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11 Attorneys for Plaintiff ZAPTERA USA, INC.

12 **THE UNITED STATES DISTRICT COURT**
13 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

14 ZAPTERA USA, INC., a California
corporation,

15 Plaintiff,

16 v.

17
18 APTERA MOTORS CORP., a Delaware
corporation; STEVE FAMBRO, an
19 individual; CHRIS ANTHONY, an
individual; MICHAEL JOHNSON, an
20 individual; JASON HILL, an individual;
21 MILES WHEELER, an individual;
22 NATHAN ARMSTRONG, an individual;
and DOES 1 through 100, inclusive,

23 Defendants.
24

Case No.: 24CV1413 JO JLB

**COMPLAINT FOR DAMAGES,
AND INJUNCTIVE RELIEF:**

1. **INFRINGEMENT OF U.S. PATENT NO. D633821 [35 U.S.C. 271, et seq];**
2. **INFRINGEMENT OF U.S. PATENT NO. D635487 [35 U.S.C. 271, et seq];**
3. **THEFT OF TRADE SECRETS [18 U.S.C. 1831, et seq];**
4. **TORTIOUS INTERFERENCE WITH CONTRACT;**
5. **UNJUST ENRICHMENT;**
6. **VIOLATION OF CAL. BUS. & PROF. CODE, § 17200, et seq;**
7. **DECLARATORY JUDGMENT.**

JURY TRIAL DEMANDED

27 **COME NOW**, Plaintiff ZAPTERA USA, INC., by and through their counsel
28 of record, and hereby respectfully submit this Complaint and alleges as follows:



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I. INTRODUCTION

1. About twelve years ago, Aptera Motors, Inc., went defunct, liquidating its assets through a general assignment for the benefit of creditors (the “ABC”).¹ Plaintiff purchased all of the assets out of that ABC, including all trademarks, patents, copyrights, and trade secrets.

2. However, approximately ten years later, Defendants resuscitated Aptera Motors as Aptera Motors Corp., using the very same assets Plaintiff had purchased out of the ABC and that now belong to Plaintiff.

3. Plaintiff made a formal demand on Defendants through counsel in advance of filing this suit. However, Defendants chose to ignore that demand.

4. In the meantime, Defendants continue to offer for sale and pre-sell tens of thousands of vehicles that practice patents and trade secrets owned by Plaintiff and raise millions of dollars from investors without disclosing Plaintiff’s claims.

5. Indeed, Defendants go so far as to cite “their” patents as part of their success strategy in their public disclosures with the United States Securities and Exchange Commission (“SEC”). However, even brief reference to those patents makes clear Defendants are not only purporting to have patented improvements to Plaintiff’s existing patents. Indeed, review of Plaintiff’s disclosure statements submitted to the United States Patent and Trademark Office (“USPTO”) reference Plaintiff’s patents, proving Defendants’ knowledge of them. And yet, Plaintiff’s SEC disclosures make no reference to Plaintiff’s patents—because Defendants knew they did not own them.

6. Plaintiff now seeks damages for Defendants’ infringement on, and theft of Plaintiff’s intellectual property, and to put a stop to Defendants’ malfeasance.

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¹ An ABC is a state-law procedure analogous to federal bankruptcy. See https://www.law.cornell.edu/wex/assignment_for_benefit_of_creditors.



II. THE PARTIES

1
2 7. Plaintiff ZAPTERA USA, INC. (“Zaptera”) is, and at all times relevant
3 herein was, a corporation organized under the laws of the State of California, with its
4 principal place of business in the County of Sonoma, California.

5 8. Plaintiff is informed and believes, and based thereon alleges Defendant
6 APTERA MOTORS CORP. (“Aptera Motors”) is, and at all times relevant herein was
7 a corporation organized under the laws of the State of Delaware, with its principal
8 place of business in the City of Carlsbad, County of San Diego, State of California.

9 9. Plaintiff is informed and believes, and based thereon alleges Defendant
10 STEVE FAMBRO (“Fambro”) is, and at all times relevant herein was an individual
11 residing in the State of California, county of San Diego.

12 10. Plaintiff is informed and believes, and based thereon alleges Defendant
13 CHRIS ANTHONY (“Anthony”) is, and at all times relevant herein was an individual
14 residing in the State of California, county of San Diego.

15 11. Plaintiff is informed and believes, and based thereon alleges Defendant
16 MICHAEL JOHNSON (“Johnson”) is, and at all times relevant herein was an
17 individual residing in the State of California, county of San Diego.

18 12. Plaintiff is informed and believes, and based thereon alleges Defendant
19 JASON HILL (“Hill”) is, and at all times relevant herein was an individual residing
20 in the State of California, county of Orange.

21 13. Plaintiff is informed and believes, and based thereon alleges Defendant
22 MILES WHEELER (“Wheeler”) is, and at all times relevant herein was an individual
23 residing in the State of Washington, county of King.

24 14. Plaintiff is informed and believes, and based thereon alleges Defendant
25 NATHAN ARMSTRONG (“Armstrong”) is, and at all times relevant herein was an
26 individual residing in Calgary, Canada.

27 15. Plaintiff is unaware of the true names and capacities of those defendants
28 sued herein as DOE defendants. Plaintiff will amend this Complaint to allege said



1 defendants' true names and capacities when that information becomes known to them.
2 Plaintiff is informed and believes, and thereon allege, that these DOE defendants are
3 legally responsible and liable for the incident, injuries and damages hereinafter set
4 forth, and that each of said defendants legally and approximately caused the injuries
5 and damages by reason of negligent, careless, deliberately indifferent, intentional
6 willful or wanton misconduct, including the misconduct in creating and otherwise
7 causing the incidents, conditions and circumstances hereinafter set forth, by reason of
8 direct or imputed negligence or vicarious fault or breach of duty arising out of the
9 matters herein alleged. Plaintiff will seek leave to amend this Complaint to set forth
10 said true names and identities of the DOE defendants when they are ascertained.

