

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
Patent No. 11,865,287

PETITIONERS' REPLY TO PATENT OWNER'S RESPONSE

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1001	U.S. Pat. No. 11,865,287 to Ignon (“the ’287 patent”)
1002	Excerpts from the Prosecution History of the ’287 patent (“the Prosecution History”)
1003	Declaration of Mr. Eric Simon
1004	U.S. Patent Publication No. 2003/0212415 (“Karasiuk”)
1005	U.S. Patent No. 5,199,604 (“Palmer”)
1006	U.S. Patent Publication No. 2003/0093089 (“Greenberg”)
1007	U.S. Patent No. 6,390,815 (“Pond”)
1008	U.S. Patent No. 6,684,880 (“Trueba”)
1009	U.S. Patent No. 4,512,764 (“Wunsch 1982”)
1010	U.S. Patent Publication No. 2003/0018252 (“Duchon”)
1011	U.S. Patent No. 4,215,476 (“Armstrong”)
1012	Friedman, et al., Chemical peels, dermabrasion, and laser therapy, Disease-a-Month 55.4 (2009): 223-235 (“Friedman”)
1013	Burgess, Cheryl M., Cosmetic dermatology, Heidelberg, Germany: Springer, 2005 (“Burgess”)
1014	Pickering, J. A., Touch-sensitive screens: the technologies and their application, International Journal of Man-Machine Studies 25.3 (1986): 249-269 (“Pickering”)
1015	Friedman, Mark J. et al., The AMSA injection: A new concept for local anesthesia of maxillary teeth using a computer-controlled injection system. Quintessence Int 29 (1998): 297-3 (“Friedman 1998”)
1016	Lee, Woan-Ruoh, et al., Lasers and microdermabrasion enhance and control topical delivery of vitamin C, Journal of investigative dermatology 121.5 (2003): 1118-1125 (“Lee”)
1017	U.S. Patent No. 9,550,052 (“the ’052 patent”)
1018	U.S. Patent No. 11,446,477 (“the ’477 patent”)
1019	U.S. Patent No. 6,428,518 (“Brenge”)
1020	U.S. Patent No. 4,559,036 (“Wunsch”)

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1021	U.S. Patent No. 6,099,511 (“Devos”)
1022	U.S. Patent No. 5,163,902 (“Lynn”)
1023	U.S. Patent No. 5,190,525 (“Oswald”)
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1027	U.S. Patent No. 6,241,739 (“Waldron”)
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1034	Deposition Exhibit 1034 from Deposition of Karl R. Leinsing (December 4, 2025) – HydraFacial advertisement
1035	<i>emed, Incorporated’s SilkPeel DermalInfusion System Redefines Skin Resurfacing With a Precise, Gentle Touch</i> , PR Newswire (Feb. 6, 2004), https://dialog.proquest.com/professional/docview/446832110?accountid=153692
1036	<i>About SilkPeel</i> , eMed (June 3, 2004), https://web.archive.org/web/20040603023325/http://www.4emed.com/emed-aboutsilksilkpeel.htm
1037	<i>Product Profiles</i> , Aesthetic Buyers Guide dated Jan./Feb. 2005 (Mar. 21, 2006), https://web.archive.org/web/20060321090753/http://www.silkpeel.com/forms/ABG%20Prod%20Prof%20spot%20Feb-05.pdf

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1041	Declaration of David W. Carraway
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1044	Transcript of Deposition of Karl R. Leinsing (December 4, 2025) [CONFIDENTIAL]
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1050	<i>HydraFacial Device Patents</i> , HydraFacial, https://www.hydrafacial.com/pages/patents (last visited Dec. 11, 2025)
1051	<i>The Beauty Health Company Introduces New Digitally Connected HydraFacial Syndeo Delivery System</i> , Business Wire (Mar. 7, 2022), https://www.businesswire.com/news/home/20220307005580/en/

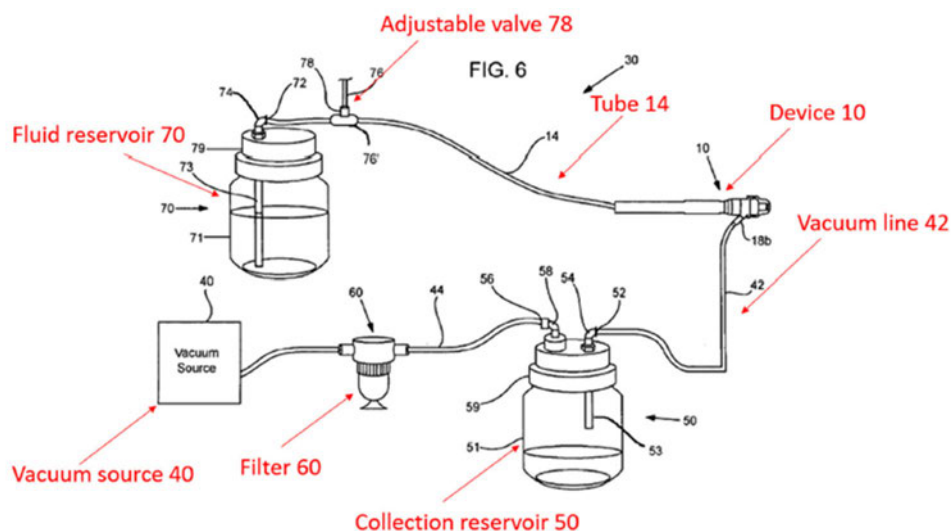
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1053	<i>The Beauty Health Company Reports Strong First Quarter 2022 Financial Results</i> , Business Wire (May 10, 2022), https://www.businesswire.com/news/home/20220510005629/en/
1054	<i>Beauty Health Co (SKIN) Q4 2022 Earnings Call Transcript</i> , Seeking Alpha (Feb. 28, 2023), https://seekingalpha.com/article/4582967-beauty-health-co-skin-q4-2022-earnings-call-transcript
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1063	<i>HydraFacial Announces Record First Quarter Fiscal 2021 Preliminary Net Sales</i> , Business Wire (Apr. 21, 2021)
1064	U.S. Patent No. 6,641,591
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1066	U.S. Patent No. 7,789,886
1067	U.S. Patent No. 8,066,716

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1077	Jeffrey M. Perloff, <i>Microeconomics</i> 397, 534 (1999)
1078	Dennis W. Carlton & Jeffrey M. Perloff, <i>Modern Industrial Organization</i> 12 (4th ed. 2005)
1079	<i>Edge Sys. LLC v. Image MicroDerm Inc.</i> , No. 2:17-cv-8699, ECF No. 1, Complaint for Patent Infringement (C.D. Cal. Dec. 1, 2017)
1080	<i>Edge Sys. LLC v. Image MicroDerm Inc.</i> , No. 2:17-cv-8699, ECF No. 81, Final Consent Judgment of Willful Infringement and Permanent Injunction (C.D. Cal. May 23, 2019)
1081	U.S. Patent No. 7,658,742
1082	U.S. Provisional Application No. 60/755,310
1083	U.S. Provisional Application No. 60/764,668
1084	Christopher Morris, <i>Academic Press Dictionary of Science and Technology</i> (1992)
1085	Transcript of Deposition of Pallavi Seth, Ph.D. (November 3, 2025) [CONFIDENTIAL]

