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**Subject:** Activity in Case 1:14-cv-24517-KMM Edge Systems LLC et al v. Aguila Order Adopting Report and Recommendations

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**U.S. District Court**

**Southern District of Florida**

**Notice of Electronic Filing**

The following transaction was entered on 2/24/2015 at 2:41 PM EST and filed on 2/24/2015
**Case Name:** Edge Systems LLC et al v. Aguila
**Case Number:** 1:14-cv-24517-KMM
**Filer:**
**Document Number:** 89(No document attached)

**Docket Text:**
**PAPERLESS ORDER ADOPTING [81] REPORT AND RECOMMENDATION. THIS CAUSE came before the Court on Plaintiffs Application for Preliminary Injunction. [13]. Pursuant to 28 U.S.C. § 636 and the Magistrate Rules of the Local Rules of the Southern District of Florida, the matter was referred to the Honorable Chris M. McAliley, United States Magistrate Judge. Magistrate Judge McAliley issued a Report and Recommendation [81] recommending that this Court grant Plaintiffs Application for Preliminary Injunction. Defendant filed Objections to the Report [87]. Defendant objections are summarized as follows: (1) Defendant disputes that Plaintiffs' HydraFacial MD can be described as a "wet system"; (2) Defendant maintains that it is likely that Weston Presidio has the exclusive license to the claimed U.S. patents from Axia, and not Plaintiff Edge Systems; (3) Plaintiff Edge Systems only has a trademark for a microdermabrasion device called "The Edge System," not for the company name; (4) Defendant's system uses a very common procedure used by several manufacturers; (5) Judge McAliley erred in finding that Defendant conceded that his machine uses technology covered by Plaintiff's patent ; (6) Judge McAliley erred in finding the testimony of Roger Ignon and William Cohen to be credible; (7) Judge McAliley erred in finding Defendant's testimony to not be credible, and made this determination without any evidence; (8) Judge McAliley erred in finding that Plaintiffs have used the "E" logo since 1999; (9) Judge McAliley acted as both judge and jury in deciding the facts in this**



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**case; (10) Judge McAliley erred in finding that Plaintiffs began to manufacture the Hydrafacial MD in 2004, as the evidence shows the earliest date that any devices were sold was in 2005; (11) Defendant has never claimed that his DiamondSkin machine was a dry system; (12) Judge McAliley erred in finding that Defendant's company ceased selling the infringing products; in fact, Defendant never believed that he was infringing any products; (13) Judge McAliley erred in selectively quoting an email sent by Defendant; (14) it was Plaintiffs who stole Defendant's logo, trade name, trade dress, and names, and not the other way around; (15) Judge McAliley erred in finding that Plaintiffs have clearly established Defendant's unauthorized use of Plaintiffs' trademarks and trade dress; (16) Judge McAliley erred in failing to consider Defendant's invoices; (17) Judge McAliley failed to explain why laches are not at issue here; and (18) Judge McAliley erred in finding that Defendant offered no testimony or evidence to demonstrate how the '739 patent anticipates that '620 patent. After conducting a de novo review of the record, including the transcript from the hearing held before Judge McAliley, the Court agrees with Judge McAliley's conclusions on Plaintiffs' Application for Preliminary Injunction. Judge McAliley's factual findings are supported by the record, and the Court finds that Plaintiffs have satisfied their burden in establishing the four elements required to obtain a preliminary injunction. UPON CONSIDERATION of the Application for Preliminary Injunction [13], Transcript of the Motions Hearing [55], Report [81], Objections [87], and after a de novo review of the record, it is hereby ORDERED AND ADJUDGED that Magistrate Judge McAliley's Report and Recommendation [81] is ADOPTED. Signed by Chief Judge K. Michael Moore on 2/24/2015. (apy)**

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