

Summer Infant, Inc.  
Form 10-Q  
November 14, 2013  
[Table of Contents](#)

**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 September 30, 2013**

**Summer Infant, Inc.**

(Exact Name of Registrant as Specified in Its Charter)

Commission file number **001-33346**

**Delaware**  
(State or Other Jurisdiction  
Of Incorporation or Organization)

**20-1994619**  
(IRS Employer Identification No.)

**1275 Park East Drive**  
**Woonsocket, RI 02895**  
(Address of principal executive offices) (Zip Code)

**(401) 671-6550**  
(Registrant's telephone number, including area code)

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

Edgar Filing: Summer Infant, Inc. - Form 10-Q

to such filing requirements for the last 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 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   
Non-accelerated filer   
(Do not check if a smaller reporting company)

Accelerated filer   
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

As of November 1, 2013, there were 17,972,969 shares outstanding of the registrant's Common Stock, \$.0001 par value per share.

---

Table of Contents

**Summer Infant, Inc.**

**Form 10-Q**

**Table of Contents**

	<b>Page Number</b>	
<u>Part I.</u>	<u>Financial Information</u>	
<u>Item 1.</u>	<u>Condensed Consolidated Financial Statements (unaudited)</u>	1
	<u>Condensed Consolidated Balance Sheets September 30, 2013 (unaudited) and December 31, 2012</u>	1
	<u>Condensed Consolidated Statements of Operations for the three and nine months ended September 30, 2013 and 2012 (unaudited)</u>	2
	<u>Condensed Consolidated Statements of Comprehensive Loss for the three and nine months ended September 30, 2013 and 2012 (unaudited)</u>	3
	<u>Condensed Consolidated Statements of Cash Flows for the nine months ended September 30, 2013 and 2012 (unaudited)</u>	4
	<u>Notes to Condensed Consolidated Financial Statements</u>	5
<u>Item 2.</u>	<u>Management's Discussion and Analysis of Financial Condition and Results of Operations</u>	11
<u>Item 3.</u>	<u>Quantitative and Qualitative Disclosure About Market Risk</u>	18
<u>Item 4.</u>	<u>Controls and Procedures</u>	18
<u>Part II.</u>	<u>Other Information</u>	
<u>Item 1.</u>	<u>Legal Proceedings</u>	19
<u>Item 1A.</u>	<u>Risk Factors</u>	19
<u>Item 2.</u>	<u>Unregistered Sales of Equity Securities and Use of Proceeds</u>	19
<u>Item 3.</u>	<u>Defaults Upon Senior Securities</u>	19
<u>Item 4.</u>	<u>Mine Safety Disclosures</u>	19
<u>Item 5.</u>	<u>Other Information</u>	19
<u>Item 6.</u>	<u>Exhibits</u>	19
<u>Signatures</u>		20

---

Table of Contents**PART I. FINANCIAL INFORMATION****ITEM 1. Condensed Consolidated Financial Statements (unaudited)****Summer Infant, Inc. and Subsidiaries****Condensed Consolidated Balance Sheets**

Note that all amounts presented in the table below are in thousands of U.S. dollars, except share amounts and par value amounts.

	<b>Unaudited September 30, 2013</b>	<b>December 31, 2012</b>
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>		
Cash and cash equivalents	\$ 1,426	\$ 3,132
Trade receivables, net of allowance for doubtful accounts	35,328	45,299
Inventory, net	39,960	49,823
Prepays and other current assets	2,009	2,483
Deferred tax assets	1,185	1,185
<b>TOTAL CURRENT ASSETS</b>	<b>79,908</b>	<b>101,922</b>
Property and equipment, net	14,984	16,834
Other intangible assets, net	21,032	21,556
Other assets	1,563	8
<b>TOTAL ASSETS</b>	<b>\$ 117,487</b>	<b>\$ 140,320</b>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
<b>CURRENT LIABILITIES</b>		
Accounts payable and accrued expenses	\$ 30,992	\$ 37,138
Current portion of long term debt (including capital leases)	2,075	770
<b>TOTAL CURRENT LIABILITIES</b>	<b>33,067</b>	<b>37,908</b>
Long-term debt, less current portion	47,409	64,767
Other liabilities	3,349	3,498
Deferred tax liabilities	4,205	4,194
<b>TOTAL LIABILITIES</b>	<b>88,030</b>	<b>110,367</b>
<b>STOCKHOLDERS' EQUITY</b>		
Preferred Stock, \$0.0001 par value, 1,000,000 authorized, none issued or outstanding at September 30, 2013 and December 31, 2012, respectively		
Common Stock \$0.0001 par value, authorized, issued and outstanding of 49,000,000, 18,244,618, and 17,972,969 at September 30, 2013 and 49,000,000, 18,133,945, and 17,862,296 at December 31, 2012, respectively	2	2
	(1,283)	(1,283)

Edgar Filing: Summer Infant, Inc. - Form 10-Q

Treasury Stock at cost (271,649 shares at September 30, 2013 and December 31, 2012, respectively)				
Additional paid-in capital		73,551		72,790
Accumulated deficit		(42,490)		(41,352)
Accumulated other comprehensive loss		(323)		(204)
<b>TOTAL STOCKHOLDERS EQUITY</b>		<b>29,457</b>		<b>29,953</b>
<b>TOTAL LIABILITIES AND STOCKHOLDERS EQUITY</b>	<b>\$</b>	<b>117,487</b>	<b>\$</b>	<b>140,320</b>

See notes to condensed consolidated financial statements

Table of Contents**Summer Infant, Inc. and Subsidiaries****Condensed Consolidated Statements of Operations**

Note that all amounts presented in the table below are in thousands of U.S. dollars, except share and per share amounts.

	Unaudited For the three months ended		Unaudited For the nine months ended	
	September 30, 2013	September 30, 2012	September 30, 2013	September 30, 2012
Net sales	\$ 50,538	\$ 63,984	\$ 163,435	\$ 188,714
Cost of goods sold	35,521	44,359	112,859	127,198
Gross profit	15,017	19,625	50,576	61,516
General & administrative expenses	9,298	10,209	28,196	31,707
Selling expense	4,855	7,968	16,054	21,739
Depreciation and amortization	1,499	2,050	4,916	5,728
Impairment of goodwill and intangibles		69,796		69,796
Operating income (loss)	(635)	(70,398)	1,410	(67,454)
Interest expense, net	(945)	(938)	(3,128)	(2,557)
Loss before benefit for income taxes	(1,580)	(71,336)	(1,718)	(70,011)
Benefit for income taxes	(304)	(6,310)	(581)	(5,883)
NET LOSS	\$ (1,276)	\$ (65,026)	\$ (1,137)	\$ (64,128)
Net loss per share:				
BASIC	\$ (0.07)	(3.63)	\$ (0.06)	(3.59)
DILUTED	\$ (0.07)	(3.63)	\$ (0.06)	(3.59)
Weighted average shares outstanding:				
BASIC	17,968,977	17,926,885	17,912,970	17,870,502
DILUTED	17,968,977	17,926,885	17,912,970	17,870,502

See notes to condensed consolidated financial statements.



Table of Contents**Summer Infant, Inc. and Subsidiaries****Condensed Consolidated Statements of Comprehensive Loss**

Note that all amounts presented in the table below are in thousands of U.S. dollars.

	Unaudited For the three months ended		Unaudited For the nine months ended	
	September 30, 2013	September 30, 2012	September 30, 2013	September 30, 2012
Net loss	\$ (1,276)	\$ (65,026)	\$ (1,137)	\$ (64,128)
Other comprehensive income/(loss):				
Changes in foreign currency translation adjustments	383	124	(118)	(113)
Comprehensive loss	\$ (893)	\$ (64,902)	\$ (1,255)	\$ (64,241)

See notes to condensed consolidated financial statements.



Table of Contents

**Summer Infant, Inc. and Subsidiaries**  
**Condensed Consolidated Statements of Cash Flows**

Note that all amounts presented in the table below are in thousands of U.S. dollars.

