NEXT INC/TN
Form POS AM
February 20, 2007

As filed with the Securities and Exchange Commission on February 20, 2007.

Registration No. 333-134274

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SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

POST EFFECTIVE AMENDMENT NO. 1 TO

REGISTRATION STATEMENT

ON FORM SB-2

Under

The Securities Act of 1933

NEXT, INC.

(Name of Small Business Issuer in Its Charter)

2759

(Primary Standard Industrial Classification Code Number)

Delaware	7625 Hamilton Place Drive, Suite 12 Chattanooga, Tennessee 37421; (423) 296-8213	95-4675095
(State of Jurisdiction of Incorporation or Organization)	(Address, and Telephone Number of Principal Executive Offices and Principal Place of Business)	(I.R.S. Employer Identification Number)

Charles L. Thompson, CFO

7625 Hamilton Park Drive, Suite 12

Chattanooga, Tennessee 37421

(423) 296-8213

(Name, Address, and Telephone Number of Agent for Service)

Copies of Communications to:

Frank M. Williams

Miller & Martin PLLC

Suite 1000 Volunteer Building

832 Georgia Avenue

Chattanooga, Tennessee 37402-2289

APPROXIMATE DATE OF COMMENCEMENT OF PROPOSED SALE TO THE PUBLIC: From time to time after this registration statement becomes effective.

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act of 1933 (the Securities Act), check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [ ]

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [ ]

If this form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [ ]

If the delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. [ ]

If any of the securities being registered on this form are being offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, please check the following box. [X]

The Registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

EXPLANATORY NOTE

This Post-Effective Amendment is being filed to include information from the Registrant s Form 10-KSB for the fiscal year ended December 1, 2006.

Subject to completion, February 19, 2007.

PROSPECTUS

NEXT, INC.

OFFERING UP TO 4,398,355 Shares of Common Stock

This Prospectus relates to the registration of up to 4,398,355 shares of common stock of the Company. Of these shares, 3,396,414 may be issued pursuant to the conversion of $984,960 in principal of convertible promissory notes dated April 6, 2006 and 849,103 may be issued pursuant to warrants dated April 6, 2006 as follows: (i) 931,034 shares of common stock and 232,759 warrants to Alpha Capital Aktiengesellschaft, (ii) 864,000 shares of common stock and 216,000 warrants to DKR Soundshore Oasis Holding Fund Ltd., (iii) 670,345 shares of common stock and 167,586 warrants to Monarch Capital Fund, Ltd., (iv) 558,621 shares shares of common stock and 139,655 warrants to Iroquois Master Fund, Ltd., and (v) 372,414 shares of common stock and 93,103 warrants to Bluegrass Growth Fund, LP (the Investors). In connection with this transaction the Company also issued warrants to purchase 152,838 shares of common stock to JPC Capital Partners, Inc. The shares offered under this Prospectus were issued by the Company in private transactions.

There is no minimum number of shares that must be sold in this offering. Information regarding the selling stockholders and the manner in which they may offer and sell the shares under this Prospectus is provided under the heading "Plan of Distribution" commencing on page four. Although the Company has received the proceeds from the sale of the common stock and the warrants and may receive further proceeds from the exercise of the warrants, it will not receive any of the proceeds from sales of the common stock by the selling stockholders under this Prospectus. To the knowledge of the Company, the selling stockholders have not made any arrangements with any brokerage firm, underwriter or agent for the sale of the shares of common stock.

The common stock is quoted on the OTC Bulletin Board (OTCBB) under the symbol NXTI.OB but it is not listed on a national securities exchange. On February 16, 2007 the last reported sale price of the common stock was $0.57 per share.

Investing in the common stock involves a high degree of risk which is described in the "Risk Factors" beginning on page two of this Prospectus.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this Prospectus. Any representation to the contrary is a criminal offense.

The information in this Prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. The Prospectus is not an offer to sell these securities and it is not a solicitation of an offer to buy these securities in any state where the offer or sale is not permitted.

The date of this Prospectus is _____________.

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PROSPECTUS SUMMARY

This summary highlights selected information contained elsewhere in this Prospectus. It may not contain all of the information you should consider before investing in the Company s common stock. You should carefully consider all information contained in this Prospectus and particularly the section on Risk Factors set forth below before investing in the shares of common stock offered under this Prospectus.

The Company	Next, Inc., a Delaware corporation (the Company) formed in 1989, is a creative and innovative sales and marketing organization that designs, develops, markets and distributes licensed and branded promotional products and imprinted sportswear primarily through key licensing agreements and the Company s own proprietary designs. The Company s fiscal year ends on the Friday closest to November 30. The Company s principal executive offices are located at 7625 Hamilton Park Drive, Suite 12, Chattanooga, Tennessee 37421. The Company s telephone number is (423) 296-8213. The common stock is quoted on the OTCBB but it is not listed on a national securities exchange. Because the common stock is not listed for trading on any national securities exchange there may be a limited market for the Company s shares. The trading symbol is NXTI.OB.
The Offering	Up to 4,398,355 shares of common stock, par value $0.001 may be sold by the selling stockholders from time to time at prevailing market prices or in privately negotiated transactions. Of these shares, 3,396,414 may be issued pursuant to the conversion of $984,960 in principal of convertible promissory notes dated April 6, 2006 and 1,001,941 may be issued pursuant to warrants dated April 6, 2006
Selling Stockholders	DKR Soundshore Oasis Holding Fund Ltd., Alpha Capital Aktiengesellschaft, Monarch Capital Fund, Ltd., Iroquois Master Fund, Ltd., Bluegrass Growth Fund, LP, and JPC Capital Partners, Inc.

Proceeds to the Company	Although the Company will receive no proceeds from sales of common stock by the selling stockholders, the Company received $912,000 in the aggregate for issuance of convertible promissory notes and warrants to the selling stockholders, or $844,118 net of associated fees, and may receive up to $681,320 if the selling stockholders exercise all their warrants.

RISK FACTORS

An investment in our common stock involves a high degree of risk. You should carefully consider the following risk factors, other information included in this prospectus and information in our periodic reports filed with the SEC. If any of the following developments described as risks actually occur, our business, financial condition or results of operations could be materially and adversely affected and you may lose some or all of your investment.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus contains forward-looking statements that involve risks and uncertainties. We generally use words such as "believe," "may," "could," "will," "intend," "expect," "anticipate," "plan," and similar expressions to identify forward-looking statements. You should not place undue reliance on these forward-looking statements. Our actual results could differ materially from those anticipated in the forward-looking statements for many reasons, including the risks described below and elsewhere in this report. Although we believe the expectations reflected in the forward-looking statements are reasonable, they relate only to events as of the date on which the statements are made, and our future results, levels of activity, performance or achievements may not meet these expectations. We do not intend to update any of the forward-looking statements after the date of this document to conform these statements to actual results or to changes in our expectations, except as required by law.

Risks Related To Our Business. In addition to the other information contained in this report, including risks and uncertainties described elsewhere, the following risk factors should be considered in evaluating the Company. The risks and uncertainties described below or elsewhere in this report are not the only ones the Company faces. Additional risks and uncertainties not presently known to the Company or that the Company currently deems immaterial also may impair the Company's business and operations. If any of the risks described below or elsewhere in this report materialize, the Company's business, financial condition, operating results and cash flows could be materially affected. Stockholders or investors considering the purchase of shares of the Company's common stock should carefully consider the following risk factors, in addition to the other information contained in this report.

You should not rely on the Company's past results to predict its future performance because its operating results fluctuate due to factors which are difficult to forecast and often out of the Company's control. The Company's past revenues and other operating results may not be accurate indicators of the Company's future performance. The factors that may contribute to these fluctuations include: fluctuations in aggregate capital spending, cyclicality and other economic conditions in one or more markets in which we sell our products; changes or reductions in demand in the markets we serve; a change in market acceptance of the Company's products or a shift in demand for the Company's products; new product introductions by the Company or by the Company's competitors; changes in product mix and pricing by the Company, its suppliers or its competitors; pricing and related availability of raw materials for the Company's products; the Company's failure to manufacture a sufficient volume of products in a timely and cost

-effective manner; the Company's failure to anticipate changing product requirements of its customers; changes in the mix of sales by distribution channels; exchange rate fluctuations; and extraordinary events such as litigation or acquisitions.

Loss of Licenses. A substantial portion of the Company's revenue is derived from its licensing program and Company owned brands. The Company is a party to numerous licensing agreements to utilize "branded" logos for its products. Licenses from colleges and universities comprise the greatest segment of the Company's licenses and these licenses are grouped into master licenses. All of these master license arrangements have a duration of one to three years and may not contain automatic renewal options. Although the Company has had no difficulty renewing these license arrangements in the past and obtaining new licenses, there can be no assurance that the Company will be able to do so in the future. The loss of any one group of licenses or any master license may have a material adverse effect on the Company's financial conditions and results of operations.

Competition. The principal competitive factors affecting the market for the Company's products include product functionality, performance, quality, reliability, delivery, price, compatibility and conformance with customer and licensor standards. Several of the Company's existing and potential competitors are larger than the Company and may have substantially greater financial, sourcing and other resources than does the Company. In addition, the Company may in the future face competition from new entrants in its markets and there can be no assurance that these competitors will not offer better price points for competitive products or offer better terms to the Company's customers than those offered by the Company to obtain greater market share or cause the Company to lower prices for its products, any of which could harm the Company's business.

Dependence Upon Key Personnel. The Company depends to a significant degree on the continued contribution of key executive management and key operations and sales management. The loss of the services of one or more key executives could have a material adverse effect on the Company. The Company's success also depends on its ability to attract and retain additional highly qualified management personnel to meet the needs of future expansion. Competition for these individuals is intense and they are often subject to offers from competing employers, some of whom may be better able to offer more lucrative compensation incentives than those offered by the Company. Although most of the Company's key employees have been with the Company for an extended period of time, there can be no assurance that the Company will be able to retain its key employees, or that it will be able to attract or retain additional skilled personnel as needed. The Company's key executive management, senior operational, finance and sales management personnel have entered into written employment contracts with the Company.

Dependence On Non-U.S. Suppliers. The Company sources a significant amount of its products from international suppliers. Relationships with foreign suppliers present a greater risk of disruption due to political and economic instability than relationships with domestic suppliers. Although the majority of the products used by the Company are available from multiple sources both domestically and internationally, any disruption in availability of products and services from these foreign suppliers could lead to increases in the Company's product costs. The Company believes it can locate alternative products from several supplier sources to obtain the quality, cost and delivery standards if a disruption in international sources should occur.

Dependence Upon Key Customers. Historically, the Company's customer base has been comprised primarily of national and regional mass merchandise and specialty retailers. During the past three years the Company has made a concerted effort to expand its customer base. The acquisition of CMJ Ventures, Inc., which sells to over five hundred specialty retailers, and the introduction of major product lines and distribution channels, such as the Motor Sports Division, which sells to a dealer network of approximately 9,000 auto dealers are two components of this expansion. The acquisition of Lil' Fan, Inc ("Lil' Fan") also expanded the Company's customer base with the addition of a full line of design and merchandising primarily focusing on children's licensed college and motor sports products. Lil' Fan customers are complementary to the Company and do not overlap with existing customers. The acquisition of Choice International, Inc further expands the customer base into a private label distribution network. As a result of this effort, the Company has developed a large, diverse, and distinguished customer base of traditional retailers, ranging from national and large regional chains to specialty retailers, corporate accounts, college book stores, motor sports, souvenir, golf and gift shops. If the Company is unable to sustain this expansion of its customer base, or if it is unable to maintain its customer base it could have a negative impact on its financial condition and results of operations.

Possible Need For Additional Financing/Capital. The Company is highly leveraged. Based upon the Company's current level of operations and anticipated growth, the Company believes that cash flows from operations, together with its working capital facility, will be sufficient to enable the Company to satisfy anticipated cash flow requirements for operating, investment and financing activities, including debt service. However, with the Company's expected expansion and additional acquisitions, the Company could be required to obtain additional financing and/or capital, by private placement or in the public markets, to satisfy its requirements. There can be no assurance that such alternatives would be available to the Company at all or on terms reasonably acceptable to the board of directors. If we cannot obtain adequate funds on acceptable terms or at all, we may not be able to take advantage of market opportunities, develop or enhance new products, pursue acquisitions that would complement our existing product offerings, execute our business plan or otherwise respond to competitive pressures or unanticipated requirements.

Limited Trading Market For Common Stock. The Company's common stock is quoted on the National Association of Securities Dealers' OTC Bulletin Board. There may be a limited trading market for the common stock.

Volatility Of Common Stock's Market Price. The market price of the common stock is more volatile than the price of common stock of more established companies, because of the limited number of shareholders and the low volume of trading. In addition, the price is subject to a variety of factors, including the business environment; the operating results of companies in the industries we serve; future announcements concerning the Company's business or that of its competitors or customers; the introduction of new products or changes in product pricing policies by the Company or its competitors; litigation matters; changes in analysts' earnings statements; developments in the financial markets; quarterly operating results; and perceived dilution from stock issuances for acquisitions and other transactions. Furthermore, stock prices for many companies fluctuate for reasons that may be unrelated to their operating results. Those fluctuations and general economic, political and market conditions, such as recessions, terrorist actions or other military actions, or international currency fluctuations, as well as public perception of equity values of publicly traded companies may adversely affect the market price of our common stock.

Additional Shares. The Board of Directors has the authority to issue, without further action by the stockholders, up to 10,000,000 additional shares of preferred stock in one or more series and to fix the price, rights, preferences, privileges and restrictions thereof, including dividend rights, dividend rates, conversion rights, voting rights, terms of redemption, redemption prices, liquidation preferences and the number of shares constituting a series or the designation of such series. The issuance of preferred stock, while providing desirable flexibility in connection with possible acquisitions and other corporate purposes, could have the effect of delaying, deferring or preventing a change in control of the Company without further action by the stockholders and may adversely affect the market price of, and the voting and other rights of, the holders of common stock.

USE OF PROCEEDS

All net proceeds from the sale of the common stock covered by this Prospectus will go to the selling stockholders. The Company will not receive any proceeds from the sale of the common stock in this offering. The Company did, however, receive proceeds from the issuance of convertible promissory notes and the warrants to selling stockholders and may receive proceeds from the exercise of the warrants by the selling stockholders. If all of the warrants were exercised with cash, the Company would receive proceeds of $681,320. These proceeds would be used for general corporate purposes, including working capital and potential acquisitions.

DETERMINATION OF OFFERING PRICE

The selling stockholders may sell shares from time to time in negotiated transactions, brokers transactions or a combination of such methods at market prices prevailing at the time of the sale or at negotiated prices.

DIVIDEND POLICY

It is the Company's present policy not to pay cash dividends on its shares of common stock and to retain future earnings for use in the operations of the business and to fund future growth. Additionally, bank covenants prohibit us from paying cash dividends on our common stock. Any payment of cash dividends on our common stock in the future will be dependent upon the amount of funds legally available, earnings, financial condition, capital requirements and other factors that the Board of Directors may think are relevant. The Company does not anticipate paying any dividends on the common stock in the foreseeable future. The Company is obligated to pay certain dividends on its issued and outstanding shares of Series A Convertible Preferred Stock. Such dividends may be paid in cash or by the issuance of shares of common stock or Series A Convertible Preferred Stock.

SELLING SECURITY HOLDERS

The table below sets forth ownership information regarding the selling stockholders. For purposes of calculating the percentage of common stock outstanding, any securities not outstanding which are subject to options, warrants or conversion privileges are deemed outstanding for the purposes of computing the percentage of outstanding securities owned by the selling stockholders. Unless otherwise indicated, the selling stockholders have the sole power to direct the voting and investment over the shares owned by them.

Equity Group	Number of Shares Owned Prior to Offering (1)	Percent Owned Prior to Offering (1)	Number of Shares Being Offered (1)	Number of Shares Owned After Offering (1)	Percent Owned After Offering (1)
Alpha Capital Aktiengesellschaft	1,163,793	5.1 %	1,163,793	0	0
DKR Soundshore Oasis Holding Fund Ltd.	1,080,000	4.8 %	1,080,000	0	0
Monarch Capital Fund, Ltd	837,931	3.7 %	837,931	0	0
Iroquois Master Fund, Ltd	698,276	3.1 %	698,276	0	0
Bluegrass Growth Fund, LP	465,517	2.1 %	465,517	0	0
JPC Capital Partners, Inc.	152,838	*	152,838	0	0

*

Less than one percent.

(1)

Based on shares outstanding as of February 16, 2007. Assumes that all the notes are converted in full and the warrants are exercised in full and all shares of common stock held and to be held by the selling stockholders being offered under this Prospectus are sold, and that none of the selling stockholders acquire any additional shares of common stock before the completion of this offering. The convertible notes and the warrants are subject to the limitation that a selling stockholder many not convert a convertible note or exercise a warrant if, after such conversion of exercise, such selling stockholder and its affiliates would beneficially own more than 4.99% of the outstanding common stock of the Company, unless the selling shareholder gives 61 days prior written notice to the Company. The Company s registration of the shares of common stock does not necessarily mean that any one of the selling stockholders will sell all or any of the shares.

(2)

As of February 16, 2007, the balance remaining on the original debt of $984,960 had been reduced to $431,211 after seven of the twelve monthly payments have been made. Thus, the total number of shares available in this offering has decreased and the remaining total possible shares to be issued depends upon the stock price prior to any payments made by converting the notes into common stock.

This prospectus also covers any additional shares of common stock that become issuable in connection with the shares being registered by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without the receipt of consideration which results in an increase in the number of our outstanding shares of common stock.

PLAN OF DISTRIBUTION

The selling stockholders listed in the table above under Selling Security Holders (the Selling Stockholders) and any of their pledgees, assignees and successors-in-interest may, from time to time, sell any or all of their shares of common stock on any stock exchange, market or trading facility on which the shares are traded or in private transactions. These sales may be at fixed or negotiated prices. The Selling Stockholders may use any one or more of the following methods when selling shares:

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ordinary brokerage transactions and transactions in which the broker dealer solicits purchasers;

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block trades in which the broker dealer will attempt to sell the shares as agent but may position and resell a portion of the block as principal to facilitate the transaction;

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purchases by a broker dealer as principal and resale by the broker dealer for its account;

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an exchange distribution in accordance with the rules of the applicable exchange;

.

privately negotiated transactions;

.

settlement of short sales entered into after the date of this prospectus;

.

agreements with broker dealers to sell a specified number of such shares at a stipulated price per share;

.

a combination of any such methods of sale;

.

the writing or settlement of options or other hedging transactions, whether through an options exchange or otherwise; or

.

any other method permitted pursuant to applicable law.

The Selling Stockholders may also sell shares under Rule 144 under the Securities Act of 1933, as amended (the Securities Act), if available, rather than under this prospectus.

Broker-dealers engaged by the Selling Stockholders may arrange for other brokers-dealers to participate in sales. Broker-dealers may receive commissions or discounts from the Selling Stockholders (or, if any broker dealer acts as agent for the purchaser of shares, from the purchaser) in amounts to be negotiated, but, except as set forth in a supplement to this Prospectus, in the case of an agency transaction not in excess of a customary brokerage commission in compliance with NASDR Rule 2440; and in the case of a principal transaction a markup or markdown in compliance with NASDR IM-2440.

In connection with the sale of the Common Stock or interests therein, the Selling Stockholders may enter into hedging transactions with broker-dealers or other financial institutions, which may in turn engage in short sales of the Common Stock in the course of hedging the positions they assume. The Selling Stockholders may also sell shares of the Common Stock short and deliver these securities to close out their short positions, or loan or pledge the Common Stock to broker-dealers that in turn may sell these securities. The Selling Stockholders may also enter into option or other transactions with broker-dealers or other financial institutions or the creation of one or more derivative securities which require the delivery to such broker-dealer or other financial institution of shares offered by this prospectus, which shares such broker-dealer or other financial institution may resell pursuant to this prospectus (as supplemented or amended to reflect such transaction).

The Selling Stockholders and any broker-dealers or agents that are involved in selling the shares may be deemed to be underwriters within the meaning of the Securities Act in connection with such sales. In such event, any commissions received by such broker-dealers or agents and any profit on the resale of the shares purchased by them may be deemed to be underwriting commissions or discounts under the Securities Act. Each Selling Stockholder has informed the Company that it does not have any written or oral agreement or understanding, directly or indirectly, with any person to distribute the Common Stock. In no event shall any broker-dealer receive fees, commissions and markups which, in the aggregate, would exceed eight percent (8%).

The Company is required to pay certain fees and expenses incurred by the Company incident to the registration of the shares. The Company has agreed to indemnify the Selling Stockholders against certain losses, claims, damages and liabilities, including liabilities under the Securities Act.

Because Selling Stockholders may be deemed to be underwriters within the meaning of the Securities Act, they will be subject to the prospectus delivery requirements of the Securities Act. In addition, any securities covered by this prospectus which qualify for sale pursuant to Rule 144 under the Securities Act may be sold under Rule 144 rather than under this prospectus. Each Selling Stockholder has advised us that they have not entered into any written or oral agreements, understandings or arrangements with any underwriter or broker-dealer regarding the sale of the resale shares. There is no underwriter or coordinating broker acting in connection with the proposed sale of the resale shares by the Selling Stockholders.

