LIGHTPATH TECHNOLOGIES INC
Form 10-K/A
December 17, 2015

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K/A

Amendment No. 1

(Mark One)

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

For the fiscal year ended June 30, 2015

OR

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

For the transition period from ______ to ______

Commission file number 000-27548

LIGHTPATH TECHNOLOGIES, INC.

(Exact name of registrant as specified in its charter)

DELAWARE **(State or other jurisdiction of incorporation or organization)** **http://www.lightpath.com**	**86-0708398** **(I.R.S. Employer Identification No)**
2603 Challenger Tech Court, Suite 100 **Orlando, Florida 32826** **(Address of principal executive offices, including zip code)**	**(407) 382-4003** **(Registrant's telephone number, including area code)**

Securities registered pursuant to Section 12(b) of the Act:

None **(Title of each class)**	**None** **(Name of each exchange on which registered)**

Securities registered pursuant to Section 12(g) of the Act:

Class A Common Stock, $.01 par value

Series D Participating Preferred Stock Purchase Rights

(Title of Class)

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

YES NO

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act.

YES NO

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 and 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 (§ 232.405 of this chapter) 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 if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer", "accelerated filer", "non-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

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

The aggregate market value of the registrant's voting stock held by non-affiliates (based on the closing sale price of the registrant's Common Stock on the NASDAQ Capital Market, and for the purpose of this computation only, on the assumption that all of the registrant's directors and officers as well as two parties filing on Form SC 13-G, are affiliates) was approximately $8,645,439 as of December 31, 2014.

As of September 14, 2015, the number of shares of the registrant's Class A Common Stock outstanding was 15,239,775.

EXPLANATORY NOTE

This Amendment No. 1 on Form 10-K/A (this “Amendment”) to LightPath Technologies, Inc.’s Annual Report on Form 10-K for the fiscal year ended June 30, 2015, originally filed with the Securities and Exchange Commission on September 22, 2015 (the “Original Filing”), is being filed for the purpose of: (i) including a revised consent from Cross, Fernandez & Riley LLP (“CFR”), which was inadvertently dated as of September 4, 2014 and (ii) including a revised report of CFR, which was inadvertently dated as of September 22, 2015. For purposes of this Amendment, and in accordance with Rule 12b-15 promulgated under the Securities and Exchange Act of 1934, as amended, Item 8 and Item 15 of the Original Filing has been amended and restated in its entirety. Except as described above, no other changes have been made to the Original Filing, and the Amendment does not modify, amend, or update in any way any of the financial or other information contained in the Original Filing. This Amendment does not reflect events that may have occurred subsequent to the filing date of the Original Filing.

Pursuant to Rule 12b-15 promulgated under the Securities Exchange Act of 1934, as amended, this Amendment also contains new certifications pursuant to Section 302 and Section 906 of the Sarbanes-Oxley Act of 2002, which are filed herewith.

Capitalized terms used but not otherwise defined in this Amendment have the meanings given in the Original Filing.

Item 8.

Financial Statements and Supplementary Data.

LightPath Technologies, Inc.

Index to Consolidated Financial Statements

Report of Independent Registered Public Accounting Firm

The Board of Directors and Shareholders

LightPath Technologies, Inc.

We have audited the accompanying consolidated balance sheet of LightPath Technologies, Inc., and its subsidiaries (the “Company”) as of June 30, 2015, and the related consolidated statements of comprehensive loss, stockholders’ equity, and cash flows for the year then ended. These consolidated financial statements are the responsibility of the Company’s management. Our responsibility is to express an opinion on these consolidated financial statements based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. Our audit included consideration of internal control over financial reporting as a basis for designing our audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company’s internal control over financial reporting. Accordingly, we express no such opinion. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the Company as of June 30, 2015, and the results of their operations and their cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

/s/ BDO USA, LLP

Orlando, Florida

September 22, 2015

F-2

Report of Independent Registered Public Accounting Firm

The Board of Directors and Shareholders

LightPath Technologies, Inc.

