

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
EASTERN DIVISION**

ECHOSENS, S.A.

PLAINTIFFS.

V.

E-SCOPICS S.A.S.,

DEFENDANT.

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C.A. No. \_\_\_\_\_

**DEMAND FOR JURY TRIAL**

**COMPLAINT**

Echosens, S.A. (“Echosens”) by and through its undersigned attorneys, hereby file this Complaint against E-Scopics S.A.S. (“E-Scopics”) for infringement of U.S. Patent Nos. 11,690,592 and 11,980,497 (the “Patents-in-Suit”) and allege as follows:

**PARTIES**

1. Echosens is a French entity, having a principal place of business located at 6 rue Ferrus, 75014 Paris, France.

2. Upon information and belief, E-Scopics is a French entity with its principal place of business located at 931 chemin de la Bosque d’Antonelle, 13090 Aix-en-Provence, France.

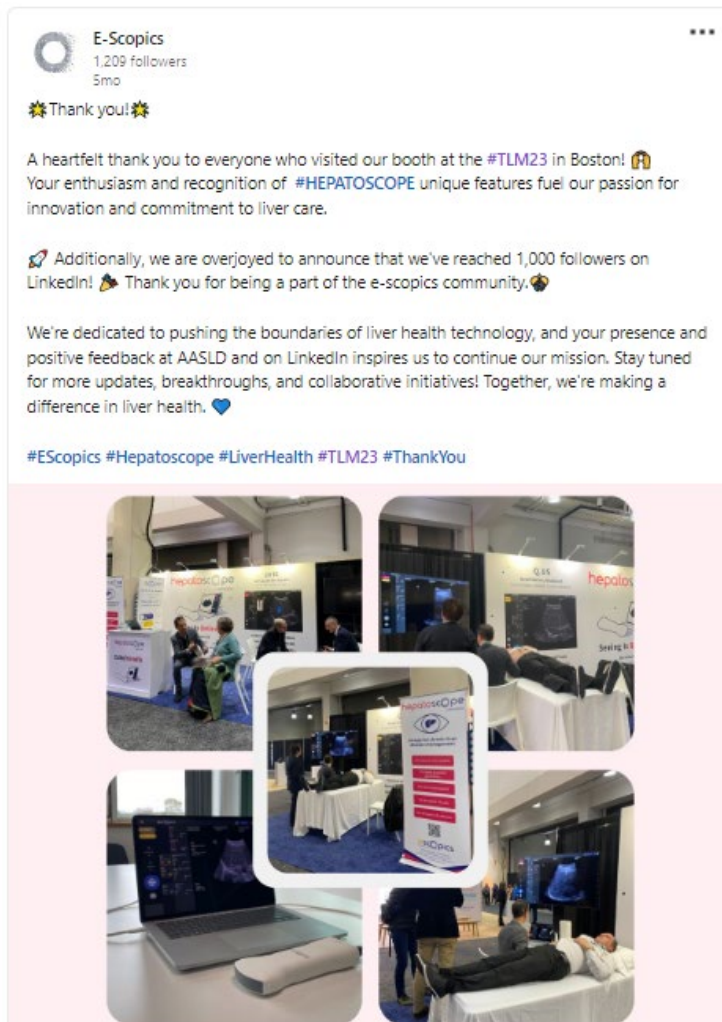
**JURISDICTION AND VENUE**

3. This is a civil action seeking monetary damages and injunctive relief for patent infringement. Thus, this Court has federal question subject matter jurisdiction under 35 U.S.C. §§ 271, and 281 and under 28 U.S.C. § 1331 and 1338(a).

4. On information and belief, this Court has personal jurisdiction over E-Scopics under Massachusetts’ long arm statute. *See, e.g.*, Mass. G. L. c. 223A, § 3(a), (c), (d). As discussed below, E-Scopics’ infringing activities provide this Court with personal jurisdiction over E-

Scopics. E-Scopics has used (demonstrated) and offered to sell its Hepatoscope device (“Accused Product”), which infringes Echosens’ patent rights, in Boston, MA, in November 2023.

