CLAIM 1 OF THE '052 PATENT

The image below shows the HydraFacial Tower system.



Id. at 1.

[redacted]

[a][i]: a console including a manifold,

The HydraFacial Tower is a system that comprises console including a manifold.

HydraFacial Tower Owner's Manual

The Tower Owner's Manual shows the console including a manifold:

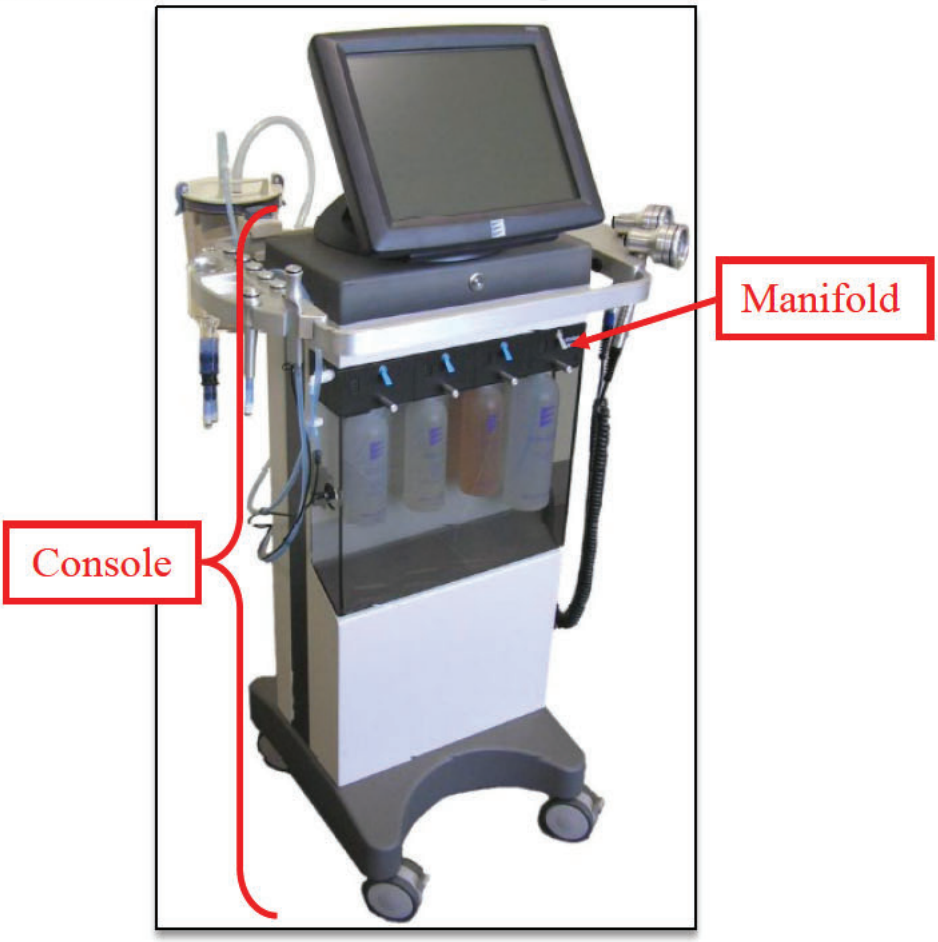


Exhibit B5 at 1. The manual references the "manifold" specifically as such, as shown in the image below:

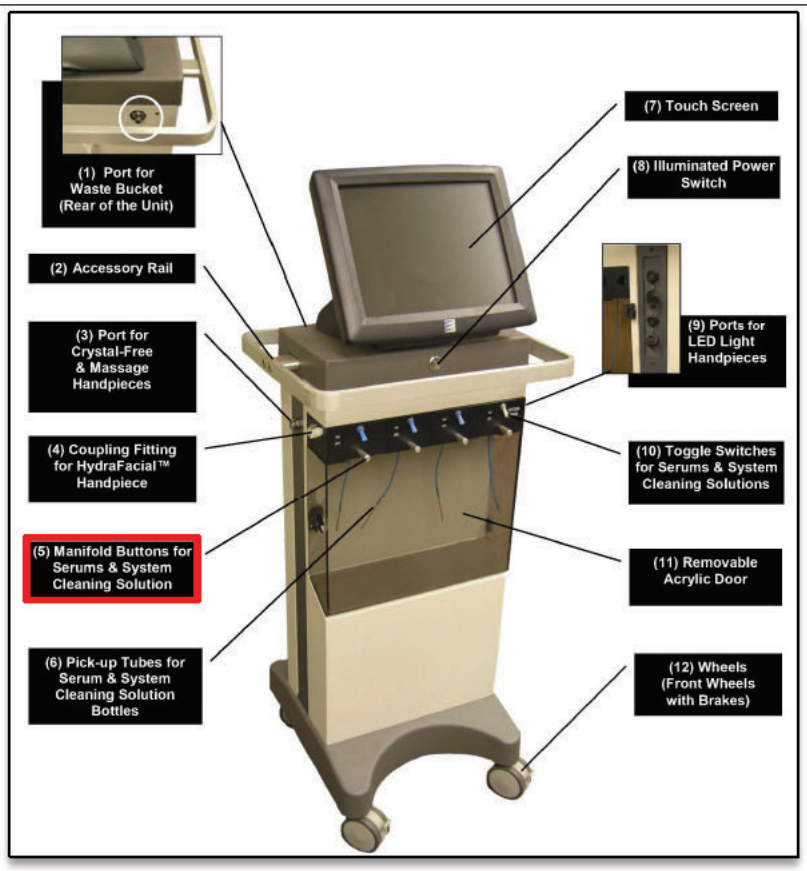
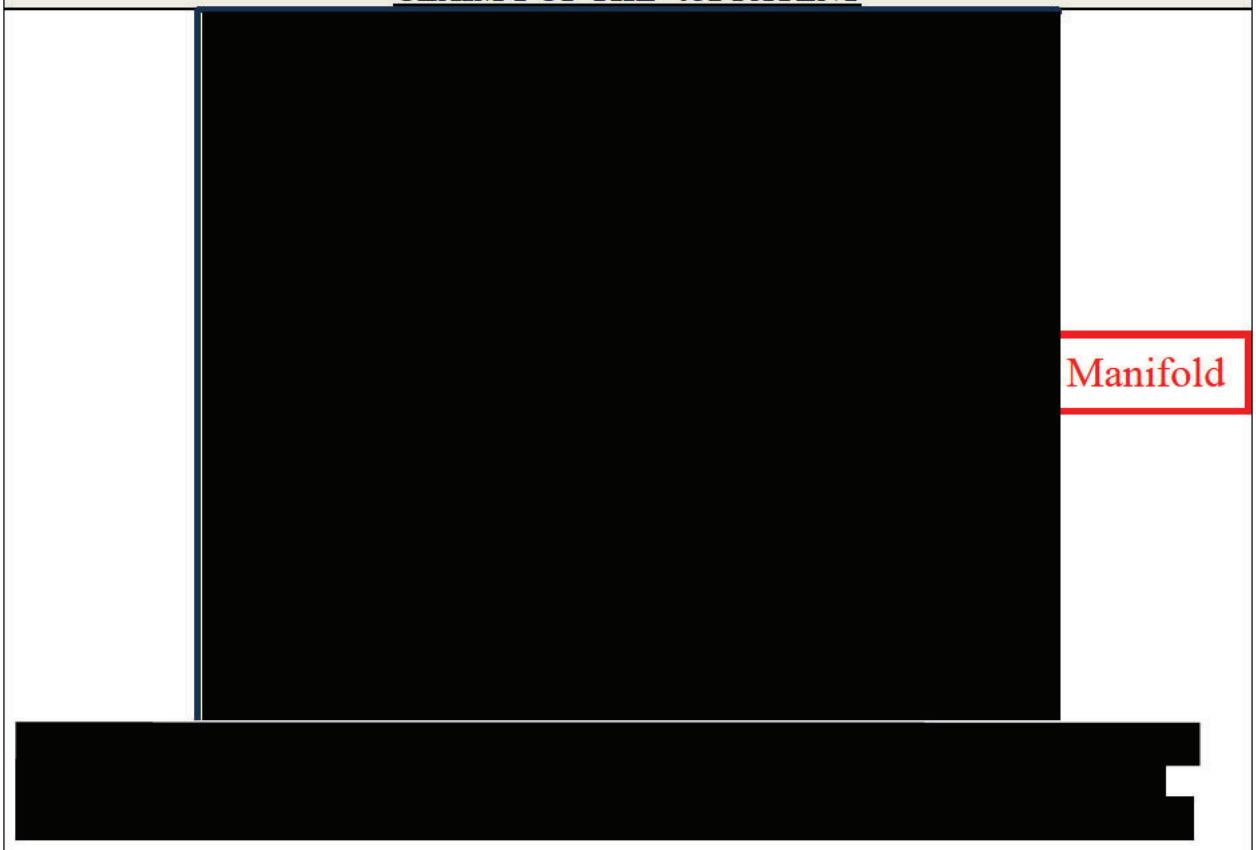


Exhibit B5 at 8.

[redacted]

3.45 Attach the Manifold Assembly (P/N 71114) to the Front Skin Using (2) #10-32 Socket Head Cap Screws (P/N 16219).

CLAIM 1 OF THE '052 PATENT



[a][ii]: the manifold being in fluid communication with a first fluid container and at least a second fluid container,

The manifold of the HydraFacial Tower is in fluid communication with a first fluid container and at least a second fluid container.

HydraFacial Tower Owner's Manual

The Tower's Owner's Manual depicts the system and console configured to receive a first fluid container and additional containers (including the second fluid container) via tubing for receiving fluid from containers to the block of the manifold:

CLAIM 1 OF THE '052 PATENT

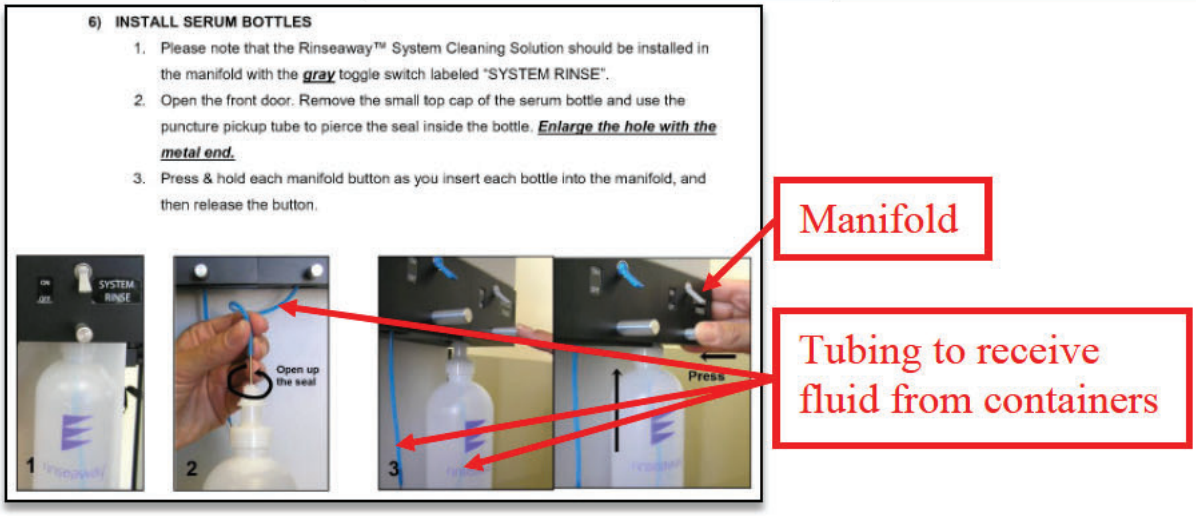
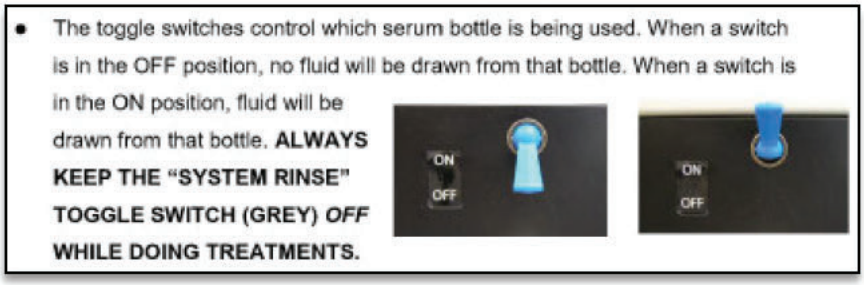


Exhibit B5 at 13. As shown above, tubing to receive fluid from containers enters the container, allowing the manifold to receive fluid from the containers. Toggle switches on the block determine which container the manifold will receive fluid from.



Id.

[redacted]

The Manifold Assembly of the Tower shares the same part number as the manifold of the HydraFacial Elite, and thus, HydraFacial incorporates by reference its analysis of the manifold of the Elite as described, *inter alia*, in limitations 1[a][i]-[ii] above.

[a][iii]: the first fluid container and the at least the second fluid container being configured to contain a treatment material for a skin treatment procedure, wherein the treatment material comprises a liquid;

The first fluid container and the at least second fluid container of the HydraFacial Tower are configured to contain a treatment material for a skin treatment procedure, wherein the treatment material comprises a liquid.

CLAIM 1 OF THE '052 PATENT

HydraFacial Tower Owner's Manual

The Tower owner's manual describes how to "INSTALL SERUM BOTTLES," instructing a user to "insert each bottle into the manifold."

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.

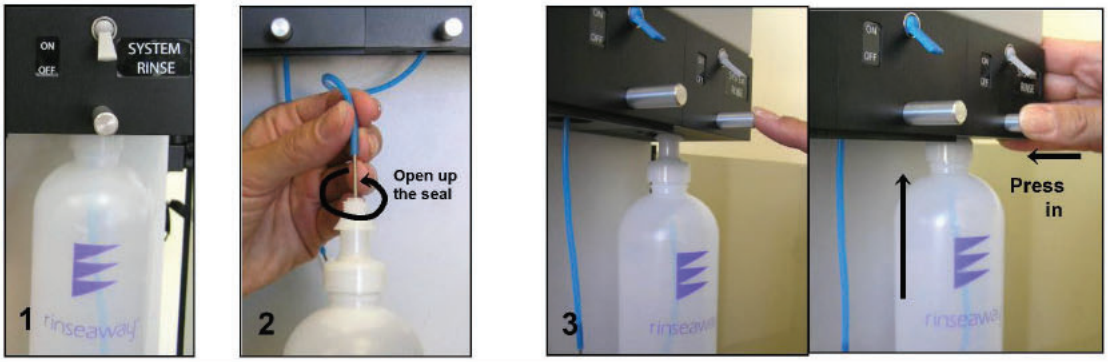


Exhibit B5 at 13. [redacted] *see also* **Exhibit B5** at 3 (describing a HydraFacial™ as "remov[ing] dead skin cells and impurities while simultaneously infusing the new skin with cleansing, hydrating and moisturizing serums & antioxidants").

[b]: a handpiece assembly comprising a tip, the tip being configured to contact a skin surface of a subject;

The HydraFacial Tower comprises a handpiece assembly comprising a tip, with the tip being configured to contact a skin surface of a subject.

HydraFacial Tower Owner's Manual

The HydraFacial Tower Owner's manual includes the figure below depicting the system comprising a handpiece assembly.

CLAIM 1 OF THE '052 PATENT

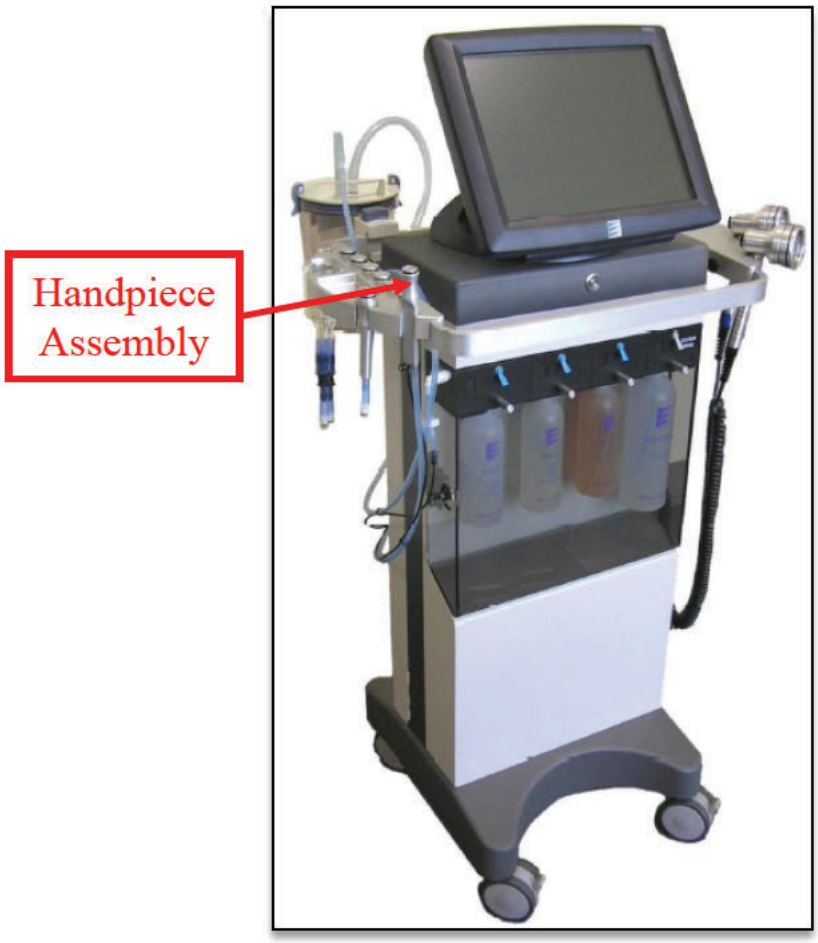
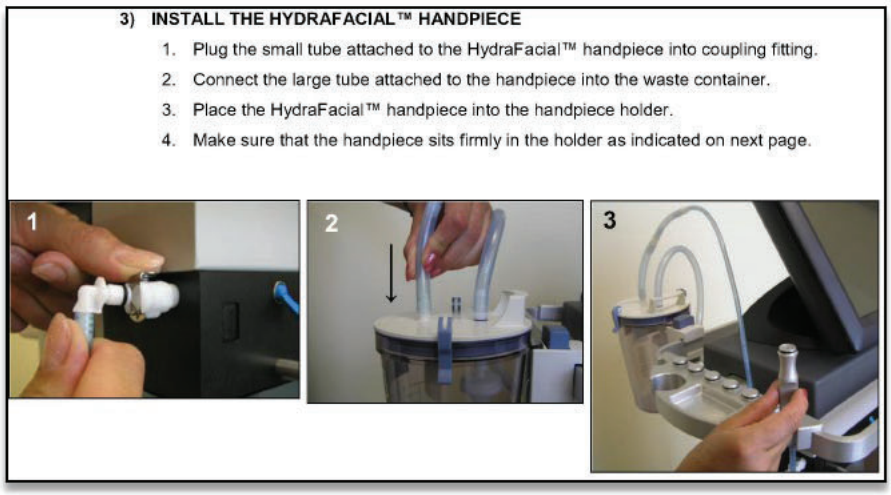


Exhibit B5 at 1. The owner's manual describes the installation of the handpiece and its connection to the Tower's console:



Id. at 10. The manual further cautions a user that if there is "NO OR LOW FLUID FLOW," "[m]ake sure the plastic tip is firmly installed onto [the] HYDRAPEEL handpiece." *Id.* at 18.

CLAIM 1 OF THE '052 PATENT

[redacted]

[c]: a supply conduit placing the manifold of the console in fluid communication with the handpiece assembly, wherein a distal end of the supply conduit is configured to couple to the handpiece assembly;

The HydraFacial Tower has a supply conduit that places the manifold in fluid communication with the handpiece assembly when the handpiece assembly is connected to the console. Further, the distal end of the supply conduit is configured to couple to the handpiece assembly.

HydraFacial Tower Owner's Manual

The Tower Owner's Manual describes connecting a "small tube" between the handpiece assembly and the console, where the "small tube" serves as the supply conduit through which the manifold is in fluid communication with the handpiece assembly.

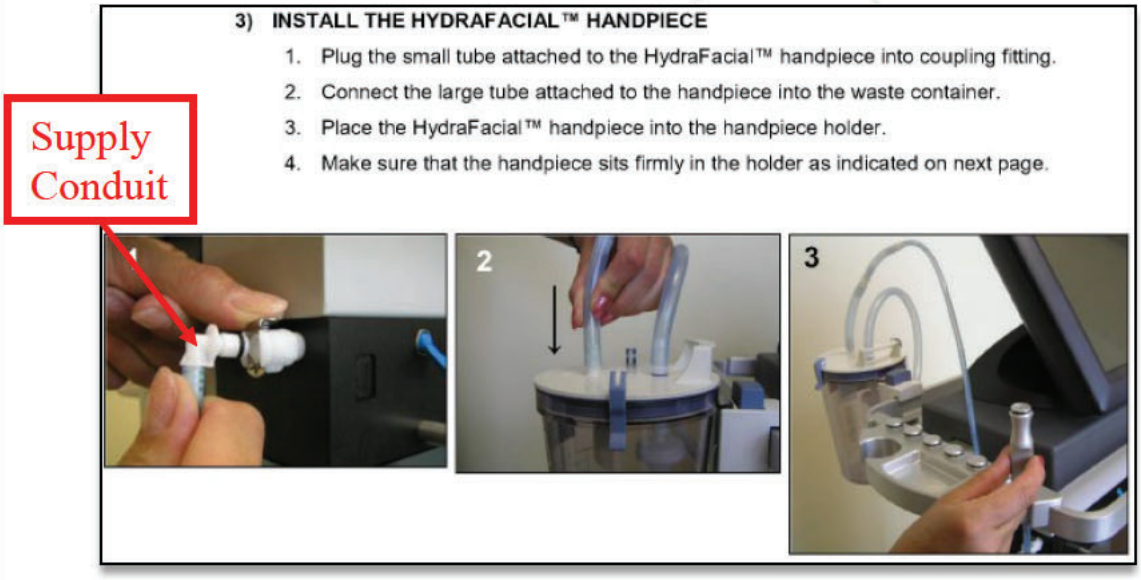
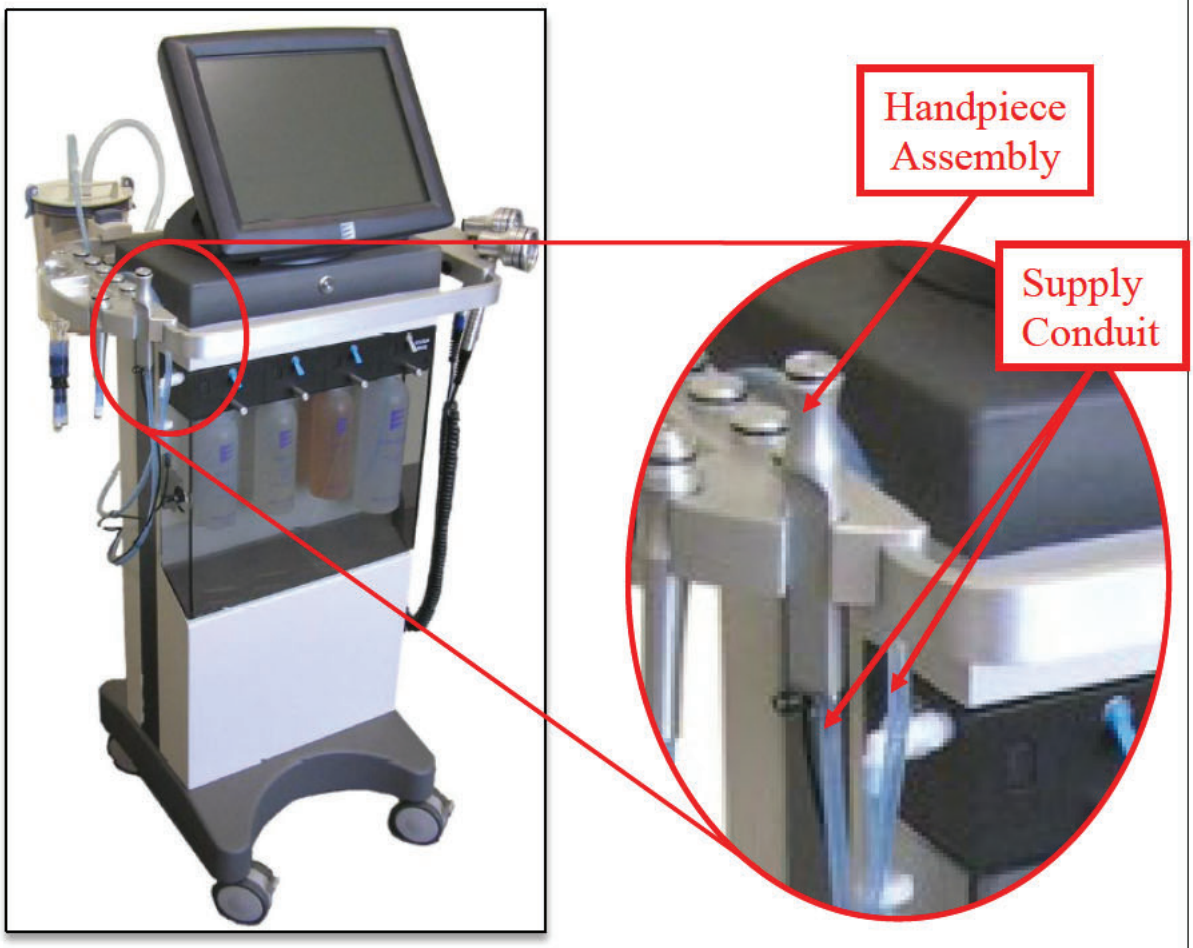


Exhibit B5 at 10. The supply conduit extends from the manifold in the console through tubing to the handpiece assembly.

