Risk Factors Comparison 2024-02-29 to 2023-03-02 Form: 10-K

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Our business, financial condition, results of operations and cash flows may be affected by a number of factors. The following risk factors identify risks of which we are aware and that we consider to be material to our business. If any of the following risks and uncertainties develops into actual events, our business, financial condition, results of operations or cash flows could be materially adversely affected. In that case, the trading price of our common stock could decline. RISKS RELATED TO OUR BUSINESS (1) As a purveyor of disruptive technology, if our partners and potential customers defer or delay adopting and implementing our technology, or if competitors or other market participants successfully engage in campaigns to discredit our technology, our revenues will be negatively affected. While the Company' s business in the government market remains relatively strong and predictable, our primary source of revenue growth — the commercial market — is subject to the market forces and adoption curves common to other disruptive technologies. The commercial market is in its ~~early~~ **earlier** stages of development. If widespread adoption of Digimarc technology in the commercial market takes longer than anticipated, we will continue to experience operating losses. We expect companies marketing competing technologies to compete vigorously in the marketplace, and to seek to preserve their market share. To the extent these companies succeed in defending their market position, our ability to achieve profitable operations will be impeded. With respect to anticipated sales growth and prospects for the commercial market, our two major avenues for revenue generation are direct sales **to customers** and **indirect sales through** partners. Our ~~growing~~ direct sales force is relatively new. Most of our partners are **also** relatively new to our products. Thus, the anticipated sources of revenue growth for the commercial market are unproven. We are executing strategies intended to make each of these means of revenue generation more effective, but we provide no assurance that we will execute these strategies successfully. ~~5~~ (2) Our future growth will depend to a material extent on the successful advocacy of our technology by our partners to their ~~members and~~ customers, and implementation of our technology in solutions propagated by our partners and provided by third parties. Our business has long relied on the success of business partners. ~~Our continuing~~ **Continuing our** success is largely dependent on a new generation of business partners supporting Digimarc technology in the commercial market. We have entered into agreements with numerous partners to propagate and support our technology, including brand deployment and pre- media service providers and consumer packaging solutions companies, all of which offer Digimarc digital watermarking services to consumer ~~brands~~ **- packaged goods** companies. We have also entered into agreements with numerous scanner manufacturers to enable their devices to read Digimarc watermarks. We provide no assurance that these collaborations will successfully generate revenue for our business. If our partners are not successful in advocating and deploying our technology, we may not be able to achieve and sustain profitable operations. If other business partners who include our technology in their products cease to do so, or we fail to successfully collaborate with third parties or to obtain other partners who will do so, or these partners are unsuccessful in their efforts, expanding deployment of our technology will be adversely affected. Consequently, our ability to increase revenue could be adversely affected, and we may suffer other adverse effects to our business. In addition, if our technology does not perform according to market expectations, our future sales would suffer as customers employ alternative technologies. (3) If leading companies in the consumer ~~brands~~ **- packaged goods industry and related** industries downplay, minimize or reject the use of our technology, our product deployment may be slowed, and we may be unable to achieve profitable operations. Our business endeavors in the commercial market may be impeded or frustrated by larger, more influential companies **or industry trade groups** downplaying, minimizing or rejecting the value or use of our technology. A negative position by such companies **or groups** could result in obstacles for us that we would be incapable of overcoming and may block or impede the adoption of our technology. Such a development would make the achievement of our business objectives in this market difficult or impossible. (4) We are subject to risks encountered by companies developing and relying upon new technologies, products, and services to achieve and sustain profitable operations. Our business and prospects must be considered in light of the risks and uncertainties to which companies with new and rapidly evolving technology, products, and services are exposed. These risks include the following: • we may be unable to develop sources of new revenue or sustainable growth in revenue because our current and anticipated technologies, products, and services may be inadequate or may be unable to attract or retain customers; • intense competition from existing and new technologies and providers and rapid technological change could adversely affect the market' s acceptance of our products and services; and • we may be unable to develop and maintain new technologies upon which our products and services are dependent, which may cause our products and services to be less sustainable and competitive or which could make it harder for us to expand our revenue and business. **5** (5) A significant portion of our current and potential future revenue is subject to commercial and government contracts and the development of new markets that may involve unpredictable delays and other unexpected changes. Such volatility and uncertainty might limit our actual revenue in any given quarter