

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

EDGE SYSTEMS LLC,

Plaintiff,

vs.

CARTESSA AESTHETICS, LLC,

Defendant.

Case No. 1:20-cv-06082-GRB-ST

CARTESSA AESTHETICS, LLC'S ANSWER TO COMPLAINT

Cartessa Aesthetics, LLC ("Defendant" or "Cartessa") answers Plaintiff Edge Systems LLC ("Edge" or "Plaintiff") as follows.

THE PARTIES

1. Cartessa is without sufficient information to admit or deny the factual allegations of Paragraph No. 1 of the Complaint, and on that basis denies the same.
2. Cartessa admits to the allegations of Paragraph No. 2 of the Complaint.

JURISDICTION AND VENUE

3. Paragraph No. 3 of the Complaint contains no factual allegations to which Cartessa must respond. To the extent any factual allegations exist, Cartessa admits to the allegations of Paragraph No. 3 of the Complaint.
4. Paragraph No. 4 of the Complaint contains no factual allegations to which Cartessa must respond. To the extent any factual allegations exist, Cartessa admits that this court has subject matter jurisdiction under § 1338(a) and Cartessa is without sufficient information to admit or

deny whether the court has subject matter jurisdiction under §1331 and on that basis denies the same.

5. Cartessa admits to the allegations of the first two sentences of Paragraph No. 5 of the Complaint. Cartessa denies the allegations of the remainder of Paragraph No. 5 of the Complaint.

6. Cartessa admits venue is proper in this district under the complaint as currently alleged. Cartessa denies the remaining allegations of Paragraph No. 6 of the Complaint.

GENERAL ALLEGATIONS

The Edge Patents and Technology

7. Cartessa is without sufficient knowledge to admit or deny the allegations of Paragraph No. 7 of the Complaint, and on that basis denies the same.

8. Cartessa is without sufficient knowledge to admit or deny the allegations of Paragraph No. 8 of the Complaint, and on that basis denies the same.

9. Cartessa admits the '591 Patent on its face shows it was issued by the USPTO on November 4, 2003. Cartessa is without sufficient knowledge to admit or deny the remaining allegations of Paragraph No. 9 of the Complaint, and on that basis denies the same.

10. Cartessa admits the '716 Patent on its face shows it was issued by the USPTO on November 29, 2011. Cartessa is without sufficient knowledge to admit or deny the remaining allegations of Paragraph No. 10 of the Complaint, and on that basis denies the same.

11. Cartessa admits the '513 Patent on its face shows it was issued by the USPTO on December 25, 2012. Cartessa is without sufficient knowledge to admit or deny the remaining allegations of Paragraph No. 11 of the Complaint, and on that basis denies the same.

12. Cartessa admits the '052 Patent on its face shows it was issued by the USPTO on January 24, 2007. Cartessa is without sufficient knowledge to admit or deny the remaining allegations of Paragraph No. 12 of the Complaint, and on that basis denies the same.

13. Cartessa admits the '646 Patent on its face shows it was issued by the USPTO on October 3, 2017. Cartessa is without sufficient knowledge to admit or deny the remaining allegations of Paragraph No. 13 of the Complaint, and on that basis denies the same.

14. Cartessa is without sufficient knowledge to admit or deny the allegations of Paragraph No. 14 of the Complaint, and on that basis denies the same.

15. Cartessa admits the '591 Patent, the '716 Patent, the '513 Patent, and the '646 Patent are expired. Cartessa denies the remaining allegations of Paragraph No. 15 of the Complaint.

Defendant's Skinwave System and Aqua Scaling Tips.

16. Cartessa denies the allegations of Paragraph No. 16 of the Complaint.

17. Cartessa denies the allegations of Paragraph No. 17 of the Complaint.

18. Cartessa denies the allegations of Paragraph No. 18 of the Complaint as to allegations regarding Cartessa. To the extent the paragraph contains allegations with respect to third parties, Cartessa is without sufficient knowledge to admit or deny those allegations, and on that basis denies the same.

19. Cartessa denies the allegations of Paragraph No. 19 of the Complaint.

20. Cartessa denies the allegations of Paragraph No. 20 of the Complaint.

21. Cartessa denies the allegations of Paragraph No. 21 of the Complaint.

22. Cartessa denies the allegations of Paragraph No. 22 of the Complaint as to allegations regarding Cartessa. To the extent the paragraph contains allegations with respect to third parties, Cartessa is without sufficient knowledge to admit or deny those allegations, and on that basis denies the same.

