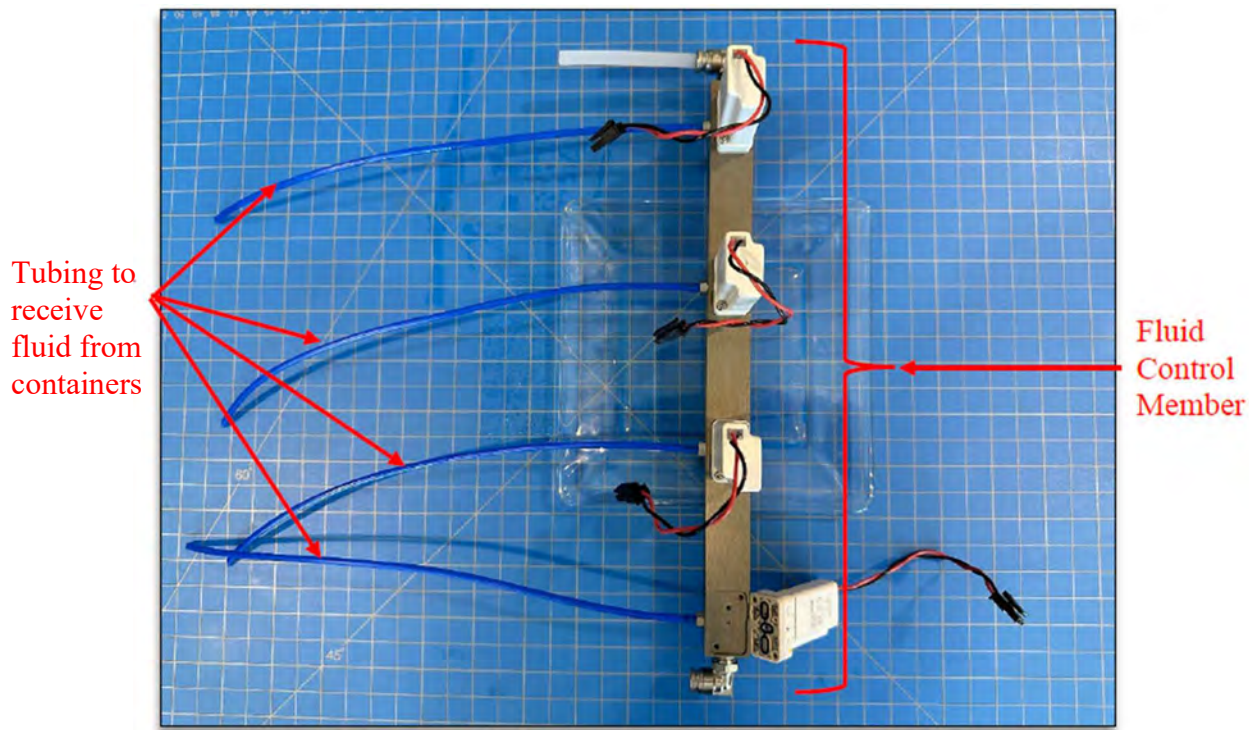
201. As part of my inspection of the Syndeo, I opened the console. In the console, I found the fluid control member, which is shown in the image below.



Ex. 2085.

202. The photo below shows the fluid control member removed from the console of the Syndeo system. The tubing extending from the fluid control member places the fluid control member in fluid communication with at least a first container

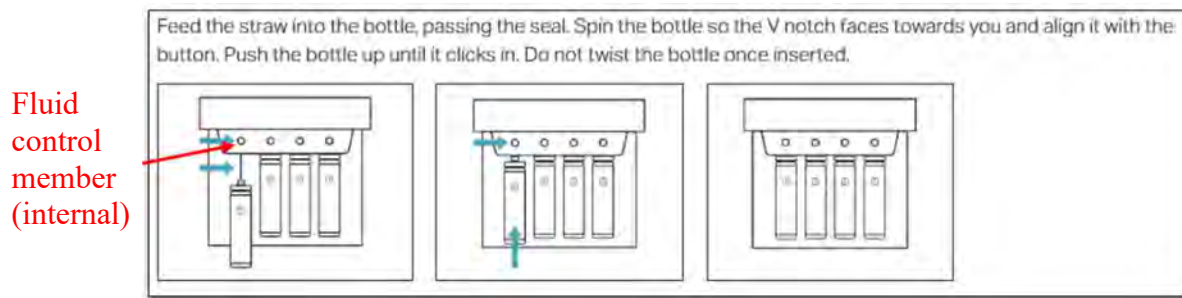
and a second container when the first container and the second container are connected to the fluid control member.



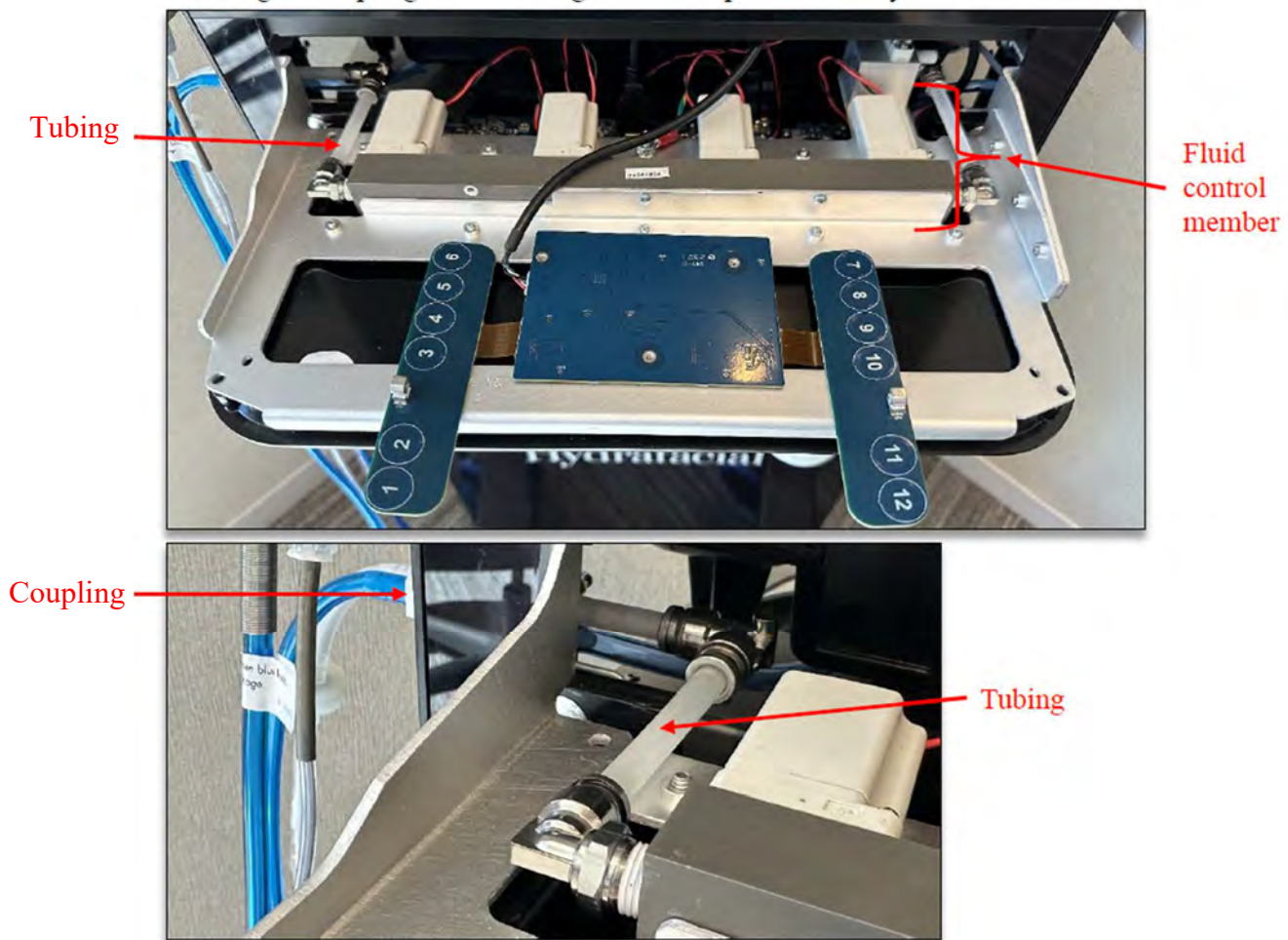
Ex. 2080.

203. The fluid control member in the above image is in fluid communication with the first and second containers (as well as the third container) via tubing which extends from the fluid control member into the connected container, when the containers are connected to the console.

The User Manual describes attaching and detaching the containers to the console, where tubing which extends from the fluid control member extends into the container, thereby connecting the containers to the fluid control member, as shown below.



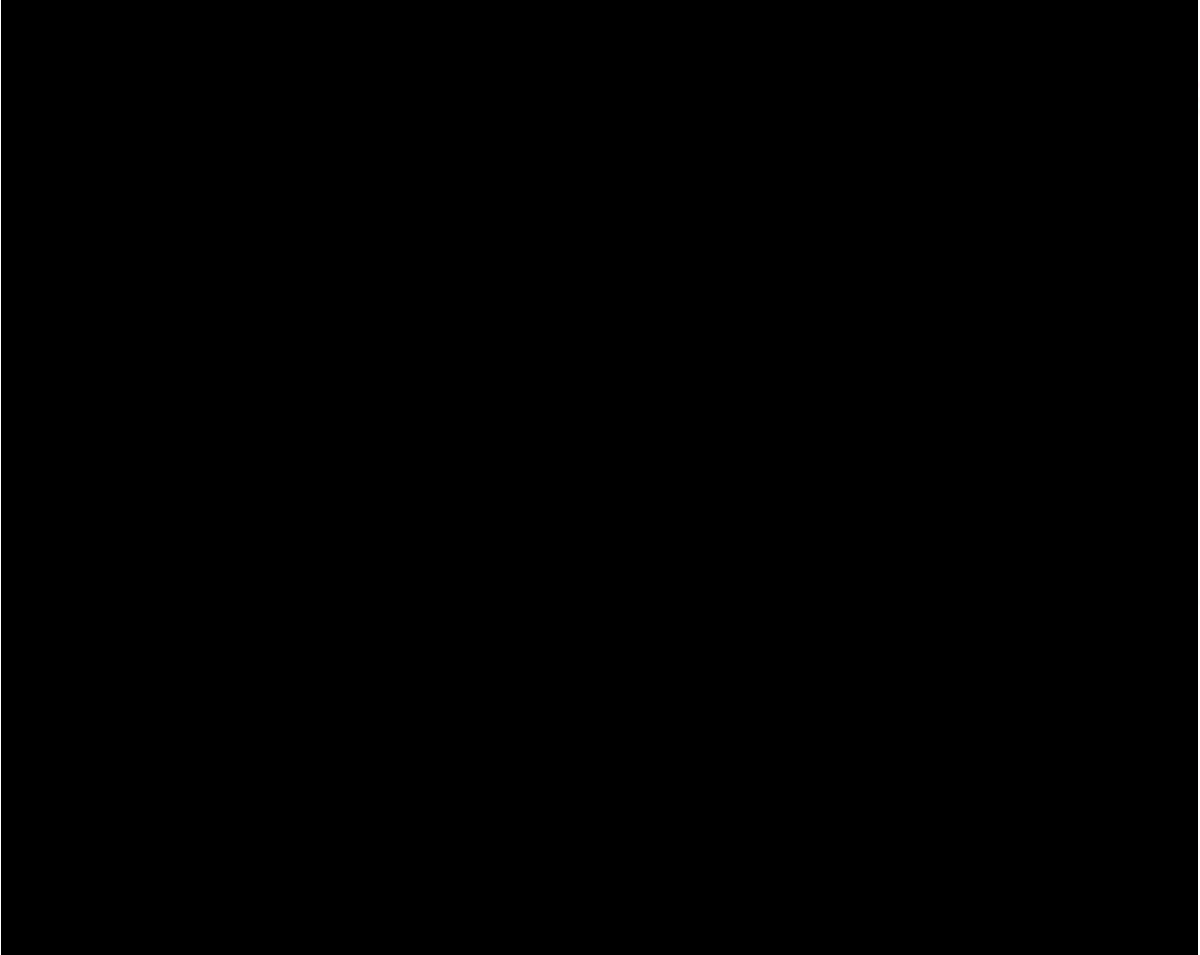
Ex. 2030 at 13. Thus, the component identified as the fluid control member is in fluid communication with the at least first and at least second container. In addition, the identified component is in fluid communication with the handpiece. As shown in the image below, the fluid control member includes a first conduit that connects to the handpiece via a coupling to the handpiece, which is connected to the console.



Ex. 2085; Ex. 2086.



Ex. 2087.



Ex. 2114.

204. The fluid control member in the Syndeo also meets the corresponding structures. The corresponding structures include a “manifold system” (17:17–18:37; Figs. 15A–D), a “lumen” (18:15–18), “valves, fluid lines, and the like” (18:38–42), and equivalents of these structures—structures the above-identified component(s) comprises.

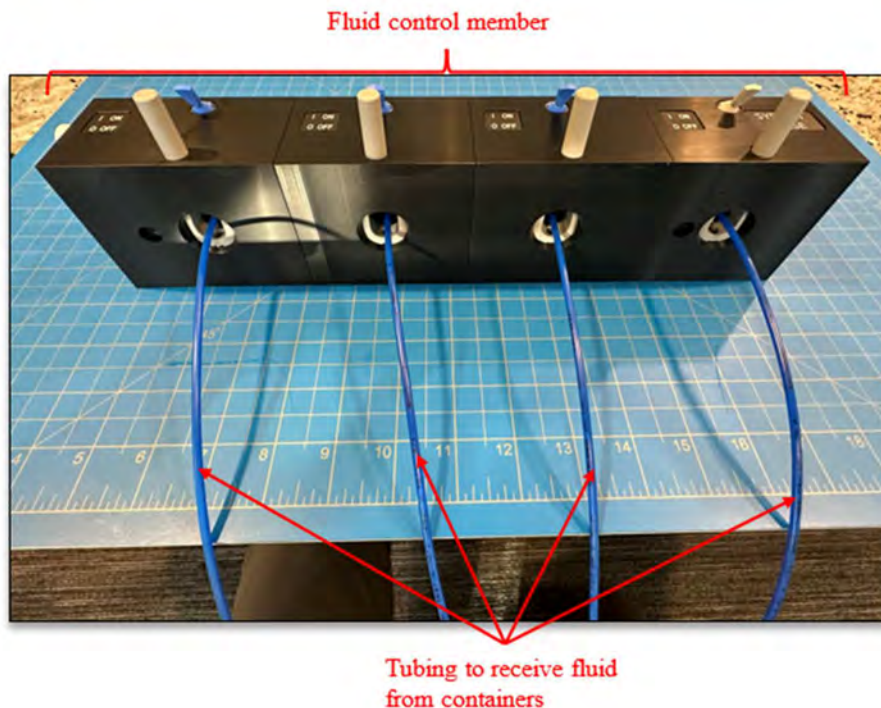
205. As discussed above, the first and second containers are connected to the fluid control member and are in fluid communication with the fluid control member via the tubing connecting the parts.

206. Accordingly, this limitation is satisfied by the Syndeo.

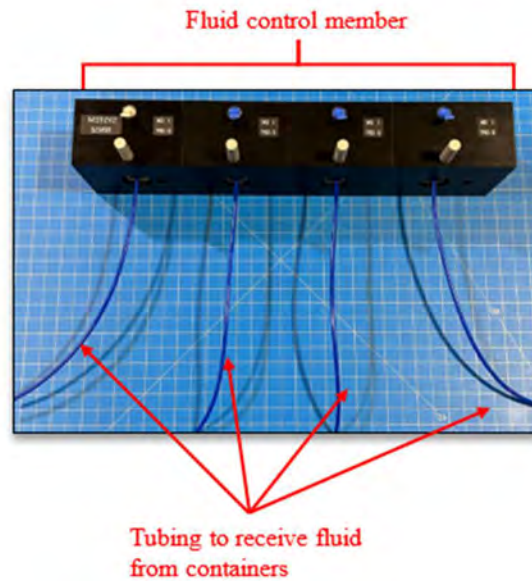
ii. Elite, Allegro, & Tower

207. Each of the Elite, Allegro, and Tower also includes a fluid control member in the console.

208. As part of my inspection of each of the Elite and Allegro, I opened the console and removed the fluid control member from the console of the Elite system. For each, the tubing extending from the fluid control member places the fluid control member in fluid communication with at least a first container and a second container when the first container and the second container are connected to the fluid control member.

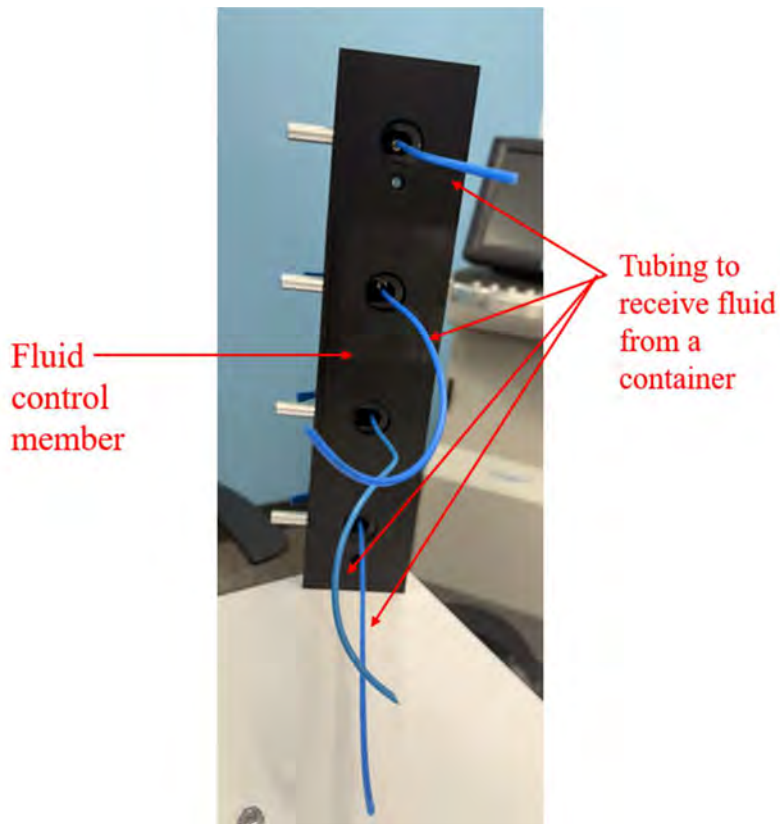


Ex. 2132 (Elite).

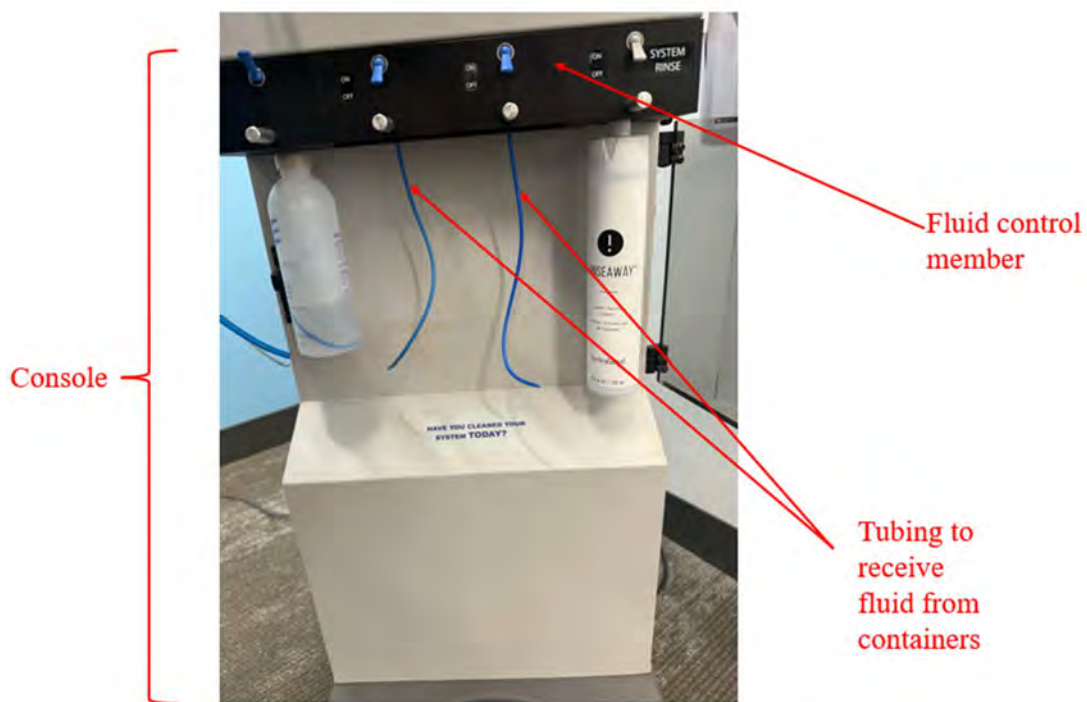


Ex. 2095 (Allegro).

209. I observed the same fluid control member with tubing to receive fluid from containers in the photos of the Tower I reviewed. The tubing extending from the fluid control member places the fluid control member in fluid communication with at least a first container and a second container when the first container and the second container are connected to the fluid control member.



Ex. 2091 (Tower).



Ex. 2118 (Tower).

210. The fluid control member in the above images is in fluid communication with the first and second containers (as well as the third container) via tubing which extends from the fluid control member into the connected container, when the containers are connected to the console.

211. The User Manuals for the Elite and Allegro each describes attaching and detaching the containers to the console, where tubing which extends from the fluid control member extends into the container, thereby connecting the containers to the fluid control member, as shown below.



Ex. 2031 at 13 (Elite).

Skin Solution Bottles

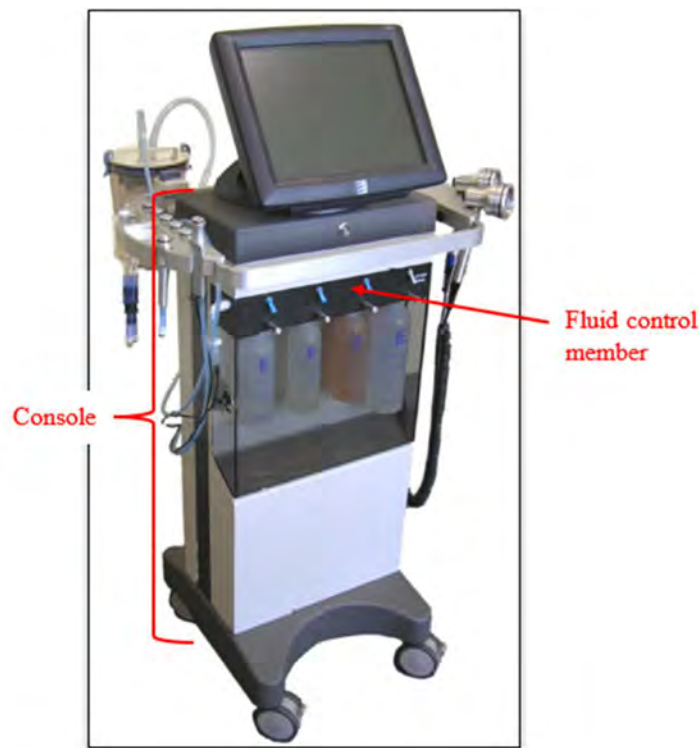
1. Open the front door. Remove the cap of the skin solution bottle and use the puncture tool to pierce the seal inside the bottle.
2. Press and hold each manifold button as you insert each bottle into the manifold, and then release the button.

Note: The Rinseaway™ System Cleaning Solution should be installed in the manifold with the gray toggle switch labeled "SYSTEM RINSE".



Ex. 2032 at 11 (Allegro).

212. The Tower Owner's Manual shows the system having a fluid control member in the console. It also shows the first container and the second container connected to the fluid control member.