or year. We derive a significant portion of our revenue from contracts tied to development schedules or development of new markets, which could shift for months, quarters, or years as the needs of our customers and the markets in which they participate change. Government agencies and commercial customers also face budget pressures that introduce added uncertainty. Any shift in development schedules, the markets in which we or our partners participate, or customer procurement processes, which are outside our control and may not be predictable, could result in delays in revenues forecasted for any particular period, could affect the predictability of our quarterly and annual results, and might limit our actual revenue recognized in any given quarter or year, resulting in reduced and less predictable revenue, adversely affecting profitability. We are expanding into new markets, which involve inherent risk and unpredictability. With our acquisition of EVRYTHNG ~~and its Product Cloud offering~~ , we **expanded** ~~are expanding~~ into applications of the product cloud in conjunction with Digimarc watermarks and other data carriers. As we seek to expand outside our areas of historical expertise, we lack the history and insight that benefited us in fields conventionally using digital watermarking. Although we have extensive experience in the commercial application of digital watermarking, we are investing in but may not be as well-positioned for these other opportunities. Accordingly, it may be difficult for us to achieve success in other technologies we might pursue. (6) A small number of customers account for a substantial portion of our revenue, and the loss of any large contract could materially disrupt our business. Historically, we have derived a significant portion of our revenue from a limited number of customers. Five customers represented approximately ~~72~~ **78** % of our revenue for the year ended December 31, ~~2022~~ **2023** . Nearly half of our revenue came from our contract with the Central Banks in 2022 **and 2023** . That contract was recently extended and now expires at the end of 2029. The customer contracts we enter into may contain termination for convenience **provisions or may not include automatic renewal** provisions. If we were to lose any such contract for any reason, or if our relationship with these customers or the Central Banks were materially modified, our financial results would be adversely affected. We expect to continue to depend upon a small number of customers for a significant portion of our revenue for the foreseeable future. The loss of, or decline in, orders or backlog from one or more major customers could reduce our revenue and have a material adverse effect on our financial results. ~~6~~ (7) The market for our products is highly competitive, and alternative technologies or larger companies that compete with us may be more successful than us in gaining market share, which would decrease our revenue and profits. The markets in which we compete for business are intensely competitive and rapidly evolving. We expect competition to continue from both existing competitors and new market entrants. We face competition from other companies and from alternative technologies, including some of our customers, partners, and licensees. We also may face competition from unexpected sources. Alternative technologies that may directly or indirectly compete with our products include: • **generative Artificial Intelligence (" AI ") technologies — AI technologies that employ machine learning to train AI models to embed and detect identifying information within digital content; •** ~~Traditional~~ **traditional** anti- counterfeiting technologies — ~~a number of~~ solutions **designed to deter counterfeiting including optically sensitive ink, magnetic threads and other materials used in the printing of banknotes** used by many government agencies (that compete for budgetary outlays) ~~designed to deter counterfeiting, including optically sensitive ink, magnetic threads and other materials used in the printing of currencies~~ ; • ~~Object~~ **object** and image recognition (e. g., trained classifiers employing machine learning) — **technologies that recognize** one or several pre- specified or learned objects or object classes ~~that can be recognized~~ , usually together with their two- dimensional positions in the image or three- dimensional poses in the scene; • ~~Radio~~ **radio** frequency tags — **embedded** ~~embedding a chip~~ **chips** that ~~emits~~ - **emit** a signal when in close proximity with a receiver, used in some photo identification credentials, labels and tags; • ~~Digital~~ **digital** fingerprints and signatures — a metric, or metrics, computed solely from a source image or audio or video track, that can be used to identify an image or track, or authenticate the image ~~or track~~ ; **and** • ~~Internet of Things (IoT) and track- and- trace service providers; and • Object~~ **object** sorting technologies **—** ~~such as~~ chemical tracers, taggants, Near Infrared sorters, dot or matrix codes, ~~including~~ **used to identify and sort objects, and that can be used in connection with** systems ~~leveraging~~ **using a** ~~combinations~~ - **combination** of these methods and machine learning. In the competitive environments in which we operate, product ~~generation~~ **creation** , development and marketing processes relating to technology are uncertain and complex and require accurate prediction of demand as well as successful management of various risks inherent in technology development. In light of these uncertainties, it is possible that our failure to successfully accommodate future changes in technologies related to our technology could have a long- term negative effect on our growth and results of operations. As we work to achieve market acceptance of our products and services, new developments are expected to continue, and discoveries by others, including current and potential competitors, could render our **products and** services ~~and products~~ uncompetitive. Moreover, because of rapid technological changes, we may be