We have audited the accompanying consolidated balance sheet of LightPath Technologies, Inc., and its subsidiaries (the "Company") as of June 30, 2014, and the related consolidated statements of comprehensive loss, stockholders' equity, and cash flows for the year then ended. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. Our audit included consideration of internal control over financial reporting as a basis for designing our audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the Company as of June 30, 2014, and the results of their operations and their cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

/s/ Cross, Fernandez & Riley, LLP

Orlando, Florida

September 4, 2014

F-3

LIGHTPATH TECHNOLOGIES, INC.

Consolidated Balance Sheets

Assets	**June 30, 2015**	**June 30, 2014**
Current assets:		
Cash and cash equivalents	$1,643,920	$1,197,080
Trade accounts receivable, net of allowance of $6,282 and $5,801	3,048,754	2,472,876
Inventories, net	3,181,377	3,322,983
Other receivables	253,880	199,976
Prepaid expenses and other assets	244,075	298,203
Total current assets	8,372,006	7,491,118
Property and equipment, net	4,275,552	3,173,905
Other assets	66,964	27,737
Total assets	$12,714,522	$10,692,760
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable	$1,551,885	$1,809,532
Accrued liabilities	84,039	124,582
Accrued payroll and benefits	842,506	477,623
Loan payable, current portion	51,585	54,982
Capital lease obligation, current portion	166,454	6,196
Total current liabilities	2,696,469	2,472,915
Capital lease obligation, less current portion	310,260	6,270
Deferred rent	512,679	76,490
Warrant liability	1,195,470	731,431
Loan payable, less current portion	—	109,963
Total liabilities	4,714,878	3,397,069
Commitments and contingencies (Notes 12, 13 and 17)		
Stockholders' equity:		
Preferred stock: Series D, $.01 par value, voting; 5,000,000 shares authorized; none issued and outstanding	—	—
Common stock: Class A, $.01 par value, voting; 40,000,000 shares authorized; 15,235,073 and 14,293,305 shares issued and outstanding, respectively	152,351	142,933
Additional paid-in capital	213,222,950	211,812,134
Accumulated other comprehensive income	50,680	51,681
Accumulated deficit	(205,426,337)	(204,711,057)
Total stockholders' equity	7,999,644	7,295,691
Total liabilities and stockholders' equity	$12,714,522	$10,692,760

The accompanying notes are an integral part of these consolidated statements.

LIGHTPATH TECHNOLOGIES, INC.

Consolidated Statements of Comprehensive Loss

	Year ended 2015	2014
Product sales, net	$13,661,569	$11,834,116
Cost of sales	7,682,194	6,444,699
Gross margin	5,979,375	5,389,417
Operating expenses:		
Selling, general and administrative	5,132,730	4,514,413
New product development	1,109,095	1,215,472
Amortization of intangibles	—	35,397
(Gain) Loss on disposal of equipment	(1,482)	550
Total costs and expenses	6,240,343	5,765,832
Operating loss	(260,968)	(376,415)
Other income (expense)		
Interest expense	(18,279)	(1,343)
Interest expense - debt costs	(13,270)	(35,338)
Change in fair value of warrant liability	(464,039)	93,520
Other income	41,276	6,327
Net loss	$(715,280)	$(313,249)
Loss per share - basic and diluted	$(0.05)	$(0.02)
Number of shares used in per share calculation- basic and diluted	14,711,586	14,002,093
Foreign currency translation adjustment	(1,001)	(1,055)
Comprehensive loss	$(716,281.00)	$(314,304.00)

The accompanying notes are an integral part of these consolidated statements.

LIGHTPATH TECHNOLOGIES, INC.