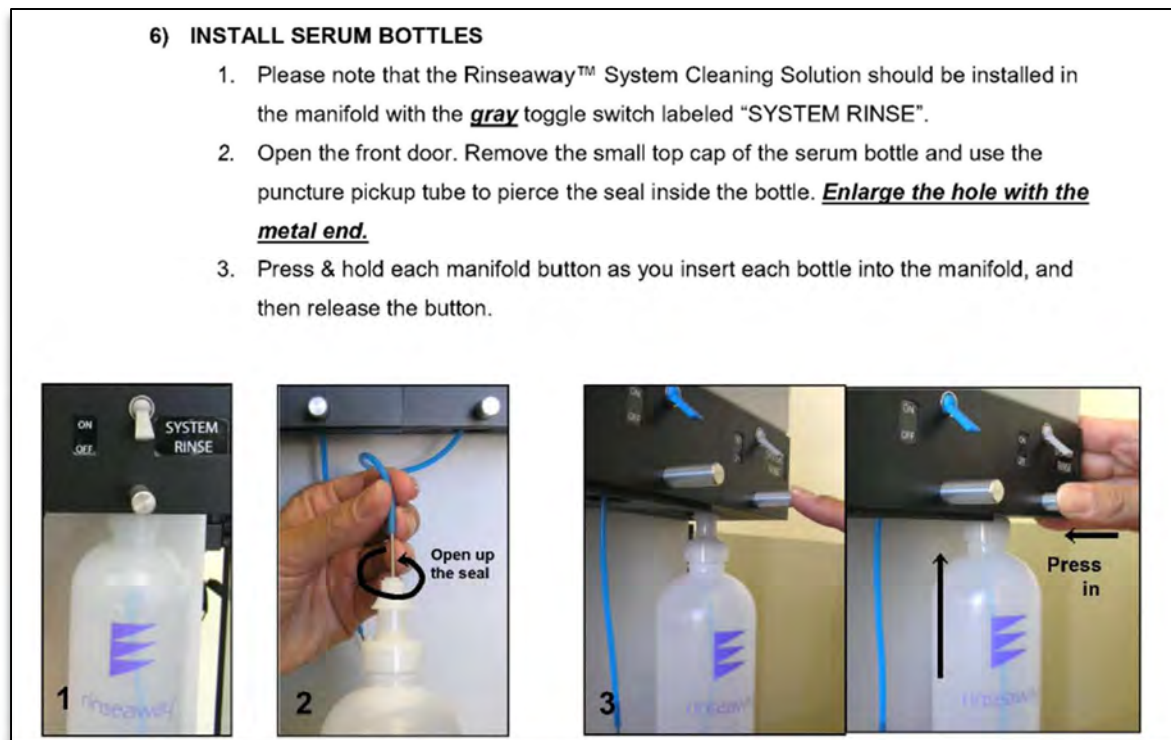
Ex. 2125 at 1 (Tower).

213. The Owner's Manual refers to this fluid control member as a "manifold," as shown in the image below:



Id. at 8.

214. The Owner's Manual describes how to "INSTALL SERUM BOTTLES," instructing a user to "insert each bottle into the manifold."

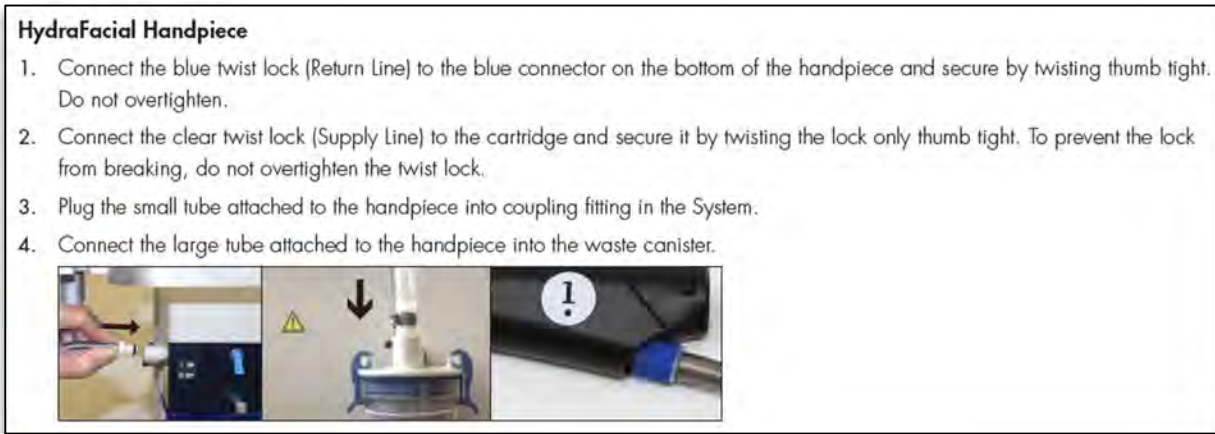


Ex. 2125 at 1 (Tower).

215. Thus, the component identified as the fluid control member is in fluid communication with the at least first and at least second container for each of the Elite, Allegro, and Tower. In addition, the identified component is in fluid communication with the handpiece for each of the Elite, Allegro, and Tower.

216. As shown in the images below, the fluid control member includes a first conduit that connects to the handpiece via a coupling to the handpiece, which is connected to the console. The Elite IFU describes connecting a "Supply Line" between the handpiece and the console, where the "Supply Line" serves as the first

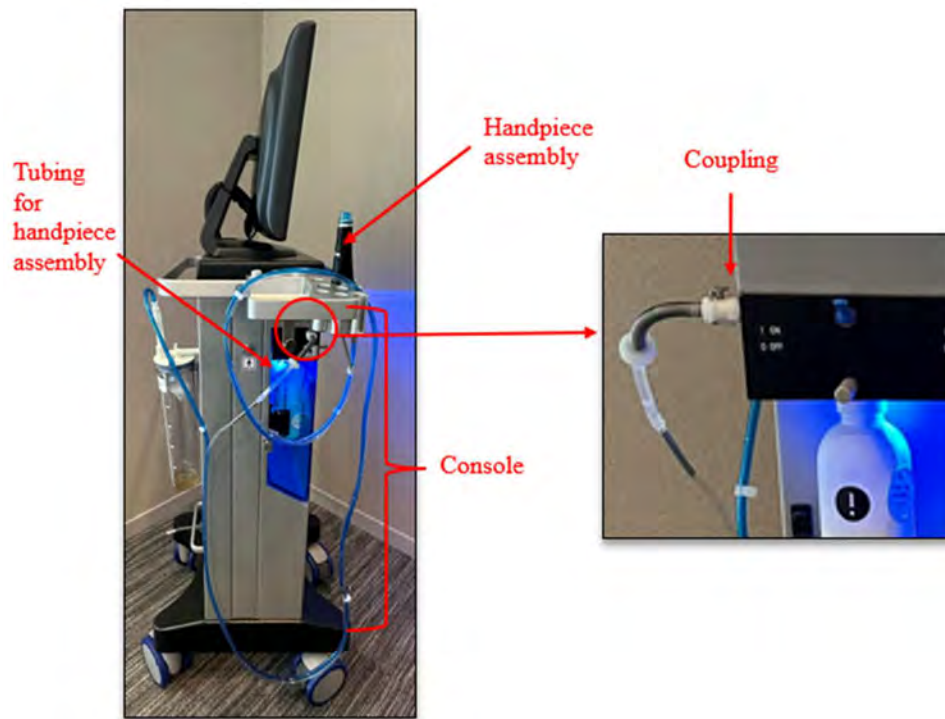
conduit through which the fluid control member is selectively in fluid communication with the handpiece.



Ex. 2031 at 12 (Elite).

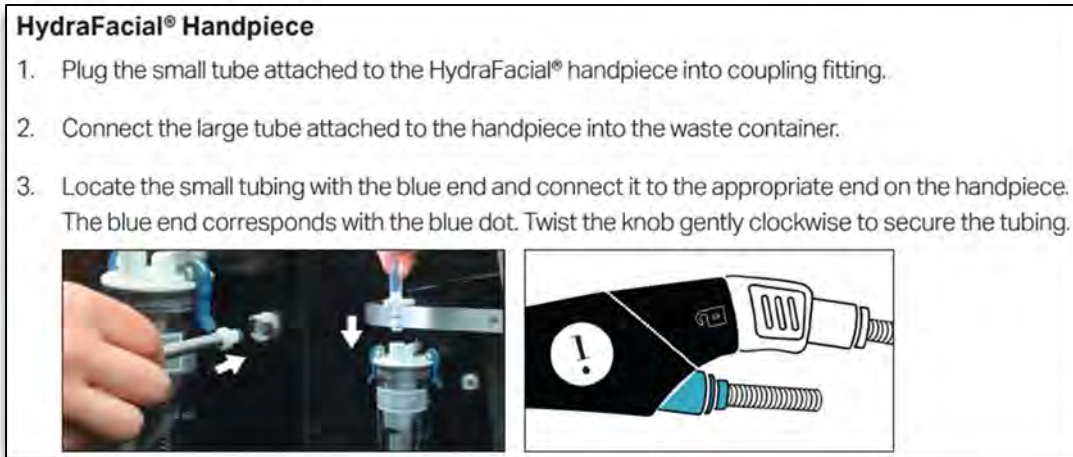


Id. 18 (Elite).

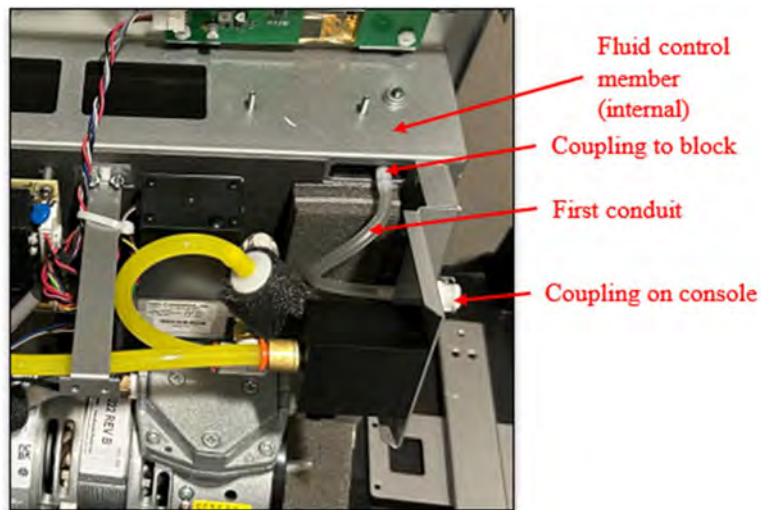


Ex. 2098; Ex. 2096 (Elite).

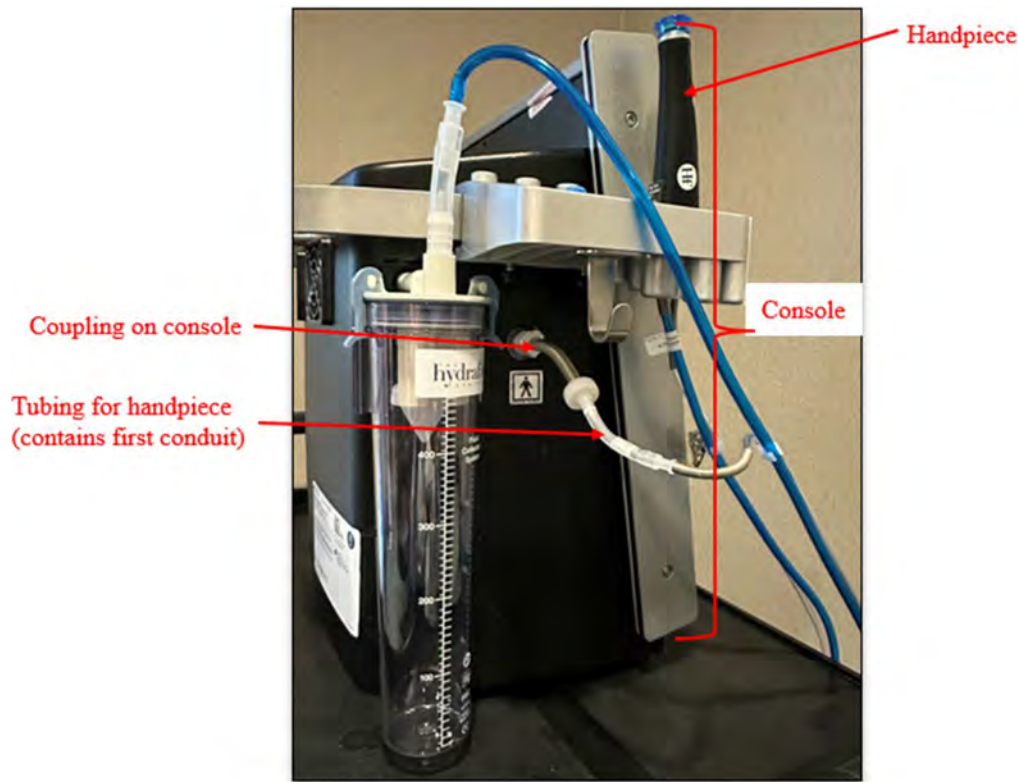
217. The Allegro IFU describes connecting a “small tube” between the HydraFacial handpiece and the console, where the “small tube” serves as the first conduit through which the fluid control member is selectively in fluid communication with the handpiece.



Ex. 2032 at 9 (Allegro).

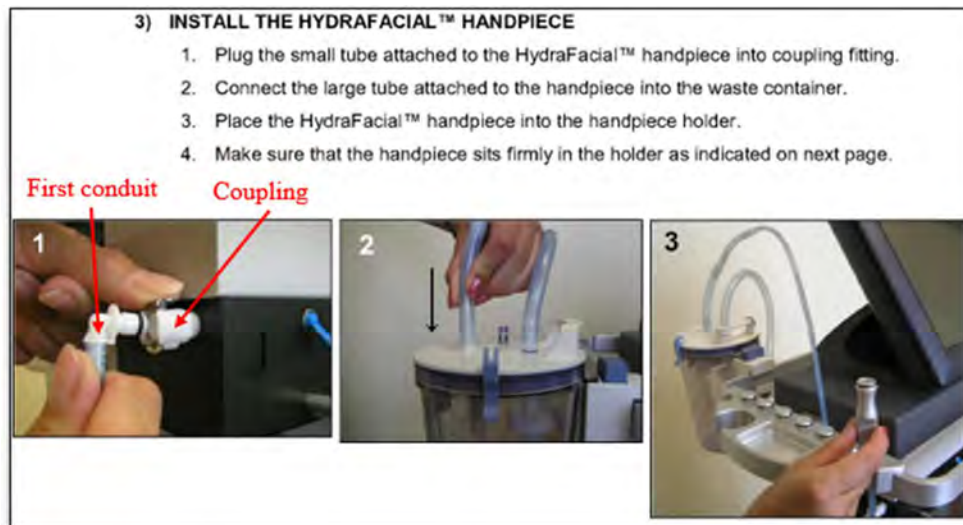


Ex. 2097 (Allegro).



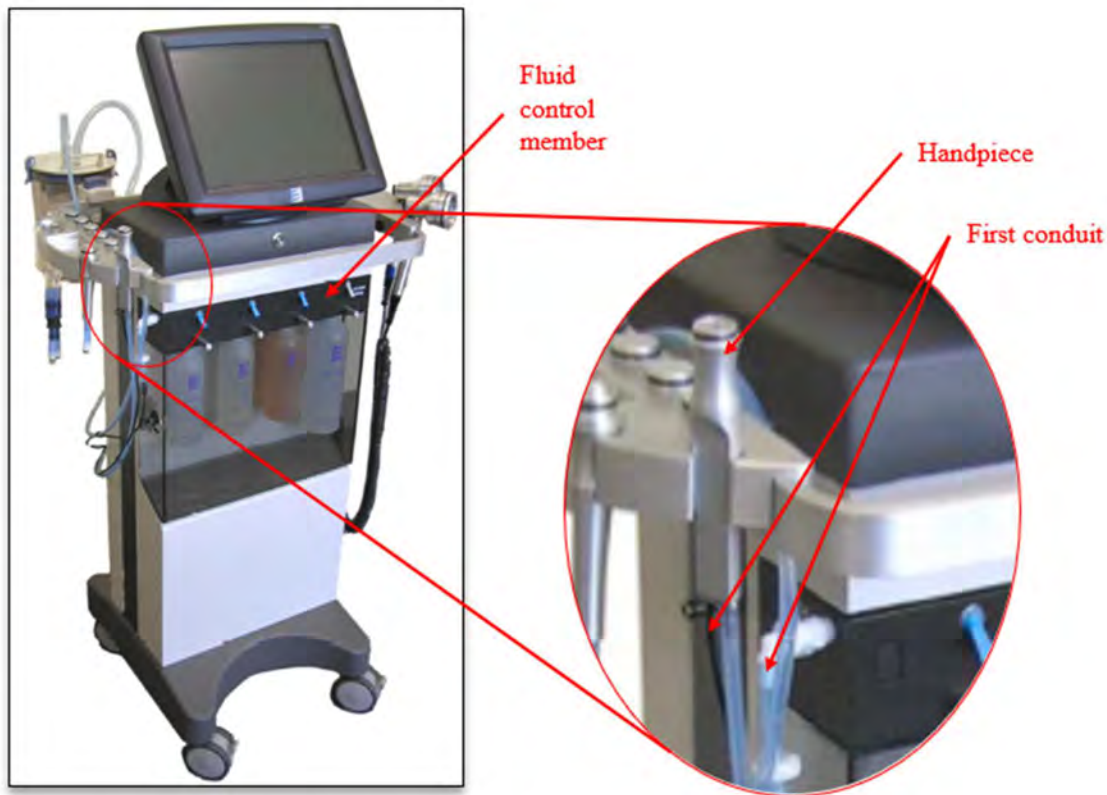
Ex. 2121 (Allegro).

218. The Tower Owner's Manual describes connecting a "small tube" between the handpiece and the console, where the "small tube" serves as the first conduit through which the fluid control member is selectively in fluid communication with the handpiece. The "small tube" connects the handpiece to the console via a coupling on the console.



Ex. 2125 at 10 (Tower).

219. The first conduit extends from the fluid control member in the console through tubing to the handpiece via the coupling. The selection of connecting the handpiece to the console via the coupling places the fluid control member in fluid communication with the handpiece.



Ex. 2125 at 1 (Tower).

220. The fluid control member in each of the Elite and the Allegro also meets the corresponding structures. The corresponding structures include a “manifold system” (17:17–18:37; Figs. 15A–D), a “lumen” (18:15–18), “valves, fluid lines, and the like” (18:38–42), and equivalents of these structures—structures the above-identified component(s) comprises.

221. As discussed above, the first and second containers are connected to the fluid control member and are in fluid communication with the fluid control member via the tubing connecting the parts.

222. Accordingly, this limitation is satisfied by each of the Elite, Allegro, and Tower.

k. 11[b]: “a handpiece assembly configured to contact a skin surface of a subject”

223. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in limitation 1[b] above.

l. 11[c]; “a waste conduit configured to be in fluid communication with the handpiece assembly and a vacuum source to move waste away from the handpiece assembly when the waste conduit and the handpiece assembly are each connected to the console”

224. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in limitation 1[e] and limitation 1[f] above.

225. In addition, I observed the Syndeo, Elite, and Allegro in use. When the handpiece assembly, waste container, and selected fluid container are each connected to the console and the handpiece assembly contacts the skin, a closed system is formed. When the vacuum source is activated, vacuum pressure draws fluid from the selected container, through the fluid control member, to the handpiece where it is delivered to the skin. Simultaneously, the vacuum pressure draws waste fluid away from the skin through the waste conduit to the waste container.

m. 11[d]: “wherein when each of the first container and the second container are connected to the console, the fluid control member is configured to be in fluid communication with each of the first container and the second container”

226. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitation “wherein when each of the first container and the second container are connected to the console, the fluid control member is configured to be in fluid communication with each of the first container and the second container.”

227. As discussed above in limitation 11[a] above, the first and second container are connected to the console when the system is in use and the fluid control member is configured to be in fluid communication with each of the first and second containers.

228. Accordingly, this limitation is satisfied by the each of the Syndeo, Elite, Allegro, and Tower.

n. 11[e]: “wherein when the handpiece assembly is connected to the console, the fluid control member is configured to be in fluid communication with the handpiece assembly;”

229. In my opinion, each of the Syndeo, Elite, Allegro, and Tower meets the limitation “wherein when each of the first container and the second container are connected to the console, the fluid control member is configured to be in fluid communication with each of the first container and the second container wherein when the handpiece assembly is connected to the console, the fluid control member is configured to be in fluid communication with the handpiece assembly.”

230. As discussed above in limitation 11[c] above, the handpiece assembly is connected to the console when the system is in use and, as discussed in limitation

11[a] above, the fluid control member is configured to be in fluid communication with the handpiece assembly.

231. Accordingly, this limitation is satisfied by each of the Syndeo, Elite, Allegro, and Tower.

- o. 11[f]: “wherein when (i) each of the first container and the second container contains treatment material, (ii) the first container and the second container are connected to the console, and (iii) the handpiece assembly is connected to the console, the skin treatment apparatus is configured to selectively draw treatment material from the first container or the second container to the handpiece assembly using, at least in part, a vacuum created along a distal end of the handpiece assembly by the vacuum source.”**

232. In my opinion, each of the Syndeo, Elite, Allegro, and Tower meets the limitation “wherein when (i) each of the first container and the second container contains treatment material, (ii) the first container and the second container are connected to the console, and (iii) the handpiece assembly is connected to the console, the skin treatment apparatus is configured to selectively draw treatment material from the first container or the second container to the handpiece assembly using, at least in part, a vacuum created along a distal end of the handpiece assembly by the vacuum source.”

233. First, as discussed above in connection with limitation 1[f] and below in connection with claim 16 above, in each of the Syndeo, Elite, Allegro and Tower devices, each of the first container and the second container contains treatment

material. Second, as discussed above in connection with limitation 1[a] and limitation 11[a] the first and second container are connected to the console. In addition, as discussed above in limitation 11[c], the handpiece assembly is also connected to the console.

234. When the above conditions (fluid containers have fluid and are connected to the console, handpiece assembly is connected to the console) are satisfied the skin treatment apparatus is configured to selectively draw treatment material from the first container or the second container to the handpiece assembly using, at least in part, a vacuum created along a distal end of the handpiece assembly by the vacuum source.

235. As I observed during my inspection of the Syndeo, when a user starts the vacuum and chooses a vacuum intensity and places a distal end of the handpiece assembly against the skin, the system draws treatment fluid from the selected container to the handpiece assembly.

236. As I also observed during my inspection of each of the Elite and Allegro, when a user starts the vacuum and chooses a vacuum intensity and places a distal end of the handpiece assembly against the skin, the system draws treatment fluid from the selected container to the handpiece assembly.

237. I observed a similar process in video of the Tower. In the video, when the user starts the vacuum, chooses vacuum intensity, and placed a cleaning cap on

the tip of the handpiece assembly, the system draws treatment fluid from the selected container to the handpiece assembly. A POSA would understand that the cleaning cap acts in the same way as contacting the handpiece assembly to the skin, namely by creating a closed system, which draws treatment fluid from the selected container to the handpiece assembly.

238. Accordingly, this limitation is satisfied by each of the Syndeo, Elite, Allegro, and Tower.

239. For all of these reasons, it is my opinion that each of the Syndeo, Elite, Allegro, and Tower practices Claim 11 of the '287 Patent.

12. Practice of Claim 12

240. Claim 12 of the '287 Patent recites: The skin treatment apparatus of claim 11, wherein treatment material from the first container and the second container are configured to be drawn to the handpiece assembly sequentially. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

241. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 11, as explained above. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “wherein treatment material from the first container and the second container are configured

to be drawn to the handpiece assembly sequentially” for the same reasons set forth above in limitation 1[g].

242. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices Claim 12 of the ’287 Patent.

13. Practice of Claim 14

243. Claim 14 of the ’287 Patent recites: The skin treatment apparatus of claim 11, wherein the console comprises the vacuum source. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

244. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 11, as explained above. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “wherein the console comprises the vacuum source” for the same reasons set forth above in limitation 1[d].

245. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices Claim 14 of the ’287 Patent.