We agreed to keep this prospectus effective until the earlier of (i) the date on which the shares may be resold by the Selling Stockholders without registration and without regard to any volume limitations by reason of Rule 144(e) under the Securities Act or any other rule of similar effect or (ii) the date on which all of the shares have been sold pursuant to the prospectus or Rule 144 under the Securities Act or any other rule of similar effect. The resale shares will be sold only through registered or licensed brokers or dealers if required under applicable state securities laws. In addition, in certain states, the resale shares may not be sold unless they have been registered or qualified for sale in the applicable state or an exemption from the registration or qualification requirement is available and is complied with.

Under applicable rules and regulations under the Exchange Act, any person engaged in the distribution of the resale shares may not simultaneously engage in market making activities with respect to the Common Stock for a period of two business days prior to the commencement of the distribution. In addition, the Selling Stockholders will be subject to applicable provisions of the Exchange Act and the rules and regulations thereunder, including Regulation M, which may limit the timing of purchases and sales of shares of the Common Stock by the Selling Stockholders or any other person. We will make copies of this prospectus available to the Selling Stockholders and have informed them of the need to deliver a copy of this prospectus to each purchaser at or prior to the time of the sale.

LEGAL PROCEEDINGS

The Company has pending various minor legal actions arising in the normal course of business. Management does not believe that such legal actions, individually or in the aggregate, will have a material impact on the Company's business, financial condition or operating results.

DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT

Directors and Executive Officers. The following table sets forth the name, age, positions, and offices or employments as of February 16, 2007, of our executive officers and directors. Members of the board are elected and serve for one year terms or until their successors are elected and qualify. All of the officers serve at the pleasure of the Board of Directors of the Company.

Name	Age	Position
Robert Budd	50	President, Chief Executive Officer, and Director
Charles L. Thompson	55	Executive Vice President, Chief Financial Officer and Chief Accounting Officer
Salvatore Geraci	60	Director
Ronald Metz	48	Chairman and Director
Dan F. Cooke	58	Director

Robert M. Budd, President, Chief Executive Officer, and Director. Mr. Budd joined Next as a President and Chief Executive Officer of the Company effective November 16, 2005. He spent the last six years as founding partner of TBA Management Services, a consulting firm specializing in management advisory services. While with TBA, he worked with both public and private companies, fulfilling the roles of both chief executive officer and chief operating officer. Mr. Budd was elected as a Director of the Company at the annual meeting on October 24, 2006.

Charles L. Thompson, Executive Vice President, Chief Financial Officer and Chief Accounting Officer. Since February 2002, Mr. Thompson has served as an Executive Vice President and as the Company s Chief Financial Officer and Chief Accounting Officer. During 2001 and 2002, Mr. Thompson served as Vice President Finance and Business Development of Ameris Health Systems, an operator of six hospitals. From 1997 to 2000, Mr. Thompson served Vice President/Chief Financial Officer of Great Smokies Diagnostics Laboratory.

Salvatore Geraci. Mr. Geraci has been a Director of the Company since February 2002. Since 1997, Mr. Geraci has been a principal of Evergreen Management, Inc., a provider of tax, estate, retirement and investment planning. Mr. Geraci also serves as an adjunct professor of accounting and finance at the University of Tennessee at Chattanooga.

Ronald J. Metz. Mr. Metz has been a Director of the Company since February 2002. Mr. Metz has served as Chairman of the Board of the Company since November 24, 2003. Since 1987, Mr. Metz has been a named senior partner with the accounting firm of Bucheri McCarty & Metz LLP.

Dan F. Cooke. Mr. Cooke has been a consultant to the Company since January 1, 2004, working on acquisitions and investment banking agreements. Mr. Cooke was Chairman of the Board and Chief Executive Officer of the Company from February 2002 to November 24, 2003 and since 1989 and 1997, respectively, was a principal of Blue Sky and Next Marketing. Mr. Cooke was elected as a Director of the Company at the annual meeting on October 25, 2005.

Audit Committee Financial Expert. The Audit Committee of the Company s Board of Directors is currently composed of one non-employee directors, Salvatore Geraci. Each member of the Audit Committee (i) is independent as defined by Rule 4200(a)(15) of the National Association of Securities Dealer Inc. s listing standards, (ii) meets the criteria for independence set forth in Rule 10A-3(b)(1) under the Securities Exchange Act of 1934, (iii) has not participated in the preparation of the financial statements of the Company or any current subsidiary of the Company at any time during the past three years, and (iv) is able to read and understand fundamental financial statements, including a company s balance sheet, income statement and cash flow statement. Additionally, the Company has and will continue to have, at least one member of the Audit Committee who has past employment experience in finance or accounting, requisite professional certification in accounting, or any other comparable experience or background which results in the individual s financial sophistication, including being or having been a chief executive officer, chief financial officer or other senior officer with financial oversight responsibilities. The Board of Directors has determined that Mr. Geraci is an audit committee financial expert as defined in applicable Securities and Exchange Commission rules.

Compliance with Section 16(a) of the Exchange Act. Based on representations from directors and officers, the Company does not believe there were any failures to timely file any reports under Section 16(a) of the Exchange Act.

Principal Executive and Financial Officer Code of Ethics. The Company has adopted a code of business conduct and ethics that applies to its directors, officers and employees, including its principal executive officers, principal financial officer, principal accounting officer, controller or persons performing similar functions.

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

AND RELATED STOCKHOLDER MATTERS

Security Ownership of Certain Beneficial Owners and Management. The following table sets forth certain information concerning the beneficial ownership of the Company s outstanding classes of stock as of February 16, 2007, by each person known by the Company to own beneficially more than 5% of each class, by each of the Company s Directors and Executive Officers (see Part III, Item 10, above) and by all Directors and Executive Officers of the Company as a group. For purposes of calculating the percentage of common stock outstanding, any securities not outstanding which are subject to options, warrants or conversion privileges are deemed outstanding for the purposes of computing the percentage of outstanding securities owned by the selling stockholder. Unless otherwise indicated below, to the Company s knowledge, all persons listed below have sole voting and investment power with respect to their shares of common stock except to the extent that authority is shared by spouses under applicable law.

Name and Address of Beneficial Owner	Common Shares Beneficially Owned	Percentage Owned
Dan F. Cooke (a)	3,445,500	17.6%
The William B. III and Cindy S. Hensley Family Limited Partnership (b)	2,220,000	11.3%
Charles L. Thompson (c)	1,387,500	7.1%
Robert M. Budd	127,500	.7%
Salvatore Geraci (d)	90,000	.5%
Ronald J. Metz (d)	180,000	.9%
All officers and directors as a group (5 persons)	5,230,500	25.4%

(a)

Based on an amended Schedule 13D filed pursuant to the Exchange Act which indicates that Mr. Cooke has sole voting and dispositive power of all of those shares. Mr. Cooke is the former Chairman of the Board and Chief Executive Officer of the Company and a former member of the Company s board of directors. Mr. Cooke s address is 6430 Cobble Lane, Harrison, Tennessee 37341.

(b)

Based on a holdings report on Form 13D/A filed pursuant to the Exchange Act which indicates that The William B. Hensley III and Cindy S. Hensley Family Limited Partnership (the Hensley Partnership) has sole voting and dispositive power of all of those shares. The Hensley Partnership is controlled by William B. Hensley III, the Company s former Chief Executive Officer, President and Chief Operating Officer. Mr. Hensley currently serves as a director on the Company s board of directors. The address of the Hensley Partnership is P. O. Box 684, Wabash, Indiana, 46992.

(c)

Based on a holdings report on Schedule 13G/A filed pursuant to the Exchange Act which indicates that Charles L. Thompson has sole voting and dispositive power of all of those shares. Mr. Thompson is the Company s Executive Vice President, Chief Financial Officer and Chief Accounting Officer. The address of Mr. Thompson is c/o Next, Inc. 7625 Hamilton Park Drive, Suite 12, Chattanooga, Tennessee, 37421.

(d)

Based on the number of options vested and shares owned for these respective individuals.

All shares are held directly. No options, warrants or other stock rights have been issued by the Company to the officers other than as disclosed above. See Part III, Item 10, Executive Compensation for options issued to directors.

Equity Compensation Plan Information. The following table represents all stock options that have been issued by the Company through February 16, 2007:

Plan category	Number of securities to be issued upon exercise of outstanding options	Weighted average exercise price of outstanding options	Number of securities remaining available for future issuance
Equity compensation plan approved by security holders:	1,365,500(1)	$ 0.76	219,500
Total:	1,365,500	$ 0.76	219,500

(1)

Represents 98,000 options issued prior to the Exchange pursuant to the 2001 Stock Option Plan (the Plan) of Next, Inc. Upon consummation of the Exchange, the Company assumed the Plan and all preexisting options granted thereunder. Pursuant to the terms of the Plan, any previously granted options to acquire shares of common stock were replaced with options to acquire shares of the Company s common stock.

DESCRIPTION OF SECURITIES

The Company has 100,000,000 shares of authorized common stock of which 18,626,029 were issued and outstanding as of February 16, 2007. All shares of common stock have equal voting, liquidation, and dividend rights.

All shares of common stock now outstanding are fully paid for and non-assessable.

The common stock is quoted on the OTCBB under the symbol NXTI.OB but it is not listed on a national securities exchange.

The holders of outstanding shares of the Company's common stock are entitled to receive dividends out of legally available funds at such times and in such amounts as the board of directors may from time to time determine. Each stockholder is entitled to one vote for each share of our common stock held on all matters submitted to a vote of stockholders. The common stock is not entitled to preemptive rights and is not subject to conversion or redemption. Upon a liquidation, dissolution or winding-up, the assets legally available for distribution to stockholders are distributable ratably among the holders of the common stock and any participating preferred stock outstanding at that time after payment of liquidation preferences, if any, on any outstanding preferred stock and payment of other claims of creditors.

INTEREST OF NAMED EXPERTS AND COUNSEL

No expert or counsel will receive a direct or indirect interest in the small business issuer or was a promoter, underwriter, voting trustee, director, officer, or employee of Next, Inc., nor does any such expert or counsel have any contingent based agreement with us or any other interest in or connection to us.

DISCLOSURE OF COMMISSION'S POSITION ON INDEMNIFICATION

FOR SECURITIES ACT LIABILITIES

Section 145 of the Delaware General Corporation Law permits a corporation to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suite or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that the person is or was a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding if the person acted in good faith and in a manner the person reasonably believes to be in or not opposed to the best interest of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the person's conduct was unlawful.

A corporation also shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that the person is or was a director, officer, employee or agent of the corporation or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorney's fees) actually and reasonably incurred by the person in connection with the defense or settlement of such action or suit if the person acted in good faith in a manner the person reasonably believed to be in or not opposed to the best interest of the corporation and except that no such indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Delaware Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

Article Six of the Company's Amended and Restated Certificate of Incorporation states that the Company shall, to the fullest extent permitted by Section 145 of the Delaware General Corporation Law, as amended, shall indemnify any and all persons whom it shall have the power to indemnify under said section from and against any and all of the expenses, liabilities and other matters referred to in or covered by such section and further that the indemnification provided in such Certificate of Incorporation shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise.

Insofar as indemnification for liabilities under the Securities Act of 1933 may be permitted to our directors, officers, and controlling persons, we have been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and therefore unenforceable.

DESCRIPTION OF BUSINESS

BUSINESS DEVELOPMENT. Next, Inc., a Delaware corporation, was formed January 2, 1987. It has two wholly owned subsidiaries: (i) Next Marketing, Inc., a Delaware corporation (Next Marketing), and (ii) Choice International, Inc., a Delaware corporation (Choice). On December 1, 2006, the Company merged CMJ Ventures, Inc., a Florida corporation (CMJ), Lil Fan, Inc., a Delaware corporation (Lil Fan), S-2-S Acquisition Corporation, a Delaware corporation, (S2S) and Blue Sky Graphics, Inc., a Delaware corporation (Blue Sky), into Next Marketing, Inc. to reduce the accounting and legal cost of maintaining these subsidiaries. All references herein to the Company, we, us, our or Next refer to Next, Inc. and its subsidiaries.

The Company. The Company, as it currently operates, commenced its operations on February 1, 2002, after the completion of a stock exchange between Sporting Magic, Inc., a Delaware corporation, and Next, Inc., a Delaware corporation (the Exchange). Following the Exchange and until December 27, 2002, the Company operated under the name Sporting Magic, Inc., at which time Next, Inc. was merged with and into Sporting Magic, Inc. and the name Sporting Magic, Inc. was changed to Next, Inc.

The Subsidiaries. Blue Sky and Next Marketing became indirect subsidiaries of the Company at the time of the Exchange and on December 27, 2002, following the merger between Sporting Magic, Inc. and Next, Inc., became wholly owned subsidiaries of the Company. Blue Sky and Next Marketing (and their respective predecessors) have been in existence since 1989 and 1997, respectively, and, prior to the Exchange, were owned and controlled by two of the Company s principal stockholders. CMJ became a subsidiary of the Company on June 1, 2002 pursuant to the terms of an Agreement and Plan of Merger dated March 1, 2002, as amended on May 16, 2002 and May 15, 2003. On July 31, 2003, the Company acquired substantially all of the assets of Lil Fan, Inc., the right to sell all items previously sold by Stan Howard & Associates, and Stan Howard & Associates, Inc. through a subsidiary named Lil Fan. On October 31, 2004, the Company acquired substantially all of the assets of Choice International, Inc., the right to purchase goods through an international source, and the right to sell all items through a customer base previously sold by the principals through a subsidiary that is now Choice. On August 12, 2005, the Company acquired certain assets of Sports-2-Schools, LLC, the right to sell all items previously sold by Buck Swindle Associates, Inc. and the vendor number for a major customer through a subsidiary named S2S. On December 1, 2006, the Company merged CMJ, Lil Fan, S-2-S, and Blue Sky into Next Marketing to reduce the accounting and legal cost of maintaining these subsidiaries.

THE BUSINESS. The Company is a creative and innovative sales and marketing organization that designs, develops, markets and distributes licensed and branded imprinted sportswear primarily through key licensing agreements and the Company s own proprietary designs. Products are both outsourced and embellished in-house via both screenprint and embroidery.

The Company s management (Management) believes that there are substantial growth opportunities in the imprinted sportswear industry and that the Company is well positioned to take advantage of these growth opportunities. Management believes that the Company has an excellent reputation in the marketplace as a result of its ability to provide quality products and services and on-time delivery at competitive prices.

The Company s licensed and proprietary products include the following:

§

Approximately 200 licenses and agreements to distribute its **Cadre Athletic**™ and **Campus Traditions USA**™ line for most major colleges and universities in the U.S.;

§

Licensing agreements with **Chevrolet®**, **Pontiac®**, **Hummer®**, **Cadillac®**, **Buick®**, **Corvette C6®, Dodge®**, **GMC®, Chrysler®, Plymouth®,** and **Ford®** for their respective "branded" logos for the **RPM Sports USA**™ motor sports line, targeting the automotive dealership network and automotive venue markets;

§

Proprietary designs including **American Biker**™, **American Wildlife**™, **Ragtops Sportswear**™, **Campus Traditions USA**™ and **Cadre Athletic**™, among others;

§

Licensing and distribution agreements with **Sturgis "Bike Rally"**, **Indianapolis Motor Speedway, GRITS,** and **Rivalfish.**

The Company is continually reviewing additional licensing programs and proprietary designs to further expand its licensing program and proprietary design portfolio.

OPERATIONS. The Company is one of the larger companies in the highly fragmented licensed imprinted sportswear industry. The Company has implemented its strategy of The Total Solution Company to meet its customers key requirements including: art design and development, manufacturing (for imprinted sportswear), sourcing (for distributed products), warehousing and fulfillment. We believe that the following strengths, among others, have contributed to our past success and may provide us with a distinctive ongoing competitive advantage:

High quality, imprinted sportswear. Imprinted sportswear is produced both domestically and offshore. For large runs with long lead times, it is economically advantageous to produce the imprinted sportswear in countries where the cost of labor is lower than in the United States. Management believes that the Company does an excellent job of costing, and effectively sourcing its products from international suppliers. The Company s facility in Wabash, Indiana, was set-up specifically to handle situations where it is not practical to produce imprinted sportswear offshore such as: (a) for customized imprinted sportswear that, due to the uniqueness of the product, is not suited for the standardized long runs of offshore production, (b) for hot market reorders of just-in-time inventory such as for major sporting events, and (c) for demand that exceeds forecasts leading to the need for quick replenishment orders. The Wabash facility, with the capability to produce both imprinted and embroidered products, was organized by industry experts incorporating a sophisticated inventory management system with emphasis on automation of the manufacturing process effort, to minimize costs, cycle time and waste. The Wabash facility substantially reduces our reliance on outside sourcing, enabling us to reduce costs, shorten delivery time and enhance quality control of our products.

Excellent design and merchandising staff. We believe that licensed branded products are an established and significant growth category within our industry. The ability to deliver unique product offerings on a timely basis is key to the future success and expansion of our branded licensed revenue. The Company believes that it possesses one of the most creative and innovative design, merchandising and product development capabilities within the industry. The Company s design and merchandising staff determines, in partnership with our customers, the product strategy and is responsible for creating innovative products for our branded license and proprietary products lines. Management believes that this partnership provides stability in the design environment and consistency in our product variety and offers our customers flexibility in their product selection and timeliness of product delivery. The Company has been successful in significantly reducing the time requirements needed for the design, sourcing and delivery of products to substantially less than the industry norm. This enables us to provide a wide variety of products with greater acceptability in the marketplace within a reduced lead-time. Our partnerships with key suppliers further enhance our ability to develop and deliver our distinctive and innovative products quicker. In 2006, key suppliers included DZ Trading, Inc., Gildan, and Delta Apparel.

Upscale brand identity. The Company offers a style of products that is built on quality and strong imagery. Our marketing themes revolve around college and university brands, motor sports, outdoor lifestyle, motorcycle biking, fishing, water sports, and other leisure pursuits designed to appeal to many of our target customers. We reinforce our upscale brand image at the retail level with specialized planograms and displays that present our lines as distinctive collections. The Company s target is an upscale consumer in casual settings, college and sporting activities, or relaxed weekend environments. We believe that our consumers are seeking a refined level of product quality and distinctiveness, and our designs, manufacturing standards and marketing are structured accordingly.

INFORMATION SYSTEMS. We employ a fully integrated, real-time management information system that is specifically designed for our industry. The system includes important features such as manufacturing resource requirements planning, production scheduling, detailed product tracking, standard cost system planning and control, and detailed perpetual inventory systems. As our production personnel track original purchases through various factory production phases, our merchandisers track sales in order to compare purchases against availability, thereby allowing us to react quickly to changes and trends. Our product development team utilizes sophisticated computer-aided design software to meet our customers design, collaboration and specification requirements. We also have a remote-order entry system for our sales force, allowing them to monitor and establish sales plans and communicate order specifics. Customer service personnel receive this uploaded information daily and have real-time access to inventory availability.

This information system serves users in each of our operating areas, and is also used to create costing models, specification sheets and production scheduling. Our information system also provides detailed product gross margin information that assists us in managing product profitability. During fiscal 2006, we continued to expand the relational database capabilities of our management information system to allow us to create specialized management reports and access critical decision support data.

COMPETITION. The imprinted sportswear industry is highly competitive. According to a study completed by Impressions magazine, a leading publication of the imprinted sportswear industry, there are over 7,000 high volume (defined as shops with annual gross sales over $500,000) screenprint and embroidery shops, and of that figure, only approximately 8% of them have gross annual sales of over $10 million. Our primary distribution channels are highly fragmented with substantial competition from other distributors of imprinted sportswear. We believe that our ability to compete effectively is based primarily on product differentiation, product quality, production flexibility and distribution capabilities, all of which Management believes enhance the Company s brands.

CUSTOMER BASE. The Company has made a concerted effort to expand its customer base. As a result of this effort, the Company has developed a diverse distribution network, ranging from national, large regional, and specialty retail chains, corporate accounts, college book stores, motor sports, souvenir and gift shops, and golf shops. During fiscal 2005 and 2006, approximately 44.5% ($11,872,172) and 61.87% ($17,798,888), respectively, of the net sales of the Company were to its two largest customers. Sales to the next three largest customers approximated 16.1% ($4,283,987) and 15.7% ($4,503,985), respectively, for the same years. The Company believes that its continued customer diversification and expansion program will be evident in fiscal year 2007 and beyond. The following represent a cross section of the Company s customers segregated by distribution channel:

National Retail Merchants:	Kohl s, Sears, K-Mart, Dillard s, J.C. Penney, Belk, Wal-Mart
Specialty Retailers:	Dollar General, Sam s Wholesale Club, Alcone Marketing Group, Boscov s, Gordmans, Brylane Home Wishes, Von Maur, Cracker Barrel
Sporting Goods Chains:	Sports Fan, Academy, Delaware North Companies, Football Fanatics, Scheels Sports, Global Sports International.

Corporate Accounts and College Book Stores:	Nebraska Book Company, Jayhawk Spirit, Husker Hounds, Love s Travel Stores, IU Athletic Outfitters
Motor Sports:	Chevrolet®, Pontiac®, Hummer®, Cadillac®, Buick®, Corvette C6®, Dodge®, GMC®, Chrysler®, Plymouth®, Ford®, and motorcycle dealers and gift shops
E-Commerce:	General public via website distribution

GROWTH STRATEGY. The industry in which the Company competes is highly fragmented with no single company or group of companies holding a dominant market share. As a result, Management believes that there are significant growth opportunities available to the Company that include the following:

Expansion of the Company s Licensed Imprinted Sportswear Business. In recent years, licensed imprinted sportswear has become very popular. Licensing agreements are available for branded products and services, amateur and professional sports teams, and many other promotional areas. According to statistics from industry publication The Licensing Letter, royalties from sports licenses produced over $500 million on $13.2 billion in retail sales in 2005, making sports licenses the second highest producer of royalty revenues. Additionally, apparel and headwear items, such as those designed and embellished by the Company, made up 63% of retail sales for collegiate licenses. These two types of licenses make up a large percentage of the Company s sales base, and based on the popularity of these items Management believes there is room for growth and expansion in the marketplace. The Company is constantly working to expand its licensing program to gain an advantage in the competitive licensed imprinted sportswear business.

