

I. LPR 2.3 Initial Infringement Contentions

- (1) an identification of each claim of each asserted patent that is allegedly infringed and, for each claim, the applicable statutory subsection of 35 U.S.C. § 271;**

By making, using, testing, offering for sale, selling, and/or importing any of the devices addressed in Exhibits A through C, Defendant directly infringes U.S. Patent No. 8,286,750 (the “’750 patent”) under 35 U.S.C. §271(a). Based on information presently available, Plaintiff contends that the Defendant infringes the claims identified in Exhibits A through C, including the following claims of the patent-in-suit:

U.S. Patent No.	Asserted Claim(s)
8,286,750	1, 4, 5, 7, 8, 9, 18

- (2) for each asserted claim, an identification of each Accused Instrumentality of which the party claiming infringement is aware, described by name, if known, or by any product, device, or apparatus which allegedly infringes one or more asserted patent claims;**

The Accused Instrumentalities of which Plaintiff is aware are identified below. Plaintiff reserves the right, in response to discovery or as otherwise permitted, to supplement its identification of Accused Instrumentalities. The Accused Instrumentalities for each asserted claim of the ’750 patent are identified in Exhibits A through C and specifically include:

Accused Instrumentality
Velos LBP 556
Velos LBP 556K
Velos LBP 762
Velos LBP LE
Velos LBP Raw

Plaintiff expressly reserves the right to seek leave of Court to augment and supplement these disclosures after discovery from Defendant, or as permitted under the Patent Rules. Plaintiff expects that this disclosure may be subject to amendment or supplementation to identify and accuse additional products developed or made available after the date on which these contentions are served, or of which Plaintiff was not aware at the time that these contentions were prepared.

- (3) **a chart identifying specifically where each element of each asserted claim is found within each Accused Instrumentality, including for each element that the party contends is governed by 35 U.S.C. § 112(f), a description of the claimed function of that element and the identity of the structures, acts, or materials in the Accused Instrumentality that performs the claimed function;**

Charts identifying where each element of the asserted claims is found within each Accused Instrumentality are included as Exhibits A through C accompanying this document. The charts are based on publicly available information currently accessible to Plaintiff and limited discovery of Defendant to date. Plaintiff reserves the right to amend its list of Accused Instrumentalities or charts after discovery from Defendant, or as permitted by the Court, the Patent Rules, or the Federal Rules of Civil Procedure.

- (4) **a statement of whether each element of each asserted claim is alleged to be present literally or under the doctrine of equivalents in the Accused Instrumentality and, if present under the doctrine of equivalents, an explanation of each function, way, and result that is alleged to be equivalent and why any differences are insubstantial;**

As the Court has not construed any claim term, it is not yet clear whether Plaintiff will rely on the doctrine of equivalents. Accordingly, Plaintiff reserves the right to amend its infringement contentions as necessary. Based on its current understanding of the claim language and publicly available information pertaining to the Accused Instrumentalities and limited discovery of Defendant to date, and without notice of all of Defendant's claim construction or non-infringement position(s), Plaintiff asserts that Defendant literally infringes each element of the asserted claims. However, Defendant has indicated through its discovery responses that it contends that the claim

term regarding “radially serpentine” pathways requires more than a pathway that changes directions from counterclockwise to clockwise. Although Plaintiff disagrees and Defendant has not yet provided a complete position on the construction of this term, to the extent Defendant contends and/or the Court were to find that the term “radially serpentine” requires more than one change of direction around the radius of the chamber, the claim limitations providing for a “radially serpentine” pathway are satisfied through the application of the doctrine of equivalents. Specifically, the fluid pathways identified in the Accused Instrumentalities that change direction from clockwise to counterclockwise around the chamber are at least equivalent to a pathway that changes direction multiple times around the radius of the chamber because even a single change of direction performs substantially the same function (providing a path for discharged gas to dissipate energy, sound and/or particulates) in substantially the same way (by providing a path that changes direction radially) to achieve substantially the same result (suppressing sound and reducing toxic blowback).

Any other claim element not literally present in or performed by the Accused Instrumentalities is likewise satisfied under the doctrine of equivalents because any difference between such claim element and the accused element is insubstantial. In other words, the accused element performs substantially the same function, in substantially the same way, to achieve substantially the same result.

- (5) for each claim that is alleged to have been indirectly infringed, an identification of any direct infringement and a description of the acts of the alleged indirect infringer that contribute to or induce the direct infringement;**

Based on publicly accessible information and limited discovery of Defendant, Plaintiff understands that Defendant makes, uses, offers for sale, sells and/or imports all of the Accused Instrumentalities in the U.S. and therefore directly infringes the asserted claims, and Plaintiff does not presently assert additional claims for indirect infringement. Plaintiff reserves the right to

amend its contentions to include indirect infringement after discovery from Defendant, or as permitted by the Court, the Patent Rules, or the Federal Rules of Civil Procedure.