	Unaudited For the nine months ended	
	September 30, 2013	September 30, 2012
Cash flows from operating activities:		
Net loss	\$ (1,137)	\$ (64,128)
Adjustments to reconcile net loss to net cash (used in) provided by operating activities		
Impairment of goodwill and intangible assets		69,796
Depreciation and amortization	4,916	5,728
Stock-based compensation expense	729	766
Loss on asset disposal	70	
Changes in assets and liabilities:		
(Increase)/Decrease in trade receivables	9,994	(4,975)
Decrease in inventory	9,876	1,849
(Increase)/Decrease in prepaids and other assets	(1,076)	724
(Decrease) in accounts payable and accrued expenses	(6,319)	(9,718)
Net cash provided by operating activities	\$ 17,053	\$ 42
Cash flows from investing activities:		
Acquisitions of other intangible assets	(280)	
Proceeds from sale of assets	138	
Acquisitions, net of cash acquired	(87)	
Acquisitions of property and equipment	(2,369)	(3,806)
Net cash used in investing activities	\$ (2,598)	\$ (3,806)
Cash flows from financing activities:		
Proceeds from exercise of stock options	32	417

Edgar Filing: Summer Infant, Inc. - Form 10-Q

Net (repayment)/borrowings on financing arrangements		(16,053)		14,144
Net cash (used in)/provided by financing activities	\$	(16,021)	\$	14,561
Effect of exchange rate changes on cash and cash equivalents		(140)		(113)
Net (decrease)/increase in cash and cash equivalents	\$	(1,706)	\$	10,684
Cash and cash equivalents, beginning of period		3,132		1,215
Cash and cash equivalents, end of period	\$	1,426	\$	11,899
Supplemental disclosure of cash flow information:				
Cash payments on capital lease obligations	\$	592	\$	313
Cash paid for interest	\$	2,634	\$	2,385
Cash paid for income taxes	\$	79	\$	18

See notes to condensed consolidated financial statements.

Table of Contents

**SUMMER INFANT, INC. AND SUBSIDIARIES**

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

**(amounts in thousands of U.S. dollars, except share and per share data)**

**1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

*Nature of Operations*

The Company is a global designer, marketer, and distributor of branded juvenile health, safety and wellness products (for ages 0-3) which are sold principally to large North American and European retailers. The Company currently markets its products in several product categories such as monitors, safety, nursery, feeding, gear and furniture. Most products are sold under the core brand names of Summer® and Born Free®. Significant products include audio/video monitors, safety gates, bath tubs and bathers, durable bath products, bed rails, swaddling blankets, baby bottles, warming/sterilization systems, booster and potty seats, bouncers, travel accessories, high chairs, swings, car seats, strollers, and nursery furniture. Over the years, the Company has completed several acquisitions and added products such as cribs, swaddling, and feeding products.

*Basis of Presentation and Principles of Consolidation*

The accompanying interim condensed consolidated financial statements of Summer Infant, Inc. (the Company or Summer ) are unaudited, but in the opinion of management, reflect all adjustments, consisting of normal recurring accruals, necessary for a fair presentation of the results for the interim periods. Accordingly, they do not include all information and notes required by generally accepted accounting principles in the United States of America ( GAAP ) for complete financial statements. The results of operations for interim periods are not necessarily indicative of results to be expected for the entire fiscal year or any other period. The balance sheet at December 31, 2012 has been derived from the audited financial statements at that date but does not include all of the information and footnotes required by GAAP for complete financial statements. These interim condensed consolidated financial statements should be read in conjunction with the Company s consolidated financial statements and notes for the year ended December 31, 2012 included in its Annual Report on Form 10-K filed with the SEC on March 13, 2013.

It is the Company s policy to prepare its financial statements on the accrual basis of accounting in conformity with GAAP. The consolidated financial statements include the accounts of its wholly-owned subsidiaries. All significant intercompany accounts and transactions have been eliminated in the consolidation.

All dollar amounts included in the Notes to Condensed Consolidated Financial Statements are in thousands of U.S. dollars except share and per share amounts. Certain items in prior year financials were reclassified to conform to current year presentation including the reporting of selling expenses separate from general and administrative expenses. The intangible asset impairment charge in the third quarter of 2012 has been retrospectively adjusted to properly state the interim periods within the fiscal year ended December 31, 2012.

*Revenue Recognition*

The Company records revenue when all of the following occur: persuasive evidence of an arrangement exists, product delivery has occurred, the sales price to the customer is fixed or determinable, and collectability is reasonably assured. Sales are recorded net of provisions for returns and allowances, customer discounts, and other sales-related discounts. The Company bases its estimates for discounts, returns and allowances on negotiated customer terms and historical experience. Customers do not have the right to return products unless the products are defective. The Company records a reduction of sales for estimated future defective product deductions based on historical experience.

Sales incentives or other consideration given by the Company to customers that are considered adjustments to the selling price of the Company's products, such as markdowns, are reflected as reductions of revenue. Sales incentives and other consideration that represent costs incurred by the Company for assets or services received, such as the appearance of the Company's products in a customer's national circular ad, are reflected as selling expenses in the accompanying condensed consolidated statements of operations.

Table of Contents

*Income Taxes*

Income taxes are computed using the asset and liability method of accounting. Under the asset and liability method, a deferred income tax asset or liability is recognized for estimated future tax effects attributable to temporary differences and carry-forwards. The measurement of deferred income tax assets is adjusted by a valuation allowance, if necessary, to recognize future tax benefits only to the extent, based on available evidence, that it is more likely than not that such benefits will be realized.

Tax positions must meet a more-likely-than-not recognition threshold at the effective date to be recognized upon adoption and in subsequent periods. At September 30, 2013 and December 31, 2012, the Company did not have any uncertain tax positions. No interest and penalties related to uncertain tax positions were accrued at September 30, 2013 and December 31, 2012.

The Company's federal tax return for the year ended December 31, 2009 was audited by the Internal Revenue Service and all taxes and interest have been paid. The Company expects no material changes to unrecognized tax positions within the next twelve months.

*Use of Estimates*

The preparation of financial statements in accordance with GAAP requires management to make estimates and assumptions that affect certain reported amounts and disclosures. These estimates are based on management's best knowledge of current events and actions the Company may undertake in the future. Accordingly, actual results could differ from those estimates.

*Net Income Per Share*

Basic earnings per share for the Company are computed by dividing net income by the weighted-average number of shares of common stock outstanding during the period. Diluted earnings per share includes the dilutive impact of outstanding stock options and unvested restricted shares.

*Translation of Foreign Currencies*

All assets and liabilities of the Company's foreign affiliates, whose functional currency is not U.S. dollars, are translated into U.S. dollars at the exchange rate in effect at the end of the quarter and the income and expense accounts of these affiliates have been translated at average rates prevailing during each respective quarter. Resulting translation adjustments are made to a separate component of stockholders' equity within accumulated other comprehensive income or loss.

*Recently Issued Accounting Pronouncements*

In July 2013, the FASB issued an amendment to the accounting guidance related to the financial statement presentation of an unrecognized tax benefit when a net operating loss carryforward, a similar tax loss or a tax credit carryforward exists. The guidance requires an unrecognized tax benefit to be presented as a decrease in a deferred tax asset where a net operating loss, a similar tax loss, or a tax credit carryforward exists and certain criteria are met. This guidance is effective prospectively for annual and interim reporting periods beginning after December 15, 2013. The Company is currently evaluating the potential impact of the adoption of this guidance on its consolidated financial statements.

**2. DEBT**

*Credit Facilities*

On February 28, 2013, the Company and its subsidiary, Summer Infant (USA), Inc., entered into a new loan and security agreement (as amended, the BofA Agreement ) with Bank of America, N.A., as agent, the financial institutions party to the agreement from time to time as lenders, and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as sole lead arranger and sole book runner. The BofA Agreement replaced the Company's prior credit

Table of Contents

facility with Bank of America. The Company also entered into a term loan with Salus Capital Partners, which is described below under Term Loan.

