

SECURITIES AND EXCHANGE COMMISSION

FORM 10-Q

Quarterly report pursuant to sections 13 or 15(d)

Filing Date: **2009-05-14** | Period of Report: **2009-04-04**
SEC Accession No. **0000950144-09-004295**

([HTML Version](#) on [secdatabase.com](#))

FILER

EMS TECHNOLOGIES INC

CIK: **32198** | IRS No.: **581035424** | State of Incorporation: **GA** | Fiscal Year End: **1231**
Type: **10-Q** | Act: **34** | File No.: **000-06072** | Film No.: **09826254**
SIC: **3663** Radio & tv broadcasting & communications equipment

Mailing Address
PO BOX 7700
NORCROSS GA 30091-7700

Business Address
660 ENGINEERING DRIVE
NORCROSS GA 30092
7702639200

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES
EXCHANGE ACT OF 1934

For the quarterly period ended April 4, 2009

Commission file number 0-6072

EMS TECHNOLOGIES, INC.

(Exact name of registrant as specified in its charter)

Georgia

(State or other jurisdiction of incorporation or
organization)

58-1035424

(IRS Employer ID Number)

660 Engineering Drive, Norcross, Georgia

(Address of principal executive offices)

30092

(Zip Code)

Registrant's Telephone Number, Including Area Code: (770) 263-9200

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer Accelerated filer Non-accelerated filer Smaller reporting company
(Do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

The number of shares outstanding of each of the issuer's classes of common stock, as of the close of business on May 8, 2009:

Class

Number of Shares

Common Stock, \$.10 par Value

15,208,790

AVAILABLE INFORMATION

EMS Technologies, Inc. makes available free of charge, on or through its website at www.ems-t.com, its annual, quarterly and current reports, and any amendments to those reports, as soon as reasonably practicable after electronically filing such reports with the Securities and Exchange Commission. Information contained on the Company's website is not part of this report.

TABLE OF CONTENTS

	<u>Page</u>
<u>PART I – FINANCIAL INFORMATION</u>	2
<u>Item 1. Financial Statements</u>	2
<u>Consolidated Statements of Operations (unaudited)</u>	2
<u>Consolidated Balance Sheets (unaudited)</u>	3
<u>Consolidated Statements of Cash Flows (unaudited)</u>	5
<u>Notes to Consolidated Financial Statements (unaudited)</u>	6
<u>Item 2. Management' s Discussion and Analysis of Financial Condition and Results of Operations</u>	15
<u>Item 3. Quantitative and Qualitative Disclosures about Market Risk</u>	26
<u>Item 4. Controls and Procedures</u>	28
<u>PART II – OTHER INFORMATION</u>	29
<u>Item 1A. Risk Factors</u>	29
<u>Item 2. Unregistered Sales of Equity Securities and Use of Proceeds</u>	29
<u>Item 6. Exhibits</u>	30
<u>SIGNATURES</u>	31
<u>EX-3.1</u>	
<u>EX-4.1</u>	
<u>EX-10.1</u>	
<u>EX-10.2</u>	
<u>EX-31.1</u>	
<u>EX-31.2</u>	
<u>EX-32</u>	

PART I
FINANCIAL INFORMATION

Item 1. Financial Statements

EMS Technologies, Inc. and Subsidiaries

Consolidated Statements of Operations (Unaudited)
(in thousands, except per share data)

	Three Months Ended	
	April 4 2009	March 29 2008
Product net sales	\$68,791	63,715
Service net sales	23,487	11,779
Net sales	92,278	75,494
Product cost of sales	46,077	39,642
Service cost of sales	17,240	7,196
Cost of sales	63,317	46,838
Selling, general and administrative expenses	22,596	20,198
Research and development expenses	4,412	5,021
Acquisition-related charges	3,895	-
Operating (loss) income	(1,942)	3,437
Interest income	62	999
Interest expense	(621)	(369)
Foreign exchange (loss) gain, net	(467)	51
(Loss) earnings before income taxes	(2,968)	4,118
Income tax benefit	-	42
Net (loss) earnings	<u>\$ (2,968)</u>	<u>4,160</u>
Net (loss) earnings per share:		
Basic	\$(0.20)	0.27
Diluted	(0.20)	0.26
Weighted-average number of shares outstanding:		
Basic	15,146	15,545
Diluted	15,146	15,768

See accompanying notes to interim unaudited consolidated financial statements.

EMS Technologies, Inc. and Subsidiaries**Consolidated Balance Sheets (Unaudited)
(in thousands)**

	<u>April 4 2009</u>	<u>December 31 2008</u>
ASSETS		
Current assets:		
Cash and cash equivalents	\$45,944	86,979
Trade accounts receivable, net of allowance for doubtful accounts of \$1,116 in 2009 and \$856 in 2008	68,654	65,831
Costs and estimated earnings in excess of billings on long-term contracts	22,679	30,485
Inventories	46,793	35,670
Deferred income taxes	2,287	1,632
Other current assets	18,279	12,184
Total current assets	<u>204,636</u>	<u>232,781</u>
Property, plant and equipment:		
Land	1,150	1,150
Buildings and leasehold improvements	17,825	16,238
Machinery and equipment	97,352	92,100
Furniture and fixtures	10,252	10,059
Total property, plant and equipment	<u>126,579</u>	<u>119,547</u>
Less accumulated depreciation and amortization	81,040	78,975
Net property, plant and equipment	<u>45,539</u>	<u>40,572</u>
Deferred income taxes	6,269	7,318
Goodwill	84,697	31,402
Other intangible assets, net of accumulated amortization of \$10,447 in 2009 and \$8,219 in 2008	49,951	11,166
Other assets	8,377	4,126
Total assets	<u>\$399,469</u>	<u>327,365</u>

See accompanying notes to interim unaudited consolidated financial statements.

EMS Technologies, Inc. and Subsidiaries
Consolidated Balance Sheets (Unaudited), continued
(in thousands, except share data)

	<u>April 4</u> <u>2009</u>	<u>December 31</u> <u>2008</u>
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities:		
Current installments of long-term debt	\$1,324	1,302
Accounts payable	35,298	25,361
Billings in excess of costs and estimated earnings on long-term contracts	8,556	8,172
Accrued compensation and retirement costs	14,201	14,456
Deferred service revenue	10,710	7,998
Other current liabilities	<u>20,702</u>	<u>10,073</u>
Total current liabilities	90,791	67,362
Long-term debt, excluding current installments	42,786	9,250
Deferred income taxes	9,433	-
Other liabilities	<u>17,216</u>	<u>8,011</u>
Total liabilities	<u>160,226</u>	<u>84,623</u>
Shareholders' equity:		
Preferred stock of \$1.00 par value per share; Authorized 10,000 shares; none issued	-	-
Common stock of \$.10 par value per share; Authorized 75,000 shares, issued and outstanding 15,201 in 2009 and 15,188 in 2008	1,520	1,519
Additional paid-in capital	133,918	133,270
Accumulated other comprehensive loss – foreign currency translation adjustment	(6,680)	(5,500)
Retained earnings	<u>110,485</u>	<u>113,453</u>
Total shareholders' equity	<u>239,243</u>	<u>242,742</u>
Commitments and contingencies		
Total liabilities and shareholders' equity	<u>\$399,469</u>	<u>327,365</u>

See accompanying notes to interim unaudited consolidated financial statements.

EMS Technologies, Inc. and Subsidiaries

Consolidated Statements of Cash Flows (Unaudited)
(in thousands)

	Three Months Ended	
	April 4 2009	March 29 2008
Cash flows from operating activities:		
Net (loss) earnings	\$(2,968)	4,160
Adjustments to reconcile net (loss) earnings to net cash provided by operating activities:		
Depreciation and amortization	4,607	2,753
Deferred income taxes	–	(742)
Stock-based compensation expense	497	387
Accretion of contingent consideration liability	388	–
Changes in operating assets and liabilities, net of effects of acquisitions:		
Trade accounts receivable	1,063	(3,919)
Costs and estimated earnings in excess of billings on long-term contracts	7,893	364
Inventories	(979)	(1,674)
Accounts payable	1,197	197
Other	2,277	4,370
Net cash provided by operating activities	13,975	5,896
Cash flows from investing activities:		
Purchases of property, plant and equipment	(4,505)	(2,530)
Payments for acquisitions of businesses, net of cash acquired	(83,814)	(15,147)
Proceeds from sales of assets	1	66
Net cash used in investing activities	(88,318)	(17,611)
Cash flows from financing activities:		
Net borrowings under revolving credit facility	33,759	–
Repayment of debt	(315)	(247)
Deferred financing costs paid	(251)	(839)
Proceeds from the exercise of common stock, net of withholding taxes paid	153	34
Net cash provided by (used in) financing activities	33,346	(1,052)
Effect of changes in exchange rates on cash and cash equivalents	(38)	366
Net change in cash and cash equivalents	(41,035)	(12,401)
Cash and cash equivalents at beginning of period	86,979	133,959
Cash and cash equivalents at end of period	<u>\$45,944</u>	<u>121,558</u>

See accompanying notes to interim unaudited consolidated financial statements.

EMS Technologies, Inc. and Subsidiaries

**Notes to Consolidated Financial Statements (Unaudited)
April 4, 2009 and March 29, 2008**

1. Basis of Presentation

EMS Technologies, Inc. (“EMS”) is a leading innovator in the design, manufacture, and marketing of wireless communications technologies addressing the enterprise mobility, communications-on-the-move and in-flight connectivity markets for both the commercial and government industries. EMS focuses on the needs of the mobile information user and the increasing demand for wireless broadband communications. EMS products and services enable communications across a variety of coverage areas, ranging from global, to regional, to within a single facility.

The consolidated financial statements include the accounts of EMS Technologies, Inc. and its subsidiaries, each of which is a wholly owned subsidiary of EMS (collectively, the “Company”). All significant intercompany balances and transactions have been eliminated in consolidation. The Company controls no other entities, either directly or indirectly. Certain reclassifications have been made to the 2008 consolidated financial statements to conform to the 2009 presentation.

The accompanying unaudited consolidated financial statements included herein have been prepared in accordance with U.S. generally accepted accounting principles for interim financial statements and are based on the Securities and Exchange Commission’s (“SEC”) Regulation S-X and its instructions to Form 10-Q. They do not include all of the information and notes required by U.S. generally accepted accounting principles for complete financial statements. In the opinion of management, the accompanying unaudited consolidated financial statements reflect all adjustments, consisting of normal recurring items, necessary to present fairly the financial condition, results of operations and cash flows for the interim periods presented. These interim consolidated financial statements should be read in conjunction with the financial statements and related notes included in the Company’s Annual Report on Form 10-K for the year ended December 31, 2008.

– Management’s Use of Estimates

The preparation of financial statements in conformity with U.S. generally accepted accounting principles requires management to make a number of estimates and assumptions relating to the reporting of assets and liabilities and the disclosure of contingent assets and liabilities as of the balance sheet date and reporting of revenue and expenses during the period. Actual future results could differ materially from those estimates.

– Accounting Changes

Effective January 1, 2008, the Company adopted Financial Accounting Standards Board (“FASB”) Statement of Financial Accounting Standards (“SFAS”) No. 157, *Fair Value Measurements*, for all financial instruments. Effective January 1, 2009, the Company adopted the provisions of SFAS No. 157 for nonfinancial instruments accounted for at fair value on a nonrecurring basis. SFAS No. 157 establishes a new framework for measuring fair value and expands related disclosures. The fair value disclosures for financial instruments are included in Note 4 and the fair value disclosures related to the fair values of assets and liabilities from business combinations completed during the three months ended April 4, 2009 are included in Note 2.

[Table of Contents](#)

On January 1, 2009, the Company adopted SFAS No. 141(R), *Business Combination*, which significantly changes the accounting for business combinations for which the acquisition date is on or after January 1, 2009, both during the period of acquisition and in subsequent periods. Among the more significant changes in the accounting for acquisitions are the following:

An acquiring entity must recognize all the assets acquired and liabilities assumed in a business combination at the acquisition-date fair value, as determined under the provisions of SFAS No. 157;

Transaction costs are expensed as incurred, and are classified within cash flows from operating activities in the consolidated statement of cash flows. Such costs were previously capitalized as part of the cost of an acquisition, and were classified within cash flows from investing activities in the consolidated statement of cash flows;

Contingent consideration is recognized at fair value at the acquisition date as a liability or as equity. Subsequent adjustments of an amount recognized as a liability, including accretion of the discounted liability, are recognized in the statement of operations. Contingent consideration was previously accounted for as an adjustment to the cost of the acquisition when the results of the contingency were determined;

Subsequent changes to valuation allowances against deferred tax assets after the measurement period are recognized as an adjustment to income tax expense. Such changes were previously reflected as an adjustment to goodwill. This provision of SFAS No. 141(R) also applies to acquisitions completed prior to the effective date;

Acquired in-process research and development (“IPR&D”) is recognized as an asset at fair value at the acquisition date, with the fair value recognized as an expense as the asset is realized or abandoned. IPR&D was previously expensed at the acquisition date; and

Costs associated with restructuring or exit activities of an acquired entity are expensed when incurred. Previously, such costs were recorded as liabilities at the acquisition date if specified criteria were met.

During the three months ended April 4, 2009, the Company recognized acquisition-related charges of \$3.9 million, principally a result of the effects of SFAS No. 141(R), primarily transaction costs and accretion of a contingent consideration liability. The charge is included within acquisition-related charges in the consolidated statement of operations and includes costs incurred as of December 31, 2008, related to potential acquisitions that did not have an acquisition date on or prior to December 31, 2008, that were included as an asset on the consolidated balance sheet as of that date as required by the provisions of SFAS No. 141, *Business Combinations*, the predecessor to SFAS No. 141(R). \$1.7 million of the acquisition-related charges were paid during the three months ended April 4, 2009 and included as a reduction of cash provided by operating activities in the consolidated statement of cash flows.