CLAIM 1 OF THE '052 PATENT



Id. at 1. The Manifold Assembly of the Tower shares the same part number as the manifold of the HydraFacial Elite, and thus, HydraFacial incorporates by reference its analysis of the manifold of the Elite as described, *inter alia*, in limitations 1[a][i]-[ii] above.

[d]: wherein the manifold is configured to control a flow of treatment material from the first fluid container and at least the second fluid container through the supply conduit; and

The manifold of the HydraFacial Tower is configured to control a flow of treatment material from the first fluid container and at least the second fluid container through the supply conduit.

As described above, the supply conduit extends from the handpiece assembly to the manifold, which is in fluid communication with the fluid containers (including the first and second fluid containers). *See* limitation 1[c], *supra*. As explained below, the manifold in fluid communication with the fluid containers is configured to control a flow of treatment material from the first fluid container and at least the second fluid container through the supply conduit.

CLAIM 1 OF THE '052 PATENT

HydraFacial Tower Owner's Manual

The Tower Owner's Manual shows toggle switches on the manifold to control the flow of treatment material from the fluid containers:

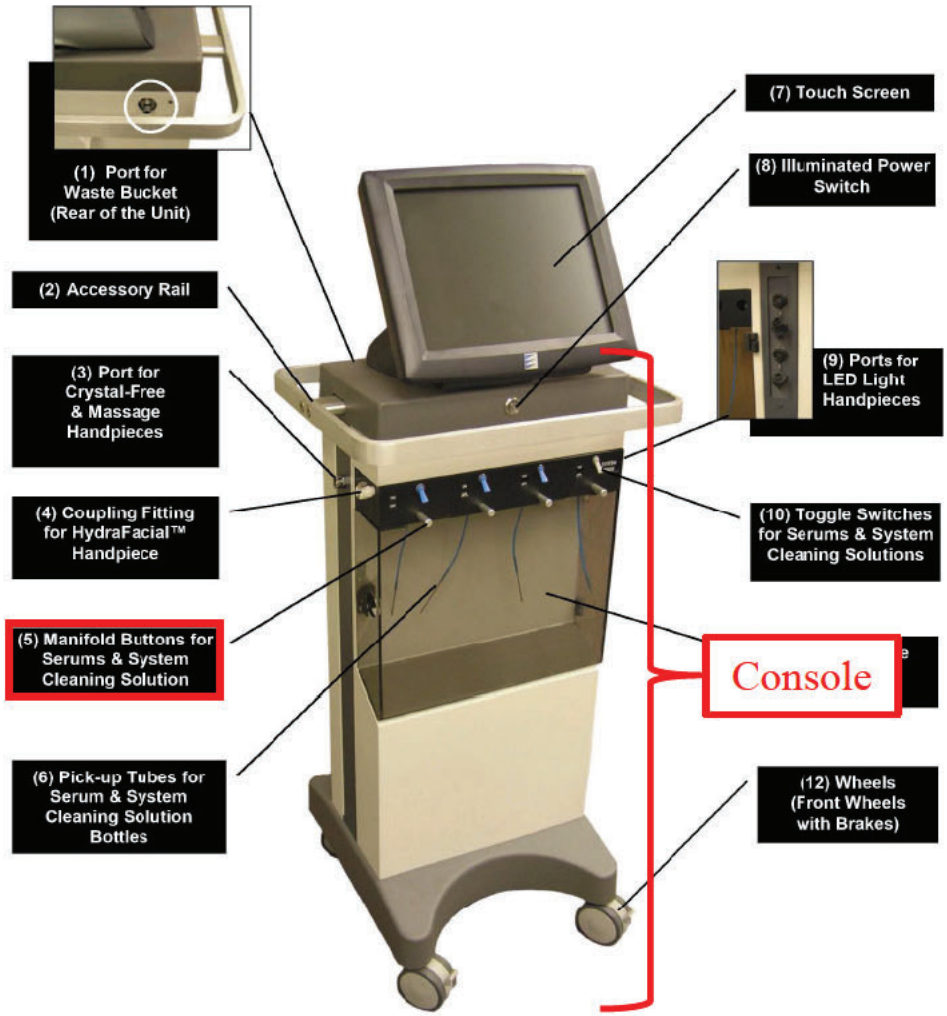


Exhibit B5 at 8.

The Tower Owner's Manual explains that "[t]he 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." *Id.* Thus, for example, when the switch for the first fluid container is ON and the switch for the at least the second fluid container is OFF, treatment fluid will be delivered to the handpiece assembly from the first fluid container only. Thereafter, when the switch for the first fluid container is OFF and the switch for the at least the second fluid container is ON, treatment fluid will be delivered to the handpiece assembly from the at least the second fluid container only. In this manner, through operation of the toggle switches, the manifold controls a flow of treatment material from the first fluid container and at least the second fluid container through the supply conduit. 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 20.

CLAIM 1 OF THE '052 PATENT
[redacted]
[e]: a vacuum source;
The HydraFacial Tower comprises a vacuum source, wherein the console comprises the vacuum source. [redacted]

CLAIM 1 OF THE '052 PATENT

[redacted]

HydraFacial Tower Owner's Manual

The Tower Owner's Manual describes the Tower having a vacuum, which a user can adjust.

> 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.

Exhibit B5 at 3.

CLAIM 1 OF THE '052 PATENT

[f]: a waste conduit in fluid communication with the tip of the handpiece assembly to remove waste away from a skin surface of a subject during a skin treatment procedure, wherein the waste conduit is operatively coupled to the vacuum source; and

The HydraFacial Tower comprises a waste conduit in fluid communication with the tip of the handpiece assembly to remove waste away from a skin surface of a subject during a skin treatment procedure, wherein the waste conduit is operatively coupled to the vacuum source.

HydraFacial Tower Owner's Manual

The Tower Owner's Manual illustrates and describes a "large tube" attached to the handpiece assembly, wherein the large tube serves as a portion of the waste conduit through which the tip of the handpiece assembly is in fluid communication with the vacuum source (the "supply conduit" described above is also labeled for reference and clarity in the illustrations below).

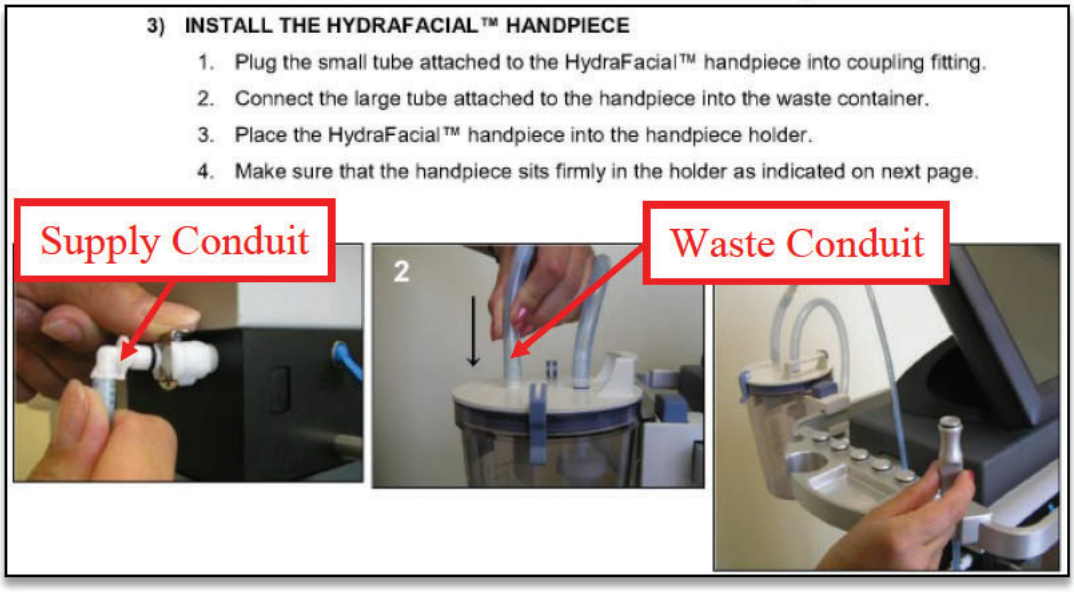
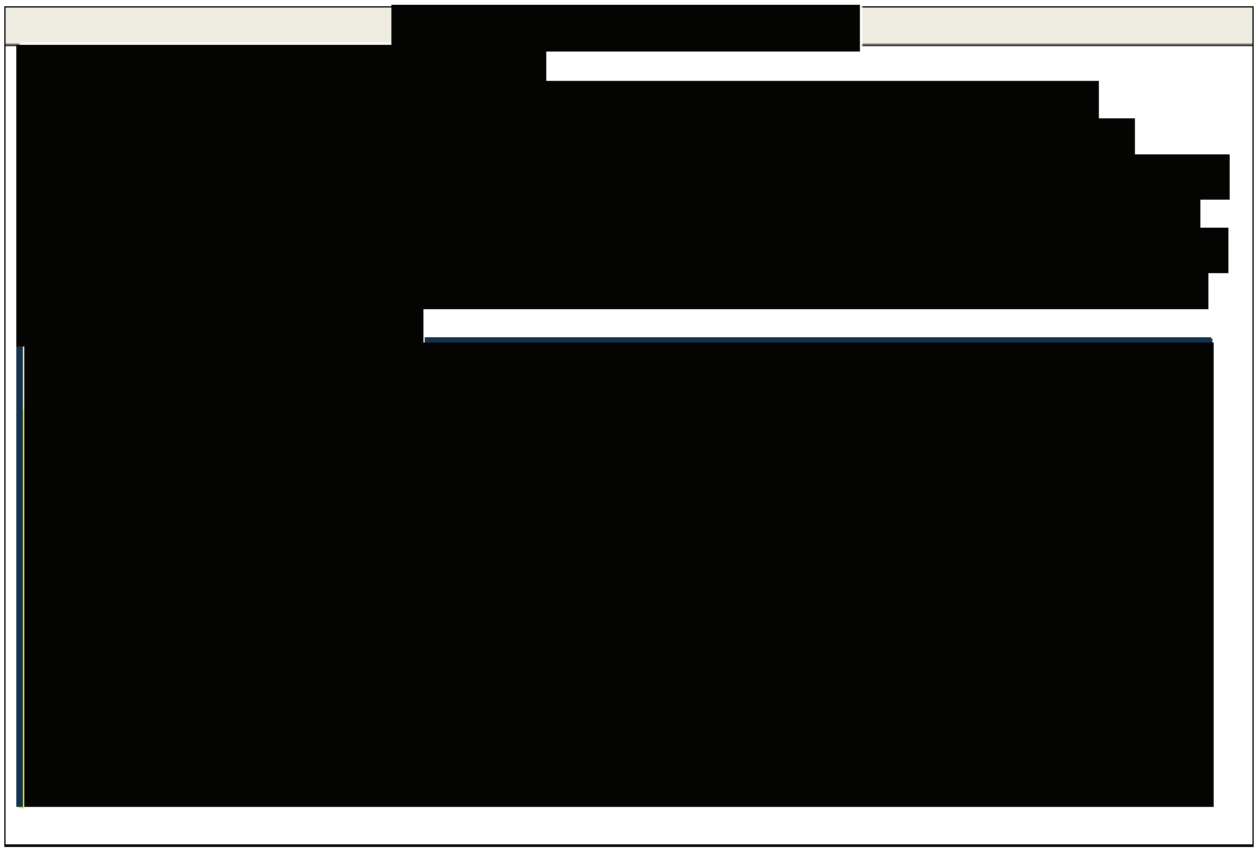


Exhibit B5 at 10. The waste conduit continues through the waste container and through a port for the waste container on the console, as shown in the image below:



Id. at 9.



CLAIM 1 OF THE '052 PATENT

[redacted]

CLAIM 1 OF THE '052 PATENT

[redacted]

[g]: wherein the system is configured to permit a user to select the treatment material from the first fluid container or the at least second fluid container to be delivered through the supply conduit to the handpiece assembly; and

The HydraFacial Tower is configured to permit a user to select the treatment material from the first fluid container or the at least second fluid container to be delivered through the supply conduit to the handpiece assembly.

As described above, the manifold is configured to control a flow of treatment material from the first fluid container and at least the second fluid container through the supply conduit. *See* limitations 1[a][i] and [d], *supra*. As described below, the HydraFacial Tower permits a user to select the treatment material to be delivered through the supply conduit to the handpiece assembly.

HydraFacial Tower Owner's Manual

The Tower Owner's Manual explains that a user may select which bottle (and thus which skin solution) is used during treatment by flipping the toggle switches on the manifold for the selected bottle:

CLAIM 1 OF THE '052 PATENT

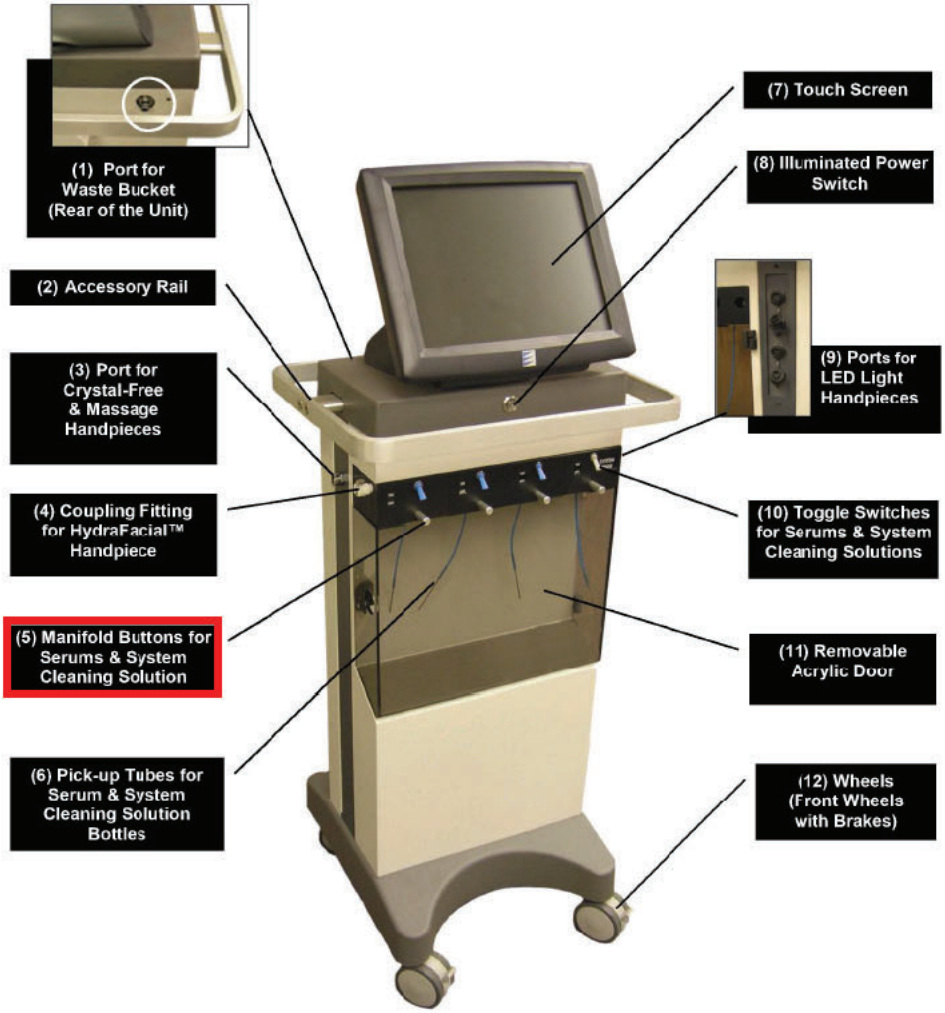


Exhibit B5 at 8.

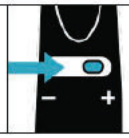
The Tower Owner's Manual explains that "[t]he toggle switches control which serum bottle is being used. When a switch is in the OFF position, no fluid will be drawn from that bottle. When a switch is in the ON position, fluid will be drawn from that bottle." *Id.* Thus, for example, when the switch for the first fluid container is ON and the switch for the at least the second fluid container is OFF, treatment fluid will be delivered to the handpiece assembly from the first fluid container only. Thereafter, when the switch for the first fluid container is OFF and the switch for the at least the second fluid container is ON, treatment fluid will be delivered to the handpiece assembly from the at least the second fluid container only. In this manner, through operation of the toggle switches, the Tower permits a user to select the treatment material from the first fluid container or the at least second fluid container to be delivered through the supply conduit to the handpiece assembly. 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 20.

CLAIM 1 OF THE '052 PATENT
[redacted]
[h]: wherein, when the vacuum source is activated and the tip contacts the skin surface, a suction force is created within the waste conduit and along the tip, thereby removing waste from the skin surface via the waste conduit while drawing treatment material from the first fluid container or the second fluid container to the tip via the supply conduit.
When the vacuum source is activated and the tip contacts the skin surface, a suction force is created within the waste conduit and along the tip, thereby removing waste from the skin surface via the waste conduit while drawing treatment material from the first fluid container or the second fluid container to the tip via the supply conduit. As explained above, the HydraFacial Tower has (1) a waste conduit in fluid communication with the tip of the handpiece assembly to remove waste away from a skin surface of a subject during a skin treatment procedure, (2) a vacuum source operatively coupled to the waste conduit, (3) a handpiece assembly with a tip that is configured to contact a skin surface of a subject during treatment, and (4) a manifold configured to control a flow of treatment material from the first fluid container and at least the second fluid container through the supply conduit to the handpiece assembly. *See* limitations 1[b], [c], [d], and [f], *supra*. As shown below, it is the same suction force that removes waste from the skin surface via the waste conduit that also draws treatment material from the first fluid container or the second fluid container to the tip via the supply conduit.

CLAIM 1 OF THE '052 PATENT

HydraFacial Tower Owner's Manual

The "Troubleshooting" section of the Allegro IFU warns that, "[i]f the canister becomes overfull, a built-in float will occlude the vacuum opening and skin solution flow through the handpiece will cease." **Exhibit B5** at 17. The recommended solution to this situation is to "[e]mpty the waste canister after each service." *Id.*

Low or No Fluid Flow	Toggle Switch	Make sure the switch is on.
	Empty bottle	Make sure your skin solution bottle is not empty.
	Improper connection	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.
	Tip is improperly installed	Make sure the tip is firmly installed onto the handpiece. Angled tips should face downwards in order to facilitate flow.
	Flow control valve is closed	Make sure the flow control valve on the handpiece is open. To increase fluid flow, turn the flow control valve towards the + sign. 
	Leak in the line	Check lines for any kinks or leaks. Repuncture bottle if needed.
	Faulty station	If using only one station at a time, turn current station off and try another station. If this corrects the problem please check on the previous station that internal bottle seal is completely broken and pick up assembly (metal portion) is fully submerged.
	Operator technique	Make sure that you are holding the handpiece correctly and not working against gravity or blocking the tubing.
	Waste canister is full	**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. Empty the waste container after each service.
	Clogging	Flush all stations thoroughly. Make sure the machine is cleaned after each service.
	Gray Cartridge is loose	Make sure that the gray cartridge is properly inserted into the handpiece. The arrow on the cartridge should line up with the lock symbol. 

Id.

[redacted]

99. For all of these reasons, the HydraFacial Tower practices claim 1 of the '052 Patent.

100. I address how the Syndeo system practices each limitation of claim 22 of the '287 Patent in the claim chart below.

CLAIM 22 OF THE '287 PATENT

Preamble 22[pre]: A system for treating skin, the system comprising:

To the extent that the preamble is deemed to be a limitation, the HydraFacial Syndeo is a system treating skin.

HydraFacial Syndeo IFUs

The Syndeo IFU states "[t]he System is intended to abrade (exfoliate) the upper layers of the skin":

> **Intended Use**
> The System is intended to abrade (exfoliate) the upper layers of the skin.
> Indication (related to the use of the device in the European Economic Area (EEA):
> - Mild to moderate acne, i.e. acne vulgaris, comedonal acne (blackheads and whiteheads).
> - Superficial acne scarring.

Exhibit B2 at 4. The Syndeo IFU further describes a step of the treatment: "Place tip against skin to occlude and dab skin solution onto skin." *Id.* at 19.

Photos of the HydraFacial Syndeo

The photo below shows the HydraFacial Syndeo system.



Exhibit A1.

[a] a console configured to receive a first container and at least one additional container;

The HydraFacial Syndeo comprises a console configured to receive a first container and at least one additional container.

CLAIM 22 OF THE '287 PATENT

HydraFacial Syndeo IFUs

The Syndeo IFU depicts the system and console configured to receive a first container and additional containers:

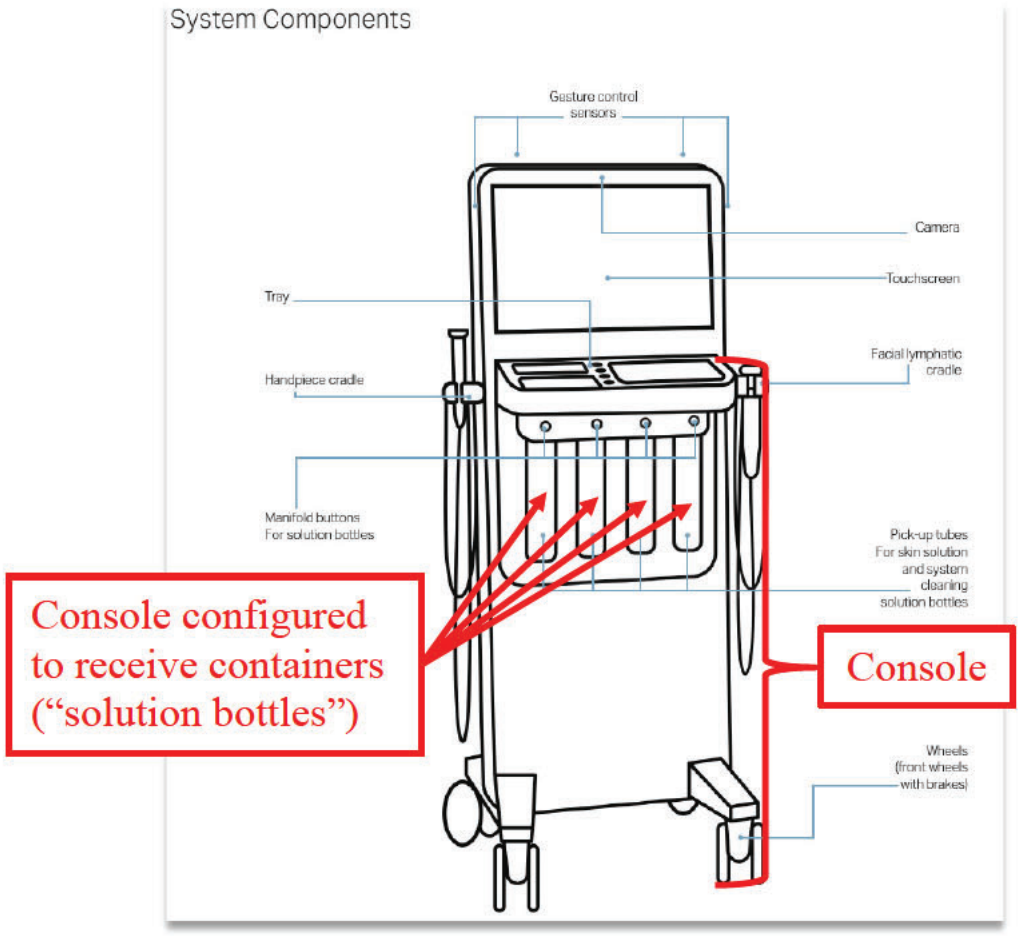


Exhibit B2 at 10.