E-Commerce. The Company has expanded its business to include e-commerce web sites through which some of the Company s most popular licensed products are marketed. The Company has been successful in establishing itself as a premier supplier under various e-commerce web sites, currently the most significant of which are www.campustraditionsusa.com™, www.rpmsportswearusa.com™, www.americanwildlifeusa.com, and www.americanbiker.com™. A corporate website, www.nextinc.net, gives information to the general public about the Company.

Increased Marketing of the Company s Proprietary Designs. The Company has developed several proprietary designs that Management believes will increase its penetration into existing customer base and broaden its product offering to new accounts. The proprietary designs cover a broad spectrum of themes such as: **American Wildlife®** (outdoor activities) , **American Biker®** (motorcycles), **Cadre Athletic®** and **Campus Traditions USA™** (college and athletics), among others**.**

Strategic Mergers and Acquisitions. In addition to organic growth, the Company also plans to grow through selective strategic acquisitions. Management believes that there are a number of quality acquisition candidates that will enable the Company to expand and diversify its presence in the marketplace. The Company s key acquisition criteria include: proven historical success, diverse customer base, and a reputation for quality in the marketplace.

Imprinted Sportswear Industry. The imprinted sportswear industry is a niche industry that entails value added embellishment (embroidering or screenprinting) of various apparel. The items that are imprinted include: headwear, polo shirts, long-sleeve shirts, fleece wear, shorts, jackets, beach towels, souvenir blankets and t-shirts. The imprinted sportswear is sold primarily through traditional and specialty retailers ranging from large national and regional chains to sporting goods stores, casinos, golf and tennis pro shops, souvenir shops and sports stadiums.

Trends. A significant industry trend is the evolving requirement of customers to have suppliers provide enhanced value-added services to them. A primary attribute that customers are seeking is a company s ability to be a one-stop shop for all product requirements. In effect, customers are now looking to their suppliers to provide enhanced value-added services: design and graphic capabilities, fulfillment and warehousing, company store planning and execution, and on-line purchasing.

SUPPLIERS. The Company sources a significant portion of its products through suppliers with international relationships. The majority of the products used by the Company are available from multiple sources. Alternative suppliers are currently available to the Company both domestically and internationally. In 2006, key suppliers included DZ Trading, Inc., Gildan, and Delta Apparel.

EMPLOYEES. As of February 16, 2007, the Company had approximately one hundred fifty employees. We consider our relations with our employees to be satisfactory.

ACQUISITIONS AND REFINANCING. The Company signed a new credit facility with National City Bank on January 31, 2007 for two years, expiring on January 31, 2009. The new agreement increases the total line to $7,500,000, decreases the interest rate to prime plus or minus .25% (depending on certain financial ratios), increases the advance rates on accounts receivable to 85%, and establishes new quarterly financial covenants. The loan is collateralized by accounts receivable, inventory, and limited personal guarantees of the Company s Chief Executive Officer and one board member.

The Company entered into amendments with National City Bank of Indiana to extend the maturity date of the Company s credit facility during the year with the last amendment extending the maturity date to April 30, 2007. Additional provisions of the amendments increased the interest rate to prime plus one and one half points and reduced the maximum availability under the revolving line of credit from $9,500,000 to $6,500,000. Pursuant to the amendments, National City waived the Company s financial covenants under the credit facility.

During the fiscal year of 2006, the Company s credit facility agreement with National City Bank provided for draws up to the sum of 80% of eligible accounts receivable, as defined in the credit facility agreement, and 60% of eligible raw materials and eligible finished goods inventory, as defined in the credit facility agreement. In addition, the credit facility agreement provided for monthly payments of interest at a nationally published prime rate plus 1.5% (8.25% was the published rate at December 1, 2006). Accounts receivable, inventory, and personal guarantees of the Company s Chief Executive Officer, Chief Financial Officer, and one board member collateralized the borrowings under the credit facility.

On November 30, 2006, the Company entered into a subordinated loan agreement with Next Investors, LLC for $500,000, to replace an agreement originally executed on July 20, 2005. The purpose of this loan was to provide working capital to be repaid out of future cash flows. The loan has an interest rate of prime plus .25% and maturity date of November 30, 2008. Next Investors, LLC s principal partners are comprised of the Chief Financial Officer, one board member, and a major shareholder of the Company. As of December 1, 2006, interest expensed and accrued for this loan totaled $39,389 and $10,743, respectively.

On April 6, 2006, the Company entered into a Subscription Agreement for Convertible Notes and Warrants with the following investors: DKR Soundshore Oasis Holding Fund Ltd., Alpha Capital Aktiengesellschaft, Monarch Capital Fund, Ltd., Iroquois Master Fund, Ltd., and Bluegrass Growth Fund, LP (collectively, the Investors), pursuant to which the Company issued to the Investors, as a group, $984,960 in principal amount of convertible promissory notes (the Notes) and warrants (the Warrants) to purchase 849,103 shares of common stock of the Company (the Common Stock). The Notes require equal monthly payments of cash or stock in the amount of $86,184 over a 12-month period starting 115 days after closing and will be fully subordinated to the Company s senior lenders. The Notes are convertible into a total of 1,698,207 shares of Common Stock at a conversion rate of $.58 in principal amount of the Notes per share. The warrants have a three-year term and an exercise price of $.68 per share of Common Stock. The Company has filed a registration statement with the Securities and Exchange Commission for the offer and sale by the Investors of the Common Stock underlying both the Notes and Warrants. In connection with these transactions, the Company issued to JPC Capital Partners, Inc., as placement agent, warrants to purchase 152,838 shares of Common Stock on the same terms as the Warrants issued to the Investors. As of December 1, 2006, one payment had been made with stock, and all others had been paid with cash.

On September 30, 2005, the Company refinanced the credit facility for its main plant in Wabash, Indiana at First Federal Savings Bank in the amount of $3,225,809, which paid off the original loan of $2,672,922 due in January 2006, the warehouse loan of $365,479, and an equipment loan of $155,469. These balances include accrued interest. Also included in the new loan were loan origination fees of $31,939. The interest rate is 7% and the note matures on October 15, 2020.

Pursuant to the terms of an Asset Purchase Agreement (the Agreement), dated August 12, 2005, by and among S-2-S Acquisition Corporation (a wholly owned subsidiary of the Company), Sports-2-Schools, LLC, and Buck Swindle Associates, Inc., the Company, through a subsidiary, acquired certain assets of Sports-2-Schools, LLC and the right to sell all items previously sold by the principals. Sports-2-Schools, LLC s customers, distribution networks, and vendor number diversify, complement, and bolster the Company s existing customer and distribution base. The Company expects that future sales and earnings will continue to grow. The Company, during fiscal 2005, fully integrated the operations of Sports-2-Schools, LLC into the operating facility located in Wabash, Indiana (see NOTE 15 of the Notes to Consolidated Financial Statements contained elsewhere in this document). As consideration for the above described acquisition, the Company issued 50,000 shares of its common stock, with up to an additional $575,000 worth of shares of its common stock to be issued on a deferred basis if certain financial targets are achieved, and up to $600,000 in cash pursuant to an earn-out arrangement. No payments were made in fiscal year 2006 as part of the earn-out arrangement. As additional consideration, the Company paid $50,000 to Buck Swindle Associates, Inc. and forgave $205,500 of accounts receivable indebtedness to the Company. The Company also assumed $172,000 of debt of Sports-2-Schools, LLC which was paid off in October 2005. The shares were issued to the shareholders of Sports-2-Schools, LLC, in a transaction exempt from registration pursuant to Section 4(2) of the Securities Act of 1933. The transaction was negotiated with the shareholders, who were a small group of sophisticated investors knowledgeable about the Company.

On February 24, 2005, the Company entered into a new loan with First Federal Saving Bank of Wabash to purchase a 43,000 square foot warehouse for inventory utilization. The loan was for $365,000 and subsequently consolidated with the refinancing of main plant in Wabash on September 30, 2005. The purchase of the warehouse allowed the company to consolidate its inventory from two leased warehouses costing $11,500 per month.

On February 11, 2005, the Company entered into a new loan with First Federal Savings Bank of Wabash to purchase two screen print machines for $250,500 at 6.75% interest rate over a five year period with monthly payments of $4,895.

On January 24, 2005, the Company entered into a Securities Purchase Agreement (the Agreement) with Bonanza Master Fund, Ltd. (Bonanza), MidSouth Investor Fund, L.P. (MidSouth) and Itasca Capital Partners LLC (Itasca) (collectively, the Purchasers) and raised $2,990,000 in a private placement to the Purchasers. None of the Purchasers has any other material relationship with the Company. Pursuant to the Agreement, the Company issued to Bonanza 2,000,000 shares of its common stock and a warrant to purchase 1,000,000 shares, to MidSouth, 250,000 shares and a warrant to purchase 125,000 shares, and to Itasca, 50,000 shares and a warrant to purchase 25,000 shares. The shares were issued at $1.30 per share and the warrants are exercisable at $1.75 per share for five years. In addition, the Company will issue a warrant to purchase 115,000 shares of common stock to a consultant for its services in connection with the private placement. The warrants are exercisable at $1.75 per share for five years, but the average closing price must be equal to at least $2.10 for ten consecutive trading days to exercise purchase. The total offering price was $2,990,000 in cash.

Future Acquisitions. The Company has an ongoing effort to engage in discussions with various potential acquisition targets and expects to grow through strategic acquisitions of complimentary businesses. Management believes that additional acquisitions by the Company will allow it to further diversify its customer and distribution base, lessen its current dependence on large customers, and enhance stockholder value. The Company is not presently a party to any definitive agreements with respect to any acquisitions and there can be no assurances that any acquisition will be accomplished in the near future or at all.

Business Developments in 2006. Business developments in 2006 include:

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Service and other

	33,719
	36,047
Total revenues	
	64,838
	64,165
Cost of revenues:	
Cost of software licenses	
	3,376
	3,149
Cost of service and other	
	16,339
	17,481

Amortization of technology related intangible assets	
	1,902
Total cost of revenues	
	19,715
	22,532
Gross profit	
	45,123
	41,633
Operating costs:	
Selling and marketing	
	22,291

	21,210	
Research and development	11,677	8,490
General and administrative	12,288	10,519
Restructuring charges	7,226	1,446
Loss (gain) on sales and disposals of assets	20	(15)
Total operating costs		

53,502

41,650

Loss from operations

(8,379

)

(17

)

Interest income

6,198

5,120

Interest expense

(4,394

)

(4,588

)

Foreign currency exchange gain (loss)

163

(67

)

(Loss) income before provision for income taxes

(6,412

)

448

Provision for income taxes

(2,591

)

(2,046

)

Net loss

(9,003

)

(1,598

)

Accretion of preferred stock discount and dividends

(3,736

)

Loss attributable to common shareholders

$

(9,003

)

$

(5,334

)

Basic and diluted loss per share attributable to common shareholders

$

(0.10

)

$

(0.10

)

Basic and diluted weighted average shares outstanding

88,995

52,801

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

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ASPEN TECHNOLOGY, INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

(Unaudited and in thousands)

	Three Months Ended September 30, 2007 (As restated, See Note 15)	2006 (As restated, See Note 15)
Cash flows from operating activities:		
Net loss	$ (9,003)	$ (1,598)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Depreciation and amortization	2,825	5,271
Net foreign currency losses (gains)	447	(321)
Stock-based compensation	2,502	1,741
Non-cash interest expense from amortization of debt costs	231	205
Loss on disposal of property	20	
Deferred income taxes	(58)	
Provision for doubtful accounts	565	330
Changes in assets and liabilities:		
Accounts receivable	1,402	(1,454)
Unbilled services	3,010	112
Prepaid expenses and other current assets	1,227	695
Installments and collateralized receivables	13,068	14,747
Accounts payable and accrued expenses and other current liabilities	(3,011)	(2,657)
Deferred revenue	715	(4,862)
Other liabilities	589	(1,366)
Net cash provided by operating activities	14,529	10,843
Cash flows from investing activities:		
Purchase of property and leasehold improvements	(3,129)	(957)
Capitalized computer software development costs		(2,744)
Decrease (increase) in other long-term assets	26	(232)
Net cash used in investing activities	(3,103)	(3,933)
Cash flows from financing activities:		
Issuance of common stock under employee stock purchase plan	467	423
Exercise of stock options and warrants	697	551
Payments of long-term debt and capital lease obligations	(60)	(50)
Debt issuance costs		(1,124)
Proceeds from secured borrowing	20,680	31,510
Repayments of secured borrowing	(35,586)	(35,586)
Payment of tax withholding obligations related to restricted stock	(592)	
Net cash used in financing activities	(14,394)	(4,276)
Effects of exchange rate changes on cash and cash equivalents	169	(40)
(Decrease) increase in cash and cash equivalents	(2,799)	2,594
Cash and cash equivalents, beginning of period	132,267	86,272
Cash and cash equivalents, end of period	$ 129,468	$ 88,866

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

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ASPEN TECHNOLOGY, INC. AND SUBSIDIARIES

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

1. Interim Unaudited Condensed Consolidated Financial Statements

In the opinion of management, the accompanying unaudited interim condensed consolidated financial statements have been prepared in conformity with accounting principles generally accepted in the United States of America for interim financial information and pursuant to the rules and regulations of the U.S. Securities and Exchange Commission (the SEC) for reporting on Form 10-Q/A. Accordingly, certain information and footnote disclosures required for complete financial statements are not included herein. It is suggested that these unaudited interim condensed consolidated financial statements be read in conjunction with the audited consolidated financial statements for the year ended June 30, 2007, which are contained in the Annual Report on Form 10-K of Aspen Technology, Inc. and subsidiaries (the Company), as previously filed with the SEC. In the opinion of management, all adjustments, consisting of normal and recurring adjustments, considered necessary for a fair presentation of the financial position, results of operations, and cash flows at the dates and for the periods presented have been included. The results of operations for the three-month period ended September 30, 2007 are not necessarily indicative of the results to be expected for the full fiscal year.

2. Significant Accounting Policies

Revenue Recognition

The Company recognizes revenue in accordance with Statement of Position (SOP) No. 97-2, Software Revenue Recognition, as amended and interpreted. License revenue, including license renewals, consists principally of revenue earned under fixed-term and perpetual software license agreements and is generally recognized upon shipment of the software if collection of the resulting receivable is probable, the fee is fixed or determinable, and vendor-specific objective evidence (VSOE) of fair value exists for all undelivered elements, such as maintenance support, consulting and training services. The Company determines VSOE based upon the price charged when the same element is sold separately. Consulting and training services VSOE represents rates that the Company charges its customers when the Company sells these services separately. For an element not yet being sold separately, VSOE represents the price established by management having the relevant authority when it is probable that the price, once established, will not change before the separate introduction of the element into the marketplace. The Company uses installment contracts as a standard business practice and has a history of successfully collecting under the original payment terms without making concessions on payments, products or services.

Revenue under license arrangements, which may include several different software products and services sold together, are allocated to the delivered elements based on the residual method. Under the residual method, the fair value of the undelivered elements is deferred and subsequently recognized when earned and the residual amount for the delivered elements is recognized in revenue when all other revenue recognition criteria are met. The Company has established VSOE for consulting services, training and maintenance and support services. Accordingly, software license revenues are recognized under the residual method in arrangements in which software is bundled with consulting services, training and maintenance and support services. Consulting services do not generally involve customizing or modifying the licensed software, but rather involve helping customers deploy the software to their specific business processes. The Company generally accounts for the services element of the arrangement separately. Occasionally, the Company provides consulting services considered essential to the functionality of the software or provides services for the significant production, modification or customization of the licensed software and recognizes revenue for such services and any related software licenses in accordance with SOP 81-1, Accounting for Performance of Construction Type and

Certain Performance Type Contracts using the percentage-of-completion method.

When a loss is anticipated on a service contract, the full amount thereof is provided currently. Service revenues and consulting and training revenue are recognized as the related services are performed using the proportional performance method. Services that have been performed but for which billings have not been made are recorded as unbilled services, and billings that have been recorded before the services have been performed are recorded as deferred revenue in the accompanying consolidated balance sheets. Reimbursement received for out-of-pocket expenses is recorded as revenue.

The Company has a practice of licensing its products through resellers in certain regions. For software licensed through these distribution channels, revenue is recognized at the time of delivery to the end customer, when persuasive evidence of an arrangements exists, the fee is fixed or determinable, collection is reasonably assured and other revenue recognition criteria are met.

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Maintenance and support services are recognized ratably over the life of the maintenance and support contract period. Maintenance and support services include telephone support and unspecified rights to product upgrades and enhancements. These services are typically sold for a one-year term and are sold either as part of a multiple element arrangement with software licenses or sold independently at time of renewal. The Company generally does not provide specified upgrades to its customers in connection with the licensing of its software products.

Accounting for Stock-Based Compensation

Stock-based compensation cost is measured at the grant date based on the fair value of the award and is recognized as expense over the vesting period. Prior to fiscal 2006, the Company used the intrinsic value method. Under the intrinsic value method, stock-based compensation is recognized when the award is less than the fair value on the measurement date. See Note 7, Stock-Based Compensation, in the notes to the unaudited condensed consolidated financial statements for more discussion.

Accounting for Transfers of Financial Assets

The Company derecognizes financial assets when control has been surrendered in compliance with SFAS No. 140, Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities. Transfers of assets that meet the requirements of SFAS No. 140 for sale accounting treatment are removed from the balance sheet and gains or losses on the sale are recognized. If the conditions for sale accounting treatment are not met, or are no longer met, assets transferred are classified as collateralized receivables in the consolidated balance sheet and cash received from these transactions is classified as secured borrowings. All transfers of have been accounted for as secured borrowings. Transaction costs associated with secured borrowings, if any, are treated as borrowing costs and recognized in interest expense. When cash is received from a customer by the Company, the collateralized receivable balance is reduced and the related secured borrowing is reclassified to an accrued liability for amounts the Company must remit to the financial institution. The accrued liability is reduced when payment is remitted to the financial institutions.

Income Taxes

The Company calculates the provision for income taxes during quarterly periods utilizing the expected effective tax rate for the year. The Company s tax provisions primarily related to income taxes attributable to its operating results in foreign jurisdictions, foreign withholding taxes, and interest associated with uncertain tax positions. The Company s accounting policy with respect to uncertain tax positions is described in Note 3.

Deferred income taxes are recognized based on temporary differences between the financial statement and tax bases of assets and liabilities. Deferred tax assets and liabilities are measured using the statutory tax rates and laws expected to apply to taxable income in the years in which the temporary differences are expected to reverse. Valuation allowances are provided against net deferred tax assets if, based upon the available evidence, it is more likely than not that some or all of the deferred tax assets will not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income and the timing of the temporary differences becoming deductible. Management considers, among other available information, scheduled reversals of deferred tax liabilities, projected future taxable income, limitations of availability of net operating loss carryforwards, and other matters in making this assessment.

Derivatives

The Company records all derivatives, which consist of foreign currency exchange contracts, on the balance sheet at fair value. Derivatives that are not accounting hedges must be adjusted to fair value through earnings. If a derivative is a hedge, changes in the fair value of the derivative are either offset against the change in fair value of assets, liabilities or firm commitments through earnings or included in accumulated other comprehensive income depending on the nature of the hedge. The ineffective portion of a derivative s change in fair value is immediately recognized in earnings. The Company does not account for any derivatives using hedge accounting treatment during the periods presented and therefore the changes in fair value of derivatives is recognized in earnings.

3. Income Taxes

In July 2006, the FASB issued Interpretation No. 48, Accounting for Uncertain Tax Positions, an Interpretation of FASB Statement No. 109, or FIN 48, which clarifies the criteria for recognition and measurement of benefits from uncertain tax positions. Under FIN 48, an entity should recognize a tax benefit when it is more-likely-than-not, based on the technical merits, that the position would be sustained upon examination by a taxing authority. The amount to be recognized, if the more-likely-than-not threshold was passed, should be measured as the largest amount of tax benefit that is greater than 50 percent likely of being realized upon ultimate settlement with a taxing authority that has full knowledge of all relevant information. Furthermore, any change in the recognition, derecognition or measurement of a tax position should be recognized in the period in which the change occurs.

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The Company adopted FIN 48 as of July 1, 2007 and the adoption had no impact on accumulated deficit on that date. As a result of the implementation of FIN 48 on July 1, 2007, the Company had $7.4 million of deferred tax assets previously subject to a full valuation allowance which have been de-recognized. These amounts did not result in an adjustment to the accumulated deficit at July 1, 2007 as a result of the full valuation allowance recorded against these deferred tax assets. To the extent these previously unrecognized tax benefits are ultimately recognized, they will affect the effective tax rate in a future period. The total amount of unrecognized tax benefits upon adoption was $21.9 million.

