IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

KYPHON, INC., Plaintiff, v. DISC-O-TECH MEDICAL TECHNOLOGIES, LTD. and DISC ORTHOPAEDIC TECHNOLOGIES, INC., Defendants.	Civil Action No. 04-0204-JJF

DEFENDANTS DISC-O-TECH MEDICAL TECHNOLOGIES, LTD.'S AND DISC ORTHOPAEDIC TECHNOLOGIES, INC.'S MOTION FOR SUMMARY JUDGMENT OF NON-INFRINGEMENT OF U.S. PATENT NOS. 4,969,888, 5,108,404 AND 6,235,043 B1

Defendants, Disc-O-Tech Medical Technologies, Ltd. and Disc Orthopaedic Technologies, Inc. (collectively "DOT"), hereby move for summary judgment that the asserted claims of U.S. Patent Nos. 4,969,888, 5,108,404 and 6,235,043 B1 are not infringed by the accused DOT products. The grounds for this motion are set forth in DOT's opening brief, submitted herewith.

MORRIS, NICHOLS, ARSHT & TUNNELL



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April 6, 2005

CERTIFICATE OF SERVICE

I, Maryellen Noreika, hereby certify that copies of the foregoing were caused to be served this 6h day of April, 2005 upon the following in the manner indicated:

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