The Syndeo IFU also describes connecting the containers (including the first and second containers) to the console such that the manifold is configured to receive fluid from the containers (including the first and second containers):

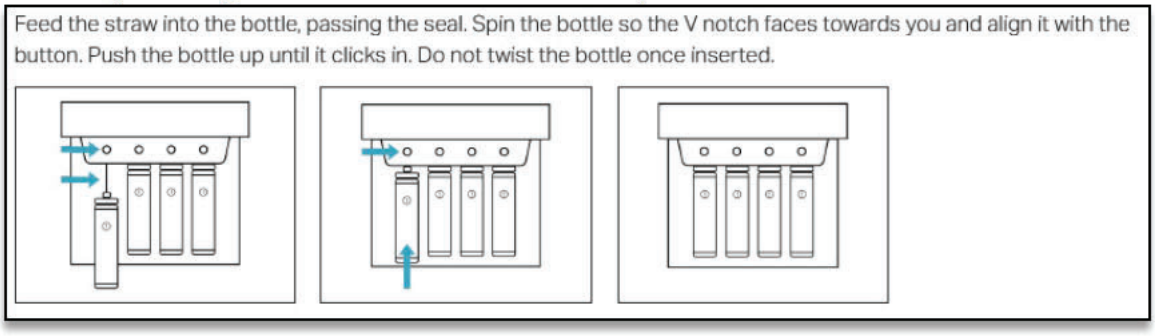


Exhibit B4 at 13.

Photos of HydraFacial Syndeo

The photo below shows the HydraFacial Syndeo console configured to receive a first container and at least one additional container:

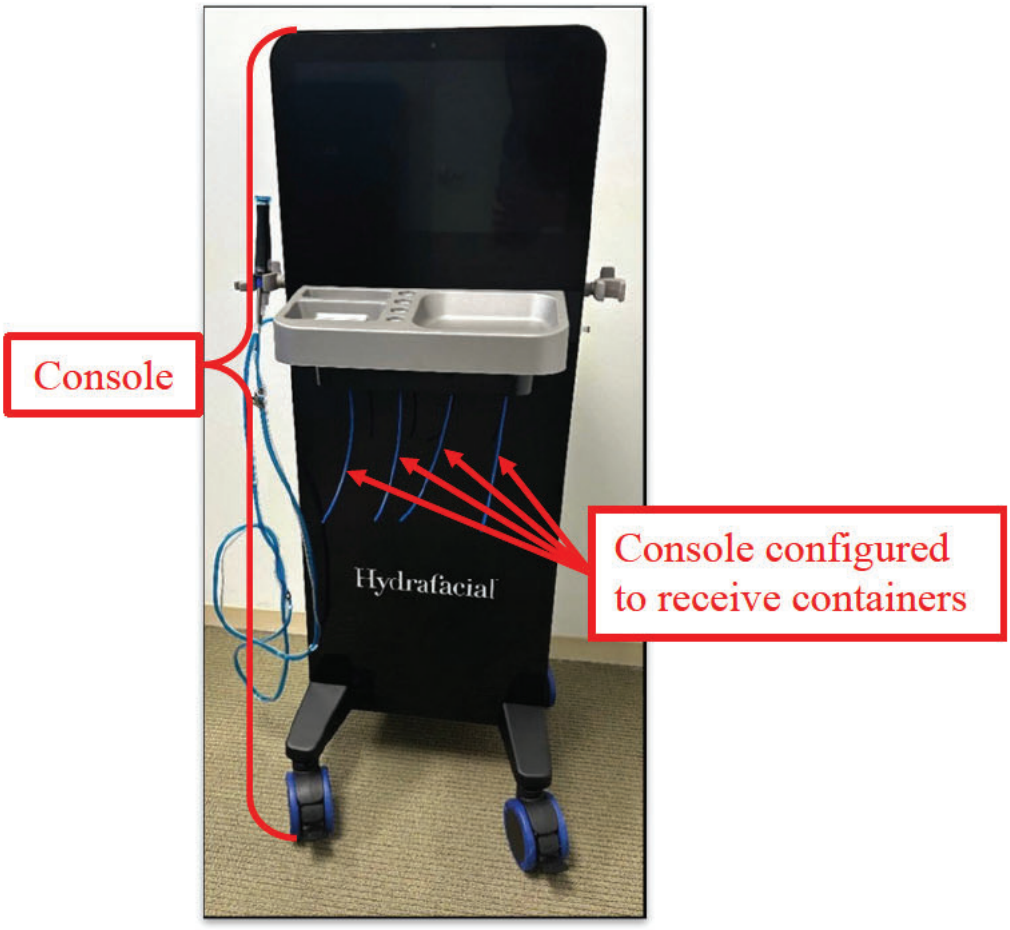


Exhibit A2. As shown in the image below, the console of the Syndeo receives a first container and at least one additional container:

CLAIM 22 OF THE '287 PATENT

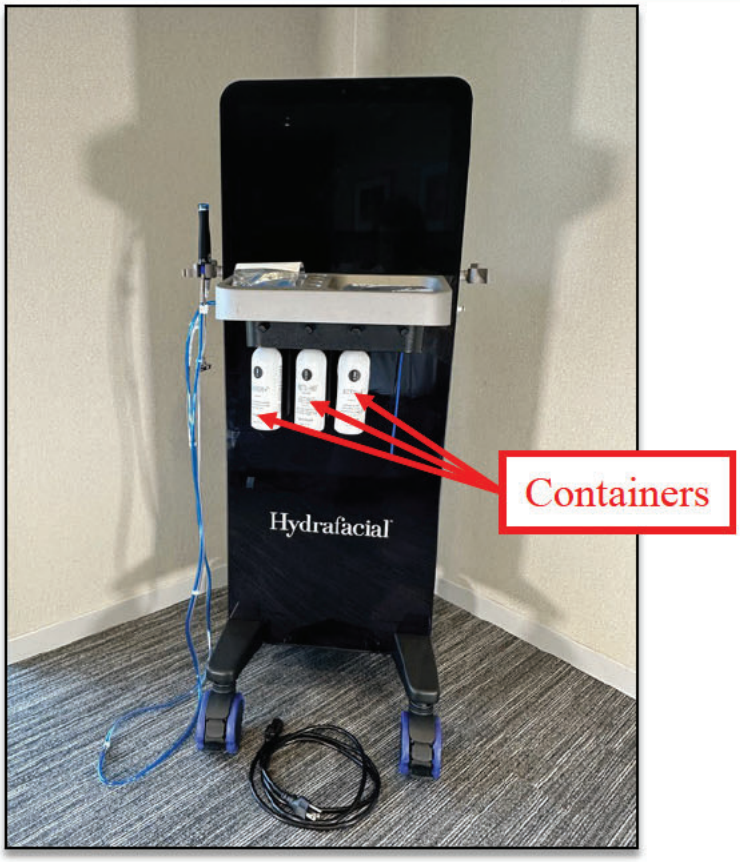


Exhibit A2. The console can receive the containers when a user depresses buttons corresponding to respective containers.

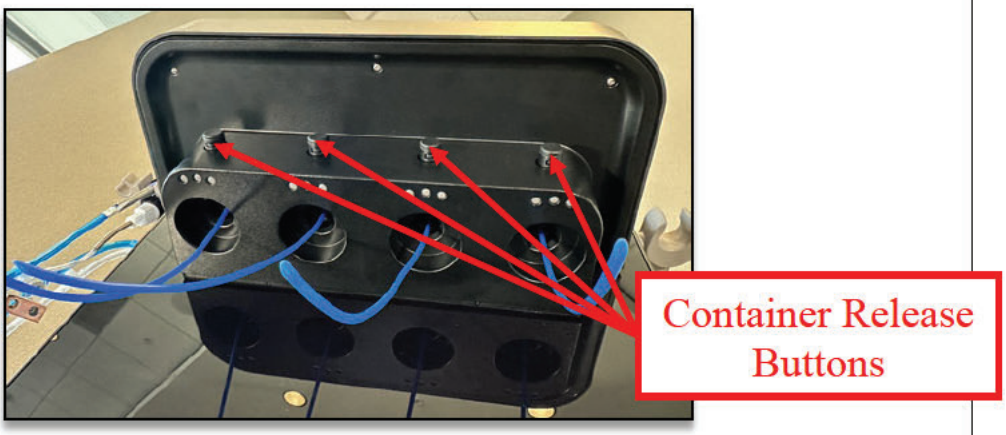


Exhibit A15.

CLAIM 22 OF THE '287 PATENT
[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; and

The HydraFacial Syndeo comprises 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.

HydraFacial Syndeo IFUs

The Syndeo IFU shows the system having a collection lumen at the location shown below (the collection lumen is an internal component of the system and located within the console):

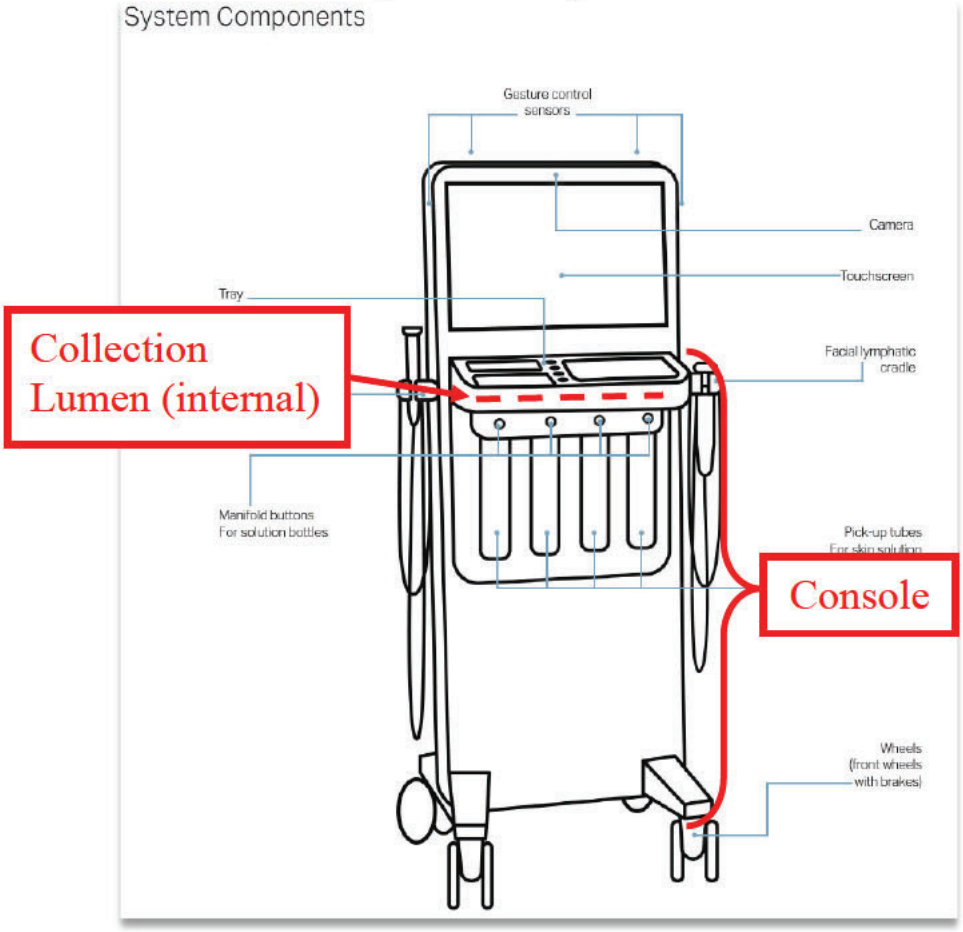


Exhibit B2 at 10.

Photos of HydraFacial Syndeo

The HydraFacial Syndeo system includes a collection lumen in the console, with tubing extending from a structure surrounding the collection lumen for receiving fluid from a first container and at least one additional container both connected to the console:

CLAIM 22 OF THE '287 PATENT

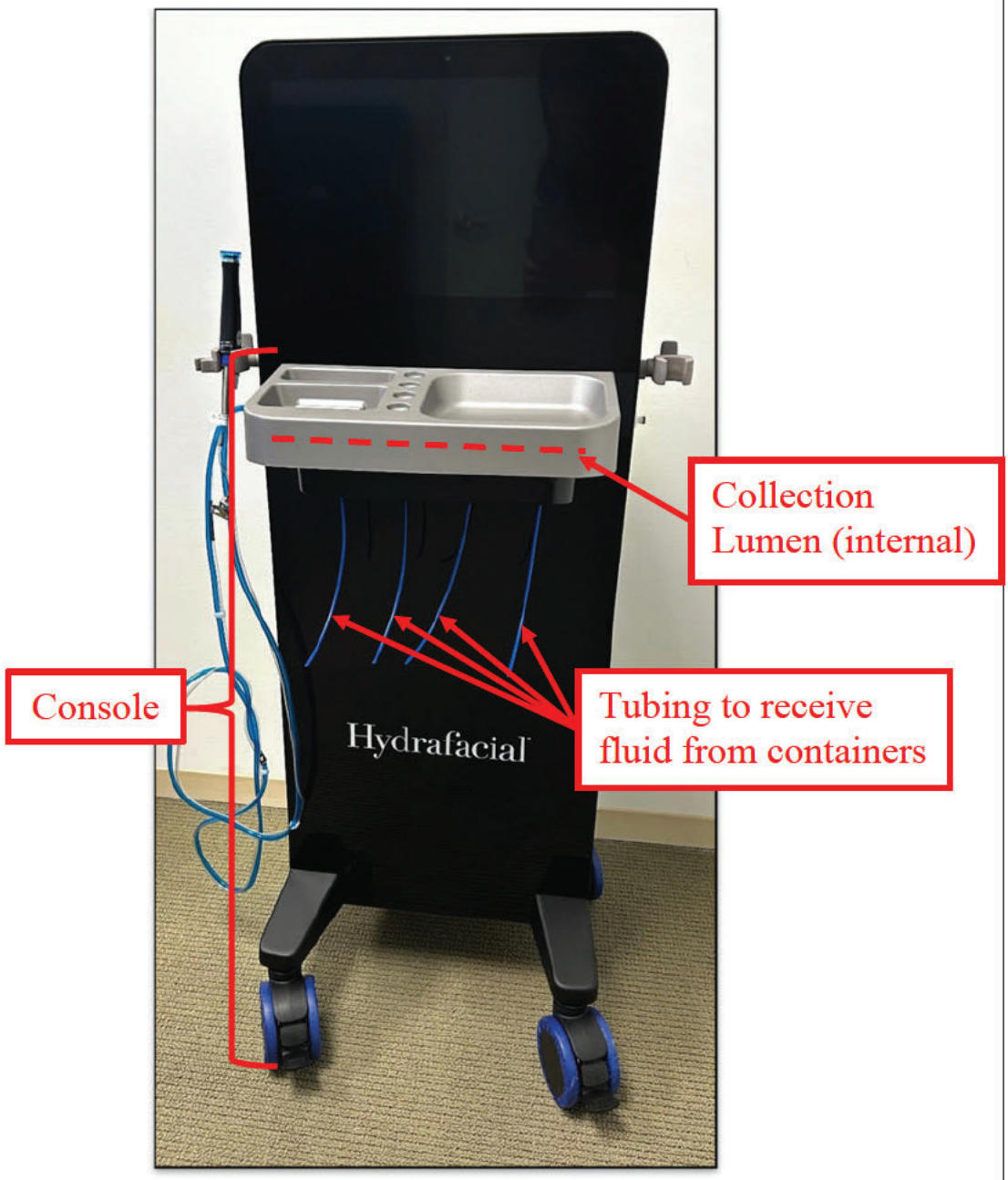


Exhibit A2.

The photo below shows the structure surrounding the collection lumen in the console of the HydraFacial Syndeo system.

CLAIM 22 OF THE '287 PATENT

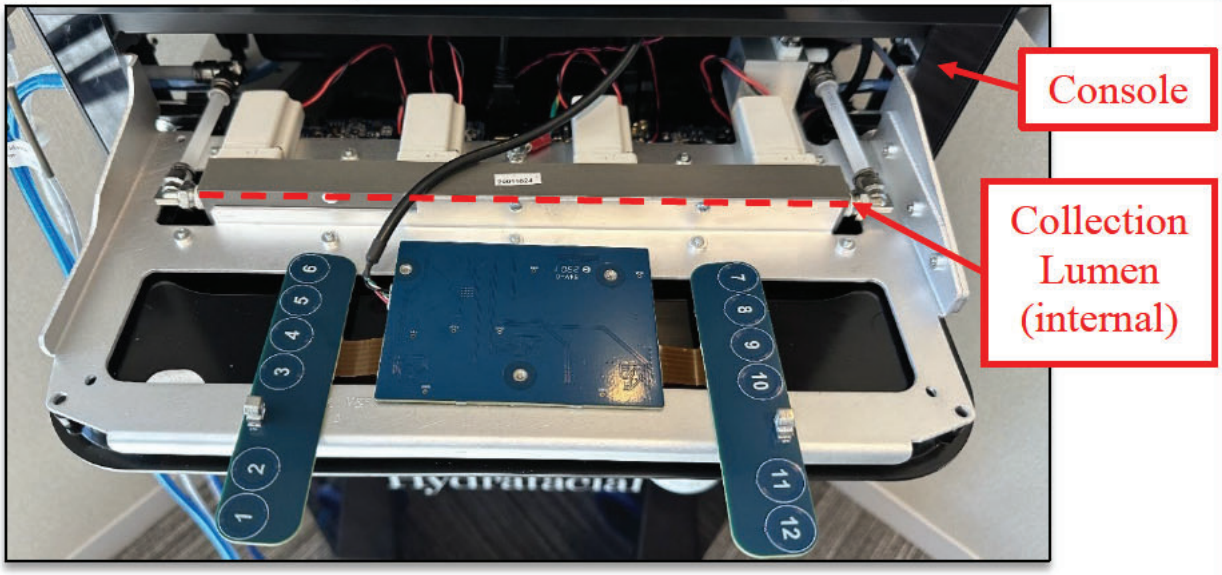


Exhibit A3. The photos below show a collection lumen configured to be in fluid communication with the first container and the at least one additional container when the first container and the at least one additional container are connected to the console via tubing that extends from the containers to the structure surrounding the collection lumen, where the tubing deposits into the collection lumen.

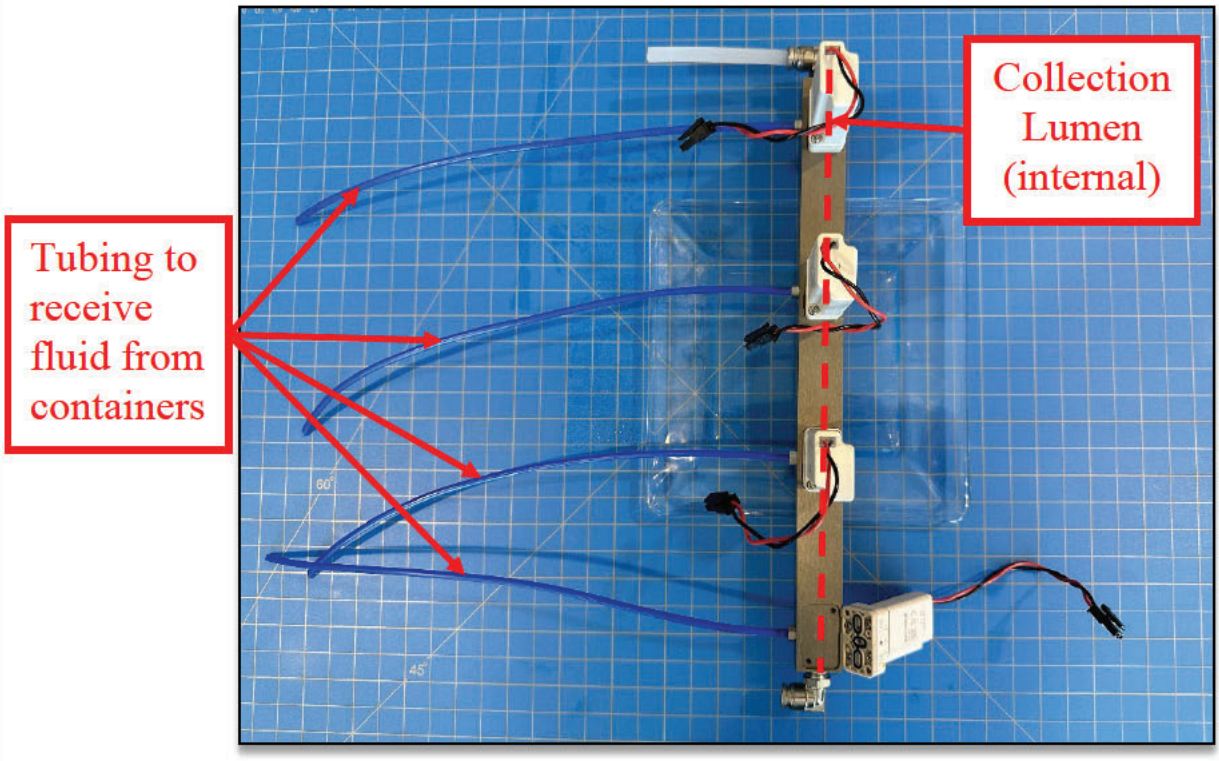


Exhibit A4.

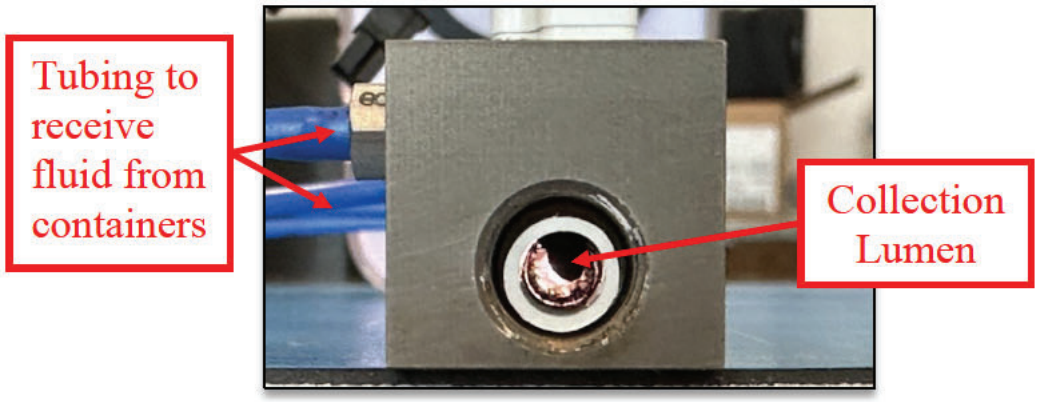


Exhibit A13.

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.

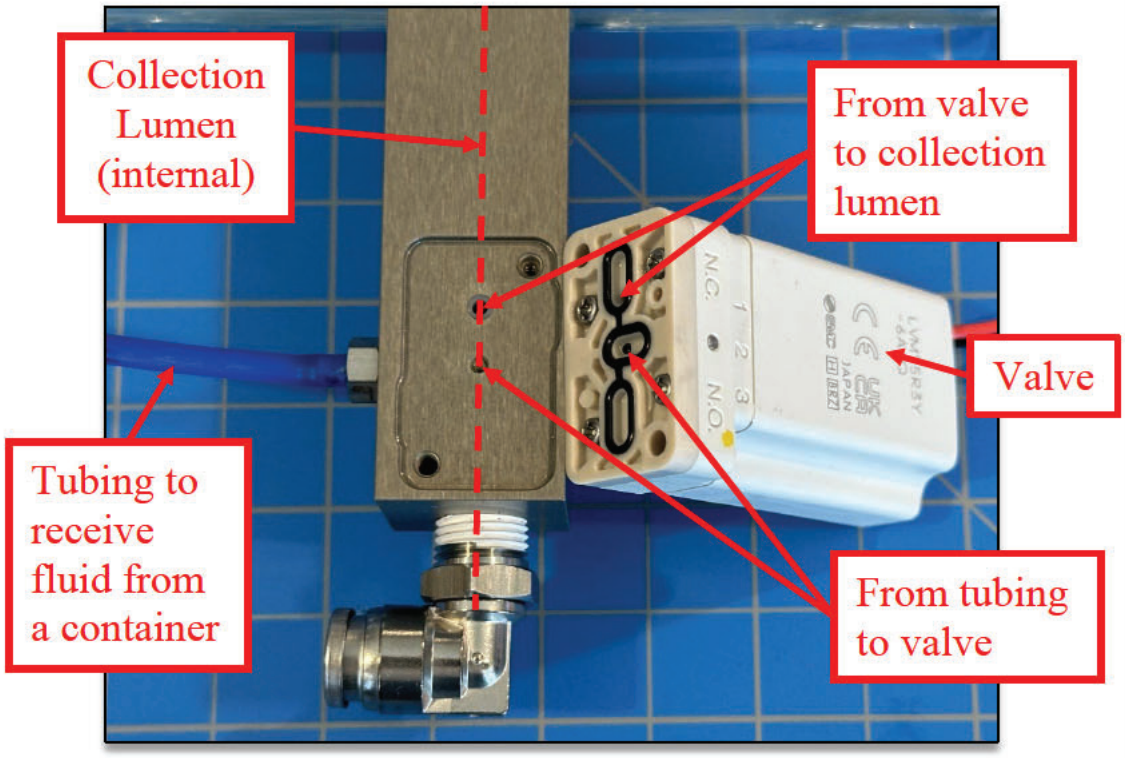
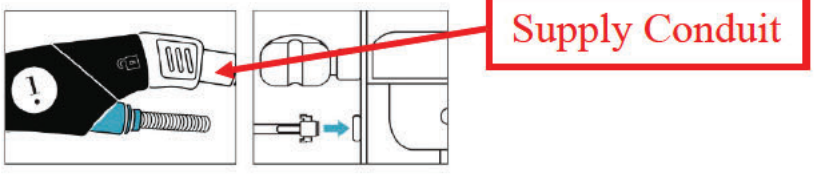
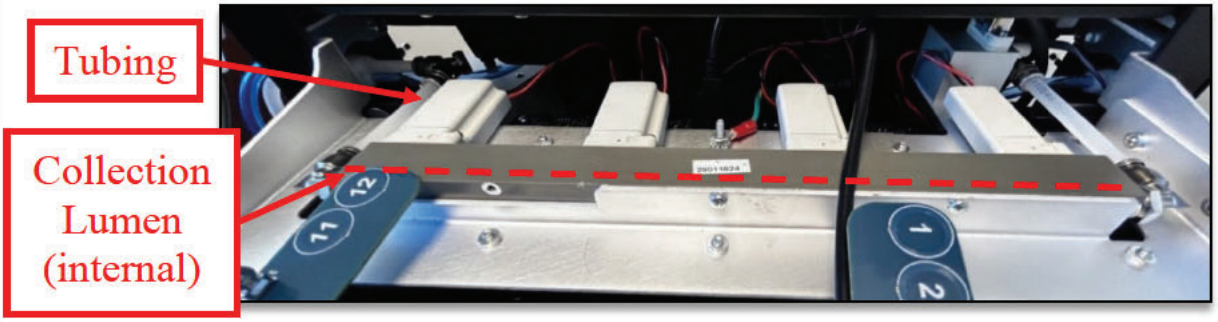


Exhibit A5.