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1086	Transcript of Deposition of Vipul Savsani (November 11, 2025) [CONFIDENTIAL]
1087	Non-Final Rejection of Application No. 16/517,268 (Mar. 22, 2021)
1088	Final Rejection of Application No. 14/698,673 (Mar. 7, 2016)
1089	<i>Certain Hydrodermabrasions Sys. & Components Thereof</i> , Inv. No. 337-TA-1408, Order No. 29, Construing Certain Terms of the Asserted Claims (<i>Markman</i> Claim Construction) (Mar. 14, 2025)
1090	<i>Certain Hydrodermabrasions Sys. & Components Thereof</i> , Inv. No. 337-TA-1408, Order No. 32, Construing Remaining Disputed Claim Term (Mar. 19, 2025)
1091	<i>Certain Hydrodermabrasions Sys. & Components Thereof</i> , Inv. No. 337-TA-1408, Order No. 50, Explanation of Claim Terms Construed in Order Nos. 29 & 32 (June 11, 2025)
1092	<i>Edge Sys., LLC v. Aguila</i> , No. 14-cv-24517-KMM, ECF No. 13-4, Declaration of William Cohen (S.D. Fla. Dec. 1, 2014)
1093	<i>Edge Sys., LLC v. Aguila</i> , No. 14-cv-24517-KMM, ECF No. 55, Preliminary Injunction Hearing Transcript (S.D. Fla. Dec. 19, 2014)
1094	Declaration of Jeffrey A. Stec, Ph.D. [CONFIDENTIAL]
1095	Declaration of Henry A. Adeleye
1096	Errata to November 3, 2025 Deposition of Pallavi Seth, Ph.D. [CONFIDENTIAL]
1097	Declaration of George T. Scott [SUPPLEMENTAL EVIDENCE-NOT FILED][Previously designated EX1029]

HydraFacial contends that its claimed skin care console is patentable by virtue of including two containers connected to a handpiece so that users “can select a desired treatment medium from multiple treatment-fluid containers.” POR, 4-6, 79-80. But such a rudimentary arrangement was known long before the ’287 patent, and the Office, in addition to instituting this IPR, has recognized “material error” in having allowed such claims over Karasiuk (the primary reference in Grounds 1A-1B). IPR2025-00445, Paper 14, 3.

As the Petition explains, the ’287 patent’s claims are unpatentable on multiple grounds. First, Karasiuk discloses a liquid-based hydrodermabrasion system that operates exactly as the ’287 patent describes: pressing handpiece 10 against a patient’s skin facilitates a vacuum loop drawing treatment material from reservoir 70, through tube 14, into handpiece 10 (treating skin), and then drawing resulting waste through vacuum line 42 into collection reservoir 50.



Petition, 5, 38; EX1004, ¶¶[0017]-[0024], [0054], [0063]-[0066].

While Karasiuk¹ discloses using one treatment reservoir, it was well-known, as demonstrated in Palmer, to use multiple reservoirs in similar applications. Petition, 7-12. In response to the Karasiuk-Palmer combination, HydraFacial attacks the references individually, argues bodily incorporation, and treats POSAs as automatons. *Infra* §I.A.2. All such arguments fail.

HydraFacial argues baselessly that the combination would be “inoperable.” For example, HydraFacial argues that Palmers’ tubes’ 1/16-inch inner diameter is too small for hydrodermabrasion. Besides improperly treating POSAs as automatons and relying on bodily incorporation, HydraFacial’s argument is frivolous because its own consoles use the same size tubes. *Infra* §I.A.3.b.

The Petition also shows the ’287 patent claims are unpatentable over Greenberg, which uses three treatment material containers. HydraFacial primarily responds that the claimed “treatment materials” should be construed narrowly to exclude Greenberg’s treatment particles, and therefore, its containers. The inventors, however, explicitly and intentionally defined “treatment material” broadly to include such particles. *Infra* §II.A.1.

¹ Karasiuk’s company sold the SilkPeel hydrodermabrasion device by early 2004. EX1041, ¶¶5-13; EX1035; EX1036; EX1037. Thus, the POR’s introductory sentence—“HydraFacial pioneered hydrodermabrasion around 2005”—is untrue.

Finally, HydraFacial argues “secondary considerations” based on its technical expert’s conclusory suggestion that the multiple-container arrangement drives customer demand for HydraFacial’s consoles. However, the expert was unaware of the inventors’ sworn testimony that a completely different feature drives customer demand. Because prior art patents claim that feature, nexus is lacking as a matter of law. *Infra* §IV.

I. GROUND 1A

A. Karasiuk and Palmer Render Obvious All Claims in Ground 1A

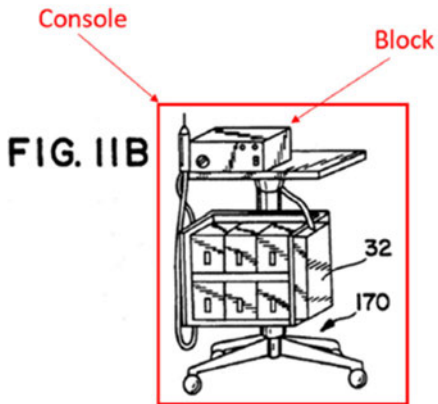
1. The ’287 Patent Specification and HydraFacial’s Own Claim Mapping Confirm Karasiuk-Palmer Discloses a Handpiece Connected to a Console

HydraFacial argues that the Karasiuk-Palmer combination lacks the handpiece connected to the console recitation because the claims should be construed to require direct connection to the console rather than connection to a component mounted to the console. POR, 23-30. This is plainly wrong as it would exclude the patent’s only embodiment. *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1583 (Fed. Cir. 1996) (construction excluding patent’s only embodiment “is rarely, if ever, correct”). Further, as shown below, it would also exclude products that HydraFacial insists, for its “commercial success” argument, are covered.