The Company has historically accounted for interest and penalties related to uncertain tax positions as part of its provision for income taxes. Following adoption of FIN 48, the Company will continue this classification. As of July 1, 2007, the Company has accrued $6.2 million of interest and $0.7 million of penalties related to uncertain tax positions. Prior to July 1, 2007, the Company classified all income taxes payable as a current liability. Under FIN 48, the Company is required to classify those obligations that are expected to be paid within the next twelve months as a current obligation and the remainder as a non-current obligation. As of July 1, 2007, the Company classified $7.6 million of uncertain tax position liability and related penalties and interest as non-current obligations within other liabilities.

The Company s U.S. and foreign tax returns are subject to periodic compliance examinations by various local and national tax authorities through periods defined by tax codes in the applicable jurisdiction. The years prior to 2004 are closed in the U.S., although the utilization of net operating loss carry forwards generated in earlier periods will keep these periods open for examination. The Company s operating entities in Canada are subject to audit from year 2000 forward, in the UK from 2006 forward, and other international subsidiaries from 2002 forward. In connection with examinations of tax filings, uncertain tax positions can arise from differing interpretations of applicable tax laws and regulations relative to the amount, timing or proper inclusion or exclusion of revenues and expenses in taxable income or loss. For periods that remain subject to audit, the Company has asserted and unasserted potential assessments that are subject to final tax settlements.

4. Secured Borrowings and Collateralized Receivables

The Company has transferred customer installment and trade receivables to financial institutions or unconsolidated special purpose entities (referred to herein as receivable sale facilities) that have been accounted for as secured borrowings. The transferred receivables serve as collateral under the receivable sales facilities.

At September 30, 2007 and June 30, 2007, receivables totaling $223.1 million and $245.1 million, respectively, were pledged as collateral for the secured borrowings. The secured borrowings totaled $183.4 million and $206.2 million as of September 30, 2007 and June 30, 2007, respectively. The collateralized installment receivables are presented net of applicable discounts for interest established for the individual receivable. The interest rates implicit in the installment receivables for the three months ended September 30, 2007 ranged from 5.0% to 9.0%. The Company recorded $4.2 million and $3.9 million of interest income associated with the collateralized receivables for the three months ended September 30, 2007 and 2006, respectively, and recognized $4.1 million of interest expense associated with the secured borrowings each year. Proceeds from and payments on the secured borrowings are presented as components of cash flows from financing activities in the consolidated statements of cash flows. Payments on secured borrowings are recognized as financing cash flows upon payment to the financial institution, and operating cash flows from collateralized receivables are recognized after customer payment of amounts due.

Traditional Programs

The Company has arrangements to transfer certain of its receivables to three financial institutions at the mutual agreement of the Company and the financial institution for each such customer receivable. The transfer of customer receivables under these programs has been accounted for as secured borrowings. The Company received cash proceeds of $20.7 million and $11.5 million for the three months ended September 30, 2007 and 2006 related to these programs.

The total collateralized receivables for the Traditional Programs approximate the amount of the secured borrowings recorded in the consolidated balance sheet. The collateralized receivables earn interest income and the secured borrowings accrue borrowing costs at approximately the same interest rates. When cash is received from a customer by the Company, the collateralized receivable balance is reduced and the related secured borrowing is reclassified to an accrued liability for amounts the Company must remit to the financial institution. The accrued liability is reduced when payment is remitted to the financial institutions. The terms of the customer accounts receivable range from amounts that are due within 30 days to installment receivables that are due over five years. The Company acts as the servicer for the receivables in one of the three arrangements.

Under the terms of the Traditional Programs the Company has transferred the receivables to the financial institutions with limited financial recourse. Potential recourse obligations are primarily related to one program that requires the

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Company to pay interest to the financial institution when the underlying customer has not paid by the installment due date. This recourse is limited to a maximum period of 90 days after the due date. The amount of installment receivables that has this potential recourse obligation is $45.2 million at September 30, 2007. In addition, the Company has recourse obligations totaling $1.6 million at September 30, 2007 if the underlying installment receivable is not paid by the customer. This recourse obligation is in the form of a deferred payment by the financial institution that is withheld until customer payments are received.

Securitization of Accounts Receivable

The Fiscal 2005 and Fiscal 2007 securitization transactions include collateralized receivables whose value exceeds the related borrowings from the financial institutions. The Company receives and retains the right to collections on these securitized receivables after all borrowing and related costs are paid to the financial institution. The financial institutions rights to repayment are limited to the payments received from the collateralized receivables. The carrying value of the collateralized receivables at September 30, 2007 under these arrangements was $55.8 million and the secured borrowings totaled $18.8 million. The collateralized receivables earn interest income and the secured borrowings result in interest expense. The secured borrowings incur a higher interest rate than the implicit rates in the receivables. The Company acts as the servicer under both of these arrangements and the customer collections are used to repay the secured borrowings, interest and related costs.

Fiscal 2005 Securitization

On June 15, 2005, the Company securitized and transferred installment receivables with a net carrying value of $71.9 million and received cash proceeds of $43.8 million. This transfer did not meet the criteria for a sale and has been accounted for as a secured borrowing. These borrowings are secured by collateralized receivables and the debt and borrowing costs are repaid as the receivables are collected.

Fiscal 2007 Securitization

On September 29, 2006, the Company entered into a three year revolving securitization facility and securitized and transferred installment receivables with a net carrying value of $32.1 million and received cash proceeds of $20.0 million. This transfer did not meet the criteria for a sale and has been accounted for as a secured borrowing. These borrowings are secured by collateralized receivables and the debt and borrowing costs are repaid as the receivables are collected. The Company capitalized $1.1 million of debt issuance costs associated with this transaction and these costs are being recognized in interest expense using the effective interest method.

Secured Borrowing Balances

The secured borrowings consist of the following at September 30, 2007 and June 30, 2006 (in thousands):

		September 30, 2007		June 30, 2007
Traditional Programs weighted average interest rate of 7.7% and 7.5% at September 30, 2007 and June 30, 2007, respectively	$	164,623	$	180,314
Fiscal 2005 Securitization interest rate of 13% at September 30, 2007 and June 30, 2007		5,484		9,072
Fiscal 2007 Securitization interest rate of 9.9% and 9.3% at September 30, 2007 and June 30, 2007, respectively		13,324		16,764
Total secured borrowings		183,431		206,150
Less current portion		(78,413)		(101,826)
	$	105,018	$	104,324

The cash payments on the collateralized receivables fund the secured borrowing payments, and the Company retains payments received on collateralized receivables which are in excess of the secured borrowings. The Company has no future cash obligations other than the limited recourse obligations noted above.

In December 2007, the Company paid the outstanding amount of the Fiscal 2005 Securitization at its carrying value. The unamortized debt issue costs were charged to expense at the time.

The Company had been in violation of certain covenants related to the Fiscal 2007 Securitization due to the delay in filing its financial statements and other violations. The secured borrowings under this arrangement have been classified in the current portion of secured borrowings. In March 2008, the Company paid the outstanding amount of the Fiscal 2007 Securitization at its carrying value plus a termination fee of $0.8 million, and this securitization is no longer available. The unamortized debt issue costs were charged to expense at that time.

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5. Derivative Instruments

Forward foreign exchange contracts are used by the Company to offset certain installment and accounts receivable cash flow exposures resulting from changes in foreign currency exchange rates. Such exposures have historically resulted from portions of the Company s installments receivable that are denominated in currencies other than the U.S. dollar, primarily the Euro, Japanese Yen, Canadian Dollar and the British Pound Sterling.

The Company records its foreign currency exchange contracts at fair value in its condensed consolidated balance sheet and the related gains or losses on these contracts are recognized in earnings. During the three months ended September 30, 2007 the net loss recognized in the consolidated statements of operations was $1.7 million. During the three months ended September 30, 2006, the net loss recognized in the condensed consolidated statements of operations was $0.1 million.

The following table provides information about the Company s foreign currency derivative financial instruments outstanding as of September 30, 2007. The table presents the notional amount (at contract exchange rates) and the fair value of the derivatives in U.S. dollars:

	Notional Contract Amount	Fair Value Loss
	(In thousands)	
Euro	$ 26,306	$ (1,331)
British Pound Sterling	4,077	(72)
Japanese Yen	2,819	(117)
Canadian Dollar	1,465	(131)
Swiss Franc	278	(34)
	$ 34,945	$ (1,685)

6. Other Liabilities

Other liabilities in the accompanying unaudited condensed consolidated balance sheets consist of the following (in thousands):

	September 30, 2007	June 30, 2007
Tax liabilities	$ 7,956	$
Restructuring accruals	14,235	10,255
Other	5,371	5,787
Total	$ 27,562	$ 16,042

7. Stock-Based Compensation Plans

General Award Terms

The Company issues stock options to its employees and outside directors, and restricted stock units to its employees and provides employees the right to purchase stock pursuant to a stockholder approved stock option and employee stock purchase plan. Options are generally granted with an exercise price equal to the market price of the Company s stock at the date of the grant: those options generally vest over four years and have 7 or 10 year contractual terms. Restricted stock units generally vest over four years (if performance conditions are met). The Company discontinued its employee stock compensation plan after the six-month subscription period ended June 30, 2007.

Stock Compensation

The Company recognizes compensation costs on a straight-line basis over the requisite service period for time vested awards. For awards that vest based on performance conditions, the Company uses the accelerated model for graded vesting awards. All of the Company s stock-based compensation is accounted for as equity instruments and there have been no liability awards granted. The Company s policy is to issue new shares upon exercise of stock awards. Stock-based

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compensation cost for the three months ended September 30, 2006 and 2007 are included in the following categories (in thousands):

	Three Months Ended September 30, 2007	2006
Recorded as expense:		
Cost of service and other	$ 323	$ 310
Selling and marketing	734	621
Research and development	444	199
General and administrative	1,001	611
	2,502	1,741
Capitalized computer software development costs		55
Total stock-based compensation	$ 2,502	$ 1,796

8. Net Loss Per Common Share

Basic loss per share was determined by dividing loss attributable to common shareholders by the weighted average common shares outstanding during the period. Diluted earnings per share was determined by dividing loss attributable to common shareholders by diluted weighted average shares outstanding. Diluted weighted average shares reflects the dilutive effect, if any, of potential common shares. To the extent their effect is dilutive, potential common shares include common stock options and warrants, based on the treasury stock method, convertible preferred stock based on the if-converted method, and other commitments to be settled in common stock. For the three months ended September 30, 2006 and 2007, all potential common shares were antidilutive due to the net loss. The calculations of basic and diluted net loss per share attributable to common shareholders and basic and diluted weighted average shares outstanding are as follows (in thousands, except per share data):

	Three Months Ended, September 30, 2007	2006
Loss attributable to common shareholders	$ (9,003)	$ (5,334)
Basic and Diluted weighted average shares outstanding	88,995	52,801
Basic and Diluted loss per share attributable to common shareholders	$ (0.10)	$ (0.10)

The following potential common shares were excluded from the calculation of diluted weighted average shares outstanding as their effect would be anti-dilutive at the balance sheet date (in thousands):

	Three Months Ended September 30, 2007	2006
Convertible preferred stock		33,336
Employee equity awards and warrants	9,934	12,213
Preferred stock dividend, to be settled in common stock		2,864
Total	9,934	48,413

9. Comprehensive Loss

Comprehensive loss is defined as the change in equity of a business enterprise during a period from transactions and other events and circumstances from non-owner sources. The components of comprehensive loss for the three months ended September 30, 2006 and 2007 were as follows (in thousands):

	Three Months Ended, September 30,	
	2007	**2006**
Net loss	$ (9,003)	$ (1,598)
Foreign currency translation adjustments	1,602	(245)
Total comprehensive loss	$ (7,401)	$ (1,843)

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10. Restructuring Charges

During the three months ended September 30, 2007, the Company recorded $7.2 million in restructuring charges primarily related to the relocation of the Company s corporate headquarters under the May 2007 restructuring plan discussed below.

At September 30, 2007, total restructuring liabilities for all plans included $0.7 million for employee severance, benefits, and related costs and $18.7 million for the closure or cease to use facilities. Management anticipates that payments of $5.2 million will be made over the next twelve months and the remaining $14.2 million will be made through 2012.

(a) Restructuring charges originally arising in the three months ended June 30, 2007

In May 2007, the Company initiated a plan to relocate its corporate headquarters from Cambridge to Burlington, Massachusetts. The relocation resulted in the Company ceasing to use its prior corporate headquarters leased space, subleasing the space to a third party, and the relocation to a new facility. During the year ended June 30, 2007, the Company recorded a charge of $0.1 million associated with the relocation of certain departments to temporary space. The closure and relocation actions resulted in an aggregate charge of approximately $6.1 million, with $6.0 million of the charge recognized in three months ended September 30, 2007.

As of September 30, 2007, there was $5.8 million in accrued expenses relating to the remaining lease payments. During the three months ended September 30, 2007, the following activity was recorded (in thousands):

Fiscal 2007 Restructuring Plan		**Closure/ Consolidation of Facilities**
Accrued expenses, July 1, 2007	$	
Restructuring charge		6,068
Payments		(289)
Accrued expenses, September 30, 2007	$	5,779
Expected final payment date		September 2012

Subsequent to September 30, 2007, the Company incurred additional charges of $0.3 million related to the Cambridge facility. The additional activities were completed by October 2007.

(b) Restructuring charges originally arising in the three months ended June 30, 2005

In May 2005, the Company initiated a plan to consolidate several corporate functions and to reduce its operating expenses. The plan to reduce operating expenses primarily resulted in headcount reductions, and also included the termination of a contract and the consolidation of facilities. These actions resulted in an aggregate restructuring charge of $3.8 million, recorded in the fourth quarter of fiscal 2005. During the years ended June 30, 2006 and 2007, the Company recorded an additional $1.8 million and $4.6 million, respectively, related to headcount reductions, relocation costs and facility consolidations associated with the May 2005 plan that did not qualify for accrual at June 30, 2005. During the three months ended September 30, 2007, the Company recorded an additional $0.4 million primarily in severance and relocation expenses for employees that were notified or relocation expenses that were incurred during the period.

Under this restructuring plan, the Company has yet to incur charges related to the closure of certain offices and relocation of certain employees included in the planned actions. The Company expects that these charges will be approximately $1.9 million and will primarily be completed by June 2008.

As of September 30, 2007, there was $0.5 million in accrued expenses relating to the remaining severance obligations. During the three months ended September 30, 2007, the following activity was recorded (in thousands):

Fiscal 2005 Restructuring Plan	**Closure/ Consolidation of Facilities**	**Employee Severance, Benefits, and Related Costs**	**Total**
Accrued expenses, July 1, 2007	$	$ 688	$ 688
Restructuring charge	149	285	434
Payments	(149)	(437)	(586)
Accrued expenses, September 30, 2007	$	$ 536	$ 536
Expected final payment date		March 2008	

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(c) Restructuring charges originally arising in the three months ended June 30, 2004

In June 2004, the Company initiated a plan to reduce its operating expenses in order to better align its operating cost structure with the current economic environment and to improve operating margins. The plan to reduce operating expenses resulted in the consolidation of facilities, headcount reductions, and the termination of operating contracts. These actions resulted in an aggregate restructuring charge of $23.5 million, recorded in the fourth quarter of fiscal 2004. During the year ended June 30, 2005, the Company recorded $14.4 million related to headcount reductions and facility consolidations associated with the June 2004 restructuring plan that did not qualify for accrual at June 30, 2004. In addition, the Company recorded $0.4 million in restructuring charges related to the accretion of the discounted restructuring accrual and a $0.8 million decrease to the accrual related to changes in estimates of severance benefits and sublease terms. During the year ended June 30, 2006 and 2007, the Company recorded a $0.7 million increase and a $0.2 million decrease, respectively, to the accrual primarily due to a change in the estimate of future operating costs and sublease assumptions associated with the facilities. During the three months ended September 30, 2007, the Company recorded an additional $0.6 million expense primarily related to changes in the estimates of future operating costs associated with the facilities.

As of September 30, 2007, there was $5.1 million in accrued expenses relating to the remaining severance obligations and lease payments. During the three months ended September 30, 2007, the following activity was recorded (in thousands):

Fiscal 2004 Restructuring Plan		**Closure/ Consolidation of Facilities**		**Employee Severance, Benefits, and Related Costs**		**Total**
Accrued expenses, July 1, 2007	$	4,959	$	92	$	5,051
Restructuring charge		571		1		572
Restructuring charge Accretion		73				73
Payments		(611)		(26)		(637)
Accrued expenses, September 30, 2007	$	4,992	$	67	$	5,059
Expected final payment date		September 2012		August 2008		

(d) Restructuring charges originally arising in the three months ended December 31, 2002

In October 2002, management initiated a plan to further reduce operating expenses in response to first quarter revenue results that were below expectations and to general economic uncertainties. The plan to reduce operating expenses resulted in headcount reductions, consolidation of facilities, and discontinuation of development and support for certain non-critical products. These actions resulted in an aggregate restructuring charge of $28.7 million. During fiscal 2005, 2006, and 2007, the Company recorded a $7.0 million, a $1.0 million increase, and a $0.2 million decrease, respectively, to the accrual primarily due to a change in the estimate of the facility vacancy term, extending to the term of the lease. During the three months ended September 30, 2007, the Company recorded an additional $0.1 million expense primarily related to changes in the estimates of future operating costs associated with the facilities.

As of September 30, 2007, there was $7.7 million in accrued expenses relating to the remaining lease payments. During the three months ended September 30, 2007, the following activity was recorded (in thousands):

Fiscal 2003 Restructuring Plan		**Closure/ Consolidation of Facilities**
Accrued expenses, July 1, 2007	$	8,043
Restructuring charge		80
Payments		(440)
Accrued expenses, September 30, 2007	$	7,683
Expected final payment date		September 2012

(e) Restructuring charges originally arising in the three months ended June 30, 2002

In the fourth quarter of fiscal 2002, management initiated a plan to reduce operating expenses and to restructure operations around the Company s two primary product lines, engineering software and manufacturing/supply chain software. The Company reduced worldwide headcount by approximately 10%, or 200 employees, closed and consolidated facilities,

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and disposed of certain assets, resulting in an aggregate restructuring charge of $13.2 million. During fiscal 2005, the Company recorded a $0.2 million increase to the accrual due to changes in estimates of sublease assumptions and severance settlements. During fiscal 2006 and 2007, the Company recorded less than $0.1 million of charges due to changes in sublease assumptions.

As of September 30, 2007, there was $0.4 million remaining in accrued expenses relating to lease payments. During the three months ended September 30, 2007, the following activity was recorded (in thousands):

Fiscal 2002 Restructuring Plan	Closure/ Consolidation of Facilities	Employee Severance, Benefits, and Related Costs	Total
Accrued expenses, July 1, 2007	384	48	432
Change in estimate Revised assumptions	2	3	5
Payments	(50)		(50)
Accrued expenses, September 30, 2007	$ 336	$ 51	$ 387
Expected final payment date	September 2012	March 2008	

11. Commitments and Contingencies

(a) FTC settlement and Related Honeywell Litigation

In December 2004, the Company entered into a consent decree with the Federal Trade Commission, or FTC, with respect to a civil administrative complaint filed by the FTC in August 2003 alleging that the Company s acquisition of Hyprotech in May 2002 was anticompetitive in violation of Section 5 of the Federal Trade Commission Act and Section 7 of the Clayton Act. In connection with the consent decree, the Company entered into an agreement with Honeywell International, Inc. on October 6, 2004 (Honeywell Agreement), pursuant to which the Company transferred its operator training business and its rights to the intellectual property of various legacy Hyprotech products. In addition, the Company transferred its AXSYS product line to Bentley Systems, Inc.

On December 23, 2004, the Company and its subsidiaries completed the transactions contemplated by the Honeywell Agreement. Under the terms of the transactions:

- the Company agreed to a cash payment of approximately $6.0 million from Honeywell in consideration of the transfer of the Company s operator training services business, the Company s covenant not-to-compete in the operator training business until the third anniversary of the closing date, and the transfer of ownership of the intellectual property of the Company s Hyprotech engineering products, $1.2 million of which is subject to holdback and may be released upon the resolution of any adjustments for uncollected billed accounts receivable and unbilled accounts receivable.

- the Company transferred and Honeywell assumed, as of the closing date, approximately $4 million in accounts receivable relating to the operator training business; and

- the Company entered into a two-year support agreement with Honeywell under which the Company agreed to provide Honeywell with source code to new releases of the Hyprotech products provided to customers under standard software maintenance services agreements.

The Honeywell transaction resulted in a deferred gain of $0.2 million, which was amortized over the two-year life of the support agreement, and is subject to a potential increase of $1.2 million upon resolution of the holdback payment.

The Company is subject to ongoing compliance obligations under the FTC consent decree. The Company has been responding to requests by the Staff of the FTC for information relating to the Staff s investigation of whether the Company has complied with the consent decree. In addition, the FTC is considering whether to commence litigation against the Company arising from the Company s alleged failure to comply with certain aspects of the decree. If the FTC or a court were to determine that the Company has not complied with its obligations under the consent decree, the Company could be subject to one or more of a variety of penalties, fines, injunctive relief and other remedies, and associated legal fees and expenses, any of which might materially limit the Company s ability to operate under its current business plan and might have a material adverse effect on the Company s operating results and financial condition.

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In March 2007, the Company was served with a complaint and petition to compel arbitration filed by Honeywell in New York State Supreme Court. The complaint alleges that the Company failed to comply with its obligations to deliver certain technology under the Honeywell Agreement referred to above, that the Company owes approximately $800,000 to Honeywell under the Honeywell Agreement, and that Honeywell is entitled to some portion of the $1.2 million retained by Honeywell under the holdback provisions of the Honeywell Agreement, plus unspecified monetary damages arising from contracts assumed thereunder. The Company believes the claims to be without merit and intend to defend the claims vigorously, and to pursue payment of the $1.2 million retained under the holdback provisions of the Honeywell Agreement. However, it is possible that the resolution of the claims may have an adverse impact on the Company s financial position and results of operations.