14. Practice of Claim 15

246. Claim 15 of the ’287 Patent recites: The skin treatment apparatus of claim 11, wherein the skin treatment apparatus is configured to deliver a single treatment material from the first container to a patient’s skin. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

247. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 11, as explained above. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “wherein the skin treatment apparatus is configured to deliver a single treatment material from the first container to a patient’s skin.” As discussed above with respect to limitation 1[g], the system is configured to deliver a first treatment material contained from the first container to the handpiece. And as discussed above with respect to limitation 11[b], the handpiece assembly is configured to contact a skin surface of a patient.

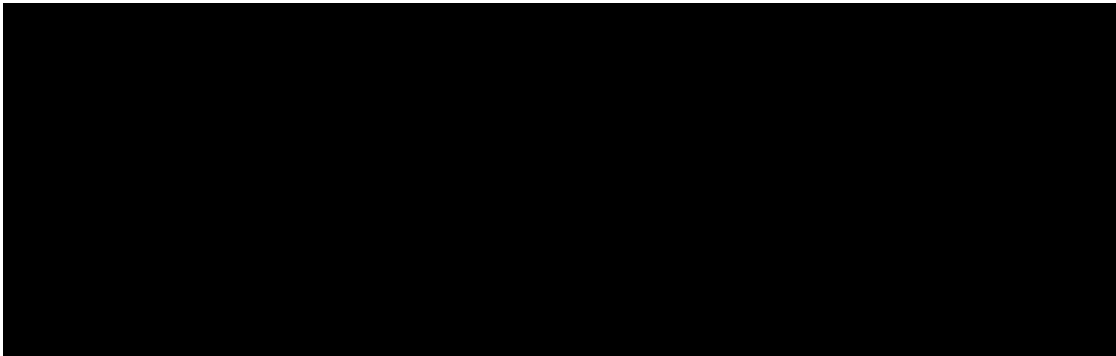
248. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices Claim 15 of the ’287 Patent.

15. Practice of Claim 16

249. Claim 16 of the ’287 Patent recites: The skin treatment apparatus of claim 11, wherein the treatment material in the first container is a skin treatment fluid. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

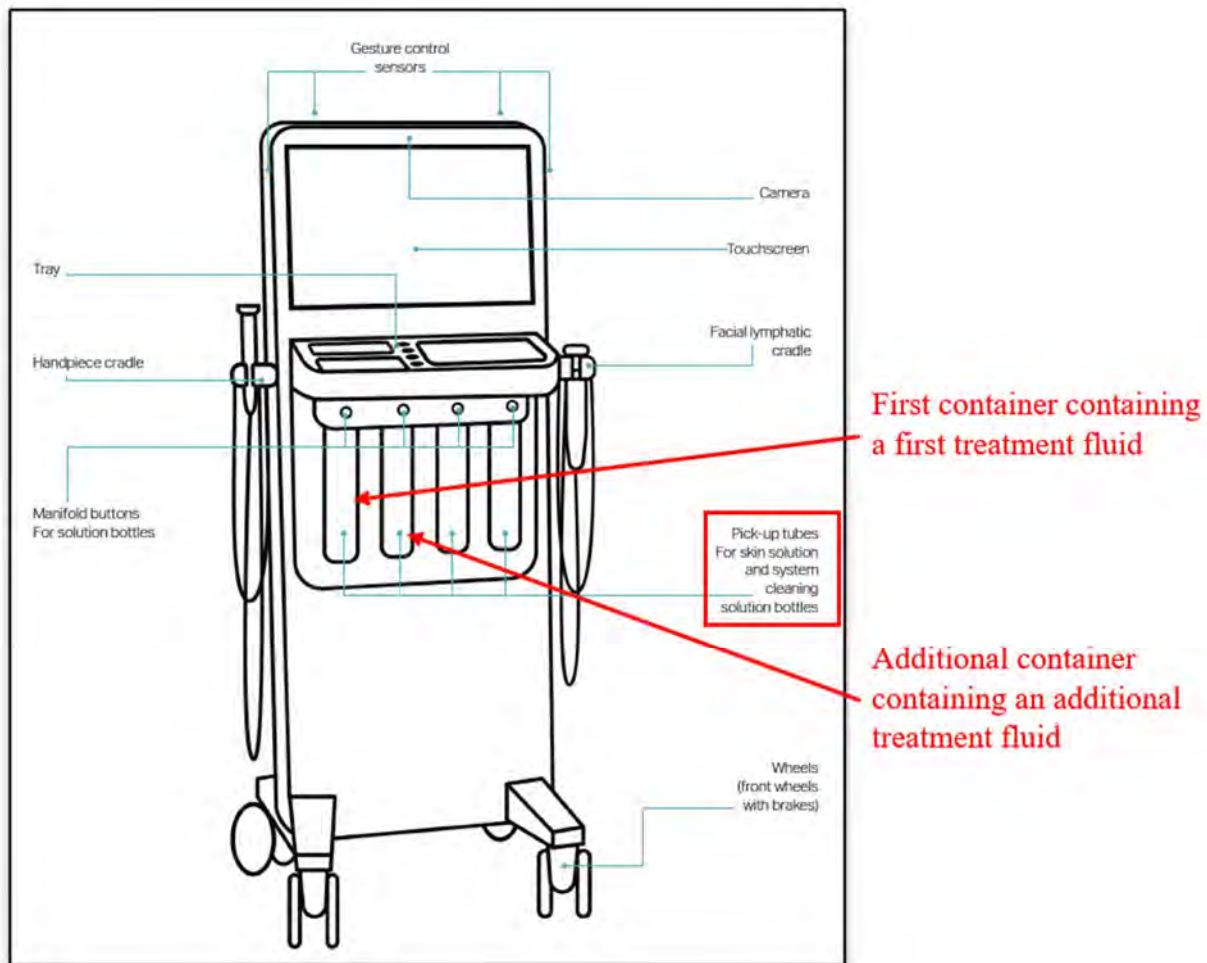
250. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 11, as explained above. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “wherein the treatment material in the first container is a skin treatment fluid.”

251. In use, the Syndeo includes fluids for use in each of the containers. For example, the Engineering Report Form for the Syndeo identifies “Activ-4,” “Antiox+, Antiox-6,” “Beta-HD,” and “Rinse-away” as the serum containers which can be connected to the Syndeo console. The below image is excerpted from the Engineering Report Form. Thus, “Activ-4,” “Antiox+, Antiox-6,” “Beta-HD,” and “Rinse-away,” each corresponds to a container which may be connected to the Syndeo console.



Ex. 2113 at 2

252. The Syndeo IFU further describes placing solutions in the appropriate containers. For example, the Syndeo IFU explains that the bottles inserted into the Syndeo console each contain a “skin solution.” I have annotated, for clarity, an image from the Syndeo IFU showing the console with a first and additional container, each containing a different treatment fluid:



Ex. 2030 at 10; *see also id.* at 13 (“Remove the cap of the skin solution bottle and use the puncture tool to pierce the seal inside the bottle.”); *id.* at 7 (“Always use solution when performing abrasion. Performing the treatment without skin solutions could result in discomfort to the client.”); *id.* at 14 (“The Syndeo system automatically selects and deselects the recommended solution bottle based on the respective treatment step.”); *id.* at 22 (“Make sure your skin solution bottle is not empty.”)

253. As explained in detail above, the user is instructed to connect the handpiece to the console for each of the Elite, Allegro, and Tower. *See supra* limitation 1[f]. The user is also instructed to connect a first container and at least one additional container to the console. *See supra* limitation 1[a]; *see also* Ex. 2125 at 3 (describing a HydraFacial™ as “remov[ing] dead skin cells and impurities while simultaneously infusing the new skin with cleansing, hydrating and moisturizing serums & antioxidants”).

254. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices Claim 16 of the '287 Patent.

16. Practice of Claim 17

255. Claim 17 of the '287 Patent recites: The skin treatment apparatus of claim 11, further comprising a computing device configured to control at least one function of the skin treatment apparatus. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

256. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 11, as explained above. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “further comprising a computing device configured to control at least one function of the skin treatment apparatus” for the same reasons set forth above in claim 4.

257. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of Claim 17 of the '287 Patent.

17. Practice of Claim 18

258. Claim 18 of the '287 Patent recites: The skin treatment apparatus of claim 17, further comprising a user input device to facilitate control of a flow of treatment materials from at least one of the first container and the second container to the handpiece assembly. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

259. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 17, as explained above. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “further comprising a user input device to facilitate control of a flow of treatment materials from at least one of the first container and the second container to the handpiece assembly” for the same reasons set forth above in claim 5.

260. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices Claim 18 of the '287 Patent.

18. Practice of Claim 19

261. Claim 19 of the '287 Patent recites: The skin treatment apparatus of claim 18, wherein the user input device comprises a touch screen. In my opinion, the Syndeo practices every limitation of this claim.

262. In my opinion, the Syndeo practices the limitations of claim 18, as explained above. In my opinion, the Syndeo further satisfies the limitation requiring “wherein the user input device comprises a touch screen” for the same reasons set forth above in claim 6.

19. Practice of Claim 20

263. Claim 20 of the '287 Patent recites: The skin treatment apparatus of Claim 19, further comprising a display. In my opinion, the Syndeo practices every limitation of this claim.

264. In my opinion, the Syndeo practices the limitations of claim 19, as explained above. In my opinion, the Syndeo further satisfies the limitation requiring “further comprising a display.” As discussed above in connection with Claims 4-6 and 17-19, the Syndeo includes a user input device which is a touch screen and a display.

265. Accordingly, the Syndeo practices Claim 20 of the '287 Patent.

20. Practice of Claim 22

266. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of claim 22 of the '287 Patent.

267. Claim 22 recites as follows:

22. A system for treating skin, the system comprising:
a console configured to receive a first container and at least one additional container;

a collection lumen configured to be in fluid communication with the first container and the at least one additional container when the first container and the at least one additional container are connected to the console; and a handpiece having a working end, the working end of the handpiece being configured to contact skin tissue of a subject during use; wherein the working end of the handpiece is configured to be placed in fluid communication with a vacuum source to create a suction force along a distal end of the handpiece when the vacuum source is activated and the handpiece is connected to the console and wherein the working end of the handpiece is configured to be placed in fluid communication with the first container or the at least one additional container through the collection lumen; and a supply conduit that places the collection lumen in fluid communication with the working end of the handpiece when the handpiece is connected to the console; wherein each of the first container and the at least one additional container includes treatment materials, and wherein treatment materials from the first container and the at least one additional container are configured to be delivered to the supply conduit sequentially when the first container and the at least one additional container are connected to the console.

I address each limitation of this claim below.

p. 22[pre]: “A system for treating skin, the system comprising:”

268. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in limitation 1[pre] above.

q. 22[a]: “a console configured to receive a first container and at least one additional container”

269. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in limitation 1[a] above.

r. 22[b]: “a collection lumen configured to be in fluid communication with the first container and the at least one

additional container when the first container and the at least one additional container are connected to the console;”

270. In my opinion, each of the Syndeo, Elite, Allegro, and Tower has a collection lumen configured to be in fluid communication with the first container and the at least one additional container when the first container and the at least one additional container are connected to the console.”

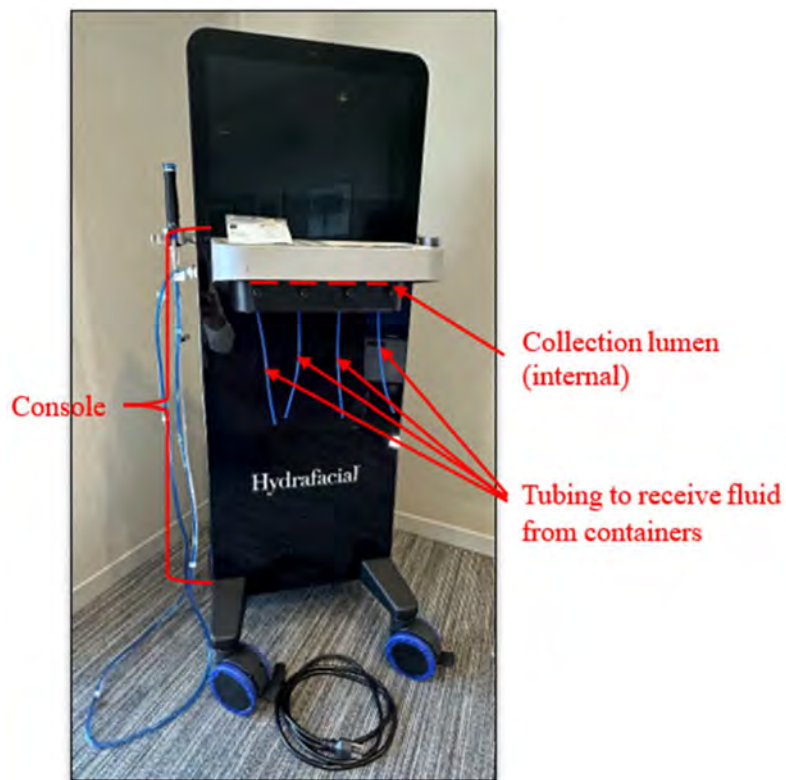
271. As discussed above in limitation 1[a], each of the Syndeo, Elite, Allegro, and Tower has a first container and at least one additional container that are connected to the console.

272. I understand that the ALJ construed “collection lumen” in the ITC 1408 Investigation as “Plain and ordinary meaning, i.e., an interior space or pathway that receives fluid.”

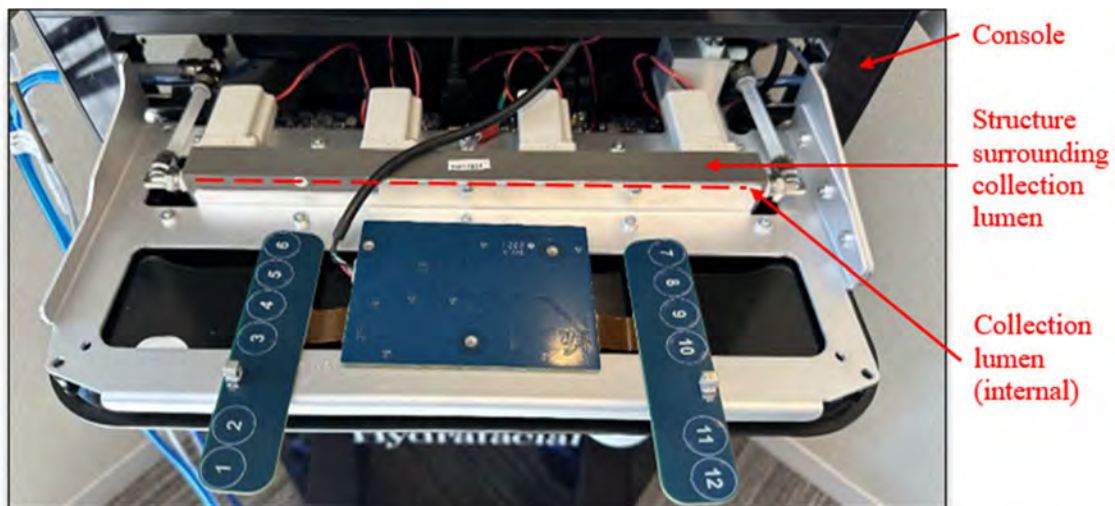
273. I understand that HydraFacial provided a proposed construction of “collection lumen” during the ITC 1408 Investigation, which aligned with the ALJ’s construction. I have applied HydraFacial’s construction below.

i. Syndeo

274. I have inspected the Syndeo. As shown in the image below, the Syndeo includes a collection lumen.



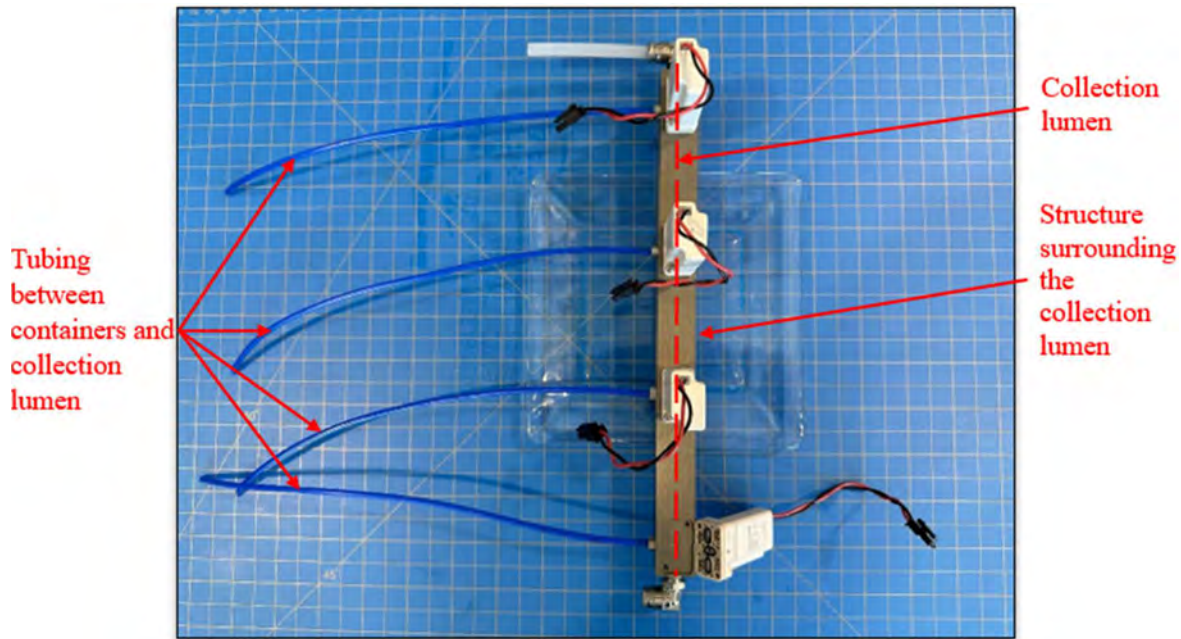
Ex. 2081.



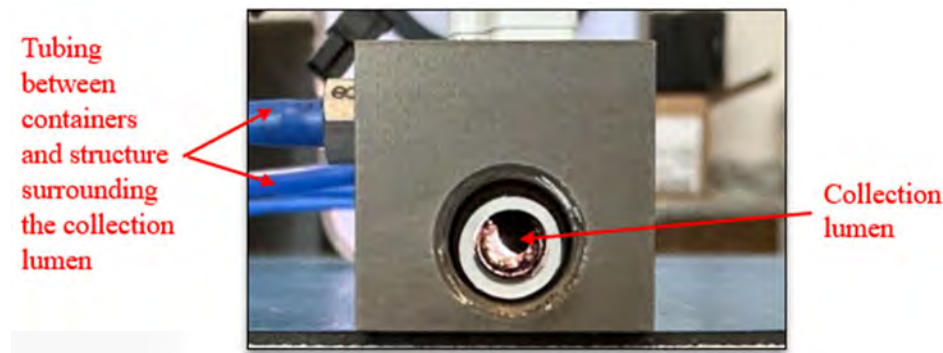
Ex. 2085.

275. The photos below show a collection lumen configured to be in fluid communication with the first container and the at least one additional container when

the first container and the at least one additional container are connected to the console via tubing that extends from the containers to the structure surrounding the collection lumen, where the tubing deposits into the collection lumen.



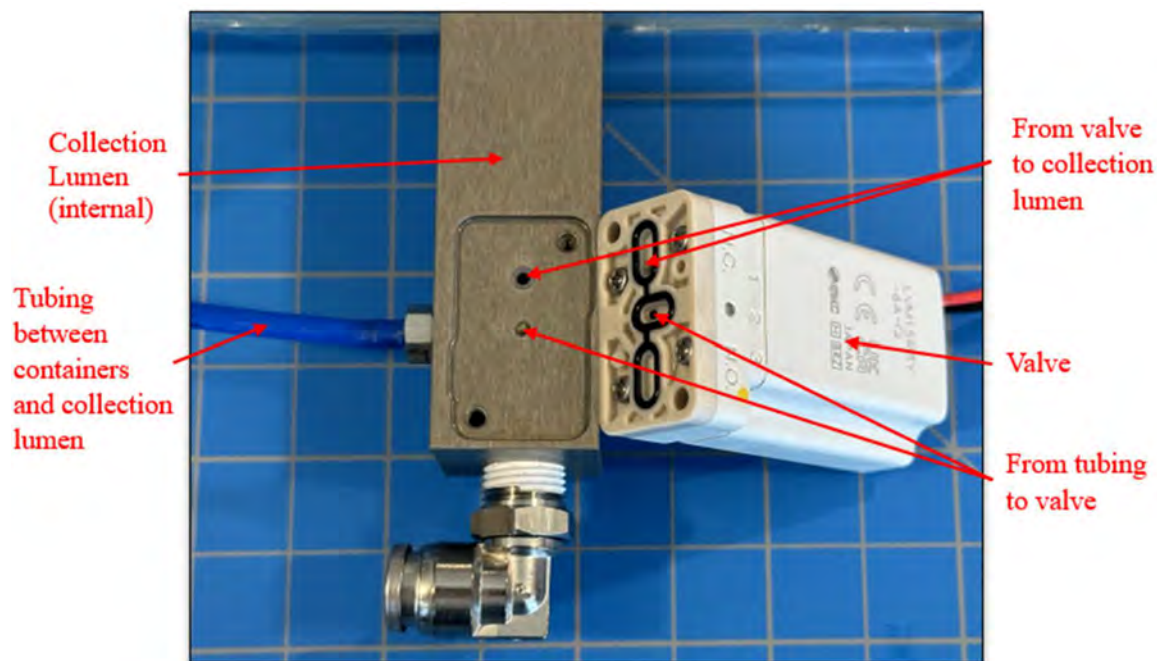
Ex. 2080.



Ex. 2134.

276. The collection lumen is in fluid communication with tubing extending from the structure surrounding the collection lumen. The collection lumen is

configured to receive fluid, through the tubing, from the containers (including the first container and at least one additional container) when the containers are connected to the console. As illustrated in the photo below, the tubing to receive fluid from containers extends to their respective serum valves that control which fluid reaches the collection lumen based on which container a user selects.



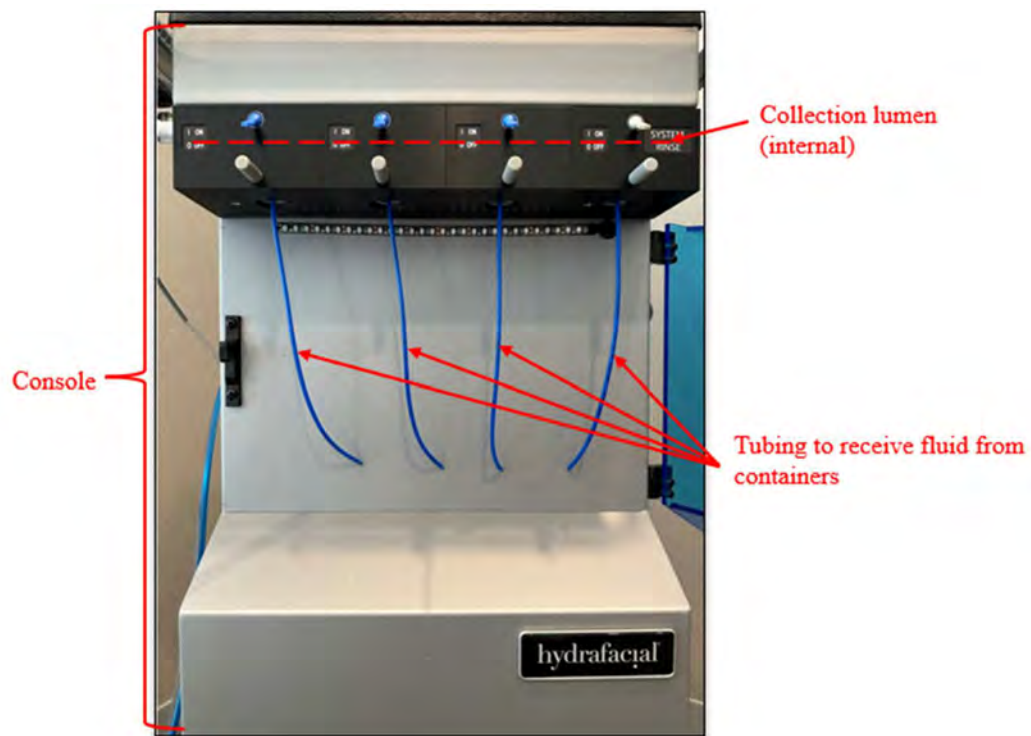
Ex. 2084.