In adopting the provisions of SFAS No. 141(R) as of January 1, 2009, the Company also applied the provisions of FASB Staff Position (“FSP”) No. FAS 141(R)-1, *Accounting for Assets Acquired and Liabilities Assumed in a Business Combination That Arise from Contingencies*, which amends SFAS No. 141(R), and FSP No. FAS 142-3, *Determination of the Useful Life of Intangible Assets*, which amends SFAS No. 142, *Goodwill and Other Intangible Assets*. FSP No. FAS 141(R)-1 requires preacquisition contingencies to be recognized at fair value at the acquisition date if fair value can be reasonably determined during the measurement period. If fair value cannot be reasonably determined, the FSP requires measurement based on the recognition and measurement criteria of SFAS No. 5, *Accounting for Contingencies*. FSP No. FAS 142-3 amends the factors that should be considered in developing the useful life of a recognizable intangible asset to improve the consistency between the useful life of a recognizable intangible asset and the period of expected cash flows.

– Recently Issued Pronouncements Not Yet Adopted

In April 2009, the FASB issued FSP No. FAS 157-4, *Determining Fair Value When the Volume and Level of Activity for the Asset or Liability Have Significantly Decreased and Identifying Transactions That Are Not Orderly*. FSP No. FAS 157-4 clarifies fair valuation in inactive markets and includes all assets and liabilities subject to fair valuation measurements and requires enhanced disclosures. This FSP will be effective for financial statements

[Table of Contents](#)

issued for interim and annual periods ending after June 15, 2009. The Company is evaluating the impact of FSP No. FAS 157-4 on its consolidated financial statements.

In April 2009, the FASB also issued FSP No. FAS 107-1 and APB 28-1, *Interim Disclosures about Fair Value of Financial Instruments*. This FSP expands the fair-value disclosures required for all financial instruments within the scope of SFAS No. 107, *Disclosures about Fair Value of Financial Instruments*, to interim periods. The FSP also requires entities to disclose the methods and significant assumptions used to estimate the fair value of financial instruments in financial statements on an interim and annual basis and to highlight any changes from prior periods. This FSP will be effective for financial statements issued for interim and annual periods ending after June 15, 2009. The Company is evaluating the impact of FSP No. FAS 107-1 and APB 28-1 on its consolidated financial statements.

2. Business Combinations

During the three months ended April 4, 2009, the Company completed the acquisitions of two businesses that expanded its technology base. The Company completed the acquisition of all of the equity interest in Formation, Inc. (“Formation”), of Moorestown, New Jersey, and Satamatics Global Limited (“Satamatics”), of Tewkesbury, UK, on January 9, 2009 and February 13, 2009, respectively.

Formation’s core product lines are rugged disk data storage products, wireless access points, advanced integrated recorders, terminal data loaders, and avionics and media file servers. Acquiring Formation is part of the Company’s continued investment in its aero-connectivity strategy to become a more comprehensive solutions provider. The Company’s goal is to meet the growing demand for aeronautical communications from airlines and business aircraft owners, as well as governments. With the inclusion of Formation in its product portfolio, the Company covers the spectrum of air-connectivity solutions for those markets across multiple satellite platforms.

Satamatics’ core products include satellite data communications terminals for mobile asset tracking and monitoring, and related airtime services. This acquisition complements the Company’s existing Iridium- and Inmarsat-based tracking solutions, extends the Company’s satellite capabilities into a new market, and further strengthens the Company’s market position in satellite-based applications for tracking people and assets worldwide.

As discussed in Note 1 to the consolidated financial statements, the Company was required to adopt SFAS No. 141(R) effective January 1, 2009, and these acquisitions were reflected in the consolidated financial statements in accordance with these new provisions.

The aggregate cash purchase price for these two entities was approximately \$90.7 million. Of this amount, \$88.8 million was paid in the first quarter of 2009, and the remaining \$1.9 million was paid in the second quarter of 2009 upon resolution of working capital and cash provisions in the purchase agreements. In addition, one of the arrangements includes contingent consideration of up to \$15 million, which would be payable in cash, in part or in total, based upon the achievement of specified performance targets for 2009 and 2010. Management estimated that the fair value of the contingent consideration arrangement at the acquisition date was approximately \$10.5 million, determined by applying the income approach, based on the probability-weighted projected payment amounts discounted to present value at a rate appropriate for the risk of achieving the milestones. These assumptions are considered by SFAS No. 157 to be level 3 inputs, which are not observable in the market. Including the contingent consideration, the aggregate estimated fair value of the consideration for these two entities, as of the respective acquisition dates, was approximately \$101.2 million.

Of the total cash consideration, approximately \$14.8 million was deposited in escrow accounts payable to the sellers after specified periods, subject to claims against the sellers. Of this amount, approximately \$9.8 million is in accounts in the name of the Company; therefore, this portion is reflected as restricted cash, \$4.8 million in other current assets and \$5.0 million in other noncurrent assets in the consolidated balance sheet as of April 4, 2009, with corresponding liability amounts in other current liabilities and other noncurrent liabilities.

SFAS No. 141(R) requires that identifiable assets acquired and liabilities assumed be reported at fair value as of the acquisition date of a business combination. The initial accounting for these acquisitions is not complete as of April 4, 2009. The fair values of the assets acquired and the liabilities assumed have been determined provisionally and

[Table of Contents](#)

are subject to adjustment as additional information is obtained by the Company. Additional time is needed particularly to complete and review the results of the valuation of assets and to evaluate the basis differences for assets and liabilities for financial reporting and tax purposes, including the need for valuation allowances. Disclosure of the valuation methods and assumptions used to determine fair value in accordance with SFAS No. 157 will be provided in a subsequent period when the amounts are no longer provisional. Material adjustments to the provisional amounts in subsequent periods, that reflect new information obtained about facts and circumstances that existed as of the acquisition date, will be reflected retrospectively as required by SFAS No. 141(R). The estimated provisional fair values of major classes of assets acquired and liabilities assumed, including a reconciliation to the total consideration is as follows (in millions):

Cash	\$5.0
Receivables	4.7
Inventories	10.4
Developed technology	21.2
Customer relationships	11.8
Trade names and trademarks	5.4
Other assets	6.9
Payables and accrued expenses	(8.5)
Deferred tax liabilities	(9.9)
	47.0
Goodwill	54.2
	<u>\$101.2</u>

Identifiable intangible assets of \$41.1 million are subject to amortization over a weighted-average amortization period, determined provisionally, of 7.8 years in total, and for the major classes: 5.9 years for developed technology, 11.5 years for customer relationships and 10.0 years for trade names and trademarks. In-process research and development assets of \$0.3 million are not subject to amortization until the projects are complete or abandoned. The goodwill results from the application of SFAS No. 141(R) since it requires that the acquirer subsume into goodwill the value of any acquired intangible asset that is not identifiable and the value attributed to items that do not qualify as assets at the acquisition date. SFAS No. 141(R) prohibits separate recognition for certain acquired intangible assets that do not arise from contractual or other legal rights or do not meet specified separation criteria (e.g., assembled workforce). In addition, value is attributed to future technologies that management expects to be developed based on a track record of the acquired entities meeting market demands. Management also believes that synergies exist between these newly acquired product lines and the Company's existing aero and connectivity businesses that allow the opportunity for promising growth. The goodwill is assigned to the Communications and Tracking segment and is not deductible for income tax purposes. The assignment of goodwill to reporting units as required by SFAS No. 142, *Goodwill and Other Intangible Assets*, has not yet been completed.

The Company included the operating results of these acquired entities in the consolidated statement of operations since the acquisition date for each respective entity. The results for the three months ended April 4, 2009 included net sales of \$14.9 million and net earnings of \$0.5 million in the Communications and Tracking segment. During the three months ended April 4, 2009, the Company recognized acquisition-related charges of \$3.9 million, principally a result of the adoption of SFAS No. 141(R), primarily transaction costs and accretion of the contingent consideration liability. The three months ended April 4, 2009 also included a \$1.4 million foreign exchange loss related to the funding of the Satamatics acquisition, which was required to be paid in British pounds sterling. The loss resulted from changes in foreign currency exchange rates from the date the Company funded the transaction to the date the acquisition was completed.

The following table provides unaudited supplemental pro forma information of the Company for the three months ended April 4, 2009 and March 29, 2008, as if these acquisitions had been completed on January 1 of the respective years. The results were prepared based on the historical financial statements of the Company and the acquired entities and include pro forma adjustments to reflect the effects of the transactions and SFAS No. 141(R) as if it had been in effect at these hypothetical acquisition dates (in thousands):

	<u>Three Months Ended</u>	
	<u>April 4 2009</u>	<u>March 29 2008</u>
Net sales	\$ 95,276	86,080
Net loss	(2,504)	(2,350)

3. Goodwill and Other Intangible Assets

As discussed in Note 2, the Company completed two business combinations during the three months ended April 4, 2009. The financial statements include the identifiable intangible assets and goodwill resulting from these business combinations in addition to amounts from acquisitions of businesses completed in prior periods.

The following table presents the changes in the carrying amount of goodwill during the three months ended April 4, 2009 (in thousands):

	<u>LXE</u>	<u>Communications and Tracking</u>	<u>Total</u>
Balance as of December 31, 2008	\$20,395	11,007	31,402
Goodwill acquired during period	-	54,174	54,174
Foreign currency translation adjustment	(879)	-	(879)
Balance as of April 4, 2009	<u>\$19,516</u>	<u>65,181</u>	<u>84,697</u>

There are no accumulated impairment losses for the Company' s goodwill.

The following table presents the gross carrying amounts and accumulated amortization, in total and by major intangible asset class for the Company' s intangible assets subject to amortization as of April 4, 2009 (in thousands):

	<u>Gross Carrying Amount</u>	<u>Accumulated Amortization</u>	<u>Net Carrying Amount</u>
Developed technology	\$36,113	8,594	27,520
Customer relationships	13,620	421	13,199
Trade names and trademarks	6,217	445	5,772
Other	<u>4,447</u>	<u>987</u>	<u>3,460</u>
	<u>\$60,397</u>	<u>10,447</u>	<u>49,951</u>

Amortization expense related to these intangible assets for the three months ended April 4, 2009 and March 29, 2008 was \$2.3 million and \$0.5 million, respectively. Expected amortization expense for the remainder of 2009 and for each of the five succeeding years is as follows: 2009 – \$7.2 million, 2010 – \$7.8 million, 2011 – \$7.4 million, 2012 – \$7.2 million, 2013 – \$4.1 million, and 2014 – \$3.4 million.

4. Fair Value of Financial Instruments

The Company uses derivative financial instruments in the form of foreign currency forward contracts in order to mitigate the risks associated with currency fluctuations on future cash flows. The Company' s policy is to execute such instruments with creditworthy financial institutions, and it does not enter into derivative contracts for

[Table of Contents](#)

speculative purposes. The fair values of foreign currency forward contracts of \$0.2 million net asset at April 4, 2009 and \$1.2 million net liability at December 31, 2008 are based on quoted market prices (a level 1 input per the provisions of SFAS No. 157) and is recorded in other current assets and other current liabilities, respectively, in the Company's consolidated balance sheet. Management believes that these assets and liabilities can be liquidated without restriction.

5. Interim Segment Disclosures

The Company is organized into three reportable segments: Communications and Tracking, Defense & Space, and LXE. Communications and Tracking includes the newly acquired Formation and Satamatics businesses (refer to Note 2) and the product lines previously reported in the Satellite Communications segment.

Following is a summary of the Company's interim segment data (in thousands):

	Three Months Ended	
	April 4 2009	March 29 2008
Net sales:		
Communications and Tracking	\$41,426	25,822
Defense & Space	26,908	15,462
LXE	23,944	34,210
Total	<u>\$92,278</u>	<u>75,494</u>
Operating (loss) income:		
Communications and Tracking	\$4,307	3,083
Defense & Space	2,892	564
LXE	(5,061)	477
Corporate & Other	(4,080)	(687)
Total	<u>\$(1,942)</u>	<u>3,437</u>
(Loss) earnings before income taxes:		
Communications and Tracking	\$5,149	3,354
Defense & Space	2,892	564
LXE	(5,138)	403
Corporate & Other	(5,871)	(203)
Total	<u>\$(2,968)</u>	<u>4,118</u>
Depreciation and amortization:		
Communications and Tracking	\$2,675	1,298
Defense & Space	806	672
LXE	841	577
Corporate and Other	285	206
Total	<u>\$4,607</u>	<u>2,753</u>

The loss before income taxes for Corporate & Other for the three months ended April 4, 2009 includes \$3.9 million of acquisition-related charges, a \$1.4 million foreign exchange loss related to the funding of the Satamatics acquisition and other corporate expenses that are not allocated to operating segments in the financial data reviewed by the chief operating decision maker.

[Table of Contents](#)

	April 4 2009	December 31 2008
Assets:		
Communications and Tracking	\$216,556	99,323
Defense & Space	54,938	47,417
LXE	99,542	107,230
Corporate & Other	28,433	73,395
Total	<u>\$399,469</u>	<u>327,365</u>
Concentration of net assets by geographic region:		
United States	\$83,642	128,692
Canada	43,505	53,252
Europe	105,498	53,801
Other	6,598	6,997
Total	<u>\$239,243</u>	<u>242,742</u>

6. Earnings Per Share

Following is a reconciliation of the denominators for basic and diluted earnings per share calculations (in thousands):

	Three Months Ended	
	April 4 2009	March 29 2008
Basic weighted-average number of common shares outstanding	15,146	15,545
Dilutive potential shares using the treasury share method	—	223
Diluted weighted-average number of common shares outstanding	<u>15,146</u>	<u>15,768</u>
Shares that were not included in computation of diluted earnings per share that could potentially dilute future basic earnings per share because their effect on the periods were antidilutive	<u>1,016</u>	<u>113</u>

7. Comprehensive (Loss) Income

Following is a summary of comprehensive (loss) income (in thousands):

	Three Months Ended	
	April 4 2009	March 29 2008
Net (loss) earnings	\$(2,968)	4,160
Other comprehensive (loss) income:		
Foreign currency translation adjustment	(1,180)	908
	<u>\$(4,148)</u>	<u>5,068</u>

8. Inventories

Inventories as of April 4, 2009 and December 31, 2008 include the following (in thousands):

	<u>April 4 2009</u>	<u>December 31 2008</u>
Parts and materials	\$31,439	26,730
Work-in-process	7,519	2,404
Finished goods	7,835	6,536
	<u>\$46,793</u>	<u>35,670</u>

9. Revolving Credit Facility

During the first quarter of 2009, the Company completed two acquisitions and used borrowings under its revolving credit facility to fund a portion of the transactions. At April 4, 2009, the Company had \$33.9 million of borrowings outstanding under its revolving credit facility.