CLAIM 22 OF THE '287 PATENT
[c] a handpiece having a working end, the working end of the handpiece being configured to contact skin tissue of a subject during use;
The HydraFacial Syndeo comprises a handpiece having a working end, the working end of the handpiece being configured to contact skin tissue of a subject during use. *See* '052 Patent, limitation 1[b], *supra*.
[d][i] 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
When the vacuum source is activated and the handpiece is connected to the console, the working end of the handpiece of the HydraFacial Syndeo is configured to be placed in fluid communication with a vacuum source to create a suction force along a distal end of the handpiece. *See* '052 Patent, limitation 1[f], *supra*.
[d][ii] 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
The working end of the handpiece of the HydraFacial Syndeo is configured to be placed in fluid communication with the first container or the at least one additional container through the collection lumen. As explained above, the first container or the at least one additional container are in fluid communication with the collection lumen. *See* limitation 22[b], *supra*. ***HydraFacial Syndeo IFUs*** 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. **HydraFacial Handpiece** 1. Connect the blue twist lock (Return Line) to the blue connector on the bottom of the handpiece and secure by twisting until hand tight. Do not overtighten. 2. Connect the clear twist lock (Supply Line) to the cartridge and secure it by twisting the lock until hand tight. To prevent the lock from breaking, do not overtighten the twist lock. 3. Snap tubing connector onto the Syndeo Device. Press metal tab on the device to allow for connection. This connects both tubes to the Syndeo device.    **Exhibit B2** at 12.

Photos of HydraFacial Syndeo

As shown in the photos below, the collection lumen is in fluid communication with the handpiece assembly through tubing connected to the collection lumen. The tubing extends to and through a coupling for the tubing to the handpiece.



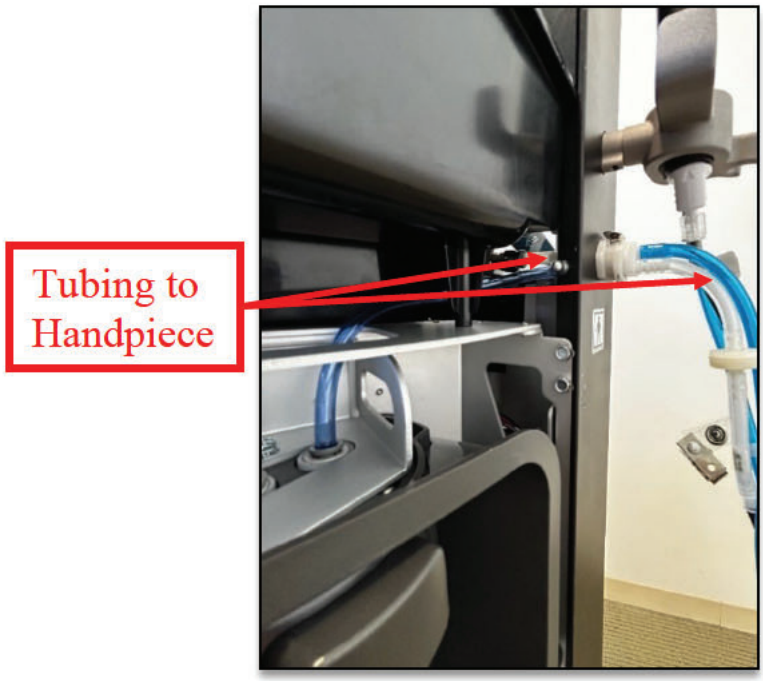


Exhibit A2. The tubing extends from the console to the handpiece itself, placing the handpiece in fluid communication with the collection lumen and, therefore, the first container or the at least one additional container.

CLAIM 22 OF THE '287 PATENT

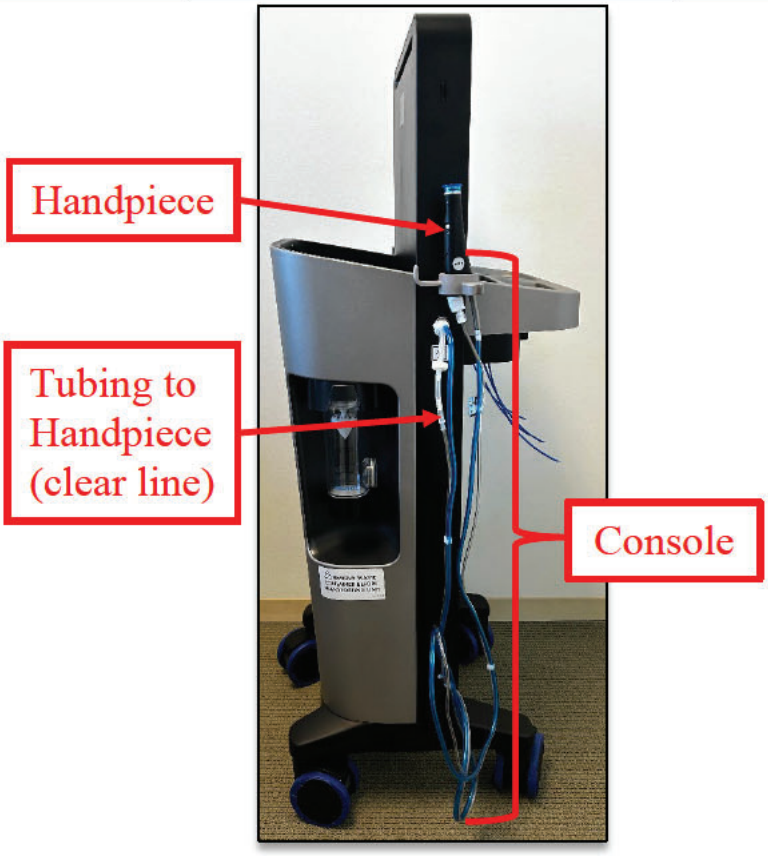


Exhibit A2.

[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;

The HydraFacial Syndeo comprises 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. As explained above, when the handpiece is connected to the console, the collection lumen is in fluid communication with the working end of the handpiece. *See* limitation 22[d][ii], *supra*. This fluid communication occurs via a supply conduit.

[f][i] wherein each of the first container and the at least one additional container includes treatment materials, and

Each of the first container and the at least one additional container of the HydraFacial Syndeo includes treatment materials. *See* '052 Patent, limitation 1[a][iii].

[f][ii] 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.

The HydraFacial Syndeo is configured to deliver treatment materials from the first container and the at least one additional container to the supply conduit sequentially when the first container and the at least one additional container are connected to the console.

CLAIM 22 OF THE '287 PATENT

HydraFacial Syndeo IFUs

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

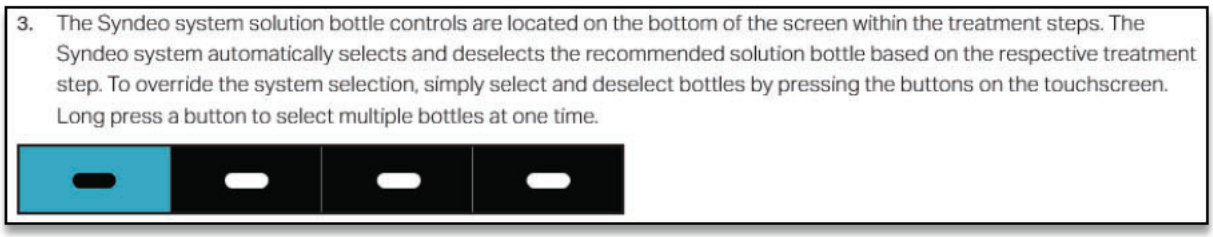

3. The Syndeo system solution bottle controls are located on the bottom of the screen within the treatment steps. The Syndeo system automatically selects and deselects the recommended solution bottle based on the respective treatment step. To override the system selection, simply select and deselect bottles by pressing the buttons on the touchscreen. Long press a button to select multiple bottles at one time.

Exhibit B2 at 14. It explains that the system "automatically selects and deselects the recommended solution bottle based on the respective treatment step." *Id.* Thus, in this manner, the system is configured to deliver the treatment fluids to the handpiece sequentially "based on the respective treatment step." *Id.* Further, the Syndeo IFU's troubleshooting section describes the scenario, "[i]f using only one station at a time, deselect current station and try another station." *Id.* at 22.

Photos of HydraFacial Syndeo

As shown in the below snippet from a video of the HydraFacial Syndeo in operation, 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 via a user selecting a container from which to draw fluid for treatment.



See **Exhibit A7** (video at 0:03-0:25) (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).

101. For all of these reasons, the HydraFacial Syndeo practices claim 22 of the '287 Patent.

102. I address how the Elite system practices each limitation of claim 22 of the '287 Patent in the claim chart below.

CLAIM 22 OF THE '287 PATENT
Preamble 22[pre]: A system for treating skin, the system comprising:
To the extent that the preamble is deemed to be a limitation, the HydraFacial Elite is a system treating skin. ***HydraFacial Elite IFU*** The Elite IFU indicates "[t]he System is intended to abrade (exfoliate) the upper layers of the skin": **Intended Use** The System is intended to abrade (exfoliate) the upper layers of the skin. Indication (related to the use of the device in the European Economic Area (EEA): • Mild to moderate acne, i.e. acne vulgaris, comedonal acne (blackheads and whiteheads). • Superficial acne scarring. **Exhibit B3** at 4.

CLAIM 22 OF THE '287 PATENT

Photos of HydraFacial Elite

The photo below shows the HydraFacial Elite system.



Exhibit A8.

[a] a console configured to receive a first container and at least one additional container;

The HydraFacial Elite comprises a console configured to receive a first container and at least one additional container.

HydraFacial Elite IFU

The Elite IFU depicts the system and console configured to receive a first container and additional containers:

CLAIM 22 OF THE '287 PATENT

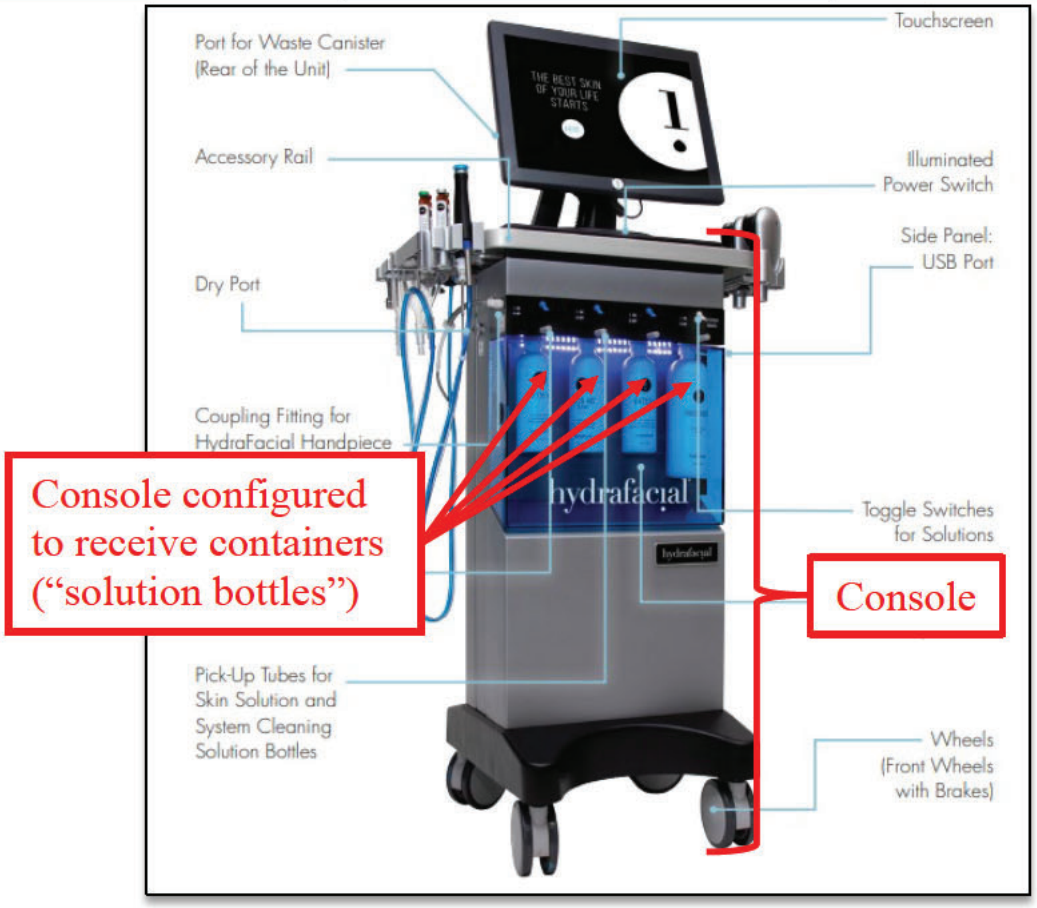


Exhibit B3 at 10.

Photos of the HydraFacial Elite

The photo below shows the HydraFacial Elite console configured to receive a first container and configured to receive at least one additional container:

CLAIM 22 OF THE '287 PATENT

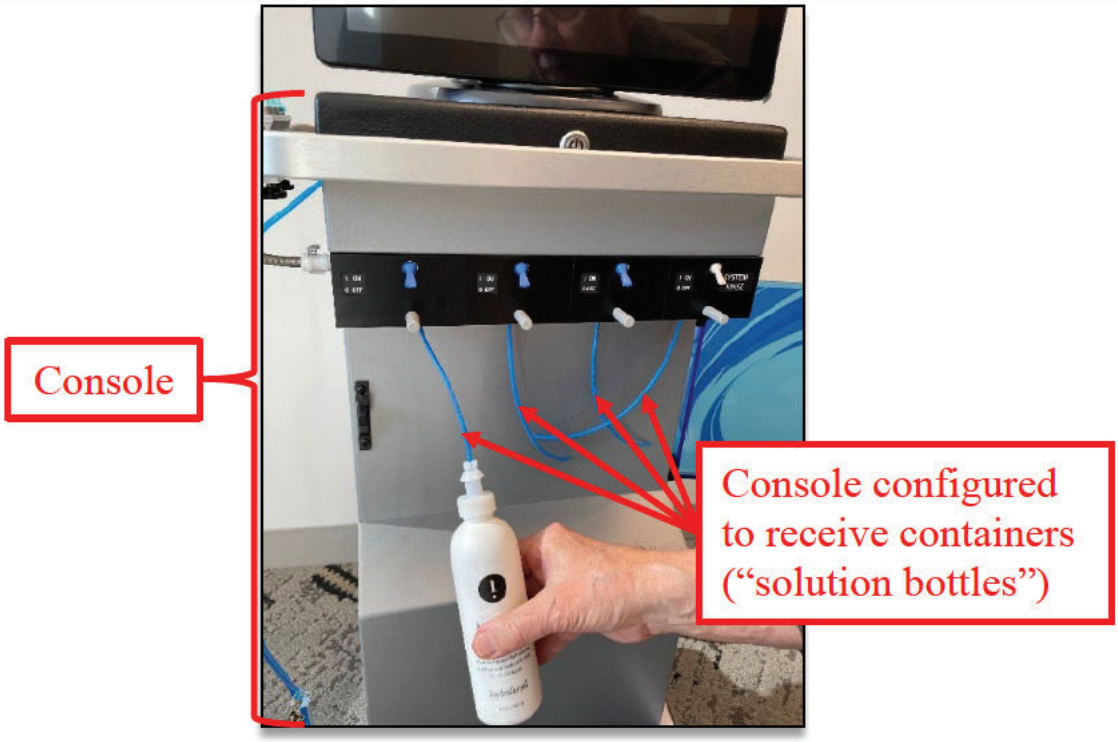


Exhibit A8.

[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; and

The HydraFacial Elite comprises 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.

HydraFacial Elite IFUs

The Elite IFU shows the system having a collection lumen at the location shown below (the collection lumen is an internal component of the system and located within the console):

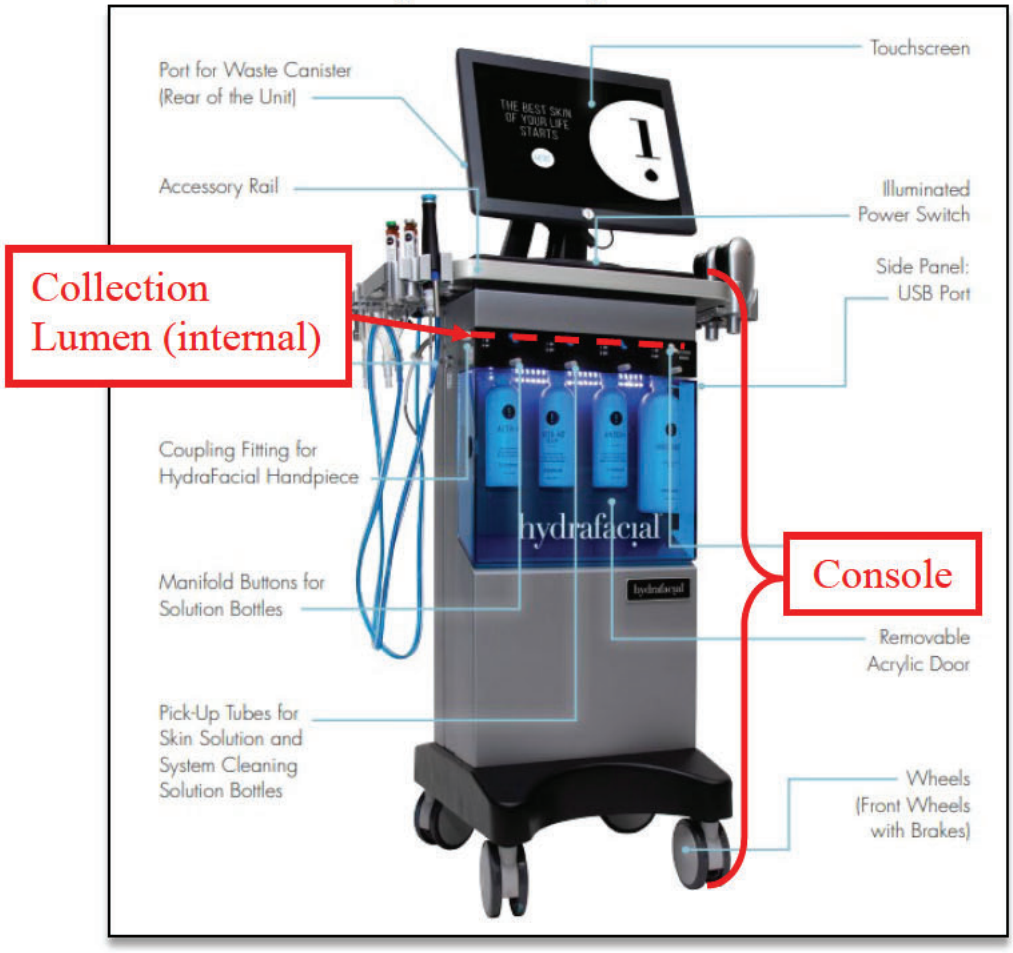


Exhibit B3 at 10.

Photos of HydraFacial Elite

The HydraFacial Elite system includes a collection lumen with tubing extending from a structure surrounding the collection lumen for receiving fluid from a first container and at least one additional container both connected to the console:

CLAIM 22 OF THE '287 PATENT

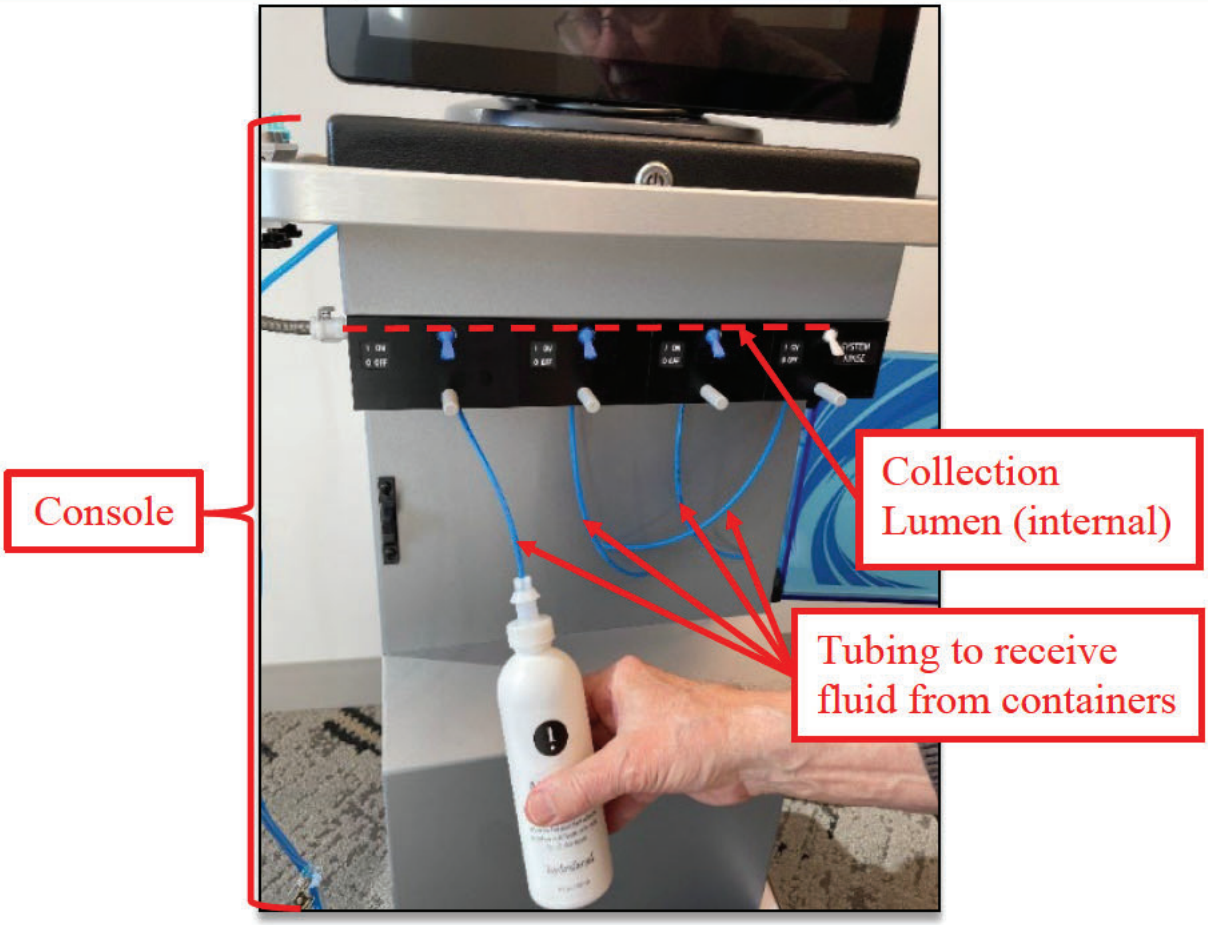


Exhibit A8.

The photo below shows the structure surrounding the collection lumen isolated from the console of the HydraFacial Elite system.