*BofA Agreement*

The BofA Agreement provides for an \$80,000, asset-based revolving credit facility, with a \$10,000 letter of credit sub-line facility. The total borrowing capacity is based on a borrowing base, which is defined as 85% of eligible receivables plus the lesser of (i) 70% of the value of eligible inventory or (ii) 85% of the net orderly liquidation value of eligible inventory and less reserves. Total borrowing capacity under the BofA Agreement at September 30, 2013 was \$50,153 and borrowing availability was \$16,153. The Company was in compliance with the financial covenants under the BofA Agreement at September 30, 2013.

The scheduled maturity date of loans under the BofA Agreement is February 28, 2018 (subject to customary early termination provisions). All obligations under the BofA Agreement are secured by substantially all the assets of the Company, subject to a first priority lien on certain assets held by the term-loan lender described below. In addition, Summer Infant Canada Limited and Summer Infant Europe Limited, subsidiaries of the Company, are guarantors under the BofA Agreement. Proceeds from the loans were used to satisfy existing debt, pay fees and transaction expenses associated with the closing of the BofA Agreement, pay obligations under the BofA Agreement, and will be used to make payments on the Term Loan and for other general corporate purposes, including working capital.

Loans under the BofA Agreement bear interest, at the Company's option, at a base rate or at LIBOR, plus applicable margins based on average quarterly availability under the BofA Agreement and ranging between 1.75% and 2.25% on LIBOR borrowings and 0.25% and 0.75% on base rate borrowings. Interest payments are due monthly, payable in arrears. The Company is also required to pay an annual non-use fee of 0.375% of the unused amounts under the BofA Agreement, as well as other customary fees as are set forth in the BofA Agreement. As of September 30, 2013 the base rate on loans was 4.0% and the LIBOR rate was 2.5%.

Under the BofA Agreement, the Company must comply with certain financial covenants, including that the Company (i) for the first year of the loan, maintain and earn a specified minimum, monthly consolidated EBITDA amount, with such specified amounts increasing over the first year of the loan to a minimum consolidated EBITDA of \$12,000 at February 28, 2014, and (ii) beginning with the fiscal quarter ending March 31, 2014, maintain a fixed charge coverage ratio of at least 1.0 to 1.0 for each period of four fiscal quarters most recently ended. For purposes of the financial covenants, consolidated EBITDA is defined as net income before interest, taxes, depreciation and amortization, plus certain customary expenses, fees and non-cash charges and minus certain customary non-cash items increasing net income.

The BofA Agreement contains customary affirmative and negative covenants. Among other restrictions, the Company is restricted in its ability to incur additional debt, make acquisitions or investments, dispose of assets, or make distributions unless in each case certain conditions are satisfied. The BofA Agreement also contains customary events of default, including a cross default with the term loan, the occurrence of a material adverse event and the occurrence or a change of control. In the event of a default, all of the obligations of the Company and its subsidiaries under the BofA Agreement may be declared immediately due and payable. For certain events of default relating to insolvency and receivership, all outstanding obligations would become due and payable.

*Prior Bank of America Loan Agreement*

## Edgar Filing: Summer Infant, Inc. - Form 10-Q

The BofA Agreement entered into in February 2013 replaced the Company's prior secured credit facility with Bank of America, N.A., as Administrative Agent, as set forth in the Amended and Restated Loan Agreement, dated August 2, 2010, as amended through November 7, 2012 (as amended, the Prior Loan Agreement). The Prior Loan Agreement provided for an \$80,000 working capital revolving credit facility. The amounts outstanding under the Prior Loan Agreement were payable in full upon maturity on December 31, 2013.

The Company had also entered into various interest rate swap agreements in the past which effectively fixed the interest rates on a portion of the outstanding debt, of which, the last agreement matured on June 7, 2012. In addition, the credit facility had an unused line fee based on the unused amount of the credit facility equal to 25 basis points.

The Prior Loan Agreement also contained customary events of default, including a cross default provision and a change of control provision. In the event of a default, all of the obligations of the Company and its subsidiaries



Table of Contents

under the loan Agreement may be declared immediately due and payable. For certain events of default relating to insolvency and receivership, all outstanding obligations become due and payable.

*Term Loan*

On February 28, 2013 the Company and its subsidiary, Summer Infant (USA), Inc., as borrowers, entered into a term-loan agreement (the *Term Loan Agreement* ) with Salus Capital Partners, LLC, as administrative agent and collateral agent, and each lender from time to time a party to the *Term Loan Agreement* providing for a \$15,000 term-loan (the *Term Loan* ).

Proceeds from the *Term Loan* were used to repay certain existing debt, and will also be used to finance the acquisition of working capital assets in the ordinary course of business, capital expenditures, and for other general corporate purposes. The *Term Loan* is secured by certain assets of the Company, including a first priority lien on intellectual property, plant, property and equipment, and a pledge of 65% of the ownership interests in certain subsidiaries of the Company. The *Term Loan* matures on February 28, 2018. In addition, Summer Infant Canada Limited and Summer Infant Europe Limited, subsidiaries of the Company, are guarantors under the *Term Loan Agreement*.

The principal of the *Term Loan* is being repaid, on a quarterly basis, in installments of \$375, commencing with the quarter ending September 30, 2013, until paid in full on termination. The *Term Loan* bears interest at an annual rate equal to LIBOR, plus 10%, with a LIBOR floor of 1.25%. Interest payments are due monthly, in arrears. As of September 30, 2013 the interest rate on the *Term Loan* was 11.25%.

The *Term Loan Agreement* contains customary affirmative and negative covenants substantially the same as the BofA Agreement described above. In addition, the Company must comply with certain financial covenants, including that the Company (i) meet the same minimum, monthly consolidated EBITDA as set forth in the BofA Agreement and (ii) initially maintain a monthly senior leverage ratio of 1:1. For periods after February 28, 2014, the senior leverage ratio will be based on an annual business plan to be approved by the Company's Board of Directors and will be tested monthly on a trailing twelve month basis. For purposes of the financial covenants in the *Term Loan Agreement*, the senior leverage ratio is the ratio of (i) all amounts outstanding under the *Term Loan Agreement* and the BofA Agreement to (ii) consolidated EBITDA for the twelve-month period ending as of the last day of the most recently ended fiscal month. The *Term Loan Agreement* also contains events of default, including a cross default with the BofA agreement, the occurrence of a material adverse event, the occurrence of a change of control, and the recall of products having a value of \$2,000 or more. In the event of a default, all of the obligations of the Company and its subsidiaries under the *Term Loan Agreement* may be declared immediately due and payable. For certain events of default relating to insolvency and receivership, all outstanding obligations would become due and payable.

The amount outstanding on the *Term Loan* at September 30, 2013 was \$14,625.

The Company was in compliance with the financial covenants under the BofA Agreement and the *Term Loan* at September 30, 2013.

Aggregate maturities of bank debt related to the BofA credit facility and *Term Loan* are as follows:

Edgar Filing: Summer Infant, Inc. - Form 10-Q

Year ending December 31:	2013	\$	375
	2014	\$	1,500
	2015	\$	1,500
	2016	\$	1,500
	2017	\$	1,500
	2018	\$	42,250
	Total	\$	48,625

Table of Contents*November Debt Amendments*[EF1]

As discussed below in Note 7. Subsequent Events, on November 8, 2013, the Company entered into an amendment to the BofA Agreement and an amendment to the Term Loan Agreement. Under these amendments, certain financial covenants of the Company under the BofA Agreement and the Term Loan Agreement were modified.

**3. INTANGIBLE ASSETS**

Intangible assets consist of the following:

	September 30, 2013	December 31, 2012
Brand names net	\$ 14,808	\$ 14,812
Patents and licenses	2,544	2,221
Customer relationships	6,946	6,946
Other intangibles	1,886	1,882
	\$ 26,184	\$ 25,861
Less: Accumulated amortization	(5,152)	(4,305)
Intangible assets, net	\$ 21,032	\$ 21,556

The amortization period for the majority of the intangible assets ranges from 5 to 20 years for those assets that have an estimated life; certain of the assets have indefinite lives (brand names). Total of intangibles not subject to amortization amounted to \$12,308 at September 30, 2013 and December 31, 2012.