23. Cartessa denies the allegations of Paragraph No. 23 of the Complaint.

24. Cartessa denies the allegations of Paragraph No. 24 of the Complaint.

25. Cartessa denies the allegations of Paragraph No. 25 of the Complaint as to allegations regarding Cartessa. To the extent the paragraph contains allegations with respect to third parties, Cartessa is without sufficient knowledge to admit or deny those allegations, and on that basis denies the same.

26. Cartessa denies the allegations of Paragraph No. 26 of the Complaint.

27. Cartessa denies the allegations of Paragraph No. 27 of the Complaint.

28. Cartessa denies the allegations of Paragraph No. 28 of the Complaint.

29. Cartessa denies the allegations of Paragraph No. 29 of the Complaint.

30. Cartessa denies the allegations of Paragraph No. 30 of the Complaint.

31. Cartessa denies the allegations of Paragraph No. 31 of the Complaint.

32. Cartessa denies the allegations of Paragraph No. 32 of the Complaint.

33. Cartessa denies the allegations of Paragraph No. 33 of the Complaint.

COUNT I

INFRINGEMENT OF THE '591 PATENT

34. Cartessa incorporates its response to each of the paragraphs, above.

35. Cartessa denies the allegations of Paragraph No. 35 of the Complaint.

36. Cartessa denies the allegations of Paragraph No. 36 of the Complaint.

37. Cartessa denies the allegations of Paragraph No. 37 of the Complaint.

38. Cartessa denies the allegations of Paragraph No. 38 of the Complaint.

39. Cartessa denies the allegations of Paragraph No. 39 of the Complaint.

COUNT II

INFRINGEMENT OF THE '513 PATENT

40. Cartessa incorporates its response to each of the paragraphs, above.

41. Cartessa denies the allegations of Paragraph No. 41 of the Complaint.

- 42. Cartessa denies the allegations of Paragraph No. 42 of the Complaint.
- 43. Cartessa denies the allegations of Paragraph No. 43 of the Complaint.
- 44. Cartessa denies the allegations of Paragraph No. 44 of the Complaint.
- 45. Cartessa denies the allegations of Paragraph No. 45 of the Complaint.

COUNT III

INFRINGEMENT OF THE '716 PATENT

- 46. Cartessa incorporates its response to each of the paragraphs, above.
- 47. Cartessa denies the allegations of Paragraph No. 47 of the Complaint.
- 48. Cartessa denies the allegations of Paragraph No. 48 of the Complaint.
- 49. Cartessa denies the allegations of Paragraph No. 49 of the Complaint.
- 50. Cartessa denies the allegations of Paragraph No. 50 of the Complaint.
- 51. Cartessa denies the allegations of Paragraph No. 51 of the Complaint.

COUNT IV

INFRINGEMENT OF THE '646 PATENT

- 52. Cartessa incorporates its response to each of the paragraphs, above.
- 53. Cartessa denies the allegations of Paragraph No. 53 of the Complaint.
- 54. Cartessa denies the allegations of Paragraph No. 54 of the Complaint.
- 55. Cartessa denies the allegations of Paragraph No. 55 of the Complaint.
- 56. Cartessa denies the allegations of Paragraph No. 56 of the Complaint.

VIII. COUNT V

INFRINGEMENT OF THE '052 PATENT

- 57. Cartessa incorporates its response to each of the paragraphs, above.
- 58. Cartessa denies the allegations of Paragraph No. 58 of the Complaint.
- 59. Cartessa denies the allegations of Paragraph No. 59 of the Complaint.

- 60. Cartessa denies the allegations of Paragraph No. 60 of the Complaint.
- 61. Cartessa denies the allegations of Paragraph No. 61 of the Complaint.
- 62. Cartessa denies the allegations of Paragraph No. 62 of the Complaint.
- 63. Cartessa denies the allegations of Paragraph No. 63 of the Complaint.

PRAYER FOR RELIEF

Cartessa denies Plaintiff is entitled to any relief.

DEFENSES

64. Cartessa does not infringe any enforceable and valid patent with any offerings. Cartessa asserts the following defenses. In asserting the defenses, Cartessa does not accept any evidentiary burden not otherwise required by law, including any burden to disprove any of Edge Systems' case.

FIRST DEFENSE: INVALIDITY

- 65. Each of the Asserted Patents is invalid.
- 66. Each of the Asserted Patents is invalid for failing to meet the requirements of 35 USC §§ 101, 102, 103, and 112. By example, the claims of the patents are invalid as combinations of prior art, including for instance a combination of the teachings of U.S. Pat. No. 6,162,232 and U.S. Pat. Pub. No. 2003/0212415.