(b) Other Litigation

SEC action and U.S. Attorney s office criminal complaint

In January 2007, the SEC filed a civil enforcement action in Massachusetts federal district court alleging securities fraud and other violations against three of the Company s former executive officers, David McQuillin, Lisa Zappala and Lawrence Evans, arising out of six transactions in 1999 through 2002 that were reflected in the Company s originally filed consolidated financial statements for fiscal 2000 through 2004, the accounting for which was restated in March 2005. The Company and each of these former executive officers received Wells Notice letters of possible enforcement proceedings by the SEC. On the same day the SEC complaint was filed, the U.S. Attorney s Office for the Southern District of New York filed a criminal complaint against David McQuillin alleging criminal securities fraud violations arising out of two of those transactions. Mr. McQuillin pled guilty in March 2007 and was sentenced in October 2007.

On July 31, 2007, the Company entered into a settlement order with the SEC resolving the Wells Notice the Company received. Under the settlement order, the Company agreed to cease and desist from violations of certain provisions of the federal securities laws, and to comply with certain undertakings. No civil penalty was assessed by the SEC in connection with that settlement order, and the Company has not admitted or denied any wrongdoing in connection with that settlement order.

The SEC enforcement action and the U.S. Attorney s Office criminal action do not involve the Company or any of its current officers or directors. The Company can provide no assurance, however, that the U.S. Attorney s Office, the SEC or another regulatory agency will not bring an enforcement proceeding against the Company, its officers and employees or additional former officers and employees based on the consolidated financial statements that were restated in March 2005. The Company continues to cooperate with the SEC and the U.S. Attorney s Office.

Class action and opt-out claims

In March 2006, the Company settled class action litigation, including related derivative claims, arising out of the restated consolidated financial statements that include the periods referenced in the SEC enforcement action and the criminal complaint discussed above. Members of the class who opted out of the settlement (representing 1,457,969 shares of common stock, or less than 1% of the shares putatively purchased during the class action period) may bring or have brought their own state or federal law claims against the Company, referred to as opt-out claims.

Pursuant to the terms of the Class Action settlement, the Company paid $1.9 million and its insurance carrier paid $3.7 million into a settlement fund for a total of $5.6 million. The Company s $1.9 million payment was recorded in general and administrative expenses in the quarter ended September 30, 2005. All costs of preparing and distributing notices to members of the Class and administration of the settlement, together with all fees and expenses awarded to plaintiffs counsel and certain other expenses, will be paid out of the settlement fund, which will be maintained by an escrow agent under the Court s supervision.

Separate actions have been filed on behalf of the holders of approximately 1.1 million shares who either opted out of the class action settlement or were not covered by that settlement. The claims in those actions include claims against the Company and one or more of its former officers alleging securities and common law fraud, breach of contract, statutory treble damages, deceptive practices and/or rescissory damages liability, based on the restated results of one or more fiscal periods included in its restated consolidated financial statements referenced in the class action. Those actions are:

- *Blecker, et al. v. Aspen Technology, Inc., et al.*, filed on June 5, 2006 in the Business Litigation Session of the Massachusetts Superior Court for Suffolk County and docketed as Civ. A. No. 06-2357-BLS1 in that court, which is an opt out claim asserted by persons who received 248,411 shares of the Company s common stock in an acquisition;

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- *Feldman v. Aspen Technology, Inc., et al.*, filed on July 17, 2006 in the Business Litigation Session of the Massachusetts Superior Court for Suffolk County and docketed as Civ. A. No. 06-3021-BLS2 in that court, which is an opt out claim asserted by an individual who received 323,324 shares of the Company s common stock in an acquisition; and

- *380544 Canada, Inc., et al. v. Aspen Technology, Inc.*, et al., filed on February 15, 2007 in the federal district court in Manhattan and docketed as Civ. A. No. 1:07-cv-01204-JFK in that court, which is a claim asserted by persons who purchased 566,665 shares of the Company s common stock in a private placement.

The damages sought in these actions total more than $20 million, not including claims for treble damages and attorneys fees. If these actions are not dismissed or settled on terms acceptable to the Company, the Company plans to defend the actions vigorously. The Company can provide no assurance as to the outcome of these opt-out claims or the likelihood of the filing of additional opt-out claims, and these claims may result in judgments against the Company for significant damages. Regardless of the outcome, such litigation has resulted in the past, and may continue to result in the future, in significant legal expenses and may require significant attention and resources of management, all of which could result in losses and damages that have a material adverse effect on the Company s business.

On September 6, 2006, the Company also announced that, in connection with the preparation of financial statements for the fiscal year-ended June 30, 2006, a subcommittee of independent directors was appointed to review the Company s accounting treatment for stock option grants for prior years. Following that announcement, the Company and certain of its officers and directors were named defendants in a purported federal securities class action lawsuits filed in Massachusetts federal district court, alleging violations of the Exchange Act and claiming material misstatements concerning its financial condition and results. In response to the Company s motion to dismiss the complaint, the parties stipulated to voluntary dismissal of the plaintiff s claims with prejudice on September 26, 2006 without any payment by the Company.

Derivative suits

The Company may be named as a defendant in securities litigation or derivative lawsuits by current or former stockholders based on the restated consolidated financial statements. Further, the Company may be subject to claims relating to adverse tax consequences with respect to stock options covered by the restatement. Defending against potential claims will likely require significant attention and resources of management and could result in significant legal expenses.

On December 1, 2004, a derivative action lawsuit captioned *Caviness v. Evans, et al*., Civil Action No. 04-12524, referred to as the Derivative Action, was filed in Massachusetts federal district court as a related action to the first filed of the putative class actions subsequently consolidated into the class action described above. The complaint, as subsequently amended, alleged, among other things, that the former and current director and officer defendants caused the Company to issue false and misleading financial statements, and brought derivative claims for the following: breach of fiduciary duty for insider trading, breach of fiduciary duty, abuse of control, gross mismanagement, waste of corporate assets and unjust enrichment. On August 18, 2005, the court granted the defendants motion to dismiss the Derivative Action for failure of the plaintiff to make a pre-suit demand on the board of directors to take the actions referenced in the Derivative Action complaint, and the Derivative Action was dismissed with prejudice.

On April 12, 2005, the Company received a letter on behalf of another purported stockholder, demanding that the board take actions substantially similar to those referenced in the Derivative Action. On February 28, 2006, the Company received a letter on behalf of the plaintiff in the Derivative Action, demanding that they take actions referenced in the Derivative Action complaint. The board responded to both of the foregoing letters that the board has taken the letters under advisement pending further regulatory investigation developments, which the board continues to monitor and with which the Company continues to cooperate. In its responses, the board also requested confirmation of each person s status as one of the Company s stockholders and, with respect to the most recent letter, also referred the purported stockholder to the March 2006 settlement in the class action.

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On September 27, 2006, a derivative action lawsuit was filed in Massachusetts Superior Court captioned *Rapine v. McArdle, et al.,* Civil Action No. 06-3455. The complaint alleged, among other things, that the former and current director and officer defendants authorized, modified, or failed to halt backdating of stock options in dereliction of their fiduciary duties to the Company as directors and officers. On October 16, 2006, defendants removed the action to Massachusetts federal district court and moved to dismiss the complaint. On October 30, 2006, the purported stockholder plaintiff filed an amended complaint, asserting derivative claims for breach of fiduciary duty; unjust enrichment; insider trading; violations of Sections 10(b), 14 and 20(a) of the Securities Exchange Act of 1934; and corporate waste. In October 2007, the court closed this action and consolidated the action with the Risberg case referenced below, which was subsequently dismissed.

In February 2007, a derivative action lawsuit was filed in Massachusetts federal district court captioned *Risberg v. McArdle et al.,* 07-CV-10354. The plaintiff purports to bring a derivative action on behalf of the Company alleging, among other things, that several former and current directors and officer defendants authorized, were aware of, or received backdated stock options. The complaint asserts claims for breach of fiduciary duty; unjust enrichment; violations of Sections 10(b), 14 and 20(a) of the Securities Exchange Act of 1934; corporate waste; and breach of contract. In January 2008, the court granted defendants motion to dismiss this action for failure of the plaintiff to make a pre-suit demand on the Company s board of directors, and judgment on the order of dismissal was entered in favor of all defendants.

Other

The Company is currently defending claims that certain of its software products and implementation services have failed to meet customer expectations. On May 11, 2007, one of the claims resulted in an arbitration award against the Company in the amount of $1.4 million. As of September 30, 2007, the Company has accrued the amount of the arbitration award. The Company is defending other claims in excess of $5 million, primarily consisting of a customer claim, as well as other general commercial claims. Although the Company believes the remaining claims to be without merit, and is defending the claims vigorously, the results of litigation and claims cannot be predicted with certainty, and unfavorable resolutions are possible and could, depending on the amount and timing of any outcome, materially affect the Company s results of operations, cash flows or financial position. In addition, regardless of the outcome, litigation could have an adverse impact on the Company because of defense costs, diversion of management resources and other factors.

(c) Other Commitments and Contingencies

The Company has entered into an employment agreement with its president and chief executive officer providing for the payment of cash and other benefits in certain situations of his voluntary or involuntary termination, including following a change in control. Payment under this agreement would consist of a lump sum equal to approximately two times (1) his annual base salary plus (2) the average of his annual bonus for the three preceding fiscal years. The agreement also provides that the payments would be increased in the event that it would subject him to excise tax as a parachute payment under the Internal Revenue Code. The increase would be equal to the additional tax liability imposed on him as a result of the payment.

The Company has entered into agreements with other executive officers, providing for severance payments in the event that the executive is terminated by the Company other than for cause. Payments under these agreements consist of continuation of base salary for a period of 12 months.

The Company maintains strategic alliance relationships with third parties, including resellers, agents and systems integrators (each an Agent) that market, sell and/or integrate the Company s products and services. The cessation or termination of certain relationships, by the Company or an Agent, may subject the Company to material liability and/or expense. This material liability and/or expense includes potential payments due upon the termination or cessation of the relationship by either the Company or an Agent (which may be triggered by a change in control of either party), costs related to the establishment of a direct sales presence or development of a new Agent in the territory. No such events of termination or cessation have occurred through September 30, 2007. The Company is not able to reasonably estimate the amount of any such liability and/or expense if such event were to occur, given the range of factors that could affect the ultimate determination of the liability including possible claims related to the validity of the arrangements or contract terms. Actual payments from an event could be in the range of zero to $30 million. If the Company reacquires the territorial rights for an applicable sales territory and establishes a direct sales presence, future commissions otherwise payable to an Agent for existing customer maintenance contracts and other intangible assets may be assumed from the Agent. If any of the foregoing were to occur, the Company may be subject to litigation and liability such that its operating results, cash flows and financial condition could be materially and adversely affected.

12. Preferred Stock

In August 2003, the Company issued and sold 300,300 shares of Series D-1 redeemable convertible preferred stock (Series D-1 Preferred), along with warrants to purchase up to 6,006,006 shares of common stock at a price of $3.33 per share,

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in a private placement to several investment partnerships managed by Advent International Corporation for an aggregate purchase price of $100.0 million.

On May 16, 2006, the Holders of the Series D Preferred converted 30,000 shares into 3,000,000 shares of common stock. In December 2006, the holders of the Series D-1 Preferred converted their remaining 270,300 shares into 27,030,000 shares of common stock. In December 2006, the Company announced that it would redeem any shares of its Series D-2 Preferred that were not converted by their holders into common shares by January 30, 2007. In January 2007, the remaining 63,064 shares of Series D-2 Preferred were converted by their holder into 6,306,400 shares of common stock. Accordingly, all Series D preferred was converted into common stock during fiscal 2006 and 2007. No preferred stock was outstanding during the three months ended September 30, 2007.

In the accompanying consolidated statements of operations, the accretion of preferred stock discount and dividend consist of the following (in thousands):

	Three Months Ended September 30,	
	2007	**2006**
Accrual of dividends on Series D preferred stock	$	$ (2,812)
Accretion of discount on Series D preferred stock		(924)
Total	$	$ (3,736)

Registration Rights

In May 2006, the Company received a demand letter from the Series D-1 Preferred holders, in accordance with the terms of their investor rights agreement with the Company, requesting registration of all of the shares of common stock issued or issuable upon the conversion of Series D-1 Preferred and the exercise of their warrants in connection with an underwritten public offering per the terms defined in the investor rights agreement. The Company is required to register the underlying shares at its expense. As of September 30, 2007, the total number of outstanding shares of common stock that would be included by their registration demand letter is 30,027,336.

13. Segment Information

Operating segments are defined as components of an enterprise about which separate financial information is available that is evaluated regularly by the chief operating decision maker, or decision making group, in deciding how to allocate resources and in assessing performance. The Company s chief operating decision maker is the Chief Executive Officer of the Company.

The Company has three operating segments: license, consulting services and maintenance and training. The Company also evaluates certain subsets of business segments by vertical industries as well as by product categories. The chief operating decision maker assesses financial performance and allocates resources based upon the three lines of business.

The license line of business is engaged in the development and licensing of software. The consulting services line of business offers implementation, advanced process control, real-time optimization and other consulting services in order to provide its customers with complete solutions. The maintenance and training line of business provides customers with a wide range of support services that include on-site support, telephone support, software updates and various forms of training on how to use the Company s products.

The accounting policies of the operating segments are the same as those described in the summary of significant accounting policies.

The following table presents a summary of operating segments (in thousands):

	License	Consulting Services	Maintenance and Training	Total
Three Months Ended September 30, 2007				
Revenues from external customers	$ 31,119	$ 13,161	$ 20,558	$ 64,838
Controllable expenses	14,736	10,310	3,264	28,310
Controllable margin(1)	$ 16,383	$ 2,851	$ 17,294	$ 36,528
Three Months Ended September 30, 2006				
Revenues from external customers	$ 28,118	$ 16,334	$ 19,713	$ 64,165
Controllable expenses	13,550	11,013	3,251	27,814
Controllable margin(1)	$ 14,568	$ 5,321	$ 16,462	$ 36,351

(1) The Controllable margins reported reflect only the expenses of the operating segment and do not contain an allocation for selling and marketing, general and administrative, development and other corporate expenses incurred in support of the segments.

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Reconciliation to income (loss) before provision for income taxes:

	Three Months Ended September 30, 2007	2006
Total controllable margin for reportable segments	$ 36,528	$ 36,351
Cost of license and amortization for technology related costs	(3,376)	(5,051)
Marketing	(4,322)	(4,750)
Research and development	(8,778)	(6,286)
General and administrative and overhead	(17,137)	(17,109)
Restructuring charges and FTC legal costs	(7,226)	(1,446)
Gain (loss) on sales and disposals of assets	(20)	15
Stock compensation	(2,502)	(1,741)
Corporate/executive bonuses	(1,546)	
Foreign currency exchange gain (loss)	163	(67)
Interest and other income and expense	1,804	532
(Loss) income before provision for income taxes	$ (6,412)	$ 448

14. Recently Issued Accounting Pronouncements

In September 2006, the FASB issued Statement of Financial Accounting Standards No. 157, Fair Value Measurements (SFAS No. 157). SFAS No. 157 establishes a framework for measuring fair value in generally accepted accounting principles and expands disclosures about fair value measurements. SFAS No. 157 emphasizes that fair value measurement is market-based, not entity-specific, and establishes a fair value hierarchy in which the highest priority is quoted prices in active markets. Under SFAS No. 157, fair value measurements are disclosed according to their level within this hierarchy. SFAS No. 157 is effective for fiscal years beginning after November 15, 2007 except for nonrecurring fair value measurements of nonfinancial assets and nonfinancial liabilities, for which the effective date is fiscal years beginning after November 15, 2008. The Company has not yet determined the effect that the application of SFAS No. 157 will have on its consolidated financial statements.

In February 2007 the FASB issued SFAS No. 159, The Fair Value Option for Financial Assets and Financial Liabilities. SFAS No. 159 permits entities to measure many financial instruments and certain other items at fair value and provides entities with the opportunity to mitigate volatility in reported earnings caused by measuring related assets and liabilities differently without having to apply complex hedge accounting provisions. Once an entity has elected the fair value option for designated financial instruments and other items, changes in fair value must be recognized in the statement of operations. SFAS No. 159 is effective for fiscal years beginning after November 15, 2007. The Company has not yet determined the effect that the application of SFAS No. 159 will have on its consolidated financial statements.

In December 2007, the FASB issued SFAS No. 141(R), Business Combinations, which replaces SFAS No. 141. SFAS No. 141R establishes principles and requirements for how an acquirer recognizes and measures in its financial statements the identifiable assets acquired, the liabilities assumed, any noncontrolling interest in the acquiree and the goodwill acquired. The Statement also establishes disclosure requirements which will enable users to evaluate the nature and financial effects of the business combination. SFAS No. 141R is effective for fiscal years beginning after December 15, 2008. The Company expects SFAS No. 141R will have an impact on accounting for business combinations once adopted but the effect will be primarily dependent upon future acquisitions.

In December 2007, the FASB issued SFAS No. 160, Noncontrolling Interests in Consolidated Financial Statements an amendment of Accounting Research Bulletin No. 51, which establishes accounting and reporting standards for ownership interests in subsidiaries held by parties other than the parent, the amount of consolidated net income attributable to the parent and to the noncontrolling interest, changes in a parent s ownership interest and the valuation of retained noncontrolling equity investments when a subsidiary is deconsolidated. The Statement also establishes reporting requirements that provide sufficient disclosures that clearly identify and distinguish between the interests of the parent and

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the interests of the noncontrolling owners. SFAS No. 160 is effective for fiscal years beginning after December 15, 2008. The Company has not determined the effect that the application of SFAS No. 160 will have on its consolidated financial statements.

In March 2008, the FASB issued SFAS No. 161, Disclosures about Derivative Instruments and Hedging Activities, an amendment of FASB Statement No. 133. This statement changes the disclosure requirements for derivative instruments and hedging activities. SFAS No. 161 requires enhanced disclosures about (a) how and why an entity uses derivative instruments, (b) how derivative instruments and related hedged items are accounted for under SFAS No. 133 and its related interpretations, and (c) how derivative instruments and related hedged items affect an entity s financial position, financial performance, and cash flows. This statement is effective for financial statements issued for fiscal years and interim periods beginning after November 15, 2008. The Company has not yet determined the effect that the application of SFAS No. 161 will have on its consolidated financial statements.

15. Restatement of Condensed Consolidated Financial Statements

Subsequent to the issuance of the Company s unaudited condensed consolidated financial statements for the three months ended September 30, 2006 (as previously restated), the Company identified errors related to the accounting for sales of customer installment and trade receivables to financial institutions or unconsolidated special purpose entities, which the Company refers to as receivable sale facilities. The sales of receivables were designed to meet true sale criteria for legal and accounting purposes. The transferred receivables serve as collateral under the receivable sales facilities and limited recourse exists against the Company in the event that the underlying customer does not pay. These transactions historically had been accounted and reported as sales of assets for accounting purposes, rather than as secured borrowings. As further described below, however, the Company should not have derecognized the receivables and should have recorded the cash received from the transfer of such assets as a secured borrowing in the Company s consolidated balance sheet, as it effectively retained control of these assets for accounting purposes. As further discussed below, the Company also identified other errors related to revenue recognition and income tax accounting.

The Company effectively retained control for accounting purposes of the transferred assets as a result of engaging in new transactions with its customers to sell additional software and/or extend the terms of existing license arrangements, which were the basis for these installments receivable. The new transactions would sometimes consolidate the remaining balance of the outstanding receivables with additional amounts due under the new or extended software license arrangement. Some receivable sale facilities allowed for this consolidation, subject to a limit, which was exceeded. Other receivable sale facilities did not allow for this method of consolidation. Accordingly, the amount and/or method of consolidation of these receivables resulted in the lack of legal isolation of the assets from the Company, which is one of the requirements to achieve and maintain sale accounting treatment under SFAS No. 140. The Company believes that for accounting purposes, it retained control of the receivables transferred to the receivable sales facilities for each of the years in the three-year period ended June 30, 2007 and that none of the sales of receivables during this period qualified for sale accounting treatment under the provisions of SFAS No. 140. This accounting conclusion does not alter the arrangements with the Company s customers, and the Company does not believe that the accounting conclusion changed its relationship with the financial institutions, including the limited recourse that such financial institutions have against the Company beyond the transferred receivables.

The Company s previous accounting treatment was to inappropriately account for these transactions as sales of assets. Accordingly, under its previous accounting treatment, the Company immediately recognized any gains and losses upon the transfer of assets and then recorded a retained interest in sold receivables for its continuing interest, if any, which was initially recorded at the estimated fair value. The retained interest in sold receivables was subject to periodic accretion of this interest (recorded through interest income) through the term of the respective arrangement. No recognition of the transferred receivables or any debt obligation was recognized for these transactions.