277. The collection lumen is configured to receive fluid, through tubing, from the first container and the at least one additional container, when the containers are connected to the console. Accordingly, the collection lumen is configured to be in fluid communication with the first container and the at least one additional container.

278. Accordingly, the collection lumen is configured to be in fluid communication with the first container and the at least one additional container.

ii. Elite, Allegro, & Tower

279. I have inspected both the Elite and the Allegro. As shown in the images below, the Elite and Allegro each includes a collection lumen.

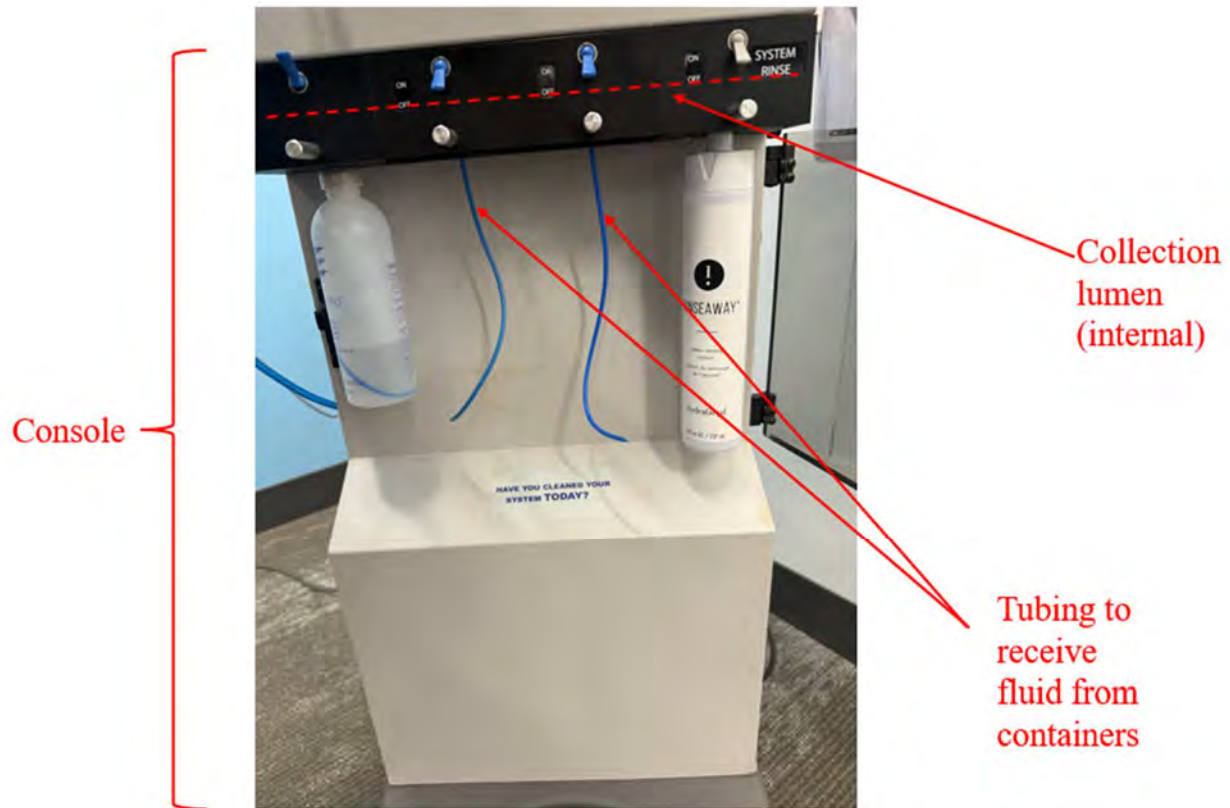


Ex. 2135 (Elite).



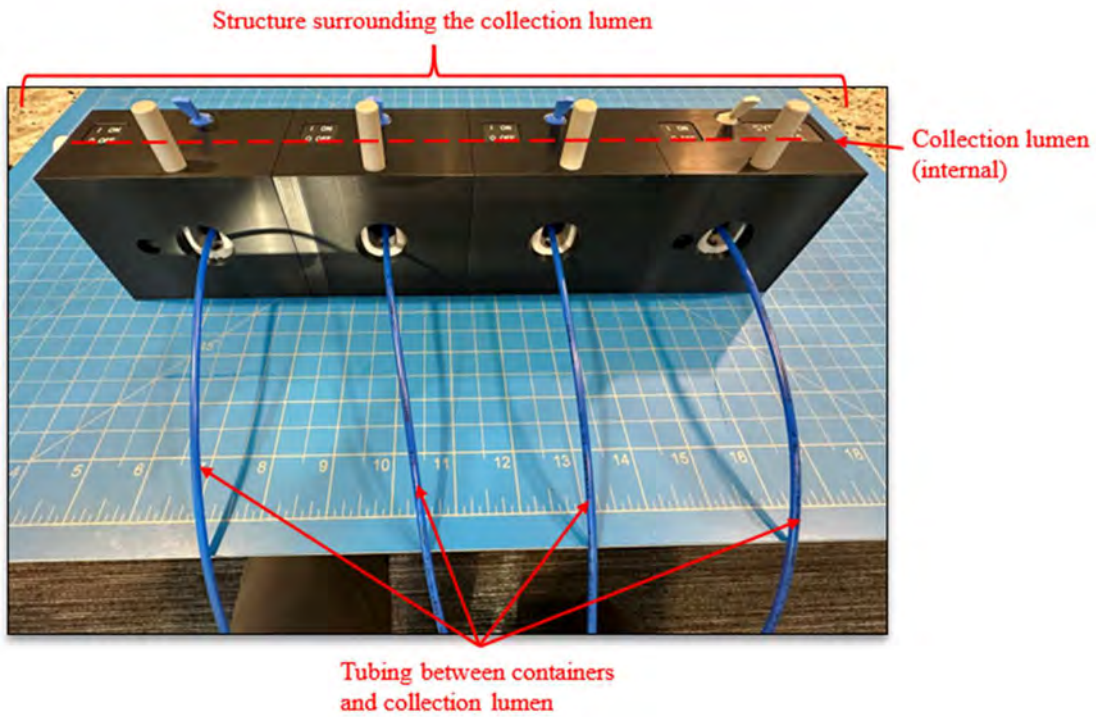
Ex. 2077 (Allegro).

280. As shown in the image below, the HydraFacial Tower also includes a collection lumen.

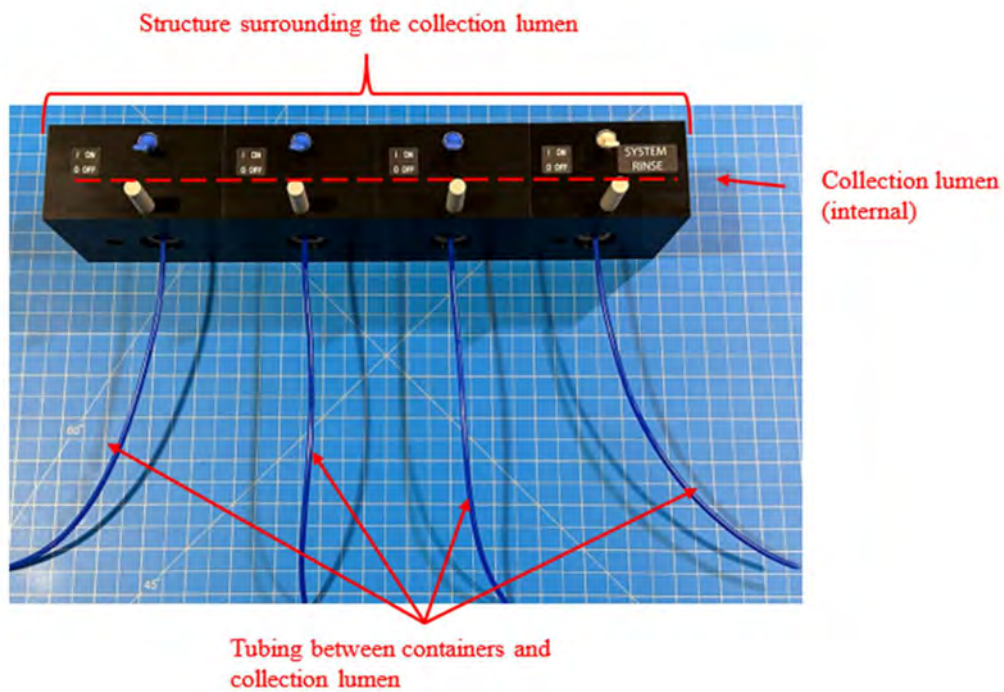


Ex. 2118 (Tower).

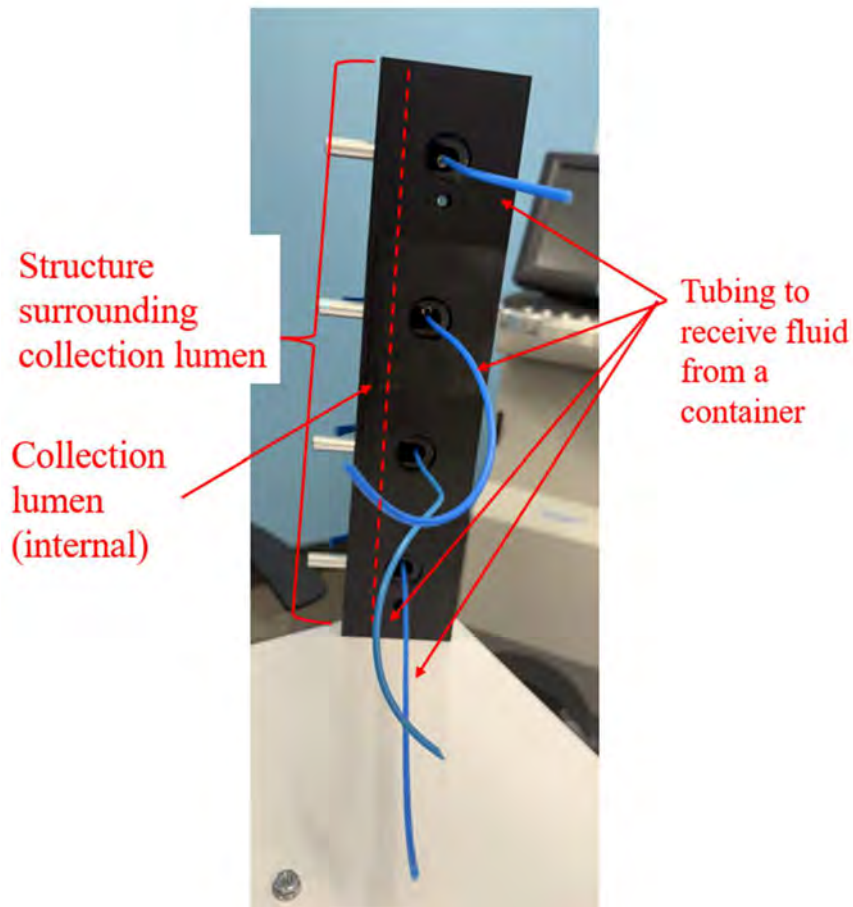
281. The photos of the Elite, Allegro, and Tower below show a collection lumen configured to be in fluid communication with the first container and the at least one additional container when the first container and the at least one additional container are connected to the console via tubing that extends from the containers to the structure surrounding the collection lumen, where the tubing deposits into the collection lumen, for each of the Elite, Allegro, and Tower.



Ex. 2132 (Elite).



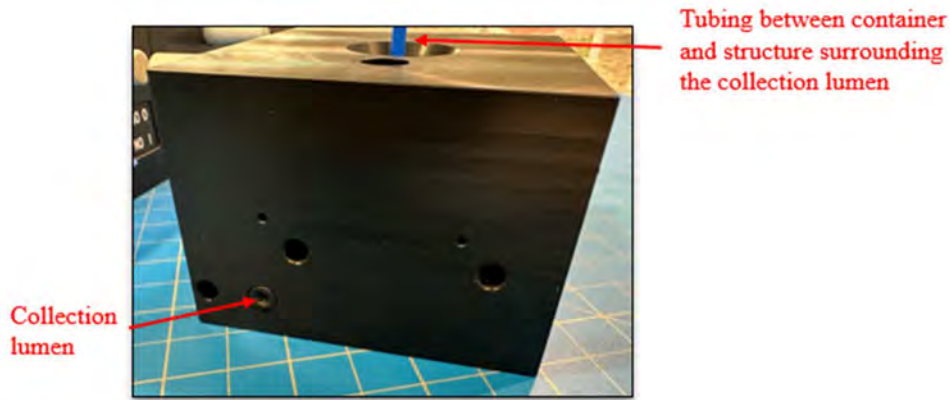
Ex. 2095 (Allegro).



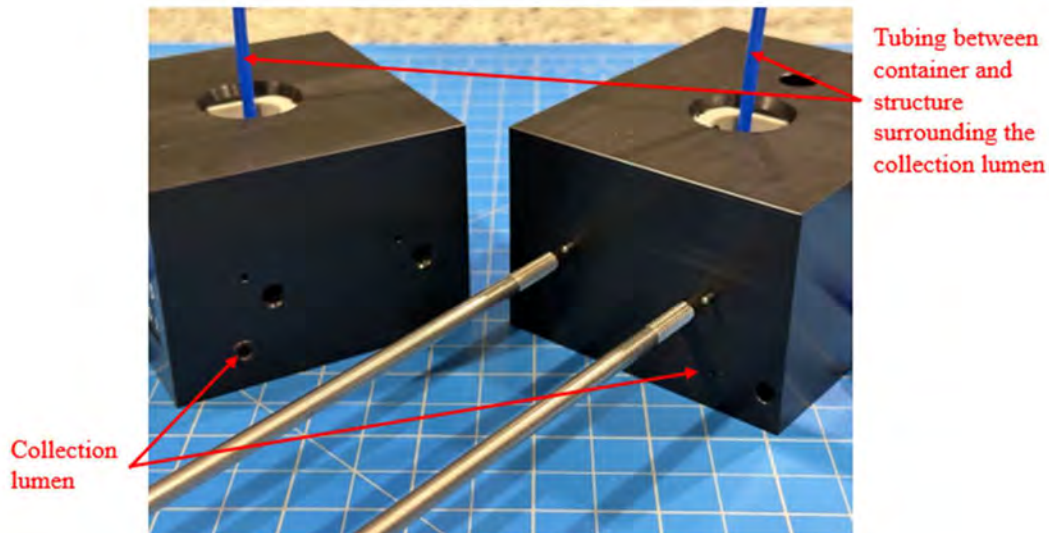
Ex. 2091 (Tower).

282. The collection lumen is in fluid communication with tubing extending from the structure surrounding the collection lumen. The collection lumen is configured to receive fluid, through the tubing, from the containers (including the first container and at least one additional container) when the containers are connected to the console. As illustrated in the photos below, the tubing to receive fluid from containers extends to their respective serum valves that control which

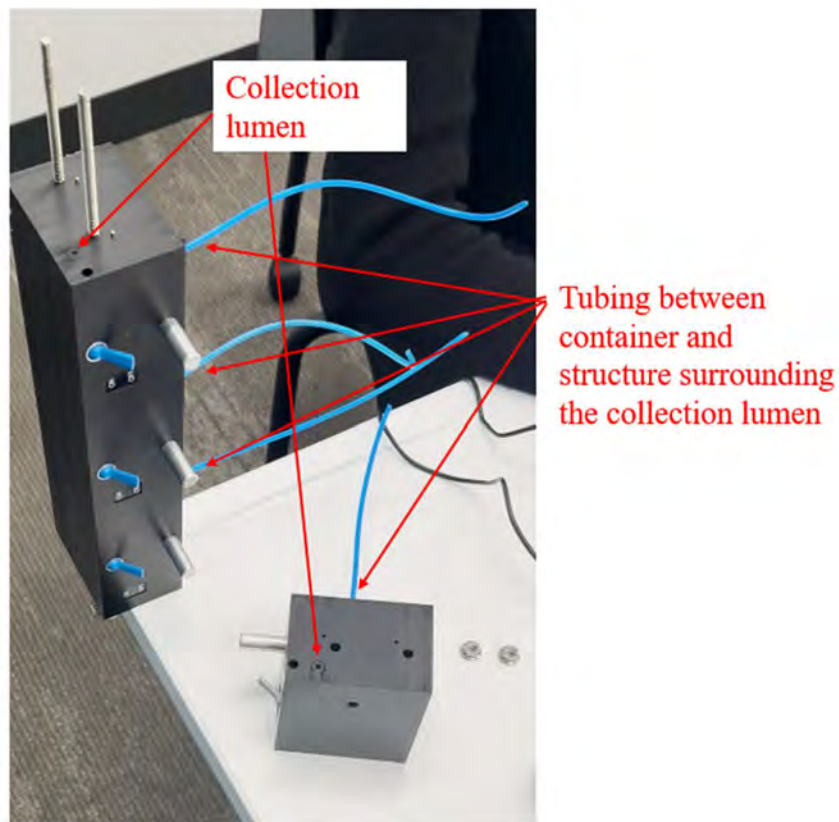
fluid reaches the collection lumen based on which container a user selects, for each of the Elite, Allegro, and Tower.



Ex. 2136 (Elite).

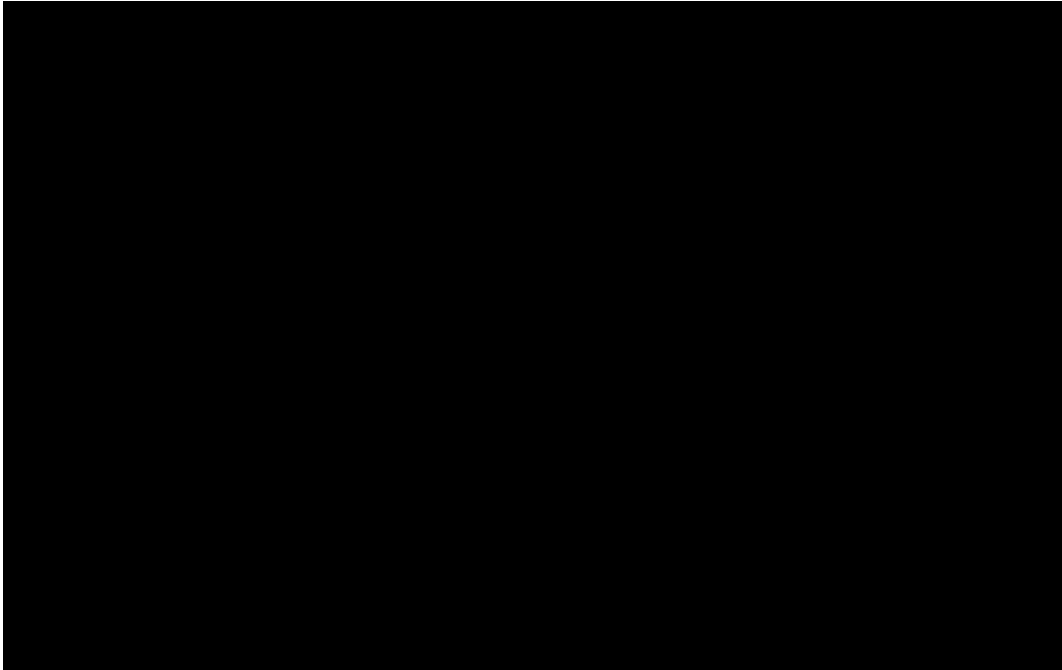


Ex. 2133 (Allegro).



Ex. 2152 (Tower).

283. The technical drawing for the Elite below shows a collection lumen configured to be in fluid communication with the first container and the at least one additional container.



Ex. 2099 at 265 (Elite).

284. The collection lumen is configured to receive fluid, through tubing, from the first container and the at least one additional container, when the containers are connected to the console. Accordingly, the collection lumen is configured to be in fluid communication with the first container and the at least one additional container for each of the Elite, Allegro, and Tower.

285. Accordingly, the collection lumen in each of the Elite, Allegro, and Tower is configured to be in fluid communication with the first container and the at least one additional container.

286. Accordingly, each of the Syndeo, Elite, Allegro, and Tower meets this limitation.

- s. **22[c]: “a handpiece having a working end, the working end of the handpiece being configured to contact skin tissue of a subject during use”**

287. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in limitation 1[b] above (wherein, in my opinion, the working end is the tip of the handpiece).

- t. **22[d]: “wherein the working end of the handpiece is configured to be placed in fluid communication with a vacuum source to create a suction force along a distal end of the handpiece when the vacuum source is activated and the handpiece is connected to the console and wherein the working end of the handpiece is configured to be placed in fluid communication with the first container or the at least one additional container through the collection lumen”**

288. In my opinion each of the Syndeo, Elite, Allegro, and Tower satisfies the limitation “wherein the working end of the handpiece is configured to be placed in fluid communication with a vacuum source to create a suction force along a distal end of the handpiece when the vacuum source is activated and the handpiece is connected to the console and wherein the working end of the handpiece is configured to be placed in fluid communication with the first container or the at least one additional container through the collection lumen.”

i. Syndeo

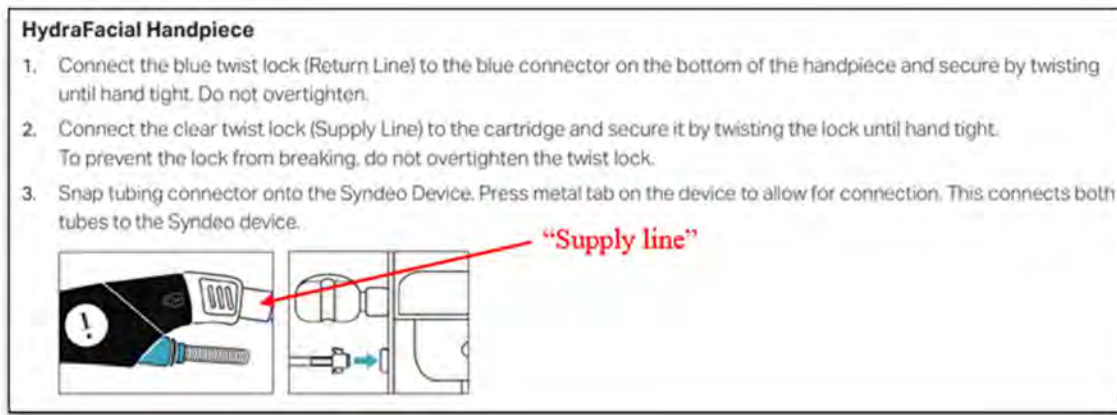
289. The working end of the handpiece of the Syndeo is in fluid communication with the vacuum source via tubing, referred to herein as the second conduit, when the handpiece is connected to the console. *See supra* limitation 1[e].