**4. COMMITMENTS AND CONTINGENCIES***Litigation*

The Company is a party to routine litigation and administrative complaints incidental to its business. The Company does not believe that the resolution of any or all of such routine litigation and administrative complaints is likely to have a material adverse effect on the Company's financial condition or results of operations.

**5. SHARE BASED COMPENSATION**

The Company has granted stock awards, stock options and restricted shares under its 2006 Performance Equity Plan ( 2006 Plan ) and its 2012 Incentive Compensation Plan (the 2012 Plan ). Under the 2006 Plan, awards may be granted to participants in the form of Non-Qualified Stock Options, Incentive Stock Options, Restricted Stock, Deferred Stock, Stock Reload Options and other share-based awards. Under the 2012 Plan, awards may be granted to participants in the form of stock options, restricted stock, restricted stock units, other stock-based awards and performance awards. Subject to the provisions of each plan, awards may be granted to employees, officers, directors, advisors and consultants who are deemed to have rendered or are able to render significant services to the Company or its subsidiaries and who are deemed to have contributed or to have the potential to contribute to the Company 's success. The Company accounts for options under the fair value recognition standard. Share-based compensation expense is included in selling, general and administrative expenses. There were no share-based payment arrangements capitalized as part of the cost of an asset.

The fair value of each option award is estimated on the date of grant using the Black-Scholes option valuation model that uses the assumptions noted in the following table. The Company uses the simplified method for grants of plain vanilla stock options based on a formula prescribed by the SEC to estimate the expected term of the options. Forfeitures are estimated at the time of grant and revised, if necessary, in subsequent periods if actual forfeitures differ from those estimates.

Share-based compensation expense for the three and nine months ended September 30, 2013 and 2012 was approximately \$213 and \$729 and \$148 and \$766, respectively. As of September 30, 2013, there were 1,484,580 stock options outstanding and 306,514 unvested restricted shares outstanding.

Table of Contents

During the nine months ended September 30, 2013, the Company granted 343,000 stock options and granted 221,750 shares of restricted stock, respectively. There were no grants of stock options grants or restricted stock awards in the three months ended September 30, 2013. The following table summarizes the weighted average assumptions used for stock options granted during the quarters and periods ended September 30, 2013 and 2012.

Expected life (in years)	6.0
Risk-free interest rate	1.71%
Volatility	55%
Dividend yield	0%
Forfeiture rate	10%

The Company is authorized to issue up to 3,000,000 stock options and restricted shares under the 2006 Plan. As of September 30, 2013, there were no shares available to grant under the 2006 Plan.

The Company is authorized to issue up to 500,000 shares of common stock for share-based awards under its 2012 Incentive Compensation Plan. As of September 30, 2013, 477,500 shares remain available to grant under this plan.

**6. WEIGHTED AVERAGE COMMON SHARES**

Basic and diluted earnings or loss per share ( EPS ) is based upon the weighted average number of common shares outstanding during the period. The Company does not include the anti-dilutive effect of common stock equivalents, including stock options, in computing net income (loss) per diluted common share. The computation of per diluted common shares for the three and nine months ended September 30, 2013 excluded 1,484,580 and 306,514 of stock options and shares of restricted stock outstanding, respectively.

**7. SUBSEQUENT EVENTS**

The Company has evaluated subsequent events through the filing date of this Quarterly Report and determined that no subsequent events occurred that would require recognition in the consolidated financial statements or disclosure in the notes thereto except as set forth herein.

*BofA Agreement Amendment.* On November 8, 2013, the Company entered into an amendment (the BofA Amendment ) to the BofA Agreement described above in Note 2. The BofA Amendment amended the financial covenants in the BofA Agreement to provide that (i) the Company is no longer required to comply with the minimum EBITDA covenants for any period ending after September 30, 2013 and (ii) the Company maintain a trailing 12-month fixed charge coverage ratio of at least 1.0 to 1.0, tested on a monthly basis, from and after September 30, 2013.

## Edgar Filing: Summer Infant, Inc. - Form 10-Q

*Term Loan Agreement Amendment.* On November 8, 2013, the Company entered into an amendment (the *Term Loan Amendment* ) to the Term Loan Agreement described above in Note 2. The Term Loan Amendment amended the financial covenants in the Term Loan Agreement to provide that (i) the Company is no longer required to comply with the minimum EBITDA covenants for any period ending after September 30, 2013, (ii) the Company maintain a trailing 12-month fixed charge coverage ratio of at least 1.0 to 1.0, tested on a monthly basis, from and after September 30, 2013, and (iii) commencing February 28, 2014, the Company maintain a trailing 12-month senior leverage ratio, tested on a monthly basis of (a) no more than 6.0 to 1.0 for the periods ending on or before June 30, 2014, (b) no more than 5.5 to 1.0 for periods ending July 1, 2014 through September 30, 2014, and (c) no more than 5.0 to 1.0 for periods following September 30, 2014.

Table of Contents

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

*The statements contained in this Quarterly Report on Form 10-Q that are not purely historical are forward-looking information and statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. All forward-looking statements included in this document are based on information available to us on the date hereof. It is important to note that our actual results could differ materially from those projected in such forward-looking statements contained in this Form 10-Q. These forward-looking statements include statements concerning our expectations regarding: our business strategy and future growth and profitability; our ability to leverage our retail knowledge and to deliver high quality, innovative products to the marketplace; our ability to maintain our customer and supplier relationships; our ability to grow our business through increasing our presence in existing stores, expanding customer relationships, diversifying our customer base and entering new geographic locations; our ability to build our core brands through improved marketing; and our ability to improve our operational efficiency. These statements are based on current expectations that involve numerous risks and uncertainties. These risks and uncertainties include the concentration of our business with retail customers; the financial status of our customers and their ability to pay us in a timely manner; our ability to introduce new products or improve existing products that satisfy consumer preferences; our ability to develop new or improved products in a timely and cost-efficient manner; our ability to compete with larger and more financially stable companies in our markets; our ability to comply with financial and other covenants in our debt agreements; our dependence on key personnel; our reliance on foreign suppliers and potential disruption in foreign markets in which we operate; increases in the cost of raw materials used to manufacture our products; compliance with safety and testing regulations for our products; product liability claims arising from use of our products; unanticipated tax liabilities; an impairment of other intangible assets; and other risks as detailed in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2012, and subsequent filings with the Securities and Exchange Commission. All these matters are difficult or impossible to predict accurately, many of which may be beyond our control. Although we believe that the assumptions underlying our forward-looking statements are reasonable, any of the assumptions could be inaccurate and, therefore, there can be no assurance that the forward-looking statements included in this Form 10-Q will prove to be accurate.*

The following discussion is intended to assist in the assessment of significant changes and trends related to the results of operations and financial condition of Summer Infant, Inc. and its consolidated subsidiaries. This discussion and analysis should be read together with the consolidated financial statements and related notes included elsewhere in this filing and with the consolidated financial statements for the year ended December 31, 2012 appearing in our Annual Report on Form 10-K.

Note that all dollar amounts in this section are in thousands of U.S. dollars, except share and per share data.

**Overview**

Founded in 1985 and publicly traded on the Nasdaq Stock Market since 2007 under the symbol SUMR, we are a global designer, marketer, and distributor of branded juvenile health, safety and wellness products (for ages 0-3 years) that are sold principally to large North American and European retailers.

We currently market our products in the monitors, safety, nursery, gear, feeding, and furniture categories. Most of our products are sold under our core brand names of Summer® and Born Free®. We also market certain products under license agreements.

## Edgar Filing: Summer Infant, Inc. - Form 10-Q

Our products are sold globally primarily to large, national retailers as well as independent specialty retailers. In North America, our customers include Babies R Us, Wal-Mart, Target, Amazon.com, Burlington Coat Factory, Buy Buy Baby, Kmart, Home Depot, and Lowe's. Our largest European-based customers include Mothercare, Toys R Us, Argos and Tesco. We also sell through several international distributors to select international retail customers in geographic locations where we do not have a direct sales presence.