11 16. Plaintiff is informed and believes, and thereon alleges, that, at all times
12 herein mentioned, each of the defendants was the agent and/or employee and/or co-
13 conspirator of each of the remaining defendants, and in doing the things hereinafter
14 alleged, was acting within the scope of such agency, employment and/or conspiracy
15 and with the permission and consent of the other co-defendants. The acts of each of
16 the Defendants, its officers and employees, were adopted by and ratified by the
17 remaining Defendants. Each of Defendant either encouraged, assisted, ratified and/or
18 with deliberate indifference failed to prevent any of the acts complained of herein.

19 **III. VENUE AND JURISDICTION.**

20 17. This Court has exclusive jurisdiction over one or more claims brought
21 under federal law pursuant to 28 U.S.C. §§ 1331, 1338, and 1343, and supplemental
22 jurisdiction over state law claims arising from common facts pursuant to 28 U.S.C. §
23 1367. This Court also has jurisdiction over Plaintiff's claims for declaratory and
24 injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202.

25 18. Venue is proper in the Southern District of California because the
26 majority of the defendants reside in this judicial district within the meaning of 28
27 U.S.C. § 1391 and because the events, acts, and omissions giving rise to Plaintiff's
28 claims occurred in the Southern District of California. Venue is proper under 28



1 U.S.C. § 1400(b) because Defendants reside in this Judicial District or have committed
2 acts of infringement and have a regular and established place of business in this
3 Judicial District.


4 **IV. GENERAL FACTUAL ALLEGATIONS.**

5 **A. Aptera Motors, Inc. – From Inception to its 2012 Liquidation.**


6 19. Plaintiff is informed and believes Fambro, Anthony, and Johnson
7 (collectively, the “Founders”) founded Aptera Motors, Inc. in 2006. Indeed, the
8 Founders identify themselves on Aptera’s website (https://aptera.us/about) as follows:

Meet the Aptera Team.
Thinkers. Innovators. Industry-leaders.


Founders Executives Team



Steve Fambro
Co-CEO
[Read More +](#)



Chris Anthony
Co-CEO
[Read More +](#)



Michael Johnson
Co-Founder
[Read More +](#)

Steve Fambro
Co-CEO

Bio:

Venture partner and COO of Ocean Holding, an investment and development company dedicated to advancing the use of clean, renewable energy. Founder of Famgro; raised \$8m to launch a superefficient pesticide/herbicide-free indoor food-production system.

[Read Less -](#)

Chris Anthony
Co-CEO

Bio:

Founder and former CEO of Flux Power, an advanced lithium-battery technology company that launched its first products in 12 months and has reduced carbon emissions in industrial spaces by over 1,000 tons of CO2 per year. Has raised more than \$100m in private equity, DPO, and grant funding for technology ventures. Chris holds a B.S. in Finance from the University of North Carolina.

[Read Less -](#)

Michael Johnson
Co-Founder

Bio:

Venture co-founder, owner, and president/CEO of Esenjay Petroleum, an upstream O&G exploration company based in Corpus Christi, Tex. Co-founder, major shareholder, and director of Flux Power, a lithium-power provider.

[Read Less -](#)

20. Indeed, their website boasts, “The founders of Aptera, Chris Anthony and Steve Fambro, helped to create the electric vehicle market in 2006 with an idea unlike



1 any other. It was the first to achieve 300 mpg and it got a lot of attention, landing on
2 the cover of dozens of magazines and even appearing in the movie *Star Trek*.”

3 21. Aptera Motors, Inc. achieved these feats by focusing their efforts on
4 designing a vehicle that combined light body weight, reduced ground friction, and
5 most importantly, a unique aerodynamic body shape that is aesthetically striking and
6 pleasing while permitting the vehicle to reach these levels of efficiency. Critically,
7 that elegantly designed futuristic body shape and look was a critical part of the allure
8 of the early Aptera vehicle that distinguished it from other options on the market at
9 that time, and was an essential part of the marketability of the vehicle.

10 22. Defendants Hill, Wheeler, and Armstrong worked together with Anthony
11 and Fambro during that time, coming up with the original design for the unique body
12 design of Aptera’s aerodynamic vehicles.

13 23. In September 2008, Aptera Motors, Inc. hired an automotive industry
14 veteran Paul Wilbur, to take over as President and CEO.

15 24. Wilbur delayed the release of Aptera’s new line of vehicles out of
16 concerns that the vehicles were not yet ready for release.

17 25. In 2009, Fambro and Anthony stepped back from day-to-day operations
18 of the company (allegedly, to save money and lower the company’s “burn” rate while
19 the company sought more funding), though they remained on as shareholders of, and
20 advisers to the Aptera Motors, Inc.

21 26. Thereafter, Aptera Motors, Inc. was granted two design patents, for
22 “Aerodynamic Vehicle” and “Aerodynamic Vehicle Body”, U.S. Patent Nos.
23 D633821 (the “’821 Patent”) and D635487 (the “’487 Patent”), respectively.
24 Defendants Hill, Wheeler, and Armstrong are each listed as “Inventors” under those
25 patents. True and correct copies of each of the ’821 Patent and ’487 Patent are attached
26 hereto as **Exhibit 1** (the ’821 Patent) and **Exhibit 2** (the ’487 Patent), respectively.

27 27. However, in the end, and according to Aptera Motors’ website, “funding
28 didn’t exist for EV programs like it does today and Aptera faced challenges. Even



1 with the support of thousands of fans around the globe, the team realized the time was
2 not right for Aptera to fulfill its mission of creating a healthier world and a better way
3 to travel.”

4 28. In 2011, Aptera Motors, Inc. elected to liquidate via a general assignment
5 for the benefit of creditors through an otherwise well-known and reputable liquidator,
6 Michael Maily of Sherwood Partners.

7 29. Accordingly, on or about December 5, 2011, Wilbur executed a “General
8 Assignment” in favor of Aptera (assignment for the benefit of creditors), LLC
9 (“Aptera ABC, LLC”), a limited liability company formed by Mr. Maily to take
10 assignment of the assets of Aptera Motors, Inc. (the “Assignment”). The Assignment
11 purported to assign all of the tangible and intangible assets of Aptera Motors, Inc.,
12 including all “patents, copyrights, trademarks and trade names and all associated
13 goodwill, source codes, software, and related documentation,” and agreed to “execute
14 such additional documents as shall be necessary to accomplish the purpose of this
15 Assignment.” A true and correct copy of the Assignment is attached as **Exhibit 3**.