required to expend greater amounts of time and money than anticipated to develop new products and services, which in turn may require greater revenue streams from those products and services to cover developmental costs. Many of the companies that compete with us for some of our business, as well as other companies with whom we may compete **with** in the future, are larger and may have stronger brand recognition and greater technical, financial, marketing, and **/ or** political resources than we do. These attributes could enable these companies to have more success in the market than we have, either by providing better products or better pricing than we can provide. We may be unable to compete successfully against current or future participants in our ~~market~~ **markets** or against alternative technologies, and the competitive pressures we face may have a materially adverse effect on our financial position, results of operations or cash flows. **6** (8) An increase in our operations outside of the U. S. subjects us to risks additional to those to which we are exposed in our domestic operations. We believe that revenue from sales of products and services to commercial customers outside the U. S. could represent a growing percentage of our total revenue in the future. Digimarc technology is not bounded geographically, and we believe our technology will be deployed globally. As such, certain contracts may be made and performed, in whole or in part, outside of the United States. Additionally, with the acquisition of EVRYTHNG, our workforce expanded significantly into the United Kingdom and other European countries. International operations are subject to a number of risks that can adversely affect our sales of products and services to customers outside of the U. S., or expose us to additional expense or liabilities, including the following: • difficulties and costs of staffing, developing and managing foreign operations as a result of distance, language, and cultural differences; • the effect of laws governing our business, employee, and contractor relationships, and the existence of workers' councils and labor unions in some jurisdictions; • changes in foreign government regulations and security requirements; • export license requirements, tariffs, retaliatory trade measures ~~, and domestic or foreign taxes; • trade barriers~~ ; • difficulty in protecting intellectual property; • difficulty in collecting accounts receivable; • currency fluctuations; and • political and economic uncertainty or instability. ~~7If~~ - **If** we fail to comply with the many international laws and regulations to which we may be subject, we may be subject to significant fines, penalties, or liabilities for noncompliance. These factors may result in greater risk of performance problems or of reduced profitability with respect to our international programs in these markets. In addition, if foreign customers, in particular foreign government authorities, terminate or delay the implementation of our products and services, it may be difficult for us, or we may not be able, to recover our potential losses. (9) We depend on our key employees for our future success. If we are not able to retain, hire, or integrate these employees, we may not be able to meet our commitments. Due to the high level of technical expertise that our industry requires, our ability to successfully develop, market, sell, license and support our products, services, and intellectual property depends to a significant degree upon the continued contributions of our key personnel in engineering, sales, marketing, operations, and legal, many of whom would be difficult to replace. We believe our future success will depend in large part upon our ability to retain our current key employees and our ability to attract, integrate, and retain new personnel in the future. It may not be practical for us to match the compensation some of our employees could be offered by other employers. In addition, we may encounter difficulties in hiring and retaining employees because of concerns related to our financial performance. These circumstances may have a negative effect on the market price of our common stock, and employees and prospective employees may factor in ~~the~~ **any** uncertainties relating to our stability and the value of any equity- based incentives in their decisions regarding employment opportunities and decide to leave our employ or decline employment offers. Increasingly, prospective and current employees hold certain expectations of their employer related to DEI, community involvement, and other material ~~ESG topics~~ **initiatives around sustainability, people and governance** . Insufficient or slow progress **in these areas** ~~on emerging ESG considerations~~ may negatively affect our ability to attract, retain, and integrate key employees. Moreover, our business is based in large part on unique and sophisticated technology. New employees require substantial training, involving significant resources and management attention. Competition for experienced personnel in our business can be intense. If we do not succeed in attracting new, qualified personnel or in integrating, retaining, and motivating our current personnel, our growth and ability to deliver products and services that our customers require may be hampered. Although our employees generally have executed agreements containing non- competition clauses, these clauses are becoming increasingly disfavored by policymakers, and we do not assure you that a court would enforce all of the terms of these clauses or the agreements generally. If these clauses were not fully enforced, our employees could join our competitors. Although we generally attempt to control access to and distribution of our proprietary information by our employees, we do not assure you that the confidential nature of our proprietary information will be maintained in the course of such future employment. Any of these events could have a material adverse effect on our financial position, results of operations, or cash flows. **7** (10) We may acquire or invest in other companies or technologies in the