290. The handpiece of the Syndeo is connected to the console via tubing, as shown below.



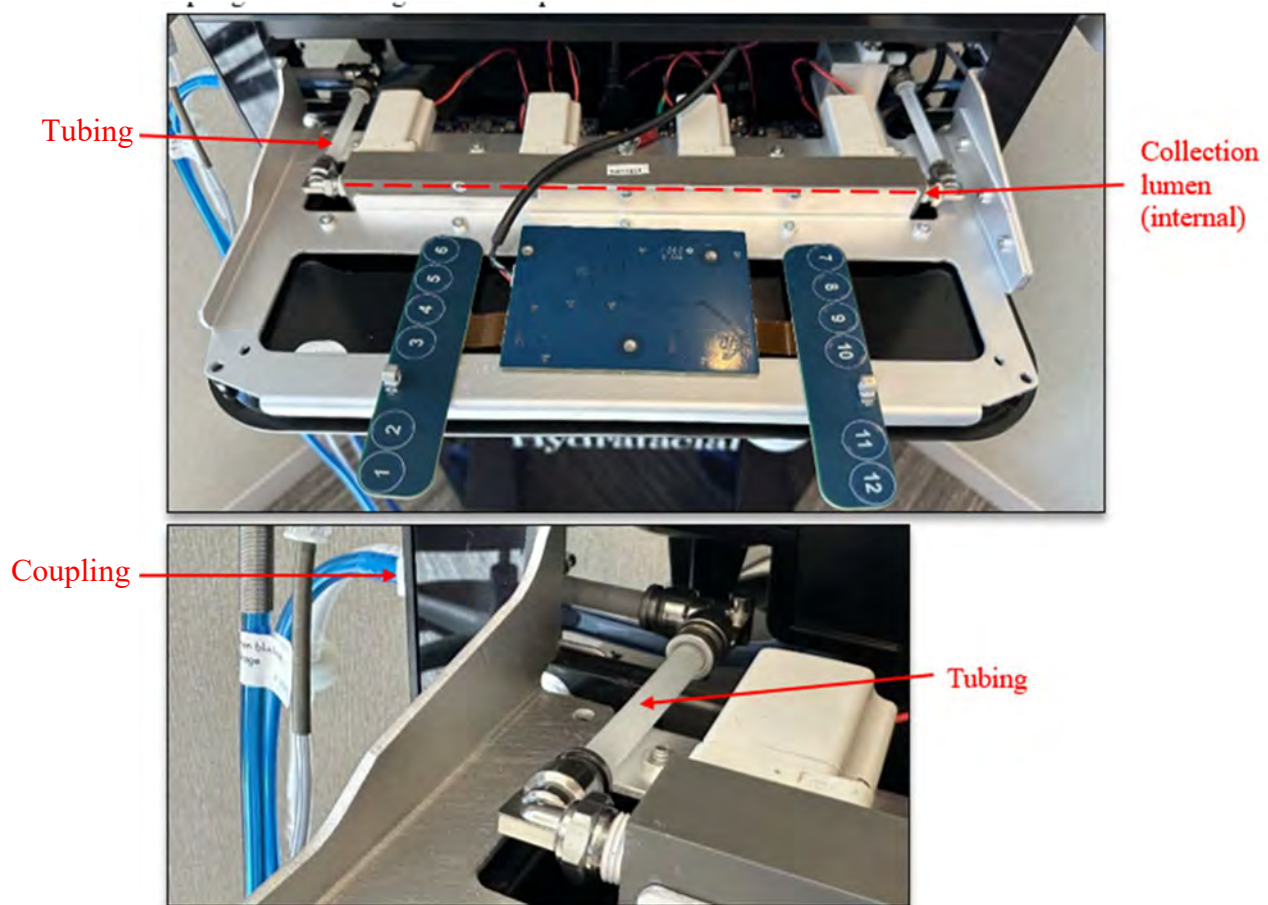
Ex. 2087.

291. In addition, The Syndeo IFU describes connecting a “Supply Line” between the handpiece and the console, where the “Supply Line” places the working end of the handpiece in fluid communication with the first container or the at least one additional container through the collection lumen:



Ex. 2030 at 12.

292. The working end of the handpiece is configured to be in fluid communication with the collection lumen via tubing connecting the parts (“supply line”). The tubing extends to and through a coupling for the tubing to the handpiece.



Ex. 2085; Ex. 2086.

293. As discussed above in limitation 22[b], the collection lumen is also in fluid communication with the first container and at least one additional container. Thus, the working end of the handpiece is in fluid communication with the first container and at least one additional container through the collection lumen.

294. As shown in the image above, when the tubing of the handpiece is plugged into the coupling, the fluid communication pathway between the collection lumen and the working end of the handpiece is completed. The completed fluid communication pathway allows fluid to be drawn from the first or at least one

additional fluid containers, through the collection lumen to the working end of the handpiece.

ii. Elite, Allegro, & Tower

295. The working end of the handpiece of each of the Elite, Allegro, and Tower is in fluid communication with the vacuum source via tubing, referred to herein as the second conduit, when the handpiece is connected to the console. *See supra* limitation 1[e]. The working end of the handpiece is therefore in fluid communication with the vacuum source. I observed that, due to this fluid communication, when the vacuum source is activated and the handpiece is contacting skin, a suction force is created along the distal end of the handpiece.

296. The Elite IFU and Allegro IFU each shows tubing between the handpiece and the console, where the tubing places the working end of the handpiece in fluid communication with the first container or the at least one additional container through the collection lumen:



Ex. 2031 at 12 (Elite).



Ex. 2031 at 18.



Ex. 2034 at 4 (Elite).

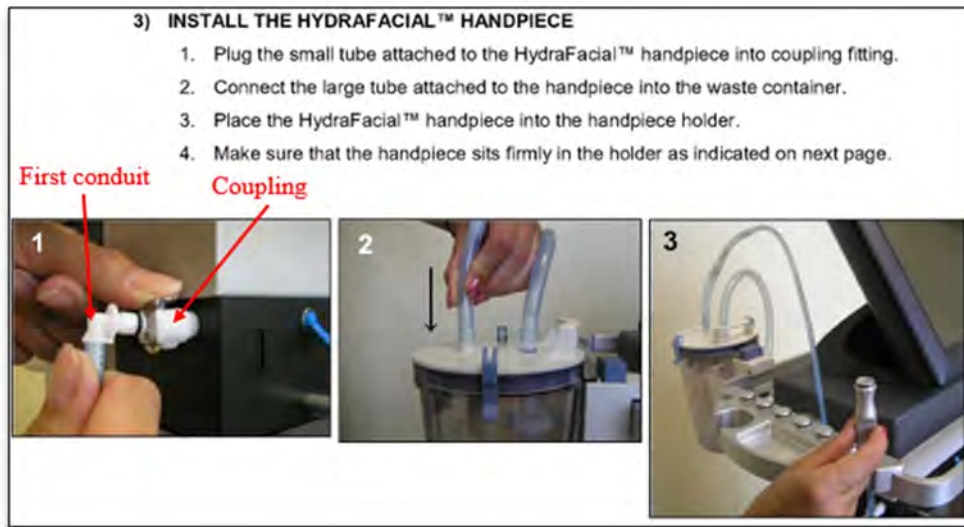
HydraFacial® Handpiece

1. Plug the small tube attached to the HydraFacial® handpiece into coupling fitting.
2. Connect the large tube attached to the handpiece into the waste container.
3. Locate the small tubing with the blue end and connect it to the appropriate end on the handpiece. The blue end corresponds with the blue dot. Twist the knob gently clockwise to secure the tubing.

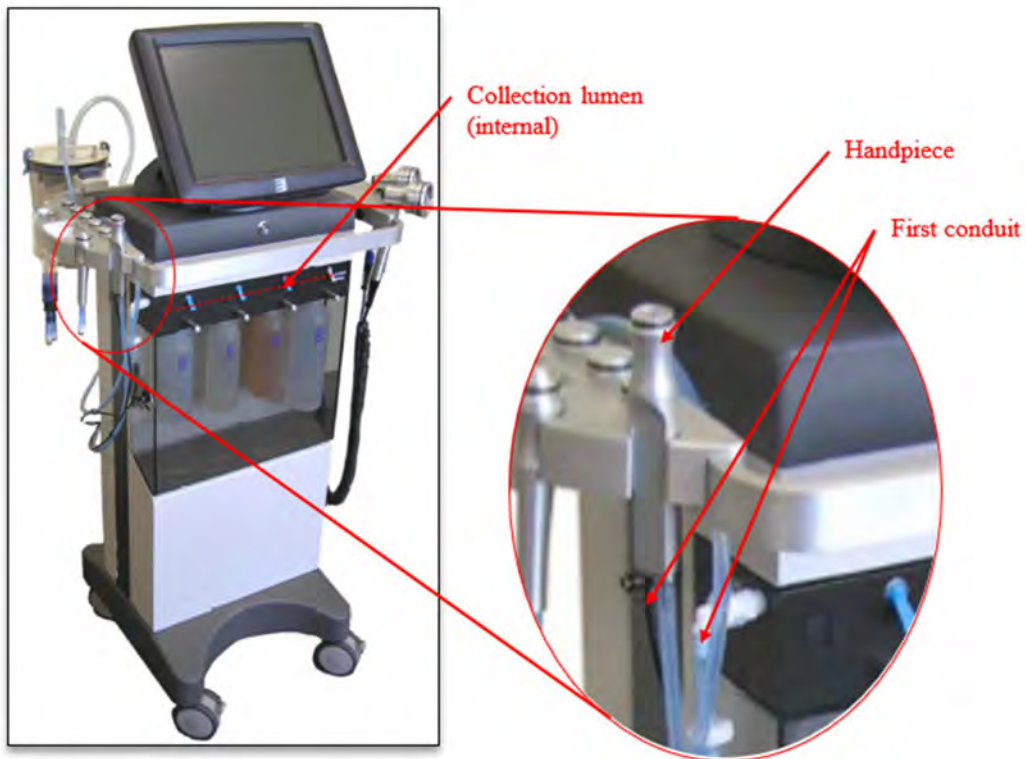


Ex. 2032 at 9 (Allegro).

139. Similarly, The HydraFacial Tower Owner's Manual shows tubing between the handpiece and the console, where the tubing places the working end of the handpiece in fluid communication with the first container or the at least one additional container through the collection lumen:

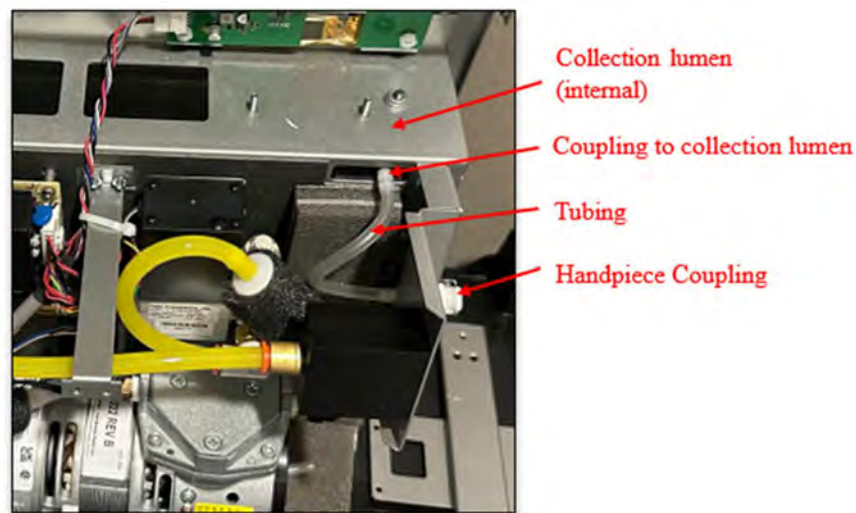


Ex. 2125 at 10 (Tower).



Ex. 2125 at 1 (Tower).

297. The working end of the handpiece for each of the Elite, Allegro, and Tower is configured to be in fluid communication with the collection lumen via tubing. The tubing extends to and through a coupling for the tubing to the handpiece.



Ex. 2097 (Allegro).

298. As discussed above in limitation 22[b], the collection lumen is also in fluid communication with the first container and at least one additional container. Thus, the working end of the handpiece is in fluid communication with the first container and at least one additional container through the collection lumen.

299. As shown in the image above, when the tubing of the handpiece is plugged into the coupling, the fluid communication pathway between the collection lumen and the working end of the handpiece is completed. The completed fluid communication pathway allows fluid to be drawn from the first or at least one

additional fluid containers, through the collection lumen to the working end of the handpiece.

300. Accordingly, each of the Syndeo, Elite, Allegro, and Tower meets this limitation.

- u. **22[e]: “a supply conduit that places the collection lumen in fluid communication with the working end of the handpiece when the handpiece is connected to the console”**

301. In my opinion each of the Syndeo, Elite, Allegro, and Tower has “a supply conduit that places the collection lumen in fluid communication with the working end of the handpiece when the handpiece is connected to the console.”

302. As discussed in limitation 22[d], for each device, tubing (e.g., a supply conduit) places the collection lumen in fluid communication with the working end of the handpiece when the handpiece is connected to the console.

303. Accordingly, each of the Syndeo, Elite, Allegro, and Tower meets this limitation.

- v. **22[f]: “wherein each of the first container and the at least one additional container includes treatment materials, and wherein treatment materials from the first container and the at least one additional container are configured to be delivered to the supply conduit sequentially when the first container and the at least one additional container are connected to the console.”**

304. In my opinion, each of the Syndeo, Elite, Allegro, and Tower meets the limitation “wherein each of the first container and the at least one additional

container includes treatment materials, and wherein treatment materials from the first container and the at least one additional container are configured to be delivered to the supply conduit sequentially when the first container and the at least one additional container are connected to the console.”

305. As discussed above, for each of the Syndeo, Elite, Allegro, and Tower, each of the first container and the at least one additional container includes treatment materials. *See supra* limitation 1[f] and claim 16. In addition, for each of the Syndeo, Elite, Allegro, and Tower, the first container and the at least one additional container are connected to the console. *See supra* limitation 22[a].

306. In addition, in each of the Syndeo, Elite, Allegro and Tower, treatment materials from the first container and the at least one additional container are configured to be delivered to the supply conduit sequentially. *See supra* limitation 22[e] and limitation 1[g].

307. Accordingly, each of the Syndeo, Elite, Allegro, and Tower meets this limitation.

308. For all of these reasons, it is my opinion that each of the Syndeo, Elite, Allegro, and Tower practices Claim 22 of the '287 Patent.

21. Practice of Claim 23

309. Claim 23 of the '287 Patent recites: The system of claim 22, wherein the console comprises the vacuum source; wherein the handpiece is in fluid

communication with the vacuum source and a waste container through a waste conduit when the handpiece and the waste container are connected to the console; and wherein the system is configured to deliver a first treatment fluid contained in the first container and an additional treatment fluid contained in the at least one additional container to the handpiece sequentially or simultaneously when the first container and the at least one additional container are connected to the console. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

310. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 22, as explained above. In my opinion, the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “wherein the console comprises the vacuum source” for the same reasons set forth above in limitation 1[d].

311. In my opinion, the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “wherein the handpiece is in fluid communication with the vacuum source and a waste container through a waste conduit when the handpiece and the waste container are connected to the console” for the same reasons set forth above in limitations 1[e] and 1[f].

312. In my opinion, the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “wherein the system is configured to deliver a first treatment

fluid contained in the first container and an additional treatment fluid contained in the at least one additional container to the handpiece sequentially or simultaneously when the first container and the at least one additional container are connected to the console” for the same reasons set forth above limitation 1[g].

313. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices Claim 23 of the ’287 Patent.

22. Practice of Claim 24

314. Claim 24 of the ’287 Patent recites: The system of claim 22, further comprising a computing device configured to control at least one function of the system. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

315. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 22, as explained above. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “further comprising a computing device configured to control at least one function of the system” for the same reasons set forth above in claim 4.

316. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices Claim 24 of the ’287 Patent.

23. Practice of Claim 25

317. Claim 25 of the '287 Patent recites: The system of claim 24, further comprising a user input device to facilitate control of a flow of fluids from the first container and the at least one additional container to the handpiece. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

318. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 24, as explained above. In my opinion, the Syndeo further satisfies the limitation requiring “further comprising a user input device to facilitate control of a flow of fluids from the first container and the at least one additional container to the handpiece” for the same reasons set forth above in claim 5.

319. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices Claim 25 of the '287 Patent.

24. Practice of Claim 26

320. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of claim 26 of the '287 Patent.

321. Claim 26 recites as follows:

26. A system for treating skin, the system comprising:
a console configured to receive a first container and at least one additional container;
a handpiece configured to contact skin tissue of a subject; and
a block in the console, wherein the block is:
configured to selectively receive fluid from the first container when the first container is connected to the console;

configured to selectively receive fluid from the at least one additional container when the at least one additional containers is connected to the console; and,
configured to selectively be in fluid communication with the handpiece through a first conduit when the handpiece is connected to the console;
a vacuum source;
wherein the handpiece is configured to be in fluid communication with the vacuum source through a second conduit when the handpiece is connected to the console;
wherein the at least one additional container comprises a second container and a third container such that the console is configured to receive at least three containers; and
wherein when the handpiece is connected to the console and the first container and the third container each contains fluid and is connected to the console, the system is configured to deliver to the handpiece one at a time fluid contained in the first container, fluid contained in the second container, and fluid contained in the third container.

I address each limitation of this claim below.

w. 26[pre]: “A system for treating skin, the system comprising:”

322. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in limitation 1[pre] above.

x. 26[a]: “a console configured to receive a first container and at least one additional container;”

323. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in limitation 1[a] above.

y. 26[b]: “a handpiece configured to contact skin tissue of a subject; and”

324. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in limitation 1[b] above.

z. 26[c][i]: “a block in the console, wherein the block is:”

325. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in limitation 1[c][i] above.

iii. 26[c][ii]: “configured to selectively receive fluid from the first container when the first container is connected to the console”

326. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in limitation 1[c][ii] above.

iv. 26[c][iii]: configured to selectively receive fluid from the at least one additional container when the at least one additional containers is connected to the console; and

327. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in limitation 1[c][iii] above.

v. 26[c][iv]: configured to selectively be in fluid communication with the handpiece through a first conduit when the handpiece is connected to the console

328. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in limitation 1[c][iv] above.

aa. 26[d]: “a vacuum source;”

329. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in limitation 1[d] above.

bb. 26[e]: “wherein the handpiece is configured to be in fluid communication with the vacuum source through a second conduit when the handpiece is connected to the console;”

330. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in limitation 1[e] above.

cc. 26[f]: “wherein the at least one additional container comprises a second container and a third container such that the console is configured to receive at least three containers”

331. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in limitation 1[a] and claim 2 above.

dd. 26[g]: “wherein when the handpiece is connected to the console and the first container, the second container, and the third container each contains fluid and is connected to the console, the system is configured to deliver to the handpiece one at a time fluid contained in the first container, fluid contained in the second container, and fluid contained in the third container”

332. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in claim 3 above.

333. For all of these reasons, it is my opinion that each of the Syndeo, Elite, Allegro, and Tower practices every limitation of Claim 26 of the '287 Patent.

25. Practice of Claim 28

334. Claim 28 of the '287 Patent recites: The system of claim 26, wherein the console comprises the vacuum source; and wherein the handpiece is in fluid communication with the vacuum source and a waste container through the second conduit when the handpiece is connected to the console. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

335. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 26, as explained above. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “the console comprises the vacuum source” for the same reasons set forth above in limitation 1[d] above. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “wherein the handpiece is in fluid communication with the vacuum source and a waste container through the second conduit when the handpiece is connected to the console” for the same reasons set forth above in limitation 1[e] above.

336. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of Claim 28 of the '287 Patent.

26. Practice of Claim 29

337. Claim 29 of the '287 Patent recites: The system of claim 26, wherein the system is configured to deliver a first treatment fluid contained in the first container and an additional treatment fluid contained in the at least one additional container to the handpiece sequentially when the handpiece is connected to the console. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

338. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 26, as explained above. In my opinion, each of the Syndeo,

Elite, Allegro, and Tower further satisfies the limitation requiring “wherein the system is configured to deliver a first treatment fluid contained in the first container and an additional treatment fluid contained in the at least one additional container to the handpiece sequentially when the handpiece is connected to the console” for the same reasons set forth above in limitation 1[g] above.

339. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of Claim 29 of the ’287 Patent.

27. Practice of Claim 30

340. Claim 30 of the ’287 Patent recites: The system of claim 26, further comprising a computing device configured to control at least one function of the system. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

341. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 26, as explained above. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “further comprising a computing device configured to control at least one function of the system” for the same reasons set forth above in claim 4 above.

342. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of Claim 30 of the ’287 Patent.

28. Practice of Claim 31

343. Claim 31 of the '287 Patent recites: The system of claim 30, further comprising a user input device to select a flow of fluids from the first container and the at least one additional container to the handpiece. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

344. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 30, as explained above. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “further comprising a user input device to select a flow of fluids from the first container and the at least one additional container to the handpiece” for the same reasons set forth above in claim 5 above.

345. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of Claim 31 of the '287 Patent.

29. Practice of Claim 32

346. Claim 32 of the '287 Patent recites: The system of claim 31, wherein the user input device comprises a touch screen. In my opinion, the Syndeo practices every limitation of this claim.

347. In my opinion, the Syndeo practices the limitations of claim 31, as explained above. In my opinion, the Syndeo further satisfies the limitation requiring

“wherein the user input device comprises a touch screen” for the same reasons set forth above in claim 6 above.

348. Accordingly, the Syndeo practices Claim 32 of the '287 Patent.

30. Practice of Claim 33

349. Claim 33 of the '287 Patent recites: The system of claim 32, further comprising a display. In my opinion, the Syndeo practices every limitation of this claim.

350. In my opinion, the Syndeo practices the limitations of claim 32, as explained above. In my opinion, the Syndeo further satisfies the limitation requiring “further comprising a display.” As discussed above in connection with Claims 4-6 and 32, the Syndeo includes a user input device which is a touch screen and a display.

351. Accordingly, the Syndeo practices Claim 33 of the '287 Patent.

31. Practice of Claim 34

352. Claim 34 of the '287 Patent recites: The system of claim 26, wherein the block is configured to control a flow of a first treatment fluid contained in the first container and an additional treatment fluid contained in the at least one additional container into the block with a valve when the first container and the at least one additional container are connected to the console. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

353. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 26, as explained above. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “wherein the block is configured to control a flow of a first treatment fluid contained in the first container and an additional treatment fluid contained in the at least one additional container into the block with a valve when the first container and the at least one additional container are connected to the console” for the same reasons set forth above in claim 8 above.

354. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices Claim 34 of the '287 Patent.

32. Practice of Claim 35

355. Claim 35 of the '287 Patent recites: The system of claim 26, wherein the system is configured to control a flow of a first treatment fluid contained in the first container to the handpiece through the block when each of the first container and the handpiece is connected to the console. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

356. In my opinion, each of the Syndeo, Elite, Allegro, and Tower satisfies the limitations of claim 26, as explained above. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “wherein the system is configured to control a flow of a first treatment fluid contained in the first

container to the handpiece through the block when each of the first container and the handpiece is connected to the console” for the same reasons set forth above in claim 9 above.

357. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of Claim 35 of the '287 Patent.

33. Practice of Claim 36

358. Claim 36 of the '287 Patent recites: The system of claim 35, wherein the system is configured to separately control a flow of a second treatment fluid contained in the at least one additional container to the handpiece through the block when each of the first container, the at least one additional container, and the handpiece are connected to the console. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

359. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 35, as explained above. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “wherein the system is configured to separately control a flow of a second treatment fluid contained in the at least one additional container to the handpiece through the block when each of the first container, the at least one additional container, and the handpiece are connected to the console” for the same reasons set forth above in claim 10 above.

360. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices Claim 36 of the '287 Patent.

34. Practice of Claim 37

361. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of claim 37 of the '287 Patent.

362. Claim 37 recites as follows:

37. A system for treating skin, the system comprising:
a console configured to receive a first container and at least one additional container;
a handpiece configured to contact skin tissue of a subject; and
a block in the console, wherein the block is:
 configured to selectively receive fluid from the first container when the first container is connected to the console;
 configured to selectively receive fluid from the at least one additional container when the at least one additional containers is connected to the console; and,
 configured to selectively be in fluid communication with the handpiece through a first conduit when the handpiece is connected to the console;
a vacuum source;
wherein the handpiece is configured to be in fluid communication with the vacuum source through a second conduit when the handpiece is connected to the console;
wherein the system is configured to control a flow of a first treatment fluid contained in the first container to the handpiece through the block when each of the first container and the handpiece is connected to the console;
and
wherein the system is configured to separately control a flow of a second treatment fluid contained in the at least one additional container to the handpiece through the block when each of the first container, the at least one additional container, and the handpiece are connected to the console.