(6) for each alleged direct infringement based on joint acts of multiple parties, a description of the role of each such parties in the direct infringement;

Plaintiff does not allege direct infringement based on joint acts of multiple parties. Plaintiff has not asserted any method claims, and as such has not alleged any “acts of multiple parties” to demonstrate performance of method steps. As to acts of infringement under 35 U.S.C. § 271(a), SilencerCo alone performs or is responsible for each act of infringement based on publicly accessible information and limited discovery of Defendant. Based on Plaintiff’s present understanding, SilencerCo itself performs each act of infringement except that it has relied on a third-party 3D printer company to manufacture at least some of the Accused Instrumentalities since March 2022. Plaintiff nevertheless contends SilencerCo is responsible for such infringement as well as the sale, offer for sale, and/or importation of such Accused Instrumentalities. Plaintiff reserves the right to amend its contentions after discovery from Defendant, or as permitted by the Court, the Patent Rules, or the Federal Rules of Civil Procedure.

(7) for any patent that claims priority to an earlier application, the priority date to which each asserted claim allegedly is entitled;

Each claim of the asserted ’750 patent is entitled to a priority date no later than the filing date of the earliest application to which it claims priority. To date, Plaintiff believes the asserted ’750 patent has the following priority date based on a priority claim to an earlier application:

At least as early as February 11, 2010, the filing date of Provisional Application 61/303,553, but no later than the filing of Provisional Application No. 61/418,285 which was filed on November 30, 2010.

To be clear, Plaintiff has also alleged and produced documents supporting a conception date and diligent reduction to practice prior to the above-identified priority dates based on earlier

applications. Plaintiff incorporates by reference its discovery responses, and any additional supplements thereto, including its response to Defendant's Interrogatory No. 1 regarding Plaintiff's position on conception and reduction to practice.

(8) the basis for any allegation of willful infringement; and

Plaintiff alleges that Defendant has willfully infringed the asserted claims of the '750 patent based at least on the following: Plaintiff believes that SilencerCo knew of the '750 patent and its infringing activity when it launched the Velos LBP line of suppressors because the '750 patent was well-known in the suppressor industry. At the very least, SilencerCo knew of the '750 patent and its infringing activity as of January 30, 2024, when HuxWrx sent SilencerCo a letter and claim chart informing SilencerCo of its infringement of the '750 patent. Despite knowledge of the '750 patent and its infringing conduct, SilencerCo has continued to infringe the '750 patent. SilencerCo has taken other actions that show that it closely follows HuxWrx's innovation in the suppressor industry and is attempting to capitalize on HuxWrx's innovations. For example, SilencerCo has marketed its Velos LBP suppressors as "flow-through" suppressors. HuxWrx holds a trademark registration for the mark FLOW-THROUGH in connection with "noise suppressors for firearms," and has publicly touted its Flow-Through® technology as patented. Essential elements of HuxWrx's Flow-Through® technology are covered by the '750 patent. SilencerCo's use of the term "flow-through" to describe suppressors that practice the '750 patent strongly suggest that SilencerCo has attempted to mimic HuxWrx's patented technology.

Plaintiff reserves the right to amend its contentions to regarding willful infringement after discovery from Defendant, or as permitted by the Court, the Patent Rules, or the Federal Rules of Civil Procedure. Plaintiff further incorporates by reference its discovery responses, and any additional supplements thereto, including its response to Defendant's Interrogatory No. 6 regarding SilencerCo's willfulness.

- (9) to preserve the right to rely on the assertion that its own or its licensee's apparatus, product, device, process, method, act, or other instrumentality embodies or practices the claimed invention, an identification, separately for each asserted patent, of each such apparatus, product, device, process, method, act, or other instrumentality that incorporates or reflects that particular claim, including whether there has been marking pursuant to statute.

Plaintiff identifies its (including its predecessor, OSS Suppressor's) devices below that embody or practice the inventions of the asserted '750 patent:

A1-BPR1-1
A1-BPR1-2
A1-BPR2-3
A1-BPR2-3
A1-BPR3-3
A1-CTU3
A416-BPR1-2
A416X10-IB-BPR1-2
A-BPR1425
A-Halo-BPR1-2
A-Halo-BPR1-2-LG
A-Halo-IB-BPR1-1
A-Halo-IB-BPR1-2
A-Halo-IB-BPR1-2-LG
B12-BPR1-1-ATF
B12-BPR1-2-ATF
B12-BPR1-ATF
B12-BPR2-3
B12-BPR2-4
B12-BPR2-5
B12-BPR2-6
B12-BPR2-7
B12-BPR2-8
B12-BPR3-10-ATF
B12-BPR3-3-ATF
B12-BPR3-4-ATF
B12-BPR3-5-ATF
B12-BPR3-6-ATF
B12-BPR3-7-ATF
B12-BPR3-8-ATF

B12-BPR3-9-ATF
B12-CTU10-ATF
B12-CTU3-ATF
B12-CTU4-ATF
B12-CTU5-ATF
B12-CTU6-ATF
B12-CTU7-ATF
B12-CTU8-ATF
B12-CTU9-ATF
B13-BPR1-1-ATF
B13-BPR1-2-ATF
B13-BPR1-ATF
B13-BPR3-5-ATF
B13-CTU5-ATF
B417-BPR2-6
B417X12-BPR1-2
B5-BPR1-2
B6-BPR1-2
B-BPR1520
B-BPR2730
B-Halo-BPR1-2
B-Halo-IB-BPR1-2
BPR_1_111218-01
BPR_1_120224
BPR_1_762_120301
BPR_1-DRM_111230
BPR_2_120223
BPR1_2_762_120308
BPR1-0-SS
BPR-112
BPR-114