16 **B. Plaintiff Purchases the Assets of Aptera Motors, Inc. out of the ABC.**

17 30. On or about April 5, 2012, Aptera ABC, LLC and Plaintiff executed that
18 Asset Purchase Agreement (the “Asset Purchase Agreement”) for the purchase of all
19 of the assigned assets of Aptera Motors, Inc., including all of Aptera Motors, Inc.’s
20 intellectual property rights (the “Intellectual Property”), for the purchase price of one
21 million five hundred dollars (\$1,500,000) (the “Purchase Price”). A true and correct
22 copy of the Asset Purchase Agreement is attached hereto as **Exhibit 4**.

23 31. Thereafter, Plaintiff paid the Purchase Price, and took possession of the
24 Intellectual Property. Indeed, the Asset Purchase Agreement included various
25 exhibits, including the Assignment (Exh. A), a schedule of assets being assigned (Exh.
26 B), an “Assignment and Bill of Sale Agreement” (Exh. C), Patent Assignment (Exh.
27 D), and Trademark Assignment (Exh. E). *See* **Exhibit 4**.

28 ///



1 32. The Patent Assignment assigned the following inventions:

<u>Name</u>	<u>Patent No.</u>	<u>Patent Date</u>
Aerodynamic Vehicle Body	D635487	April 5, 2011
Aerodynamic Vehicle	D633821	March 19, 2010

5 (Collectively hereafter, the “Zaptera Patents”).

6 **C. Defendants Resuscitate Aptera Motors as Aptera Motors Corp. Using the**
 7 **Intellectual Property They Had Sold to Plaintiff.**

8 33. According to Aptera Motors, in 2019, after seeing a growing trend of
 9 more demand, better technology, improved supply chain, and electric vehicles
 10 growing more inefficient, Anthony and Fambro recognized “an opportunity . . . to
 11 build lightweight and aerodynamic vehicles powered by the sun that are able to handle
 12 most daily driving needs”

13 34. Accordingly, Anthony, Fambro, and Johnson officially relaunched
 14 Aptera Motors in March 2019, incorporating as Aptera Motors Corp. (instead of
 15 Aptera Motors, Inc.).

16 35. Aptera Motors, through Anthony and Fambro, went on to hire several of
 17 the original designers and engineers responsible for Aptera’s unique body design and
 18 use of materials, including Hill, Wheeler, and Armstrong.

19 36. The relaunched Aptera Motors began designing vehicles that looked
 20 nearly identical to the old Aptera vehicles, with only minor changes to the body and
 21 exterior. While there were obvious and important changes—most importantly, the
 22 incorporation of solar panels directly onto the exterior of the vehicle—the distinctive
 23 aerodynamic shape of the body was unmistakably that of the original Aptera designs
 24 covered by the Zaptera Patents.

25 37. That aerodynamic and aesthetically unique shape was critical to the
 26 development, promotion, and success of Aptera Motors. Hill, as Aptera Motors’
 27 design chief, publicly touted the aerodynamics and aesthetics of the design in
 28 promoting the return of Aptera and continued development of their new vehicles.



1 38. Aptera Motors even resumed its practice of seeking to patent the various
2 elements of its vehicles.

3 39. For instance, on March 9, 2021, Aptera Motors obtained a new design
4 patent for a “Three Wheeled Vehicle” numbered D912586 (the “’586 Patent”). A
5 review of those portions of the drawings make clear, the ’586 Patent depicts the
6 original Aptera vehicle that is the subject of the Zaptera Patents, and only purports to
7 patent a specific design element of the rear wheel cover and shape of the very back-
8 end of the vehicle. A true and correct copy of the ’586 Patent is attached hereto as
9 **Exhibit 5**.

10 40. Notably, in applying for the ’586 Patent, Aptera Motors disclosed the
11 Zaptera Patents in their Information Disclosure Statement (“IDS”). A true and correct
12 copy of the IDS submitted by Aptera Motors to the USPTO on or about August 22,
13 2019, is attached hereto as **Exhibit 6**.

14 41. In addition, Aptera Motors filed other new applications based on
15 technology and designs, including trade secrets, Defendants had sold to Plaintiff.
16 Aptera Motors claims to have a “\$100M+ patent portfolio” with 4 issued patents and
17 30 pending patent applications. On information and belief, the “100M+ patent
18 portfolio” was developed at least in part using Plaintiff’s trade secrets.

19 42. During that time period, Aptera Motors used Plaintiff’s patented designs
20 and trade secrets to attract preorders from future purchasers, grants from the US
21 Department of Energy, and investments through “Reg A” private offerings, and other
22 institutional offerings.

23 **D. Aptera Motors Succeeds by Infringing on Plaintiff’s Intellectual Property.**

24 43. Aptera Motors has apparently seen success, boasting “We launched in
25 late 2019 and have 40,000+ reservations from customers in 100+ countries. We plan
26 to begin production in 2024.” By Aptera Motors’ own admission, it has received
27 47,000+ pre-order reservations which represent \$1.7 billion revenue when the vehicles
28 are delivered.



1 44. Indeed, Aptera Motors has raised more than one hundred million dollars
2 grants and investors through “Reg A” offerings.

3 45. Those offerings are notable, because Aptera Motors has boasted of and
4 identified its technology, design, and intellectual property as part of its advantage,
5 strategy, and success in publicly available filings on the SEC’s EDGAR system.

6 46. For instance, at page 4 of Aptera Motors’ most recent “Offering
7 Memorandum Dated May 30, 2024” (the 2024 Offering Memorandum”) filed with
8 the SEC and available on EDGAR, Aptera Motors, includes the heading “THE
9 COMPANY AND ITS BUSINESS.” Subheadings thereunder include “Our
10 Advantages” and “Intellectual Property,” among others.

11 47. Under the subheading “Our Advantages,” Aptera Motors asserts “we
12 have been able to take a new approach to developing a solar powered vehicle that is
13 based on first-principles engineering, by focusing on weight, aerodynamics, and
14 overall efficiency.” It makes clear that weight and aerodynamics are critical to
15 achieving “meaningful solar powered range, in excess of the average U.S. commute,
16 and that is highly differentiated in functionality, purpose and style.”