5. In November 2023, The Liver Meeting (“TLM23”) was held in Boston, MA at the Hynes Convention Center. At TLM23, E-Scopics used the Accused Product. E-Scopics also demonstrated to an audience how to use the Accused Product. E-Scopics also imported the Accused Product by bringing it into the United States, and specifically into this District and for use in this District.



[https://www.linkedin.com/posts/e-scopics\\_tlm23-hepatoscope-escopics-activity-7136278705261178881-SLR0?utm\\_source=share&utm\\_medium=member\\_desktop](https://www.linkedin.com/posts/e-scopics_tlm23-hepatoscope-escopics-activity-7136278705261178881-SLR0?utm_source=share&utm_medium=member_desktop).

6. E-Scopics offered the Accused Product for sale in Boston, MA at TLM23, stating it was “taking orders for #Hepatoscope[] while attending the Liver Meeting.”



[https://www.linkedin.com/posts/e-scopics\\_hepatoscope-hepatoscope-tlm23-activity-7128405443302825985-W8qu?utm\\_source=share&utm\\_medium=member\\_desktop](https://www.linkedin.com/posts/e-scopics_hepatoscope-hepatoscope-tlm23-activity-7128405443302825985-W8qu?utm_source=share&utm_medium=member_desktop).

7. The infringement of Echosens' exclusive rights under the Patents-in-Suit by E-Scopics has damaged and will continue to damage Echosens, causing irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

8. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(c)(3).

### **BACKGROUND**

9. On July 4, 2023, U.S. Patent No. 11,690,592 (the "'592 Patent"), entitled "Device and Method for Measuring the Viscoelastic Properties of a Viscoelastic Medium," was duly and legally issued by the United States Patent and Trademark Office ("USPTO"). The '592 Patent is presumed valid under 35 U.S.C. § 282.

10. The '592 Patent relates to a device and method used to measure the viscoelastic properties of a viscoelastic medium, e.g., a liver. The invention can be used by a medical practitioner to assess whether a patient has liver fibrosis.

11. Attached hereto as **Exhibit A** is a true and correct copy of the '592 Patent.

12. At a minimum, E-Scopics has known of the '592 Patent as early as the filing of this Complaint. Moreover, E-Scopics was provided notice of its infringement of the '592 Patent, since at least its receipt of a letter sent by Echosens on or around November 20, 2023.<sup>1</sup>

13. On May 14, 2024, U.S. Patent No. 11,980,497 (the "'497 Patent"), entitled "Device and Method for Measuring the Viscoelastic Properties of a Viscoelastic Medium," was duly and legally issued by the USPTO. The '497 Patent is presumed valid under 35 U.S.C. § 282.

14. The '497 Patent relates to a device and method used to measure the viscoelastic properties of a viscoelastic medium, e.g., a liver. The invention can be used by a medical practitioner to assess whether a patient has liver fibrosis.

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<sup>1</sup> A copy of the Notice letter is attached hereto as **Exhibit H**.

15. Attached hereto as **Exhibit B** is a true and correct copy of the '497 Patent.

16. At a minimum, E-Scopics has known of the '497 Patent as early as the filing of this Complaint.

17. Echosens is the exclusive owner by assignment of all rights, title, and interest in the Patents-in-Suit, including the right to bring this suit for damages, and including the right to sue and recover all past, present, and future damages for infringement of the Patents-in-Suit.

18. E-Scopics is not licensed to use the Patents-in-Suit, either expressly or implicitly, nor do they enjoy or benefit from any rights in or to the Patents-in-Suit.

**COUNT I**  
**INFRINGEMENT OF U.S. PATENT NO. 11,690,592**

19. Echosens realleges and incorporates herein by reference the allegations stated in paragraphs 1-18 of this Complaint as if set forth fully herein.

20. E-Scopics has, under 35 U.S.C. §271(a), directly infringed, and continues to directly infringe, literally and/or under the doctrine of equivalents, one or more claims, including without limitation at least claims 1 and 8 of the '592 Patent, by using, selling, offering for sale and/or importing in or into the United States E-Scopics' Accused Product. Examples of direct infringing activity are provided above. Moreover, contractual arrangements with any distributors or service providers in the United States, an example of which is provided below, on information and belief constitutes an offer for sale, sale and/or importation of the Accused Product in or into the United States.