Table of Contents

**Strategy**

At the end of fiscal 2012, we began reviewing our business strategy and product lines. Historically, we have focused on growing sales through a combination of increased product penetration and store penetration, offering new products, adding new mass merchant retail customers and distribution channels, international expansion, and acquisitions.

While the refinement of our business strategy is ongoing, we have identified below four key areas of our strategy going forward:

- **Superior Innovation** We will continue to leverage our in-depth knowledge of our retail customers and end-user consumers to deliver high quality, innovative products to the marketplace. We also will continue to focus on a good, better, best approach to price points to create products that appeal to different categories of end consumers and classes of trade. To the extent it is consistent with our strategy, we may acquire new products or expand existing product categories. We believe our product development expertise differentiates us from other companies in this market.
- **Cultivating Relationships and Diversification** We believe we have long-standing relationships and strong partnerships with our retail customers. We also have developed strong relationships with a group of suppliers that provide us with the flexibility needed to engineer our products in a cost-efficient manner and to respond quickly to customer demands. We will continue to focus on building on these existing relationships to increase our presence both in stores and online via an increased focus on e-commerce and to expand with our customers as they enter new geographic locations. We will also continue to work with a growing number of specialty retail operators that allow us to continue our pursuit of a good, better, best approach and with customers seeking differentiated products and support. We will continue to expand our business internationally as well.
- **Building Brands** Historically, we have marketed products under our own brands, under license agreements for other brands, and under private label agreements. Going forward, our focus will be on building our core brands of Summer® and Born Free®, particularly among first-time prenatal moms, through improved marketing, including through social media.
- **Executing Operational Excellence** Our entire organization is focused on delivering operational efficiency and excellence, such as SKU rationalization and implementation of a direct import program that is favorably impacting our operations while also providing improved results. By improving our analytic and forecasting capabilities, product development process, and management of working capital and costs, we expect continued improvement to internal processes that should, in turn, benefit our customers.

By renewing our focus on these core strengths, we expect to drive future growth, improve profitability and to further develop and strengthen our relationships with our suppliers, retail customers and end-users of our products.

We believe that, based on our core strengths and strategic priorities, we are well-positioned to capitalize on positive market trends.

**Recent Developments**

*Cost Reduction Initiatives*

The Company began implementing several cost reduction initiatives in the third quarter of 2012 designed to lower promotional costs and advertising expenses, reduce operating costs, and improve margins. These initiatives have resulted in tighter controls of retailer programs costs, a reduction in worldwide headcount, a reduction in executive salaries, voluntary reduction in board of director compensation, cuts in overhead spending relating to discontinuing various outside services, and negotiated lower professional service fees. Additional headcount reductions were initiated in the first quarter of 2013. In November 2013, the Company initiated additional cost reduction actions, including global staff reductions, and reductions in temporary labor, professional fees and outside

Table of Contents

services. We expect these cost reduction actions will result in a charge in the fourth quarter of 2013 of approximately \$500 and additional annual savings of approximately \$5,000 beginning in 2014.

*New Credit Facility and Term Loan*

In February 2013, we entered into a new loan and security agreement (the *BofA Agreement* ) with Bank of America, N.A., as agent, the financial institutions party to the agreement from time to time as lenders. The BofA Agreement replaces our prior credit facility with Bank of America that was set to expire in December 2013.

The BofA Agreement provides for an \$80,000, asset-based revolving credit facility, with a \$10,000 letter of credit sub-line facility. The total borrowing capacity is based on a borrowing base, which is defined as 85% of eligible receivables plus the lesser of (i) 70% of the value of eligible inventory or (ii) 85% of the net orderly liquidation value of eligible inventory and less reserves. The scheduled maturity date of loans under the BofA Agreement is February 28, 2018 (subject to customary early termination provisions). All obligations under the BofA Agreement are secured by substantially all the assets of the Company, subject to the first priority lien on certain assets held by the term loan lender described below. Proceeds from the loans will be used to satisfy existing debt, pay fees and transaction expenses associated with the closing of the BofA Agreement, pay obligations under the BofA Agreement, make payments on the term loan described below, and for lawful corporate purposes, including working capital. As a result of our refinancing, we expect interest expense attributable to our new credit facilities to be lower on comparable debt levels than our prior loan agreement in the latter half of 2013.

In February 2013, we entered into a new term loan agreement (the *Term Loan Agreement* ) with Salus Capital Partners, LLC, as administrative agent and collateral agent, and each lender from time to time a party to the Term Loan Agreement providing for a \$15,000 term loan (the *Term Loan* ). Proceeds from the Term Loan will be used to repay certain existing debt, to finance the acquisition of working capital assets in the ordinary course of business and capital expenditures, and for general corporate purposes. The Term Loan is secured by certain assets of the Company, including a first priority lien on intellectual property, plant, property and equipment, and a pledge of 65% of the ownership interests in certain subsidiaries of the Company. The Term Loan matures on February 28, 2018.

As of September 30, 2013, we had borrowings outstanding of \$34,000 and availability under the BofA agreement of \$16,153. As of September 30, 2013, we had an outstanding balance of \$14,625 under the Term Loan.

As discussed in Part II, Item 5 of this Form 10-Q, in November 2013, we entered into amendments to each of the BofA Agreement and the Term Loan Agreement that modified the financial covenants with which we are required to comply. As a result of these amendments, from and after September 30, 2013, we are no longer subject to a minimum, monthly EBITDA covenant, and our fixed charge coverage ratio is tested monthly on a trailing 12-month basis, and beginning with the period ending February 28, 2014, our senior leverage ratio will be tested monthly on a trailing 12-month basis.

*Other Activities*

## Edgar Filing: Summer Infant, Inc. - Form 10-Q

In the first quarter of 2013, we announced that we were in the process of exiting our licensing arrangements with Disney® and Carters® and will focus on building our own Summer® and Born Free® branded products. As a result of these exit activities and the continued reduction in non-performing product SKUs, we generated lower license based sales and had a higher level of closeout sales at lower margins in the first nine months of 2013 that affected our gross profit and gross margins as compared to the prior year quarter and nine month period.

On June 27, 2013, consistent with our strategy to provide innovative products to our customers, we acquired the assets of Little Looster, LLC., a designer and manufacturer of the award-winning Little Looster potty training step stool. Under the terms of the transaction, we acquired all intellectual property and tooling for manufacturing, for a purchase price of approximately \$100 in cash and an ongoing royalty agreement.

On September 13, 2013, we acquired the assets of Pink Magnolia, LLC, a designer and manufacturer of a nursing light product to assist breast feeding mothers known as the Nighty Night Nursing Light. Under the terms of the transaction, we acquired all intellectual property and tooling for manufacturing for a purchase price of approximately \$12 in cash and an ongoing royalty agreement.

### **Summary of critical accounting policies and estimates**

There have been no significant changes in our critical accounting policies and estimates during the nine months ended September 30, 2013 compared with our critical accounting policies and estimates disclosed in

Table of Contents

Management's Discussion and Analysis of Financial Condition and Results of Operations included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2012.

**Results of Operations**

	For the three months ended (Unaudited)		For the nine months ended (Unaudited)	
	September 30, 2013	September 30, 2012	September 30, 2013	September 30, 2012
Net sales	\$ 50,538	\$ 63,984	\$ 163,435	\$ 188,714
Cost of goods sold	35,521	44,359	112,859	127,198
Gross profit	\$ 15,017	\$ 19,625	\$ 50,576	\$ 61,516
General & administrative expense	9,298	10,209	28,196	31,707
Selling expense	4,855	7,968	16,054	21,739
Depreciation and amortization	1,499	2,050	4,916	5,728
Impairment of goodwill and intangibles		69,796		69,796
Operating income/(loss)	\$ (635)	\$ (70,398)	\$ 1,410	\$ (67,454)
Interest expense, net	(945)	(938)	(3,128)	(2,557)
Loss before benefit for income taxes	\$ (1,580)	\$ (71,336)	\$ (1,718)	\$ (70,011)
Benefit for income taxes	(304)	(6,310)	(581)	(5,883)
Net loss	\$ (1,276)	\$ (65,026)	\$ (1,137)	\$ (64,128)

***Three months ended September 30, 2013 compared with three months ended September 30, 2012***

Net sales declined 21.0% from approximately \$63,984 for the three months ended September 30, 2012 to approximately \$50,538 for the three months ended September 30, 2013. The decline was primarily attributable to exiting our licensing arrangements with Disney® and Carters® in order to focus on building our own Summer® and Born Free® branded products as well as a decline in monitor sales as a result of increased competition and sales with a major retail customer. As a result, sales in most product categories were flat or declined with the exception of our safety category which increased in the quarter.