17 48. And under the subheading “Intellectual Property,” Aptera Motors boasts:

18 We have been granted four patents, two design patents and
19 two utility patents. We have 30 patents pending, and our
20 patenting process is ongoing. . . . These patents cover our
21 . . . aerodynamic shape . . . body . . . thermal management
22 To date, we have relied on copyright, trademark and
23 trade secret laws, as well as confidentiality procedures and
24 licensing arrangements, to establish and protect
25 intellectual property rights to our vehicle cooling method,
26 process technologies and vehicle designs. We typically
27 enter into confidentiality or license agreements with
28 employees, consultants, consumers and vendors to control
access to and distribution of technology, software,
documentation and other information. Policing
unauthorized use of this technology is difficult, and the
steps taken may not prevent misappropriation of the
technology. . . .



1 49. On page seven, the 2024 Offering Memorandum then lists Apera
2 Motors' patents and patent applications, including the '586 Patent and the '830 Patent.

3 50. A true and correct copy of the 2024 Offering Memorandum is attached
4 hereto as **Exhibit 7**.

5 **E. Defendants Ignore Plaintiff's Demand, Defraud Investors and Purchasers.**

6 51. In or around early July 2022, Plaintiff discovered that Defendants had
7 resuscitated Apera Motors using what appeared to be the very same design covered
8 by the Zaptera Patents.

9 52. On July 28, 2022, through counsel at Barnes & Thornburg, LLP, Plaintiff
10 sent a letter to Anthony and Apera Motors, seeking to discuss Apera Motors'
11 unauthorized use of the Zaptera Patents, hoping to resolve the matter amicably (the
12 "Zaptera Letter"). Indeed, Apera Motors was using the very same designs they had
13 sold to Plaintiff for one-and-a-half million dollars some ten years earlier, without
14 permission, and without either paying licensing fees or repurchasing the patents from
15 Plaintiff. The Zaptera Letter compares photos of Apera Motors' current vehicles to
16 the drawings on the Zaptera Patents, and then states, "the Apera vehicle appears to
17 infringe the Zaptera patents and any use, manufacture, sale, offer for sale, and
18 importation of the Apera vehicle in the United States is unauthorized and in violation
19 of Zaptera's patent rights." A true and correct copy of the Zaptera Letter is attached
20 hereto as **Exhibit 8**.

21 53. On September 16, 2022, Plaintiff eventually received a response from an
22 attorney representing Apera Motors (the "Apera Response Letter"). But that attorney
23 only states, "I must break off communications," citing "MRPC 4.2(c)", which governs
24 communicating with represented parties.² The Apera Response Letter asserts that

25 _____
26 ² Presumably, the letter referred to model professional rule 4.2, though, curiously,
27 the model rule does not have a Subsection (c). And while California's Rule of
28 Professional Conduct 4.2 has a Subsection (c), like the rest of the rule, it does not
appear to apply here, as Plaintiff was communicating through counsel.



1 Idealab Holdings, LLC, is the “record owner” of the Zaptera Patents, and notes
2 Plaintiff was in Franchise Tax Board (“FTB”) suspended status at that time. However,
3 the Aptera Response Letter does not deny that the ABC occurred, or that the Zaptera
4 Patents were assigned during the course of the ABC. A true and correct copy of the
5 Aptera Response Letter is attached hereto as **Exhibit 9**.

6 54. Notably, thereafter, Aptera Motors did not disclose the fact that Plaintiff
7 has asserted a claim based on the Zaptera Patents in any of their SEC filings, and
8 continued to raise money from unsuspecting investors. *See, e.g.*, Exhibit 7.

9 55. Plaintiff has since been reinstated as an active California corporation,
10 following a successful FTB revivor application.

11 56. Also, Plaintiff recorded the Patent Assignment with the USPTO on July
12 9, 2024. A true and correct copy of the Patent Assignment is attached hereto as
13 **Exhibit 10**.

14 57. Since then, Plaintiff has renewed their demand on Aptera Motors, only
15 to again be ignored, necessitating this action.

16 **FIRST CAUSE OF ACTION**

17 **(Infringement of U.S. Patent No. D633821 Against Aptera Motors, Fambro,**
18 **Anthony, Johnson, Hill, Wheeler, Armstrong, and Does 1-100)**

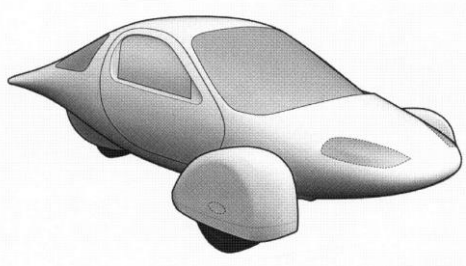

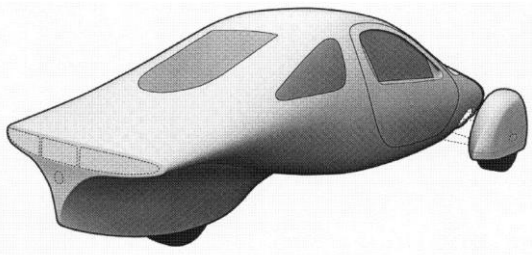

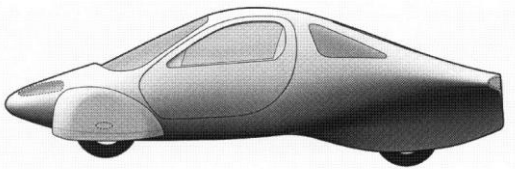
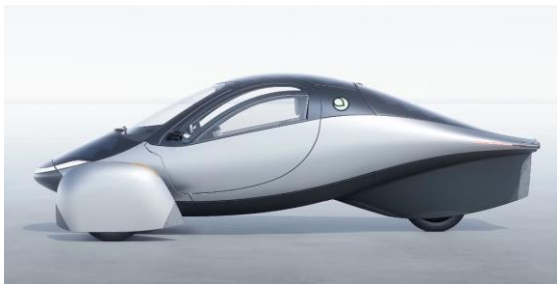
19 58. Plaintiff hereby allege and incorporate by reference each and every
20 allegation set forth above, as if fully set forth herein.

21 59. The '821 Patent is valid and enforceable.