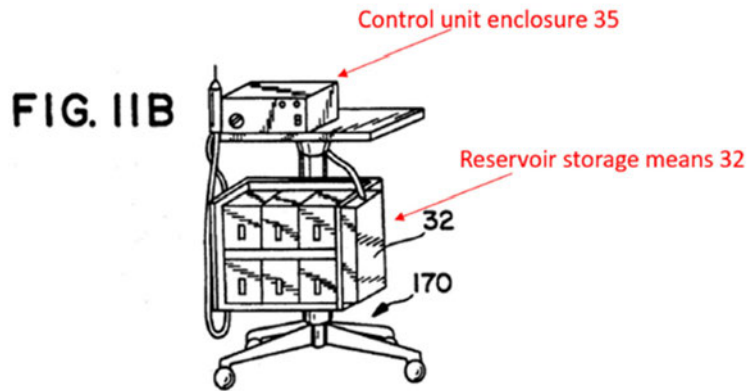
The '287 patent specification teaches that the handpiece connects, via input line 20, to a manifold mounted to the console. EX1001, 2:32-35, 3:57-59, 5:28-31, 6:22-24, 18:17-18 (“The ***manifold system 24***...directs the fluid into the line 20.”)², Fig. 1 (manifold 24 mounted to console). Thus, “connected to the console” must encompass connection to a component (*e.g.*, a manifold) mounted to the console. *Vitronics*, 90 F.3d at 1583. Indeed, in the same breath that the claims recite connection “to the console,” they also confirm the connection is through a manifold (*e.g.*, “block”) mounted to the console. *E.g.*, EX1001, claim 1 (“***a block*** in the console...***configured to selectively be in fluid communication with the handpiece*** through a first conduit”); *see also* EX1017, claim 1; EX1018, claim 1.

The Karasiuk-Palmer combination works the same way. The handpiece connects, via a tube, to Palmer’s enclosure 35 (containing selector means 16), which in turn connects to reservoirs in storage means 32. EX1005, 5:10-20; Petition, 12-18. Enclosure 35 sits on a shelf of mobile cart 170. EX1005, Figure 11B. The Petition thus explained that enclosure 35—to which the handpiece connects—“is included in ‘mobile cart 170’ (***console***).” Petition, 20 (emphasis original).

² Emphasis added unless otherwise noted.



Petition, 21.

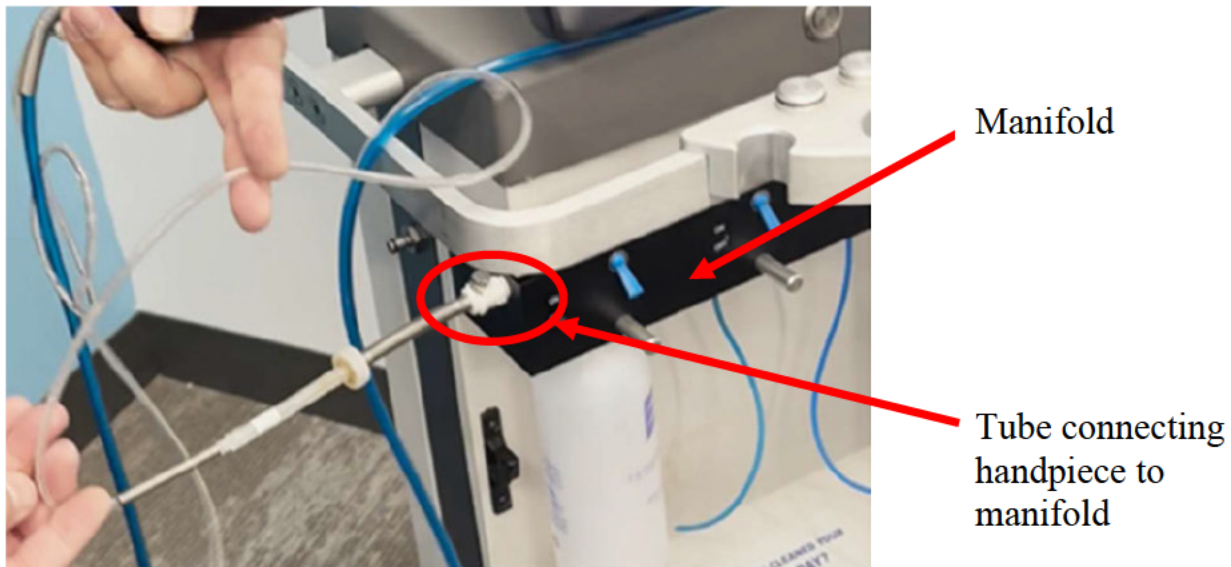


Petition, 13.

HydraFacial argues that, because enclosure 35 is “modular” and can be placed in different locations depending on arrangement of the solution reservoirs, as shown in Palmer’s Figures 11A-11C, it should not be considered part of mobile cart 170 (*i.e.*, “console”) in Figure 11B. POR, 26-30.

But the ’287 patent likewise explains its manifold can either be “modular” (removable) *or* permanently mounted to the console. EX1001, 17:65-18:5 (“The manifold system 24 can have a **modular** design so that it can be removed from the console 12...Alternatively, the manifold system 24 can be permanently mounted to the console 12.”). Therefore, even if Palmer’s enclosure 35 is considered “modular,” the Petition correctly observed that the combination’s arrangement perfectly “aligns with the ’287 patent’s disclosure.” Petition, 13.

Further, HydraFacial's expert Mr. Leinsing opines that the handpieces in HydraFacial's Tower and Elite products are "connected to the console" even though they too connect to the manifold, which is removable from the console. EX2004, ¶¶65-72 (opining that the Tower and Elite handpieces are "connected to the consoles"); EX2092 (manifold removed from Tower console); EX2094 (manifold removed from Elite console); EX1044, 78:8-79:9 (Mr. Leinsing removed these manifolds from the consoles).



EX2151, 1 (partial); EX1044, 71:15-20, 72:11-18.



EX2079, 1 (partial); EX1044, 73:5-74:10.

Thus, with respect to the requirement that the handpiece be “connected to the console,” the Karasiuk-Palmer combination matches not only the ’287 patent’s specification and claims, but also HydraFacial’s own products, which HydraFacial admits satisfy this requirement.

While the ALJ in the 1408 Investigation found the “connected to” limitation lacking from Karasiuk-Palmer, that conclusion was based primarily on the respondent’s waiver of any argument that the “console” includes enclosure 35. EX2161, 160. The ALJ also failed to consider that HydraFacial’s “connected to” argument contradicts both the ’287 patent and HydraFacial’s application of the ’287 patent claims to its products.

2. The Petition Established Strong Reasons to Combine Karasiuk and Palmer; HydraFacial’s Responses Impermissibly Treat POSAs as Automatons

The Petition explained strong reasons for implementing Palmer’s multiple-container arrangement in Karasiuk’s hydrodermabrasion system. For example, Palmer itself describes the benefits of selecting among several solutions for delivery to a treatment site, and of applying multiple different solutions in series. Petition, 9-10; EX1005, 2:48-51, 11:9-12. Although not legally required, Palmer anticipated the ’287 patent’s own reasons for using multiple containers. EX1001, 6:27-30.