Gross profit decreased 23.5% from \$19,625 for the quarter ended September 30, 2012 to \$15,017 for the quarter ended September 30, 2013. Gross margin decreased from 30.7% for the quarter ended September 30, 2012 to 29.7% for the quarter ended September 30, 2013. The decline in gross profit dollars and gross margin percent is attributable to the decline in sales and the mix of products sold.

General and administrative expenses decreased 8.9% from \$10,209 for the quarter ended September 30, 2012 to \$9,298 for the quarter ended September 30, 2012. General and administrative expenses increased as a percent of sales from 16.0% for the quarter ended September 30, 2012 to 18.4% for the quarter ended September 30, 2013. The decline in general and administrative expense dollars is attributable to the cost reductions initiated in 2012 and in the first quarter of 2013.

## Edgar Filing: Summer Infant, Inc. - Form 10-Q

Selling expenses decreased 39.1% from \$7,968 for the quarter ended September 30, 2012 to \$4,855 for the quarter ended September 30, 2013. Selling expenses decreased as a percent of sales from 12.5% for the quarter ended September 30, 2012 to 9.6% for the quarter ended September 30, 2013. This decrease in dollars and as a percent of sales was primarily attributable to lower sales as well as additional cost controls implemented over

Table of Contents

retailer program costs such as promotions, consumer advertising, cooperative advertising, and lower royalty costs under licensing agreements as part of discontinuing certain licensing arrangements.

Depreciation and amortization decreased 26.9% from \$2,050 in the quarter ended September 30, 2012 to \$1,499 for the quarter ended September 30, 2013. The decrease in depreciation is attributable to a reduction in capital investment as a result of disciplined capital expenditure management partially offset by higher amortization on newly defined finite-lived intangible assets established in the fourth quarter of 2012.

Interest expense increased 0.7% from \$938 in the quarter ended September 30, 2012 to \$945 for the quarter ended September 30, 2013. Interest expense increased as a result of higher interest rates. We expect interest expense in the fourth quarter of 2013 attributable to our new credit facilities to be lower than our prior loan agreement on similar debt levels.

For the quarter ended September 30, 2012, we recorded a \$6,310 benefit for income taxes on \$71,336 of pretax loss, reflecting an estimated 9% tax rate for the quarter. The low tax rate was primarily attributable to the impairment charge for goodwill and intangibles taken in the quarter which was mostly nondeductible for tax purposes. For the quarter ended September 30, 2013, we recorded a \$304 tax benefit on \$1,580 of pretax loss for the quarter, reflecting an estimated 19% tax rate for the quarter. Excluding discrete items recorded in the quarter attributable to the utilization of our R&D tax credits, our tax rate would have been 28%.

***Nine months ended September 30, 2013 compared with nine months ended September 30, 2012***

Net sales declined 13.4% from \$188,714 for the nine months ended September 30, 2012 to \$163,435 for the nine months ended September 30, 2013. The decline was primarily attributable to exiting our licensing arrangements with Disney® and Carters® in order to focus on building our own Summer® and Born Free® branded products as well as a decline in monitor sales as a result of increased competition and lower sales with a major retail customer. As a result, sales in most product categories were flat or declined with the exception of our safety category which increased in the quarter.

Gross profit decreased 17.8% from \$61,516 for the nine months ended September 30, 2012 to \$50,576 for the nine months ended September 30, 2013. Gross margin decreased from 32.6% for the nine months ended September 30, 2012 to 30.9% for the nine months ended September 30, 2013. The decline in gross profit dollars and gross margin percent is attributable to the decline in sales and the mix of products sold, as we had a higher amount of close-out sales in the 2013 period as a result of the product SKU reductions and activities relating to ending certain licensing agreements.

General and administrative expenses decreased 11.1% from \$31,707 for the nine months ended September 30, 2012 to \$28,196 for the nine months ended September 30, 2012. General and administrative expenses increased as a percent of sales from 16.8% for the nine months ended September 30, 2012 to 17.3% for the nine months ended September 30, 2013. The decline in general and administrative expense dollars is attributable to the cost reductions initiated in 2012 and the first quarter of 2013.

## Edgar Filing: Summer Infant, Inc. - Form 10-Q

Selling expenses decreased 26.2% from \$21,739 for the nine months ended September 30, 2012 to \$16,054 for the nine months ended September 30, 2013. Selling expenses decreased as a percent of sales from 11.5% for the nine months ended September 30, 2012 to 9.8% for the nine months ended September 30, 2013. This decrease in dollars and as a percent of sales was primarily attributable to the decline in sales as well as additional cost controls implemented over retailer program costs such as promotions, consumer advertising, cooperative advertising, and lower royalty costs under licensing agreements as part of discontinuing certain licensing arrangements.

Depreciation and amortization decreased 14.2% from \$5,728 in the nine months ended September 30, 2012 to \$4,916 for the nine months ended September 30, 2013. The decrease in depreciation is attributable to a reduction in capital investment as a result of disciplined capital expenditure management partially offset by higher amortization on newly defined finite-lived intangible assets established in the fourth quarter of 2012.

Interest expense increased 22.3% from \$2,557 in the nine months ended September 30, 2012 to \$ 3,128 for the nine months ended September 30, 2012. Interest expense increased as a result of higher interest rates and the write off of unamortized bank fees in the first quarter of 2013 in connection with the refinancing of our 2010 credit agreement. We expect interest expense in the fourth quarter of 2013 attributable to our new credit facilities to be lower than our prior loan agreement on similar debt levels.



Table of Contents

For the nine months ended September 30, 2012, we recorded a \$5,883 benefit for income taxes on \$70,011 of pretax loss, reflecting an estimated 8% tax rate for the period. The low tax rate was primarily attributable to the impairment charge for goodwill and intangibles taken in the nine month period that which was mostly nondeductible for tax purposes. For the nine months ended September 30, 2013, we recorded a \$581 tax benefit on \$1,718 of pretax loss for the period. The 2013 period included the reinstatement of the federal R&D tax credit for 2012 and adjustments in the utilization of R&D tax credits as discrete items in the 2013 period. Excluding these discrete items, our estimated tax rate for the 2013 period was approximately 28%.

**Liquidity and Capital Resources**

We fund our operations and working capital needs through cash generated from operations and borrowings under our credit facilities.

In our typical operational cash flow cycle, inventory is purchased to meet expected demand plus a safety stock. Because the majority of our suppliers are based in Asia, inventory takes from three to four weeks to arrive from Asia to the various distribution points we maintain in the United States, Canada and the United Kingdom. Payment terms for these vendors are approximately 60-90 days from the date the product ships from Asia, therefore we are generally paying for the product a short time after it is physically received in the United States. In turn, sales to customers generally have payment terms of 30 to 60 days, resulting in an accounts receivable and increasing the amount of cash required to fund working capital. To bridge the gap between paying our suppliers and receiving payment from our customers for goods sold, we rely on our credit facilities.

The majority of our capital expenditures are for tools related to new product introductions. We receive indications from retailers generally around the middle of each year as to what products the retailer will be taking into its product line for the upcoming year. Based on these indications, we will then acquire the tools required to build the products. In most cases, the payments for the tools are spread out over a three to four month period.

For the nine months ended September 30, 2013, net cash provided by operating activities totaled \$17,053. For the nine months ended September 30, 2012, net cash used by operating activities totaled \$42. The change in net cash relating to operating activities in 2013 as compared to 2012 is largely attributable to improved working capital management in collections, vendor management, as well as the implementation of a direct import program over the past year.