I address each limitation of this claim below.

ee. **37[pre]: “A system for treating skin, the system comprising:”**

363. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in 1[pre] above.

ff. **37[a]: “a console configured to receive a first container and at least one additional container;”**

364. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in 1[a] above.

gg. **37[b]: “a handpiece configured to contact skin tissue of a subject; and”**

365. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in limitation 1[b] above.

hh. **37[c][i]: “a block in the console, wherein the block is:”**

366. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in limitation 1[c][i] above.

vi. **37[c][ii]: “configured to selectively receive fluid from the first container when the first container is connected to the console”**

367. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in limitation 1[c][ii] above.

vii. **37[c][iii]: configured to selectively receive fluid from the at least one additional container when the at least one additional containers is connected to the console; and**

368. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in limitation 1[c][iii] above.

viii. 37[c][iv]: configured to selectively be in fluid communication with the handpiece through a first conduit when the handpiece is connected to the console

369. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in limitation 1[c][iv] above.

ii. 37[d]: “a vacuum source;”

370. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in limitation 1[d] above.

jj. 37[e]: “wherein the handpiece is configured to be in fluid communication with the vacuum source through a second conduit when the handpiece is connected to the console;”

371. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in limitation 1[e] above.

kk. 37[f]: “wherein the system is configured to control a flow of a first treatment fluid contained in the first container to the handpiece through the block when each of the first container and the handpiece is connected to the console”

372. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in claim 9 above.

ll. 37[g]: “wherein the system is configured to separately control a flow of a second treatment fluid contained in the at least one additional container to the handpiece through the block when each of the first container, the at least one

additional container, and the handpiece are connected to the console”

373. Each of the Syndeo, Elite, Allegro, and Tower satisfies this limitation for the same reasons set forth in claim 10 above.

35. Practice of Claim 39

374. Claim 39 of the '287 Patent recites: The system of claim 37, wherein the console comprises the vacuum source; and wherein the handpiece is in fluid communication with the vacuum source and a waste container through the second conduit when the handpiece is connected to the console. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

375. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 37, as explained above.

376. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “wherein the console comprises the vacuum source” for the same reasons set forth above in limitation 1[d] above.

377. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “wherein the handpiece is in fluid communication with the vacuum source and a waste container through the second conduit when the handpiece is connected to the console” for the same reasons set forth above in limitation 1[f] above.

378. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices Claim 39 of the '287 Patent.

36. Practice of Claim 40

379. Claim 40 of the '287 Patent recites: The system of claim 37, wherein the system is configured to deliver the first treatment fluid contained in the first container and the second treatment fluid contained in the at least one additional container to the handpiece sequentially when the handpiece is connected to the console. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

380. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 37, as explained above.

381. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “wherein the system is configured to deliver the first treatment fluid contained in the first container and the second treatment fluid contained in the at least one additional container to the handpiece sequentially when the handpiece is connected to the console” for the same reasons set forth above in limitation 1[g] above.

382. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices Claim 40 of the '287 Patent.

37. Practice of Claim 41

383. Claim 41 of the '287 Patent recites: The system of claim 37, further comprising a computing device configured to control at least one function of the system. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

384. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 37, as explained above. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “further comprising a computing device configured to control at least one function of the system” for the same reasons set forth above in claim 4 above.

385. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of Claim 41 of the '287 Patent.

38. Practice of Claim 42

386. Claim 42 of the '287 Patent recites: The system of claim 41, further comprising a user input device to select a flow of fluids from the first container and the at least one additional container to the handpiece. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

387. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 41, as explained above. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “further

comprising a user input device to select a flow of fluids from the first container and the at least one additional container to the handpiece” for the same reasons set forth above in claim 5 above.

388. Accordingly, each of the Syndeo, Elite, Allegro, and Tower practices every limitation of Claim 42 of the '287 Patent.

39. Practice of Claim 43

389. Claim 43 of the '287 Patent recites: The system of claim 42, wherein the user input device comprises a touch screen. In my opinion, the Syndeo practices every limitation of this claim.

390. In my opinion, the Syndeo practices the limitations of claim 42, as explained above. In my opinion, the Syndeo further satisfies the limitation requiring “wherein the user input device comprises a touch screen” for the same reasons set forth in claim 6 above.

391. Accordingly, the Syndeo practices Claim 43 of the '287 Patent.

40. Practice of Claim 44

392. Claim 44 of the '287 Patent recites: The system of claim 43, further comprising a display. In my opinion, the Syndeo practices every limitation of this claim.

393. In my opinion, the Syndeo practices the limitations of claim 43, as explained above. In my opinion, the Syndeo further satisfies the limitation requiring

“further comprising a display.” As discussed above in connection with Claims 4-6 and 42, the Syndeo includes a user input device which is a touch screen and a display.

394. Accordingly, the Syndeo practices Claim 44 of the '287 Patent.

41. Practice of Claim 45

395. Claim 45 of the '287 Patent recites: The system of claim 37, wherein the block is configured to control the flow of the first treatment fluid contained in the first container and the second treatment fluid contained in the at least one additional container into the block with a valve when the first container and the at least one additional container are connected to the console. In my opinion, the each of the Syndeo, Elite, Allegro, and Tower practices every limitation of this claim.

396. In my opinion, each of the Syndeo, Elite, Allegro, and Tower practices the limitations of claim 1, as explained above. In my opinion, each of the Syndeo, Elite, Allegro, and Tower further satisfies the limitation requiring “wherein the block is configured to control the flow of the first treatment fluid contained in the first container and the second treatment fluid contained in the at least one additional container into the block with a valve when the first container and the at least one additional container are connected to the console” for the same reasons set forth above in claim 8.

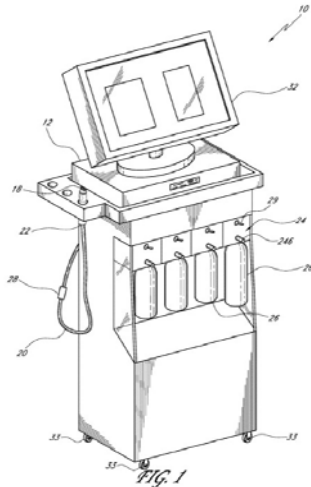
397. Accordingly, the Syndeo, Elite, Allegro, and Tower each practice Claim 45 of the '287 Patent.

C. The HydraFacial Systems Are Coextensive with the Claims of the '287 Patent

398. I understand from counsel that to meet the coextensiveness requirement the patentee must demonstrate that the product is essentially the claimed invention and does not include critical unclaimed features. I also understand from counsel that the patentee is not required to show perfect correspondence between the claims and the product.

399. The HydraFacial Systems are coextensive with the claims of the '287 Patent for several reasons. First, the claims are directed to skin treatment systems with specific key features, including (1) multiple fluid containers, (2) a block, fluid control means, and/or lumen, (3) fluid communication between multiple fluid containers and the block, fluid control means and/or lumen, (4) fluid communication between a handpiece (including a tip) and the block, fluid control means and/or lumen, (5) a vacuum source, (6) a waste container, and (7) fluid communication between the vacuum source and waste container and the handpiece (including a tip). As discussed in detail above, the HydraFacial Systems are skin treatment systems that include the key features recited in the claims.

400. Indeed, HydraFacial's Tower system was the originating multi-container system, first sold in 2005, and is reflective of the system depicted in the figures in the '287 patent, including Fig. 1 as shown below:

Tower Product	'287 Patent, Fig. 1
	

Ex. 2033 at 1; Ex. 1001, Fig. 1.

401. Second, the HydraFacial Systems do not contain other key or driving features that are not claimed. For example, although the HydraFacial Systems may include additional ancillary components, such as red and blue light therapy, these components are insignificant features. The HydraFacial Systems are primarily and extensively marketed as a hydrodermabrasion system, rather than light therapy devices. *See, e.g.*, Ex. 2038, Ex. 2039, Ex. 2040, Ex. 2041, Ex. 2042, Ex. 2043, Ex. 2044, Ex. 2045, Ex. 2046, Ex. 2047. I understand that any light therapy handpiece is insignificant to the HydraFacial Systems as they are unrelated to hydrodermabrasion. Thus, the features of the HydraFacial Systems that are significant are the features coextensive with the challenged Claims.

402. Third, the HydraFacial Systems do not include any critical unclaimed features. To the extent Petitioner argues, for example, that the tips or treatment

solutions are critical features claimed by different patents that materially impact the HydraFacial Systems' functionality, I disagree. The tips are *part of the handpiece/handpiece assembly*. The claims recite, for example, "a handpiece configured to contact skin tissue of a subject" and "a handpiece configured to contact skin surface of a subject." The patent specification makes clear that it is the handpiece/handpiece assembly, including the tip, that contacts the skin surface for treatment. *See, e.g.*, '287 Patent at Figs. 1-4 and 5:42-46, 5:57-60, 6:44-45, 6:49-53, 7:50-54, 10:39-11:3, 19:25-28, 19:39-42.

403. Thus, in my opinion, because the HydraFacial Systems embody the claimed invention and are coextensive with the claims, HydraFacial is entitled to a presumption that there is a nexus between the claims of the '287 Patent and the secondary considerations of non-obviousness, including commercial success identified by Dr. Pallavi Seth and the copying I discuss below.

D. A Nexus Is Also Established by Comparison to HydraFacial's Nectre Product

404. I have been informed by counsel that a nexus may also be establish by showing that the evidence of secondary considerations is a direct result of the unique characteristics of the claimed invention.

405. I have been asked to provide expert analysis on whether HydraFacial's Nectre product, which was a single-container product embodies the claims of the

'287 Patent and how it differs from the HydraFacial Systems. I have analyzed the relevant aspects of Nectre product in light of the '287 Patent claims. As set forth in detail below, it is my opinion that HydraFacial's Nectre product does meet every limitation of the claims of the '287 Patent because it lacks the claimed block, fluid control member, and collection lumen, and does not allow for multiple treatment containers to be used during a single treatment.

406. I understand that, in May 2008, HydraFacial launched a hydrodermabrasion system known as the HydraFacial Nectre ("Nectre"). *See, e.g.,* Ex. 2035, Ex. 2036, Ex. 2037. I understand that HydraFacial stopped selling the Nectre in 2013. Like the Karasiuk prior art reference, and unlike the HydraFacial Systems, the Nectre was a single-container hydrodermabrasion system that lacked a block, fluid control member, or collection lumen that could receive fluid from multiple connected containers.

407. In my opinion, the Nectre meets each of the limitations of the challenged claims that are not dependent on the device having multiple containers connected to the console (or fluid control member). Below is an exemplary analysis of claim 1 of the '287 Patent.

1. Exemplary Claim 1

408. Claim 1 recites as follows:

1. A system for treating skin, the system comprising:

a console configured to receive a first container and at least one additional container;
a handpiece configured to contact skin tissue of a subject; and
a block in the console, wherein the block is:
 configured to selectively receive fluid from the first container when the first container is connected to the console;
 configured to selectively receive fluid from the at least one additional container when the at least one additional containers is connected to the console; and,
 configured to selectively be in fluid communication with the handpiece through a first conduit when the handpiece is connected to the console;
a vacuum source, wherein the console comprises the vacuum source; and
wherein the handpiece is configured to be in fluid communication with the vacuum source through a second conduit when the handpiece is connected to the console;
wherein when the handpiece, the first container, the at least one additional container and a waste container are each connected to the console, the first container contains a first treatment fluid, and the at least one additional container contains an additional treatment fluid, the handpiece is in fluid communication with the vacuum source and the waste container through the second conduit; and
the system is configured to deliver the first treatment fluid contained in the first container and the additional treatment fluid contained in the at least one additional container to the handpiece sequentially.

I address each limitation of this claim below.

mm. 1[pre]: “A system for treating skin, the system comprising:”

409. In my opinion, the Nectre is “a system for treating skin.”

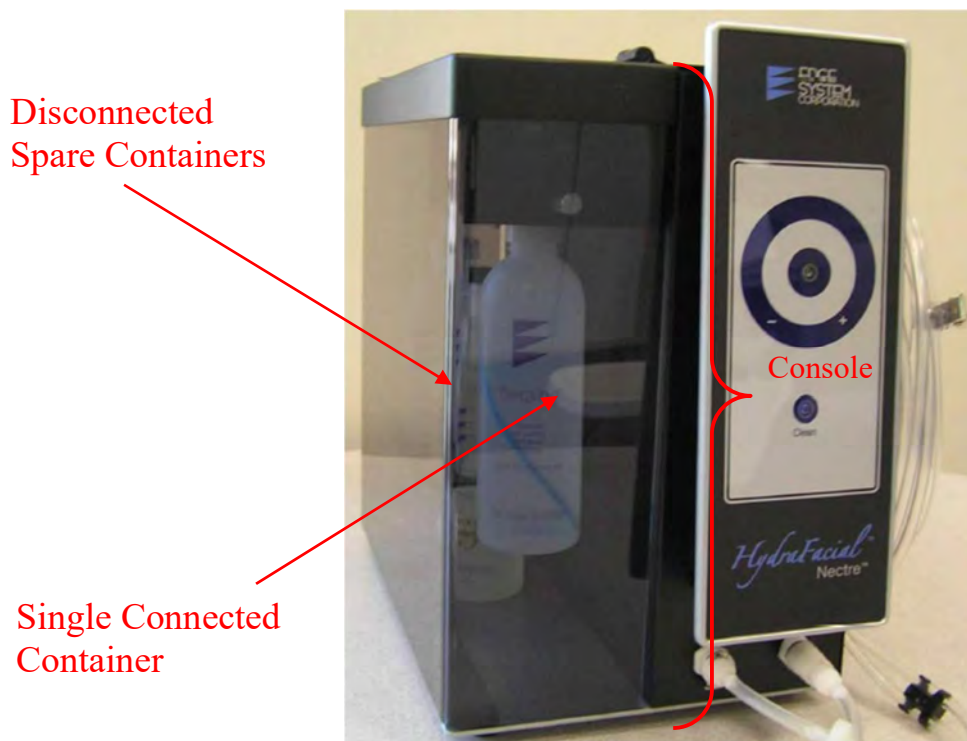
410. The Nectre User’s Manual, for example, describes the Syndeo as a “a revolutionary breakthrough in aesthetic technology” and explains that it is “the next generation of exfoliation and skin rejuvenation.” Ex. 2036 at 6. The User Manual further identifies the Nectre as a “USA FDA Class I exempt device” where the

intended use is “to perform dermabrasion (or exfoliation) using mechanical abrasion and water” and to “introduce[e] topic ‘dermaceuticals’ . . . during treatment.” *Id.*

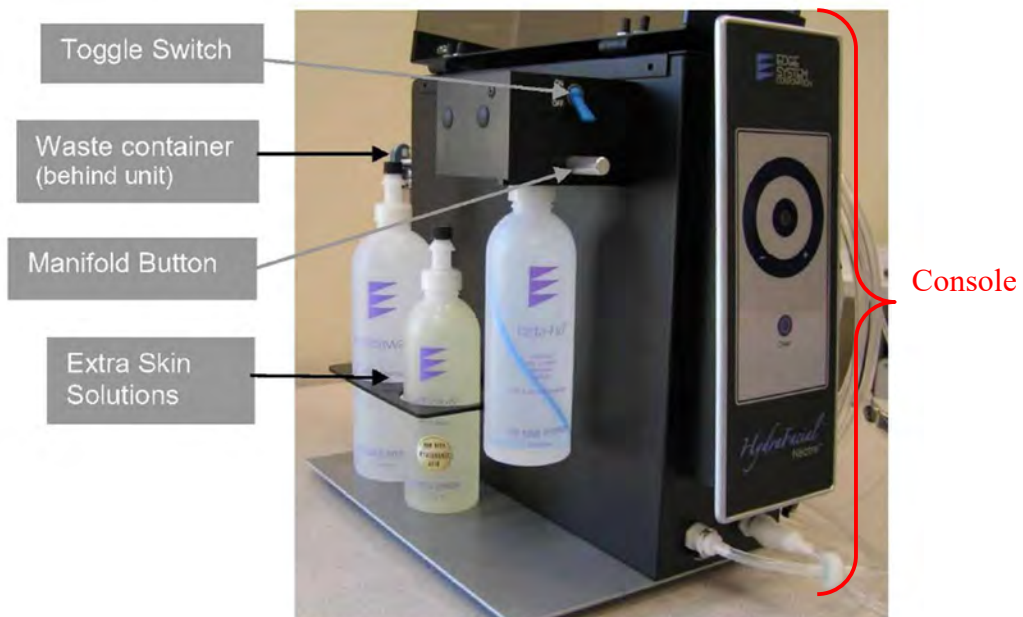
nn. 1[a]: “a console configured to receive a first container and at least one additional container;”

411. In my opinion, the Nectre has “a console configured to receive a first container,” but not “at least one additional container.”

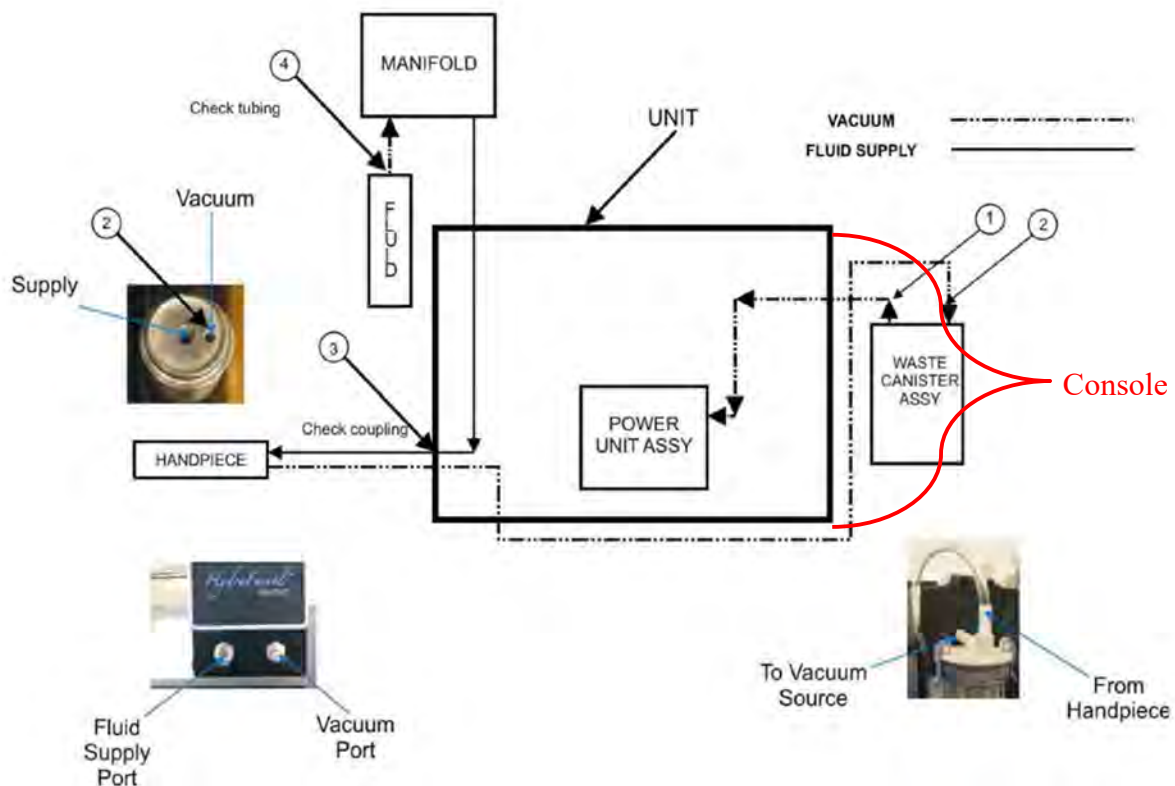
412. As shown in the images and schematic below, the console is only configured to receive a single container.



Ex. 2035 at 1 (Nectre Owner’s Manual).



Ex. 2036 at 13 (Nectre User's Manual). Schematics for the Nectre confirm that only a single fluid container may be connected to the console at a time.



Ex. 2037 at 6 (Nectre Service Manual).

413. Users are instructed to connect the single container to the console, as shown below.

4) INSTALL SKIN SOLUTION BOTTLES

1. Open the door on the side of the unit from the bottom.
2. Remove the small black cap off the skin solution bottle and use the puncture tool to pierce the seal inside the bottle. Move the tool in a circular motion to enlarge the opening in the seal so the pickup tube slides in easily.
3. Insert the pickup tube into the unsealed bottle.
4. Press & hold the manifold button and insert the bottle into the manifold, and then release the button. Be sure the bottle is securely attached before releasing it.
5. Place additional bottles of skin solution in the holders behind the skin solution port.



Ex. 2036 at 14 (Nectre User's Manual).

oo. 1[b]: “a handpiece configured to contact skin tissue of a subject; and”

414. In my opinion, the Nectre has “a handpiece configured to contact skin tissue of a subject.”

415. The Nectre includes a handpiece, as shown in the images below.

HydraFacial Nectre			
UNIT 	HANDPIECE ASSEMBLY 	WASTE CONTAINER ASSEMBLY 	
	SKIN SOLUTIONS 	CLEANING CAP 	STEM EXTRACTOR 
HYDROPEEL® TIPS 		PUNCTURE TOOL 	

Ex. 2036 at 12 (Nectre User's Manual).



Increase flow
Counterclockwise



Decrease flow
Clockwise

Ex. 2036 at 16 (Nectre User's Manual).

416. In addition, the User Manual confirms that the handpiece configured to contact skin tissue, instructing users to “[d]o a sensitivity test on the neck by the earlobe.” Ex. 2036 at 7 (Nectre User's Manual); *see also supra* limitation 1[pre].

417. A handpiece comprised of a handle with a removeable tip, or a handpiece comprised of a unitarily constructed handle and tip are insubstantially different. In both instances the handpiece “can be conveniently held within the hand of a user so that the user can place the tip 34 in operative engagement with a person's skin.” *See* Ex.1001 at 6:49-53. In both instances the handpiece (including the tip) is performing a skin treatment. Thus, a system that includes a handpiece with a unitary tip for contacting skin tissue of a subject is insubstantially different to a person of ordinary skill in the art in light of the disclosure of the '287 Patent from a handpiece with a tip coupled to the handle of the handpiece for contacting skin tissue of a subject.

418. Similarly, a tip coupled to a handle and a unitary tip and handle perform substantially the same function, in substantially the same way, with substantially the same result. For example, the tip that attaches to the handle of the handpiece, as a whole, would perform the same functions of (1) contacting the skin tissue of a subject during treatment, (2) being in fluid communication with the block, a first conduit, a second conduit, a vacuum source, and a waste container, and (3) having a

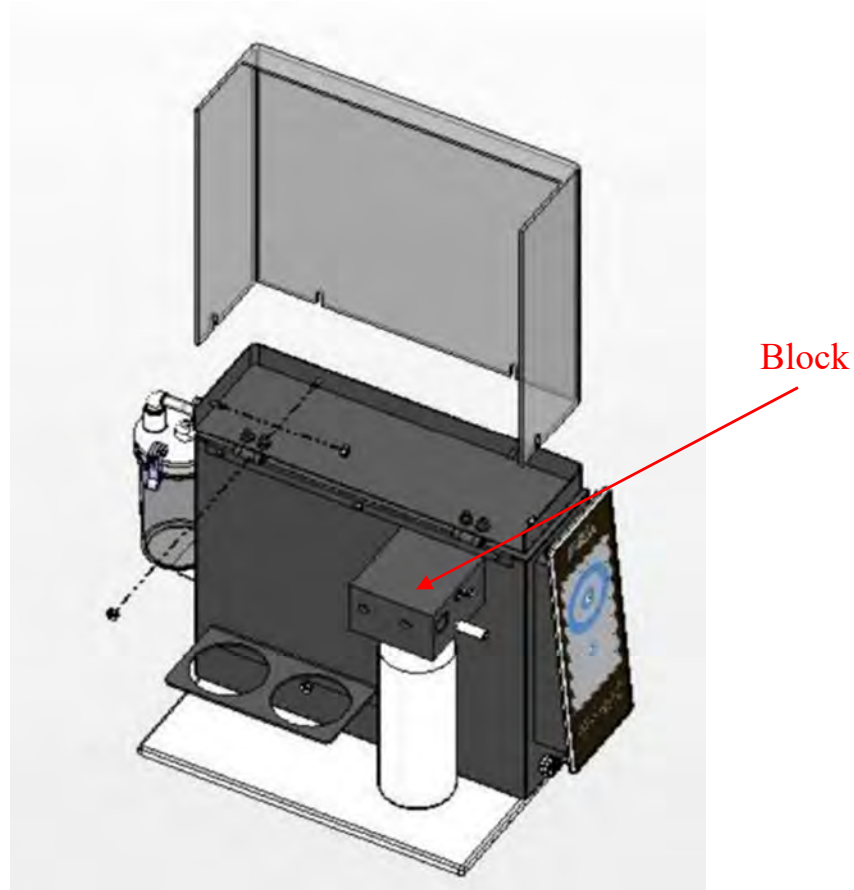
first treatment fluid contained in the first container and the additional treatment fluid in the at least one additional container delivered to the handpiece sequentially; perform such functions in the same way by effectuating a vacuum force upon the first conduit and block when a user contacts the skin tissue of a subject during treatment; and result in same effects as a unitary handpiece (handle and tip) performing all of the above-identified functions.

pp. 1[c][i]: “a block in the console, wherein the block is:”

419. In my opinion, the Nectre includes a “block in the console” meeting sub-elements (i) and (iii), but not meeting sub-element (ii).