HydraFacial’s only response to the motivations articulated in Palmer is to argue that Palmer is limited to dental applications. POR, 37-38. This wooden reading is flatly incorrect. In fact, Palmer broadly discusses “delivering a selected one of multiple liquid solutions to a treatment site” not limited to teeth. EX1005, Title (“to a treatment site”), Abstract (same), 1:10-15 (“to treatment sites, *such as* in connection with periodontic procedures”), 2:48-51 (“to a treatment site”), 2:52-56 (same), 2:57-62 (same), 2:63-66 (same), 3:3-8 (same), 3:9-14 (same), 3:15-26 (same), 4:50-68 (same). The Petition and Petitioners’ expert explained this (Petition, 11-12; EX1003, ¶89), and HydraFacial ignores it. Further, POSAs are not automatons, and of course apply techniques from one fluid-applying medical device to another.

The Petition also explained, based on Armstrong, the indisputable fact that adding extra containers minimizes refilling downtime because, if a container runs out, the system can switch to another rather than needing to remove, clean and refill a single container. Petition, 10; EX1011, 2:7-10. Armstrong also expressly states that its multi-container approach is not limited to dental applications. EX1011, Abstract. HydraFacial’s only response is that one could instead make Karasiuk’s reservoir larger. But the existence of other obvious approaches does not defeat the obviousness of Palmer’s approach.

Finally, the Petition explained that the prior art recognized the value of applying multiple solutions for hydrodermabrasion and microdermabrasion. Petition, 8-9. In response, HydraFacial focuses on semantics, such as a reference noting that a second material is applied “[w]hen the treatment is completed” rather than “during” treatment. POR, 32-33. That the art recognized the desirability of using multiple solutions plainly motivates multiple containers, irrespective of semantics, particularly since there are no temporal limitations in the ’287 patent claims.

In the 1408 Investigation, the ALJ rejected the Karasiuk-Palmer combination because she found that Palmer is “non-analogous art” relative to the ’287 patent. EX2161, 147-157. In this IPR, HydraFacial does not even make that argument, so it is waived. Paper 13, 9. Further, the ALJ’s decision was based on concluding that Palmer is limited to dental devices, EX2161, 150, which as explained above is erroneous. Indeed, to qualify as analogous art, a reference need only be “from the same field of endeavor” *or* “reasonably pertinent” to the invention. *In re Bigio*, 381 F.3d 1320, 1325-26 (Fed. Cir. 2004) (toothbrush is “analogous art” relative to hairbrush). Palmer, directed to “delivering a selected one of multiple liquid solutions to a treatment site,” sails over this threshold. EX1005, Title.

The only other basis for the ALJ’s decision was a purported lack of evidence that POSAs would have considered Karasiuk’s lack of multiple containers a problem. EX2161, 157. This was legal error. The relevant question is whether there were reasons (provided here by, *inter alia*, Palmer) for modifying Karasiuk—not whether a specific problem was identified in Karasiuk’s device. *Unwired Planet, LLC v. Google Inc.*, 841 F.3d 995, 1002-03 (Fed. Cir. 2016) (“Google also argues that it does not need to show that there was a known problem with the prior art system in order to articulate the required rational underpinning for the proposed combination. We agree.”).

Further, the ALJ did not consider Armstrong at all.

3. HydraFacial’s “Inoperability” Arguments Lack Merit

a. There Is No Problem with Karasiuk’s Breather Line, Which Is Optional Anyway

HydraFacial argues that Karasiuk’s “breather line 76” renders the combination “inoperable” because using it would make tube 14 like a “cracked drinking straw,” such that Karasiuk’s vacuum “would draw *only air*...rather than fluid.” POR, 42-45.

As a threshold matter, HydraFacial’s expert admits the “breather line” argument applies equally to Karasiuk itself; thus, it is actually an attack on Karasiuk’s enablement, rather than an argument that the *combination* somehow renders a prior-art reference inoperable for its intended purpose. EX2001, ¶108

(“Karasiuk alone, when using the vent on the liquid side of the system, is not enabled.”). However, “prior art published patent applications [like Karasiuk] are presumed enabling.” *Cameron Int’l Corp. v. Nitro Fluids, LLC*, 2022 WL 636099, *6 (Fed. Cir. Mar. 4, 2022). HydraFacial thus has the burden to prove Karasiuk is not enabled, yet failed even to address the *Wands* factors. *Duration Media LLC v. Rich Media Club LLC*, IPR2023-00953, Paper 80, 24 (Mar. 7, 2025) (rejecting nonenablement of prior art where patent owner failed to address the *Wands* factors).

Further, at deposition, HydraFacial’s expert admitted that his original testimony—*i.e.*, that the breather line would cause Karasiuk’s vacuum source to draw “only air” and no treatment material (EX2001, ¶108)—was a misstatement. In fact, the vacuum would simply “pull air along with the solution to the handpiece.” EX1044, 153:6-9. This is consistent with how Karasiuk itself describes the breather line’s operation. EX1004, ¶[0059] (“[B]reather line 76... includes an adjustable valve 78...for varying an amount of air that is allowed into the tube 14...”³).

³ A simple experiment shows Karasiuk’s description is accurate: poking a small hole in a straw does not prevent drinking through it, as HydraFacial’s expert admitted. EX1044, 154:15-155:1.

Thus, there is no dispute that Karasiuk’s vacuum—and by extension that of the combination—will draw treatment material. Even if a breather line decreased efficiency, this would be irrelevant to obviousness. *Intel Corp. v. Qualcomm Inc.*, 21 F.4th 784, 797 (Fed. Cir. 2021) (“It’s not necessary to show that a combination is ‘the *best* option, only that it be a *suitable* option.’”) (emphasis original).

Further, Karasiuk’s breather line is “adjustable” (POSAs could close it if needed) and, in any event, it is **optional**. EX1004, ¶[0059] (“[A] valve or other flow control mechanism may be provided in the fluid delivery line 14... alternatively...to the breather line.”). HydraFacial does not dispute that using a valve inside line 14 would entirely avoid the breather line’s supposed downsides. That Karasiuk’s breather line is optional independently defeats HydraFacial’s inoperability argument. *Unified Patents, LLC v. SecureWave Storage Solutions, Inc.*, IPR2019-00501, Paper 31, 12 (PTAB July 7, 2020) (“We also disagree with Patent Owner that combining Jones...with Robb would render the invention inoperable...because the information clearing feature is **optional**.”).

The ALJ in the 1408 Investigation did not address any argument about the “breather line,” so there is no prior finding to consider regarding this issue.

EX2161.

b. HydraFacial’s Tube Diameter Arguments Are Improperly Based on Bodily Incorporation

HydraFacial also argues that the Karasiuk-Palmer combination is “inoperable” because Palmer’s tubes—with a 1/16-inch inner diameter—are too narrow to enable Karasiuk’s vacuum pump to draw liquid out of Palmer’s solution reservoirs. POR, 45-53.