22 60. The '821 Patent claims a new, original, and ornamental design for an
23 aerodynamic vehicle. A side-by-side comparison below shows that Defendants have
24 misappropriated Plaintiff's patented product design in the Aptera vehicle:
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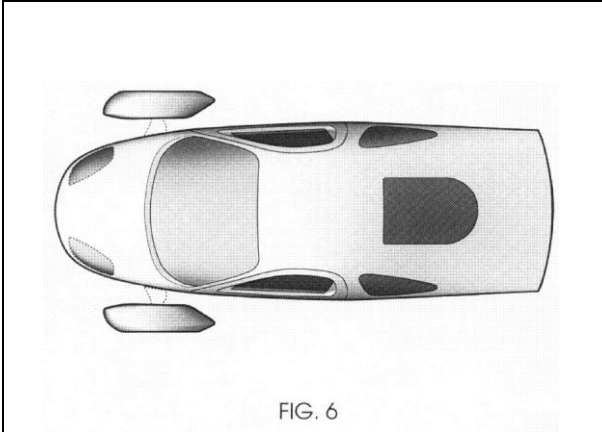
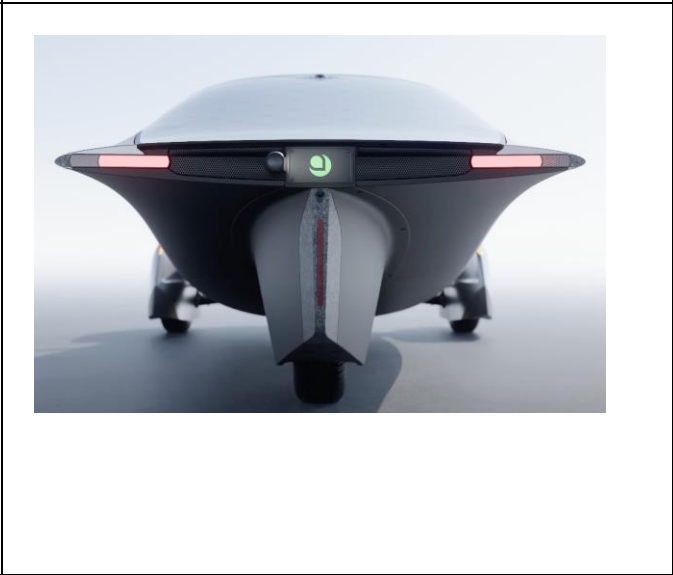
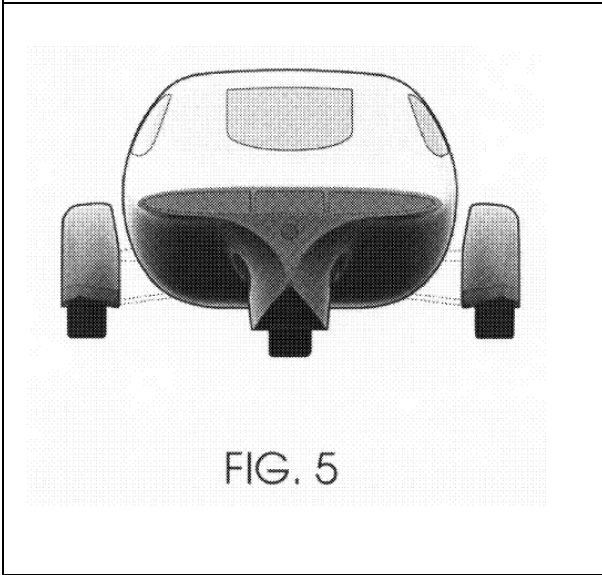
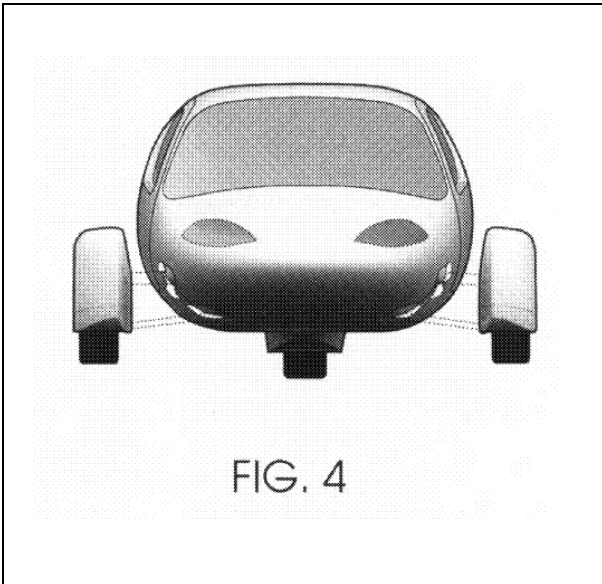


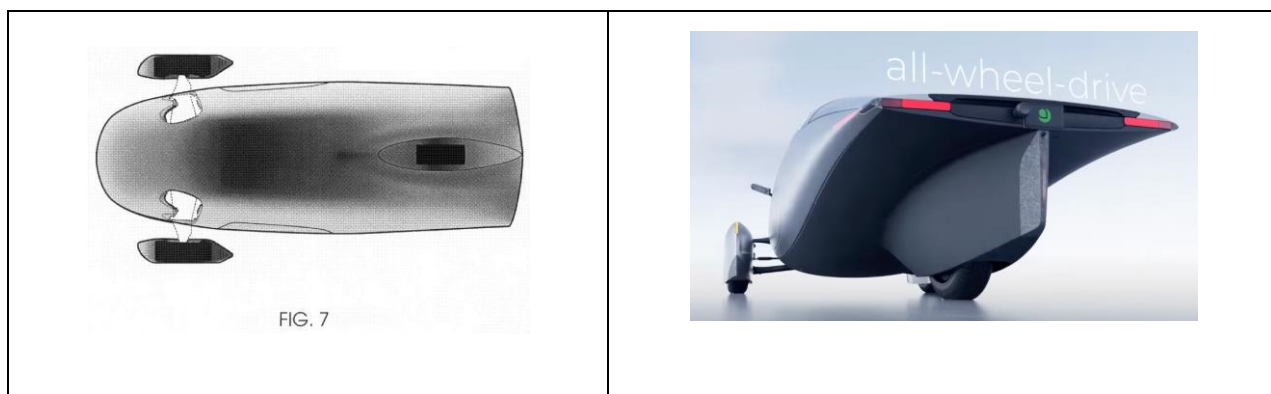
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Figures from the '821 Patent	Aptera Vehicle
 <p data-bbox="560 619 625 640">FIG. 1</p>	
 <p data-bbox="544 997 625 1018">FIG. 2</p>	
 <p data-bbox="511 1375 592 1396">FIG. 3</p>	



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8 61. To an ordinary observer familiar with the relevant prior art, giving such
9 attention as a purchaser of the Aptera vehicle would usually give, the claimed design
10 of the '821 Patent and the design of the Aptera vehicle are substantially the same, such
11 that the ordinary observer would be deceived into believing that the design of the
12 Aptera vehicle is the design claimed in the '821 Patent.