future, which could divert management' s attention, result in additional dilution to our shareholders, increase expenses, disrupt our operations and harm our operating results. We acquired EVRYTHNG in January 2022, and we may in the future acquire or invest in businesses, products or technologies that we believe could complement or expand our current product and service offerings, enhance our technical capabilities, expand our operations into new markets, or otherwise offer growth opportunities. The pursuit of potential acquisitions or other strategic transactions may divert the attention of management and cause us to incur various expenses related to identifying, investigating, and pursuing suitable acquisitions or strategic transactions, whether or not they are completed. There are inherent risks in integrating and managing acquisitions. We may not be able to assimilate or integrate the acquired personnel, operations and technologies successfully or effectively manage the combined business following an acquisition. We also may not achieve the anticipated benefits from an acquired business due to a number of factors, including: • unanticipated costs or liabilities associated with the acquisition; • incurrence of acquisition- related costs; • inability to generate sufficient revenue to offset acquisition or investment costs; • the inability to maintain relationships with customers and partners of the acquired business; • the need to implement additional controls, procedures and policies; • entry into geographic markets in which we have little or no prior experience, and challenges caused by distance, language, and cultural differences; • differences in foreign labor and employment laws, including classification of employees and contractors; • disruption of our ongoing business; • the potential loss of key employees; and • use of substantial portions of our available cash to complete the acquisition. Acquisitions could also result in dilutive issuances of equity securities or the incurrence of debt, which could adversely affect our financial position. In addition, if an acquired business fails to meet our expectations, our operating results and business and financial condition may suffer. (11) If our revenue models and pricing structures relating to products and services that are under development do not gain market acceptance, the products and services may fail to attract or retain customers and we may not be able to generate new revenue or sustain existing revenue. Our revenues result from a combination of **software** subscriptions ~~for software products~~ and software development services. We have not fully developed our revenue models for some ~~applications~~ **products** in the commercial market. Because some of our products and services are not yet well- established in the marketplace, and because some of these products and services will not directly displace existing solutions, we cannot be certain that the pricing structure for these products and services will gain market acceptance or be sustainable over time, or that the marketing for these products and services will be effective. ~~8~~ (12) An unfavorable assessment of digital watermarking technology by members of the HolyGrail 2. 0 initiative could discourage adoption of our technology. In September 2020, AIM – European Brands Association, in conjunction with over 85 companies and organizations including many of Europe' s largest consumer ~~brands~~ **- packaged goods** companies, launched the HolyGrail 2. 0 initiative. The purpose of the initiative is to assess whether digital watermarking technology can improve waste sorting and recycling rates for product packaging in the European Union. Digimarc is a technology provider for this ongoing assessment. An unfavorable assessment of digital watermarking technology generally, or of Digimarc' s digital watermarking technology particularly, could cause its members to consider alternative technologies. This outcome could dissuade HolyGrail 2. 0 members and others following its lead from adopting digital watermarking technology for sortation and recycling. This in turn could have a materially adverse effect on our ability to grow adoption of our ~~technology~~ **Digimarc Recycle product** . (13) The technological viability and economic attractiveness of competing technologies could cause the consumer- packaged goods industry and related industries to adopt a technology other than digital watermarking to support its waste sortation and recycling initiatives. We have identified two technologies that could be perceived by industry participants to out- perform or be available on more economically favorable terms than Digimarc' s digital watermarking technology for waste sortation and recycling: chemical tracers and **/ or** artificial intelligence. Industry leaders in a position to influence the industry at large could determine that chemical tracers or artificial intelligence represent a more technologically viable **and /** or economically attractive solution, including due to the greater number of potential suppliers, which in turn could increase pricing competition and lower barriers to entry. Such a determination could result in the devaluation of digital watermarking technology' s ability to support the product packaging lifecycle and negatively affect our revenue growth prospects. (14) **A future** ~~COVID- 19 Pandemic~~ **pandemic could disrupt our ability to effectively operate our business.