HydraFacial’s argument impermissibly relies on bodily incorporation of Palmer’s tubes. The Petition explained that, in the combination, Karasiuk’s single reservoir 70 would be modified to include multiple reservoirs per Palmer. Petition, 6-7. The Petition did not rely on Palmer for tube dimensions known to POSAs. Indeed, for the connection between Palmer’s selector means 16 and the handpiece, the Petition explained that Karasiuk’s tube 14 (which HydraFacial admits “could potentially accommodate viscous fluid flow,” POR, 52) would “*replace*, or be connected to,” Palmer’s tube 30. Petition, 8. Thus, Palmer’s tube 30 is not necessarily even part of the proposed combination. For the connections between Palmer’s reservoirs and selector means 16, the Petition never suggested the combination requires using the exact tubes of Palmer. HydraFacial’s bodily incorporation argument invites legal error. *Allied Erecting & Dismantling Co., Inc. v. Genesis Attachments, LLC*, 825 F.3d 1373, 1381 (Fed. Cir. 2016) (“The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference.”).

Further, HydraFacial's expert's testimony confirms that choosing appropriate tube diameters would be routine for a POSA. He testified that the relationship between pressure drop and tube length and radius (Poiseuille's Law) is well-known to POSAs, who could apply it to determine workable tube dimensions. EX2001, ¶117; EX2052, 1; EX1044, 121:17-122:19. Thus, even if Palmer's 1/16-inch tubing was too small, this would not defeat obviousness. *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1742 (2007) ("A person of ordinary skill is...of ordinary creativity, not an automaton."); *Ex parte Kumano*, 2012 WL 684060, *2 (B.P.A.I. Feb. 24, 2012) ("[O]ne of ordinary skill...would have reasonably been expected to determine the workable tube sizes...upon routine experimentation.").

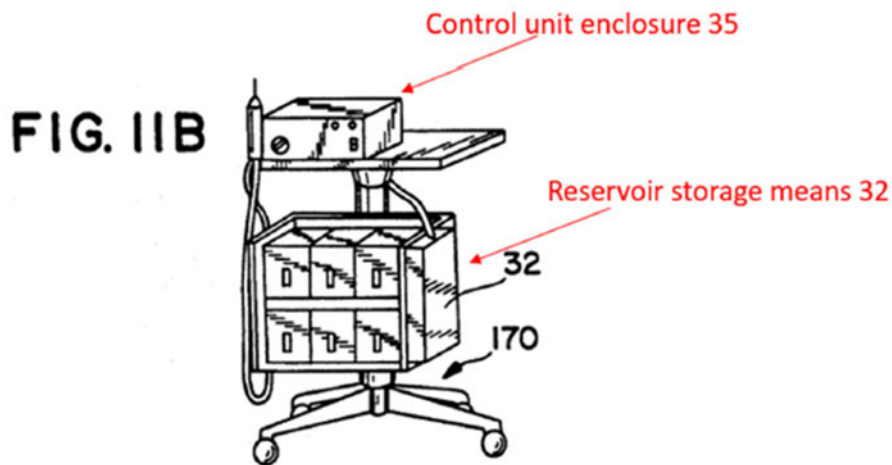
Notably, HydraFacial's own product uses tubes of the same inner diameter as Palmer. EX1042, ¶¶24, 31. The premise of the bodily-incorporation argument (that Palmer's tubes were too narrow) was untrue.⁴ It is thus unsurprising that HydraFacial's expert never plugged any values into Poiseuille's Law to check whether Palmer's tube dimensions would work. EX1044, 124:1-125:19.

The ALJ in the 1408 Investigation did not address any argument about tube diameter, so there is no prior finding to consider regarding this issue. EX2161.

⁴ HydraFacial fixates on Karasiuk's mention of "lotions," claiming that lotions have high viscosity. But Karasiuk contemplates "other skin treatment fluids" and teaches adjusting for different viscosities. EX1004, [0059], [0061].

c. **HydraFacial’s Expert Admits there Is No “Unrestricted Flow of Liquid from the Reservoirs” of Palmer’s Figure 11B**

HydraFacial also argues that removing Palmer’s peristaltic pump would cause “the selected reservoir [to] discharge liquid uncontrollably through the system—even without activating the vacuum source.” POR, 54. That would never happen, however, as explained below.



In Palmer’s Figure 11B, relied upon in the Petition (at 13), the solution reservoirs are stored *below* the enclosure 35 to which the reservoirs are connected, such that gravity would not cause uncontrolled flow out of the reservoirs.

Petitioners’ expert explained this, noting that free flow can happen only if the solution reservoirs are higher than the enclosure 35. EX2150, 81:18-23 (free flow would “depend[] on the solution height...it would be a gravity feed system at that point”). HydraFacial’s expert likewise admitted there would be no free flow out of the reservoirs in Figure 11B’s configuration. EX1044, 171:21-173:17.

The ALJ in the 1408 Investigation did not address any argument based on alleged uncontrolled flow from solution reservoirs, so there is no prior finding to consider regarding this issue. EX2161.

II. GROUND 2A

A. Greenberg Renders Obvious All Claims in Ground 2A

The Petition explained that Greenberg’s Figure 5 embodiment discloses what HydraFacial regards as the core of the ’287 patent claims—using multiple containers containing different skin treatment materials. Petition, 57-58, 71; EX1006, ¶[0077].

The Petition explained it would have been obvious to implement this embodiment in the console of Figure 1, as Greenberg calls Figure 1 the “apparatus,” and explains that Figure 5’s three-supply container implementation “can be achieved in the present apparatus.” EX1006, ¶[0077]; Petition, 58.

Finally, while Figure 5 does not expressly depict a vacuum pump, the Petition explained that, across its embodiments, Greenberg consistently includes a vacuum pump to move particles to the handpiece to treat skin. Petition, 68-69; *see also* EX1044, 194:9-12.

HydraFacial contests little of this. Petitioners address HydraFacial’s three arguments regarding Ground 2A below.

**1. Under the Proper Construction, Greenberg Discloses
“treatment material,” “treatment fluid,” and “fluid”**

Greenberg discloses the central purported improvement of the '287 patent: a skin treatment system including multiple containers of materials for treating skin. HydraFacial's primary response to Ground 2A is that “treatment material” in independent claims 11 and 22, and related terms in other independent claims, should be construed narrowly to exclude Greenberg's solid particles, which HydraFacial says reflect microdermabrasion rather than hydrodermabrasion. The inventors, however, defined “treatment material” broadly to include such particles:

As used herein, the term “treatment material” is a ***broad*** term and includes, but is not limited to, medicament, a substance tending to flow or conform to the outline of its container such as fluid, gas, liquid (e.g., serums, water, saline, etc.), gel, ***fluidized material***, additives, and/or ***a plurality of fine solids***. The general term “fluid” is used throughout synonymously with the term “treatment material” and is to be given the same broad definition.

EX1001, 5:47-54.