CLAIM 22 OF THE '287 PATENT

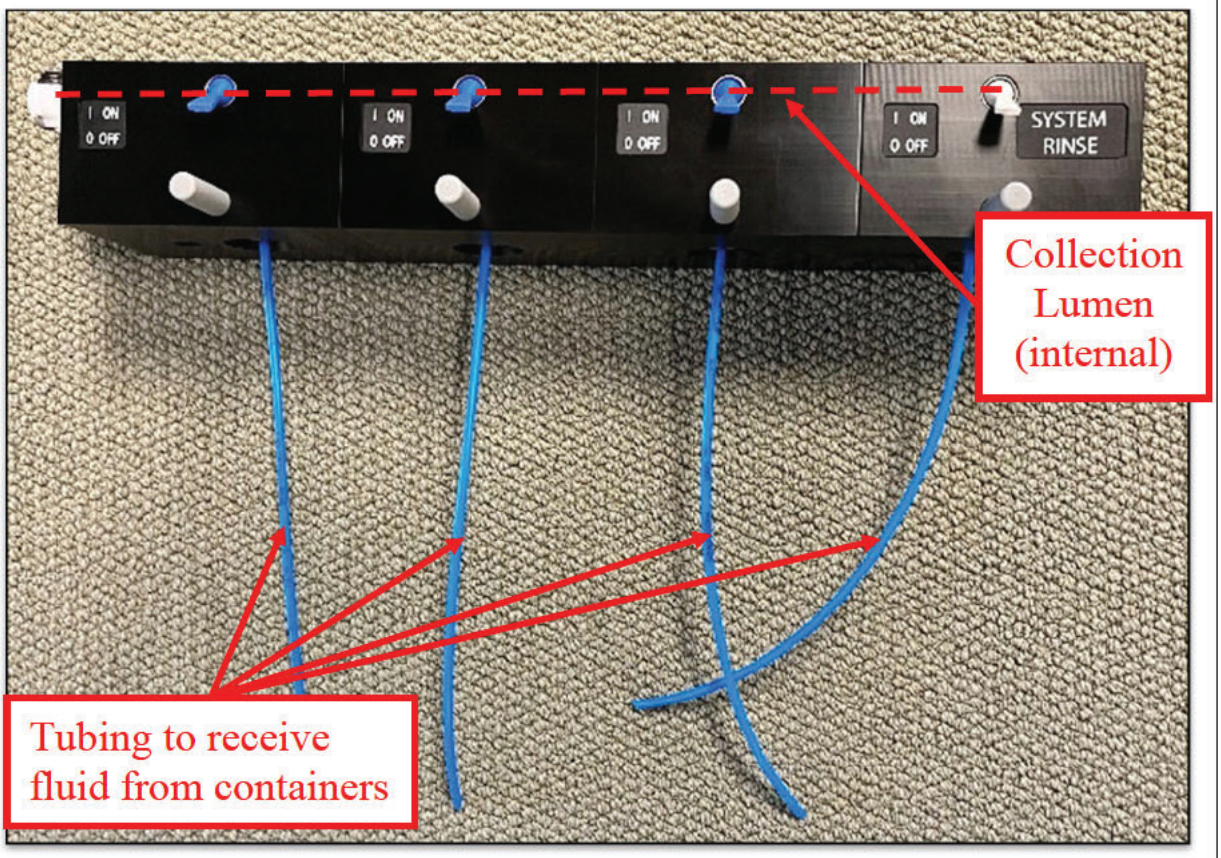


Exhibit A8. The photo below shows the collection lumen running through the block of the manifold.

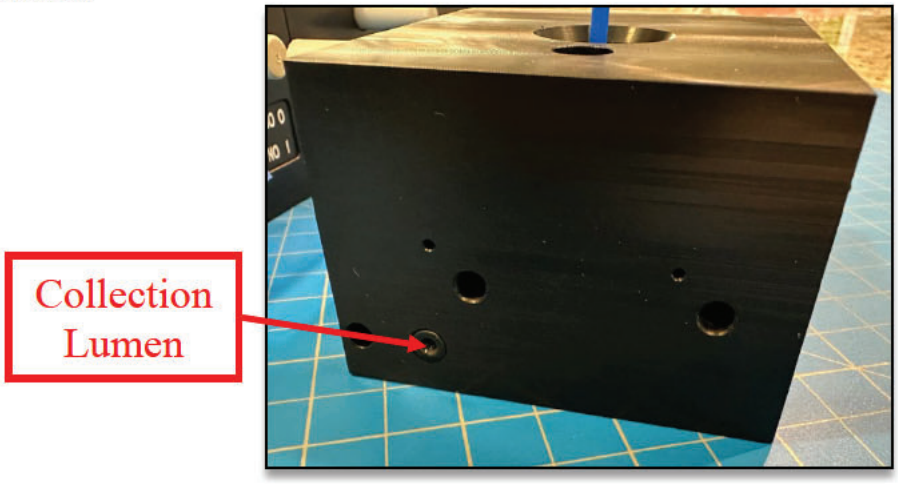
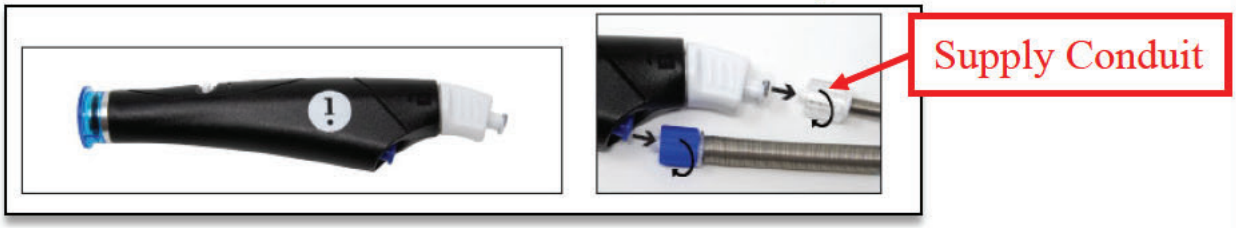


Exhibit A14.

CLAIM 22 OF THE '287 PATENT
[c] a handpiece having a working end, the working end of the handpiece being configured to contact skin tissue of a subject during use;
The HydraFacial Elite comprises a handpiece having a working end, the working end of the handpiece being configured to contact skin tissue of a subject during use. *See* '052 Patent, limitation 1[b], *supra*.
[d][i] 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
When the vacuum source is activated and the handpiece is connected to the console, the working end of the handpiece of the HydraFacial Elite is configured to be placed in fluid communication with a vacuum source to create a suction force along a distal end of the handpiece. *See* '052 Patent, limitation 1[f], *supra*.
[d][ii] 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
The working end of the handpiece of the HydraFacial Elite is configured to be placed in fluid communication with the first container or the at least one additional container through the collection lumen. As explained above, the first container or the at least one additional container are in fluid communication with the collection lumen. *See* limitation 22[b], *supra*. ***HydraFacial Elite IFU*** The Elite 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.    **Exhibit B3** at 18. ***Photos of HydraFacial Elite*** As shown in the photos below, the collection lumen is in fluid communication with the handpiece assembly through tubing connected to the collection lumen. The tubing extends to and through a coupling for the tubing to the handpiece.

CLAIM 22 OF THE '287 PATENT

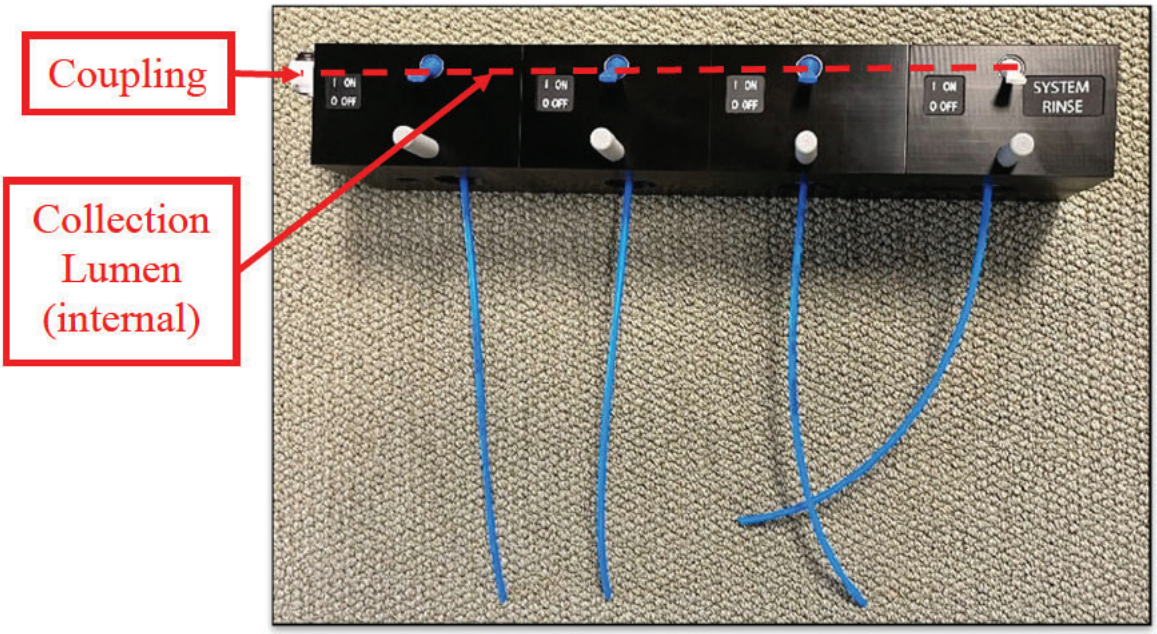


Exhibit A8. From the coupling, the tubing extends to the handpiece itself, placing the handpiece in fluid communication with the collection lumen and, therefore, the first container or the at least one additional container.

CLAIM 22 OF THE '287 PATENT

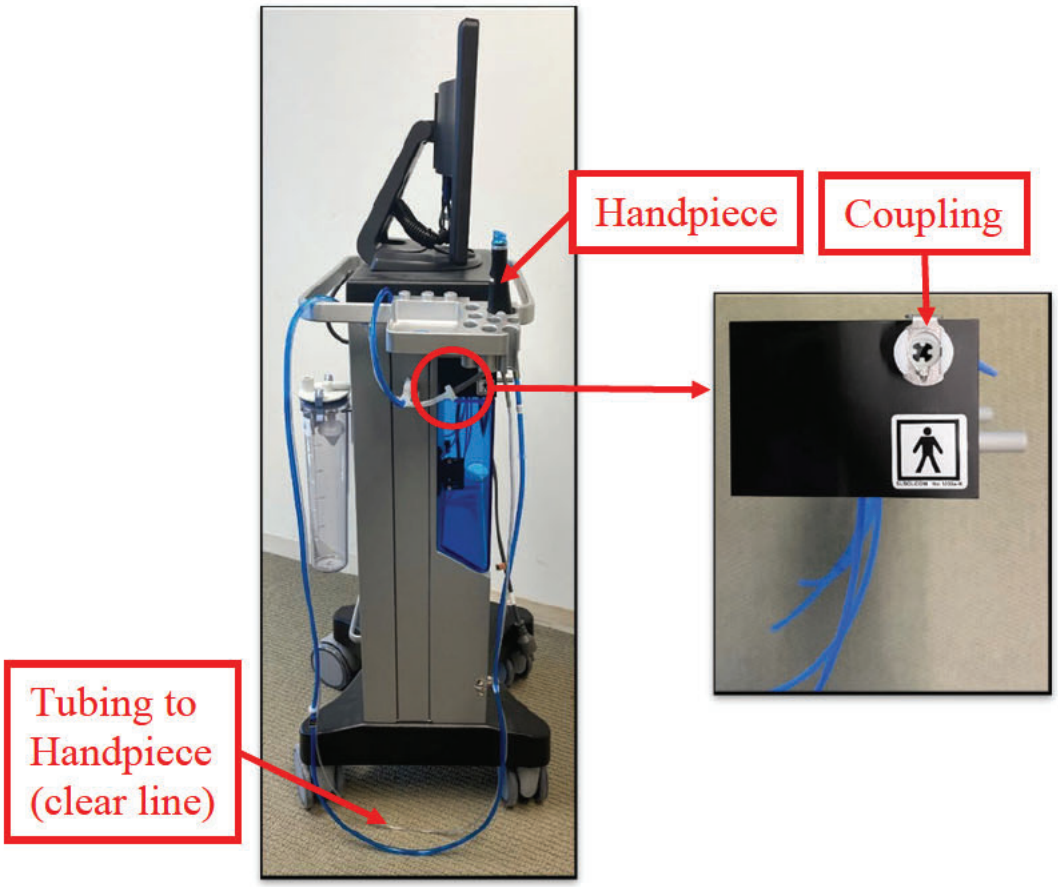


Exhibit A8.

[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;

The HydraFacial Elite comprises 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. As explained above, when the handpiece is connected to the console, the collection lumen is in fluid communication with the working end of the handpiece. *See* limitation 22[d][ii], *supra*. This fluid communication occurs via a supply conduit.

[f][i] wherein each of the first container and the at least one additional container includes treatment materials, and

Each of the first container and the at least one additional container of the HydraFacial Elite includes treatment materials. *See* '052 Patent, limitation 1[a][iii].

CLAIM 22 OF THE '287 PATENT
[f][ii] 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.

The HydraFacial Elite is configured to deliver treatment materials from the first container and the at least one additional container to the supply conduit sequentially when the first container and the at least one additional container are connected to the console.

HydraFacial Elite IFU

The Elite IFU shows toggle switches on the console to control the delivery of the treatment fluids from the containers sequentially:

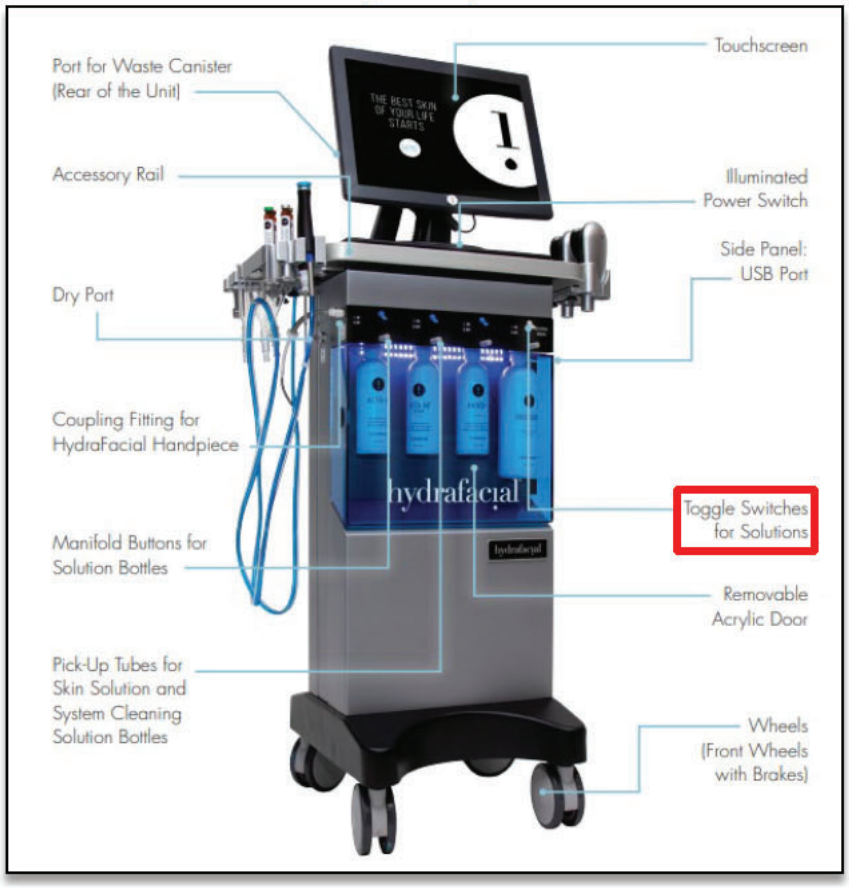


Exhibit B3 at 10. The Elite IFU explains that the "toggle switches [on the console] control which skin solution bottle is being used." *Id.* at 14. It further states that "[w]hen a switch is in the ON position, fluid will be drawn from that bottle" and "[w]hen switched to the OFF position, no fluid will 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.

CLAIM 22 OF THE '287 PATENT

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.

Photos of the HydraFacial Elite

As shown in the images below, the HydraFacial Elite 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 via switches on the block so that a user can select a container from which to draw treatment fluid.

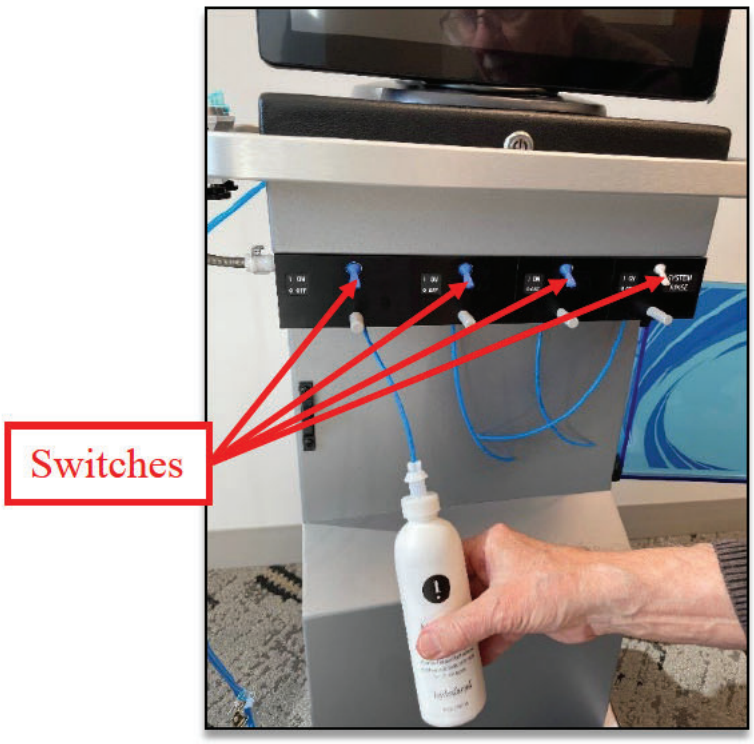


Exhibit A8.

103. For all of these reasons, the HydraFacial Elite practices claim 22 of the '287 Patent.

104. I address how the Allegro system practices each limitation of claim 22 of the '287 Patent in the claim chart below.

CLAIM 22 OF THE '287 PATENT

Preamble 22[pre]: A system for treating skin, the system comprising:

To the extent that the preamble is deemed to be a limitation, the HydraFacial Allegro is a system treating skin.

HydraFacial Allegro IFUs

For example, the Allegro IFU indicates that the system 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 wrinkles."

> **HydraFacial® mode:**
> The HydraFacial® Allegro™ system is a USA Food and Drug Administration (FDA) listed Class I exempt medical device; Class II medical device in Canada. Its intended use is 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. fi ne lines and wrinkles. An additional feature is the capability of introducing topical skin solutions during the procedure.

Exhibit B4 at 4.

Photos of the HydraFacial Allegro

The photo below shows the HydraFacial Allegro system.

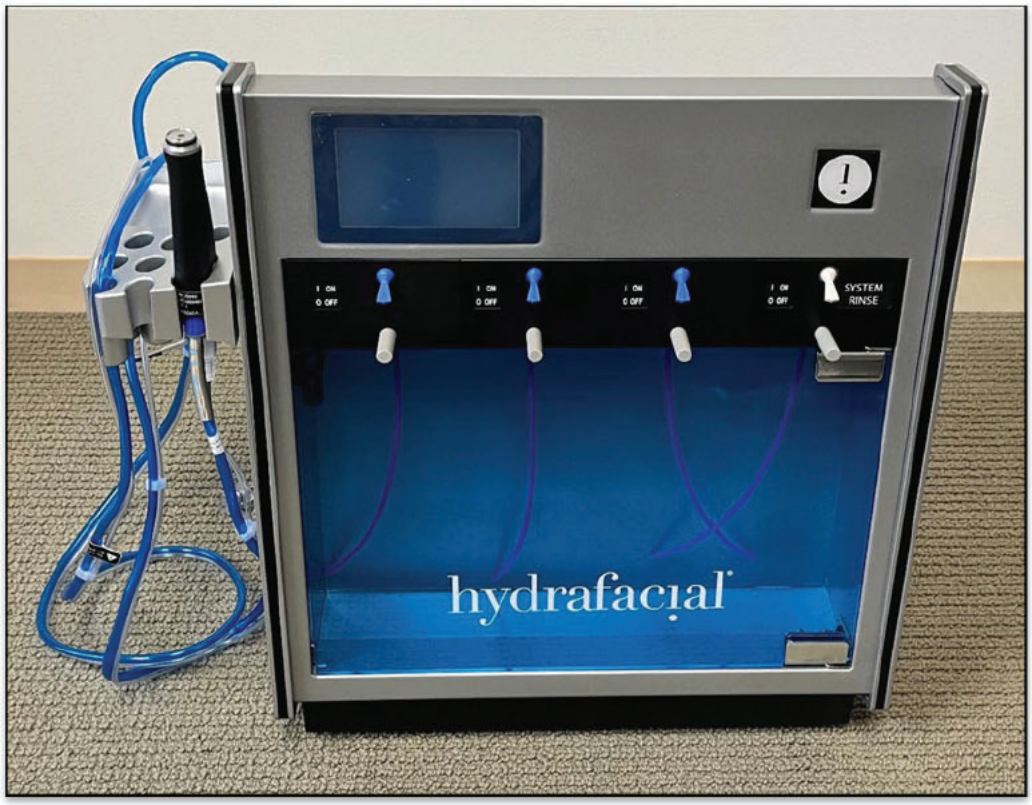


Exhibit A10.

CLAIM 22 OF THE '287 PATENT

[a] a console configured to receive a first container and at least one additional container;

The HydraFacial Allegro comprises a console configured to receive a first container and at least one additional container.

HydraFacial Allegro IFUs

The Allegro IFU depicts the system and console configured to receive a first container and additional containers:



Exhibit B4 at 8.

The Allegro IFU describes the containers being received in the console:

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".



Id. at 11.

Photos of HydraFacial Allegro

The photo below shows the HydraFacial Allegro console having received a first container and at least one additional container

CLAIM 22 OF THE '287 PATENT



Exhibit A10.

[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; and

The HydraFacial Allegro comprises 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.

HydraFacial Allegro IFUs

The Allegro IFU shows the system having a collection lumen at the location shown below (the collection lumen is an internal component of the system and located within the console):

CLAIM 22 OF THE '287 PATENT

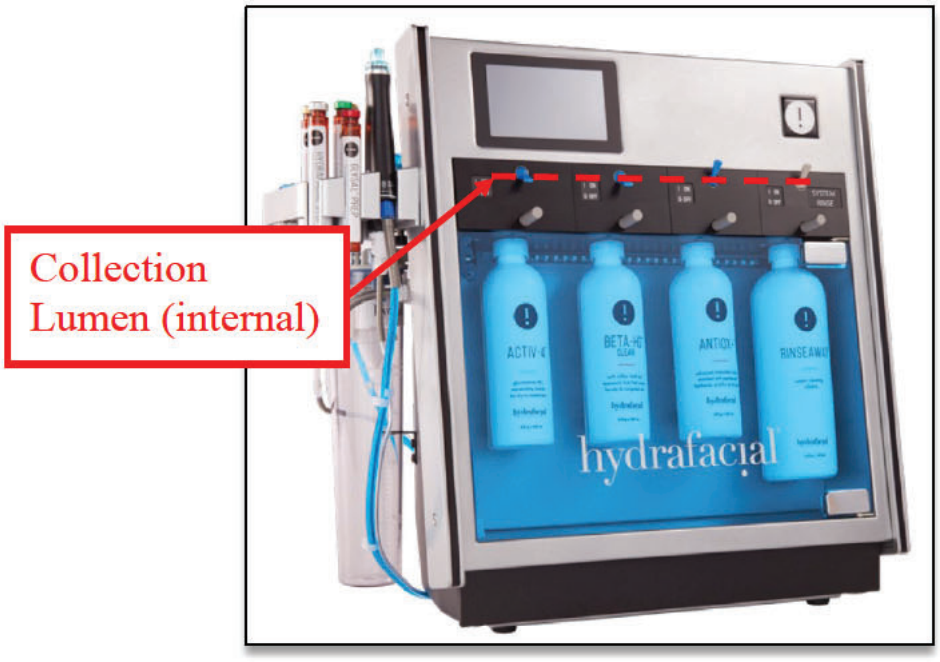


Exhibit B4 at 7.