To correct these errors, the Company has recorded the transferred receivables, which are reported as collateralized receivables on the Company s condensed consolidated balance sheet, and a secured debt obligation for the amount of cash received from the receivable sale facilities. There are no longer gains and losses recognized upon the transfer of these assets and any costs incurred have now been recorded as debt issuance costs. The Company now recognizes interest income from the retained installments receivable and interest expense on the secured borrowing. The previous accounting for the retained interest in the transferred installments receivables, including the accretion included in interest income, has been eliminated as the entire interest in the receivables has been included in the Company s condensed consolidated balance sheet. Bad debt provisions related to the transferred receivables are now reflected in the Company s condensed consolidated statements of operations. The Company has also recorded the currency exchange gains or losses on installments receivable that were previously not recorded. The funding received from the receivable sales facilities was previously recorded as cash flows from operations in the Company s condensed consolidated statements of cash flows. The Company has corrected the presentation to include the proceeds from and repayments of the secured borrowings as components of cash flows from financing activities in the condensed consolidated

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statements of cash flows. Repayments from collateralized receivables and operating cash flows are recognized upon customer payment of amounts due.

In addition, the Company identified other errors related to previously reported financial statements in the course of preparing the consolidated financial statements for the year ended June 30, 2007. These errors relate to the timing of revenue recognition, corrections to the Company s income tax accounting, and other items. Errors in the timing of revenue recognition primarily relate to the inappropriate application of contract accounting under SOP No. 97-2. For these bundled arrangements, the Company determined that the service element could not be accounted for separately from the software licenses. The Company had deferred revenue recognition related to the license component until the services arrangements were complete, instead of recognizing revenue under the arrangements as services were performed. In other arrangements, the Company determined that service revenue was recognized prior to the delivery of the software license, and the Company did not have VSOE of fair value for the undelivered license or the price of the arrangement was not fixed and determinable. The Company has corrected these errors and recognized revenue over the period the services were performed for these bundled arrangements or when the criteria for revenue recognition were met.

The Company also identified errors in its historical income tax accounting which impacted the effective tax rate applied to the quarter. The errors included certain international tax obligations, primarily arising from errors in the application of the Company s transfer pricing policies for transactions among consolidated subsidiaries, failure to properly account for deemed dividends from the Company s consolidated subsidiaries as a result of the lack of settlement of intercompany transactions, errors in the accounting for revaluation of foreign denominated transactions, and other errors. The Company has corrected the calculation of its tax provisions for these obligations in the applicable year, including recognition of interest and penalties attributable to the adjusted tax provisions.

In order to correct the errors described above, the Company has restated its condensed consolidated statements of operations for the three months ended September 30, 2006 primarily to reflect (a) additional interest income related to the collateralized receivables of $3.9 million, (b) additional interest expense related to the secured borrowings of $4.1 million, (c) decreases in losses on sale and disposals of assets of $5.8 million, (d) additional provisions for bad debt associated with the collateralized receivables and other adjustments of $0.4 million, (e) an increase in revenue related to certain arrangements that bundled software licenses with services of $0.4 million, (f) a decrease in revenue related to errors in the timing of revenue recognition of $0.2 million, and (g) additional provisions for income taxes of $1.2 million. The corresponding impacts on the condensed consolidated statement of cash flows have been reflected for the three months ended September 30, 2006.

Cash flow adjustments reflecting in this form 10-Q/A

Subsequent to our issuance of the condensed consolidated financial statements on Form 10-Q for the three months ended September 30, 2007, and in connection with the review of our interim financial statements for the quarters ended December 31, 2007 and March 31, 2008, we identified an error in the condensed consolidated statements of cash flows related to the reported repayments of secured borrowings. The previously reported amounts of repayments of secured borrowings within net cash used in financing activities of $43.4 million and $26.5 million for the three months ended September 30, 2007 and 2006, respectively, did not appropriately reflect certain amounts due that were reclassified and included in accrued expenses and other liabilities in the condensed consolidated balance sheets and not yet disbursed in those periods. We should have considered the reclassification that created a reduction in the secured borrowings and recognition of the current liability as a non-cash transaction until disbursements were made to the financial institutions. Accordingly, our net cash flows from operating activities was also misstated as a result of the inclusion of the effects of the changes in the current liabilities within the cash flows from operating activities section of the condensed consolidated statement of cash flows. As such, for the three months ended September 30, 2007, the net cash provided by operating activities was overstated by $7.8 million and net cash used in financing activities was overstated by $7.8 million. For the three months ended September 30, 2006, net cash provided by operating activities was understated by $9.1 million and net cash provided by financing activities was overstated by $9.1 million. The error in the determination of the timing of these payments did not impact the total cash repayments to the financial institutions, any change in total cash flows, or ending cash balances at the end of any reporting period, the condensed consolidated balance sheets or condensed consolidated statements of operations.

The table below summarizes the effect of this error on the condensed consolidated statement of cash flows for the three months ended September 30, 2007 and 2006 as compared to Form 10-Q initially filed with the Securities and Exchange Commission on April 11, 2008:

	For the Three Months Ended September 30, 2007		For the Three Months Ended September 30, 2006	
	As Previously Reported	As Restated	As Previously Reported and Restated	As Restated
	(In thousands)			
Accounts payable and accrued expenses and other current liabilities	$ 4,802	$ (3,011)	$ (11,760)	$ (2,657)
Net cash provided by operating activities	22,342	14,529	1,740	10,843
Repayments of secured borrowings	(43,399)	(35,586)	(26,483)	(35,586)
Net cash (used in) provided by financing activities	(22,207)	(14,394)	4,827	(4,276)

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In addition, we have identified an error in the adjustment we made to the accumulated deficit as of July 1, 2007, when we adopted FASB Interpretation No. 48, Accounting for Uncertainty in Income Taxes, an interpretation of FASB Statement No. 109, or FIN 48. Under FIN 48, an entity should recognize a tax benefit when it is more-likely-than-not, based on the technical merits, that the position would be sustained upon examination by a taxing authority. The amount to be recognized, if the more-likely-than-not threshold is passed, should be measured as the largest amount of tax benefit that is greater than 50 percent likely of being realized upon ultimate settlement with a taxing authority that has full knowledge of all relevant information. Furthermore, any change in the recognition, derecognition or measurement of a tax position should be recognized in the period in which the change occurs. As a result of the implementation of FIN 48 on July 1, 2007, we had previously recognized an increase of $3.0 million in the liability for unrecognized tax benefits, with an offsetting increase to the accumulated deficit. We have subsequently determined that this position met the criteria of more likely than not as our tax position in this matter is viewed as sustainable, and we believe it is appropriate to reverse this $3.0 million liability and the offsetting increase in accumulated deficit as of July 1, 2007. The adjustment for the reversal of this liability as of September 30, 2006 is reflected in the table below.

	As of September 30, 2007	
	As Previously Reported	**As Restated**
	(In thousands)	
Other liabilities	$ 30,530	$ 27,562
Accumulated deficit	(373,459)	(370,491)
Total stockholders equity	129,886	132,854

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Revenue and Expense Adjustments

Set forth below are the adjustments to the Company s previously issued unaudited condensed consolidated statement of operations for the three months ended September 30, 2006.

	Three Months ended September 30, 2006		
	As Previously Reported	Adjustments	As Restated
	(In thousands, except per share data)		
Revenues:			
Software licenses	$ 28,076	$ 42	$ 28,118
Service and other	36,246	(199)	36,047
Total revenues	64,322	(157)	64,165
Cost of revenues:			
Cost of software licenses	3,149		3,149
Cost of service and other	17,481		17,481
Amortization of technology related intangible assets	1,902		1,902
Total cost of revenues	22,532		22,532
Gross profit	41,790	(157)	41,633
Operating costs:			
Selling and marketing	21,210		21,210
Research and development	8,490		8,490
General and administrative	10,084	435	10,519
Restructuring charges	1,446		1,446
Loss (gain) on sales and disposals of assets	5,769	(5,784)	(15)
Total operating costs	46,999	(5,349)	41,650
Income (loss) from operations	(5,209)	5,192	(17)
Interest income	1,248	3,872	5,120
Interest expense	(481)	(4,107)	(4,588)
Foreign currency exchange gain (loss)	(94)	27	(67)
(Loss) income before provision for taxes	(4,536)	4,984	448
Provision for income taxes	(881)	(1,165)	(2,046)
Net loss	(5,417)	3,819	(1,598)
Accretion of preferred stock discount and dividends	(3,736)		(3,736)
Loss applicable to common shareholders	$ (9,153)	$ 3,819	$ (5,334)
Basic and diluted loss per share attributable to common shareholders	$ (0.17)	$ 0.07	$ (0.10)
Basic and diluted weighted average shares outstanding	52,801		52,801

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Cash Flow Adjustments

Set forth below are the adjustments to the Company s previously issued unaudited condensed consolidated statement of cash flows for the three months ended September 30, 2006.

	Three Months ended September 30, 2006		
	As Previously Reported	Adjustments (In thousands)	As Restated
Cash flows from operating activities:			
Net loss	$ (5,417)	$ 3,819	$ (1,598)
Adjustments to reconcile net loss to net cash provided by operating activities:			
Depreciation and amortization	5,271		5,271
Net foreign currency (gains) losses	(321)		(321)
Loss on securitization of installments receivable	5,672	(5,672)	
Stock-based compensation	1,741		1,741
Accretion of discount on retained interest in sold receivables	(766)	766	
Non-cash interest expense from amortization of debt costs		205	205
Provision for doubtful accounts		330	330
Changes in assets and liabilities:			
Accounts receivable	(1,426)	(28)	(1,454)
Unbilled services	10	102	112
Prepaid expenses and other current assets	771	(76)	695
Installments and collateralized receivables	18,587	(3,840)	14,747
Accounts payable and accrued expenses and other current liabilities	(12,648)	9,991	(2,657)
Deferred revenue	(4,783)	(79)	(4,862)
Other liabilities	(1,366)		(1,366)
Net cash provided by operating activities	5,325	5,518	10,843
Cash flows from investing activities:			
Purchase of property and leasehold improvements	(957)		(957)
Capitalized computer software development costs	(2,744)		(2,744)
Decrease (increase) in other long-term assets	86	(318)	(232)
Net cash used in investing activities	(3,615)	(318)	(3,933)
Cash flows from financing activities:			
Issuance of common stock under employee stock purchase plan	423		423
Exercise of stock options and warrants	551		551
Payments of long-term debt and capital lease obligations	(50)		(50)
Debt issuance cost		(1,124)	(1,124)
Proceeds from secured borrowing		31,510	31,510
Repayments of secured borrowing		(35,586)	(35,586)
Net cash provided by (used in) financing activities	924	(5,200)	(4,276)
Effects of exchange rate changes on cash and cash equivalents	(40)		(40)
Increase in cash and cash equivalents	2,594		2,594
Cash and cash equivalents, beginning of period	86,272		86,272
Cash and cash equivalents, end of period	$ 88,866	$	$ 88,866

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

The following discussion of our financial condition and results of operations should be read in conjunction with our condensed consolidated financial statements and the related notes appearing elsewhere in this Form 10-Q/A and in our annual report on Form 10-K for the fiscal year ended June 30, 2007. This discussion contains forward-looking statements that involve risks, uncertainties and assumptions. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of a number of factors, including those set forth in Item 1A. Risk Factors in Part II of this Form 10-Q/A.

The following discussion gives effect to the restatements discussed in Note 15 to the condensed consolidated financial statements included in this Form 10-Q/A. Our fiscal year ends on June 30, and references in this Form 10-Q/A to a specific fiscal year are the twelve months ended June 30 of such year (for example, fiscal 2008 refers to the year ending June 30, 2008).

Overview

We are a leading supplier of integrated software and services to the process industries, which consist of oil and gas, petroleum, chemicals, pharmaceuticals and other industries that manufacture and produce products from a chemical process. We provide a comprehensive, integrated suite of software applications that utilize proprietary empirical models of chemical manufacturing processes to improve plant and process design, economic evaluation, production, production planning and scheduling, and operational performance, and an array of services designed to optimize the utilization of these products by our customers.

Critical Accounting Estimates and Judgments

Our consolidated financial statements are prepared in accordance with accounting principles generally accepted in the United States of America. The preparation of our financial statements requires management to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues, expenses and related disclosures. We base our estimates on historical experience and various other assumptions that we believe to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions. The significant accounting policies that we believe are the most critical to aid in fully understanding and evaluating our reported financial results include the following:

- revenue recognition for both software licenses and fixed-fee consulting services;

- impairment of long-lived assets, goodwill and intangible assets;

- accounting for contingencies;
- accounting for income taxes;
- allowance for doubtful accounts;
- accounting for transfers of financial assets;
- restructuring accruals; and
- accounting for stock-based compensation.

Revenue Recognition Software Licenses

We recognize software license revenue in accordance with SOP No. 97-2, as amended by SOP No. 98-4 and SOP No. 98-9, as well as the various interpretations and clarifications of those statements. When we provide consulting services considered not essential to the functionality of the software, and for which vendor-specific objective evidence, or VSOE, of fair value has been established, we recognize revenue for the delivered software when the basic criteria of SOP No. 97-2 are met. As our arrangements generally meet these criteria, revenue is generally recognized upon delivery. VSOE has been established for software maintenance services, training and consulting services rates. When we provide consulting services that are considered essential to the functionality of the software, or is not described in the contract such that the total price of the arrangement would be expected to vary as the result of the inclusion or exclusion of the services, and involves significant production, modification or customization of the licensed software, we recognize such revenue and any related software licenses in accordance with SOP No. 81-1, Accounting for

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Performance of Construction Type and Certain Performance Type Contracts. Four basic criteria must be satisfied before software license revenue can be recognized:

- persuasive evidence of an arrangement between us and a third party exists;
- delivery of our product has occurred;
- the sales price for the product is fixed or determinable; and
- collection of the sales price is reasonably assured.

Our management uses its judgment concerning the satisfaction of these criteria, particularly the criteria relating to the determination of whether the fee is fixed and determinable and the criteria relating to the collectibility of the receivables, particularly the installments receivable, relating to such sales. These two criteria are particularly relevant to reseller transactions where, specifically, revenue is only recognized upon delivery to the end user, since the determination of whether the fee is fixed or determinable and whether collection is probable is more difficult. Should changes and conditions cause management to determine that these criteria are not met for certain future transactions, all or substantially all of the software license revenue recognized for such transactions could be deferred.

Revenue Recognition Fixed-Fee Consulting Services

We recognize revenue associated with fixed-fee service contracts in accordance with the proportional performance method, measured by the percentage of costs (primarily labor) incurred to date as compared to the estimated total costs (primarily labor) for each contract. When a loss is anticipated on a contract, the full amount of the anticipated loss is provided currently. Our management uses its judgment concerning the estimation of the total costs to complete the contract, considering a number of factors including the experience of the personnel that are performing the services and the overall complexity of the project. We have a significant amount of experience in the estimation of the total costs to complete a contract and have not typically recorded material losses related to these estimates. We do not expect the accuracy of our estimates to change significantly in the future. Should changes and conditions cause actual results to differ significantly from management s estimates, revenue recognized in future periods could be adversely affected.

Impairment of Long-lived Assets, Goodwill and Intangible Assets

In accordance with SFAS No. 144, Accounting for the Impairment or Disposal of Long-Lived Assets, we review the carrying value of long-lived assets when circumstances dictate that they should be reevaluated, based upon the expected future operating cash flows of our business or other factors that trigger an evaluation for potential impairment. The evaluation of the results of any impairment evaluation is based upon our expected future cash flows. These future cash flow estimates are based on historical results, adjusted to reflect our best estimate of future markets and operating conditions, and are updated based on actual operating trends. Historically, actual results have occasionally differed from our estimated future cash flow estimates. In the future, actual results may differ materially from these estimates, and accordingly cause a full impairment of our long-lived assets. We had $18.6 million of long-lived assets at September 30, 2007.

In accordance with SFAS No. 142, Goodwill and Other Intangible Assets, we conduct at least an annual assessment on December 31 of the carrying value of our goodwill assets, which is based on either estimates of future income from the reporting units or estimates of the market value of the reporting units, based on comparable recent transactions. These estimates of future income are based upon historical results, adjusted to reflect our best estimate of future markets and operating conditions. Historically, actual results have occasionally differed from our estimated future cash flow estimates. In the future, actual results may differ materially from these estimates. In addition, the relevancy of recent transactions used to establish market value for our reporting units is based on management s judgment. We had $20.1 million of goodwill recorded at September 30, 2007.

We conducted an annual assessment of the carrying value of our goodwill assets as of December 31, 2006 in accordance with SFAS No. 142. The assessment indicated that there was no impairment of the carrying value of our goodwill assets as of that date. The timing and size of any future impairment charges involves the application of management s judgment and estimates and could result in the impairment of all or substantially all of our long-lived assets, intangible assets and goodwill.

Accounting for Contingencies

In accordance with SFAS No. 5, Accounting for Contingencies, we accrue loss contingencies if, in the opinion of management, an adverse outcome is probable and such outcome can be reasonably estimated. Significant management judgment is required in assessing the presence of potential loss contingencies, the probability of an adverse outcome, and the amount of any such estimate of an adverse outcome. Historically, we have accrued loss contingencies primarily associated with outstanding litigation and, prior to the adoption of FIN 48, income tax exposures in foreign tax jurisdictions.

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We accrue estimated future legal fees associated with outstanding litigation for which management has determined that it is probable that a loss contingency exists. This requires management to estimate the amount of legal fees that will be incurred in the defense of the litigation. These estimates are particularly dependant on our expectations of the scope, length to complete and complexity of the claims. Historically, as these factors have changed after our original estimates, we have adjusted our estimates accordingly. In the future, additional adjustments may be recorded as the scope, length or complexity of outstanding litigation changes.

Accounting for Income Taxes

We estimate our income taxes in each of the jurisdictions in which we operate. This process involves estimating our actual current tax liabilities together with the assessment of temporary differences resulting from differing timing treatment of items, such as reserves and accruals, for tax and accounting purposes. These differences result in deferred tax assets and liabilities, which are included within our consolidated balance sheet or disclosed in our footnotes to the financial statements. Deferred tax assets also result from unused operating loss carryforwards, research and development tax credit carryforwards and foreign tax credit carryforwards. We assess the likelihood that our deferred tax assets will be recovered from future taxable income and to the extent we believe that recovery is not likely, we establish a valuation allowance. Adjustments to the valuation allowance are included in the tax provision in our statement of operations in the period they become known or estimated.

Significant management judgment is required in determining any valuation allowance recorded against these deferred tax assets and liabilities. The valuation allowance is based on our estimates of taxable income for jurisdictions in which we operate and the period over which our deferred tax assets may be recoverable. In fiscal 2007 and as of September 30, 2007, we provided a full valuation allowance for all net deferred tax assets in the United States and most other tax jurisdictions.

Our U.S. and foreign tax returns are subject to periodic compliance examinations by various local and national tax authorities through periods defined by tax codes in the applicable jurisdiction. The years prior to 2004 are closed in the U.S., although the utilization of net operating loss carry forwards generated in earlier periods will keep these periods open for examination. Our operating entities in Canada are subject to audit from year 2000 forward, in the UK from 2006 forward, and other international subsidiaries from 2002 forward. In connection with examinations of tax filings, tax contingencies can arise from differing interpretations of applicable tax laws and regulations relative to the amount, timing or proper inclusion or exclusion of revenues and expenses in taxable income or loss. For periods that remain subject to audit, we have asserted and unasserted potential assessments that are subject to final tax settlements.

Our income tax expense includes amounts intended to satisfy income tax assessments, including interest and penalties, that could result from the examination of our tax returns. Determining the amount of an estimated obligation, if any, for such assessments requires a significant amount of judgment. We evaluate such tax uncertainties in accordance with the requirements of Interpretation No. 48, Accounting for Uncertain Tax Positions, an Interpretation of FASB Statement No. 109, or FIN 48, based on information currently available, and have accrued for income tax liabilities that meet both the probable and estimable criteria of FIN 48. These estimates are updated over time upon receipt of more definitive information from taxing authorities, completion of tax audits, expiration of statutes of limitation, or upon occurrence of other events. The amounts ultimately paid upon resolution of such contingencies could be materially different from the amounts previously recorded and therefore could have a material impact on our consolidated results of operations as additional information becomes available. The accrual for uncertain tax positions, including penalties and interest, totaled $24.0 million as of September 30, 2007, of which $16.0 million is included in accrued expenses as a current liability and $8.0 million is included in other liabilities as a long term obligation. The ultimate amount of taxes due for these periods will not be known until examinations are completed or the audit periods are closed and settled.

Allowance for Doubtful Accounts

We make judgments as to our ability to collect outstanding receivables and provide allowances for the portion of receivables for which collection is doubtful. Provisions are made based upon a specific review of all significant outstanding invoices. In determining these provisions, we analyze our historical collection experience and current economic trends as well as the status of specific receivables. If the historical data we use to calculate the allowance provided for doubtful accounts do not reflect the future ability to collect outstanding receivables, additional provisions for doubtful accounts may be required for all or substantially all of certain receivable balances.

Accounting for Transfers of Financial Assets

We derecognize financial assets when control has been surrendered in compliance with SFAS No. 140, Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities. Transfers of assets that meet the requirements of SFAS No. 140 for sale accounting treatment are removed from the balance sheet and gains or losses on the sale are recognized. If the conditions for sale accounting treatment are not met, or are no longer met, these transactions are accounted for as secured borrowings. The determination of the accounting treatment under SFAS No. 140 requires

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significant judgment relative to the determination of whether the criteria to achieve sale accounting treatment have been achieved, including whether the transferred assets have been legally isolated from us. We have accounted for all transfers of assets during the three months ended September 30, 2006 and 2007 as secured borrowings. Accordingly, the transferred assets are recorded as collateralized receivables in our consolidated balance sheet and we have accounted for the cash received from these transactions as secured borrowings. Transaction costs associated with secured borrowings, if any, are treated as borrowing costs and recognized in interest expense. Such customer payments are included in the operating section of our consolidated statements of cash flows. The cash received from and payments made on the secured borrowings are included in the financing section of our consolidated statements of cash flows.