21. The claim chart attached hereto as **Exhibit C** describes how the elements of exemplary claims 1 and 8 of the '592 Patent are infringed by the Accused Product. The chart provides only exemplary details of E-Scopics' infringement. Echosens reserves its right to amend

and provide its infringement contention, including adding claims, when Preliminary Patent-Related Disclosures, L.R. 16.6(d), are due.

22. E-Scopics has, under 35 U.S.C. §271(b), induced infringement and continues to induce infringement. On information and belief, E-Scopics has recommended, encouraged, and/or promoted the infringing sales, offers for sale, use and/or importation of the Accused Product in or into the United States. On information and belief, E-Scopics acted with intent to encourage others to directly infringe the '592 Patent by encouraging the use of the Accused Products.

23. On information and belief, E-Scopics has continued to encourage infringement even after receiving notice of the '592 Patent. For example, E-Scopics has continued marketing the Hepatoscope in the United States, recently announcing its upcoming attendance at the Digestive Disease Week® conference in Washington, D.C. on May 18-21, 2024 and at the American Diabetes Association Scientific Sessions conference in Orlando, FL on June 21-24.

## E-Scopics' Post

**E-Scopics**  
1,210 followers  
1d

🌟 Meet us there and discover Hepatoscope! 🌟

- 📅 DDW in Washington from May 18-21, Booth #2243
- 📅 EASL in Milan from June 5-8, Booth #8T06
- 📅 ADA in Orlando from June 21-24, Booth #1705

🔍 Don't miss the chance! Hepatoscope can help you streamline the management of patients with chronic liver diseases.

💛 Come & meet our team of experts and early adopters of Hepatoscope. We look forward to welcoming you and sharing our vision of point-of-care liver assessment!

#EScopics #Hepatoscope #DDW #EASL #ADA #medicalinnovation #liverhealth

**DISCOVER**  
**hepatoscope**

- May 17** DDW 2024
- June 5** EASL 2024
- June 21** ADA 2024

escOpics

13

Explic

- Sales
- Market
- Business
- HR M
- Content
- Engineering
- Software
- See All

[https://www.linkedin.com/posts/e-scopics\\_bt06-escopics-hepatoscope-activity-7193530207201374208-whKT?utm\\_source=share&utm\\_medium=member\\_desktop](https://www.linkedin.com/posts/e-scopics_bt06-escopics-hepatoscope-activity-7193530207201374208-whKT?utm_source=share&utm_medium=member_desktop).

24. E-Scopics has engaged at least distributor or service provider in the United States for sales and/or use of the Hepatoscope.

Ashley Martin, AS, BS, RDMS' Post


Ashley Martin, AS, BS, RDMS  
Experienced sonographer with a passion for providing excellent customer service, staying up-to-d...  
2w

Attention all #GI professionals...Infinite Consulting Empire, LLC is excited to introduce a detailed, higher reimbursement alternative to the fibroscan! Schedule us to perform these studies, or opt to have your staff trained to perform them (no sonographer certification needed). Consider the potential yearly revenue!  
#fatty liverdisease #MASH #NASH #gastro #savethelivers #liverhealth

## Onsite Liver Health Evaluation

### WHAT IS A HEPATOSCOPE?

A specialized non-invasive ultrasound exam that measures fibrosis and steatosis within the liver using shear and transient liver elastography technology. This advanced technology accurately grades liver disease progression.



**Stages of liver disease**

Healthy liver → Fatty liver → Liver fibrosis → Cirrhosis

Quantity of fat cause liver enlargement → Scar tissue forms, more scar tissue injury occurs → Scar tissue makes liver hard and unable to work properly

### WHO QUALIFIES?

Patients may qualify if they have any of the following:

- RUQ Pain
- Diabetes Type 2
- Alcoholic liver disease
- Fatty liver
- Abnormal Liver enzymes
- Jaundice
- Nausea & Vomiting
- Other diseases of the liver
- Hepatitis

1 in 3 Americans over 40 have a fatty liver. Skinny people can have fatty livers, too. Liver disease can now be reversible with early diagnosis and treatment!