The Company has \$2.4 million of standby letters of credit to satisfy performance guarantee requirements under certain customer contracts. While these obligations are not normally called, they could be called by the beneficiaries at any time before the expiration date should the Company fail to meet certain contractual requirements. After deducting outstanding letters of credit, at April 4, 2009 the Company had \$30.7 million available for borrowing in the U.S. and \$8.0 million available for borrowing in Canada under the revolving credit agreement.

10. Warranty Liability

The Company generally provides a limited warranty for each of its products. The basic warranty periods vary from one to five years, depending upon the type of product. For certain products, customers can purchase warranty coverage for specified additional periods. The Company records a liability for the estimated costs to be incurred under warranties, which is included in other current liabilities on the Company's consolidated balance sheets. The amount of this liability is based upon historical, as well as expected, rates of warranty claims. The warranty liability is periodically reviewed for adequacy and adjusted as necessary. Following is a summary of activity for the periods presented related to the aggregate product warranty liability (in thousands):

	<u>Three Months Ended</u>	
	<u>April 4 2009</u>	<u>March 29 2008</u>
Balance at beginning of the period	\$2,789	2,647
Additions at dates of acquisition for businesses acquired during period	516	-
Accruals for warranties issued during the period	975	1,030
Settlements made during the period	(900)	(808)
Balance at end of period	<u>\$3,380</u>	<u>2,869</u>

11. Stock-Based Compensation

The Company has granted nonqualified stock options to key employees and directors under several stock option plans. The Company granted options to acquire approximately 128,000 and 104,000 shares of common stock during the first quarter of 2009 and the first quarter of 2008, respectively. The Company recognized expense of \$0.5 million in the first quarter of 2009, and \$0.4 million in the first quarter of 2008, before income tax benefits, for all the Company's stock plans.

12. Income Taxes

The Company's effective income tax rate for all periods presented is less than the amounts computed by applying the U.S. federal income tax rate of 34% due to a portion of earnings being earned in Canada, where the Company's effective rate is much lower than the rate in the U.S. due to research-related tax benefits. In addition, in the three months ended March 29, 2008, the Company recognized a benefit of \$0.7 million related primarily to a change in estimate of prior-year research and development credits available in the U.S.

The Company is currently under audit by the Internal Revenue Service for the tax year 2006. The Company is also under audit in Canada at the federal and the Ontario and Quebec provincial levels for various years between 2002 and 2006. The Company expects to complete the audits in the next twelve months. Any related unrecognized tax benefits could be adjusted based on the results of the audits. The Company cannot estimate the range of the change that is reasonably possible at this time.

13. Discontinued Operations

In 2005 and 2006, the Company disposed of S&T/Montreal, SatNet, and EMS Wireless, which have been reported as discontinued operations through their dates of disposition in the Company's consolidated financial statements. The sales agreements for each of these disposals contained standard indemnification provisions for various contingencies that could not be resolved before the dates of closing and for various representations and warranties provided by the Company and the purchasers. We accrue for a liability related to a contingency, representation or warranty when management considers that the liability is both probable and can be reasonably estimated. The purchaser of EMS Wireless has asserted claims under such representations and warranties. The parties have agreed to arbitration, which is expected to take place in the second half of 2009. Management does not believe that sufficient information exists to evaluate such claims, and cannot reasonably estimate the range of this potential liability, or determine whether such liability would be material. Therefore, no accrual has been recorded for this potential liability as of April 4, 2009.

Also as part of the agreement to sell the net assets of S&T/Montreal, the Company released the purchaser from a corporate guarantee, resulting in the Company accruing a long-term liability as of April 4, 2009. This liability represents the Company's estimated loss under an agreement to acquire a license from the purchaser for \$8.0 million in payments over a seven-year period for the rights to a certain satellite territory and a corresponding sublicense agreement that granted the territory rights back to the purchaser, under which the Company will receive a portion of the satellite service revenues from the specific market territory over the same period. The purchaser had previously guaranteed that the revenues derived under the sublicense would equal or exceed the acquisition cost of the license; however, without the guarantee, the Company currently estimates that its portion of the satellite service revenues will be less than the acquisition cost, and the Company has accordingly accrued a net liability, a portion of which is reflected as current and the remainder as noncurrent in the consolidated balance sheet.

Discontinued operations had no effect on the Company's net (loss) earnings in the three months ended April 4, 2009, and March 29, 2008.

14. Repurchase of Common Shares

On July 29, 2008, the Company's Board of Directors authorized a stock repurchase program for up to \$20 million of the Company's common shares. As of April 4, 2009, the Company had repurchased 474,000 common shares for approximately \$9.8 million. There were no repurchases during the three months ended April 4, 2009.

15. Litigation

The Company is involved in various claims and legal actions arising in the ordinary course of business. In the opinion of management, the ultimate disposition of these matters will not have a material adverse effect on the Company's consolidated financial position, results of operations or cash flows.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

The following discussion and analysis should be read in conjunction with our consolidated financial statements and related notes included in Item 1 of Part 1 of this Quarterly Report and the audited consolidated financial statements and notes and Management's Discussion and Analysis of Financial Condition and Results of Operations contained in our Annual Report on Form 10-K for the year ended December 31, 2008.

We are a leading innovator in the design, manufacture, and marketing of wireless communications technologies addressing the enterprise mobility, communications-on-the-move and in-flight connectivity markets for both the commercial and government industries. We focus on the needs of the mobile information user and the increasing demand for wireless broadband communications. Our products and services enable communications across a variety of coverage areas, ranging from global, to regional, to within a single facility. Our operations include the following three reportable operating segments:

Communications and Tracking – Offers satellite-based communication, tracking, and messaging solutions through a broad array of terminals and antennas for the aeronautical, ground-mobile and emergency management markets. This reportable operating segment includes the product lines previously reported in the Satellite Communications segment, and the newly acquired Formation, Inc. (“Formation”) and Satamatics Global Limited (“Satamatics”) product lines (refer to Note 2 of the consolidated financial statements in Item 1 of this Quarterly Report for additional information); and

Defense & Space (“D&S”) – Develops highly engineered subsystems for defense electronics and sophisticated satellite applications – from military communications, radar, surveillance and countermeasures to commercial high-definition television, satellite radio, and live TV for innovative airlines; and

LXE – Provides rugged mobile terminals and wireless data collection equipment for logistics management systems and operates mainly in two markets: the America market which is comprised of North, South and Central America; and the International market, which is comprised of all other geographic areas, with the highest concentration in Europe.

Following is a summary of significant factors affecting or related to our results of operations in the three months ended April 4, 2009:

We completed the acquisitions of Formation and Satamatics on January 9, 2009 and February 13, 2009, respectively. These newly acquired product lines along with Sky Connect, LLC (“Sky Connect”), which was acquired in August of 2008, contributed \$17.3 million of net sales and \$0.3 million in net earnings in the first quarter of 2009.

Our net loss for the first quarter of 2009 was \$3.0 million compared to net earnings of \$4.2 million for the first quarter of 2008. Our operating results for the first quarter of 2009 include \$3.9 million of acquisition-related charges, primarily transaction costs that are now required to be reported as a current expense per Statement of Financial Accounting Standards (“SFAS”) No. 141(R), *Business Combinations*. The first quarter of 2009 also includes a \$1.4 million foreign exchange loss related to the funding of the Satamatics acquisition, which was required to be paid in British pounds sterling. The loss resulted from changes in foreign currency exchange rates from the date we funded the transaction to the date the acquisition was completed. The financial results for the first quarter of 2009 also reflect the effect of amortization of intangible assets related to these acquisitions of approximately \$1.8 million. These acquisition-related items total \$7.1 million.

Consolidated net sales increased by 22.2% to \$92.3 million in the first quarter of 2009 as compared with the first quarter of 2008, mainly due to higher net sales at Communications and Tracking and D&S. LXE's net sales were down \$10.3 million reflecting the challenging global economic climate. Net sales for Communications and Tracking included \$17.3 million from the newly acquired product lines.

[Table of Contents](#)

Our first quarter operating loss was \$1.9 million as compared with operating income of \$3.4 million in the same period of 2008. The operating loss in the first quarter of 2009 was mainly a result of the \$3.9 million acquisition-related charge in the first quarter of 2009, and a \$5.1 million operating loss reported by LXE, which includes approximately \$1.1 million of severance charges. Operating profits increased for D&S and Communications and Tracking by \$2.3 million and \$1.2 million, respectively, in the first quarter of 2009 as compared with the first quarter of 2008.

Description of Net Sales, Costs and Expenses

Net sales

The amount of net sales is generally the most significant factor affecting our operating income in a period. We recognize product-related net sales under most of our customer agreements when we ship completed units or complete the installation of our products. If multiple deliverables are involved in a revenue arrangement, or if software included in an offering is more than incidental to a product as a whole, we recognize revenue in accordance with FASB Emerging Issues Task Force Issue No. 00-21, *Revenue Arrangements with Multiple Deliverables*, or American Institute of Certified Public Accountants Statement of Position No. 97-2, *Software Revenue Recognition*, as applicable. If the customer agreement is in the form of a long-term contract (mainly at D&S and to a lesser degree at Communications and Tracking), we recognize revenue under the percentage-of-completion method, using the ratio of cost-incurred-to-date to total-estimated-cost-at-completion as the measure of performance. Estimated manufacturing cost-at-completion for each of these contracts is reviewed on a routine periodic basis, and adjustments are made periodically to the estimated cost-at-completion based on actual costs incurred, progress made, and estimates of the costs required to complete the contractual requirements. When the estimated manufacturing cost-at-completion exceeds the contract value, the contract is written down to its net realizable value, and the loss resulting from cost overruns is immediately recognized. If the customer agreement is in the form of a cost-reimbursement contract, we recognize revenue based on the type of fee specified in the contract, which is typically a fixed fee, award fee or a combination of both.

We also generate net sales from product-related service contracts, repair services, and engineering services projects. We recognize revenue from product-related service contracts and extended warranties ratably over the life of the contract. We recognize revenue from repair services as services are rendered. We recognize revenue from contracts for engineering services using the percentage-completion method for fixed price contracts, or as costs are incurred for cost-type contracts.

Cost of sales

For our LXE and D&S products, we conduct most of our manufacturing efforts in our Atlanta-area facilities. We manufacture the majority of our Communications and Tracking products at our facility in Ottawa, Canada.

Product cost of sales includes the cost of materials, payroll and benefits for direct and indirect manufacturing labor, engineering and design costs, outside costs such as subcontracts, consulting or travel related to specific contracts, and manufacturing overhead expenses such as depreciation, utilities and facilities maintenance.

We sell a wide range of advanced wireless communications products into markets with varying competitive conditions, and cost of sales as a percentage of net sales varies with each product. Consequently, the mix of products sold in a given period is a significant factor affecting our operating income.

The cost-of-sales percentage is principally a function of competitive conditions and product and customer mix, but Communications and Tracking is also affected by changes in foreign currency exchange rates, mainly because the Canadian-based SATCOM business derives most of its net sales from contracts denominated in U.S. dollars, but incurs most of its costs in Canadian dollars. As the U.S. dollar weakens against the Canadian dollar, our reported manufacturing costs may increase relative to our net sales, which would increase the cost-of-sales percentage. If the U.S. dollar strengthens, the opposite effect would result. Our LXE business derives a significant portion of its net sales from international markets, mainly in Euros, but incurs most of its costs in U.S. dollars. As the U.S. dollar weakens against the Euro and other international currencies, our reported net sales may increase relative to our costs, which would decrease the cost-of-sales percentage. If the U.S. dollar strengthens, the opposite effect would result.

[Table of Contents](#)

Service cost of sales is based on labor and other costs recognized as incurred to fulfill obligations under most of our service contracts. Cost of sales for long-term engineering services contracts are based on labor and other costs incurred, relative to the estimated cost to complete the contractual deliverables.

Selling, general and administrative expenses

Selling, general and administrative (“SG&A”) expenses include salaries, commissions, bonuses and related overhead costs for our personnel engaged in sales, administration, finance, information systems and legal functions. Also included in SG&A expenses are the costs of engaging outside professionals for consultation on legal, accounting, tax and management information system matters, auditing and tax compliance, and general corporate expenditures to other outside suppliers and service providers.

Research and development expenses

Research and development (“R&D”) expenses represent the cost of our development efforts, net of reimbursement under specific customer-funded R&D agreements. R&D expenses include salaries of engineers and technicians and related overhead expenses, the cost of materials utilized in research, and additional engineering or consulting services provided by independent companies. R&D costs are expensed as they are incurred. We also often incur significant development costs to meet the specific requirements of customer contracts in D&S and Communications and Tracking, and we report these costs in the consolidated statements of operations as cost of sales.

Acquisition-related charges

Acquisition-related charges primarily represent the costs of engaging outside professionals for legal, due diligence, business valuation, and integration services related to business combinations. The category also includes the accretion of the discounted liability representing the fair value of contingent consideration associated with one acquisition.

Interest income

Interest income and other mainly includes interest income from investments in government-obligations money market funds, other money market instruments, and interest-bearing deposits.

Interest expense

We incur interest expense principally related to mortgages on certain facilities and our revolving credit facilities.