Photos of HydraFacial Allegro

The HydraFacial Allegro system includes a collection lumen in the console, with tubing extending from a structure surrounding the collection lumen for receiving fluid from a first container and at least one additional container both connected to the console:

CLAIM 22 OF THE '287 PATENT

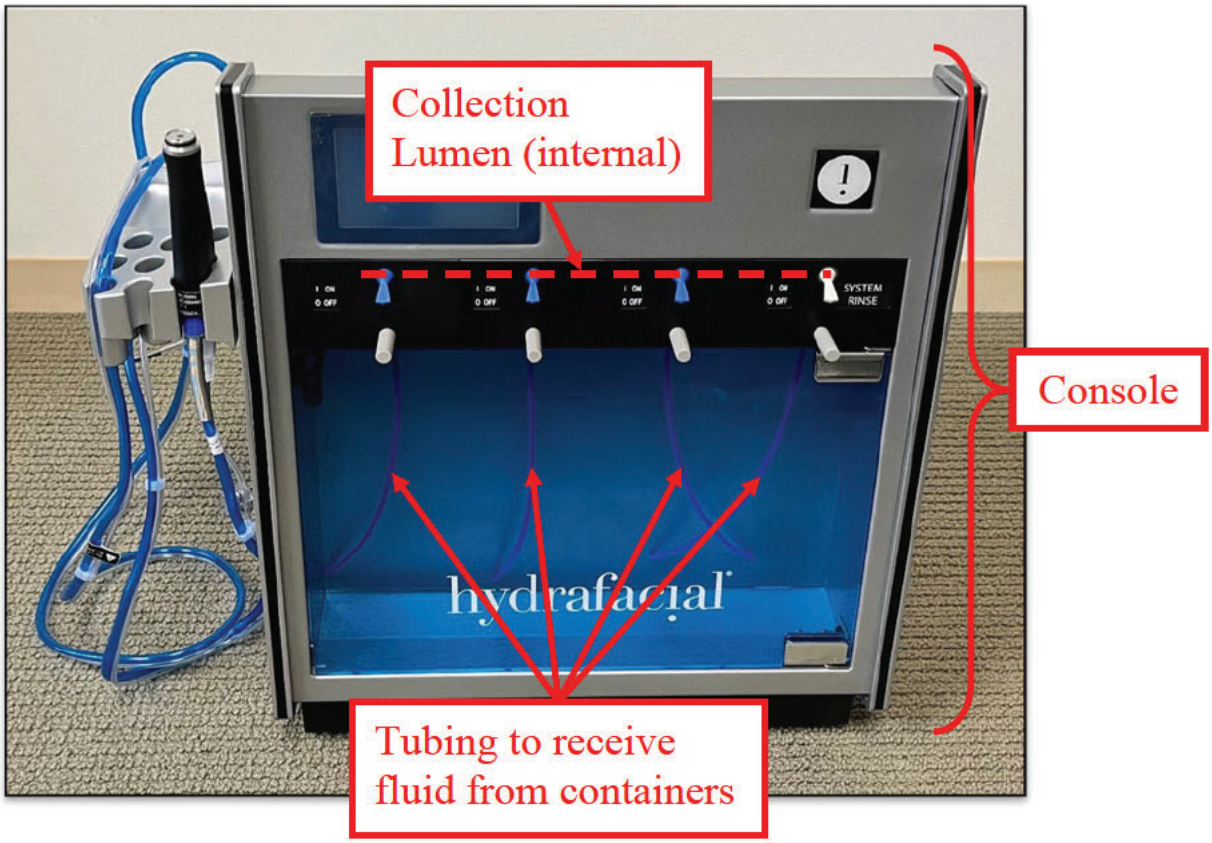


Exhibit A10.

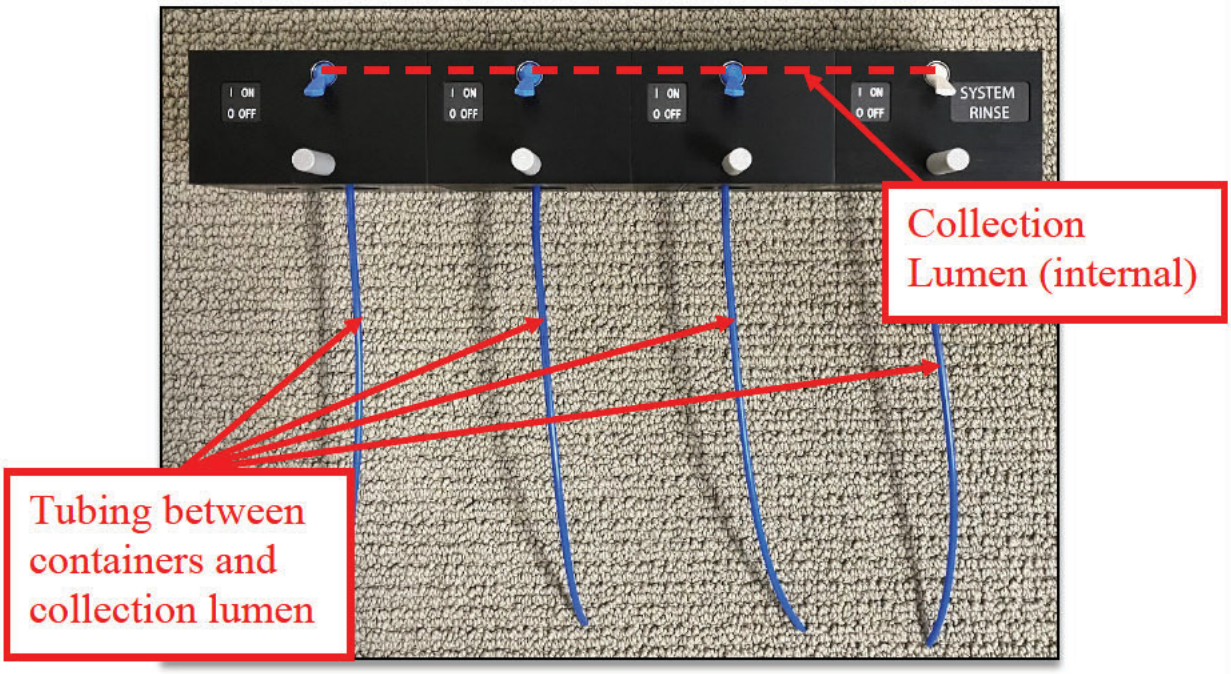


Exhibit A10.

CLAIM 22 OF THE '287 PATENT

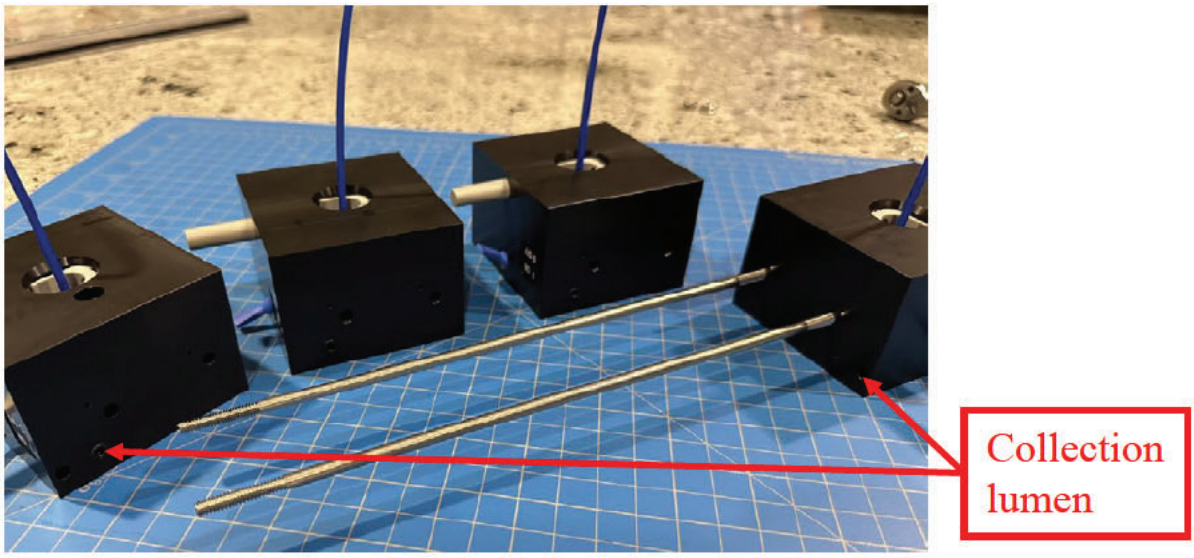


Exhibit A11.

[c] a handpiece having a working end, the working end of the handpiece being configured to contact skin tissue of a subject during use;

The HydraFacial Allegro comprises a handpiece having a working end, the working end of the handpiece being configured to contact skin tissue of a subject during use. *See* '052 Patent, limitation 1[b], *supra*.

[d][i] 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

When the vacuum source is activated and the handpiece is connected to the console, the working end of the handpiece of the HydraFacial Allegro is configured to be placed in fluid communication with a vacuum source to create a suction force along a distal end of the handpiece. *See* '052 Patent, limitation 1[f], *supra*.

[d][ii] 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

The working end of the handpiece of the HydraFacial Allegro is configured to be placed in fluid communication with the first container or the at least one additional container through the collection lumen.

As explained above, the first container or the at least one additional container are in fluid communication with the collection lumen. *See* limitation 22[b], *supra*.

HydraFacial Allegro IFUs

The Allegro IFU 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.

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.

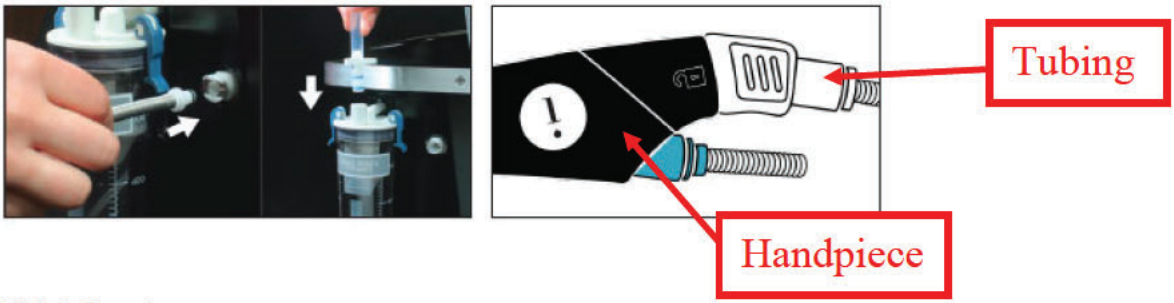


Exhibit B4 at 9.

Photos of HydraFacial Allegro

As shown in the photos below, the collection lumen is in fluid communication with the handpiece assembly through tubing connected to the collection lumen. The tubing extends to and through a coupling for the tubing to the handpiece.

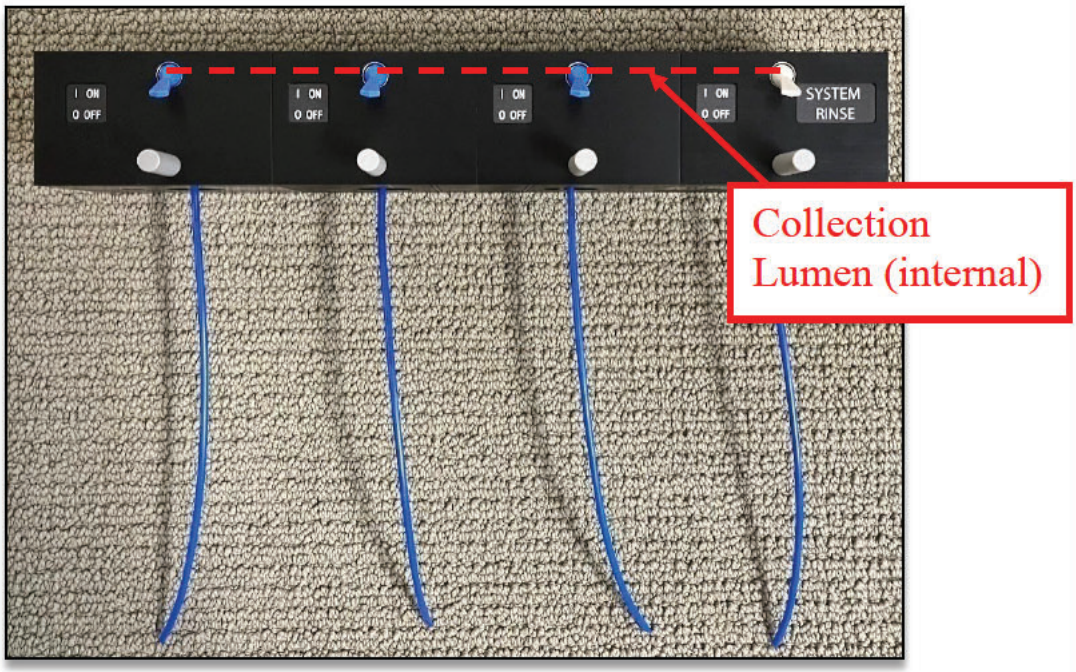


Exhibit A10.

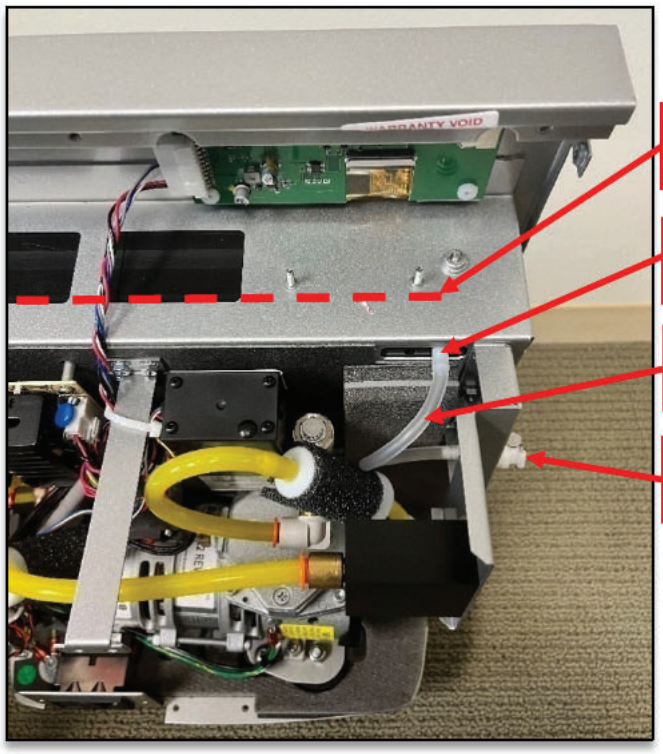

Collection Lumen (internal)
To collection lumen
Tubing
Handpiece Coupling

Exhibit A10.

CLAIM 22 OF THE '287 PATENT

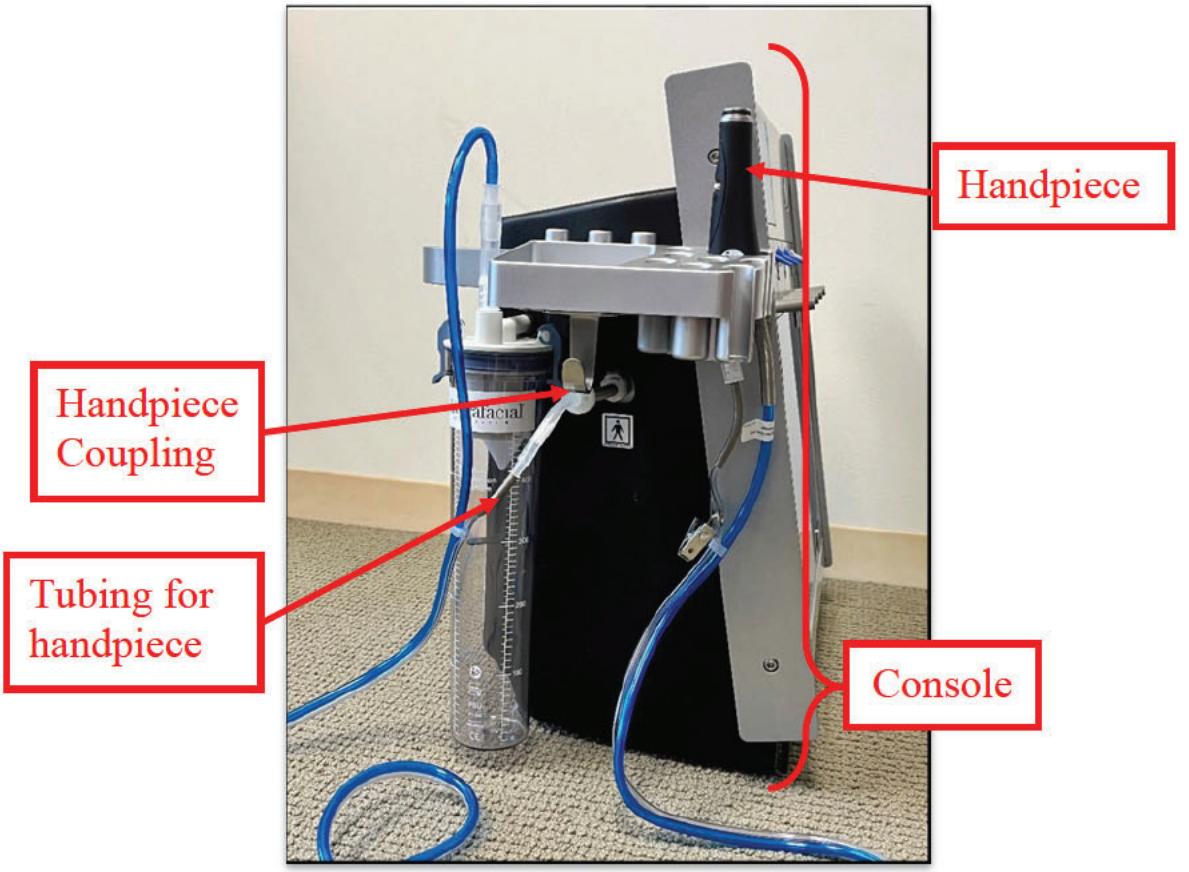


Exhibit A10. From the coupling, the tubing extends to the handpiece itself, placing the handpiece in fluid communication with the collection lumen and, therefore, the first container or the at least one additional container.

[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;

The HydraFacial Allegro comprises 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. As explained above, when the handpiece is connected to the console, the collection lumen is in fluid communication with the working end of the handpiece. *See* limitation 22[d][ii], *supra*. This fluid communication occurs via a supply conduit.

[f][i] wherein each of the first container and the at least one additional container includes treatment materials, and

Each of the first container and the at least one additional container of the HydraFacial Allegro includes treatment materials. *See* '052 Patent, limitation 1[a][iii].

CLAIM 22 OF THE '287 PATENT

[f][ii] 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.

The HydraFacial Allegro is configured to deliver treatment materials from the first container and the at least one additional container to the supply conduit sequentially when the first container and the at least one additional container are connected to the console.

HydraFacial Allegro IFUs

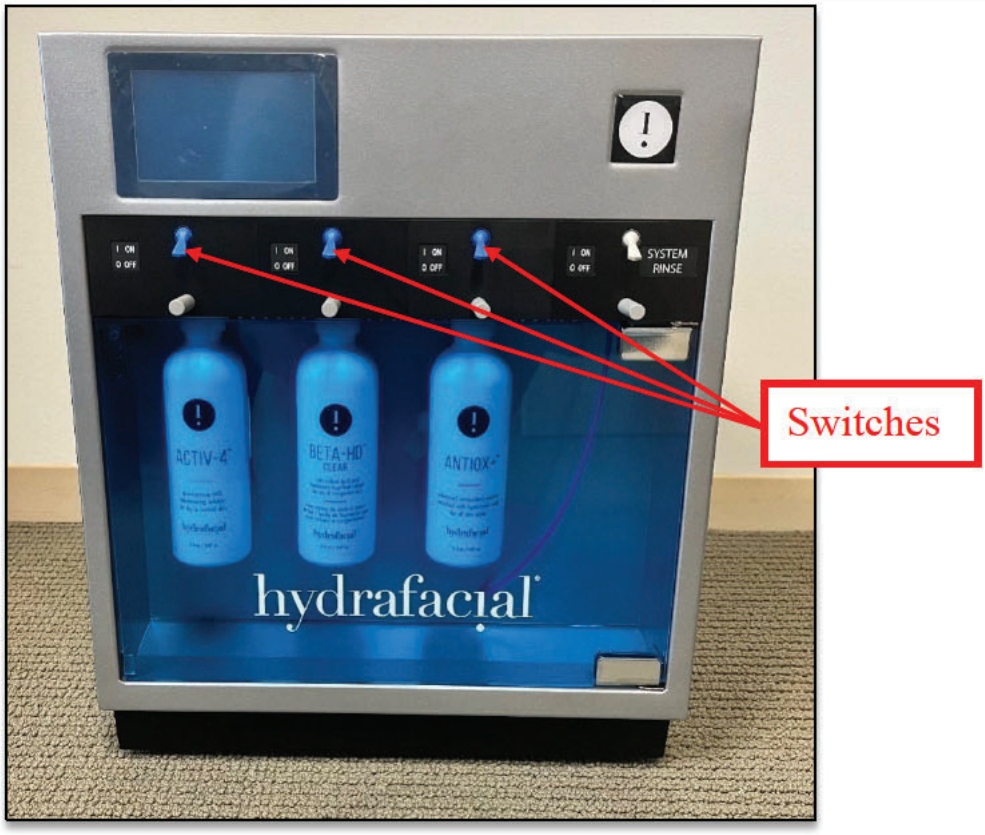
The Allegro IFU shows the system with toggle switches on the console to control the delivery of the treatment fluids from the containers sequentially:



Exhibit B4 at 8. The HydraFacial 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." *Id.* 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 HydraFacial Allegro IFU troubleshooting section describes the scenario where, "[i]f using only one station at a time, turn current station off and try another station." *Id.* at 17.

Photos of the HydraFacial MD Allegro

As shown in the images below, the HydraFacial Allegro 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 via switches on the block so that a user can select a container from which to draw treatment fluid.

CLAIM 22 OF THE '287 PATENT
 **Exhibit A10**.

105. For all of these reasons, the HydraFacial Allegro practices claim 22 of the '287 Patent.

106. I address how the Tower system practices each limitation of claim 22 of the '287 Patent in the claim chart below.

CLAIM 22 OF THE '287 PATENT
Preamble 22[pre]: A system for treating skin, the system comprising:
To the extent that the preamble is deemed to be a limitation, the HydraFacial Tower is a system treating skin. ***HydraFacial Tower Owner's Manual*** The HydraFacial Tower's Owner's Manual indicates that the HydraFacial Tower is 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":

CLAIM 22 OF THE '287 PATENT

I. INTRODUCTION

Thank you for purchasing the HydraFacial MD™ System, a revolutionary breakthrough in aesthetic technology! The HydraFacial™ is the next generation of exfoliation and skin rejuvenation done simultaneously. The process removes dead skin cells and impurities while simultaneously infusing the new skin with cleansing, hydrating and moisturizing serums & antioxidants. The treatment is soothing, refreshing, non-irritating and very effective. You can have the utmost confidence in this high-end system manufactured by Edge Systems Corporation.

Exhibit B5 at 3.

The image below shows the HydraFacial Tower system.



Id. at 1.

[redacted]

CLAIM 22 OF THE '287 PATENT

[a] a console configured to receive a first container and at least one additional container;

The HydraFacial Tower comprises a console configured to receive a first container and at least one additional container.