For the nine months ended September 30, 2013, net cash used in investing activities was approximately \$2,598. For the nine months ended September 30, 2012, net cash used in investing activities was \$3,806. The decline in net cash used in investing activities was primarily attributable to improved capital investment management in 2013.

For the nine months ended September 30, 2013, net cash used in financing activities was approximately \$16,021, reflecting a pay down of our credit facilities. For the nine months ended September 30, 2012, net cash provided by financing activities was \$14,561, primarily borrowings to fund operations.

## Edgar Filing: Summer Infant, Inc. - Form 10-Q

Based primarily on the above factors, net cash declined for the nine months ending September 30, 2013 by \$1,706, resulting in a cash balance of approximately \$1,426 at September 30, 2013.

As discussed below and in Part II, Item 5 of this Form 10-Q, in November 2013, we entered into amendments to our loan agreement that modified the financial covenants with which we must comply. Beginning with periods from and after September 30, 2013, we are required to maintain a trailing 12-month fixed charge coverage ratio of no less than 1:1, tested on a monthly basis.

We believe that our cash on hand and banking facilities are sufficient to fund our cash requirements for at least the next twelve months. However, if we are unable to meet our current financial forecast and cannot raise additional funds or adjust our operations accordingly, we may not remain in compliance with our fixed charge coverage ratio. Unforeseen circumstances, such as softness in the retail industry or deterioration in the business of a significant customer could create a situation where we cannot access all of the available lines of credit due to not having sufficient assets or fixed charge coverage ratio as required under our loan agreements. There is no assurance that we will meet all of our financial or other covenants in the future, or that our lenders will grant waivers if there are covenant violations. In addition, should we need to raise additional funds through additional debt or equity financings, any sale of additional debt or equity securities may cause dilution to existing stockholders. If sufficient funds are not available or are not available on acceptable terms, our ability to address any unexpected changes in our operations could be limited. Furthermore, there can be no assurance that we will be able to raise such funds if and when they are required. Failure to obtain future funding when needed or on acceptable terms could materially adversely affect our results of operations.

Table of Contents

*Bank of America Credit Facility*

On February 28, 2013, we entered into a new loan and security agreement (the *BofA Agreement* ) with Bank of America, N.A., as agent, the financial institutions party to the agreement from time to time as lenders. The *BofA Agreement* replaced the Company's prior loan agreement with Bank of America.

The *BofA Agreement* provides for an \$80,000, asset-based revolving credit facility, with a \$10,000 letter of credit sub-line facility. The total borrowing capacity is based on a borrowing base, which is defined as 85% of eligible receivables plus the lesser of (i) 70% of the value of eligible inventory or (ii) 85% of the net orderly liquidation value of eligible inventory and less reserves.

The scheduled maturity date of loans under the *BofA Agreement* is February 28, 2018 (subject to customary early termination provisions). All obligations under the *BofA Agreement* are secured by substantially all the assets of the Company, subject to the first priority lien on certain assets held by the term loan lender described below. In addition, Summer Infant Canada Limited and Summer Infant Europe Limited, subsidiaries of the Company, are guarantors under the *BofA Agreement*. Loans under the *BofA Agreement* bear interest, at our option, at a base rate or at LIBOR, plus applicable margins based on average quarterly availability under the *BofA Agreement* and ranging between 1.75% and 2.25% on LIBOR borrowings and 0.25% and 0.75% on base rate borrowings. Interest payments are due monthly, payable in arrears. We are also required to pay an annual non-use fee of 0.375% of the unused amounts under the *BofA Agreement*, as well as other customary fees as are set forth in the *BofA Agreement*. As of September 30, 2013 the base rate on loans was 4.0% and the LIBOR rate was 2.5%.

Under the *BofA Agreement*, we must comply with certain financial covenants, including that the Company (i) for the first year of the loan, maintain and earn a specified minimum, monthly consolidated EBITDA amount, with such specified amounts increasing over the first year of the loan to a minimum consolidated EBITDA of \$12 million at February 28, 2014, and (ii) beginning with the fiscal quarter ending March 31, 2014, maintain a fixed charge coverage ratio of at least 1.0 to 1.0 for each period of four fiscal quarters most recently ended. For purposes of the financial covenants, consolidated EBITDA is defined as net income before interest, taxes, depreciation and amortization, plus certain customary expenses, fees and non-cash charges and minus certain customary non-cash items increasing net income. We were in compliance with the financial covenants at September 30, 2013.

The *BofA Agreement* contains customary affirmative and negative covenants. Among other restrictions, the Company is restricted in its ability to incur additional debt, make acquisitions or investments, dispose of assets, or make distributions unless in each case certain conditions are satisfied. The *BofA Agreement* also contains customary events of default, including a cross default, the occurrence of a material adverse event and the occurrence of a change of control. In the event of a default, all of the obligations of the Company and its subsidiaries under the *BofA Agreement* may be declared immediately due and payable. For certain events of default relating to insolvency and receivership, all outstanding obligations become due and payable.

As of September 30, 2013, we had borrowings outstanding of \$34,000 and availability of \$16,153.

On November 8, 2013, we entered into an amendment to the *BofA Agreement*, which amended the financial covenants to provide that (i) we are no longer required to comply with the minimum EBITDA covenants for any period ending after September 30, 2013, and (ii) we maintain a trailing 12-month fixed charge coverage ratio of at least 1.0 to 1.0, tested on a monthly basis from and after September 30, 2013. Under the

## Edgar Filing: Summer Infant, Inc. - Form 10-Q

agreement as amended, the fixed charge coverage ratio is the ratio of (1) consolidated EBITDA minus capital expenditures (excluding certain items) and cash taxes paid for the applicable measuring period, to (2) fixed charges paid in cash during the applicable measuring period.

### *Term Loan*

On February 28, 2013 we entered into a new term loan agreement (the *Term Loan Agreement* ) with Salus Capital Partners, LLC, as administrative agent and collateral agent, and each lender from time to time a party to the Term Loan Agreement providing for a \$15,000 million term loan (the *Term Loan* ).

The Term Loan is secured by certain assets of the Company, including a first priority lien on intellectual property, plant, property and equipment, and a pledge of 65% of the ownership interests in certain subsidiaries of the Company. The Term Loan matures on February 28, 2018. In addition, Summer Infant Canada Limited and Summer Infant Europe Limited, subsidiaries of the Company, are guarantors under the Term Loan Agreement.

The principal of the Term Loan will be repaid, on a quarterly basis, in installments of \$375, commencing with the quarter ending September 30, 2013, until paid in full on termination. The Term Loan bears interest at an annual rate equal to LIBOR, plus 10%, with a LIBOR floor of 1.25%. Interest payments are due monthly, in arrears. As of September 30, 2013 the interest rate on the Term Loan was 11.25%.

The Term Loan Agreement contains customary affirmative and negative covenants substantially the same as the BofA Agreement. In addition, we must comply with certain financial covenants, including that the Company (i) meet the same minimum, monthly consolidated EBITDA as set forth in the BofA Agreement and (ii) initially maintain a monthly senior leverage ratio of 1:1. For periods after February 28, 2014, the senior leverage ratio will

Table of Contents

be based on an annual business plan to be approved by the Company's Board of Directors and will be tested monthly on a trailing twelve month basis. For purposes of the financial covenants in the Term Loan Agreement, the senior leverage ratio is the ratio of (i) all amounts outstanding under the Term Loan Agreement and the BofA Agreement to (ii) consolidated EBITDA for the twelve-month period ending as of the last day of the most recently ended fiscal month. The Term Loan Agreement also contains events of default, including a cross default, the occurrence of a material adverse event, the occurrence of a change of control, and the recall of products having a value of \$2,000 or more. In the event of a default, all of the obligations of the Company and its subsidiaries under the Term Loan Agreement may be declared immediately due and payable. For certain events of default relating to insolvency and receivership, all outstanding obligations become due and payable. We were in compliance with all financial covenants at September 30, 2013.