Foreign exchange gains and losses

We recognize foreign exchange gains and losses related to assets and liabilities that are denominated in a currency different than the local functional currency. For our Canada-based SATCOM business, most trade receivables are denominated in U.S. dollars; when the U.S. dollar weakens against the Canadian dollar, the value of SATCOM’ s trade receivables decreases and foreign exchange losses result. For our LXE segment’ s international subsidiaries, most trade payables are in U.S. dollars and relate to their purchases of hardware from LXE’ s U.S. operations for sale in Europe and Asia; when the U.S. dollar weakens against the Euro or other international currency, the value of the LXE subsidiaries’ trade payables decreases and foreign exchange gains result. If the U.S. dollar strengthens, the opposite effect on trade payables and foreign exchange gains and losses results.

We regularly assess our exposures to changes in foreign currency exchange rates and as a result, we enter into forward currency contracts to reduce those exposures. The notional amount of each forward currency contract is based on the amount of exposure for net assets or liabilities subject to changes in foreign currency exchange rates. We record changes in the fair value of these contracts in our consolidated statements of operations.

[Table of Contents](#)

Income taxes

Typically, the main factor affecting our effective income tax rate each year is the relative proportion of taxable income that we expect to earn in Canada, where the effective rate is lower than in the U.S. and other locations. The lower effective rate in Canada results from certain Canadian tax benefits for research-related expenditures.

Results of Operations

The following table sets forth the percentage relationship of each line item to net sales for each period.

	Three Months Ended	
	April 4 2009	March 29 2008
Product net sales	74.5 %	84.4
Service net sales	25.5	15.6
Net sales	100.0	100.0
Product cost of sales as a percentage of product net sales	67.0	62.2
Service cost of sales as a percentage of service net sales	73.4	61.1
Cost of sales	68.6	62.0
Selling, general and administrative expenses	24.5	26.8
Research and development expenses	4.8	6.7
Acquisition-related charges	4.2	—
Operating (loss) income	(2.1)	4.5
Interest income	0.1	1.3
Interest expense	(0.7)	(0.5)
Foreign exchange (loss) gain, net	(0.5)	0.1
(Loss) earnings before income taxes	(3.2)	5.4
Income tax benefit	—	0.1
Net (loss) earnings	<u>(3.2) %</u>	<u>5.5</u>

Three Months ended April 4, 2009 and March 29, 2008:

Net sales increased by 22.2% to \$92.3 million from \$75.5 million for the first quarter of 2009 as compared with the same period of 2008 reflecting growth in net sales from two of the Company's three reportable operating segments, Communications and Tracking and D&S, with increases of 60.4% and 74.0%, respectively. The increase in net sales by Communications and Tracking was generated from our recently acquired product lines. D&S's net sales were higher mainly due to significant work performed on a military communications research project, and the increased activity on both commercial and military programs due to the expansion of its workforce to meet order demands. LXE's net sales for the first quarter of 2009 decreased by \$10.3 million compared with the same period of 2008, with lower net sales in both the America and International markets.

Product net sales increased by 8.0% to \$68.8 million in the first quarter of 2009 as compared with the first quarter of 2008. This was primarily due to the \$14.7 million of product net sales generated from our recently acquired product lines, partially offset by lower net sales by LXE. Service net sales nearly doubled to \$23.5 million in the first quarter of 2009 as compared with the same period of 2008, mainly due to significant work performed on a military communications research project by D&S. As a result, service net sales comprised a higher percentage of total net sales in the first quarter of 2009 as compared with the first quarter of 2008.

Overall cost of sales as a percentage of consolidated net sales was higher in the first quarter of 2009 as compared with the same period of 2008 due to higher cost-of-sales percentages reported by each of our three reportable operating segments. Product cost of sales, and service cost of sales, as a percentage of their respective net sales were also higher in the first quarter of 2009 as compared with the same period of 2008. The increase in product cost of

[Table of Contents](#)

sales as a percentage of its respective net sales was mainly due to a lower production volume by our LXE segment over which fixed costs were absorbed, an unfavorable effect of changes in foreign currency exchange rates, and a change in product mix by our Communications and Tracking segment with the addition of our new product lines which had higher cost-of-sales percentages than SATCOM, primarily due to the amortization of intangible assets. The increase in service cost-of-sales percentage was mainly due to a higher proportion of service revenues generated from our D&S segment, which has a higher cost-of-sales percentage than our other two reportable operating segments.

SG&A expenses as a percentage of consolidated net sales decreased for the first quarter of 2009 as compared with the first quarter of 2008. Actual expenses grew by \$2.4 million in the first quarter of 2009 as compared with the same period of 2008 mainly due to the additional costs related to the acquired product lines, including additional amortization of intangible assets, as well as approximately \$0.6 million of severance costs at LXE. These additional costs were partially offset by the impact of management's cost reduction efforts at LXE initiated in the second quarter of 2008, and the favorable effect of changes in foreign currency exchange rates on our LXE and SATCOM international operations.

R&D expenses decreased by \$0.6 million mainly due to the additional funding received from the Canadian government under a program to encourage technology development in areas such as satellite communications. R&D expenses also decreased due to the favorable effect of changes in foreign currency exchange rates.

Acquisition-related charges were \$3.9 million in the first quarter of 2009. These costs were primarily for professional fees for legal, due-diligence, valuation, and integration services for the acquisition of our Formation and Satamatics businesses (see Note 2 to the consolidated financial statements in the Quarterly Report for additional information on these business acquisitions).

Interest income decreased by \$0.9 million mainly as a result of the decrease in the average investment balances and, to a lesser extent, lower average interest rates earned on our investment balances.

The first quarter of 2009 included a \$1.4 million foreign exchange loss related to the funding of the Satamatics acquisition, which was required to be paid in British pounds sterling. The loss resulted from changes in foreign currency exchange rates from the date we funded the transaction to the date the acquisition was completed. Partially offsetting this loss in the quarter were net gains from the conversion of assets and liabilities not denominated in the functional currency and forward contracts.

The Company recognized no income tax expense or benefit in the first quarter of 2009 and 2008. The absence of an expense for the first quarter of 2009 was based upon management's expectations for taxable income associated with various tax jurisdictions for the full year. The 2008 first-quarter expense of \$42,000 was based on management's projection of the effective rate for the full year offset by a benefit of \$742,000 primarily related to a change in estimate of prior-year research and development credits available in the U.S. The decrease in expected rates for the full year is due to a higher expected proportion of profits to be earned in Canada, where we have a much lower effective rate than in the U.S. and other locations, and to a higher expected U.S. federal tax credit for current-year qualifying research and development costs. No benefit was recognized in the first quarter 2008 for the U.S. federal credit since the benefit for 2008 was not enacted until the fourth quarter of 2008. The lower effective tax rate in Canada is due to research-related tax benefits. The overall effective rate is subject to change during the remainder of the year, as actual results and revised forecasts may change management's expectations for the taxable income associated with various tax jurisdictions.

[Table of Contents](#)

Net Sales, Cost of Sales, and Operating Income (Loss) by Segment

Our segment net sales, cost of sales as a percentage of respective segment net sales, and segment operating income (loss) were as follows (in thousands, except percentages):

	Three Months Ended		Percentage Increase (Decrease)
	April 4 2009	March 29 2008	
Net sales:			
Communications and Tracking	\$41,426	25,822	60.4 %
Defense & Space	26,908	15,462	74.0
LXE	23,944	34,210	(30.0)
Total	<u>\$92,278</u>	<u>75,494</u>	22.2
Cost of sales percentage:			
Communications and Tracking	62.1 %	56.5	5.6
Defense & Space	78.4	78.3	0.1
LXE	67.3	58.6	8.7
Total	68.6	62.0	6.6
Operating income (loss):			
Communications and Tracking	\$4,307	3,083	39.7
Defense & Space	2,892	564	412.8
LXE	(5,061)	477	(1,161.0)
Corporate & Other	(4,080)	(687)	(493.9)
Total	<u>\$(1,942)</u>	<u>3,437</u>	(156.5)

Communications and Tracking: Net sales of \$41.4 million were reported in the first quarter of 2009, an increase of \$15.6 million, as compared with the first quarter of 2008. Our recently acquired product lines generated net sales of \$17.3 million in the first quarter 2009 and strong demand for SwiftBroadband based aeronautical products resulted in higher net sales of high-speed-data terminals in the business aviation market in the first quarter of 2009, as compared with the first quarter of 2008. Revenues for the first quarter of 2008 included the development of the Inmarsat global satellite/GSM phone, which had no effect in the first quarter of 2009.

Cost of sales as a percentage of net sales was higher for the first quarter of 2009 as compared with the same period of 2008 primarily due to a change in product mix with the addition of our new aeronautical and asset tracking product lines acquired in the first quarter of 2009, which had higher cost-of-sales percentages due to amortization of intangible assets.

Operating income increased by \$1.2 million in the first quarter of 2009 as compared with the same period of 2008 primarily due to a higher gross margin contribution from an increase in net sales generated in the first quarter of 2009, lower R&D expenses, and the favorable effect of changes in foreign currency exchange rates, partially offset by higher SG&A expenses. Operating income for the first quarter of 2009 includes \$1.8 million of amortization of intangible assets from the new acquisitions in 2008 and 2009. Operating income as a percentage of net sales was 10.4% in the first quarter of 2009, and was 11.9% in the first quarter of 2008.

Defense & Space: Net sales reached an all-time-high of \$26.9 million in the first quarter of 2009, an increase of 74.0% as compared with the same period of 2008. The work performed on a large military satellite communications research project was an individually significant contributor to the net sales increase. Net sales also grew from both commercial and military programs due to the expansion of the workforce to meet order demands. Order backlog of

[Table of Contents](#)

long-term contracts at April 4, 2009 was \$117.8 million, a new record high for D&S.

Cost of sales as a percentage of net sales was relatively unchanged in the first quarter of 2009 as compared with the first quarter of 2008. A more favorable mix of contracts offset an increase in costs from a higher volume of subcontracted projects utilized to meet scheduling demands for certain military programs.

Operating income improved by \$2.3 million in the first quarter of 2009 as compared with the same period of 2008 mainly due to a higher contribution margin from an increase in net sales generated in 2009. Operating income, as a percentage of net sales, was 10.7% in the first quarter of 2009, and was 3.6% in the first quarter of 2008.

LXE: Net sales in the first quarter of 2009 decreased by \$10.3 million as compared with the first quarter of 2008, reflecting the impact of the slowdown in the global economy. Net sales decreased in both the International and America markets in the first quarter of 2009 as compared with the same period of 2008, resulting primarily from a decreased number of terminals shipped in the America market, the foreign currency translation effect on the reported net sales for LXE' s International market. We believe the softer America and International markets reflect slower capital spending in a sluggish economy. The global economy may continue to be sluggish through 2009, which could continue to delay capital spending decisions in both of LXE' s markets.

Cost of sales as a percentage of net sales was higher in the first quarter of 2009 as compared with the first quarter of 2008 mainly due to lower production volume over which fixed costs were absorbed, and an unfavorable effect of changes in foreign currency exchange rates that affected our reported International net sales.

LXE generated an operating loss of \$5.1 million in the first quarter of 2009, a decrease of \$5.5 million in operating income as compared with the first quarter of 2008. The decrease in operating income was mainly a result of lower net sales, a less favorable cost-of-sales percentage, and approximately \$1.1 million of severance charges in the first quarter of 2009. The higher cost-of-sales percentage was due in part to the foreign currency translation effect on reported net sales for the International operations. Revenues are reported in the local functional currency but product costs are in the U.S. dollar, which was stronger in the first quarter of 2009 compared with the first quarter of 2008. The severance charges were primarily related to staff reductions to further reduce LXE' s cost structure. SG&A expenses were lower in the first quarter of 2009 as compared with the same period of 2008 by \$0.9 million, despite the severance costs expensed in the first quarter of 2009, reflecting the impact of management' s cost reduction efforts initiated in the second quarter of 2008, and the favorable effect of changes in foreign currency exchange rates. If unfavorable economic conditions affect further cash flow of LXE significantly, we could be required to realize an impairment loss on the reporting unit' s goodwill.

Liquidity and Capital Resources

During the first quarter of 2009, cash and cash equivalents decreased by \$41.0 million to \$45.9 million at April 4, 2009. The primary factor contributing to the decrease during the period was our acquisitions of Formation and Satamatics, net of borrowings under our credit facility.

Operating activities contributed \$14.0 million in positive cash flows in the first quarter of 2009. Although we reported a net loss for the period, we nevertheless generated positive cash flow due to the level of noncash charges for depreciation and amortization, and decreases in working capital. Acquisition-related charges of \$1.7 million were also paid during the quarter ended April 4, 2009 and included as a reduction of cash provided by operating activities in the consolidated statement of cash flows.

During the first quarter of 2009, we used \$83.8 million of cash to acquire Formation and Satamatics, net of cash acquired, which was partially funded by borrowings under our revolving credit facility. We borrowed \$33.8 million under our revolving credit facility, and spent \$4.5 million on capital expenditures, during the first quarter of 2009.

During the first quarter of 2008, net cash and cash equivalents decreased by \$12.4 million. Operating activities contributed \$5.9 million in positive cash flow mainly due to earnings generated by SATCOM, and an increase in deferred revenue from LXE' s service contract business. This was partially offset by an increase in receivables and inventory balances in the first quarter of 2008. The cash flow generated from operating activities was offset by \$15.1 million of cash used in investing activities to acquire Trux in February 2008, and \$0.8 million of cash used to pay

[Table of Contents](#)

financing costs for our new revolving credit agreement.

We have a revolving credit agreement with a syndicate of banks with a \$60.0 million total capacity for borrowing in the U.S. and \$15.0 million total capacity for borrowing in Canada. The agreement also has a provision permitting an increase in the total borrowing capacity of up to an additional \$50.0 million, subject to additional commitments from the current lenders or from new lenders. The existing lenders have no obligation to increase their commitments. The credit agreement provides for borrowings through February 28, 2013, with no principal payments required prior to that date. The credit agreement is secured by substantially all of our tangible and intangible assets, with certain exceptions for real estate that secures existing mortgages, for other permitted liens and for certain assets in foreign countries.