HydraFacial Tower Owner's Manual

The HydraFacial Tower's Owner's Manual depicts the system and console configured to receive a first container and additional containers:

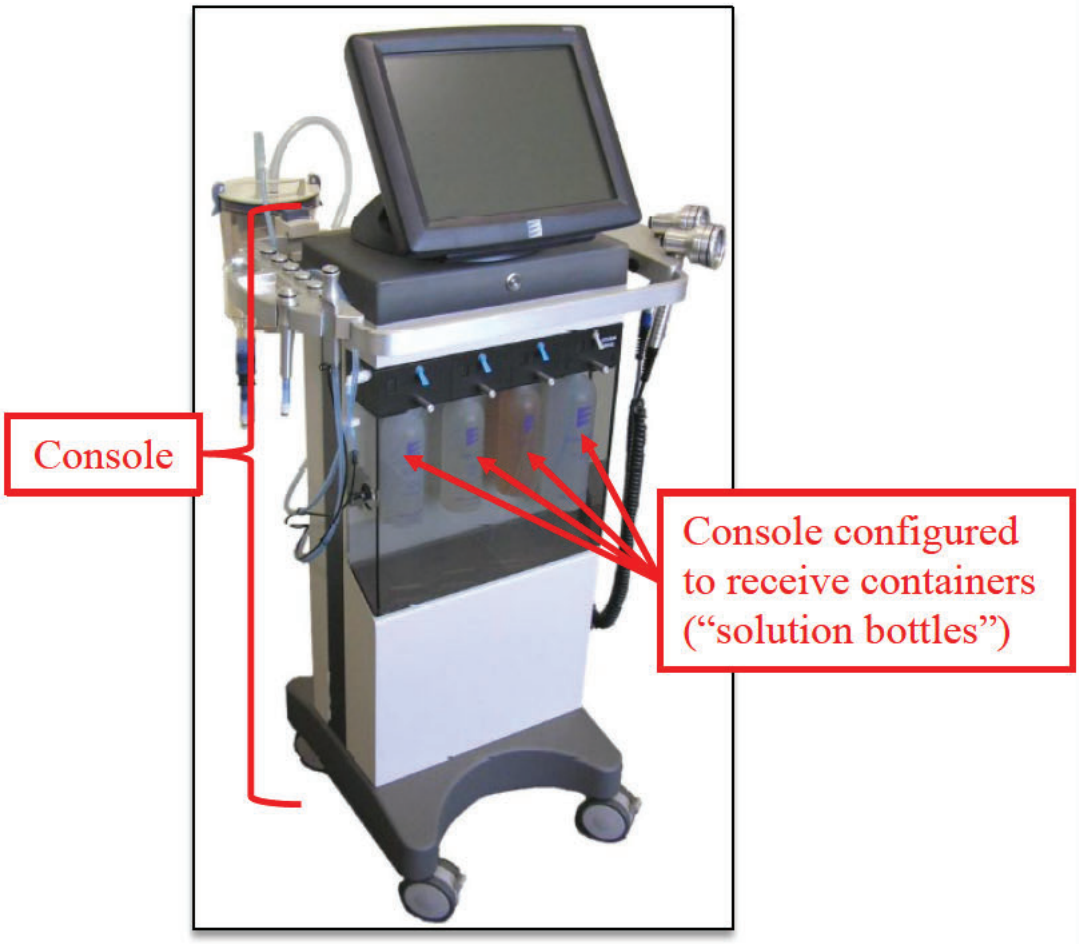


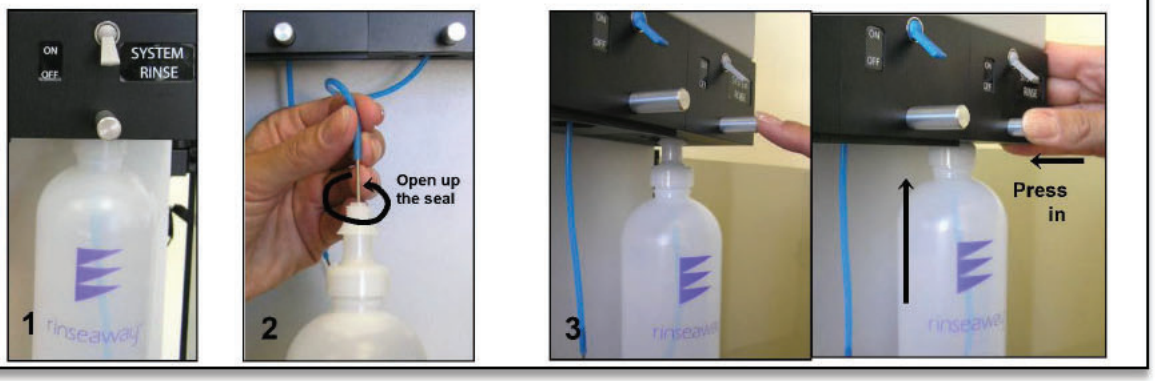
Exhibit B5 at 1.

The owner's manual describes how to "INSTALL SERUM BOTTLES," instructing a user to "insert each bottle into the manifold." The manifold is part of the console.

CLAIM 22 OF THE '287 PATENT

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.



Id. at 13. [redacted] *see also* **Exhibit B5 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").

[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; and

The HydraFacial Tower comprises 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.

HydraFacial Tower Owner's Manual

The Tower Owner's Manual shows the system having a collection lumen at the location shown below (the collection lumen is an internal component of the system):

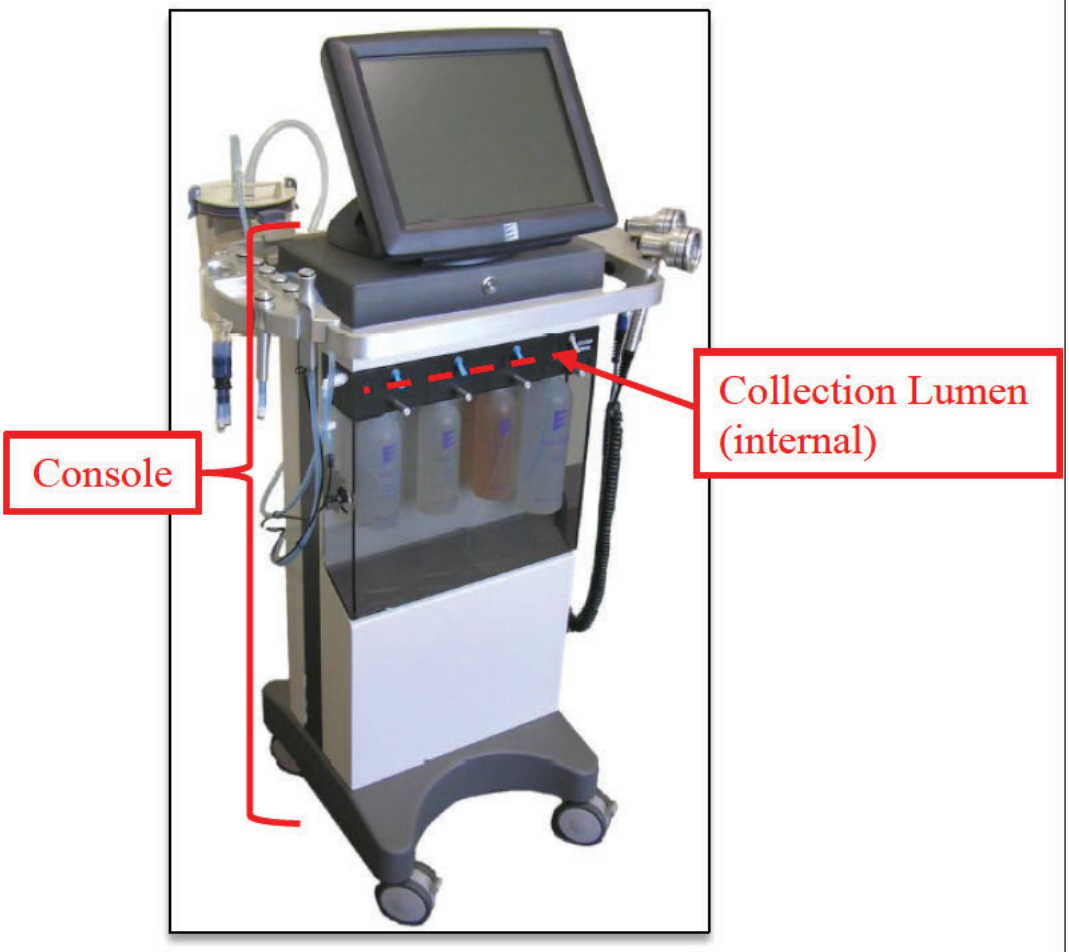


Exhibit B5 at 1.

The HydraFacial Tower includes a collection lumen with pick-up tubes extending from a structure surrounding the collection lumen for receiving fluid from a first container and at least one additional container both connected to the console:

CLAIM 22 OF THE '287 PATENT

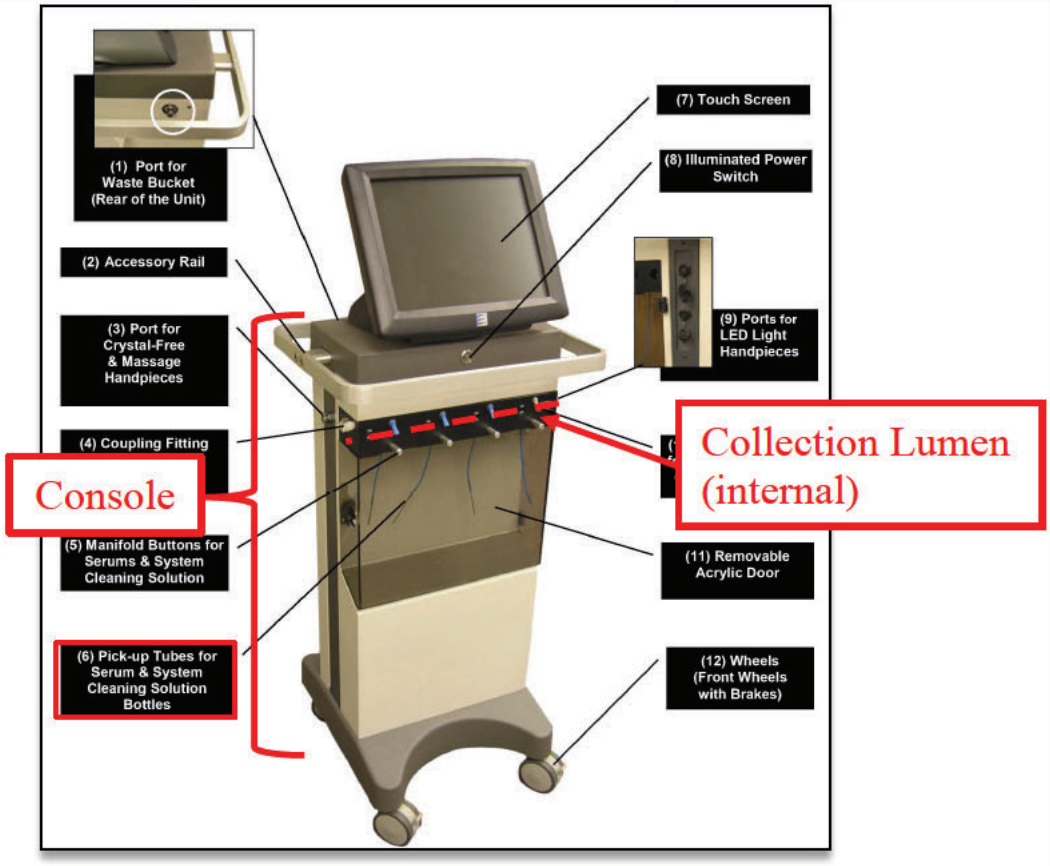


Exhibit B5 at 8.

The Manifold Assembly (block) of the Tower shares the same part number as the block of the HydraFacial Elite, and thus, HydraFacial incorporates by reference its analysis of the collection lumen of the Elite as described, *inter alia*, in limitation 22[b] above.

[c] a handpiece having a working end, the working end of the handpiece being configured to contact skin tissue of a subject during use;

The HydraFacial Tower comprises a handpiece having a working end, the working end of the handpiece being configured to contact skin tissue of a subject during use. *See* '052 Patent, limitation 1[b], *supra*.

[d][i] 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

When the vacuum source is activated and the handpiece is connected to the console, the working end of the handpiece of the HydraFacial Tower is configured to be placed in fluid communication with a vacuum source to create a suction force along a distal end of the handpiece. *See* '052 Patent, limitation 1[f], *supra*.

CLAIM 22 OF THE '287 PATENT

[d][ii] 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

The working end of the handpiece of the HydraFacial Tower is configured to be placed in fluid communication with the first container or the at least one additional container through the collection lumen.

As explained above, the first container or the at least one additional container are in fluid communication with the collection lumen. *See* limitation 22[b], *supra*.

HydraFacial Tower Owner's Manual

The Tower Owner's Manual describes connecting a "small tube" between the handpiece and the console, where the "small tube" 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.

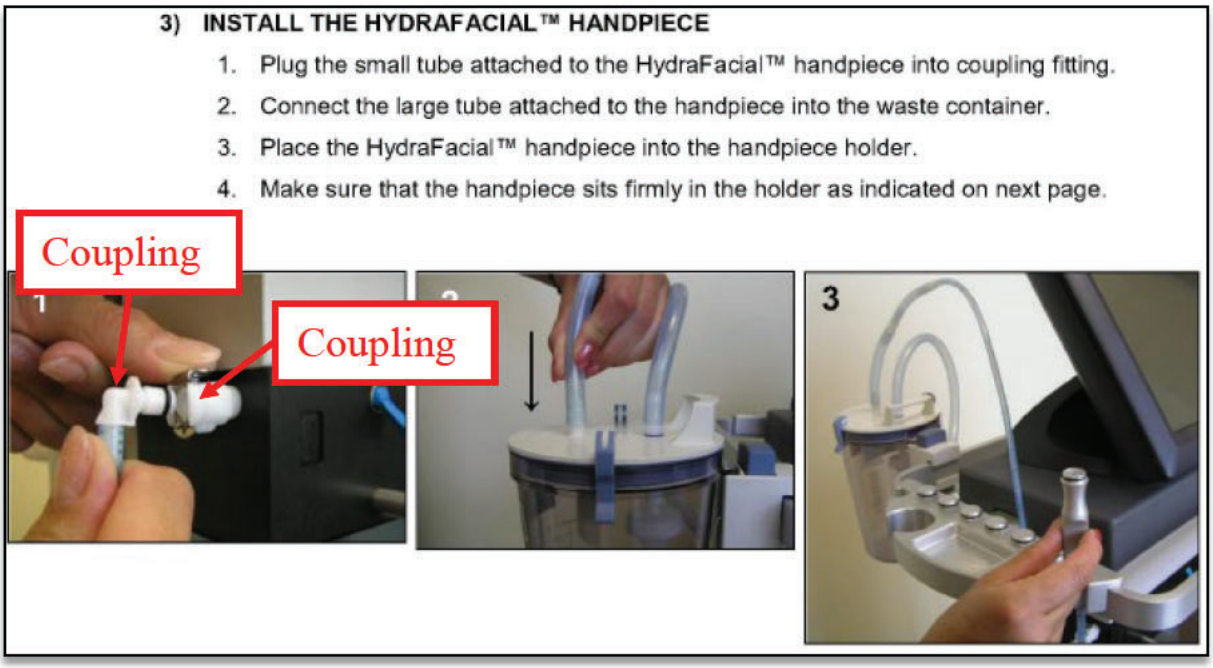
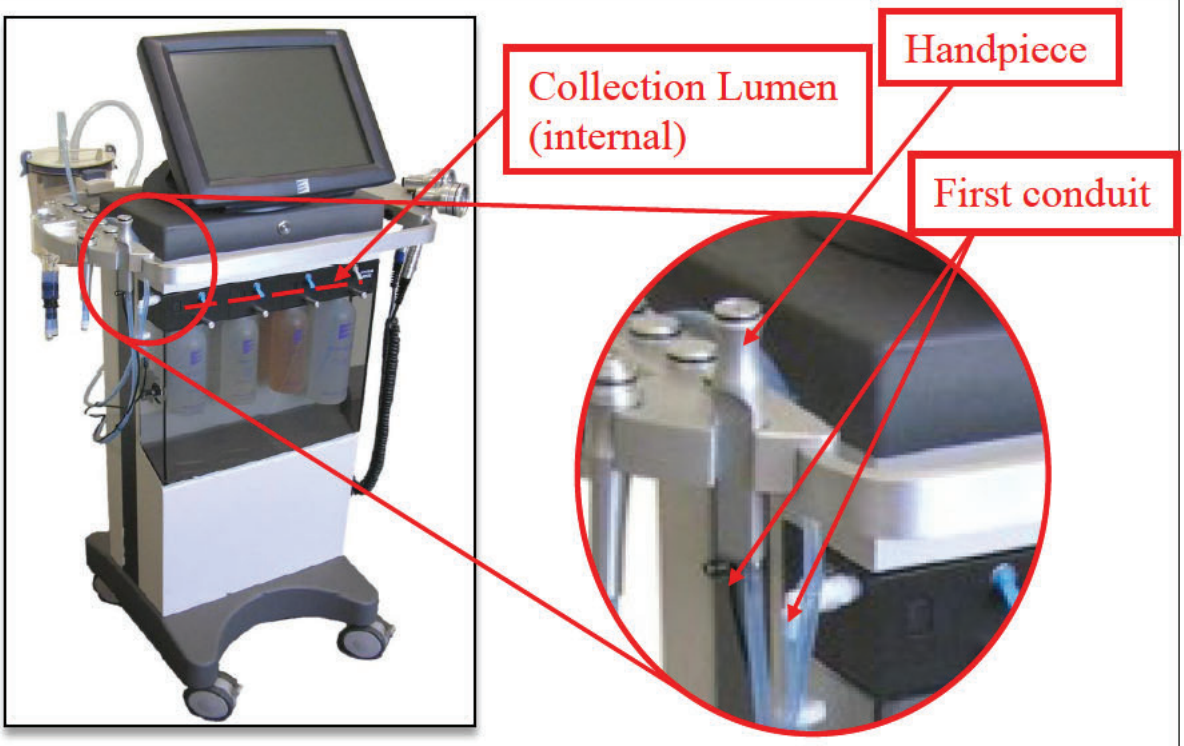


Exhibit B5 at 10. The first conduit extends from the collection lumen in the console through tubing to the handpiece via the coupling. Connecting the handpiece to the console via the coupling places the block in fluid communication with the handpiece.

As shown below, the collection lumen is in fluid communication with the handpiece assembly through tubing connected to the collection lumen. The tubing extends to and through a coupling for the tubing to the handpiece. From the coupling, the tubing extends to the handpiece itself, placing the handpiece in fluid communication with the collection lumen and, therefore, the first container or the at least one additional container.

CLAIM 22 OF THE '287 PATENT



Id at 1.

The Manifold Assembly (block) of the Tower shares the same part number as the block of the HydraFacial Elite, and thus, HydraFacial incorporates by reference its analysis of the collection lumen of the Elite as described, *inter alia*, in limitation 22[d][ii] above.

[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;

The HydraFacial Tower comprises 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. As explained above, when the handpiece is connected to the console, the collection lumen is in fluid communication with the working end of the handpiece. *See* limitation 22[d][ii], *supra*. This fluid communication occurs via a supply conduit.

[f][i] wherein each of the first container and the at least one additional container includes treatment materials, and

Each of the first container and the at least one additional container of the HydraFacial Tower includes treatment materials. *See* '052 Patent, limitation 1[a][iii].

[f][ii] 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.

The HydraFacial Tower is configured to deliver treatment materials from the first container and the at least one additional container to the supply conduit sequentially when the first container and the at least one additional container are connected to the console.

CLAIM 22 OF THE '287 PATENT

HydraFacial Tower Owner's Manual

The Tower Owner's Manual shows toggle switches on the console to control the delivery of the treatment fluids from the containers sequentially:

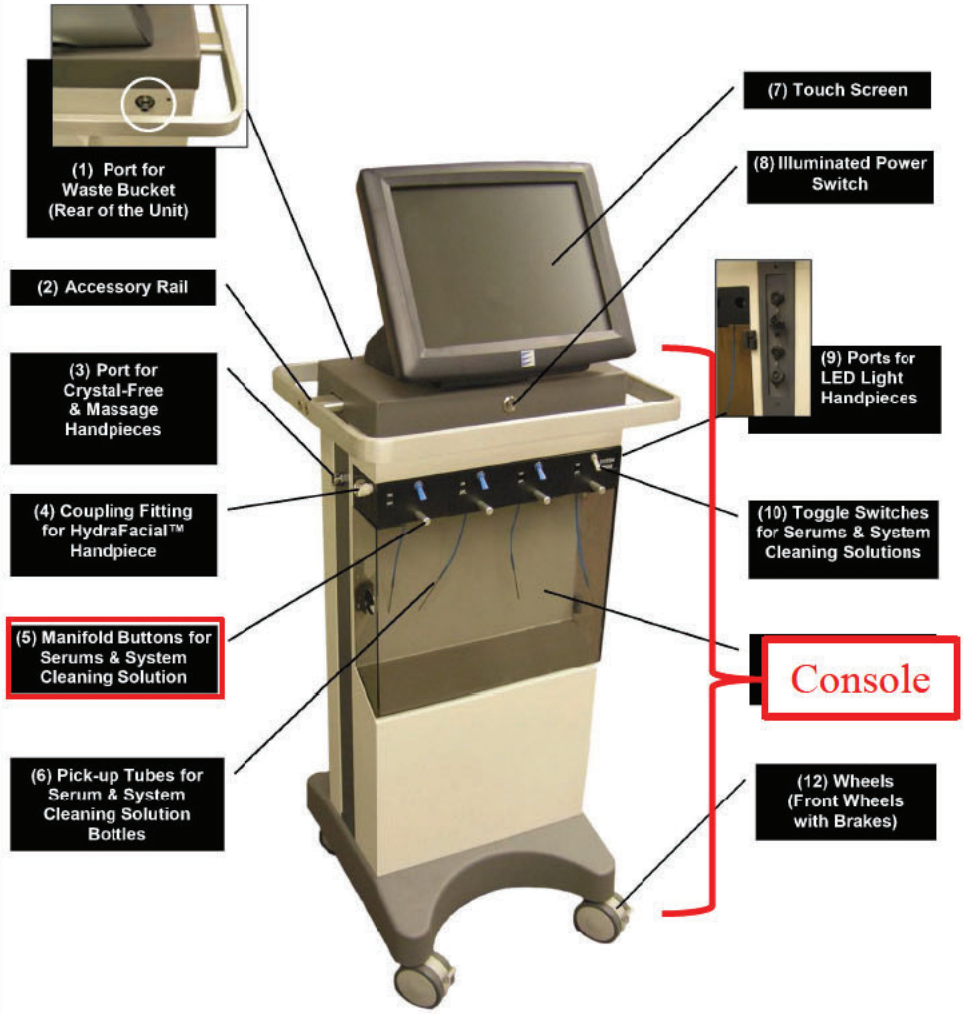


Exhibit B5 at 8.

The Tower Owner's Manual explains that the "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." *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 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 20.

CLAIM 22 OF THE '287 PATENT
[redacted]

107. For all of these reasons, the HydraFacial Tower practices claim 22 of the '287 Patent.

108. I have been asked to provide expert analysis on whether the HydraFacial Systems each embody the Asserted Claims and are coextensive with the Asserted Claims sufficient to establish a presumed nexus. As discussed in Paragraphs 91–107 above, the HydraFacial Systems each are multi-container systems having a claimed manifold and collection lumen embodying the Asserted Claims of the Asserted Patents.

109. Further, the HydraFacial Systems are each coextensive with the Asserted Claims for several reasons. First, Claim 1 of the '052 Patent is directed to systems for performing a skin treatment procedure with (1) a console with a manifold, (2) multiple fluid containers of liquid treatment material, (3) fluid communication between the fluid containers and the manifold, (4) fluid communication between a handpiece assembly and the manifold, (5) a vacuum source, and (6) fluid communication between the vacuum source and the handpiece assembly, resulting in a system that permits a user to select a fluid container (and thus the liquid in the fluid containers) for delivery to the handpiece assembly. As discussed in detail above, the HydraFacial Systems each are a system for performing a skin treatment procedure that includes the key features recited in Claim 1.

110. Similarly, Claim 22 of the '287 Patent is directed to systems for treating skin with (1) a console, (2) multiple containers with treatment material, (3) a collection lumen, (4) fluid communication between the containers and the collection lumen, (5) fluid communication between a handpiece and the collection lumen, (6) a vacuum source in the console, and (7) fluid communication between the vacuum source and the handpiece, resulting in a system that delivers the treatment materials in the containers to the handpiece sequentially. As discussed in detail above, the HydraFacial Systems each are a system for treating skin that includes the key features recited in Claim 22.

111. Second, the HydraFacial Systems each do not contain other key or driving features that are not claimed. For example, while these systems may include red or blue light therapy handpieces, the HydraFacial Systems are primarily and exclusively marked as hydrodermabrasion systems, rather than light therapy devices. *See* Savsani Decl. at ¶ 9. I understand that light therapies are not required for a hydrodermabrasion treatment, and the effects of light therapy treatments can be achieved using much less expensive machines. *Compare* Savsani Decl. at ¶ 6 ([redacted]) *with* https://www.celluma.com/products/celluma-pod ($299 light therapy device). Thus, the features of the HydraFacial Systems that are significant ae the features coextensive with Claim 1 of the '052 Patent.

112. Thus, in my opinion, a nexus is presumed between the secondary considerations and the HydraFacial Systems.

113. However, independent of any presumption, it is my opinion that a nexus exists between the objective indicia and the Asserted Claims.

114. I understand that, in May 2008, HydraFacial launched a hydrodermabrasion system known as the HydraFacial Nectre ("Nectre"). *See* Savsani Decl. at ¶¶ 21–24. I understand that HydraFacial stopped selling the Nectre in 2013. *Id.* at ¶ 24, n.1. Unlike the HydraFacial Systems, the Nectre was a single-container hydrodermabrasion system that lacked a lumen or manifold that could receive fluid from multiple connected containers.

115. In my opinion, the Nectre meets the limitations of the Asserted Claims that are not dependent on the device having multiple containers connected to the console and having a manifold/collection lumen. Below is my analysis of the Nectre against the Asserted Claims.

CLAIM 1 OF THE '052 PATENT
Preamble 1[pre]: A system for performing a skin treatment procedure, the system comprising:
To the extent the preamble is deemed to be a limitation, the HydraFacial Nectre is a system for performing a skin treatment procedure. ***HydraFacial Nectre User Manual*** The Nectre User Manual describes the system as a "revolutionary breakthrough in aesthetic technology" and explains that it is the "next generation of exfoliation and skin rejuvenation." **Exhibit B7** at 4. The User Manual 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.*

CLAIM 1 OF THE '052 PATENT

The photo from the User Manual below shows the HydraFacial Nectre system.



Id. at 1.