On November 8, 2013, we entered into an amendment to the Term Loan Agreement, which amended the financial covenants in the Term Loan Agreement to provide that (i) we are no longer required to comply with the minimum EBITDA covenants for any period ending after September 30, 2013, (ii) we maintain a trailing 12-month fixed charge coverage ratio of at least 1.0 to 1.0, tested on a monthly basis from and after September 30, 2013, and (iii) commencing February 28, 2014, we maintain a trailing 12-month senior leverage ratio, tested on a monthly basis of (a) no more than 6.0 to 1.0 for the period ending on June 30, 2014, (b) no more than 5.5 to 1.0 for the period July 1, 2014 through September 30, 2014, and (c) no more than 5.0 to 1.0 for the periods following September 30, 2014.

**ITEM 3. Quantitative and Qualitative Disclosures About Market Risk**

Not required.

**ITEM 4. Controls and Procedures**

*(a) Evaluation of Disclosure Controls and Procedures*

As required by Rule 13a-15(b) under the Securities Exchange Act of 1934, as of the end of the period covered by this Quarterly Report, we carried out an evaluation, under the supervision and with the participation of our Chief Executive Officer and our Chief Financial Officer, of the effectiveness of our disclosure controls and procedures, as of September 30, 2013. Our principal executive officer and principal financial officer have concluded, based on this evaluation, that our controls and procedures were effective as of September 30, 2013.

*(b) Changes in Internal Control Over Financial Reporting*

There was no change in our internal control over financial reporting that occurred during the period covered by this Quarterly Report that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.



Table of Contents

**PART II. OTHER INFORMATION**

**ITEM 1. Legal Proceedings**

From time to time, we may be subject to legal proceedings and claims in the ordinary course of business. We are not aware of any such proceedings or claims that we believe will have, individually or in the aggregate, a material adverse effect on our business, results of operations or financial condition.

**ITEM 1A. Risk Factors**

Except as set forth below, there have been no material changes from the risk factors previously disclosed in Part I, Item 1A, Risk Factors, of our Annual Report on Form 10-K for the fiscal year ending December 31, 2012.:

*Our leverage may impair our financial condition or limit our ability to operate our business.*

We fund our operations primarily through cash from operations and borrowings under our loan agreement with Bank of America. The amount of available borrowings under our loan agreement is based on formula-determined amounts of trade receivables and inventories. Our loan agreement requires us to maintain a minimum fixed charge, coverage ratio of at least 1.0 to 1.0. While we currently anticipate that we will be able to maintain a fixed charge coverage ratio of at least 1.0 to 1.0 throughout 2013, if future operating results differ materially from our predications, we could violate our fixed charge coverage ratio requirement if the fixed charge coverage ratio at such time is less than 1.0. The loans are collateralized by substantially all of our operating assets and failure to comply with the covenants contained in the loan agreement could result in the acceleration of the outstanding balance under the loan agreement prior to its stated maturity date.

**ITEM 2. Unregistered Sales of Equity Securities and Use of Proceeds.**

None.

**ITEM 3. Defaults Upon Senior Securities**

None.

**ITEM 4. Mine Safety Disclosures**

Not applicable.

**ITEM 5. Other Information.**

*BofA Agreement Amendment.* On November 8, 2013, we entered into an amendment (the BofA Amendment) to the Loan and Security Agreement, dated as of February 28, 2013, with Bank of America, N.A. and the other lenders under the agreement. The BofA Amendment amended the financial covenants in the BofA Agreement to provide that (i) we are no longer required to comply with the minimum EBITDA covenants for any period ending after September 30, 2013 and (ii) we maintain a trailing 12-month fixed charge coverage ratio of at least 1.0 to 1.0, testing on a monthly basis from and after September 30, 2013.

*Term Loan Agreement Amendment.* On November 8, 2013, we entered into an amendment (the Term Loan Amendment) to the Term Loan Agreement, dated as of February 28, 2013, with Salus Capital Partners, LLC and the other lenders under the agreement. The Term Loan Amendment amended the financial covenants in the Term Loan Agreement to provide that (i) we are no longer required to comply with the minimum EBITDA covenants for any period ending after September 30, 2013, (ii) we maintain a trailing 12-month fixed charge coverage ratio of at least 1.0 to 1.0, testing on a monthly basis from and after September 30, 2013, and (iii) commencing February 28, 2014, we maintain a trailing 12-month senior leverage ratio, tested on a monthly basis of (a) no more than 6.0 to 1.0 for the period ending on June 30, 2014, (b) no more than 5.5 to 1.0 for the period July 1, 2014 through September 30, 2014, and (c) no more than 5.0 to 1.0 for the periods following September 30, 2014.

The foregoing descriptions of the BofA Amendment and the Term Loan Amendment do not purport to be complete and are qualified in their entirety by reference to the full text of the BofA Amendment and Term Loan Amendment, each of which is filed herewith as Exhibit 10.1 and Exhibit 10.2, respectively, and each of which is incorporated herein by this reference.

*Change in Control Agreements.* On November 13, 2013, we entered into new or amended and restated change of control agreements with each of our Chief Financial Officer and Chief Operating Officer, and anticipate entering into such agreements with certain other key employees. Under these double trigger change of control agreements, the CFO, COO or key employee is entitled to certain payments and benefits if (1) there is a change of control and (2) within twelve months thereafter his employment is terminated, other than for cause or due to the death or disability or by the employee for good reason. If these events occur, (i) the CFO and COO are each entitled to a severance payment equal to 100% of his then current annual base salary, continued benefits, and any earned or accrued bonus for the year in which the employee was terminated, and (ii) other key employees, depending upon the employee's position at the company, are each entitled to a severance payment equal to 100% or 50% of his then current annual base salary, continued benefits, and any earned or accrued bonus for the year in which the employee was terminated. The change of control agreements also contain non-competition and similar covenants that remain in effect (a) for a period of twelve months for the CFO and COO, and (b) for a period of twelve months or six months for other key employees, depending upon the employee's position at the company.

The foregoing summary of the change of control agreements does not purport to be complete and is qualified in its entirety by reference to the form of change of control agreement, which is filed herewith as Exhibit 10.3.

**ITEM 6. Exhibits**



The exhibits listed in the Exhibit Index immediately preceding the exhibits are filed as part of this Quarterly Report on Form 10-Q.

Table of Contents

**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.

**Summer Infant, Inc.**

Date: November 14, 2013

By: /s/ Jason Macari  
Jason Macari  
Chief Executive Officer

Date: November 14, 2013

By: /s/ Paul Francese  
Paul Francese  
Chief Financial Officer

Table of Contents

**EXHIBIT INDEX**

<b>Exhibit No.</b>	<b>Description</b>
10.1	Amendment No. 2, dated November 8, 2013, to Loan and Security Agreement dated as of February 28, 2013, among Summer Infant, Inc. and Summer Infant (USA), Inc., as Borrowers, Summer Infant Canada, Limited and Summer Infant Europe Limited, as Guarantors, the Lenders party to the Loan and Security Agreement, and Bank of America, N.A., in its capacity as Agent
10.2	Amendment No. 1, dated November 8, 2013, to Term Loan Agreement dated as of February 28, 2013, among Summer Infant, Inc., and Summer Infant (USA), as Borrowers, Summer Infant Canada, Limited and Summer Infant Europe Limited, as Guarantors, the Lenders party of the Term Loan Agreement and Salus Capital Partners, LLC, as Agent
10.3	Amendment No. 1, dated April 10, 2013 to Loan and Security Agreement dated as of February 28, 2013, among Summer Infant, Inc. and Summer Infabt (USA), Inc. as Borrowers, Summer Infant Canada, Limited and Summer Infant Europe Limited, as Gurantors, and Bank of America, N.A., in its capacity as Lender and as a Agent
10.4	Form of Change of Control Agreement with Chief Financial Officer, Chief Operating Officer and other key employees
31.1	Certification of Chief Executive Officer
31.2	Certification of Chief Financial Officer
32.1	Section 1350 Certification of Chief Executive Officer
32.2	Section 1350 Certification of Chief Financial Officer
101.INS	XBRL Instance Document
101.SCH	XBRL Taxonomy Extension Schema Document
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	XBRL Taxonomy Extension Labels Linkbase Document
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document