As of April 4, 2009, we had \$33.9 million of borrowings outstanding under this facility. We had \$2.4 million of outstanding letters of credit at April 4, 2009, and the net total available for borrowing under our revolving credit facility was \$38.7 million. At April 4, 2009, the Company was in compliance with all the covenants under its credit agreement.

We expect that capital expenditures in 2009 will range from \$20 million to \$22 million, excluding acquisitions of businesses. These expenditures will be used to purchase equipment that increases or enhances capacity and productivity, and to expand D&S' s existing facility.

Management believes that existing cash and cash equivalent balances, cash provided from operations, and borrowings available under our credit agreement will provide sufficient liquidity to meet the operating and capital expenditure needs for existing operations during the next twelve months.

On July 29, 2008, our Board of Directors authorized a stock repurchase program for up to \$20.0 million of our common shares. As of April 4, 2009, we had repurchased approximately 474,000 of our common shares for approximately \$9.8 million. There were no repurchases during the three months ended April 4, 2009.

We may be required to make additional cash payments of up to \$18.5 million related to certain acquisitions completed in 2008 and the first quarter of 2009, depending on the businesses achieving certain performance targets for 2009 and 2010. Refer to Note 2 of the consolidated financial statements included in this Quarterly Report and Note 3 of the consolidated financial statements in our Annual Report on Form 10-K for the year ended December 31, 2008 for additional information.

Off-Balance Sheet Arrangements

We have \$2.4 million of standby letters of credit outstanding under our revolving credit facility to satisfy performance guarantee requirements under certain customer contracts. While these obligations are not normally called, they could be called by the beneficiaries at any time before the expiration date, if we fail to meet certain contractual requirements. After deducting the outstanding letters of credit, at April 4, 2009 we had \$30.7 million available for borrowing in the U.S. and \$8.0 million available for borrowing in Canada under the revolving credit agreement.

During 2008 and the first quarter of 2009, we completed acquisitions of four entities. We may be required to make additional cash payments of up to \$18.5 million related to certain of these acquisitions, depending on the businesses achieving certain performance targets for 2009 and 2010. Of this amount, \$3.5 million relates to a business combination completed prior to the adoption of SFAS No. 141(R). Therefore, any payment made under this contingent arrangement will result in an increase to goodwill. The estimated fair value of the remaining contingent consideration is reflected as a liability as of April 4, 2009. Any adjustment to that estimate will be reflected in earnings. Of the total purchase price of these businesses, \$17.9 million of cash was deposited in escrow accounts payable to the sellers within specified periods following the respective dates of acquisition, subject to claims we may make against the sellers.

The sales agreements for the disposal of our former S&T/Montreal, SatNet, and EMS Wireless divisions contain standard indemnification provisions for various contingencies that could not be resolved before the dates of closing and for various representations and warranties by the purchasers and us. We accrue for a liability related to a

[Table of Contents](#)

contingency, representation or warranty when management considers that the liability is both probable and can be reasonably estimated. The purchaser of EMS Wireless has asserted that it may have claims under such representations and warranties. The parties have agreed to arbitration, which is expected to take place in the second half of 2009. We do not believe that sufficient information exists to evaluate such claims, and cannot reasonably estimate the range of this potential liability, or determine whether such liability would be material. Therefore, no accrual has been recorded for this potential liability as of April 4, 2009.

Also as part of the agreement to sell the net assets of S&T/Montreal, we released the purchaser from a corporate guarantee, and have accrued a long-term liability as of April 4, 2009. This liability represents our estimated loss under an agreement to acquire a license from the purchaser for \$8.0 million in payments over a seven-year period for the rights to a certain satellite territory and a corresponding sublicense agreement that granted the territory rights back to the purchaser, under which we will receive a portion of the satellite service revenues from the specific market territory over the same period. The purchaser had previously guaranteed that the revenues derived under the sublicense would equal or exceed the acquisition cost of the license; however, without the guarantee, we currently estimate that our portion of the satellite service revenues will be less than the acquisition cost, and we have accordingly accrued a net liability, a portion of which is reflected as current and the remainder as noncurrent in the consolidated balance sheet.

Commitments and Contractual Obligations

As of April 4, 2009, our material contractual cash commitments and material other commercial commitments have not changed significantly from those disclosed in Item 7, "Management's Discussion and Analysis of Financial Condition and Results of Operations," in our Annual Report on Form 10-K for the year ended December 31, 2008.

Critical Accounting Policies

Our consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles, which often require the judgment of management in the selection and application of certain accounting principles and methods. We discuss our critical accounting policies in Item 7, "Management's Discussion and Analysis of Financial Condition and Results of Operations," in our Annual Report on Form 10-K for the year ended December 31, 2008. There have been no significant changes in our critical accounting policies since the end of 2008, except as disclosed in Note 1 to the consolidated financial statements contained in this Quarterly Report on Form 10-Q under the caption, "Accounting Changes."

Risk Factors and Forward-Looking Statements

The Company has included forward-looking statements in management's discussion and analysis of financial condition and results of operations. All statements, other than statements of historical fact, included in this report that address activities, events or developments that we expect or anticipate will or may occur in the future, or that necessarily depend upon future events, including such matters as our expectations with respect to future financial performance, future capital expenditures, business strategy, competitive strengths, goals, expansion, market and industry developments, and the growth of our businesses and operations, are forward-looking statements. Actual results could differ materially from those suggested in any forward-looking statements as a result of a variety of factors. Such factors include, but are not limited to:

- economic conditions in the U.S. and abroad and their effect on capital spending in our principal markets;
- difficulty predicting the timing of receipt of major customer orders, and the effect of customer timing decisions on our results;
- our successful completion of technological development programs and the effects of technology that may be developed by, and patent rights that may be held or obtained by, competitors;
- U.S. defense budget pressures on near-term spending priorities;
- uncertainties inherent in the process of converting contract awards into firm contractual orders in the future;

Table of Contents

- volatility of foreign currency exchange rates relative to the U.S. dollar and their effect on purchasing power by international customers, and on the cost structure of our operations outside the U.S., as well as the potential for realizing foreign exchange gains and losses associated with assets or liabilities held outside the U.S.;
- successful resolution of technical problems, proposed scope changes, or proposed funding changes that may be encountered on contracts;
- changes in our consolidated effective income tax rate caused by the extent to which actual taxable earnings in the U.S., Canada and other taxing jurisdictions may vary from expected taxable earnings;
- successful transition of products from development stages to an efficient manufacturing environment;
- changes in the rate at which our products are returned for repair or replacement under warranty;
- customer response to new products and services, and general conditions in our target markets (such as logistics, and space-based communications), and whether these responses and conditions develop according to our expectations;
- the success of certain of our customers in marketing our line of high-speed commercial airline communications products as a complementary offering with their own lines of avionics products;
- the continued availability of financing for various mobile and high-speed data communications systems;
- risk that the recent turmoil in the credit markets may make it more difficult for some customers to obtain financing and adversely affect their ability to pay, which in turn could have an adverse impact on our business, operating results, and financial condition;
- development of successful working relationships with local business and government personnel in connection with distribution and manufacture of products in foreign countries;
- the demand growth for various mobile and high-speed data communications services;
- our ability to attract and retain qualified senior management and other personnel, particularly those with key technical skills;
- our ability to effectively integrate our acquired businesses, products or technologies into our existing businesses and products, and the risk that any such acquired businesses, products or technologies do not perform as expected, are subject to undisclosed or unanticipated liabilities, or are otherwise dilutive to our earnings;
- the increased potential for asset impairment charges as unfavorable economic conditions might affect the fair value of one or more of our business units;
- the potential effects of SFAS No. 141 (R), *Business Combinations*, which requires, for acquisitions completed in 2009 and thereafter, that certain acquisition-related expenditures should be accounted for as period expenses in the income statement, and that the acquisition-date fair value will become the measurement objective for all assets acquired and liabilities assumed, resulting in potential unfavorable effects on the income statement, including any changes in the amounts expected to be paid on post-acquisition earn-outs, as well as the accretion of the discounted value of the estimated payments;
- the potential effects, on cash and results of discontinued operations, of final resolution of potential liabilities under warranties and representations that we made, and obligations assumed by purchasers, in connection with our dispositions of discontinued operations;

[Table of Contents](#)

- the availability, capabilities and performance of suppliers of basic materials, electronic components and sophisticated subsystems on which we must rely in order to perform according to contract requirements, or to introduce new products on the desired schedule; and
- uncertainties associated with U.S. export controls and the export license process, which restrict our ability to hold technical discussions with customers, suppliers and internal engineering resources and can reduce our ability to obtain sales from foreign customers or to perform contracts with the desired level of efficiency or profitability.

Further information concerning relevant factors and risks are identified under the caption “Risk Factors” in our Annual Report on Form 10-K for the year ended December 31, 2008.

Effect of New Accounting Pronouncements

Refer to Note 1 of our consolidated financial statements in this Quarterly Report.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

As of April 4, 2009, we had the following market-risk sensitive instruments (in thousands):

Government-obligations money market funds, other money market instruments, and interest-bearing time deposits, with maturity dates of less than 3 months interest payable monthly at variable rates (a weighted-average rate of 0.14% at April 4, 2009) \$ 9,631

Revolving credit agreement with U.S. and Canadian banks, maturing in February 2013, interest payable quarterly at a variable rate (3.64% at April 4, 2009) \$ 33,876

A 100 basis point change in the interest rates of our market-risk sensitive instruments would have changed interest income by approximately \$111,000 for the quarter based upon their respective average outstanding balances. A 100 basis point change in the interest rate on our revolving credit agreement would have changed interest expense by approximately \$62,000 for the first quarter of 2009 based upon the average outstanding borrowings under these obligations.

At April 4, 2009, we also had intercompany accounts that eliminate in consolidation but that are considered market-risk sensitive instruments because they are denominated in a currency other than the local functional currency. These include short-term amounts due to the parent (payable by international subsidiaries arising from purchase of the parent's products for sale), intercompany sales of products from foreign subsidiaries to a U.S. subsidiary, and cash advances to foreign subsidiaries.

	Exchange Rate (U.S. Dollar per unit of local currency)	U.S. Dollars in thousands (reporting currency)
Australia	0.7157 /Dollar	\$ 1,632
Netherlands	1.3488 /Euro	1,102
Germany	1.3488 /Euro	829
Canada	0.8127 /Dollar	810
Italy	1.3488 /Euro	610
Sweden	0.1257 /Krona	426
Belgium	1.3488 /Euro	309
France	1.3488 /Euro	210
United Kingdom	1.4828 /Pound	(28)
Total amount subject to foreign currency risk		<u>\$ 5,900</u>

[Table of Contents](#)

We also had cash accounts denominated in currencies other than the functional currency of the local entity at April 4, 2009 as follows:

Currency Denomination	Functional Currency	Exchange Rate Functional Currency per Denominated Currency	U.S. Dollar Equivalent (in thousands)
USD	CAD	0.8127	\$ 10,183
GBP	USD	1.4801	3,474
GBP	CAD	1.8260	1,889
USD	EUR	0.7436	1,151
USD	GBP	0.6756	367
EUR	GBP	0.9085	213
AUD	CAD	0.8761	168
EUR	SEK	10.7590	164
EUR	CAD	1.6590	98
EUR	USD	1.3447	50
Total amount subject to foreign currency risk			<u>\$ 17,757</u>

At April 4, 2009, we had foreign currency risks associated with forward contracts as follows (in thousands, except average contract rate):

	Notional Amount	Average Contract Rate	(U.S. Dollar) Fair Value
Foreign currency forward contracts:			
U.S. dollars (sell for Canadian dollars)	27,000 Dollar	1.2403	\$ 227
Swedish Krona (sell for U.S. dollars)	3,400 Krona	0.1239	9
Euros (sell for U.S. dollars)	1,450 Euro	1.3416	(6)
			<u>\$ 230</u>

We enter into foreign currency forward contracts in order to mitigate the risks associated with currency fluctuations on future cash flows.

Item 4. Controls and Procedures

(a) Evaluation of Disclosure Controls and Procedures

The Company has established and maintains disclosure controls and procedures (as defined in Securities Exchange Act Rules 13a-15(e)). The objective of these controls and procedures is to ensure that information relating to the Company, including its consolidated subsidiaries, and required to be filed by it in reports under the Securities Exchange Act, as amended, is effectively communicated to the Company' s CEO and CFO, and is recorded, processed, summarized and reported on a timely basis.

The CEO and CFO have evaluated the Company' s disclosure controls and procedures as of the end of the period covered in this report. Based upon this evaluation, the CEO and CFO have concluded that the Company' s disclosure controls over financial reporting and procedures are adequate to accomplish their objective and are functioning effectively.

(b) Changes in Internal Control Over Financial Reporting

During the first quarter of 2009, the Company completed the acquisitions of Formation, Inc. and Satamatics Global Limited. The Company is in the process of integrating these operations. In connection with these acquisitions, the Company adopted Statement of Financial Accounting Standards No. 141(R), *Business Combinations*, and established controls over the implementation of this new standard. Except for these items, there were no changes that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting (as defined in Rule 13a - 15(f) under the Exchange Act).

PART II
OTHER INFORMATION

Item 1A. Risk Factors

In addition to the other information set forth in this Quarterly Report on Form 10-Q, carefully consider the factors discussed in Part I, Item 1A. “Risk Factors,” in our Annual Report on Form 10-K for the year ended December 31, 2008, which could materially affect our business, financial condition or future results. In addition to the risks and uncertainties described therein, we believe our business and results of operations are subject to the following risk:

Unfavorable economic conditions or other developments may affect the fair value of one or more of our business units and increase the potential for asset impairment charges which could adversely affect our earnings. As of April 4, 2009, we had approximately \$84.7 million of goodwill and \$49.9 million of other intangible assets on our consolidated balance sheet, collectively representing approximately 34% of our total assets. We test goodwill for impairment on an annual basis in the fourth quarter of the year. We are also required to test goodwill and other intangible assets on an interim basis if an event occurs or circumstances change which indicate that an asset might be impaired. A significant amount of judgment is involved in determining if an indicator of impairment has occurred. Such indicators may include a sustained, significant decline in our share price and market capitalization, a decline in expected future cash flows for one or more of our business units (including LXE and our recently acquired businesses), a significant adverse change in legal factors or in the business climate, unanticipated competition and/or slower than expected growth rates, among others. If we are required to recognize an impairment loss related to goodwill or intangible assets, the related charge, although a noncash charge, could materially reduce reported net earnings or result in a net loss for the period in which the impairment loss is recognized.