BPR-114wSRM-44
BPR-115
BPR-116
BPR1-1-M4
BPR1-1-SS
BPR-123
BPR-125
BPR-125556
BPR1275-B1
BPR-139-sword 338
BPR1425
BPR1425-A1
BPR1425-A1-CA
BPR1425-A3
BPR1425-B1-CA
BPR1425-B3
BPR-146
BPR-148338
BPR-148762
BPR-1515-31-03
BPR1520
BPR1520-B1
BPR1600
BPR2-3-SS
BPR-25
BPR-26
BPR-27
BPR2720
BPR2730-A5
BPR-28
BPR3-3-SS

BPR3-4-SS
BPR-37
BPR-38
CTU
CTU_5_762
D-BPR1425
D-BPR1600
D-BPR2720
ELITE 300
ELITE 556
ELITE 556 MINI
ELITE 556 MINI RH
ELITE 556K
ELITE 556K+
ELITE 762
ELITE 762 MG
ELITE 762K
ELITE 762K+
ELITE BPR2
ELITE BPR4
ELITE BPR4 556
ELITE BPR4 762
ELITE BPR6 BA 762
ELITE IFM5 556
ELITE IFM5 THALES 556
ELITE IFM6 556
ELITE IFM6 762
ELITE IFM7 762
EL-QD 556
EL-QD 556K
EL-QD 556L
EL-QD 762
EL-QDL 338 ASR

EL-QDR 556 TI
EL-QDR 762 TI
FLOW 12K
FLOW 22 TI
FLOW 264
FLOW 264 L
FLOW 338
FLOW 338 MG
FLOW 338 MG L
FLOW 338 TI
FLOW 338 TI C
FLOW 416 C
FLOW 416 TI C
FLOW 50
FLOW 50 M2
FLOW 556
FLOW 556 L
FLOW 556 MG L
FLOW 556K
FLOW 556K L
FLOW 556K MG
FLOW 556K MG L
FLOW 65
FLOW 65 L
FLOW 65 TI
FLOW 6K
FLOW 6K B MG
FLOW 6K L
FLOW 762
FLOW 762 L
FLOW 762 MG
FLOW 762 MG L
FLOW 762 TI
HELIX 300

HELIX 556
HELIX 762
HELIX IFM5 556
HELIX IFM6 556
HELIX IFM6 762
HELIX IFM7 762
HELIX MAG
HK416-BPR2-6
HK417-BPR1-2
HK417-BPR2-6
HK417-BPR3
HK417-CTU6
HK417-IB-BPR1600
HX-QD 264
HX-QD 338 MG
HX-QD 338 TI
HX-QD 556
HX-QD 556 TI
HX-QD 556K
HX-QD 762
HX-QD 762 TI
HX-QD 762K
HX-QD 762K TI
HX-QD ELR
HX-QD MAGNUM TI
M4-BPR1-2
M4-BPR2
M4-CTU
MG_111212-02
Proof308_BPR1-2
X2

Plaintiff has complied and continues to comply with the marking requirements of 35 U.S.C. § 287 at least by associating HuxWrx's patented products with the '750 patent on the Internet at <https://huxwrx.com/pat> for those models that have been and are currently listed there. Plaintiff

preserves its right to rely on at least the above-identified devices that embody or practice the claimed inventions. Plaintiff further reserves the right to amend its contentions to identify additional devices as permitted by the Court, the Patent Rules, or the Federal Rules of Civil Procedure.

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Respectfully submitted,

/s/ Eric M. Albritton
Brent O. Hatch (5715)
Hatch Law Group, P.C.
22 East 100 South, Suite 400
Salt Lake City, Utah 84111
Tel: (801) 869-1919
hatch@hatchpc.com

Eric M. Albritton (admitted *pro hac vice*)
Texas State Bar No. 00790215
Albritton Law Firm
204 North Fredonia Street
Longview, Texas 75601
Tel: 903-757-8449
ema@emafirm.com

Brent N. Bumgardner (admitted *pro hac vice*)
Texas State Bar No. 00795272
Christopher G. Granaghan (admitted *pro hac vice*)
Texas State Bar No. 24078585
David T. DeZern (admitted *pro hac vice*)
Texas State Bar No. 24059677
Nelson Bumgardner Conroy PC
3131 West 7th Street, Suite 300
Fort Worth, Texas 76107
Tel: (817) 377-9111
brent@nelbum.com
chris@nelbum.com
david@nelbum.com

Attorneys for Plaintiff
HuxWrx Safety Co.

CERTIFICATE OF SERVICE

I hereby certify that on June 6, 2024, the foregoing document was served on the following counsel of record via email:

Thomas M. Alldridge – talldridge@hollandhart.com

J. Randy Roeser – jroeser@hollandhart.com

/s/ *Eric M. Albritton*
Eric M. Albritton