** The ~~continuation of the~~ coronavirus 2019 (" COVID- 19 ") pandemic **created** ~~around the world, and particularly in the United States and Europe, presents~~ significant risks to the Company, not all of which we are able to fully evaluate or foresee **. A future pandemic could create similar or more severe risks to the Company** . Some of the effects that could directly or indirectly result from **a future** ~~the COVID- 19~~ pandemic include, without limitation, possible impacts on the health of the Company' s management and employees, impairment of the Company' s administrative, research, and development operations, disruption in supplier and customer relationships, changes in demand for our technology and services, and the collectability of accounts receivable. Some of our projects with commercial customers and partners ~~have been~~ **could also be** delayed **negatively** ~~as a result of the COVID- 19 pandemic, thereby potentially affecting our ability to fund our business through near- term revenue growth. The scope and nature of these impacts~~ **impacting** ~~, most of which are beyond~~ our **future financial** ~~control, continue to evolve and the outcomes remain uncertain. These short- term effects may change over the long- term depending on the duration and severity of the COVID- 19 pandemic, the length of time before normal economic and operating conditions resume, the additional governmental actions that may be taken, the extensions of social restrictions that have been imposed to date, and many other factors that can vary materially by geography. Due to the above circumstances, the Company' s~~ results ~~of operations for the year ended December 31, 2022, are not necessarily indicative of the results to be expected for subsequent years~~ . ~~9RISKS~~ **8RISKS** RELATED TO INFORMATION SECURITY (15) The security systems used in our business and our product and service offerings may be circumvented or sabotaged by third parties, which could result in the disclosure of sensitive information or private personal information or cause other business interruptions that could damage our reputation and disrupt our business. Our business relies on computers and other information technologies, both internal and external. The protective measures that we use may not prevent all security breaches, and failure to prevent security breaches may disrupt our business, damage our reputation, ~~and~~ **or** expose us to litigation and liability. A party who circumvents our security measures **or the security measures of our third- party vendors** could misappropriate sensitive or proprietary information or materials or cause interruptions or otherwise damage our products, services, and reputation, and the property of our customers. If unintended parties obtain sensitive data and information or create bugs or viruses or otherwise sabotage the functionality of our **or our third- party vendor' s** systems, we may receive negative publicity, incur liability to our customers, or lose the confidence of our customers, any of which may cause the termination or modification of our contracts. Further, our insurance coverage may be insufficient to cover losses and liabilities that may result from these events. In addition, we may be required to expend significant capital and other resources to protect ourselves against the threat of security breaches or to alleviate problems caused by these breaches. Any protection or remedial measures may not be available at a reasonable price or at all or may not be entirely effective if commenced. (16) We may experience outages and disruptions of our infrastructure that may harm our business, prospects, financial condition and results of operations. We may be subject to outages or disruptions of our infrastructure, including information technology system failures and network disruptions. We use third- party cloud service providers, which are also susceptible to outages and disruptions. System redundancy may be ineffective or inadequate, and our disaster recovery planning may not be sufficient for all eventualities. (17) Data breaches and cyber- attacks or cyber- fraud could compromise our intellectual property or other sensitive information or result in losses. We maintain sensitive data on our networks and the networks of our business partners and third- party providers, including proprietary and confidential information relating to our intellectual property, personnel, and business, and that of our customers and third- party providers. Companies have been increasingly subject to a wide variety of security incidents, cyber- attacks, hacking, phishing, and other attempts to gain unauthorized access or engage in fraudulent behavior **, resulting in risks that could adversely impact our business, financial condition, and reputation** . ~~Our~~ **These risks include but are not limited to: • our** policies and security measures cannot guarantee security, and our information technology infrastructure, including our networks and systems, may be vulnerable to data breaches, cyber- attacks, or fraud ~~.~~ **, leading to the disclosure of sensitive customer information; •** ~~Third~~ **third** parties may attempt to penetrate or infect our network and systems with malicious software and phishing attacks in an effort to gain **unauthorized** access to our network and systems ~~. We~~ **; • we** may be subject to the risk of third parties falsifying invoices and similar fraud, frequently by obtaining unauthorized access to our vendors' and business partners' networks **; • other disruption of our operations due to cyberattacks or other malicious activities; and • failure to comply with cybersecurity regulations, resulting in legal and financial consequences** . In some circumstances, we may partner with third- party providers and provide them with sensitive data. If these third parties fail to adopt or adhere to adequate data security practices, or in the event of a breach of their networks, this sensitive data may be improperly accessed, used, or disclosed. These data breaches and any unauthorized access or disclosure of sensitive data could compromise our intellectual property, expose sensitive business information, and subject us to liability. The increase in cyber- attacks has resulted in an increased focus on cybersecurity by various government agencies. Cyber- attacks or any investigation or enforcement action related to cybersecurity could cause us to incur significant remediation costs, disrupt key business operations, and divert attention of management and key information technology resources. We may incur losses as a result of cyber- fraud, such as making unauthorized payments, irrespective of robust internal controls. Our reputation and business could be harmed, and we could be subject to third- party claims in the event of such a security breach. RISKS RELATED TO FINANCIAL REPORTING (18) Changes to financial accounting standards may affect our results of operations and could cause us to change our business practices. We prepare our consolidated financial statements to conform to generally accepted accounting principles in the United States (" U. S. GAAP ").