The risks described in our Annual Report on Form 10-K, and this Quarterly Report on Form 10-Q, are not the only risks we face. Additional risks and uncertainties not currently known to us or that we currently believe are immaterial also may materially adversely affect our business, financial condition and/or operating results.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

The following table summarizes the Company’s purchases of its common shares for the three months ended April 4, 2009:

ISSUER PURCHASES OF EQUITY SECURITIES

Period	(a) Total Number of Shares Purchased (1)	(b) Average Price Paid Per Share	(c) Total Number of Shares Purchased as Part of Publicly Announced Plans or Program (2)	(d) Maximum Number (or Approximate Dollar Value) of Shares that May Yet Be Purchased Under the Plans or Programs (3)
February 2009 (February 1 to 28)	1,633	—	—	
Total	<u>1,633</u>	<u>—</u>	<u>—</u>	\$10.2 million

- (1) The category includes 1,663 shares delivered to us by employees to pay withholding taxes due upon vesting of restricted share awards. During the period covered by this Quarterly Report on Form 10-Q, no shares were repurchased under the Company’s \$20 million repurchase program (the Program) which was initially announced on July 30, 2008. Unless terminated earlier by resolution of the
- (2) Company’s Board of Directors, the Program will expire when the Company has purchased all shares authorized for repurchase. The Program does not obligate the Company to repurchase any particular amount of common shares, and may be suspended or discontinued at any time without notice.
- (3) This balance represents the value of shares that could be repurchased under the Program as of April 4, 2009.

There were no repurchases during the three months ended April 4, 2009.

Item 6. Exhibits

The following exhibits are filed as part of this report:

- 3.1 Second Amended and Restated Articles of Incorporation of EMS Technologies, Inc. effective March 22, 1999. *
- 3.2 Bylaws of EMS Technologies, Inc., as amended through November 2, 2007 (incorporated by reference to Exhibit 3.2 to the Company' s Quarterly Report on Form 10-Q for the quarter ended March 29, 2008).
- 4.1 Second amendment dated February 13, 2009, to the Company' s Credit Agreement, dated as of February 29, 2008, among the Company and EMS Technologies Canada, LTD., the lenders from time to time party thereto, and Bank of America as Domestic and Canadian Administrative Agent. *
- 10.1 Summary of compensation arrangements with non-employee members of the Board of Directors, as revised February 6, 2009. *
- 10.2 Compensation Arrangements with Certain Executive Officers. *
- 31.1 Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. *
- 31.2 Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. *
- 32 Certification of the Company' s Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. *

* Filed herewith

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

EMS TECHNOLOGIES, INC.

By: /s/ Paul B. Domorski
Paul B. Domorski
President, and Chief Executive Officer
(Principal Executive Officer)

Date: May 14, 2009

By: /s/ Gary B. Shell
Gary B. Shell
Senior Vice President, Chief Financial
Officer and Treasurer (Principal Financial Officer)

Date: May 14, 2009

**SECOND AMENDED AND RESTATED ARTICLES OF INCORPORATION
OF
EMS TECHNOLOGIES, INC.**

ARTICLE ONE

NAME

The name of the corporation is EMS Technologies, Inc.

ARTICLE TWO

CAPITALIZATION

The corporation shall have the authority, exercisable by its Board of Directors, to issue up to 75,000,000 shares of Common Stock, \$.10 par value per share, and 10,000,000 shares of Preferred Stock, \$1.00 par value per share, which shall be established and designated from time to time by the Board of Directors in such series and with such preferences, limitations, and relative rights as may be determined by the Board of Directors. The holders of the outstanding shares of a class of stock shall not be entitled to vote as a separate class upon a proposed amendment to these Articles of Incorporation that is solely for the reason of increasing or decreasing the aggregate number of authorized shares of such class, and the number of such shares may be increased or decreased without such a vote, subject to such votes as shall otherwise be required by applicable law for the amendment of these Articles of Incorporation.

ARTICLE THREE

LIMITATION OF DIRECTOR LIABILITY

No director of the corporation shall be personally liable to the corporation or its shareholders for monetary damages for breach of the duty of care or any other duty as a director, except that such liability shall not be eliminated for:

- (a) any appropriation, in violation of the director's duties, of any business opportunity of the corporation;
 - (b) acts or omissions which involve intentional misconduct or a knowing violation of law;
 - (c) the types of liability set forth in Section 14-2-832 (or any successor or redesignation to this provision) of the Georgia Business Corporation Code (the "Code"); or
 - (d) any transaction from which the director received an improper personal benefit.
-

If at any time the Code is amended to authorize the further limitation or elimination of the liability of a director, then the liability of each director of the corporation shall be limited or eliminated to the fullest extent permitted by the Code, as amended, without further action by the shareholders, unless the provisions of the Code, as amended, require further action by the shareholders.

Any repeal or modification of the provisions of this Article Three by the shareholders of this corporation shall not adversely affect any right of a director or officer of the corporation existing at the time of such repeal or modification.

SECOND AMENDMENT TO CREDIT AGREEMENT AND CONSENT

THIS SECOND AMENDMENT TO CREDIT AGREEMENT AND CONSENT dated as of February [___], 2009 (the "Agreement") is entered into among EMS Technologies, Inc., a Georgia corporation ("EMS"), EMS Technologies Canada, Ltd., a Canadian federal corporation (the "Canadian Borrower"; together with EMS, the "Borrowers"), the Guarantors, the Lenders party hereto, Bank of America, National Association, as Domestic Administrative Agent and Domestic L/C Issuer and Bank of America, National Association, acting through its Canada branch, as Canadian Administrative Agent and Canadian L/C Issuer. All capitalized terms used herein and not otherwise defined herein shall have the meanings given to such terms in the Credit Agreement (as defined below).

RECITALS

WHEREAS, the Borrowers, the Guarantors, the Lenders, Bank of America, National Association, as Domestic Administrative Agent and Domestic L/C Issuer and Bank of America, National Association, acting through its Canada branch, as Canadian Administrative Agent and Canadian L/C Issuer entered into that certain Credit Agreement dated as of February 29, 2008 (as amended or modified from time to time, the "Credit Agreement"); and

WHEREAS, EMS has requested that the Lenders amend the Credit Agreement as set forth below;

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Consents. The Lenders hereby consent to (a) the Domestic Administrative Agent's release of the Domestic Administrative Agent's security interests in the Equity Interests in 990834 Ontario Inc. and each of the Foreign Subsidiaries identified on Schedule 7.16 to the Credit Agreement at such time as such Equity Interests are contributed by EMS and LXE to Lux SNC and (b) the dissolution of LXE Australia Pty, LTD. (the "Australian Dissolution Subsidiary") provided that any proceeds of the assets of the Australian Dissolution Subsidiary are transferred to a Domestic Loan Party prior to such dissolution. The above-referenced consents are limited solely to the matters described in the preceding sentence, and nothing contained in this Agreement shall be deemed to constitute a waiver of any rights or remedies the Domestic Administrative Agent, the Canadian Administrative Agent or any Lender may have under the Credit Agreement, the Loan Documents or applicable law.

2. Amendments. The Credit Agreement is hereby amended as follows:

(a) The following definitions are hereby added to Section 1.01 of the Credit Agreement in the appropriate alphabetical order to read as follows:

"990834 Ontario" means 990834 Ontario Inc., a corporation incorporated under the laws of the province of Ontario.

"EMS Lux SARL" means EMS Holdings S.à.r.l., a Luxembourg limited liability company.

"Eurodollar Base Rate" means, the rate per annum equal to (i) BBA LIBOR, as published by Reuters (or other commercially available source providing quotations of BBA LIBOR as designated by the applicable Administrative Agent from time to time) at approximately 11:00 a.m., London time, on the date of determination (provided that if

such date is not a Business Day, the next preceding Business Day) for deposits in the relevant currency (for delivery on such date) with a term equivalent to one month or (ii) if such rate is not available at such time for any reason, the rate per annum determined by the applicable Administrative Agent to be the rate at which deposits in the relevant currency for delivery on the date of determination in same day funds in the approximate amount of the Base Rate Loan being made, continued or converted by Bank of America and with a term equivalent to one month would be offered by Bank of America's London Branch to major banks in the London interbank eurodollar market at their request at approximately 11:00 a.m. (London time) on the date of determination.

“Formation” means Formation, Inc., a New Jersey corporation.

“Immaterial LXE Foreign Subsidiaries” means the collective reference to LXE France SARL, LXE Australia Pty, LTD. and LXE Singapore Pte Ltd.

“Lux SNC” means EMS Technologies - LXE S.e.n.c., a Luxembourg partnership.

“Lux SNC Loan” means that certain intercompany loan by EMS to Lux SNC in the principal amount of \$28,714,535, as evidenced by that certain promissory note executed by Lux SNC in favor of EMS.

“LXE” means LXE Inc., a Georgia corporation.

“LXE Foreign Subsidiaries” means those certain Foreign Subsidiaries identified on Schedule 7.16 to the Credit Agreement.

“Project Saxon Reorganization” has the meaning provided in the definition of “Disposition” in Section 1.01.

“UK Acquisition” means the Acquisition by UK Acquisition Company of the Equity Interests of the UK Target pursuant to the terms of that certain Share Purchase Agreement between the persons listed on Schedule 1 thereto, UK Acquisition Company and EMS dated November 20, 2008, as amended.

“UK Acquisition Company” means EMS Acquisition Company Limited, a company incorporated in England and Wales.

“UK Acquisition Company Lux Loan” means the collective reference to (a) that certain intercompany loan by EMS Lux SARL to UK Acquisition Company in the principal amount of 19,000,000 Pounds Sterling and (b) that certain intercompany loan by EMS Lux SARL to UK Acquisition Company in the principal amount of 5,500,000 Pounds Sterling, each made in connection with the Project Saxon Reorganization.

“UK Target” means Satamatics Global Limited, a company incorporated and registered in England and Wales.

“Unsecured Canadian Guarantors” means the collective reference to EMS Lux SARL, Lux SNC, UK Acquisition Company, UK Target and each of the LXE Foreign Subsidiaries, and “Unsecured Canadian Guarantor” means any one of them.

(b) The definition of “Base Rate” in Section 1.01 of the Credit Agreement is hereby amended to read as follows:

“Base Rate” means

(a) in the case of Domestic Revolving Loans, for any day a fluctuating rate per annum equal to the highest of (i) the Federal Funds Rate plus $\frac{1}{2}$ of 1%, (ii) the Domestic Prime Rate and (iii) the Eurodollar Base Rate plus 1.00%;

(b) in the case of Canadian Revolving Loans denominated in Canadian Dollars, for any day a fluctuating rate per annum equal to the highest of (i) the CDOR Rate plus $\frac{1}{2}$ of 1%, (ii) the Canadian Prime Rate and (iii) the Eurodollar Base Rate plus 1.00%; and

(c) in the case of Canadian Revolving Loans denominated in U.S. Dollars, for any day a fluctuating rate per annum equal to the highest of (i) the rate which the Canadian Administrative Agent in Toronto, Ontario announces from time to time as the reference rate for loans in U.S. Dollars to its Canadian borrowers, (ii) the Federal Funds Rate plus $\frac{1}{2}$ of 1% and (c) the Eurodollar Base Rate plus 1.00%.

(c) The definition of “Change of Control” in Section 1.01 of the Credit Agreement is hereby amended by deleting the period at the end of subclause (b) thereof, inserting the following text “; or” in replacement thereof and adding new subclauses (c) and (d) at the end thereof which shall read as follows:

(c) subsequent to LXE’ s contribution of the Equity Interests in the LXE Foreign Subsidiaries to Lux SNC, Lux SNC shall cease to own and control, of record and beneficially, directly or indirectly, 100% of the Voting Stock in each of the LXE Foreign Subsidiaries; or

(d) EMS shall cease to own and control, of record and beneficially, directly or indirectly, 100% of the Equity Interests of the Canadian Borrower or any other Subsidiary, except for ownership of nominal Equity Interests necessary to qualify directors where required by applicable law or to satisfy other requirements of applicable law.

(d) The definition of “Consolidated Net Income” in Section 1.01 of the Credit Agreement is hereby amended to read as follows:

“Consolidated Net Income” means, for any period, for EMS and its Subsidiaries on a consolidated basis, the net income of EMS and its Subsidiaries for such period, but excluding therefrom (to the extent otherwise included therein): (a) any extraordinary gains or losses, (b) any gains or non-cash losses attributable to write-ups or impairment of assets, (c) any equity interest of any Loan Party in the unremitted earnings of any Person that is not a Subsidiary, (d) any income of any Subsidiary of EMS which is not a Guarantor to the extent the payment of such income in the form of dividends or other distributions to either EMS or any Subsidiary is then prohibited, whether on account of restrictions in such Subsidiary’ s organizational documents or restrictions in any agreement, document, contract, deed or other instrument applicable to such Subsidiary and (e) any acquisition-related costs in connection with any Investment or Acquisition permitted hereunder, including finder’ s fees, advisory, legal, accounting, valuation or

other professional or consulting fee that are required to be expensed as incurred in accordance with Financial Accounting Standards Board Statement of Financial Accounting Standards No. 141(R) - *Business Combinations*, all as determined in accordance with GAAP.