### BENEFITS FOR CLINICS

- Offer a unique service to your patients with limited competitors offering this technology
- Help reverse liver damage
- Customizable reports with F0 - F4 grading and lay man's reports available for patients
- Ancillary service line revenue

Liver Elastography		Medicare Rate
CPT CODE	DESCRIPTION	Global
76705	Limited Abdomen US	\$85.44
76981	Elastography, imaging	\$102.41
91200	Elastography,	\$30.14
		<b>\$217.99</b>

**Fee-Per-Scan**

Daily Scans	Number of	20
Hepatoscope	\$217.99	<b>\$4,360</b>
All-Inclusive test fee: read, equipment, tech, storage, & benefit	\$120.00	<b>\$2,400</b>
<b>Net Daily PROFIT</b>		<b>\$1,959.80</b>
<b>Net Monthly PROFIT</b>		<b>\$5,879.40</b>
<b>Net Yearly PROFIT</b>		<b>\$70,552.80</b>

INFINITE IMAGING

Like Comment Share

[https://www.linkedin.com/posts/ashley-martin-as-bs-rdms-278a0525a\\_gi-fatty liverdisease-mash-activity-7188961316089298945-xaEv?utm\\_source=share&utm\\_medium=member\\_desktop](https://www.linkedin.com/posts/ashley-martin-as-bs-rdms-278a0525a_gi-fatty liverdisease-mash-activity-7188961316089298945-xaEv?utm_source=share&utm_medium=member_desktop)

These promotional activities encouraged the use, sale, offer for sale and/or importation of the Accused Product in the United States. Moreover, the instruction manual at **Exhibit E** for the Accused Product instructs users how to use the Accused Product, which induces at least method claim 8 of the '592 Patent. This conduct is intentional and done with full knowledge of the '592



Patent, and thus on information and belief E-Scopics has engaged in such activities with the intent to infringe.

25. On information and belief, E-Scopics has, under 35 U.S.C. §271(c), engaged in contributory infringement, and continues to contribute to infringement, because: there is direct infringement of the '592 Patent (*see, supra*, ¶20; Exh. C); the Accused Product is not a staple article or commodity of commerce and it has no substantial non-infringing use; E-Scopics offers to sell or sells within the United States and/or imports into the United States the Accused Product, which is an apparatus for use in practicing at least method claim 8 of the '592 Patent the Accused Product; and E-Scopics encourages users to perform infringing acts, e.g., use the Accused Product to measure a liver, with knowledge of the '592 Patent; and E-Scopics knows the Accused Product is especially made or especially adapted for use in infringement of the '592 Patent, based at least on the notice of the '592 Patent provided by Echosens.

26. On information and belief, E-Scopics does not have a reasonable basis for believing that the claims of the '592 Patent are not infringed.

27. On information and belief, E-Scopics' Accused Product is available, and marketed, to businesses and individuals throughout the United States and in the Commonwealth of Massachusetts.

28. Echosens has been harmed as the result of E-Scopics' infringement, including by loss of sales. The infringement of Echosens' exclusive rights under the '592 Patent has damaged, and continues to damage, Echosens, causing irreparable harm, for which there is no adequate remedy at law. Further, the infringement by E-Scopics and continued infringement after receiving notice, including the prior notice letter and this Complaint, constitutes willful infringement.

**COUNT II**  
**INFRINGEMENT OF U.S. PATENT NO. 11,980,497**

29. Echosens realleges and incorporates herein by reference the allegations stated in paragraphs 1-28 of this Complaint as if set forth fully herein.

30. E-Scopics has, under 35 U.S.C. §271(a), directly infringed, and continues to directly infringe, literally and/or under the doctrine of equivalents, one or more claims, including without limitation at least claim 1 of the '497 Patent, by making, using, selling, offering for sale and/or importing into the United States E-Scopics' Accused Product.

31. The claim chart attached hereto as **Exhibit D** describes how the elements of exemplary claims 1 of the '497 Patent are infringed by the Accused Product. The chart provides only exemplary details of E-Scopics' infringement. Echosens reserves its right to amend and provide its infringement contention, including adding claims, when Preliminary Patent-Related Disclosures, L.R. 16.6(d), are due.