13 62. Defendants, in violation of 35 U.S.C. § 271, have directly infringed the
14 '821 Patent by making, offering for sale, selling, and/or importing the Aptera vehicle
15 in the United States.

16 63. Defendants' acts with respect to the Aptera vehicle have been without
17 license from Plaintiff with respect to the '821 Patent.

18 64. Defendants, in violation of 35 U.S.C. § 289, have directly infringed and
19 continue to infringe the '821 Patent by applying the patented design of the '821 Patent,
20 or a colorable imitation thereof, to an article of manufacture, including the Aptera
21 vehicle, for the purpose of sale and/or by selling, offering, or exposing for sale an
22 article of manufacture, including the '821 Patent, to which the patented design of the
23 '821 Patent or a colorable imitation thereof has been applied.

24 65. Under 35 U.S.C. § 283, Plaintiff is entitled to the entry of a permanent
25 injunction, enjoining Defendants from further infringement of Plaintiff's design patent
26 rights. Plaintiff will suffer and is suffering irreparable harm from Defendants'
27 infringement of the '821 Patent. Plaintiff has no adequate remedy at law. Unless
28 enjoined, Defendants will continue to infringe the '821 Patent.

1 66. Plaintiff has suffered and is continuing to suffer damages as a direct and
 2 proximate result of Defendant’ infringement of the ’821 Patent. Under 35 U.S.C. §§
 3 284 and 285, Plaintiff is entitled to compensation and other monetary relief to the
 4 fullest extent allowed by law, including attorneys’ fees.

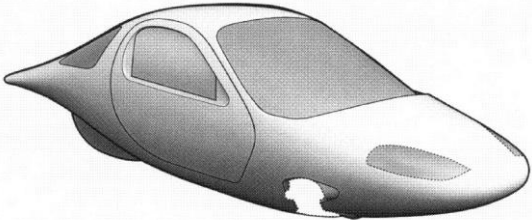

5 **SECOND CAUSE OF ACTION**

6 **(Infringement of U.S. Patent No. D635487 Against Aptera Motors, Fambro,
 7 Anthony, Johnson, Hill, Wheeler, Armstrong, and Does 1-100)**

8 67. Plaintiff hereby alleges and incorporates by reference each and every
 9 allegation set forth above, as if fully set forth herein.

10 68. The ’487 Patent is valid and enforceable.

11 69. The ’487 Patent claims a new, original, and ornamental deign for an
 12 aerodynamic vehicle body. A side-by-side comparison below shows that Defendants
 13 have misappropriated Plaintiff’s patented product design in the Aptera vehicle:
 14

Figures from the ’487 Patent	Aptera Vehicle
 <p data-bbox="542 1465 604 1495">FIG. 1</p>	



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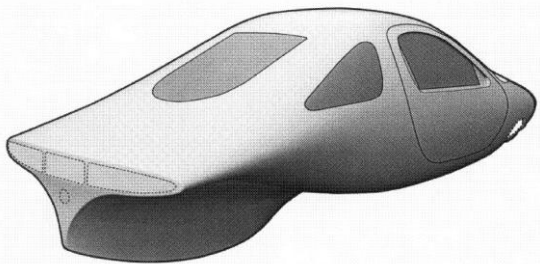


FIG. 2

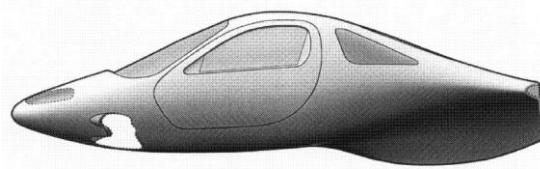


FIG. 3

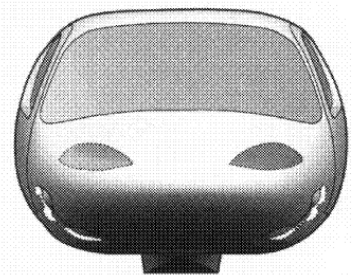


FIG. 4



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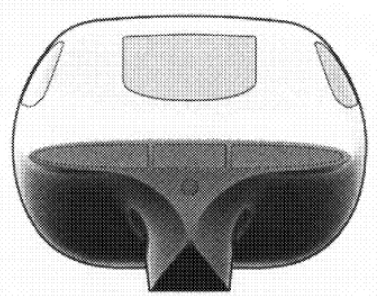


FIG. 5

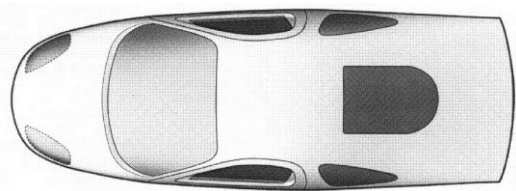


FIG. 6

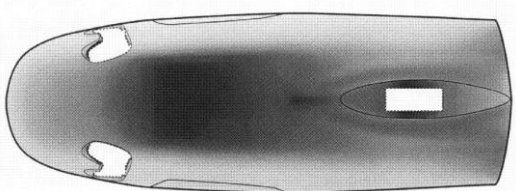


FIG. 7



22 70. To an ordinary observer familiar with the relevant prior art, giving such
23 attention as a purchaser of the Apera vehicle would usually give, the claimed design
24 of the '487 Patent and the design of the Apera vehicle are substantially the same, such
25 that the ordinary observer would be deceived into believing that the design of the
26 Apera vehicle is the design claimed in the '487 Patent.