Consolidated Statement of Stockholders' Equity

Years ended June 30, 2015 and 2014

	Class A Common Stock Shares	Amount	Additional Paid-in Capital	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit	Total Stockholders' Equity
Balances at June 30, 2013	12,958,239	$129,582	$209,645,126	$ 52,736	$(204,397,808)	5,429,636
Issuance of common stock for:						
Exercise of warrants, net of costs	1,136,142	11,362	1,527,699	—	—	1,539,061
Employee Stock Purchase Plan	7,764	77	7,336	—	—	7,413
Exercise of RSU or options	191,160	1,912	(1,912)	—	—	—
Reclassification of warrant liability upon exercise			277,070	—	—	277,070
Stock based compensation on stock options & RSU	—	—	356,815	—	—	356,815
Foreign currency translation adjustment	—	—	—	(1,055)	—	(1,055)
Net loss	—	—	—	—	(313,249)	(313,249)
Balances at June 30, 2014	14,293,305	$142,933	$211,812,134	$ 51,681	$(204,711,057)	7,295,691
Issuance of common stock for:						
Employee Stock Purchase Plan	10,978	110	13,120	—	—	13,230
Private placement of common stock	930,790	9,308	1,112,746	—	—	1,122,054
Stock based compensation on stock options & RSU	—	—	284,950	—	—	284,950
Foreign currency translation adjustment	—	—	—	(1,001)	—	(1,001)
Net loss	—	—	—	—	(715,280)	(715,280)
Balances at June 30, 2015	15,235,073	$152,351	$213,222,950	$ 50,680	$(205,426,337)	$7,999,644

The accompanying notes are an integral part of these consolidated statements.

LIGHTPATH TECHNOLOGIES, INC.

Consolidated Statements of Cash Flows

	Year ended June 30, 2015	2014
Cash flows from operating activities		
Net loss	$(715,280)	$(313,249)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:		
Depreciation and amortization	537,143	666,322
Interest from amortization of debt costs	13,270	35,338
(Gain) Loss on disposal of property and equipment	(1,482)	550
Stock based compensation	284,950	356,815
Provision for doubtful accounts receivable	(15,745)	(8,864)
Change in fair value of warrant liability	464,039	(93,520)
Deferred rent	16,175	(143,726)
Changes in operating assets and liabilities:		
Trade accounts receivables	(560,133)	(337,105)
Other receivables	(53,904)	153,554
Inventories	141,606	(1,106,514)
Prepaid expenses and other assets	1,631	(91,407)
Accounts payable and accrued liabilities	66,693	794,995
Deferred revenue	—	(1,966)
Net cash provided by (used in) operating activities	178,963	(88,777)
Cash flows from investing activities		
Purchase of property and equipment	(693,634)	(1,982,313)
Cash flows from financing activities		
Proceeds from sale of common stock, net of costs	1,122,054	—
Proceeds from sale of common stock from employee stock purchase plan	13,230	7,413
Proceeds from exercise of warrants, net of costs	—	1,539,061
Net borrowings (payments) on loan payable	(113,360)	164,945
Payments on capital lease obligations	(59,412)	(7,409)
Net cash provided by financing activities	962,512	1,704,010
Effect of exchange rate on cash and cash equivalents	(1,001)	(1,055)
Change in cash and cash equivalents	446,840	(368,135)
Cash and cash equivalents, beginning of period	1,197,080	1,565,215
Cash and cash equivalents, end of period	$1,643,920	$1,197,080
Supplemental disclosure of cash flow information:		
Interest paid in cash	$18,280	$1,343
Income taxes paid	2,316	2,988
Vesting of restricted stock units	—	1,912
Supplemental disclosure of non-cash investing & financing activities:		
Landlord credits for leasehold improvements	420,014	—
Purchase of equipment through capital lease arrangements	523,660	12,972

Reclassification of tooling costs to inventory	—	425,686
Reclassification of warrant liability upon exercise	—	277,070

The accompanying notes are an integral part of these consolidated statements.

1. Organization and History

LightPath Technologies, Inc. ("LightPath", the "Company", "we", "us" or "our") was incorporated in Delaware in 1992. It was the successor to LightPath Technologies Limited Partnership formed in 1989, and its predecessor, Integrated Solar Technologies Corporation formed in 1985. On April 14, 2000, the Company acquired Horizon Photonics, Inc. ("Horizon"). On September 20, 2000, the Company acquired Geltech, Inc. ("Geltech"). The Company completed its initial public offering ("IPO") during fiscal 1996. In November 2005, we formed LightPath Optical Instrumentation (Shanghai) Co., Ltd ("LPOI"), a wholly-owned subsidiary located in Jiading, People's Republic of China. In December 2013, we formed LightPath Optical Instrumentation (Zhenjiang) Co., Ltd ("LPOIZ"), a wholly-owned subsidiary located in Zhenjiang, Jiangsu Province, People's Republic of China.