[a][i]: a console including a manifold,

The HydraFacial Nectre lacks a manifold for receiving fluid from multiple sources at a time. As explained above, the purported "manifold" described in the Nectre documents is not an actual manifold, and thus, the "manifold" described therein is either identified as such with quotation marks, or is described in alternative terms, e.g., a block component where a single fluid container connects to the console.

[a][ii]: the manifold being in fluid communication with a first fluid container and at least a second fluid container,

The HydraFacial Nectre does not have a manifold.[8] As shown below, the HydraFacial Nectre has a single fluid container in fluid communication with the console.

HydraFacial Nectre Owner's Manual

The Nectre Owner's Manual shows the Nectre's console is only configured to receive a single container:

[8] The User Manual refers to "manifold buttons" and a "manifold" in the device. However, a POSA would not recognize this structure as a manifold, since this structure is not configured to be in fluid communication with multiple fluid sources at a time.

CLAIM 1 OF THE '052 PATENT



Exhibit B7 at 11. The User Manual instructs users 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.



Id. at 12.

[a][iii]: the first fluid container and the at least the second fluid container being configured to contain a treatment material for a skin treatment procedure, wherein the treatment material comprises a liquid;

The first fluid container and the at least second fluid container of the HydraFacial Nectre are configured to contain a treatment material for a skin treatment procedure, wherein the treatment material comprises a liquid. *See* limitations 1[pre], [a], and [a][i], *supra*

HydraFacial Nectre Owner's Manual

The Nectre Owner's Manual refers to "skin solutions" for use in the Nectre system, as shown in the image below:

CLAIM 1 OF THE '052 PATENT



Exhibit B7 at 10. The image below shows one of the containers connected with a liquid treatment material, as well as the additional detached containers with serums (e.g., beta-hd and Antiox-6).



Exhibit B7 at 11.

[b]: a handpiece assembly comprising a tip, the tip being configured to contact a skin surface of a subject;

The HydraFacial Nectre comprises a handpiece assembly comprising a tip, with the tip being configured to contact a skin surface of a subject.

HydraFacial Nectre Owner's Manual

The Nectre Owner's Manual includes the figures below depicting the handpiece assembly.

CLAIM 1 OF THE '052 PATENT



Exhibit B7 at 10.



Increase flow
Counterclockwise



Decrease flow
Clockwise

Id. at 13. In addition, the User Manual confirms that the handpiece assembly is configured to contact skin tissue via the tip, instructing users to "[d]o a sensitivity test on the neck by the earlobe[.]" *Id.* at 7. One of the fixes for no or low fluid flow to the handpiece assembly is to "[m]ake sure the HydroPeel plastic tip is firmly installed onto the HydraFacial handpiece." *Id.* at 17.

[c]: a supply conduit placing the manifold of the console in fluid communication with the handpiece assembly, wherein a distal end of the supply conduit is configured to couple to the handpiece assembly;

The HydraFacial Elite comprises a supply conduit placing the manifold of the console in fluid communication with the handpiece assembly, wherein the distal end of the supply conduit is configured to couple to the handpiece assembly.

HydraFacial Nectre Schematic

As shown in the schematic and image below, a supply conduit places the "manifold" in fluid communication with the handpiece assembly.

CLAIM 1 OF THE '052 PATENT

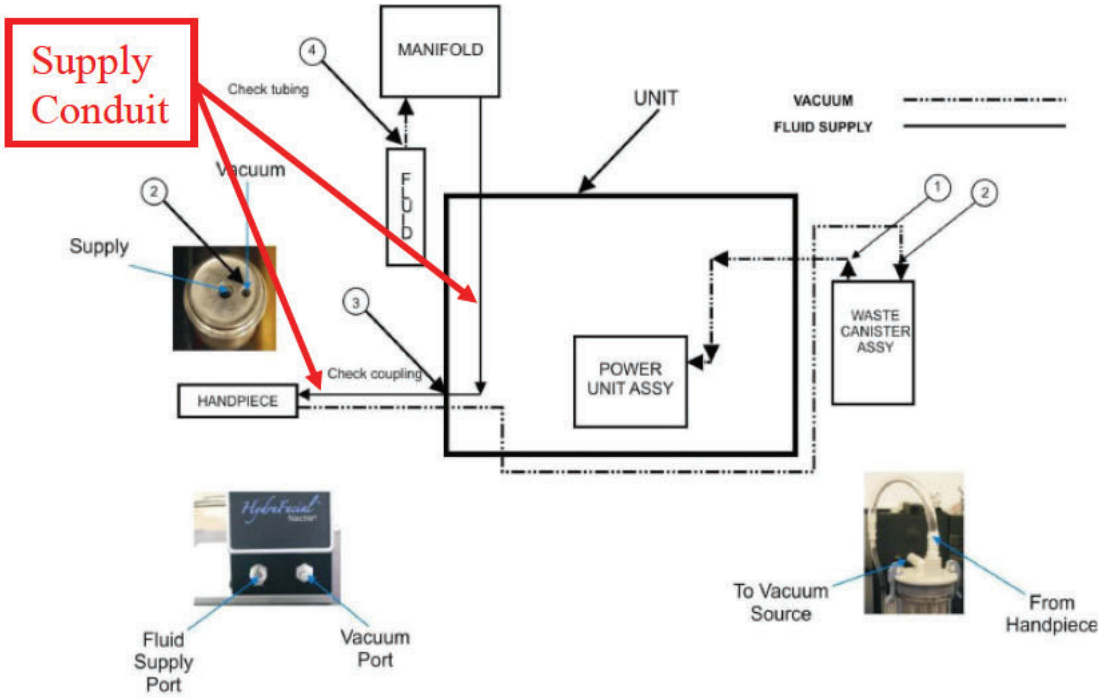


Exhibit B8 at 6. The image above shows a "fluid port" where tubing from the handpiece assembly connects to the console (the tubing containing the supply conduit).

HydraFacial Nectre User Manual

The User Manual instructs a user to connect the "handpiece tubing" (containing part of the supply conduit" to the console of the Nectre. Because the handpiece tubing (supply conduit) is connected to the handpiece, the supply conduit is coupled to a distal end of the handpiece assembly.

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.

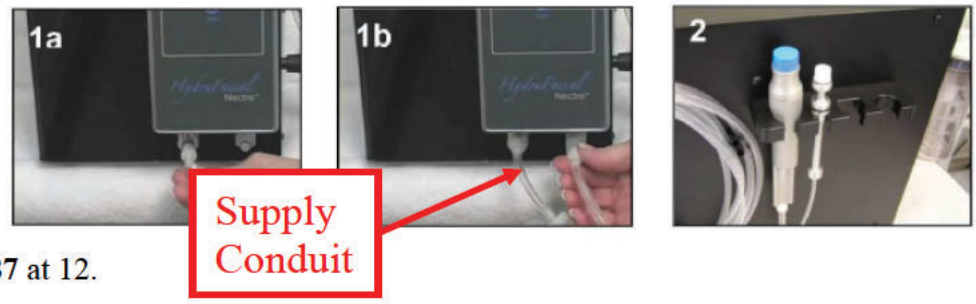


Exhibit B7 at 12.

CLAIM 1 OF THE '052 PATENT

[d]: wherein the manifold is configured to control a flow of treatment material from the first fluid container and at least the second fluid container through the supply conduit; and

The "manifold" of the HydraFacial Nectre is configured to control a flow of treatment material from the single connected fluid container, and not an at least the second fluid container, through the supply conduit.

As described above, the supply conduit extends from the handpiece assembly to where the single fluid container connects to the console, which is in fluid communication with the fluid containers. *See* limitation 1[c], *supra*. As explained below, the self-purported "manifold" (block component where the fluid containers connect to the console) in fluid communication with a single fluid container is configured to control a flow of treatment material from that fluid container through the supply conduit.

HydraFacial Nectre User Manual

The Nectre's User Manual shows a toggle switch on the block component where the fluid container connects to the console to control the flow of treatment material from the fluid containers:

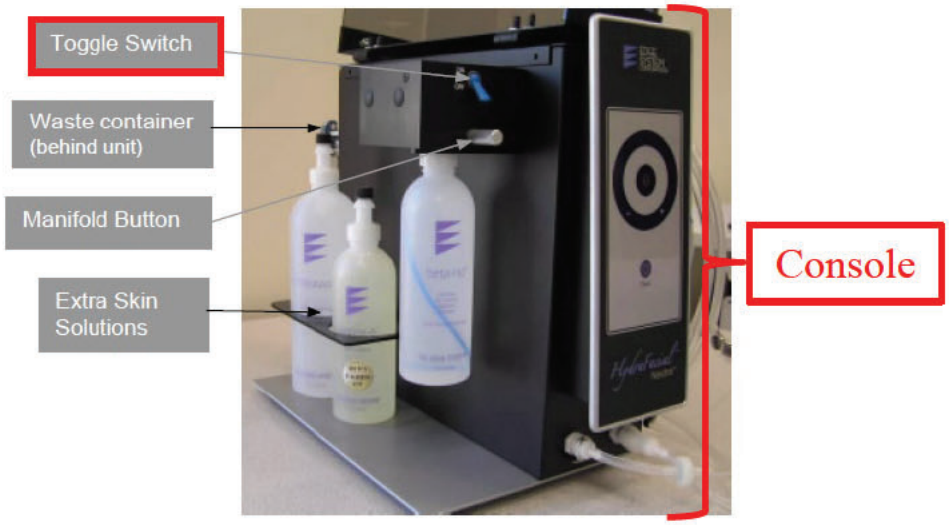


Exhibit B7 at 11. The User Manual cautions that "[t]he toggle switch controls whether the skin solution is being drawn from the bottle."

Note: The toggle switch controls whether the skin solution is being drawn from the bottle.

To use bottled skin solution:

1. Flip toggle switch to the ON position
2. The solid cartridge should be in the cartridge handpiece

To use skin solutions from the vial:

1. Flip the toggle switch to the OFF position
2. A skin solution cartridge must be in the cartridge handpiece.

Id. at 12. The User Manual also instructs a user to "[a]lways flip the toggle switches to the OFF position when not in use to prevent skin solution from siphoning out of the handpiece." *Id.* at 13. Thus, the HydraFacial Nectre is configured to control a flow of treatment material

CLAIM 1 OF THE '052 PATENT

from the single connected fluid container, and not an at least the second fluid container, through the supply conduit via the toggle switches on the self-described "manifold."

[e]: a vacuum source;

The HydraFacial Nectre comprises a vacuum source.

HydraFacial Nectre User Manual

The Nectre User Manual provides instructions for how to turn on/off the vacuum source and adjust vacuum intensity.

2) VACUUM ON/OFF AND ADJUSTMENT

To Turn The Vacuum ON And Adjust Vacuum Level:

1. Tap the power switch ⏻ to start the vacuum. The vacuum level default setting is the 4th dot (1 o'clock position). The power indicator light will change to **blue**, and the first four vacuum level indicator lights will be illuminated.
2. To increase or decrease the vacuum level, either
   - Glide your finger along the vacuum adjustment to the desired level

   -OR-
   - Tap the desired vacuum level position.
3. See your **Service Protocol Manual** for suggested settings for various skin types.



Default vacuum setting



Increase vacuum level by gliding



Increase vacuum level by tapping

Exhibit B7 at 14.

HydraFacial Nectre Schematic

As shown in the schematic and image below, the Nectre includes a vacuum source.

CLAIM 1 OF THE '052 PATENT

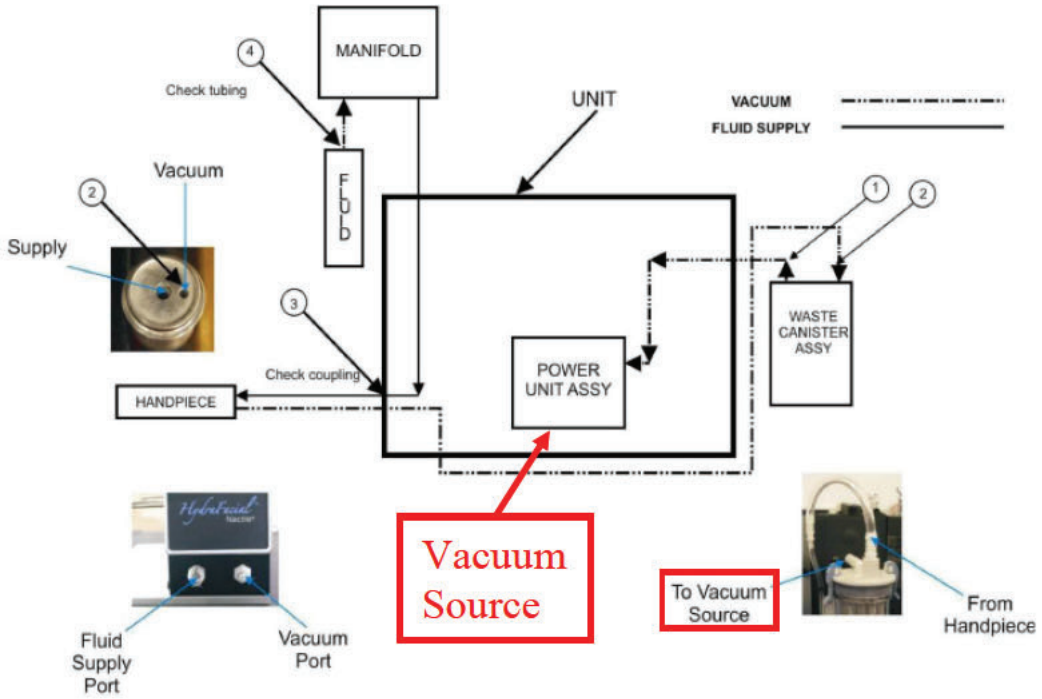


Exhibit B8 at 6.

[f]: a waste conduit in fluid communication with the tip of the handpiece assembly to remove waste away from a skin surface of a subject during a skin treatment procedure, wherein the waste conduit is operatively coupled to the vacuum source; and

The HydraFacial Nectre comprises a waste conduit in fluid communication with the tip of the handpiece assembly that removes waste away from a skin surface of a subject during a skin treatment procedure, where the waste conduit is operatively coupled to the vacuum source.

HydraFacial Nectre Schematic

As shown in the schematic and image below, a waste conduit places the tip of the handpiece assembly in fluid communication with the vacuum source.

CLAIM 1 OF THE '052 PATENT

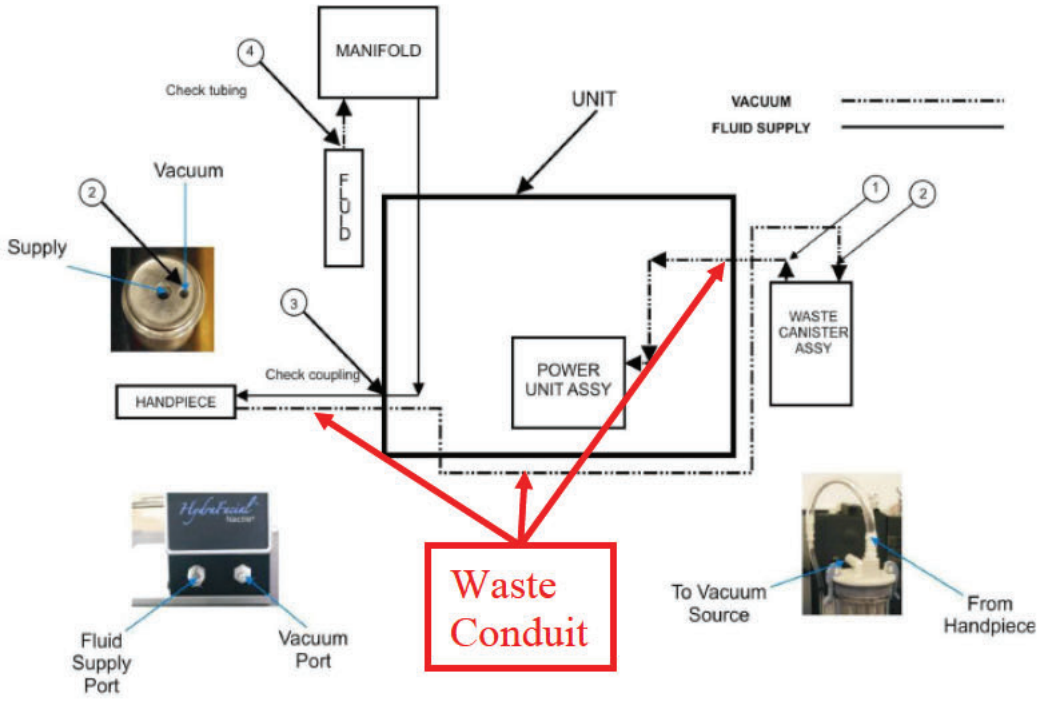


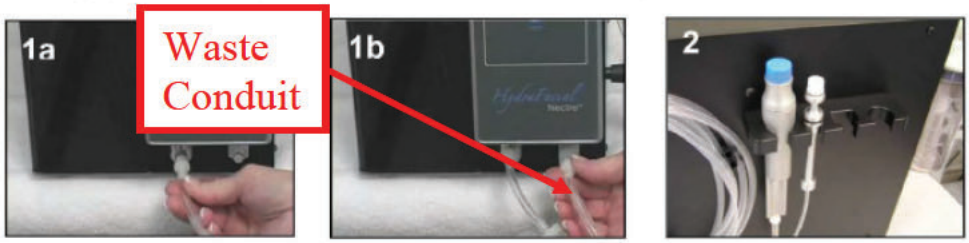
Exhibit B8 at 6. The image above shows a "vacuum port" where tubing from the handpiece assembly connects to the console (the tubing containing the waste conduit). The image above also shows tubing entering the waste container ("from handpiece") and tubing leaving the waste container ("to vacuum source") that contains the waste conduit.

HydraFacial Nectre User Manual

The User Manual instructs a user to connect the "handpiece tubing" (containing part of the waste conduit" to the console of the Nectre. Because the handpiece tubing (waste conduit) is connected to the handpiece, the waste conduit is in fluid communication with the tip of the handpiece assembly.

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.



CLAIM 1 OF THE '052 PATENT
Exhibit B7 at 12. The waste conduit is used to remove waste away from the skin of a subject during a skin treatment procedure. One of the User Manual's solutions for troubleshooting "no or low fluid low" is to: 11. Check level of liquid in waste container. If the container becomes overfull, a built-in float will occlude the vacuum opening and skin solution flow through the handpiece will cease. If this happens, empty the waste container. The cone-shaped float on the lid will return to normal position allowing the resumption of skin solution flow. If the float does not return to normal position, use your finger to gently loosen it and return it to the normal position. *Id.* at 17. Because the waste container blocks the vacuum opening on the handpiece assembly when the waste container is too full, the waste conduit is in fluid communication with the handpiece assembly, and thus, the tip of the handpiece assembly.
[g]: wherein the system is configured to permit a user to select the treatment material from the first fluid container or the at least second fluid container to be delivered through the supply conduit to the handpiece assembly; and
The HydraFacial Nectre is not configured to permit a user to select the treatment material from the first fluid container or the at least second fluid container to be delivered through the supply conduit to the handpiece assembly. A user must disconnect the single connected fluid container for a different container to select a treatment material from a different container for delivery to the handpiece assembly.
[h]: wherein, when the vacuum source is activated and the tip contacts the skin surface, a suction force is created within the waste conduit and along the tip, thereby removing waste from the skin surface via the waste conduit while drawing treatment material from the first fluid container or the second fluid container to the tip via the supply conduit.
When the vacuum source is activated and the tip contacts the skin surface, a suction force is created within the waste conduit and along the tip, thereby removing waste from the skin surface via the waste conduit while drawing treatment material from the first fluid container or the second fluid container to the tip via the supply conduit. As explained above, the HydraFacial Nectre has (1) a waste conduit in fluid communication with the tip of the handpiece assembly to remove waste away from a skin surface of a subject during a skin treatment procedure, (2) a vacuum source operatively coupled to the waste conduit, (3) a handpiece assembly with a tip that is configured to contact a skin surface of a subject during treatment, and (4) a block component where a fluid container connects configured to control a flow of treatment material from the attached fluid container through the supply conduit to the handpiece assembly. *See* limitations 1[b], [c], [d], and [f], *supra*. As shown below, it is the same suction force that removes waste from the skin surface via the waste conduit that also draws treatment material from the first fluid container or the second fluid container to the tip via the supply conduit.

CLAIM 1 OF THE '052 PATENT

HydraFacial Nectre User Manual

The "Troubleshooting" section of the Nectre User Manual warns that, "[i]f the container becomes overfull, a built-in float will occlude the vacuum opening and skin solution flow through the handpiece will cease." *Id.* at 20. The recommended solution to this situation is to "empty the waste container." *Id.* Thus, the vacuum draws from the connected fluid container to the handpiece assembly when the tip is pressed against skin.

> 11. Check level of liquid in waste container. If the container becomes overfull, a built-in float will occlude the vacuum opening and skin solution flow through the handpiece will cease. If this happens, empty the waste container. The cone-shaped float on the lid will return to normal position allowing the resumption of skin solution flow. If the float does not return to normal position, use your finger to gently loosen it and return it to the normal position.

Exhibit B7 at 17.

116. For all of these reasons, it is my opinion the Nectre meets the limitations of Claim 1 of the '052 Patent literally or under the doctrine of equivalents, with the exception of limitations directed to having multiple containers connected to the console and having a manifold.

117. The collection lumen described in the '287 Patent performs a substantially similar function in being the location where fluids from multiple containers collect for subsequent delivery to the handpiece/handpiece assembly. Since the Nectre lacks a manifold and having multiple containers connected to the console at a time, the Nectre similarly does not practice every element of claim 22 of the '287 Patent.

2. *Commercial Success*

118. In my opinion, the difference between the HydraFacial Systems and the Nectre is the multi-container hydrodermabrasion system (having a manifold) found in the Syndeo, Elite, Allegro, and Tower, as opposed to the single-container hydrodermabrasion system found in the Nectre. Indeed, I understand the Nectre system used the same liquid solutions and same tips as the Syndeo, Elite, Allegro, and Tower, which is further evidence that the differentiating factor is

that these systems are multi-container hydrodermabrasion system (having a manifold) rather than a single-container system.

119. It is further my opinion that the multi-container system allows for easier and more efficient facials (no need to pause treatment to change bottles), making the Syndeo, Elite, Allegro, and Tower more desirable. [redacted]

120. 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.

3. *Copying*

121. I understand that HydraFacial brought a suit for patent infringement of at least the ’052 Patent against an individual named Richard Aguila for selling a product that looked and operated identically to the HydraFacial® Tower™ system. I understand that HydraFacial received a temporary restraining order, preliminary injunction, and summary judgment of infringement against Mr. Aguila for his blatant copying. *See Edge Systems, LLC v. Aguila*, Case No. 1:14-cv-24517 (S.D. Fla.) Dkt. 15 (order granting temporary restraining order), Dkt. 89 (order granting preliminary injunction), Dkt. 225 (order granting summary judgment of infringement and permanent injunction).

122. The images below, taken from a court order against Mr. Aguila, show the knockoff product was essentially indistinguishable from HydraFacial’s roduct, with the HydraFacial® Tower™ on the lift and Mr. Aguila’s knockoff product on the right.



EDGE HYDRAFACIAL® PRODUCT



DEFENDANT'S ACCUSED PRODUCT

Edge Systems, LLC v. Aguila, Case No. 1:14-cv-24517 (S.D. Fla.), Dkt. 225 at 6.

123. I understand that the Court in its summary judgment decision against Aguila described Mr. Aguila's copying of the Tower 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. at 1. It is my opinion that this copying of the HydraFacial® Tower™ encompassing the '052 Patent supports the non-obviousness of the '052 Patent.

124. I recognize that HydraFacial did not assert the '287 Patent in the lawsuit against Mr. Aguila in 2014, and had asserted patents from a different patent family. In fact, HydraFacial could not have asserted the '287 Patent because it had not yet issued. However, it was clear to me that Mr. Aguila copied the HydraFacial Tower based on his access to that product, including all the features now patented in the '287 Patent. The judge also determined that Mr. Aguila had access to and actually copied a specific product, the HydraFacial® Tower™, which is protected by at least claim 22 of the '287 Patent. In my opinion, Mr. 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.

125. I have been informed that there is a presumption of validity for the '052 and '287 Patents, and it can only be overcome if the Defendant demonstrates invalidity with clear and convincing evidence. Nothing I have reviewed in these cited proceedings meets that standard to show claim 1 of the '052 Patent and claim 22 of the '287 Patent lack novelty and/or are obvious.

XI. CONCLUSION

For the reasons detailed above, it is also my opinion that Defendant's AquaFirmeXS system meets each limitation of claim 1 of the '052 Patent and claim 22 of the '287 Patent, and thus infringes.

For the reasons detailed above, it is my opinion that claim 1 of the '052 Patent and claim 22 of the '287 Patent are valid.

I declare that all statements made herein of my knowledge are true, and that all statements made on information and belief are believed to be true, and 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.

Executed this 13th day of June 2025 in Dover, New Hampshire.

2025.06.13
15:43:54 -04'00'

Karl Leinsing