32. On information and belief E-Scopics will, under 35 U.S.C. §271(b), induce infringement and continue to induce infringement. On information and belief, E-Scopics has recommended, encouraged, and/or promoted the infringing use of the Accused Product and will continue to do so. On information and belief, E-Scopics will continue to act with the intent to encourage others to directly infringe the '497 Patent by encouraging the use of the Accused Products. For instance, E-Scopics has provided demonstrations of the Accused Product and partnered with at least one U.S. distributor, and has scheduled attendance at future conferences to engage in the same promotional activities for the Accused Product (which also include use, sale, offer for sale and/or importation). *See, supra*, ¶¶6-7, 23-24; *see also* **Exhibit D** (claim chart) and **Exhibit E** (user manual). On information and belief, E-Scopics will continue to encourage the infringing use even after notice of the '497 Patent.

33. On information and belief, E-Scopics has, under 35 U.S.C. §271(c), engaged in contributory infringement, and continues to contribute to infringement, because: there is direct infringement of the '497 Patent (*see, supra*, ¶30; Exh. D); the Accused Product is not a staple article or commodity of commerce and it has no substantial non-infringing use; E-Scopics offers to sell or sells within the United States and/or imports into the United States the Accused Product, which is an apparatus for use in practicing at least claim 1 of the '497 Patent the Accused Product; and E-Scopics encourages users to perform infringing acts, e.g., use the Accused Product to measure a liver, with knowledge of the '497 Patent; and E-Scopics knows the Accused Product is especially made or especially adapted for use in infringement of the '497 Patent, based at least on the notice of the '497 Patent provided by this complaint.

34. On information and belief, E-Scopics does not have a reasonable basis for believing that the claims of the '497 Patent are not infringed.

35. On information and belief, E-Scopics' Accused Product is available, and marketed, to businesses and individuals throughout the United States and in the Commonwealth of Massachusetts.

36. Echosens has been harmed as the result of E-Scopics' infringement, including by loss of sales. The infringement of Echosens' exclusive rights under the '497 Patent will damage Echosens, causing irreparable harm, for which there is no adequate remedy at law. Further, the infringement by E-Scopics and continued infringement after receiving notice, including this Complaint, constitutes willful infringement.

#### **PRAYER FOR RELIEF**

WHEREFORE, Echosens prays for judgment in its favor and against E-Scopics, including but not limited to the following relief:

1. A judgment that E-Scopics' manufacture, offer to sale, sale, use, and/or importation of the Accused Product infringes the Patents-in-Suit either literally and/or under the doctrine of equivalents;
2. A judgement that E-Scopics is inducing and contributing to the infringement of the Patents-in-Suit by others;
3. An order permanently enjoining E-Scopics, its respective officers, directors, agents, servants, employees and attorneys, and those persons in active concert or participation with E-Scopics, from infringing the Patents-in-Suit in violation of 35 U.S.C. § 271;
4. An accounting and awarding of all damages sustained by Echosens as a result of E-Scopics' infringing activities;
5. Pursuant to 35 U.S.C. § 284, an award of monetary damages compensating Echosens for E-Scopic's past and ongoing infringement of the Patents-in-Suit, in an amount not less than a reasonable royalty;
6. An order awarding Echosens treble damages under 35 U.S.C. § 284 as a result of E-Scopics' willful and deliberate infringement of the Patents-in-Suit;
7. An Order finding that this is an exceptional case, and an award of reasonable attorney's fees and non-taxable costs;
8. An award of prejudgment and post-judgment interest; and
9. Such other relief as this Court may deem just.

**JURY DEMAND**

Pursuant to Fed. R. Civ. P. 38(b), Echosens demands a trial by jury of all issues raised by this Complaint that are triable by jury.

Date: May 24, 2024

Respectfully Submitted By:

/s/ David A. Simons

David A. Simons, BBO #638740

Bryan P. Collins (*pro hac vice to be filed*)

Theresa A. Roozen (*pro hac vice to be filed*)

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