LightPath is a manufacturer and integrator of families of precision molded aspheric optics, high-performance fiber-optic collimator, GRADIUM glass lenses and other optical materials used to produce products that manipulate light. LightPath designs, develops, manufactures and distributes optical components and assemblies utilizing the latest optical processes and advanced manufacturing technologies. LightPath also performs research and development for optical solutions for the traditional optics markets and communications markets. As used herein, the terms "LightPath," the "Company," "we," "us" or "our," refer to LightPath individually or, as the context requires, collectively with its subsidiaries on a consolidated basis.

2. Summary of Significant Accounting Policies

Consolidated financial statements include the accounts of the Company and its wholly-owned subsidiaries. All significant intercompany balances and transactions have been eliminated in consolidation.

Cash and cash equivalents consist of cash in the bank and temporary investments with maturities of 90 days or less when purchased.

Allowance for accounts receivable, is calculated by taking 100% of the total of invoices that are over 90 days past due from the due date and 10% of the total of invoices that are over 60 days past due from the due date for U.S. based accounts and 100% of invoices that are over 120 days past due for China based accounts. Accounts receivable are customer obligations due under normal trade terms. The Company performs continuing credit evaluations of its customers' financial condition. If the Company's actual collection experience changes, revisions to its allowance may be required. After all attempts to collect a receivable have failed, the receivable is written off against the allowance.

Inventories, which consist principally of raw materials, tooling, work-in-process and finished lenses, collimators and assemblies are stated at the lower of cost or market, on a first-in, first-out basis. Inventory costs include materials, labor and manufacturing overhead. Acquisition of goods from our vendors has a purchase burden added to cover customs, shipping and handling costs. Fixed costs related to excess manufacturing capacity have been expensed. We look at the following criteria for parts to consider for the inventory reserve: items that have not been sold in two years or that have not been purchased in two years or of which we have more than a two-year supply. These items as identified are reserved at 100%, as well as reserving 50% for other items deemed to be slow moving within the last twelve months and reserving 25% for items deemed to have low material usage within the last six months. The parts identified are adjusted for recent order and quote activity to determine the final inventory reserve.

Property and equipment are stated at cost and depreciated using the straight-line method over the estimated useful lives of the related assets ranging from one to ten years. Leasehold improvements are amortized over the shorter of the lease term or the estimated useful lives of the related assets using the straight-line method. Construction in process represents the accumulated costs of assets not yet placed in service and primarily relates to manufacturing equipment.

Long-lived assets, such as property, plant, and equipment and purchased intangibles subject to amortization, are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to its estimated undiscounted future cash flows expected to be generated by the asset. If the carrying amount of an asset exceeds its estimated future cash flows, an impairment charge is recognized in the amount by which the carrying amount of the asset exceeds the fair value of the asset. Assets to be disposed of would be separately presented in the balance sheet and reported at the lower of the carrying amount or fair value less costs to sell, and are no longer depreciated. The assets and liabilities of a disposed group classified as held for sale would be presented separately in the appropriate asset and liability sections of the balance sheet.

Deferred rent relates to certain of the Company's operating leases containing predetermined fixed increases of the base rental rate during the lease term being recognized as rental expense on a straight-line basis over the lease term, as well as applicable leasehold improvement incentives provided by the landlord. The Company has recorded the difference between the amounts charged to operations and amounts payable under the leases as deferred rent in the accompanying consolidated balance sheets.

Income taxes are accounted for under the asset and liability method. Deferred income tax assets and liabilities are computed on the basis of differences between the financial statement and tax basis of assets and liabilities that will result in taxable or deductible amounts in the future based upon enacted tax laws and rates applicable to the periods in which the differences are expected to affect taxable income. Valuation allowances have been established to reduce deferred tax assets to the amount expected to be realized.