SECOND DEFENSE: NON-INFRINGEMENT

- 67. The accused devices do not infringe any claim of the Asserted Patents.
- 68. The accused devices do not meet the limitations of the asserted claims of the Asserted Patents. By example, no accused device meets the limitation of "wherein the skin interface comprises an abrading structure with substantially sharp edges for abrading tissue" as required in an asserted claim of the '591 Patent. No accused device meets the limitation of "wherein the at least one surface element comprises at least one sharp edge configured to abrade skin when said

handheld device is moved relative to a skin surface” as required in an asserted claim of the ’513 Patent. No accused device meets the limitation of “a handheld device comprising a main body and a working end attached to a distal end of the main body, said main body defining a longitudinal axis, said working end comprising an abrading structure, wherein said abrading structure comprises a plurality of abrading elements configured to abrade skin, wherein each abrading element comprises a sharp edge” as required by an asserted claim of the ’716 Patent. No accused device meets the limitation of “wherein the vacuum source is configured to create a vacuum within the at least one waste passageway and the working end portion, and wherein the vacuum source is configured to simultaneously deliver a treatment media from the hydration treatment media source to the working end portion and remove spent treatment media away from the working end portion via the at least one waste passageway” as required by an asserted claim of the ’646 Patent.

THIRD DEFENSE: PROSECUTION HISTORY ESTOPPEL

69. Plaintiff is estopped from asserting the patents as presented against defendant because of prosecution history estoppel. By example, took positions before the USPTO that its patent should not be understood to be contrary to the following understandings: Plaintiff is estopped from asserting that an alleged abrading structure can rotate relative to the longitudinal axis of a main body of the device. Plaintiff is estopped from asserting that an alleged contact area between a handset tip and the skin is an abrading structure if the contact area differs from the teeth shown in Figure 9 of the ’591 Patent. Plaintiff is estopped from asserting that a handheld device meets the handpiece limitation if it differs from that shown in the Figures of the ’591 Patent.

FOURTH DEFENSE: WAIVER

70. Plaintiff has waived its right to assert the patents as presently asserted in the complaint. The waiver arises, at least, because of the demand letters presented to Cartessa are inconsistent

with the allegations of the complaint, its delay in filing suit, and because it behaved in a manner inconsistent with an intention to assert the patents against Cartessa.

FIFTH DEFENSE: ESTOPPEL

71. Plaintiff is estopped from asserted the patents against defendant. By example, Plaintiff is estopped based on its accusations of infringement against Defendant in this case and others prior to the suit in a manner inconsistent with claim construction positions asserted in other cases and the ultimate accusations of infringement in the present case. By example, the Plaintiff is estopped from accusing structures of having sharp edges on portions other than the apex of the structures because of its positions in other litigations and in demand letters presented in the present case.

SIXTH DEFENSE: UNCLEAN HANDS

72. Plaintiff is not entitled to equitable relief because Plaintiff comes to the Court with unclean hands. By example, Plaintiff acted with unclean hands and cannot assert the patents as stated in the complaint because Plaintiff acted with unclean hands and did not disclose to the USPTO prior art known to it to be material to prosecution of the patents-in-suit. Plaintiff acted with unclean hands and cannot assert the patent because its positions asserted in prosecution, in this case and in previous cases are inconsistent with meanings of terms as expressed within the patent specification, inconsistent with their plain and ordinary meaning, and inconsistent with the meaning as understood by an ordinarily skilled artisan. Plaintiff acted with unclean hands and cannot assert the patents as stated because of its improper use of its patent portfolio beyond any reasonable interpretation of the terms therein in its threats to businesses including the present defendant, including threats of accusing infringement beyond the plain meaning of the words in the claims according to *Phillips* standards, and threats of accusing infringement when no reading of expired claims can be applicable to defendant's conduct. Plaintiff acted with unclean hands by

accusing Defendant of induced infringement without any evidence of knowledge of the asserted patent.

SEVENTH DEFENSE: MARKING

73. Plaintiff is limited in recovery of damages because of its failure to mark according to 35 USC § 287.

PRAYER FOR RELIEF:

Cartessa prays the court enter an order denying all relief to Edge Systems; finding all patents-in-suit invalid and unenforceable; finding no infringement by Cartessa; finding the case exceptional in the light of the forgoing grounds and such other grounds to be developed during litigation.

Date: February 4, 2021

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