Accounting for Restructuring Accruals

We follow SFAS No. 146, Accounting for Costs Associated with Exit or Disposal Activities in accounting for restructuring activities. In accounting for these obligations, we are required to make assumptions related to the amounts of employee severance, benefits and related costs and to the time period over which facilities will remain vacant, sublease terms, sublease rates and discount rates. We base our estimates and assumptions on the best information available at the time the obligation has arisen. These estimates are reviewed and revised as facts and circumstances dictate; changes in these estimates could have a material effect on the amount accrued on our balance sheet, the restructuring charges incurred and our estimates of future costs under existing restructuring programs.

Accounting for Stock-Based Compensation

We adopted SFAS No. 123(R), Share-Based Payment, effective July 1, 2005. Under the fair value provisions of this statement, stock-based compensation cost is measured at the grant date based on the value of the award and is recognized as expense over the vesting period. SFAS No. 123(R) requires significant judgment and the use of estimates, particularly for assumptions such as stock price volatility and expected option lives, as well as whether awards with performance conditions will vest, to recognize stock-based compensation costs. If different assumptions were used, stock-based compensation expense and our results of operations could fluctuate significantly.

Summary of Restructuring Accruals

During the three months ended September 30, 2007, we recorded $7.2 million in restructuring charges primarily related to the relocation of our corporate headquarters under the May 2007 restructuring plan discussed below.

At September 30, 2007, total restructuring liabilities for all plans included $0.7 million for employee severance, benefits, and related costs and $18.7 million for the closure or ceasing to use facilities. Management anticipates that payments of $5.2 million will be made over the next twelve months and the remaining $14.2 million will be made through 2012.

For additional information about our restructurings, see Note 10 to the condensed consolidated financial statements included in this Form 10-Q/A.

Restructuring charges originally arising in the three months ended June 30, 2007

In May 2007, we initiated a plan to relocate our corporate headquarters from Cambridge to Burlington, Massachusetts. The relocation resulted in us ceasing to use our prior corporate headquarters leased space, subleasing the space to a third party, and the relocation to a new facility. During the year ended June 30, 2007, we recorded a charge of $0.1 million associated with the relocation of certain departments to temporary space. The closure and relocation actions resulted in an aggregate charge of approximately $6.1 million, with $6.0 million of the charge recognized in the three months ended September 30, 2007.

As of September 30, 2007, there was $5.8 million in accrued expenses relating to the remaining lease payments. During the three months ended September 30, 2007, the following activity was recorded (in thousands):

Fiscal 2007 Restructuring Plan		**Closure/ Consolidation of Facilities**
Accrued expenses, July 1, 2007	$	
Restructuring charge		6,068
Payments		(289)
Accrued expenses, September 30, 2007	$	5,779
Expected final payment date		September 2012

Subsequent to September 30, 2007, we incurred additional charges of $0.3 million related to the Cambridge facility. The additional activities were completed by October 2007.

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Restructuring charges originally arising in the three months ended June 30, 2005

In May 2005, we initiated a plan to consolidate several corporate functions and to reduce its operating expenses. The plan to reduce operating expenses primarily resulted in headcount reductions, and also included the termination of a contract and the consolidation of facilities. These actions resulted in an aggregate restructuring charge of $3.8 million, recorded in the fourth quarter of fiscal 2005. During the years ended June 30, 2006 and 2007, we recorded an additional $1.8 million and $4.6 million, respectively, related to headcount reductions, relocation costs and facility consolidations associated with the May 2005 plan that did not qualify for accrual at June 30, 2005. During the three months ended September 30, 2007, we recorded an additional $0.4 million primarily in severance and relocation expenses for employees that were notified or relocation expenses that were incurred during the period.

Under this restructuring plan, we have yet to incur charges related to the closure of certain offices and relocation of certain employees included in the planned actions. We expect that these charges will be approximately $1.9 million and will primarily be completed by June 2008.

As of September 30, 2007, there was $0.5 million in accrued expenses relating to the remaining severance obligations. During the three months ended September 30, 2007, the following activity was recorded (in thousands):

Fiscal 2005 Restructuring Plan	**Closure/ Consolidation of Facilities**	**Employee Severance, Benefits, and Related Costs**	**Total**
Accrued expenses, July 1, 2007	$	$ 688	$ 688
Restructuring charge	149	285	434
Payments	(149)	(437)	(586)
Accrued expenses, September 30, 2007	$	$ 536	$ 536
Expected final payment date		March 2008	

Restructuring charges originally arising in the three months ended June 30, 2004

In June 2004, we initiated a plan to reduce our operating expenses in order to better align our operating cost structure with the current economic environment and to improve operating margins. The plan to reduce operating expenses resulted in the consolidation of facilities, headcount reductions, and the termination of operating contracts. These actions resulted in an aggregate restructuring charge of $23.5 million, recorded in the fourth quarter of fiscal 2004. During the year ended June 30, 2005, we recorded $14.4 million related to headcount reductions and facility consolidations associated with the June 2004 restructuring plan that did not qualify for accrual at June 30, 2004. In addition, we recorded $0.4 million in restructuring charges related to the accretion of the discounted restructuring accrual and a $0.8 million decrease to the accrual related to changes in estimates of severance benefits and sublease terms. During the year ended June 30, 2006 and 2007, we recorded a $0.7 million increase and a $0.2 million decrease, respectively, to the accrual primarily due to a change in the estimate of future operating costs and sublease assumptions associated with the facilities. During the three months ended September 30, 2007, we recorded an additional $0.6 million expense primarily related to changes in the estimates of future operating costs associated with the facilities.

As of September 30, 2007, there was $5.1 million in accrued expenses relating to the remaining severance obligations and lease payments. During the three months ended September 30, 2007, the following activity was recorded (in thousands):

Fiscal 2004 Restructuring Plan	**Closure/ Consolidation of Facilities**	**Employee Severance, Benefits, and Related Costs**	**Total**
Accrued expenses, July 1, 2007	$ 4,959	$ 92	$ 5,051
Restructuring charge	571	1	572
Restructuring charge Accretion	73		73
Payments	(611)	(26)	(637)
Accrued expenses, September 30, 2007	$ 4,992	$ 67	$ 5,059
Expected final payment date	September 2012	August 2008	

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Restructuring charges originally arising in the three months ended December 31, 2002

In October 2002, management initiated a plan to further reduce operating expenses in response to first quarter revenue results that were below expectations and to general economic uncertainties. The plan to reduce operating expenses resulted in headcount reductions, consolidation of facilities, and discontinuation of development and support for certain non-critical products. These actions resulted in an aggregate restructuring charge of $28.7 million. During fiscal 2005, 2006, and 2007, we recorded a $7.0 million, a $1.0 million increase, and a $0.2 million decrease, respectively, to the accrual primarily due to a change in the estimate of the facility vacancy term, extending to the term of the lease. During the three months ended September 30, 2007, we recorded an additional $0.1 million expense primarily related to changes in the estimates of future operating costs associated with the facilities.

As of September 30, 2007, there was $7.7 million in accrued expenses relating to the remaining lease payments. During the three months ended September 30, 2007, the following activity was recorded (in thousands):

Fiscal 2003 Restructuring Plan		**Closure/ Consolidation of Facilities**
Accrued expenses, July 1, 2007	$	8,043
Restructuring charge		80
Payments		(440)
Accrued expenses, September 30, 2007	$	7,683
Expected final payment date		September 2012

Restructuring charges originally arising in the three months ended June 30, 2002

In the fourth quarter of fiscal 2002, management initiated a plan to reduce operating expenses and to restructure operations around our two primary product lines, engineering software and manufacturing/supply chain software. We reduced worldwide headcount by approximately 10%, or 200 employees, closed and consolidated facilities, and disposed of certain assets, resulting in an aggregate restructuring charge of $13.2 million. During fiscal 2005, we recorded a $0.2 million increase to the accrual due to changes in estimates of sublease assumptions and severance settlements. During fiscal 2006 and 2007, we recorded less than $0.1 million increases to the accrual due to changes in sublease assumptions.

As of September 30, 2007, there was $0.4 million remaining in accrued expenses relating to lease payments. During the three months ended September 30, 2007, the following activity was recorded (in thousands):

Fiscal 2002 Restructuring Plan	**Closure/ Consolidation of Facilities**	**Employee Severance, Benefits, and Related Costs**	**Total**

Accrued expenses, July 1, 2007	$	384	$	48	$	432
Change in estimate Revised assumptions		2		3		5
Payments		(50)				(50)
Accrued expenses, September 30, 2007	$	336	$	51	$	387
Expected final payment date		September 2012		March 2008		

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Results of Operations

The following table sets forth the percentages of total revenues represented by certain condensed consolidated statement of operations data for the periods indicated:

	Three Months Ended September 30, 2007	Three Months Ended September 30, 2006
Software licenses	48.0%	43.8%
Service and other	52.0	56.2
Total revenues	100.0	100.0
Cost of software licenses	5.2	4.9
Cost of service and other	25.2	27.2
Amortization of technology related intangible assets	0.0	3.0
Total cost of revenues	30.4	35.1
Gross profit	69.6	64.9
Operating costs:		
Selling and marketing	34.4	33.1
Research and development	18.0	13.2
General and administrative	19.0	16.4
Restructuring charges	11.1	2.3
Loss on sale of assets	0.0	0.0
Total operating costs	82.5	65.0
Loss from operations	(12.9)	(0.1)
Interest income	9.6	8.0
Interest expense	(6.8)	(7.2)
Foreign currency exchange gain (loss)	0.3	(0.1)
Income (loss) before provision for income taxes	(9.8)%	0.6%

Comparison of the Three Months Ended September 30, 2007 and 2006

Revenues. Revenues are derived from software licenses, consulting services and maintenance and training. Total revenues for the three months ended September 30, 2007 increased 1.0% to $64.8 million from $64.2 million in the three months ended September 30, 2006. Total revenues from customers outside the United States were $41.2 million or 63.5% of total revenues for the three months ended September 30, 2007 as compared to $35.3 million or 55.7% of total revenues, for the three ended September 30, 2006. The geographical mix of revenues can vary from period to period.

Software license revenues represented 48.0% of total revenues for the three months ended September 30, 2007, compared to 43.8% for the three months ended September 30, 2006. Revenues from software licenses in the three months ended September 30, 2007 increased 10.7% to $31.1 million from $28.1 million in the three months ended September 30, 2006. Software license revenues are attributable to software license renewals of term contracts with existing users, the expansion of existing customer relationships through licenses for additional users, licenses of additional software products and, to a lesser extent, to the addition of new customers. We believe that the increase in license revenues principally reflected continued acceptance and expansion of our new and existing product offerings, the operational execution of our strategy to focus on license revenues, as well as strength in our energy, chemicals, and engineering and construction end-markets.

Revenues from service and other consist of consulting services, post-contract support on software licenses, training and sales of documentation. Revenues from service and other decreased 6.5% to $33.7 million for the three months ended September 30, 2007 compared to $36.0 million for the three months ended September 30, 2006. The decrease in service and other revenues in the three month periods was primarily due to a $3.2 million decrease in consulting services, offset by a $0.8 million increase in post-contract support revenue resulting from increases in our installed base of software licenses. The decrease in consulting services is primarily due to a $1.8 million decrease in reimbursable expenses included in revenue.

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Cost of Software Licenses. Cost of software licenses consists of royalties, amortization of previously capitalized software costs, costs related to the delivery of software, including disk duplication and third-party software costs, printing of manuals and packaging. Cost of software licenses for the three months ended September 30, 2007 increased to $3.4 million from $3.1 million for the three months ended September 30, 2006. Cost of software licenses as a percentage of revenues from software licenses was 10.8% for the three months ended September 30, 2007 as compared to 11.2% for the three months ended September 30, 2006. The cost increase was primarily due to a $0.4 million increase in royalty expense offset by a $0.1 million decrease in amortization of capitalized software for the three months ended September 30, 2007. The reduction in cost as a percentage of revenue is due to the increase in revenue relative to a base of costs which is primarily fixed.

Cost of Service and Other. Cost of service and other consists of the cost of execution of application consulting services, technical support expenses and the cost of training services. Cost of service for the three months ended September 30, 2007 decreased 6.5% to $16.3 million from $17.5 million in the three months ended September 30, 2006. Cost of service and other as a percentage of revenues from service and other remained unchanged at 48.5% for the three months ended September 30, 2007 and 2006. The cost reduction was primarily due to a $1.8 million reduction in reimbursable consulting costs and a $0.2 million reduction in rent and facility costs, partially offset by an increase of $0.2 million in employee compensation costs and a $0.3 million increase in external consultancy fees. We expect the absolute cost of service and other to remain relatively flat as a percentage of service revenue.

Amortization of Technology Related Intangible Assets. Amortization of technology related intangible assets consists of the amortization of intangible assets obtained from acquisitions. These assets are generally being amortized over a period of three to five years. As of June 30, 2007, the balance of technology related intangible assets was fully amortized, therefore no amortization expense was recorded for the three months ended September 30, 2007. For the three months ended September 30, 2006, we amortized $1.9 million in technology related intangible assets.

Selling and Marketing Expenses. Selling and marketing expenses for the three months ended September 30, 2007 increased 5.1% to $22.3 million from $21.2 million for the three months ended September 30, 2006 and remained relatively constant as a percentage of revenue at 34.4% for the three months ended September 30, 2007 and 33.1% for the three months ended September 30, 2006. The increase in cost is primarily due to a $1.1 million increase in payroll and stock-based compensation costs. We expect selling and marketing expenses to continue to increase in absolute terms, but decline as a percentage of revenue as our revenue base continues to expand.

Research and Development Expenses. Research and development expenses consist of personnel and outside consultancy costs required to conduct our product development efforts. Research and development expenses for the three months ended September 30, 2007 increased 37.5% to $11.7 million from $8.5 million for the three months ended September 30, 2006, and increased as a percentage of total revenues to 18.0% from 13.2%. The increase was primarily attributable to a $2.8 million decrease in software costs eligible for capitalization and a $0.6 million increase in payroll and stock-based compensation expenses, partially offset by a $0.1 million decrease in consultancy fees and a $0.1 million decrease in rent and facility costs.

We did not capitalize any software development costs for the three months ended September 30, 2007. The amount capitalized may vary from period to period, depending upon the stage of development for the various projects in a given period. We expect our research and development expenses to increase in absolute terms as a result of the decline in software development costs eligible for capitalization.

General and Administrative Expenses. General and administrative expenses consist primarily of personnel costs of administrative, executive, financial and legal personnel, and outside professional fees. General and administrative expenses for the three months ended September 30, 2007 increased 16.8% to $12.3 million from $10.5 million for the three months ended September 30, 2006, and increased as a percentage of revenues to 19.0% from 16.4%. The increase in costs is primarily due to increases of $1.2 million in payroll costs and $0.4 million in stock-based compensation costs.

Restructuring Charges. During the three months ended September 30, 2007, we recorded $7.2 million in restructuring charges primarily related to the relocation of our corporate headquarters as part of the May 2007 restructuring plan.

Interest Income. Interest income is generated from excess cash invested in highly liquid short term instruments, and from the accretion of interest for software licenses sold pursuant to long term installment contracts. Under these installment contracts, customers have the option to make annual payments over the license term or to make a single license fee payment at the outset of the term. Historically, a substantial majority of customers have elected to make annual payments. The increase in interest income is due to the increases in our average cash balance as well as increases in installments receivable balances due from customers. Interest income

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for the three months ended September 30, 2007 increased to $6.2 million from $5.1 million for the three months ended September 30, 2006.

Interest Expense. Interest expense is incurred primarily from our secured borrowings. The secured borrowings are derived from our securitizations and borrowing arrangements with unrelated financial institutions. Interest expense for the three months ended September 30, 2007 decreased to $4.4 million from $4.6 million in the three months ended September 30, 2006. This decrease in interest expense resulted from a generally lower level of secured borrowings, which are secured by our installment and other receivable contracts, and a lower level of high interest debt under the Fiscal 2005 Securitization.

Foreign Currency Exchange Gain (Loss). Foreign currency exchange gains and losses are primarily incurred as a result of the revaluation of intercompany accounts denominated in foreign currencies and reflect movement in exchange rates relative to the U.S. dollar. The revaluation adjustments are primarily unrealized gains and losses as the related intercompany balances typically have not settled in cash. In the three months ended September 30, 2007, we recorded a foreign currency exchange gain of $0.2 million compared to a loss of $0.1 million in the three months ended September 30, 2006. This change was primarily due to favorable exchange rate fluctuations.

Provision for Income Taxes. Our provision for income taxes primarily relates to the accrual of interest on uncertain tax positions, foreign withholding taxes, and income taxes attributable to our operating results in foreign jurisdictions. Income tax expense totaled $2.6 million for the three months ended September 30, 2007 as compared to $2.0 million for the three months ended September 30, 2006 with the increase related to higher foreign income taxes.

Liquidity and Capital Resources

Resources

We historically have financed our operations through cash generated from operating activities, public offerings of our convertible debentures and common stock, private offerings of our preferred stock and common stock, borrowings secured by our installment receivable contracts and borrowings under bank credit facilities. As of September 30, 2007, we had cash and cash equivalents totaling $129.5 million. We believe our current cash balances, future cash flows from our operations, and cash from future borrowings secured by installment receivable contracts will be sufficient to meet our anticipated cash needs for at least the next twelve months. However, we may need to obtain additional financing thereafter or earlier if our current plans and projections prove to be inaccurate or our expected cash flows prove to be insufficient to fund our operations because of lower-than-expected revenues, unanticipated expenses or other unforeseen difficulties. In addition, we may seek to take advantage of favorable market conditions by raising additional funds from time to time through public or private security offerings, debt financings, strategic alliances or other financing sources. Our ability to obtain additional financing will depend on a number of factors, including market conditions, our operating performance and investor interest. These factors may make the timing, amount, terms and conditions of any financing unattractive. They may also result in our incurring additional indebtedness or accepting stockholder dilution. If adequate funds are not available or are not available on acceptable terms, we may have to forego strategic acquisitions or investments, reduce or defer our development activities, or delay our introduction of new products and services. Any of these actions may seriously harm our business and operating results.

Operating Cash Flow

For the three months ended September 30, 2007, operating activities provided $14.5 million of cash. A net loss of $9.0 million was offset by non-cash expenses for stock-based compensation and depreciation and amortization totaling $5.3 million, a $14.5 million decrease in installments and accounts receivable (collateralized and uncollateralized), a $3.0 million decrease in unbilled services, a $1.2 million decrease in prepaid expenses and other current assets, and a $3.0 million decrease in accounts payable and accrued expenses and other current liabilities.

Financing Activities

For the three months ended September 30, 2007, cash used in financing activities was $14.4 million primarily due to net payments in excess of secured borrowings proceeds which was $14.9 million, offset by $1.2 million received from the issuance of common stock and the exercise of employee stock options.

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Borrowings collateralized by receivable contracts

Traditional Programs

We historically have maintained arrangements with financial institutions providing for borrowings that are secured by our installment and other receivable contracts, and for which limited recourse exists against us. Under our arrangements with General Electric Capital Corporation, Bank of America and Silicon Valley Bank, both parties must agree to enter into each transaction and negotiate the borrowing amount and interest rate secured by each receivable. The customers payments of the underlying receivables fund the repayment of the related borrowing amount. The weighted average interest rate on the secured borrowings was 7.7% at September 30, 2007.

The amount of total collateralized receivables for the Traditional Programs approximates the amount of the secured borrowings recorded in the consolidated balance sheet. The collateralized receivables earn interest income and the secured borrowings accrue borrowing costs at approximately the same interest rates. When cash is received from a customer by the Company, the collateralized receivable balance is reduced and the related secured borrowing is reclassified to an accrued liability for amounts the Company must remit to the financial institution. The accrued liability is reduced when payment is remitted to the financial institutions. The terms of the customer accounts receivable range from amounts that are due within 30 days to installment receivables that are due over five years. We act as the servicer for the receivables in one of the three arrangements.

Under these arrangements, we received aggregate cash proceeds of $20.7 million for the three months ended September 30, 2007. As of September 30, 2007, we had outstanding secured borrowings of $164.6 million that were secured by collateralized receivables totaling $167.3 million under the Traditional Programs.

Availability under these arrangements is dependent upon our generation of additional customer receivables and the financial institutions willingness to continue to enter into these transactions. We estimate that there was in excess of $67.8 million available under the arrangements at September 30, 2007. We expect to continue to have the ability to borrow under the arrangements, as the collection of the collateralized receivables and resulting payment of the borrowing obligation will reduce the outstanding balance, and the availability under the arrangements can be increased.

Under the terms of the Traditional Programs, we have transferred the receivables to the financial institutions with limited financial recourse. Potential recourse obligations are primarily related to one program that requires us to pay interest to the financial institution when the underlying customer has not paid by the due date. This recourse is limited to a maximum period of 90 days after the due date. The amount of installment receivables within the program that has this potential recourse obligation is $45.2 million at September 30, 2007. This recourse obligation is recognized as interest expense as incurred and totaled $0.4 million and $0.2 million for the three months ended September 30, 2006 and 2007, respectively. In addition, we have recourse obligations totaling $1.6 million at September 30, 2007 if the underlying installment receivable is not paid by the customer. This recourse obligation is in the form of a deferred payment by the financial institution that is withheld until customer payments are received. Otherwise, recourse generally results from circumstances in which we failed to perform requirements related to contracts with the customer. Other than the specific items noted above, the financial institutions bear the credit risk associated with the customer whose receivable it purchased.