27 71. Defendants, in violation of 35 U.S.C. § 271, have directly infringed the
28 '487 Patent by making, offering for sale, selling, and/or importing the Apera vehicle



1 in the United States.

2 72. Defendants' acts with respect to the Aptera vehicle have been without
3 license from Plaintiff with respect to the '487 Patent.

4 73. Defendants, in violation of 35 U.S.C. § 289, have directly infringed and
5 continue to infringe the '487 Patent by applying the patented design of the '487 Patent,
6 or a colorable imitation thereof, to an article of manufacture, including the Aptera
7 vehicle, for the purpose of sale and/or by selling, offering, or exposing for sale an
8 article of manufacture, including the '487 Patent, to which the patented design of the
9 '487 Patent or a colorable imitation thereof has been applied.

10 74. Under 35 U.S.C. § 283, Plaintiff is entitled to the entry of a permanent
11 injunction, enjoining Defendants from further infringement of Plaintiff's design patent
12 rights. Plaintiff will suffer and is suffering irreparable harm from Defendants'
13 infringement of the '487 Patent. Plaintiff has no adequate remedy at law. Unless
14 enjoined, Defendants will continue to infringe the '487 Patent.

15 75. Plaintiff has suffered and is continuing to suffer damages as a direct and
16 proximate result of Defendant' infringement of the '487 Patent. Under 35 U.S.C. §§
17 284 and 285, Plaintiff is entitled to compensation and other monetary relief to the
18 fullest extent allowed by law, including attorneys' fees.

19 **THIRD CAUSE OF ACTION**

20 **(Misappropriation of Trade Secrets [18 U.S.C. 1831, et seq] Against Aptera**
21 **Motors, Fambro, Anthony, Johnson, Hill, Wheeler, Armstrong, and Does 1-100)**

22 76. Plaintiff hereby alleges and incorporates by reference each and every
23 allegation set forth above, as if fully set forth herein.

24 77. During the time Aptera Motors, Inc. operated, it maintained various trade
25 secrets relating to its vehicle cooling method, process technologies, and vehicle
26 designs (the "Trade Secrets").

27 78. The Trade Secrets are not generally known, or readily ascertainable
28 through reference to public sources, and were the result of vast investment of money



1 and labor into developing them.

2 79. Aptera Motors, Inc. maintained the secrecy of the Trade Secrets through
3 use of a variety of commercially reasonable methods, including a combination of
4 confidentiality and non-disclosure clauses with employees, consultants, consumers
5 and vendors to control access to and distribution of technology, software,
6 documentation and other information.

7 80. Aptera Motors, Inc. assigned those Trade Secrets to Plaintiff via the
8 Asset Purchase Agreement. *See* **Exhibit 4**.

9 81. Aptera Motors, in its current iteration, has wrongfully obtained the Trade
10 Secrets through re-hiring the very employees who had developed those Trade Secrets
11 while employed by Aptera Motors, Inc., and who still possessed knowledge of those
12 Trade Secrets.

13 82. Moreover, Aptera Motors has wrongfully made use of the Trade Secrets
14 in advancing its own business. Indeed, Aptera Motors credits those very same Trade
15 Secrets as part of its intellectual property in its SEC filings.

16 83. As a direct and proximate result of the foregoing misappropriation of the
17 Trade Secrets, Plaintiff has suffered damages in an amount according to proof at trial.

18 84. In addition, Defendants' actions in misappropriating the Trade Secrets
19 was knowing and fraudulent, entitling Plaintiff to recover exemplary damages
20 according to proof.

21 **FOURTH CAUSE OF ACTION**

22 **(Tortious Interference with Contract by Plaintiff Against Aptera Motors, 23 Fambro, Anthony, Johnson, Hill, Wheeler, Armstrong, and Does 1-100)**

24 85. Plaintiff hereby alleges and incorporates by reference each and every
25 allegation set forth above, as if fully set forth herein.

26 86. The Asset Purchase Agreement was a valid agreement as between
27 Plaintiff and Aptera (ABC), LLC.

28 87. Defendants, and each of them, knew of the Asset Purchase Agreement.



1 88. Defendants, and each of them, substantially and wrongfully interfered
2 with the Asset Purchase Agreement by making use of the very intellectual property
3 assigned to Plaintiff by the Asset Purchase Agreement.

4 89. As a direct and proximate result of the foregoing interference, Plaintiff
5 has suffered damages in an amount according to proof at trial.

6 90. In addition, Defendants' actions in misappropriating the Trade Secrets
7 was knowing and fraudulent, entitling Plaintiff to recover exemplary damages
8 according to proof.

9 **FIFTH CAUSE OF ACTION**

10 **(Unjust Enrichment/Constructive Trust by Plaintiff Against Aptera Motors,
11 Fambro, Anthony, Johnson, Hill, Wheeler, Armstrong, and Does 1-100)**

12 91. Plaintiff hereby alleges and incorporates by reference each and every
13 allegation set forth above, as if fully set forth herein.

14 92. Aptera Motors, Fambro, Anthony, Johnson, Hill, Wheeler, and
15 Armstrong, and each of them, through their unlawful use of the Zaptera Patents and
16 other intellectual property belonging to Plaintiff, have wrongfully and unlawfully
17 enriched themselves, in an amount according to proof at trial.

18 93. By this action, Plaintiff seeks the imposition of a constructive trust as to
19 those sums, and for recovery of the same.

20 **SIXTH CAUSE OF ACTION**

21 **(Unfair Business Practices [Bus. & Prof. Code, §§ 17200]
22 by Plaintiff Against Aptera Motors, Fambro, Anthony, Johnson, Hill, Wheeler,
23 Armstrong, and Does 1-100)**

24 94. Plaintiff hereby alleges and incorporates by reference each and every
25 allegation set forth above, as if fully set forth herein.

26 95. Bus. & Prof. Code permits private party plaintiffs to initiate litigation to
27 seek disgorgement of profits and injunctive relief against any defendant engaging in
28 unfair or unlawful business practices affecting that plaintiff in the State of California.