These accounting principles are subject to interpretation by the Securities and Exchange Commission and various bodies formed to interpret and create accounting rules and regulations. Changes in these rules, or guidance relating to interpretation and adoption of these rules, could have a significant effect on our financial results and could affect portions of our business differently. **9** (19) We were not profitable in **2023 or** 2022 ~~or 2021~~ and may not be able to become profitable in the future, particularly if we were to lose large contracts or fail in our new market development initiatives. Sustained lack of profitability could cause us to incur asset impairment charges for long- lived assets or record valuation allowances against our deferred tax assets. We incurred net losses in **2023 and** 2022 ~~and 2021~~ largely due to increased levels of investments in our business to support product development and sales growth initiatives. Becoming profitable in the future will depend upon a variety of factors, including our ability to maintain **our current customers** ~~and obtain more significant partnerships like we have with the Central Banks and Walmart,~~ and to acquire new commercial customers. Profitability will also depend on our efficiency in executing our business strategy and capitalizing on new opportunities. Various adverse developments, including the loss of large contracts or cost overruns on our existing contracts, could adversely affect our revenue, margins, and profitability. ~~10If~~ **If** we continue to incur operating losses, an impairment to the carrying value of our long- lived assets, including goodwill, acquired intangible assets, patent assets and property and equipment could result. We test for impairment of our long- lived assets when a triggering event occurs that would indicate that the carrying value may not be recoverable. Our methodology for assessing impairment may require management to make judgments and assumptions regarding future cash flows. Our projections of future cash flows are largely based on historical experience, and these projections may not be achieved. Changes to these financial projections used in our impairment analysis could lead to an impairment of all or a portion of our long- lived assets. Any such impairment charge could adversely affect our results of operations and our stock price. We evaluated our long- lived assets for impairment as of December 31, **2023, and** 2022 ~~, and 2021~~ and concluded there was no impairment for either period. We do not guarantee, however, that our long- lived assets will not become impaired in the future. We record valuation allowances on our deferred tax assets if, based on available evidence, it is more- likely- than- not that all or some portion of the value of the assets will not be realized. The determination of whether our deferred tax assets are realizable requires management to identify and weigh all available positive and negative evidence. Management considers recent financial performance, projected future taxable income, scheduled reversals of deferred tax liabilities, tax planning strategies and other evidence in assessing the realizability of our deferred tax assets. Adjustments to our deferred tax assets could adversely affect our results of operations and our stock price. **We have maintained** ~~In 2014, we recorded~~ a full valuation allowance against our deferred tax assets largely due to the cumulative loss we ~~had~~ **have** incurred over the previous three years, which is considered a significant piece of negative evidence in assessing the realizability of deferred tax assets. As of December 31, **2023, and** 2022 ~~, and 2021~~ , we determined a valuation allowance was still appropriate given ~~continued~~ **the cumulative** ~~losses~~ -- **loss** . We will not record tax benefits on any future losses until it is determined that those tax benefits will be realized. (20) We may be adversely affected by variability of contracted arrangements. We periodically agree to modify the terms of contractual arrangements with our customers, partners and licensees in response to changes in circumstances underlying the original contractual arrangements, and it is likely that we will do so in the future. As a result of this practice, the terms of our contractual arrangements with our customers, partners, and licensees may vary over time and, depending on the particular modification, could have a material adverse effect on our financial position, results of operations, or cash flows. RISKS RELATED TO INTELLECTUAL PROPERTY AND LEGAL (21) (a) We may not be able to adequately secure patent or other protection for our technologies. Our business depends in part on securing protection for our proprietary technology. To protect our intellectual property portfolio, we rely on a combination of patent, copyright, trademark and trade secret rights, confidentiality procedures, and licensing arrangements. Although we regularly apply for patents to protect our intellectual property, there is no guarantee that we will secure patent protection for any particular technology we develop. Changes in the U. S. and foreign patent laws, or in the interpretation of existing laws, may adversely affect our ability to secure or enforce patents. For example, the U. S. Supreme Court issued a decision in 2014 limiting patent eligibility of computer implemented inventions. The Leahy- Smith America Invents Act of 2011 (the " America Invents Act ") also codifies several changes to the U. S. patent laws, including the creation of a post- grant inter partes review process to challenge patents after they have issued. The America Invents Act allows third parties to petition the U. S. Patent and Trademark Office **to review and reconsider the patentability of any of** ~~or~~ **our** ~~comparable government authorities~~ **inventions claimed in our issued patents. Similar laws and legal processes exist to challenge the validity of patents** in other jurisdictions ~~to review and reconsider the patentability of any of our inventions claimed in our issued patents~~ . Any such proceeding may result in one or more of our patent claims becoming limited or being invalidated altogether. Additionally, certain foreign jurisdictions may not recognize or enforce our patents in those jurisdictions. A limitation or invalidation of our patent claims could adversely affect our financial position and our operating results. Patents have finite lives, and our ability to continue to rely on our patents as a barrier to entry is limited to the term of the patents. Our earliest patents began expiring in ~~July~~ 2012, and the patents in our portfolio expire at various times between ~~2023~~ **2024** and ~~2040~~ **2041** . The size and strength of our portfolio depends on the number of patents that have been granted, offset by the number of patents that expire, in any given year. As part of our confidentiality procedures, we generally enter into non- disclosure agreements with our employees, directors, consultants, and corporate partners, and attempt to control access to and distribution of our technology, solutions, documentation, and other proprietary information. Despite these procedures, third parties could copy or otherwise obtain and make unauthorized use of our technology, solutions or other proprietary information or independently develop similar technologies, solutions, or information. The steps that we have taken to prevent misappropriation of our solutions, technology or other proprietary information may not succeed. We do not assure you that the protection of our proprietary rights will be adequate or that our competitors will not independently develop similar technologies, duplicate our services, or design around any of our patents. **10** (b) We may be subject to infringement claims and other litigation, which could adversely affect our business. As more companies engage in business activities relating to digital watermarking and ~~IoT~~ **product cloud** services, and develop corresponding intellectual property rights, it is increasingly likely that claims may arise which assert that some of our products or services infringe other parties' intellectual property rights. These claims could subject us to costly litigation and divert management resources. These claims may require us to pay significant damages, cease production of infringing products, terminate our use of infringing technology, or develop non- infringing alternative technologies. In these circumstances, continued use of our technology may require that we acquire licenses to the intellectual property that is the subject of the alleged infringement, and we might not be able to obtain these licenses on commercially reasonable terms or at all. Our use of protected technology may result in liability that threatens our continuing operation. Some of our contracts include indemnity and similar provisions regarding our non- infringement of third- party intellectual property rights. As deployment of our technology increases, and more companies enter our markets, the likelihood of a third- party lawsuit resulting from these provisions increases. If an infringement arose in a context governed by such a contract, we may have to expend significant sums to defend our customer, refund to our customer amounts already paid to us, pay significant damages, or cease distributing our allegedly infringing products entirely. ~~11~~ (22) We are periodically involved in litigation in the ordinary course of business, and an adverse resolution of such litigation may adversely affect our business, financial condition, results of operations, and cash flows. From time to time, in our normal course of business, we are a party to various legal claims, actions and complaints. Given the uncertain nature of litigation, we are not able to estimate the amount or range of gain or loss that could result from an outcome of litigation. Litigation can be expensive, lengthy, and disruptive to normal business operations. The results of complex legal proceedings are often uncertain and difficult to predict. We could incur costs in excess of any established accruals and, to the extent available, excess liability insurance. An unfavorable outcome in any legal proceedings could have a material adverse effect on our business, financial condition, results of operations, and cash flows. (23) The terms and conditions of our contracts could subject us to damages, losses and other expenses if we fail to meet delivery and performance requirements. Our service contracts typically include provisions imposing: • development and delivery schedules; • customer acceptance and testing requirements; and • other performance requirements. To the extent these provisions involve performance over extended periods of time, risks of noncompliance may increase. From time to time, we have experienced delays in system implementation, timely acceptance of deliverables, concerns regarding deliverable performance, and other contractual disputes. If we fail to meet contractual performance requirements as promised, or to successfully resolve customer disputes, we could incur liability for damages, as well as increased costs, lower margins, or compensatory obligations in addition to other losses, such as harm to our reputation. Any unexpected increases in costs to meet our contractual obligations or any other requirements necessary to address claims and damages with regard to our customer contracts could have a material adverse effect on our business and financial results. RISKS RELATED TO OUR CAPITAL STOCK (24) Our corporate governance documents and Oregon law may delay or prevent an acquisition of us that shareholders may consider favorable, which could decrease the value of your shares. Our articles of incorporation, bylaws and Oregon law contain provisions that could make it more difficult for a third party to acquire us without the consent of our Board of