420. I understand that during the ITC 1408 Investigation, HydraFacial proposed that the term “block” should be given its plain and ordinary meaning. I also understand that HydraFacial proposed, and I agree, that, if “block” is given an express construction, it should be construed to mean “an object with substantially flat sides.”

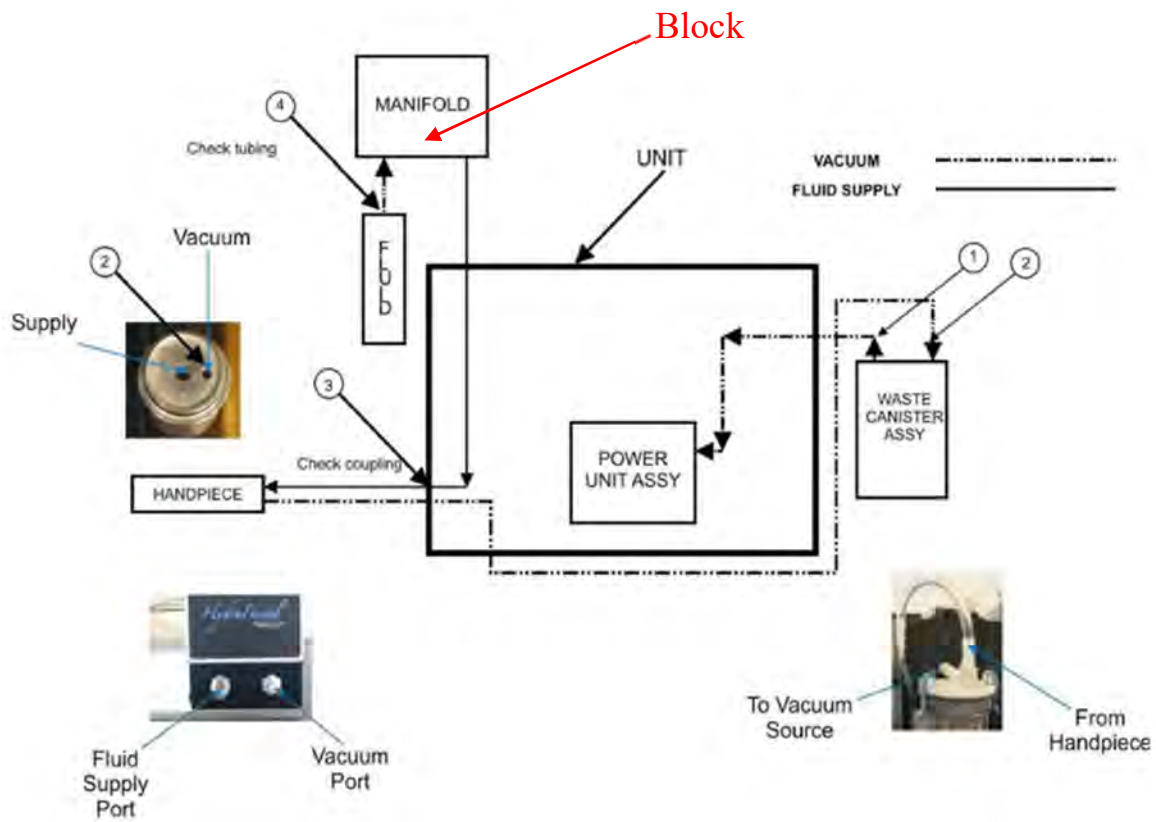
421. The Nectre Service Manual contains an illustration of the console with certain system components. I have provided an annotated version of this illustration, identifying the location of the internal block located within the console.



Ex. 2037 at 12.

422. As discussed in connection with limitation 1[c][ii] below, the block selectively receives fluid from the single container when it is connected to the console. In addition, as discussed in limitation 1[c][iv] below, the block is selectively in fluid communication with the handpiece.

423. The identified “block” is shown in the below schematic.



Ex. 2037 at 6 (Nectre Service Manual).

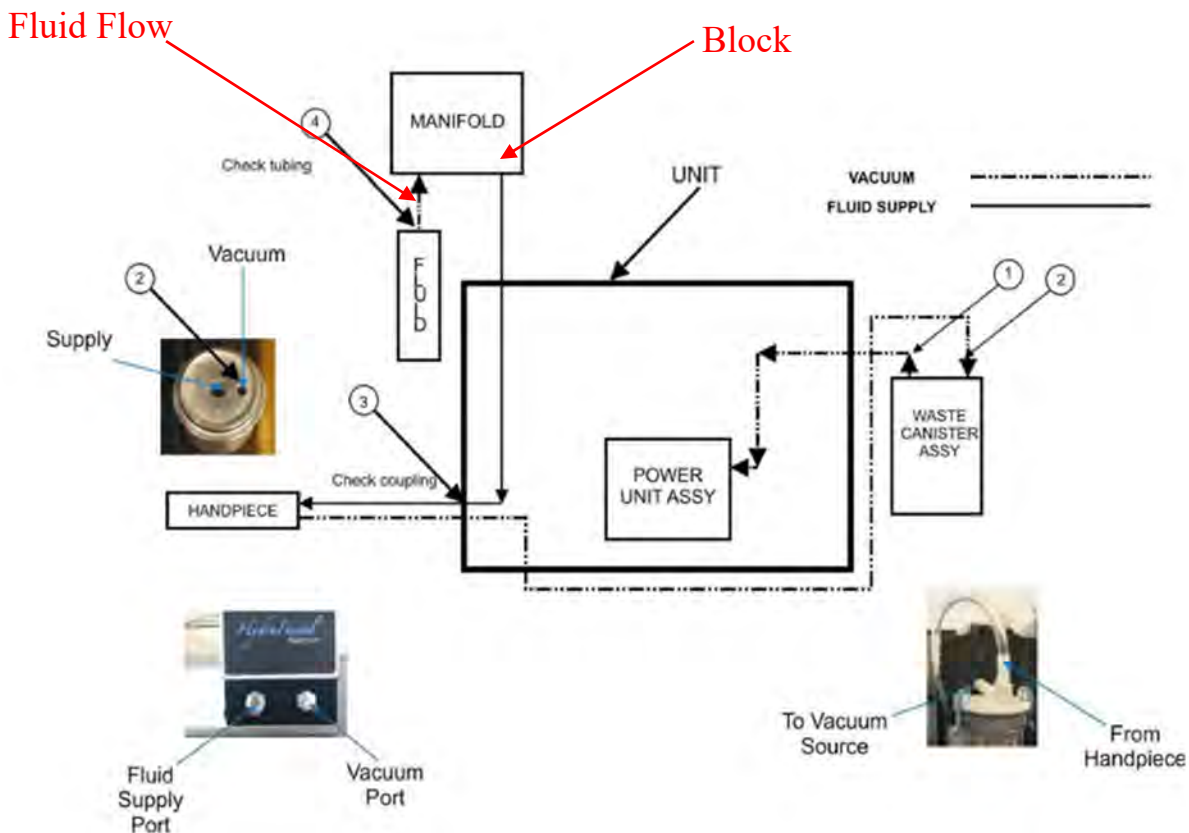
Check Point	Action
1.	Check vacuum source to ensure vacuum is being generated when unit is on
2.	Check for vacuum at the waste canister to ensure that the check valve is not closed and that there are no leaks at the waste canister. You can also check vacuum side of handpiece, as shown above
3.	Check for vacuum at the vacuum port as shown above; Vacuum check valve must be pushed in order to feel/hear vacuum
4.	Check tubing, coming from the manifold, that it is not clogged

Id.

- ix. 1[c][iii]: “configured to selectively receive fluid from the first container when the first container is connected to the console”

424. In my opinion, the Nectre has “a block in the console that is configured to selectively received fluid from the first container when the first container is connected to the console.”

425. The below schematic shows how the block receives fluid from the first (only) fluid container in the Nectre.



Ex. 2037 at 6 (Nectre Service Manual).

426. In addition, as discussed above, users are instruction to connect the container to the console. In the below images, tubing extending from the block into the container is shown.

Fluid Tubing



- x. **1[c][iii]: configured to selectively receive fluid from the at least one additional container when the at least one additional containers is connected to the console; and**

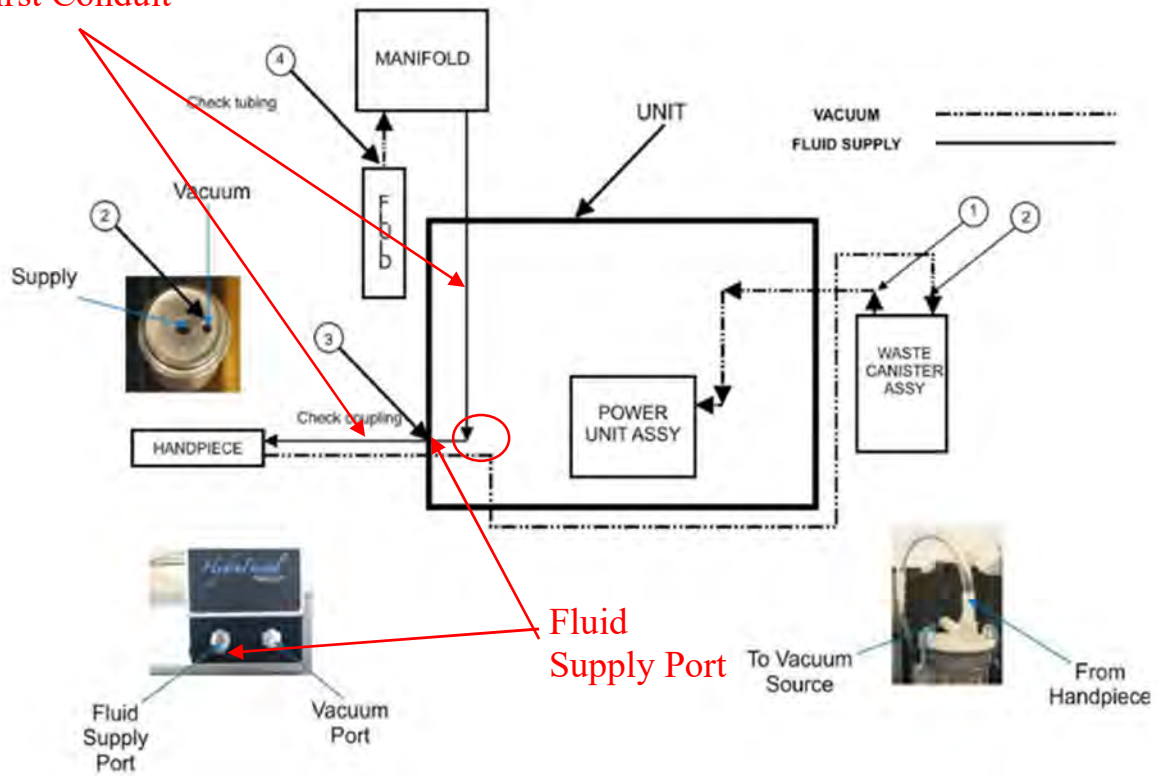
427. The Nectre only allows for a single container to be connected to the console, and therefore does not meet this limitation.

- xi. **1[c][iv]: configured to selectively be in fluid communication with the handpiece through a first conduit when the handpiece is connected to the console**

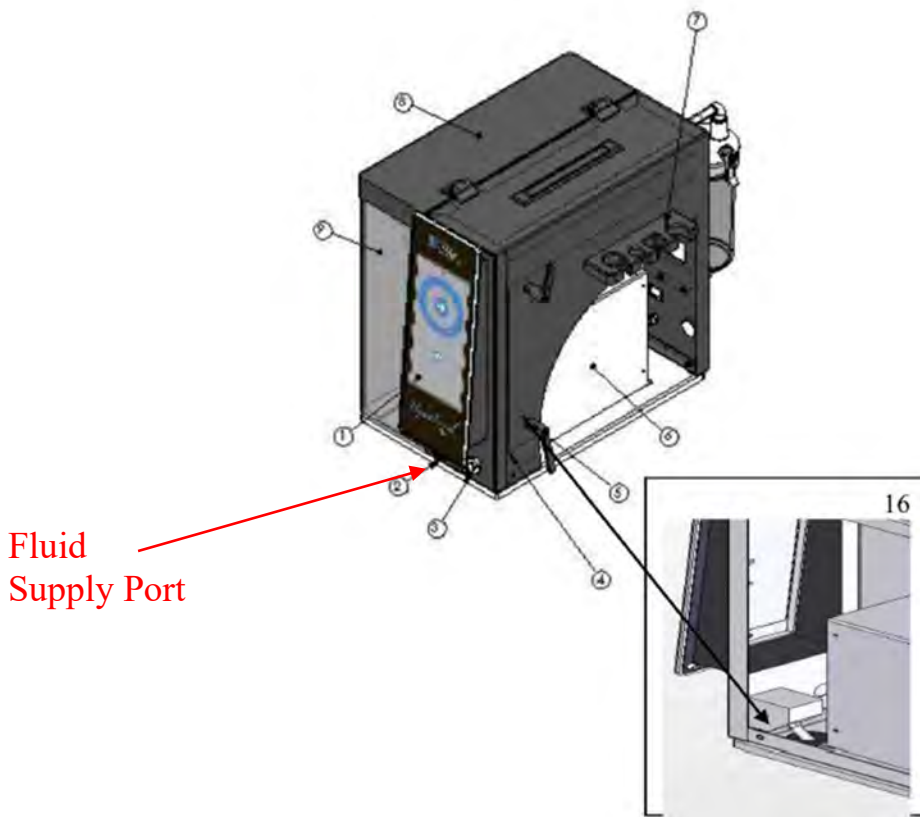
428. In my opinion, the Nectre has “a block in the console that is configured to selectively be in fluid communication with the handpiece through a first conduit when the handpiece is connected to the console.”

429. As shown in the schematic and image below, a first conduit extends from the block to the handpiece through a fluid supply port.

First Conduit



Ex. 2037 at 6 (Nectre Service Manual).



Id. at 7. The handpiece is connected to the console and placed in fluid communication with the block (and the container via the block), through the fluid supply port.

3) INSTALL THE HYDRAFACIAL HANDPIECE

1. Connect the quick disconnect fittings on the handpiece tubing to the corresponding fittings on the front of the machine. You will hear a click when they are securely attached.
2. Place the handpiece into the tool holder on the right side of the unit.
3. Always place the handpiece in the tool holder when the handpiece is not in use.

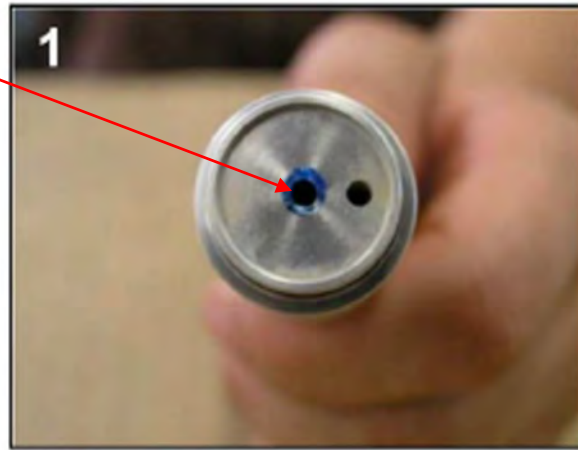
Fluid
Supply Port



First Conduit to
Handpiece

Ex. 2035 at 13 (Nectre Owner's Manual). The first conduit extends from the fluid supply port to the handpiece.

Opening for
fluid from
the first
conduit

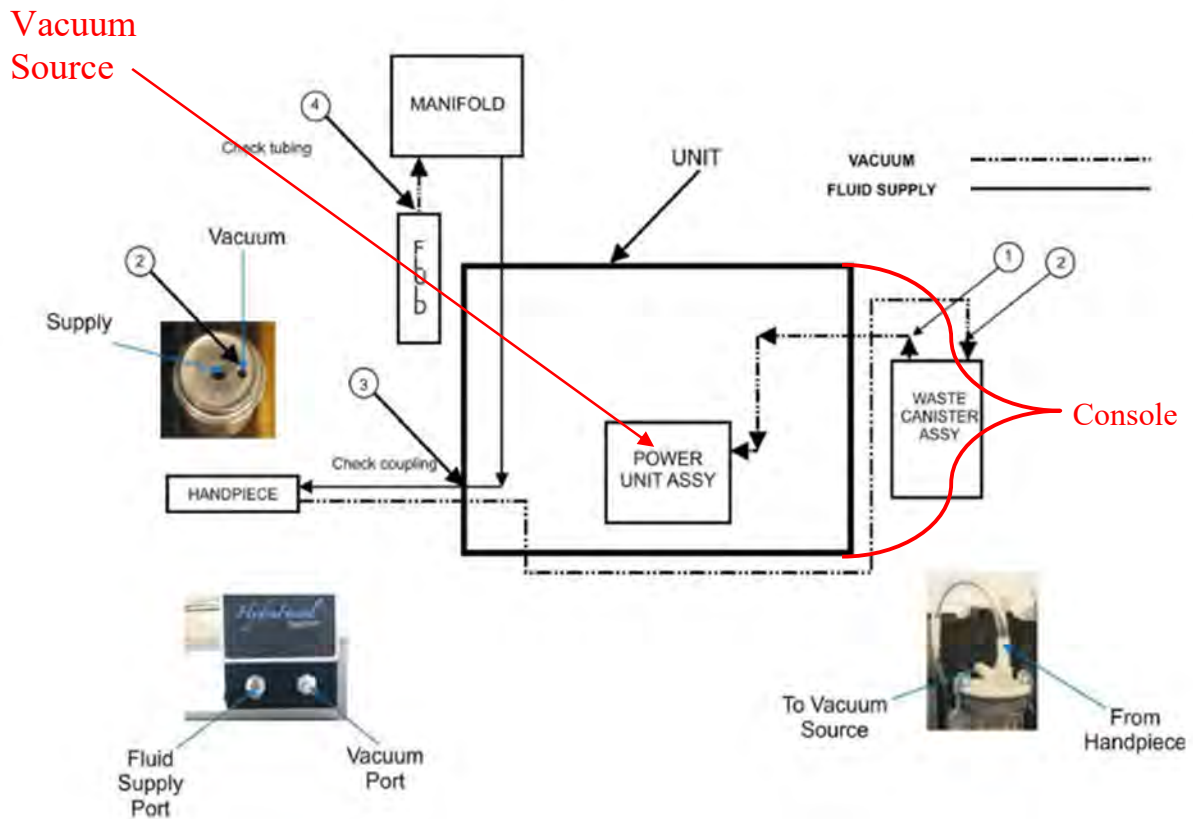


430. The block is “selectively in fluid communication” through this first conduit in two ways. First, by selectively attaching the container. When a selected container is disconnected, the circuit cannot be completed and “fluid communication” ceases to exist between the block and the handpiece. Second, the handpiece can be selectively detached from the console. When detached, the circuit cannot be completed and “fluid communication” again ceases to exist between the block and the handpiece.

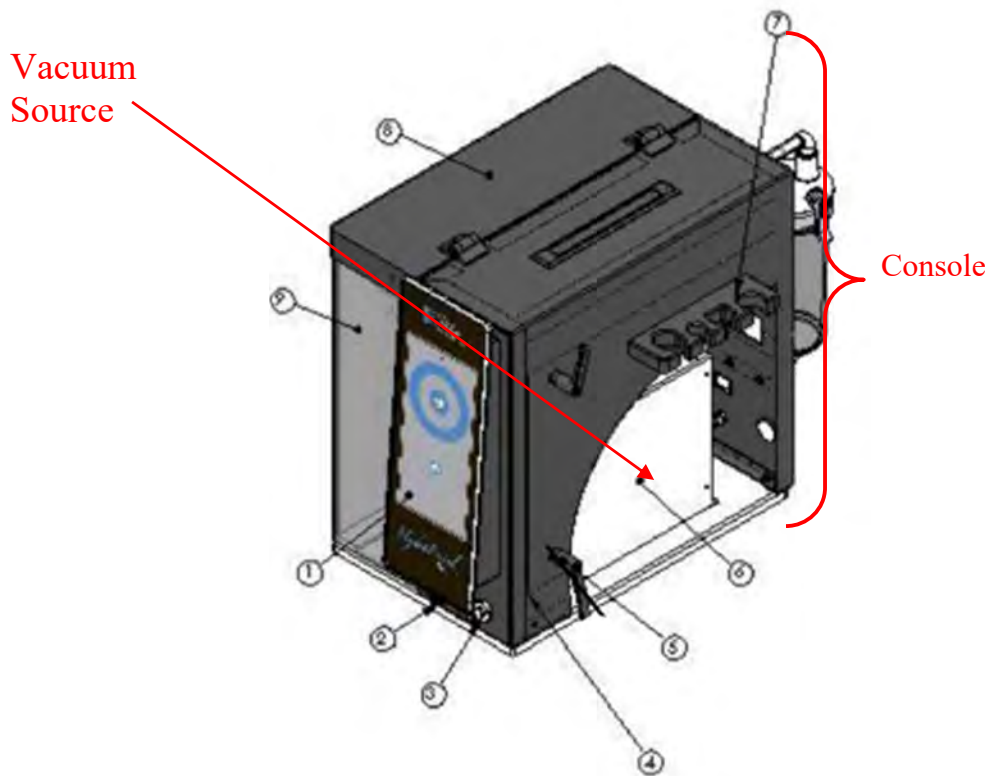
qq. 1[d]: “a vacuum source, wherein the console comprises the vacuum source; and”

431. In my opinion, the has “a vacuum source, wherein the console comprises the vacuum source.”

432. As shown in the schematic below, the Nectre includes a vacuum source in the console:



Ex. 2037 at 6 (Nectre Service Manual).