The phrase “as used herein,” and the quotation marks around the phrases “treatment material” and “fluid,” unmistakably convey that the specification is offering an express definition. *Google LLC v. Nobots LLC*, 2025 WL 3240056, *1 (Fed. Cir. Nov. 20, 2025) (“[T]he section starts with ‘as used herein’...[and] places each phrase in quotation marks to confirm that lexicography is afoot.”).

By its own terms, the definition is “broad.” It expressly encompasses “a plurality of fine solids” and “fluidized material,” which means “a finely divided solid...caused to behave in the manner of a fluid by its being suspended in a moving gas or liquid.” EX1084 (defining “fluidization”). *See also* Petition, 68 (“[A]ir flow carrying particles is considered to be ‘fluid.’”).

Accordingly, “treatment material” and “fluid” plainly include Greenberg’s particles, and by extension the claims cover containers of same. Petition, 68.

HydraFacial argues that the inventors intended to exclude, from their claims, “prior-art microdermabrasion technology, which employs dry abrasive particles.” POR, 10, 60. *See also id.*, 55, 58, 63 (emphasizing that Greenberg involves microdermabrasion). HydraFacial insists that, because the claims require a “**plurality of fluid sources**” (emphasis by HydraFacial), they necessarily “do not cover prior-art microdermabrasion.” *Id.*, 61.

To the contrary: two provisional applications, both incorporated by reference (EX1001, 1:20-24), include dependent claims specifying that the “fluid sources” of the independent claims can be for “microdermabrasion.” EX1082, claim 1 (reciting a “plurality of **fluid sources**”), claim 6 (wherein the treatment is “selected from the group consisting of dermabrasion, microdermabrasion, and crystal-free microdermabrasion.”); EX1083, (same). Thus, “fluid” clearly **includes** microdermabrasion particles.

HydraFacial also cites an ambiguous passage using “wet” and “dry” to describe different treatment modes. In full context, that passage distinguishes between (1) using treatment materials from multiple containers; (2) using a single treatment material; and (3) using no treatment material (described as “dry” because the handpiece is just used to “exfoliate skin” without applying any treatment material.⁵ EX1001, 6:21-37. In short, that ambiguous passage appears to use the word “wet” simply to describe treatments in which some type of material is applied, as opposed to “dry” procedures in which skin is abraded without applying any material. Given the critical public notice function of patents, such an ambiguous passage cannot overcome the clear definition of “treatment material” encompassing “a plurality of fine solids.” *Alnylam Pharms., Inc. v. Moderna, Inc.*, 138 F.4th 1326, 1334 (Fed. Cir. 2025) (“Public notice is a central policy, public reliance is a known reality, precision is at a premium, and the applicant has ample control over provision of definitions, so when a definition is expressly stated, the public is generally entitled to expect clear notice of exceptions.”).

⁵ An example of the latter would be so-called “additional handpieces” for “abrasion or ‘crystal-free’ microdermabrasion.” EX1001, 18:46-55.

Neither do the specification's references to "hydration" move the needle. Throughout the specification, "hydration" is described as one possible benefit of applying treatment materials/fluids; the specification never says that **all** treatment materials/fluids **must** result in hydration. EX1001, 3:44-45 ("***In some variations***, the first material comprises an acid, hydrator, and combination thereof."), 7:63-65 ("The active treatment material **can** facilitate cleansing, exfoliating, hydrating..."), 10:14-17 ("Fluid retention time on the patient's skin **can** be increased to increase hydration..."), 13:22-23 ("the wet tip 34 **can** exfoliate, hydrate, and/or perform other types of treatments."), 16:23-24 ("The treatment fluids **may** comprise agents known to be beneficial to skin healing and/or hydration."). These statements are not inconsistent with "treatment materials" or "treatment fluids" covering the use of solid particles like Greenberg's, even if such procedures do not hydrate skin.

Finally, HydraFacial relies on a single statement by the Examiner of the '287 patent application that abrasives in reservoir 60A of the Coleman reference did not qualify as "fluid." POR, 11-13. HydraFacial omits, however, that in response, the applicants insisted they did **not** acquiesce to the Examiner's views, including regarding Coleman. EX1002, 177. This is the opposite of a disclaimer, and cannot overcome the applicants' definition. *3M Innovative Properties Co. v. Tredegar Corp.*, 725 F.3d 1315, 1332 (Fed. Cir. 2013) ("[W]e rest on statements made by the patentee over conflicting statements of an examiner[.]").

Further, the same Examiner reached the opposite conclusion during prosecution of other HydraFacial patents sharing the '287 patent's specification, finding the same reservoir 60A of Coleman *is* a “fluid container” / “fluid source.” EX1088, 6; EX1087, 2. The Examiner's contrary statement during prosecution of the '287 patent is an aberration, and certainly does not constitute a clear and unmistakable surrender of subject matter by HydraFacial.

In short, Greenberg's particles plainly qualify as “treatment material” under the '287 patent's definition. The same is true for “fluid”, which is “synonymous” with “treatment material.” EX1001, 5:52-54. Finally, “treatment fluid” is merely a combination of the two terms, and the parties agree it should be construed the same way as “treatment material.” POR, 16.

HydraFacial could have written narrower claims, *e.g.*, reciting “liquid.” There is nothing unfair about holding HydraFacial to its own intentional definition for the terms. *Honeywell Int'l, Inc., v. ITT Indus., Inc.*, 452 F.3d 1312, 1318 (Fed. Cir. 2006) (“The public is entitled to take the patentee at his word.”).

While the ALJ in the 1408 Investigation found that Greenberg failed to disclose “treatment material” or “treatment fluid” in the claims that went to trial, that conclusion assumed *liquid* was required. EX2161, 133-137. The ALJ never construed these terms (EX1089, EX1090, EX1091), so there is no prior claim construction analysis for this Board to consider.

2. Greenberg Discloses a Handpiece Connected to a Console

In arguing that Greenberg's handpiece is connected to containers rather than the console, HydraFacial misapprehends Ground 2A. POR, 64.

The Petition explained that Ground 2A is based on Figure 5, adapted for use with Figure 1's console, and includes valve 108 of Figure 5 in the combination. Petition, 56-60. The Petition further explained that the handpiece (handle 102) is connected to valve 108. *Id.*, 65-66. And, finally, the Petition explained, "valve 108...is located inside apparatus 10 (*console*).” *Id.*, 67-68.

Thus, in Ground 2A's combination, the Petition makes clear that the handpiece is connected, via a tube, to valve 108 in the console, and is not connected directly to a container as HydraFacial argues. HydraFacial's focus on Figure 1's console arrangement, without acknowledging how Ground 2A integrates the embodiment of Figure 5 into Figure 1's console, is baseless.

The ALJ did not address this issue in the 1408 Investigation. EX2161.