(e) The definition of “Disposition” in Section 1.01 of the Credit Agreement is hereby amended to read as follows:

“Disposition” or “Dispose” means the sale, transfer, license, lease or other disposition (including any Sale and Leaseback Transaction) of any property by EMS or any Subsidiary (including the Equity Interests of any Subsidiary), including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith, but excluding (a) the sale, lease, license, transfer or other disposition of inventory in the ordinary course of business, (b) the sale, lease, license, transfer or other disposition in the ordinary course of business of surplus, obsolete or worn out property no longer useful in the conduct of business of EMS and its Subsidiaries, (c) any Involuntary Disposition, (d) any sale, lease, license, transfer or other disposition (i) by a Loan Party to any Domestic Loan Party, (ii) by one Canadian Loan Party to another Canadian Loan Party (other than any Unsecured Canadian Guarantor), (iii) by any Subsidiary that is not a Loan Party to any Loan Party or any other Subsidiary that is not a Loan Party, (e) the following dispositions to be made in connection with the reorganization described in the Deloitte presentation entitled “Project Saxon” dated February 4, 2009 (the “Project Saxon Reorganization”): (i) the transfer by LXE to Lux SNC of LXE’ s Equity Interests in EMS Lux SARL, (ii) the transfer by EMS to Lux SNC of EMS’ s Equity Interests in 990834 Ontario, (iii) the transfer by EMS to EMS Lux SARL of EMS’ s Equity Interests in UK Acquisition Company and (iv) the transfer by LXE to Lux SNC of LXE’ s Equity Interests in the LXE Foreign Subsidiaries and the Immaterial LXE Foreign Subsidiaries, (f) any sale by Formation on a non-recourse basis of accounts receivable from Rockwell Collins, Inc. to Citibank, N.A. in an aggregate amount not to exceed \$600,000 at any one time outstanding pursuant to the terms of a Supplier Agreement between Formation and Citibank, N.A. dated as of September 7, 2004 and (g) any transfer of cash by and among Subsidiaries of Lux SNC through a centralized account at LXE Netherlands B.V. pursuant to a cash pooling arrangement serviced by Bank of America, as servicer.

(f) The language preceding the proviso in the definition of “Permitted Acquisition” in Section 1.01 of the Credit Agreement is hereby amended to read as follows:

“Permitted Acquisitions” means Investments consisting of an Acquisition by any Loan Party (other than any Unsecured Canadian Guarantor);

(g) The last three sentences of Section 6.20 of the Credit Agreement are hereby amended to read as follows:

The exact legal name and state of organization of each Loan Party as of the Closing Date is as set forth on Schedule 6.13. Set forth on Schedule 6.20(b) is a list of (a) all locations in Canada where any personal property of a Loan Party (other than any Unsecured Canadian Guarantor) is located, including province or territory where located and (ii) the chief executive office in Canada, if any, of the Canadian Borrower and each Canadian Subsidiary. Except as set forth on Schedule 6.20(c), no Loan Party (other than any Unsecured Canadian Guarantor) has during the five years preceding the Closing Date (i) changed its legal name,

(ii) changed its jurisdiction of formation, or (iii) been party to a merger, consolidation or other change in structure.

(h) Section 7.01(a) of the Credit Agreement is hereby amended to read as follows:

(a) upon the earlier of the date that is ninety (90) days after the end of each fiscal year of EMS or the date such information is filed with the SEC, (i) a consolidated balance sheet of EMS and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of income or operations, changes in shareholders' equity and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, and prepared in accordance with GAAP, audited and certified by a report and opinion of an independent certified public accountant of nationally recognized standing reasonably acceptable to the Required Lenders, which certification shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit and (ii) a consolidating balance sheet of EMS and its Subsidiaries as at the end of such fiscal year, and the related consolidating statements of income or operations, changes in shareholders' equity and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, certified by a Responsible Officer of EMS as fairly presenting the financial condition, results of operations, shareholders' equity and cash flows of EMS and its Subsidiaries in accordance with GAAP; and

(i) Section 8.01 of the Credit Agreement is hereby amended by deleting the period at the end of subclause (t) thereof, inserting the following text "; and" in replacement thereof and adding a new subclause (u) at the end thereof which shall read as follows:

(u) Liens of Citibank, N.A. on accounts receivable from Rockwell Collins purchased from Formation by Citibank, N.A. on a non-recourse basis in an aggregate amount not to exceed \$600,000 at any one time outstanding pursuant to the terms of a Supplier Agreement between Formation and Citibank, N.A. dated as of September 7, 2004.

(j) Section 8.02 of the Credit Agreement is hereby amended to read as follows:

8.02 Investments.

Make any Investments, except:

- (a) Investments held by EMS or such Subsidiary in the form of Cash Equivalents;
 - (b) Investments existing as of the Closing Date and set forth in Schedule 8.02;
 - (c) Investments by any Domestic Loan Party in any other Domestic Loan Party;
 - (d) Investments by any Canadian Loan Party (other than any Domestic Guarantor) in any other Loan Party (other than any Unsecured Canadian Guarantor);
-

(e) (i) Investments by any Subsidiary of EMS that is not a Loan Party in any other Subsidiary of EMS that is not a Loan Party and
(ii) Investments by any Unsecured Canadian Guarantor in any other Unsecured Canadian Guarantor;

(f) Permitted Acquisitions;

(g) Guarantees permitted by Section 8.03;

(h) the following Investments to be made in connection with the Project Saxon Reorganization: (i) the capital contribution by EMS of Euro 1,378 in Lux SNC, (ii) the Lux SNC Loan, (iii) the 1 Pound Sterling equity contribution by EMS in UK Acquisition Company, (iv) the equity contribution by LXE in Lux SNC of LXE' s Equity Interests in EMS Lux SARL, (v) the equity contribution by EMS in Lux SNC of EMS' s Equity Interests in 990834 Ontario, (vi) the 8,426,957 Pounds Sterling equity contribution by EMS Lux SARL in UK Acquisition Company and (vii) the equity contribution by LXE in Lux SNC of LXE' s Equity Interests in the LXE Foreign Subsidiaries and the Immaterial LXE Foreign Subsidiaries;

(i) the UK Acquisition (including EMS' s Guarantee of UK Acquisition Company' s obligations related to the UK Acquisition); provided, that both before and immediately after giving effect to such UK Acquisition and such Guarantee, no Default shall have occurred and be continuing;

(j) any contribution of cash by any Subsidiary of Lux SNC into a centralized account at LXE Netherlands B.V. pursuant to a cash pooling arrangement serviced by Bank of America, as servicer; and

(h) other Investments not exceeding US\$2,500,000 in the aggregate in any fiscal year of EMS.

(k) Section 8.03 of the Credit Agreement is hereby amended to read as follows:

8.03 Indebtedness.

Create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness under the Loan Documents;

(b) Indebtedness of EMS and its Subsidiaries listed on Schedule 8.03;

(c) the Lux SNC Loan, the UK Acquisition Company Lux Loan and any other intercompany Indebtedness permitted under Section 8.02;

(d) obligations (contingent or otherwise) of any Borrower existing or arising under any Swap Contract; provided that (i) such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person, or changes in the value of securities issued by such Person, and not for purposes of speculation or taking a "market view" and (ii) such Swap Contract does not contain any provision exonerating the non-defaulting party from its obligation to make payments on outstanding transactions to the defaulting party;

(e) purchase money Indebtedness (including obligations in respect of Capital Leases or Synthetic Leases) hereafter incurred by EMS or the Canadian Borrower to finance the purchase of fixed assets, and renewals, refinancings and extensions thereof; provided that (i) the total of all such Indebtedness for all such Persons taken together shall not exceed an aggregate principal amount of US\$2,000,000 at any one time outstanding; (ii) such Indebtedness when incurred shall not exceed the purchase price of the asset(s) financed; and (iii) no such Indebtedness shall be refinanced for a principal amount in excess of the principal balance outstanding thereon at the time of such refinancing;

(f) other unsecured Indebtedness of EMS and the Canadian Borrower not to exceed US\$5,000,000 in the aggregate at any one time outstanding;

(g) other unsecured Indebtedness of UK Acquisition Company not to exceed US\$1,000,000 in the aggregate at any one time outstanding; and

(h) secured or unsecured Indebtedness of EMS and the Canadian Borrower assumed in connection with a Permitted Acquisition so long as such Indebtedness (i) was not incurred in anticipation of or in connection with the respective Permitted Acquisition and (ii) does not exceed \$10,000,000 in the aggregate at any time outstanding.

Notwithstanding the foregoing, neither Lux SNC, EMS Lux SARL, UK Acquisition Company, UK Target, nor any LXE Foreign Subsidiary shall create, incur, assume or suffer to exist any Indebtedness other than (x) Lux SNC' s obligations under the Lux SNC Loan, (y) UK Acquisition Company' s obligations under the UK Acquisition Company Lux Loan and (z) any Indebtedness permitted by clauses (c) and (g) above.

(l) Clause (c) in Section 8.04 of the Credit Agreement is hereby amended to read as follows:

(c) any Canadian Loan Party other than the Canadian Borrower, any Domestic Guarantor and any Unsecured Canadian Guarantor may amalgamate with any other Canadian Loan Party other than the Canadian Borrower, any Domestic Guarantor or any Unsecured Canadian Guarantor,

(m) Clause (b) in Section 8.06 of the Credit Agreement is hereby amended to read as follows:

(b) each Canadian Subsidiary may make Restricted Payments to any Canadian Loan Party (other than any Unsecured Canadian Guarantor);

(n) Section 8.06 of the Credit Agreement is hereby amended by deleting the period at the end of subclause (d) thereof, inserting the following text “, and” in replacement thereof and adding a new subclause (e) at the end thereof which shall read as follows:

(e) in connection with the Project Saxon Reorganization, 990834 Ontario may make a Euro 15,663,210 distribution to EMS Lux SARL with proceeds received from the CAN\$24,886,050 distribution made by the Canadian Borrower to 990834 Ontario.

(o) Clauses (c) and (d) in Section 8.08 of the Credit Agreement are each hereby amended to read as follows:

(c) advances of working capital from a Canadian Loan Party (other than any Domestic Guarantor) to another Canadian Loan Party (other than any Unsecured Canadian Guarantor), (d)(i) transfers of cash and assets from a Canadian Loan Party (other than any Domestic Guarantor) to another Canadian Loan Party (other than any Unsecured Canadian Guarantor) and (ii) any transfers of cash by and among Subsidiaries of Lux SNC through a centralized account of LXE Netherlands B.V. pursuant to a cash pooling arrangement serviced by Bank of America, N.A., as servicer,

(p) Section 8.11(b) of the Credit Agreement is hereby amended to read as follows:

(b) Consolidated Leverage Ratio. Permit the Consolidated Leverage Ratio as of the end of any fiscal quarter of EMS to be greater than (i) 3.5 to 1.0 as of any fiscal quarter ending on or before December 31, 2008, (ii) 2.75 to 1.0 as of the end of any fiscal quarter ending during the period from March 31, 2009 to and including June 30, 2010, and (iii) 2.5 to 1.0 as of the end of any fiscal quarter ending thereafter.

(q) Schedule 8.02 to the Credit Agreement is hereby amended to read as provided on Schedule 8.02 attached hereto.

(r) Schedule 8.03 to the Credit Agreement is hereby amended to read as provided on Schedule 8.03 attached hereto.

3. Conditions Precedent. This Agreement shall be effective upon the satisfaction of the following conditions precedent:

(a) receipt by the Domestic Administrative Agent of counterparts of this Agreement duly executed by the Borrowers, the Guarantors, the Required Lenders, Bank of America, National Association, as Domestic Administrative Agent and Bank of America, National Association, acting through its Canada branch, as Canadian Administrative Agent;

(b) receipt by the Domestic Administrative Agent of the original promissory note executed by Lux SNC in favor of EMS in connection with the Lux SNC Loan (as defined above), together with a duly executed allonge in a form satisfactory to the Domestic Administrative Agent;

(c) receipt by the Domestic Administrative Agent of a certificate of a Responsible Officer of each Loan Party, (i) certifying that the Organization Documents of each Loan Party delivered on the Closing Date have not been amended, supplemented or otherwise modified since the Closing Date and remain in full force and effect as of the date hereof and (ii) attaching resolutions of each Loan Party approving and adopting this Agreement, in form and substance reasonably satisfactory to the Domestic Administrative Agent, and authorizing the execution and delivery of this Agreement and certifying that such resolutions have not been amended, supplemented or otherwise modified and remain in full force and effect as of the date hereof;

(d) receipt by the Domestic Administrative Agent of favorable opinions of legal counsel to the Loan Parties, addressed to the Administrative Agents and each Lender, dated as of the date hereof, in form and substance satisfactory to the Domestic Administrative Agent; and

(e) receipt by the Administrative Agent (i) for the account of each Lender executing this Amendment on or before February 11, 2009, a fee of \$20,000 and (ii) of any other fees and expenses owing to the Administrative Agent or BAS.

4. Lux SNC Equity. Within forty-five (45) days of the date hereof, EMS shall pledge to the Domestic Administrative Agent 65% of the Equity Interests of Lux SNC (the "Lux SNC Equity Interests") pursuant to a pledge agreement satisfactory to the Domestic Administrative Agent together with (a) favorable opinions of counsel for EMS regarding EMS' s pledge of the Lux SNC Equity Interests and (b) such other documentation reasonably requested by the Domestic Administrative Agent necessary to perfect its security interests in the Lux SNC Equity Interests, in each case in form and substance satisfactory to the Domestic Administrative Agent. The Loan Parties' failure to comply with the terms of this Section 4 shall constitute an Event of Default under the Loan Documents.

5. Guarantees. Within thirty (30) days of the date hereof, the Loan Parties shall cause EMS Lux SARL, Lux SNC, UK Acquisition Company, UK Target and each of the LXE Foreign Subsidiaries (collectively, the "Unsecured Canadian Guarantors") to each become a Canadian Guarantor by executing and delivering to the Canadian Administrative Agent a guaranty agreement with respect to the Canadian Obligations in form and substance satisfactory to the Canadian Administrative Agent and deliver to the Canadian Administrative Agent documents of the type referred to in Section 5.01(f) of the Credit Agreement and favorable opinions of counsel to such Person in form and substance satisfactory to the Canadian Administrative Agent. Notwithstanding any terms to the contrary contained herein or in the Loan Documents, it is understood and agreed that none of Unsecured Canadian Guarantors shall be required to pledge any of their respective assets to secure the Canadian Obligations. The Loan Parties' failure to comply with the terms of this Section 5 shall constitute an Event of Default under the Loan Documents.