Directors. These provisions include supermajority voting requirements for shareholders to amend our organizational documents and limitations on actions by our shareholders by written consent. In addition, our Board of Directors has the right to issue preferred stock without shareholder approval, which could be used to dilute the stock ownership of a potential hostile acquirer. Oregon law restricts the ability to vote shares of stock acquired in a transaction that causes the acquiring person to control at least one- fifth, one- third or one- half of the votes entitled to be cast in the election of directors (a " control share acquisition "). Shares acquired in a control share acquisition have no voting rights except as authorized by a vote of the shareholders. Although we believe these provisions protect our shareholders from coercive or otherwise unfair takeover tactics and thereby provide for an opportunity to receive a higher bid by requiring potential acquirers to negotiate with our Board of Directors, these provisions apply even if the offer may be considered beneficial by some shareholders. **11** (25) Our common stock price may be volatile, and you could lose all or part of your investment in shares of our common stock. The price of shares of our common stock may fluctuate as a result of changes in our operating performance or prospects and other factors. Some specific factors that may have a significant effect on the price of shares of our common stock include: • the public' s reaction to our public disclosures; • actual or anticipated changes in our operating results or future prospects; • strategic actions by us or our competitors, such as acquisitions or restructurings; • impact of acquisitions on our liquidity and financial performance; • new laws or regulations or new interpretations of existing laws or regulations applicable to our business; • changes in accounting standards, policies, guidance, interpretations or principles applicable to us; • conditions of the industry as a result of changes in financial markets or general economic or political conditions; • the failure of securities analysts to cover our common stock in the future, or changes in financial estimates by analysts; • changes in analyst recommendations or **revenue and** earnings estimates regarding us, other comparable companies or the industry generally, and our ability to meet those estimates; • changes in the amount of dividends paid, if any; • changes in our financing strategy or capital structure; • future issuances of our common stock or the perception that future sales could occur; and • volatility in the equity securities market. ~~12GENERAL -~~-- **GENERAL** RISK FACTORS (26) If we are unable to respond to regulatory or industry standards effectively, or if we are unable to develop and integrate new technologies effectively, our growth and the development of our products and services could be delayed or limited. Our future success will depend in part on our ability to enhance and improve the responsiveness, functionality, and features of our products and services, and those of our business partners, in accordance with regulatory or industry standards. Our ability to remain competitive will depend in part on our ability to comply with emerging industry and governmental standards in a timely and cost- effective manner. If we are unable to meet these standards effectively, our growth and the development of various products and services could be delayed or limited. (27) We may need to hire additional employees or contract labor in the future in order to take advantage of new business opportunities arising from increased demand, which could increase costs and impede our ability to achieve or sustain profitability in the short term. We have staffed our company with the intent of accelerating our product development and sales growth initiatives while also focusing on achieving and sustaining profitability. Our current staffing levels could affect our ability to respond to increased demand for our **products and** services. In addition, to meet any increased demand and take advantage of new business opportunities in the future, we may need to increase our workforce through additional employees or contract labor. Although we believe that increasing our workforce would potentially support anticipated growth and profitability, it would increase our costs. If we experience such an increase in costs, we may not succeed in achieving or sustaining profitability in the short term. (28) Products deploying our technology could have unknown defects or errors, which may give rise to claims against us, divert application of our resources from other purposes or increase our project implementation and support costs. Products and services as complex as ours may contain undetected defects or errors. Furthermore, we often provide complex implementation, integration, customization, consulting, and other technical services in connection with the implementation and ongoing maintenance of our products. Despite testing, defects or errors in our products and services may occur, which could result in delays in the development and implementation of **our** products ~~and systems~~ , inability to meet customer requirements or expectations in a timely manner, loss of revenue or market share, increased implementation and support costs, failure to achieve market acceptance, diversion of development resources, injury to our reputation, increased insurance costs, increased service and warranty costs, and warranty or breach of contract claims. Although we attempt to reduce the risk of losses resulting from warranty or breach of contract claims through warranty disclaimers and liability limitation clauses in our agreements when we can, these contractual provisions are sometimes rejected or limited and may not be enforceable in every instance. If a court refuses to enforce the liability limiting provisions of our contracts for any reason, or if liabilities arise that were not contractually limited or adequately covered by insurance, the expense associated with defending these actions or paying the resultant claims could be significant.