3. POSAs Would Have Been Motivated to Implement Greenberg's Figure 5 Embodiment in Figure 1's Console with a Vacuum Pump

HydraFacial objects to the Petition's integration of Greenberg's Figure 5 configuration into Figure 1's console. POR, 66-70. As discussed above, however, Greenberg calls Figure 1 the "apparatus," and explains that Figure 5's arrangement "can be achieved in the present apparatus." EX1006, ¶[0077]; Petition, 58.

Indeed, Figure 1 shows two supply containers, EX1006, ¶[0042], and Greenberg explains that three supply containers—shown only in Figure 5—are preferred. *Id.*, ¶[0031].

HydraFacial argues that because Greenberg used different reference numerals between Figures 1-4 and 5, and tweaked the outlet configurations of the supply containers, the combination would not have been obvious. POR, 67-68. This improperly treats POSAs as automatons—particularly since Greenberg makes clear the three-container embodiment is preferred. EX1006, ¶[0031]. *See also id.*, ¶[0078] (describing routine modifications to containers).

HydraFacial also contends that Figure 5 is a “vacuum-free” embodiment because it lacks depiction of a vacuum pump and has “valve 106 that controls air flow into the respective supply container,” suggesting positive airflow instead of vacuum. POR, 70. But, as HydraFacial’s expert admitted, Greenberg’s embodiments consistently use a vacuum pump to move particles through its system. Petition, 68-69; EX1044, 194:9-12; EX1006, ¶[0026]. When heavier particles are used, Greenberg *adds* a compressor as a “*second* pneumatic source” to force air into the supply containers, EX1006, ¶¶[0006], [0028]-[0029], [0051], [0054]-[0056], [0067], claims 12-13—but a vacuum pump is always used. Thus, valve 106 in Figure 5 does not contradict the obviousness of using a vacuum pump. EX1003, ¶325.

In the 1408 Investigation, there appears to have been no dispute that implementing Figure 5's three-container configuration in Figure 1's console was obvious. The ALJ found only that Cartessa failed to prove the obviousness of using a vacuum source in Figure 5's configuration. EX2161, 126-133.

But, the ALJ did not consider either that Greenberg says using a vacuum source is preferred, or that a compressor pump for positive airflow is an *optional* “*second*” pneumatic source.” EX1006, ¶¶[0026], [0028]-[0029], claims 9, 12-13. There is also no indication the ALJ realized every embodiment of Greenberg other than Figure 5 explicitly includes a vacuum source, which HydraFacial's expert Mr. Leinsing admitted in this proceeding. EX1044, 194:9-12. Further, the ALJ credited Mr. Leinsing's testimony that the slightly different fittings on the containers in Figure 5 somehow mean “this is a positive airflow system only.” EX2161, 132. Mr. Leinsing offered zero explanation for that conclusory statement either at the ITC or here. EX2001, ¶¶157-158.

In short, the ALJ's initial determination should be afforded little weight on this issue.

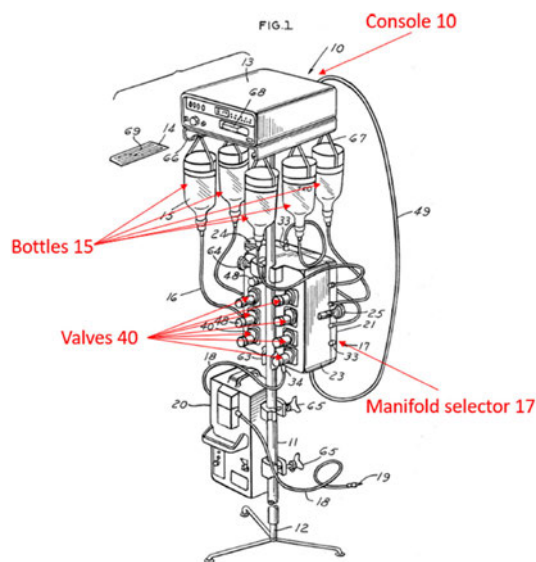
III. GROUNDS 1B AND 2B

HydraFacial does not dispute Grounds 1B or 2B. POR, 54, 71. Thus, these grounds rise or fall with HydraFacial's arguments regarding Grounds 1A and 2A.

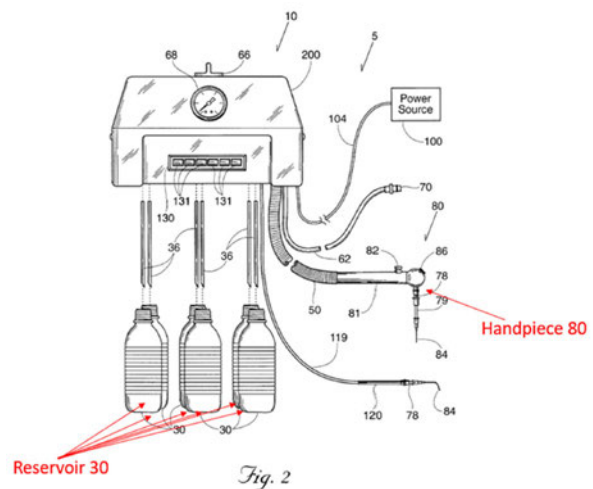
IV. SECONDARY CONSIDERATIONS FAIL

A. Given the Petition's Strength, the Board Need Not Reach Secondary Considerations

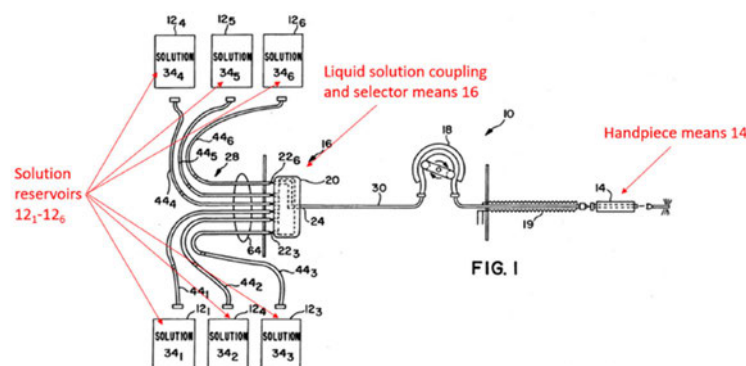
HydraFacial admits the '287 patent boils down to adding an extra selectable container. This rudimentary concept has been known for decades, ranging from soda dispensers to carpet cleaners and, as the Petition shows, for medical solutions.



Wunsch (EX1020), Fig. 1



Pond (EX1007), Fig. 2



The Board can stop here because “weak secondary considerations generally do not overcome a strong *prima facie* case of obviousness.” *Genentech, Inc. v. Sandoz Inc.*, 55 F.4th 1368, 1378 (Fed. Cir. 2022).

