



### **JURISDICTION AND VENUE**

3. This is an action for patent infringement arising under the patent laws, Title 35 of the United States Code.

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Defendant because Defendant transacts business in this state and in this judicial district. Specifically, Defendant has made, imported, offered for sale, and/or sold laser peening systems, and/or performed laser peening services, in Ohio and in this judicial district.

6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and 1400(b).

### **BACKGROUND FACTS**

7. On April 16, 2002, the USPTO granted U.S. Patent No. 6,373,876 B1 for an invention entitled “Single Mode Oscillator for a Laser Peening Laser” (the “‘876 patent”). A true and correct copy of the ‘876 patent is attached hereto as **EXHIBIT 1**. LSPT is the owner of the entire right, title, and interest in the ‘876 patent. The claims of the ‘876 patent are both valid and enforceable. Upon information and belief, Defendant has made, imported, offered for sale, and/or sold laser systems, and/or performed laser peening services, in the United States which infringe the ‘876 patent.

### **COUNT I**

#### **(Infringement of U.S. Patent No. 6,373,876)**

8. Paragraphs 1-7 are re-alleged and restated as if fully set forth herein.

9. By making, importing, offering for sale, and/or selling the laser peening systems, and/or performing laser peening services, Defendant has and/or is directly and/or indirectly

infringing one or more claims of the '876 patent, in violation of 35 U.S.C. § 271.

10. Upon information and belief, the acts constituting infringement of the '876 patent by Defendant were and are willful and deliberate, and, based in part on repeated statements by counsel Peter C. Schechter representing Defendant in pending Case No. 08-cv-0038/39, will continue unless enjoined by this Court.

11. As a result of the infringement of the '876 patent by Defendant, LSPT has suffered, and continues to suffer, damages in an amount to be established at trial. Furthermore, LSPT has suffered, and continues to suffer, irreparable harm for which no adequate remedy at law exists.

#### **PRAYER**

**WHEREFORE**, LSPT respectfully requests that the Court:

A. Preliminarily and permanently enjoin Defendant, and its officers, employees, servants, and agents, and all persons in active concert with any of them, against any further acts of direct infringement, inducement of infringement, or contributory infringement, under 35 U.S.C. § 283, including without limitation, importing, manufacturing, offering for sale, and/or selling the infringing laser systems, and/or performing infringing laser peening services.

B. Order Defendant to deliver up for destruction any and all of its products that infringe any claim of the '876 patent or otherwise induce or contribute to such infringement, under 35 U.S.C. § 283.

C. Order Defendant to pay, in accordance with 35 U.S.C. § 284, damages adequate to compensate for the patent infringement, but in no event less than a reasonable royalty for the use made of the inventions claimed in the '876 patent, together with interest and costs.

D. Find the infringement by Defendant to be willful, and order Defendant to pay

three (3) times the amount of damages found or assessed, under 35 U.S.C. § 284.

E. Find this to be an exceptional case under 35 U.S.C. § 285, and order Defendant to pay LSPT's attorneys' fees, expenses, and costs in this action.

F. Grant LSPT such other and further relief as the Court may deem proper and just under the circumstances.

### **DEMAND FOR JURY TRIAL**

Plaintiff LSP Technologies, Inc. hereby demands a trial by jury of all issues so triable in this action.

Dated: June 8, 2010

**OF COUNSEL:**  
Benesch, Friedlander, Coplan & Aronoff LLP

**OF COUNSEL:**

STEVEN M. AUVIL (0063827)  
Benesch, Friedlander, Coplan  
& Aronoff LLP  
200 Public Square, Suite 2300  
Cleveland, Ohio 44114-2378  
Telephone: (216) 363-4500  
Facsimile: (216) 363-4588  
Email: [sauvil@beneschlaw.com](mailto:sauvil@beneschlaw.com)

BENJAMEN E. KERN (0076218)  
Law Office of Benjamin E. Kern, LLC  
5327 Westpointe Plaza Drive, PMB 207  
Columbus, Ohio 43228  
Telephone: (614) 771-5595  
Facsimile: (614) 878-2790  
Email: [bkern@kerniplaw.com](mailto:bkern@kerniplaw.com)

Respectfully submitted,

/s/ Bryan A. Schwartz  
BRYAN A. SCHWARTZ (0078527)  
Benesch, Friedlander, Coplan  
& Aronoff LLP  
200 Public Square, Suite 2300  
Cleveland, Ohio 44114-2378  
Telephone: (216) 363-4500  
Facsimile: (216) 363-4588  
Email: [bschwartz@beneschlaw.com](mailto:bschwartz@beneschlaw.com)

Trial Attorney for  
Plaintiff LSP Technologies, Inc.