1 96. The foregoing business practices alleged in this Complaint are both
2 unfair and unlawful (violating any number of California and federal statutes) as those
3 terms are understood relating to Bus. & Prof. Code, §§ 17200, *et seq.*

4 97. Plaintiff has been harmed as a result of those unfair business practices,
5 because Defendants have interfered with Plaintiff’s exclusive right to the use and
6 enjoyment of the intellectual property assigned to them, and by Defendants’ use of
7 that intellectual property to defraud countless investors.

8 98. By this action, Plaintiff seeks an order directing Defendant to disgorge
9 all profits earned by the foregoing conduct.

10 99. In addition, Plaintiff seeks an order permanently enjoining Defendant
11 from the foregoing conduct.

12 **SEVENTH CAUSE OF ACTION**

13 **(Declaratory Judgment by Plaintiff Against Aptera Motors, Fambro, Anthony,**
14 **Johnson, Hill, Wheeler, Armstrong, and Does 1-100)**

15 100. Plaintiff hereby alleges and incorporates by reference each and every
16 allegation set forth above, as if fully set forth herein.

17 101. A present and actual dispute exists as between Plaintiff and Aptera
18 Motors, Fambro, Anthony, Johnson, Hill, Wheeler, Armstrong, and Wilbur, and Does
19 1-100, as to who legally owns the Zaptera Patents, and whether the current iterations
20 of Aptera Motors vehicles infringe on the Zaptera Patents.

21 102. By this action, Plaintiff seeks a judicial declaration that it is the valid and
22 legal owner of the Zaptera Patents and that the current iteration of Aptera Motors’
23 vehicles infringe on the Zaptera Patents.

24 **PRAYER FOR RELIEF**

25 **WHEREFORE**, Plaintiff prays for judgment in its favor and against the
26 Defendants, and each of them, as follows:

27 As to the First Cause of Action:

28 1. A judgment that Defendants have infringed the claimed design of U.S.



1 Patent No. D633821;

2 2. An order and judgment preliminarily and permanently enjoining
3 Defendants and their parents, subsidiaries, officers, directors, agents, servants,
4 employees, affiliates, attorneys, and all others acting in privity or in concert
5 with them, and their successors and assigns, from further acts of infringement
6 of U.S. Patent No. D633821;

7 3. A judgment awarding Plaintiff all compensatory damages for
8 Defendants' infringement of U.S. Patent No. D633821, and in no event less
9 than a reasonable royalty for Defendants' acts of infringement, including all
10 pre-judgment and post-judgment interest at the maximum rate permitted by law;

11 4. A judgment awarding Plaintiff enhanced damages based on any
12 infringement found to be willful, pursuant to 35 U.S.C. § 284, including all pre-
13 judgment and post-judgment interest at the maximum rate permitted by law;

14 5. A judgment awarding Plaintiff all of Defendants' profits from any article
15 of manufacture to which the claimed design of U.S. Patent No. D633821 has
16 been applied in an amount to be determined at trial, pursuant to 35 U.S.C. §
17 289;

18 6. A finding that this case is exceptional under 35 U.S.C. § 285;

19 7. An award of all pre-judgment and post-judgment interest at the maximum
20 rate permitted by law;

21 8. An award of reasonable attorneys' fees in connection with this action;

22 On the Second Cause of Action:

23 1. A judgment that Defendants have infringed the claimed design of U.S.
24 Patent No. D635487;

25 2. An order and judgment preliminarily and permanently enjoining
26 Defendants and their parents, subsidiaries, officers, directors, agents, servants,
27 employees, affiliates, attorneys, and all others acting in privity or in concert
28 with them, and their successors and assigns, from further acts of infringement



1 of U.S. Patent No. D635487;

2 3. A judgment awarding Plaintiff all compensatory damages for
3 Defendants' infringement of U.S. Patent No. D635487, and in no event less
4 than a reasonable royalty for Defendants' acts of infringement, including all
5 pre-judgment and post-judgment interest at the maximum rate permitted by law;

6 4. A judgment awarding Plaintiff enhanced damages based on any
7 infringement found to be willful, pursuant to 35 U.S.C. § 284, including all pre-
8 judgment and post-judgment interest at the maximum rate permitted by law;

9 5. A judgment awarding Plaintiff all of Defendants' profits from any article
10 of manufacture to which the claimed design of U.S. Patent No. D635487 has
11 been applied in an amount to be determined at trial, pursuant to 35 U.S.C. §
12 289;

13 6. A finding that this case is exceptional under 35 U.S.C. § 285;

14 7. An award of all pre-judgment and post-judgment interest at the maximum
15 rate permitted by law;

16 8. An award of reasonable attorneys' fees in connection with this action;

17 On the Third Cause of Action:

18 1. For damages according to proof at trial;

19 2. A permanent injunction barring Defendants from continuing to use or
20 disclose Plaintiff's trade secrets without first obtaining permission from
21 Plaintiff;

22 3. In the alternative, an equitable/reasonable royalty for the use of
23 Plaintiff's intellectual property;

24 On the Fourth Cause of Action:

25 1. For special and general damages according to proof at trial;

26 2. For exemplary damages;

27 On the Fifth Cause of Action:

28 1. For the imposition of a constructive trust over Defendants' revenues;



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2. For restitution of all sums unlawfully and unfairly retained by Defendants;

On the Sixth Cause of Action:

- 1. For an order of restitution as to profits generated by Defendants' unlawful and unfair business practices;
- 2. For a permanent injunction prohibiting Defendants from: (a) claiming, or insinuating ownership of the Zaptera Patents, or otherwise engaging in communications likely to deceive the public as to ownership of the same; and (b) soliciting investments without disclosing Plaintiff's ownership of the Zaptera Patents.

On the Seventh Cause of Action:

- 1. A judicial declaration that it is the valid and legal owner of the Zaptera Patents and that the current iteration of Aaptera Motors' vehicles infringe on the Zaptera Patents.

On All Causes of Action:

- 1. For costs of suit;
- 2. For such other and further relief the Court deems just and proper.

Dated: August 8, 2024

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Dated: August 8, 2024

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JURY DEMAND

Plaintiff hereby demands a trial by jury on all claims triable to a jury.

Dated: August 8, 2024

ATABEK & CO.

/s/ Jon A. Atabek

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