B. There Is No Nexus Between HydraFacial’s Console Sales and the ’287 Patent Claims

1. The Inventors Attribute the Consoles’ Sales to Features Claimed in Prior Art Patents, which Cannot Support Commercial Success

In *Aguila*, ’287 patent inventor and HydraFacial co-founder William Cohen testified that the features claimed in U.S. Patents 6,299,620; 6,641,591; 7,678,120; 7,789,886; 8,066,716; and 8,337,513 (EX1058, EX1064-1068) “drive consumer demand” for the HydraFacial MD (Tower⁶) product. EX1092, ¶7. These patents all cover handpieces with abrasive tips. For example, ’620 patent claim 1 (EX1058) requires a “working end comprising an abrasive fragment composition secured thereto.” None of their claims require multiple containers.

’287 patent inventor and co-founder Roger Ignon testified, when questioned by HydraFacial’s lead counsel herein, that the features of ’620 patent claim 1 “drive sales for the HydraFacial MD product.” EX1093, 84:12-14. Indeed, he insisted: “That’s the core of the whole system.” *Id.*

⁶ EX1093, 288:21 (“HydraFacial MD or we also call it the tower for short.”).

In this proceeding, Mr. Leinsing offered conclusory testimony that a different feature (multiple containers) drives console sales. EX2004, ¶448. He did so without communicating with the inventors, or any HydraFacial employee, to learn what HydraFacial itself believes drives console sales. EX1044, 21:10-22:4, 29:19-21. It appears HydraFacial empty-headed its own expert by disclosing to him some *Aguila* material, EX2001, 8 (EX2154-EX2155 considered), but **not** the testimony of inventors/founders directly contradicting his conclusion.

All of the patents claiming features that drive console sales (EX1058, EX1064-1068) are prior art to the '287 patent. Thus, nexus is lacking as a matter of law. *Tokai Corp. v. Easton Enters. Inc.*, 632 F.3d 1358, 1369 (Fed. Cir. 2011) (“If commercial success is due to an element in the prior art, no nexus exists.”).

2. The '287 Patent Does Not Claim those Features

None of the '287 patent claims require an abrasive tip. This provides an independent reason why nexus is lacking and the '287 patent claims are not coextensive with HydraFacial's consoles. *Ormco Corp. v. Align Tech., Inc.*, 463 F.3d 1299, 1312 (Fed. Cir. 2006) (“[I]f the commercial success is due to an unclaimed feature of the device, the commercial success is irrelevant.”); *Fox Factory, Inc. v. SRAM, LLC*, 944 F.3d 1366, 1375 (Fed. Cir. 2019) (patent claim not coextensive with product if unclaimed feature is covered by a different patent).

3. Strong Evidence Also Ties the Consoles' Sales to Other Factors Unrelated to the Multi-Container Configuration

In addition to the inventor/founder testimony in *Aguila*, other evidence also strongly suggests HydraFacial's console sales are driven by factors other than the multiple-container feature.

For example, [REDACTED]

[REDACTED]
[REDACTED]. EX1094, ¶¶53-56, 60-62. Indeed, in an interview, Mr. Ignon attributed HydraFacial's increased sales to third-party investment, which allowed HydraFacial to hire more salespeople, invest more in sales and marketing, and secure larger trade show booths. EX1056 at 21:30-26:00; *see also* EX1041, ¶¶19-28 (sales in aesthetics market are driven by factors such as marketing, advertising, features, and price); EX1094, ¶¶27, 57-59, 63-71, 94-103, 109-122, 127-133, 136-137.

Further, competing non-infringing devices such as DiamondGlow (HydraFacial has never accused DiamondGlow of infringement) have sold extremely well without practicing the '287 patent. EX1041, ¶¶14-18; EX1094, ¶75.

4. Nectre's Low Sales Do Not Indicate that Other Consoles' Multi-Container Configuration Drives Their Sales

Mr. Leinsing's conclusion that the Nectre's low sales somehow suggest the multi-container configuration drives demand does not withstand scrutiny for additional reasons. First, the Wave product, which had multiple containers, [REDACTED] [REDACTED]. Mr. Leinsing did not consider Wave in his analysis. EX2010; EX1094, ¶¶90-93.

Second, the Nectre also lacked features that more successful consoles offer, like red and blue light therapy and lymphatic drainage. EX1094, ¶¶11, 29-38, 82-93, 123-126. Again, Mr. Leinsing failed to meaningfully consider whether these features impact sales.

Finally, [REDACTED]
[REDACTED]
[REDACTED].

EX1041, ¶¶23-26; EX1094, ¶¶57-59.

C. HydraFacial Has Not Established that Its Consoles Are "Commercially Successful"

The analysis by HydraFacial's economic expert of whether HydraFacial's consoles have been "commercially successful" in the first place is woefully inadequate and riddled with error. EX1094, ¶¶12-14, 23, 47-52, 72-81, 104-108, 134-135; Paper 36.

D. HydraFacial Fails to Prove Copying, Let Alone Nexus

HydraFacial also argues “copying by competitors” as a secondary consideration. POR, 81-85.

Notably, HydraFacial does not allege copying by Petitioners.

Instead, HydraFacial points to two prior litigations against other companies.

In *Edge Systems LLC v. Image MicroDerm, Inc.*, 2:17-cv-08699 (C.D. Cal.), which did not involve the ’287 patent, the consent judgment contains no admission of copying. EX1080. Indeed, HydraFacial’s complaint did not even allege copying. EX1079. Infringement alone does not establish copying. *Tokai*, 632 F.3d at 1370. Further, the Image MicroDerm product was quite different from HydraFacial’s consoles, and HydraFacial offers no copying analysis. POR, 85-86; EX2004, ¶¶449-58.

HydraFacial also cites an earlier case in which Raphael Aguila was found to have infringed patents unrelated to the ’287 patent. POR, 81-85; EX2005.

HydraFacial’s expert failed to examine the Aguila product, even though he had access to it. EX2004, ¶¶450-458; POR, 82-85, EX2161, 186-187. This failure is fatal, as the 1408 Investigation ALJ found. EX2161, 187.

V. CONCLUSION

The challenged claims are unpatentable.

Respectfully,

Date: 12-17-2025

/Scott McKeown/

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Counsel for Petitioners

CERTIFICATE OF WORD COUNT

Pursuant to 37 C.F.R. § 42.24, the undersigned certifies that the foregoing **PETITIONERS' REPLY TO PATENT OWNER'S RESPONSE** contains 5,600 words, excluding; a table of contents, a table of authorities, a certificate of service or word count, or appendix of exhibits or claim listing. Petitioners have relied on the word count feature of the word processing system used to create this paper in making this certification.

Date: December 17, 2025

/MacAulay Rush/

MacAulay Rush

Paralegal

WOLF, GREENFIELD & SACKS, P.C

CERTIFICATE OF SERVICE UNDER 37 C.F.R. § 42.6 (e)(4)

I certify that on December 17, 2025, a copy of the foregoing document, including any exhibits filed therewith, is being served via electronic mail, as previously consented to by Patent Owner, upon the following:

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