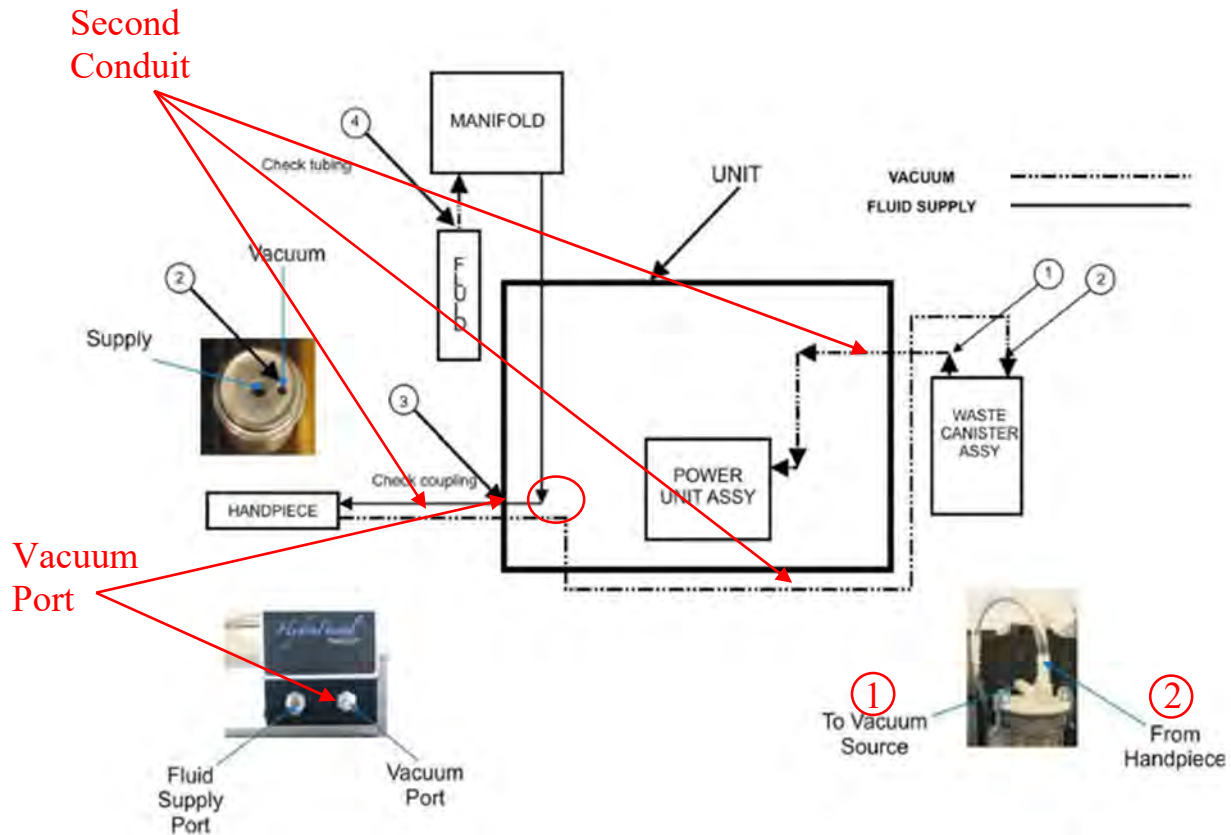
Id. at 7.

rr. 1[e]: wherein the handpiece is configured to be in fluid communication with the vacuum source through a second conduit when the handpiece is connected to the console;

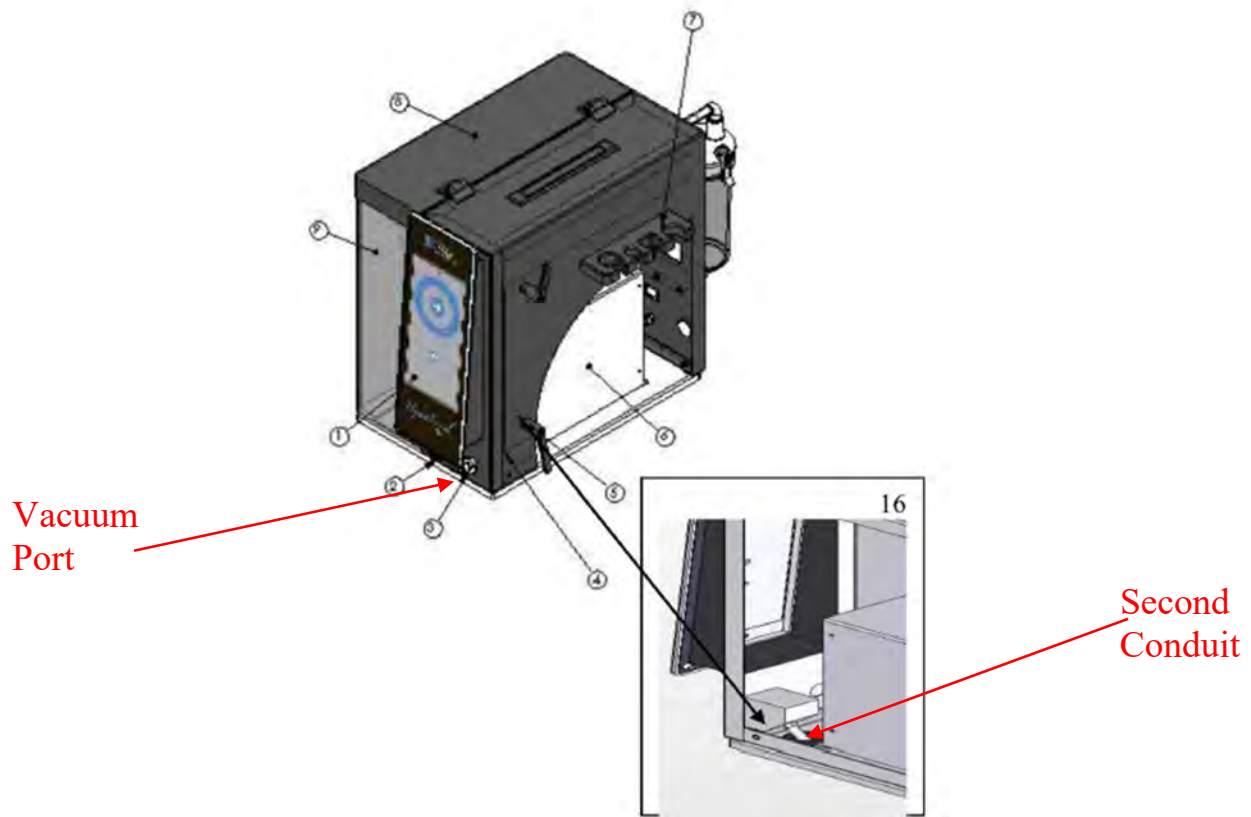
433. In my opinion, the Nectre has a “handpiece [that] is configured to be in fluid communication with the vacuum source through a second conduit when the handpiece is connected to the console.”

434. As shown in the below schematic, a second conduit extends from the vacuum source to a vacuum port for the waste container, from the vacuum port for the waste container to the waste container, from the handpiece port in the waste

container to the vacuum port for the handpiece, and from the vacuum port for the handpiece to the handpiece itself via the vacuum port.



Ex. 2037 at 6 (Nectre Service Manual).

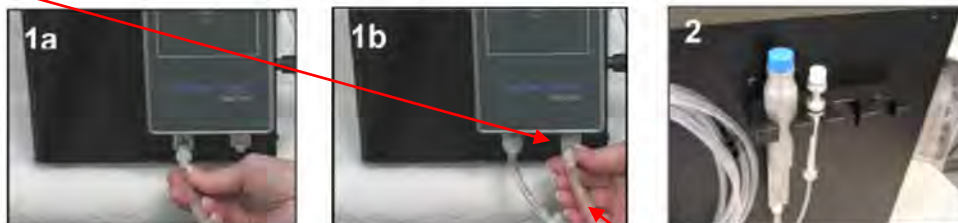


Id. at 7. The handpiece is connected to the console and placed in fluid communication with the vacuum source through the vacuum port and waste container, via the second conduit.

3) INSTALL THE HYDRAFACIAL HANDPIECE

1. Connect the quick disconnect fittings on the handpiece tubing to the corresponding fittings on the front of the machine. You will hear a click when they are securely attached.
2. Place the handpiece into the tool holder on the right side of the unit.
3. Always place the handpiece in the tool holder when the handpiece is not in use.

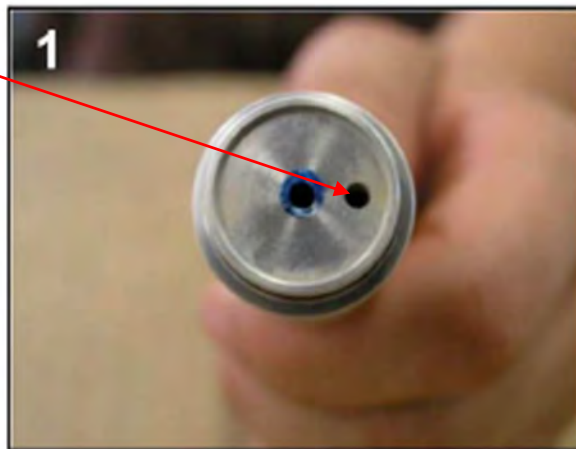
Vacuum
Port



Second Conduit to
handpiece

Ex. 2035 at 13 (Nectre Owner's Manual). The second conduit extends from the fluid supply port to the handpiece. After the fluid exits the handpiece from the first conduit, the fluid goes through the handpiece to the second conduit via an opening in the main body of the handpiece, identified below:

Opening for
second
conduit



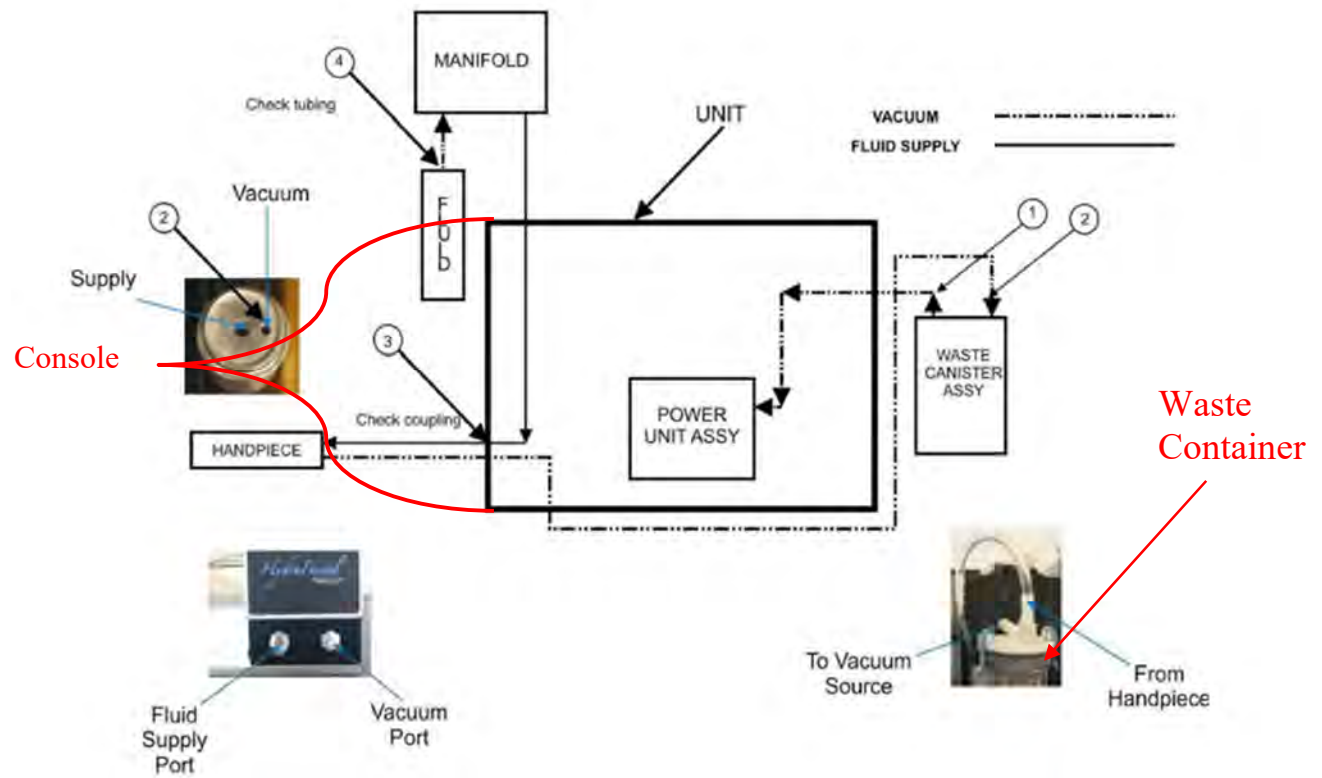
435. Due to the above-described fluid communication, when the vacuum source is activated and the handpiece is contacting skin, a closed system is formed between a selected container and the vacuum source. Suction from the vacuum source, through the second conduit, the handpiece, the first conduit, and the block allows fluid to be drawn from the selected container and delivered to the skin, while used fluid and debris is simultaneously drawn away from the skin to the waste container.

- ss. **1[f]: wherein when the handpiece, the first container, the at least one additional container and a waste container are each connected to the console, the first container contains a first treatment fluid, and the at least one additional container**

contains an additional treatment fluid, the handpiece is in fluid communication with the vacuum source and the waste container through the second conduit; and

436. In my opinion, the Nectre practices the limitation “wherein when the handpiece, the first container, the at least one additional container and a waste container are each connected to the console, the first container contains a first treatment fluid, and the at least one additional container contains an additional treatment fluid, the handpiece is in fluid communication with the vacuum source and the waste container through the second conduit,” with the exception that the Nectre lacks “the at least one additional container.”

437. As discussed above, the first (only) container and the handpiece are connected to the console. *See supra* limitation 1[a] and limitation 1[c][iv]. In addition, as shown in the schematic and image below, the waste container is connected to the console via ports and tubing (first and second conduits).



Ex. 2037 at 6 (Nectre Service Manual).

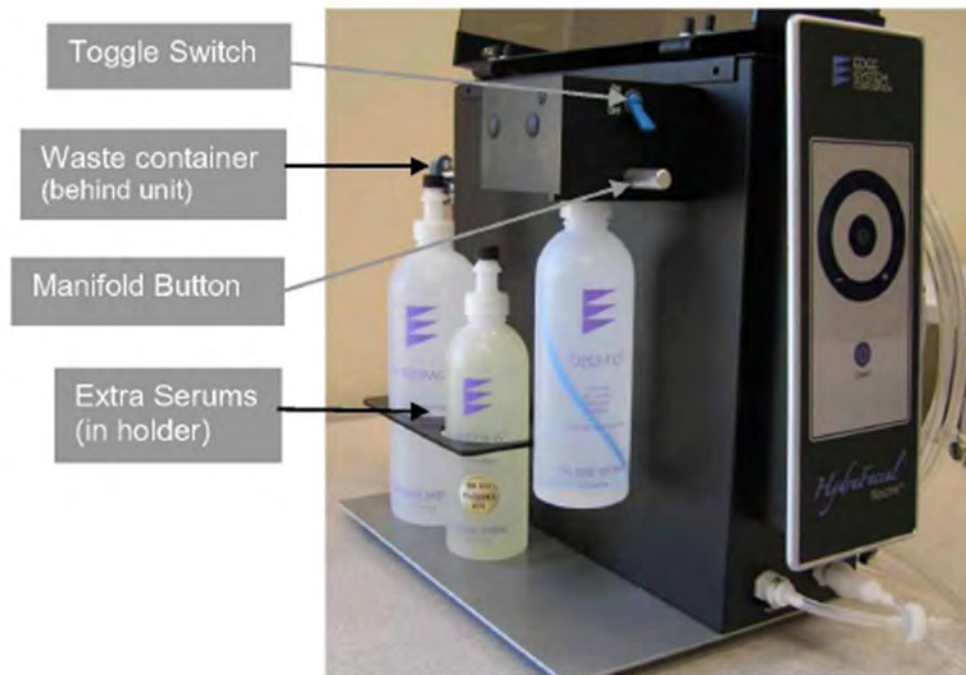
2) ATTACH WASTE CONTAINER

1. Firmly close both clips on the waste container lid.
2. Attach the waste container by inserting the connector on the lid into the port at the back of the unit.
3. Pull the tubing connector at the back of the unit, and insert it into the port on the lid of the waste container. Make sure the waste container is attached to the unit securely.



Ex. 2035 at 12 (Nectre Owner's Manual).

438. In use, the Nectre includes treatment fluids for use in the container. For the image below shows the connected container, as well as the additional detached containers with serums (e.g., beta-hd and Antiox-6).



Ex. 2035 at 12 (Nectre Owners Manual).

439. When the above conditions (fluid container has fluid and is connected to the console, handpiece is connected to the console, waste container is connected to the console) are satisfied the handpiece of the Nectre is in fluid communication with the vacuum source and the waste container through the second conduit. *See supra* limitation 1[e].

tt. **1[g]: “the system is configured to deliver the first treatment fluid contained in the first container and the additional**

treatment fluid contained in the at least one additional container to the handpiece sequentially.”

440. As discussed above, the Nectre only includes a single container containing treatment fluid, and therefore does not meet this limitation.

441. For all of these reasons, it is my opinion the Nectre meets the limitations of Claim 1 of the '287 Patent, with the exception of limitations directed to having multiple containers connected to the console (or fluid control member) and having a block, fluid control member and collection member.

442. For the same reasons (e.g. that only a single container connects to the console or fluid control member), it is my opinion that the Nectre does not practice every element of the challenged claims.

E. There Is a Nexus Between the Commercial Success of the HydraFacial Systems and the '287 Patent Claims

443. I understand that another expert, Dr. Pallavi Seth, is offering opinions on the commercial success of the HydraFacial Systems. I am not a financial expert and offer no economic analyses related the commercial success of the HydraFacial Systems.

444. In connection with Dr. Seth's opinion on commercial success, I was asked to provide expert analysis on whether the HydraFacial Systems embody the claims of the '287 Patent and are coextensive with them to establish a presumed nexus. As I explained above, the HydraFacial Systems embody the claims of the

'287 Patent and are coextensive with them, thus HydraFacial is entitled to the presumption of a nexus for the commercial success of the HydraFacial Systems.

445. Furthermore, in my opinion, the difference between the HydraFacial Systems and the Nectre is that the HydraFacial Systems are multi-container hydrodermabrasion systems (having a block, fluid control member, and collection lumen) as opposed to the single-container hydrodermabrasion system found in the Nectre.

446. It is further my opinion that the multi-container HydraFacial Systems provide for easier and more efficient treatments (no need to pause treatment to change bottles), making the HydraFacial Systems more desirable. This is confirmed by the poor sales of the Nectre, which ultimately led to its discontinuation.¹

447. To the extent Petitioners argue other components such as the tips are the driver of sales for the HydraFacial Systems, I disagree. First, the tips serve no purpose without the HydraFacial Systems. Also, the tips used in the Nectre are the same as those used in the HydraFacial Systems, and the Nectre experienced poor sales compared to the HydraFacial Systems, despite using the same tips. *See, e.g.*, Ex. 2036, 12 (Nectre User Manual showing HydroPeel tips); Ex. 2032, 10 (Allegro IFU showing HydroPeel tips); Ex. 2031, 13 (Elite IFU showing HydroPeel tips).

¹ Discussion with Dr. Seth on 1/09/2025.

448. Accordingly, it is my opinion that there is a nexus between the commercial success of the HydraFacial Systems and the claims of the '287 Patent directed to a multi-container system.

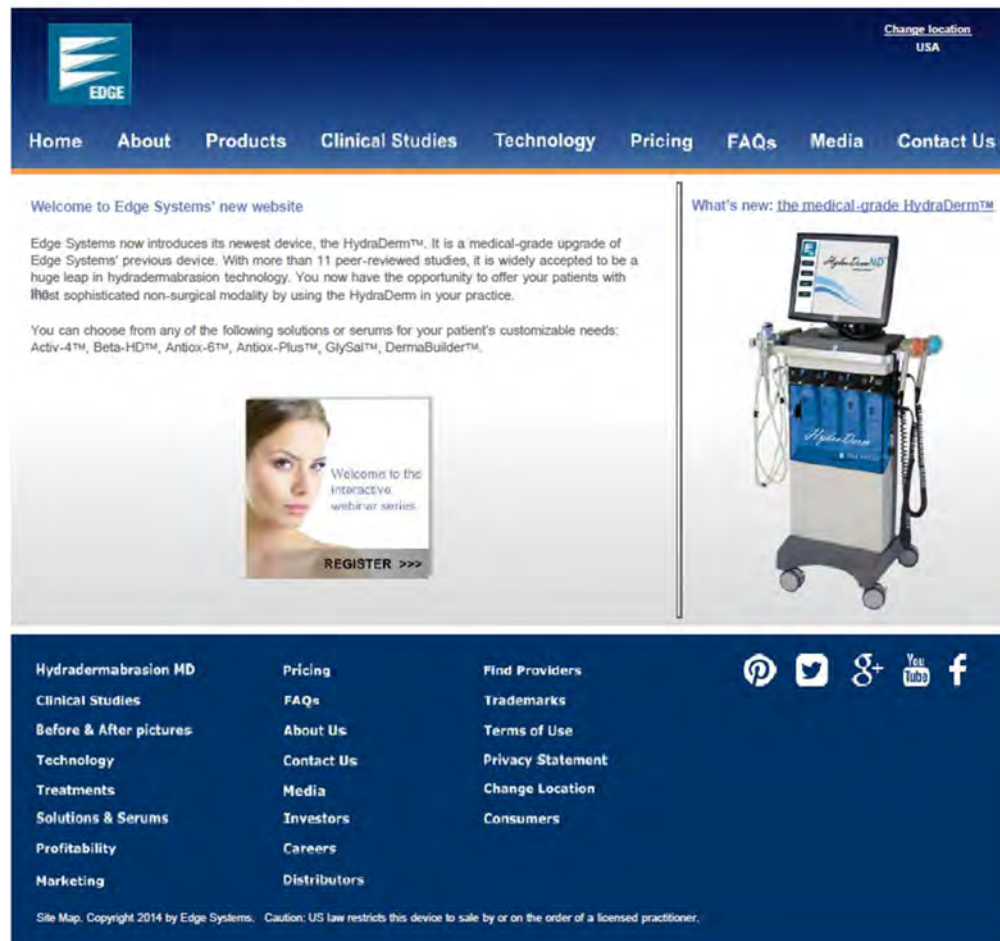
F. Copying

449. I understand from counsel that evidence a competitor has copied a product covered by a patent is strong evidence supporting nonobviousness.

450. HydraFacial became aware in 2014 that an individual named Rafael Newton Aguila ("Aguila") was selling a product under his own brand name, "HydraDerm," which was a near-exact copy HydraFacial's Tower product. Ex. 2005, 5-6.

451. As I explained above, the Tower embodies the challenged claims of the '287 patent, and Aguila's knockoff product wholesale copied those claimed features. Aguila's own website confirmed he intended his "HydraDerm" product to look and function like the Tower.

Edge Systems -- Originator of Hydradermabrasion Technology, World Leader in Microdermabrasion.



Ex. 2154, 3 (attorney declaration attaching website printout); Ex. 2155, 2.

452. Aguila promoted his knockoff device as “the next generation in microdermabrasion technology due to the simultaneous dermal infusion of medicinal products and crystal-free exfoliation” and “the first medical device that uses the ‘4-in-1’ technology of Cleansing, Exfoliation, Extraction, and Infusion.”

Ex. 2155, 4, 12.

453. On his website, Aguila included images of his knockoff “Hydraderm” having multiple treatment containers and emphasized the use of multiple treatment solutions. *Id.* Aguila also described the functionality of the components, including the “pneumatic action of the vacuum” and use of the handpiece to deliver treatments with the multiple solutions. *Id.*, 7. In my opinion, these are the integrated treatment capabilities claimed in the ’287 patent and embodied in the Tower.

454. I understand that HydraFacial brought a lawsuit against Aguila for patent infringement, trademark infringement, and trade dress infringement. Ex. 2005, 8-9. I understand that HydraFacial was granted an emergency motion for a temporary restraining order and a preliminary injunction against Mr. Aguila. *See* Ex. 2007 (Report and Recommendation on Prelim. Injunction); Ex. 2008 (Order Granting Prelim. Injunction).

455. I understand that later in the case the judge issued an order granting HydraFacial’s motion for summary judgment. Ex. 2005 (Summary Judgment Order). In that order, the judge included a side-by-side comparison of Aguila’s HydraDerm and HydraFacial’s Tower:



EDGE HYDRAFACIAL® PRODUCT



DEFENDANT'S ACCUSED PRODUCT

Ex. 2005, 6.

456. The judge also described Aguila's copying of HydraFacial's Tower product this way:

Bootleg. Clone. Copycat. Imitation. Knock-off. Palm-Off. However one labels a peddled product that conspicuously capitalizes on another's intellectual property rights, this case presents the quintessential example.

Id., 1. The resemblance between Aguila's "HydraDerm" and the Tower was so close that Aguila was able to lure customers into thinking that the knockoff product was an authentic version of HydraFacial's Tower product. *Id.*, 7-8.

457. Based on my review of the evidence, including the images of Aguila's device, the statements on his website, the fact that multiple customers believed they had purchased a HydraFacial Tower, it is my opinion Aguila's device contained the same structural features—including a block, fluid control member, collection lumen,

and multiple treatment solution containers—integrated into the “HydraDerm” system.

458. In my opinion, Aguila’s blatant copying of the HydraFacial Tower is objective evidence that the claims of the ’287 Patent would not have been obvious to a person of skill in the art. This blatant copying itself is direct proof of nexus between the secondary considerations of nonobviousness and the ’287 Patent claims. Aguila’s “HydraDerm” was a near-identical replica of the Tower, and, as I explained above, the Tower is coextensive with the claims of the ’287 Patent.