6. Miscellaneous.

(a) The Credit Agreement, and the obligations of the Loan Parties thereunder and under the other Loan Documents, are hereby ratified and confirmed and shall continue and remain in full force and effect according to their terms.

(b) The Guarantors (a) acknowledge and consent to all of the terms and conditions of this Agreement, (b) affirm all of their obligations under the Loan Documents and (c) agree that this Agreement and all documents executed in connection herewith do not operate to reduce or discharge their obligations under the Credit Agreement or the other Loan Documents.

(c) The Borrowers and each Guarantor hereby represent and warrant as follows:

(i) Each Loan Party has taken all necessary action to authorize the execution, delivery and performance of this Agreement.

(ii) This Agreement has been duly executed and delivered by the Loan Parties and constitutes each of the Loan Parties' legal, valid and binding obligations, enforceable in accordance with its terms, except as such enforceability may be subject to (i) bankruptcy, insolvency, reorganization, fraudulent conveyance or transfer, moratorium or similar laws affecting creditors' rights generally and (ii) general principles of equity.

(iii) No consent, approval, authorization or order of, or filing, registration or qualification with, any court or governmental authority or third party is required in connection with the execution, delivery or performance by any Loan Party of this

Agreement.

(d) The Loan Parties represent and warrant to the Lenders that (i) the representations and warranties of the Loan Parties set forth in Article VI of the Credit Agreement and in each other Loan Document are true and correct as of the date hereof with the same effect as if made on and as of the date hereof, except to the extent such representations and warranties expressly relate solely to an earlier date and (ii) no event has occurred and is continuing which constitutes a Default or an Event of Default.

(e) This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all of which shall constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by telecopy shall be effective as an original and shall constitute a representation that an executed original shall be delivered.

(f) THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

[Signature pages follow]

Each of the parties hereto has caused a counterpart of this Agreement to be duly executed and delivered as of the date first above written.

BORROWERS:

EMS TECHNOLOGIES, INC.,
a Georgia corporation, as a Borrower and, with
respect to the Canadian Obligations, as a Guarantor

By: _____
Name: _____
Title: _____

EMS TECHNOLOGIES CANADA, LTD.,
a Canadian federal corporation, as a Borrower

By: _____
Name: _____
Title: _____

DOMESTIC GUARANTORS:

LXE INC.,
a Georgia corporation

By: _____
Name: _____
Title: _____

FORMATION, INC.,
a New Jersey corporation

By: _____
Name: _____
Title: _____

ADVANCED INTEGRATED RECORDERS, INC., a
Delaware corporation

By: _____
Name: _____
Title: _____

CANADIAN GUARANTORS:

990834 ONTARIO INC.,
an Ontario corporation

By: _____
Name: _____
Title: _____

EMS TECHNOLOGIES, INC.
SECOND AMENDMENT TO CREDIT AGREEMENT AND CONSENT

DOMESTIC
ADMINISTRATIVE AGENT:

BANK OF AMERICA,
NATIONAL ASSOCIATION,
as Domestic Administrative Agent

By: _____
Name: _____
Title: _____

CANADIAN
ADMINISTRATIVE AGENT:

BANK OF AMERICA,
NATIONAL ASSOCIATION,
acting through its Canada branch,
as Canadian Administrative Agent

By: _____
Name: _____
Title: _____

DOMESTIC LENDERS:

BANK OF AMERICA,
NATIONAL ASSOCIATION,
as a Domestic Lender and Domestic L/C Issuer

By: _____
Name: _____
Title: _____

SUNTRUST BANK,
as a Domestic Lender,

By: _____
Name: _____
Title: _____

WACHOVIA BANK, N.A.,
as a Domestic Lender,

By: _____
Name: _____
Title: _____

EMS TECHNOLOGIES, INC.
SECOND AMENDMENT TO CREDIT AGREEMENT AND CONSENT

CANADIAN LENDERS:

BANK OF AMERICA,
NATIONAL ASSOCIATION,
acting through its Canada branch,
as a Canadian Lender and Canadian L/C Issuer

By: _____
Name:
Title:

SUNTRUST BANK,
as a Canadian Lender,

By: _____
Name:
Title:

WACHOVIA BANK, N.A.,
as a Canadian Lender,

By: _____
Name:
Title:

EMS TECHNOLOGIES, INC.
SECOND AMENDMENT TO CREDIT AGREEMENT AND CONSENT

Schedule 8.02

Existing Investments

<u>Loan Party</u>	<u>Description of Investment</u>
EMS Technologies, Inc.	24.09% ownership interest in Miraxis License Holdings, LLC
LXE Inc.	Loan of \$14,970,150.32 to LXE Nordics (formerly known as LXE Scandinavia AB)

EMS TECHNOLOGIES, INC.
SECOND AMENDMENT TO CREDIT AGREEMENT AND CONSENT

Schedule 8.03

Existing Indebtedness

<u>Loan Party/Subsidiary</u>	<u>Lender</u>	<u>Type</u>	<u>Amount</u>
EMS Technologies, Inc.	General Electric Capital	Mortgage on 660 Engineering Drive, Norcross, GA	\$7,019,782.45 (as of January 31, 2009)
LXE Inc.	John Hancock Mutual Life Insurance Company	Mortgage on 125 Technology Parkway, Norcross, GA	\$3,417,508.61 (as of January 31, 2009)
EMS Technologies Canada, Ltd.	Nexcap	Capital lease of office equipment	CAN\$3,669.17 (as of January 31, 2009)
EMS Technologies Canada, Ltd.	Nexcap	Capital lease of office equipment	CAN\$6,629.01 (as of January 31, 2009)

EMS TECHNOLOGIES, INC.
SECOND AMENDMENT TO CREDIT AGREEMENT AND CONSENT

EMS TECHNOLOGIES, INC.
Compensation of Non-Employee Directors
February 2009

Annual Retainer – \$40,000, paid quarterly (40%, or \$16,000, automatically paid in deferred stock units under the Deferred Compensation Plan discussed below)

Additional Annual Retainer for Chairman of the Board – \$100,000

Additional Annual Retainer for Chairman of the Audit Committee – \$20,000

Additional Annual Retainer for Chairman of the Compensation Committee – \$10,000

Additional Annual Retainer for Chairman of the Science & Technology Committee – \$10,000

Board Meeting Fees – \$2,500 for attendance in person, \$1,000 for telephonic attendance

Committee Meeting Fees – \$2,000 for attendance in person at a meeting occurring on a day other than the day of either a Board meeting or another committee meeting for which a particular director is compensated, or \$500 for telephonic attendance

Options – 15,000 shares upon initial election (vesting 3,000 per year), exercisable at market price on date of grant
 5,000 shares per year upon each re-election, vesting after 6 months and exercisable at market price on date of grant
 Once vested, all options remain exercisable for six years from grant

Phantom Stock Deferred Compensation Plan – Each director may elect to designate all or a portion of his remaining cash compensation to purchase phantom EMS share units at current market prices. Cash payout occurs following retirement as a director or, for voluntary deferrals, after 5 years, subject to the director's limited right to further defer. Payment is based on market value of the common stock at the time paid, and is taxable income to the director only at that time.

Umbrella Liability Insurance – \$3 million personal liability coverage above normal limits under personally-maintained household/auto policies

Travel Expenses – The Company reimburses travel expenses incurred in connection with activities as a member of the Board and its Committees. An additional \$1,000 each way is paid to any director traveling to or from a home located more than two time zones from the meeting site.

Liability Protection –

Corporate D&O insurance (\$20 million, primary policy from St. Paul)

\$30 million additional coverage for the non-employee directors as a group

Georgia statutory exculpation provisions in Articles of Incorporation

Shareholder-approved indemnification (including for shareholder derivative suit expenses and judgments)

Compensation Arrangements with Certain Executive Officers

The following table sets forth the 2008 salary for the Company's current executive officers identified by name pursuant to Item 11 of the Company's Annual Report on Form 10-K for the year ended December 31, 2008, and the compensation disclosures in the Company's Proxy Statement for its 2009 Annual Meeting of Shareholders that is incorporated by reference into such Item 11. The table also sets forth each such officer's 2009 incentive compensation target under the Company's Executive Annual Incentive Compensation Plan (the "EICP"), as a percentage of salary, and his actual incentive compensation award for 2008 (whether under the EICP or based on other considerations).

	2008 Incentive Compensation	2009 Base Salary	2009 Incentive Compensation Target(1)	
Paul B. Domorksi President and CEO	\$ 296,202	\$458,400	80	%
Neilson A. Mackay Executive Vice President and COO	\$ 150,000	\$330,000	55	%
Gary B. Shell Senior Vice President, Chief Financial Officer and Treasurer	\$ 89,860	\$252,000	50	%
David A. Smith Vice President and General Manager, Defense & Space	\$ 144,058	\$244,100	50	%
Gary M. Hebb (2) Vice President, Innovation & Strategy	\$ 114,447	\$209,200	50	%

Actual incentive compensation payment under the EICP is determined based on Company or divisional performance during 2009, primarily with reference to actual operating income and EPS compared with targets approved by the Compensation Committee in February 2009. For the CEO, COO, CFO, and VP, Innovation & Strategy, the determination is weighted 40% based on performance against a corporate operating income target and 40% based on performance against an EPS target. In each case, the target is consistent with the Company's 2009 annual earnings guidance released in January 2009. The remaining 20% is based on achievement against individual objectives as set and evaluated by the CEO (the Board in the case of the CEO). In the cases of corporate officers other than the CEO, awards are subject to reduction by up to 10% based on the CEO's evaluation of individual performance. For Mr. Smith, the determination is weighted 70% based on performance of the Defense & Space division, 15% based on corporate performance against the operating income target, and 15% based on performance against individual objectives as specified and evaluated by the CEO.

In general, divisional performance will be measured against operating income targets that are believed to require excellent execution of divisional business plans but are reasonably likely to be achieved.

In general, no incentive compensation based on financial targets is paid under the EICP if actual performance is at 80% or less of targeted performance. Performance above target would normally result in a 2-for-1 percentage increase in incentive compensation, except that the maximum payment based on divisional performance is 150% of target. The Committee retains the right to modify, either up or down, the incentive compensation otherwise payable based on the factoring process, or to make separate discretionary bonus payments of up to \$100,000 in the aggregate, to take into account individual or Company/division performance on non-financial or supplemental financial objectives. The Committee and Board also have the right to make other discretionary awards, outside the EICP, based on factors they believe to be appropriate in the circumstances.

- Mr. Hebb's compensation is fixed and paid in Canadian dollars. The 2008 Incentive Compensation amount paid has been converted into
- (2). US dollars at the average of the exchange rates in effect during 2008. The 2009 Base Salary amount has been converted based on the exchange rate at the time the revised salary was approved.

Each officer participates in the Company's Employee Performance Bonus Plan on the same terms as all other full-time employees. Under this Plan, which was initiated in 2008 and partially replaces funding previously devoted to the Company's qualified Retirement Benefit Plan, each employee receives a cash bonus equal to 4% (3% in 2008) of his or her base compensation if the Company (for corporate employees) or division (for divisional employees) achieves operating income targets, with proportional reductions for actual results less than the target and two-for-one increases for results in excess of the target. For 2008, payments were made to each corporate employee, including the CEO, COO and CFO, equal to 2.65% of base salary, based on achieving 88% of the \$22,642,000 corporate operating income target. Messrs. Smith and Hebb received payments of 4% and 3.3%, respectively, based on performance of the Defense & Space and SATCOM divisions, respectively.

Each officer other than Mr. Hebb also participates in the Company's 401(k) and Retirement Benefit Plans on the same terms as all other full-time employees, but Company contributions to the Retirement Benefit Plan for 2008 and later years is substantially below those in earlier years due to the implementation of the Employee Performance Bonus Plan. Mr. Hebb participates on the same terms as other employees in the Company's Canadian retirement program, which is similar to the 401(k) plan for US employees. The Company does not currently provide a supplemental retirement plan for its executive officers.

SECTION 302 CERTIFICATION OF THE CEO

I, Paul Domorski, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of EMS Technologies, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant' s other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant' s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant' s internal control over financial reporting that occurred during the registrant' s most recent fiscal quarter (the registrant' s fourth fiscal quarter in the case of an Annual Report) that has materially affected, or is reasonably likely to materially affect, the registrant' s internal control over financial reporting; and
5. The registrant' s other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant' s auditors and the audit committee of the registrant' s board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant' s ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant' s internal control over financial reporting.

By: /s/ Paul B. Domorski Date: 05/14/09

Paul B. Domorski
President and Chief Executive Officer
(Principal Executive Officer)

SECTION 302 CERTIFICATION OF THE CFO

I, Gary B. Shell, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of EMS Technologies, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

By: /s/ Gary B. Shell Date: 05/14/09

Gary B. Shell
Senior Vice President,
Chief Financial Officer and Treasurer
(Principal Financial Officer)

SECTION 906 CERTIFICATION OF THE CEO/CFO

EMS TECHNOLOGIES, INC.

CERTIFICATION OF
CHIEF EXECUTIVE OFFICER
AND
CHIEF FINANCIAL OFFICER

Each of the undersigned Chief Executive Officer and Chief Financial Officer of EMS Technologies, Inc. hereby individually certifies that the Quarterly Report on Form 10-Q of the Company for the period ended April 4, 2009, to which this Certification is attached, fully complies with the requirements of Section 15(d) of the Securities Exchange Act of 1934, as amended, and that the information contained in such Report fairly presents, in all material respects, the financial condition and results of operations of EMS Technologies, Inc.

In witness whereof, each of the undersigned has executed and delivered this Certification on this 14th day of May, 2009.

/s/ Paul B. Domorski

Paul B. Domorski
President and Chief Executive Officer
EMS Technologies, Inc.

/s/ Gary B. Shell

Gary B. Shell
Senior Vice President,
Chief Financial Officer and Treasurer
EMS Technologies, Inc.