Securitization of Accounts Receivable

The Fiscal 2005 and Fiscal 2007 securitization transactions include collateralized receivables whose value exceeds the related borrowings from the financial institutions. We retain the right to collections on these securitized receivables after all borrowing and related costs are paid to the financial institution. The financial institutions rights to repayment are limited to the payments received from the collateralized receivables. The carrying value of the collateralized receivables at September 30, 2007 under these arrangements was $55.8 million and the secured borrowings totaled $18.8 million. The collateralized receivables earn interest income and the secured borrowings result in interest expense. The secured borrowings incur a higher interest rate than the implicit rates in the receivables. We act as the servicer under both of these arrangements.

In December 2007, we paid the outstanding amount of the Fiscal 2005 Securitization at its carrying value. The unamortized debt issue costs were charged to expense at the time.

We had been in violation of certain covenants related to the Fiscal 2007 Securitization due to the delay in filing our financial statements and other violations. The secured borrowings under this arrangement have been classified in the current portion of secured borrowings. In March 2008, we paid the outstanding amount of the Fiscal 2007 Securitization at its carrying value plus a termination fee of $0.8 million, and this securitization is no longer available. The unamortized debt issue costs were charged to expense at that time.

Fiscal 2007 Securitization

On September 29, 2006, we entered into a three year revolving securitization facility and securitized and transferred installments receivable with a net carrying value of $32.1 million and received cash proceeds of $20.0 million. The transfers of installments receivable to the securitization facility did not qualify as a sale for accounting purposes and has been accounted for as a secured borrowing. These borrowings are secured by collateralized receivables and the debt and borrowing costs are repaid as the receivables are collected. We capitalized $1.1 million of debt issuance costs associated with this

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transaction and these costs are being recognized in interest expense using the effective interest method. Accumulated amortization of the debt issue costs was $0.5 million at September 30, 2007.

Credit Facility

In January 2003 and through subsequent amendments, we executed a loan arrangement with Silicon Valley Bank. This arrangement provides a line of credit of up to the lesser of (1) $15.0 million and (2) 70% of eligible domestic receivables, and a line of credit of up to the lesser of (1) $10.0 million and (2) 80% of eligible foreign receivables. The lines of credit bear interest at the bank s prime rate (7.75% at September 30, 2007). We are required to maintain a $4.0 million compensating cash balance with the bank, or be subject to an unused line of credit fee and collateral handling fees. The lines of credit are collateralized by nearly all of our assets, and upon achieving certain net income targets, the collateral will be reduced to a lien on our accounts and installments receivable that are not already pledged as collateral against the secured borrowings. We are required to meet certain financial covenants, including minimum tangible net worth, minimum cash balances and an adjusted quick ratio. The terms of the loan arrangement restrict our ability to pay dividends, with the exception of dividends paid in common stock or preferred stock dividends in cash.

As of September 30, 2007, there were $7.5 million in letters of credit outstanding under the line of credit and there was $11.9 million available for future borrowing. As of September 30, 2007, we were in compliance with the tangible net worth covenant and adjusted quick ratio covenants. The loan arrangement expires in May 2008.

Requirements

Capital Expenditures

During the three months ended September 30, 2007, investing activities used $3.1 million of cash primarily as a result of the purchase of $3.1 million of property and leasehold improvements. We expect to spend an additional $6.6 million in capital expenditures in the last nine months of fiscal 2008, primarily for additional purchases of software and computer equipment. We are not currently party to any purchase contracts related to future capital expenditures.

Management is currently implementing computer system and other related changes, which are being designed and implemented in part to remediate our material weaknesses and significant deficiencies. Management currently believes that the costs for such remediation activities, a substantial portion of which are expected to be incurred to upgrade our existing financial applications, could be material.

Contractual Obligations and Requirements

Our contractual obligations at September 30, 2007 primarily consisted of operating leases for our headquarters and other facilities, sub-contractor purchase commitments, and other debt obligations. Other than these, there were no other material commitments for capital or other expenditures. Our obligations related to these items at September 30, 2007 were as follows (in thousands):

	2008	2009	2010	2011	2012	Thereafter	Total
Operating leases	$ 9,902	$ 11,084	$ 9,426	$ 8,383	$ 7,147	$ 10,625	$ 56,567
Purchase commitment	375						375
Debt obligations	133						133
Total commitments	$ 10,410	$ 11,084	$ 9,426	$ 8,383	$ 7,147	$ 10,625	$ 57,075

Total contractual future sublease rental income as of September 30, 2007 was $12.2 million, which is not included in the above table. The above table excludes liabilities relating to uncertain tax positions due to uncertainty as to the timing and amount of obligations.

Inflation

Inflation has not had a significant impact on our operating results to date and we do not expect inflation to have a significant impact during the three months ended December 31, 2007.

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New Accounting Pronouncements

In September 2006, the FASB issued SFAS No. 157, Fair Value Measurements. SFAS No. 157 establishes a framework for measuring fair value in generally accepted accounting principles and expands disclosures about fair value measurements. SFAS No. 157 emphasizes that fair value measurement is market-based, not entity-specific, and establishes a fair value hierarchy in which the highest priority is quoted prices in active markets. Under SFAS No. 157, fair value measurements are disclosed according to their level within this hierarchy. SFAS No. 157 is effective for fiscal years beginning after November 15, 2007 except for nonrecurring fair value measurements of nonfinancial assets and nonfinancial liabilities, for which the effective date is fiscal years beginning after November 15, 2008. We have not yet determined the effect that the application of SFAS No. 157 will have on our consolidated financial statements.

In February 2007 the FASB issued SFAS No. 159, The Fair Value Option for Financial Assets and Financial Liabilities. SFAS No. 159 permits entities to measure many financial instruments and certain other items at fair value and provides entities with the opportunity to mitigate volatility in reported earnings caused by measuring related assets and liabilities differently without having to apply complex hedge accounting provisions. Once an entity has elected the fair value option for designated financial instruments and other items, changes in fair value must be recognized in the statement of operations. SFAS No. 159 is effective for fiscal years beginning after November 15, 2007. We have not yet determined the effect that the application of SFAS No. 159 will have on our consolidated financial statements.

In December 2007, the FASB issued SFAS No. 141(R), Business Combinations, which replaces SFAS No. 141. SFAS No. 141R establishes principles and requirements for how an acquirer recognizes and measures in its financial statements the identifiable assets acquired, the liabilities assumed, any noncontrolling interest in the acquiree and the goodwill acquired. The Statement also establishes disclosure requirements which will enable users to evaluate the nature and financial effects of the business combination. SFAS No. 141R is effective for fiscal years beginning after December 15, 2008. We expect SFAS No. 141R will have an impact on accounting for business combinations once adopted but the effect is dependent upon future acquisitions.

In December 2007, the FASB issued SFAS No. 160, Noncontrolling Interests in Consolidated Financial Statements an amendment of Accounting Research Bulletin No. 51, which establishes accounting and reporting standards for ownership interests in subsidiaries held by parties other than the parent, the amount of consolidated net income attributable to the parent and to the noncontrolling interest, changes in a parent s ownership interest and the valuation of retained noncontrolling equity investments when a subsidiary is deconsolidated. The Statement also establishes reporting requirements that provide sufficient disclosures that clearly identify and distinguish between the interests of the parent and the interests of the noncontrolling owners. SFAS No. 160 is effective for fiscal years beginning after December 15, 2008. We have not yet determined the effect that the application of SFAS No. 160 will have on our consolidated financial statements.

In March 2008, the FASB issued SFAS No. 161, Disclosures about Derivative Instruments and Hedging Activities, an amendment of FASB Statement No. 133. This statement changes the disclosure requirements for derivative instruments and hedging activities. SFAS No. 161 requires enhanced disclosures about (a) how and why an entity uses derivative instruments, (b) how derivative instruments and related hedged items are accounted for under SFAS No. 133 and its related interpretations, and (c) how derivative instruments and related hedged items affect an entity s financial position, financial performance, and cash flows. This statement is effective for financial statements issued for fiscal years and interim periods beginning after November 15, 2008. We have not yet determined the effect that the application of SFAS No. 161 will have on our consolidated financial statements.

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

Investment Portfolio

We do not use derivative financial instruments in our investment portfolio. We place our investments in instruments that meet high credit quality standards, as specified in our investment policy guidelines. We do not expect any material loss with respect to our investment portfolio from changes in market interest rates or credit losses. At September 30, 2007, all of the instruments in our investment portfolio were included in cash and cash equivalents.

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Impact of Foreign Currency Rate Changes

During the first three months of fiscal 2008, the U.S. dollar weakened against currencies for countries in which we have local operations, primarily in Europe, Canada and the Asia-Pacific region. The remeasurement of our intercompany receivables and payables are recorded as unrealized transactions gains or losses in our consolidated statement of operations as foreign currency exchange gain (loss) unless such intercompany foreign currency balances qualify for accounting as a translation adjustment within stockholders equity. Our primary foreign currency exposures relate to customer installment receivables, which are foreign denominated. Foreign exchange forward contracts are purchased to hedge certain customer accounts and installments receivable contract amounts (both held and transferred) that are denominated in a foreign currency.

Foreign Exchange Hedging

We enter into foreign exchange forward contracts to mitigate our exposure to currency fluctuations on customer installments receivable contracts denominated in foreign currencies. We do not use derivative financial instruments for speculative or trading purposes, however, our derivative positions are not accounted for as accounting hedges. We had $34.9 million of foreign exchange forward contracts denominated in British, Japanese, Swiss, Euro and Canadian currencies, which related to underlying customer installments receivable transactions at September 30, 2007. The underlying customer installments receivable transactions consisted of assets carried on our balance sheet, for which we retain the exposure associated with changes in foreign exchange rates. At each balance sheet date, the foreign exchange forward contracts and the related installment receivable contracts denominated in foreign currencies are revalued based on the current market exchange rates. Resulting gains and losses are included in earnings. Gains and losses related to these instruments for the three months ended September 30, 2007 were not material to our financial position. We do not anticipate any material adverse effect on our consolidated financial position, operating results or cash flows resulting from the use of these instruments. There can be no assurance, however, that these strategies will be effective or that transaction losses can be limited or forecasted accurately.

The following table summarizes our forward contracts to sell foreign currencies for U.S. dollars at September 30, 2007. All of these contracts represented customer accounts and installments receivable contracts. The table presents the value of the contracts in U.S. dollars at the contract exchange rate as of the contract maturity date. The average contract rate approximated the weighted average contractual foreign currency exchange rate. The fair value of the contracts as of September 30, 2007 was a loss of $1.7 million.

Currency		**Forward Amount in U.S. Dollars (in thousands)**	**Contract Origination Date**	**Contract Maturity Date**
Euro	$	26,306	Various: Jan. 07 Sept. 07	Various: Oct. 07 Sept. 08
British Pound Sterling		4,077	Various: Sept. 06 Sept. 07	Various: Oct. 07 June 08
Japanese Yen		2,819	Various: Jan. 07 Sept. 07	Various: Oct. 07 May 08
Canadian Dollar		1,465	Various: Sept. 06 Sept. 07	Various: Oct. 07 June 08
Swiss Franc		278	Various: Aug. 07 Sept. 07	Various: Dec. 07 Feb. 08
Total	$	34,945		

Installment receivable contracts

The installment receivable contracts are financial instruments subject to market risk from changes in interest rates. We do not expect that fluctuations in interest rates would significantly impact results of operations in a particular period.

Item 4. ***Controls and Procedures***

Our management, with the participation of our chief executive officer and chief financial officer, evaluated the effectiveness of our disclosure controls and procedures as of the end of the period covered by this report. The term disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act, means controls and other procedures of a company that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Securities Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC s rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Securities Exchange Act is accumulated and communicated to the company s management, including its principal executive and principal financial officers, as appropriate to allow timely decisions regarding required disclosure. Management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

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We previously reported five material weaknesses in our internal control over financial reporting as of June 30, 2007, which were described in Item 9A, *Management s Report on Internal Control over Financial Reporting* in our Annual Report on Form 10-K for the fiscal year ended June 30, 2007.

The five material weaknesses as of June 30, 2007 were as follows:

- Inadequate and ineffective controls over the periodic financial close process

- Inadequate and ineffective controls over the accounting for transfers of customer installment and accounts receivables under receivable sale facilities

- Inadequate and ineffective controls over income tax accounting and disclosure

- Inadequate and ineffective controls over the recognition of revenue

- Inadequate and ineffective controls over the accounts receivable function

A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of the annual or interim financial statements will not be prevented or detected on a timely basis. In making this assessment, our management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission in *Internal Control-Integrated Framework*. Our management believes that these material weaknesses still exist as of September 30, 2007. Because of the material weaknesses described above, our chief executive officer and chief financial officer have concluded that, as of September 30, 2007, our disclosure controls and procedures were not effective.

Changes in Internal Control Over Financial Reporting

During the quarter ended September 30, 2007, no additional changes were made to our internal control over financial reporting that materially affected, or were reasonably likely to materially affect, our internal control over financial reporting.

Remediation Plans

Management has identified the following measures to strengthen our internal control over financial reporting and to address the material weaknesses described above. We began implementing certain of these measures prior to the filing of this Form 10-Q/A but changes made to our internal controls have not yet been in place for a sufficient time to have had a significant effect. We expect to continue to develop our remediation plans and implement additional measures during our fiscal year 2008 and into fiscal 2009.

In order to improve controls over the periodic financial close process, we intend to:

- Complete the upgrade of our existing financial applications, which is designed to streamline the capturing of relevant data, improve the general ledger and entity account level reporting structures and enhance the information query and reporting capability for the consolidated books worldwide;

- Complete the consolidation of financial operations into three global centers;

- Continue to assess training requirements and adequacy and expertise of the finance and accounting staff on a global basis;

- Further improve the periodic financial close process through the use of a detailed financial close plan and enhanced review of manual journal entries, account reconciliations, estimates and judgments and consolidation schedules;

- Assess the adequacy of the systems and procedures used to track and account for stock-based awards;

- Further simplify the legal entity structure; and

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- Further enhance procedures to help ensure that the proper accounting for all complex non-routine transactions is researched, detailed in memoranda and reviewed by senior management prior to recording.

In order to improve controls over the accounting for transfers of customer installment and accounts receivables under receivable sale facilities, we intend to:

- Enhance procedures, including increased management review and approval of receivable transfers under receivable sale facilities and development of appropriate systems and reporting mechanisms, to ensure that transactions are allowable and properly accounted for as a sale of assets or secured borrowing under the terms of the receivable sale facilities;

- Enhance receivable reconciliation procedures to ensure that only valid receivables are included on internal reports used to identify receivables eligible for transfer; and

- Improve reporting and review procedures between the company and the financial institutions who participate in the receivable sales facilities.

In order to improve controls over income tax accounting and disclosure, we intend to:

- Enhance our policies and procedures for determining and documenting income tax liabilities and contingencies;

- Enhance our policies and procedures for determining, documenting and calculating our tax provisions in accordance with the applicable tax code and the determination of deferred income tax assets and liabilities including stock based compensation, tax credits, net operating loss carryforwards and limitations thereto as defined under section 382 of the Internal Revenue Code of 1986, as amended; and

- Increase the number of personnel or use of outside advisors with specialized corporate and international tax expertise.

In order to improve controls over the recognition of revenue, we intend to:

- Increase the frequency, scope and tracking of training on revenue recognition for our sales and services organizations, executive management, regional finance, accounting and operations personnel;

- Hire additional personnel in regional finance and revenue accounting with expertise in software revenue recognition;

- Enhance review procedures for contracts containing both license and service elements;

- Enhance the process used to determine the estimated discount rate for the present value of license contracts with extended payment terms;

- Enhance contract review documentation and procedures to identify and accurately account for non-routine arrangements with customers;

- Revise the credit approval policy to include guidelines for the establishment and approval of customer credit limits and further define procedures for the ongoing monitoring of customer receivable balances;

- Improve procedures to identify and monitor customers who are approved on a pre-payment basis and ensure the underlying revenue transactions are accurately accounted for; and

- Formalize and document a quarterly review of estimated total costs for fixed price professional services projects and analyze significant variances to actual costs.

In order to improve controls over the accounts receivable function we intend to:

- Enhance procedures for the review and approval of customer credit memos and adjustments including a monthly reconciliation of authorized amounts to actual credits and adjustments recorded;

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- Increase the level and frequency of review of professional services projects with unbilled and unearned balances to ensure that amounts recorded as unbilled services or deferred revenue are valid and accurate and provisions for uncollectible amounts are sufficient;

- Increase the level and frequency of review of past due accounts and related installments in the accounts receivable aging on a global basis;

- Assess training requirements and adequacy and expertise of the collections and accounts receivable staff on a global basis; and

- Assess the adequacy of the accounting applications deployed to service accounts receivable which have been sold.

If the remedial measures described above are insufficient to address any of the identified material weaknesses, or additional deficiencies that may arise in the future, material misstatements in our interim or annual financial statements may occur in the future. We are currently implementing an enhanced controls environment intended to address the material weaknesses in our internal control over financial reporting and to remedy the ineffectiveness of our disclosure controls and procedures. While this implementation phase is underway, we are relying on extensive manual procedures, including regular reviews, to assist us with meeting the objectives otherwise fulfilled by an effective internal control environment. Among other things, any unremediated material weaknesses could result in material post-closing adjustments in future financial statements. Furthermore, any such unremediated material weaknesses could have the effects described in Item 1A. Risk Factors In preparing our consolidated financial statements, we identified material weaknesses in our internal control over financial reporting, and our failure to remedy effectively the five material weaknesses identified as of September 30, 2007 could result in material misstatements in our financial statements in Part II of this Form 10-Q/A.

The certifications of our principal executive officer and principal financial officer required in accordance with Section 302 of the Sarbanes-Oxley Act are attached as exhibits to this Form 10-Q/A. The disclosures set forth in this Item 4 contain information concerning the evaluation of our disclosure controls and procedures, and changes in internal control over financial reporting, referred to in paragraph 4 of the certifications. This Item 4 should be read in conjunction with the officer certifications for a more complete understanding of the topics presented.

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PART II. OTHER INFORMATION

Item 1. ***Legal Proceedings***

(a) FTC settlement and Related Honeywell Litigation

In December 2004, the Company entered into a consent decree with the Federal Trade Commission, or FTC, with respect to a civil administrative complaint filed by the FTC in August 2003 alleging that the Company s acquisition of Hyprotech in May 2002 was anticompetitive in violation of Section 5 of the Federal Trade Commission Act and Section 7 of the Clayton Act. In connection with the consent decree, the Company entered into an agreement with Honeywell International, Inc. on October 6, 2004 (Honeywell Agreement), pursuant to which the Company transferred its operator training business and its rights to the intellectual property of various legacy Hyprotech products. In addition, the Company transferred its AXSYS product line to Bentley Systems, Inc.

On December 23, 2004, the Company and its subsidiaries completed the transactions with Honeywell contemplated by the Honeywell Agreement. Under the terms of the transactions:

- the Company agreed to a cash payment of approximately $6.0 million from Honeywell in consideration of the transfer of the Company s operator training services business, the Company s covenant not-to-compete in the operator training business until the third anniversary of the closing date, and the transfer of ownership of the intellectual property of the Company s Hyprotech engineering products, $1.2 million of which is subject to holdback and may be released upon the resolution of any adjustments for uncollected billed accounts receivable and unbilled accounts receivable.

- the Company transferred and Honeywell assumed, as of the closing date, approximately $4 million in accounts receivable relating to the operator training business; and

- the Company entered into a two-year support agreement with Honeywell under which the Company agreed to provide Honeywell with source code to new releases of the Hyprotech products provided to customers under standard software maintenance services agreements.

The Honeywell transaction resulted in a deferred gain of $0.2 million, which was amortized over the two-year life of the support agreement, and is subject to a potential increase of $1.2 million upon resolution of the holdback payment.

The Company is subject to ongoing compliance obligations under the FTC consent decree. The Company has been responding to requests by the Staff of the FTC for information relating to the Staff s investigation of whether the Company has complied with the consent decree. In addition, the FTC is considering whether to commence litigation against the Company arising from the Company s alleged failure to comply with certain aspects of the decree. If the FTC or a court were to determine that the Company has not complied with its obligations under the consent decree, the Company could be subject to one or more of a variety of penalties, fines, injunctive relief and other remedies, and associated legal fees and expenses, any of which might materially limit the Company s ability to operate under its current business plan and might have a material adverse effect on the Company s operating results and financial condition.

In March 2007, the Company was served with a complaint and petition to compel arbitration filed by Honeywell in New York State Supreme Court. The complaint alleges that the Company failed to comply with its obligations to deliver certain technology under the Honeywell Agreement referred to above, that the Company owes approximately $800,000 to Honeywell under the Honeywell Agreement, and that Honeywell is entitled to some portion of the $1.2 million retained by Honeywell under the holdback provisions of the Honeywell Agreement, plus unspecified monetary damages arising from contracts assumed thereunder. The Company believes the claims to be without merit and intend to defend the claims vigorously, and to pursue payment of the $1.2 million retained under the holdback provisions of the Honeywell Agreement. However, it is possible that the resolution of the claims may have an adverse impact on the Company s financial position and results of operations.

(b) Other Litigation

SEC action and U.S. Attorney s office criminal complaint

In January 2007, the SEC filed a civil enforcement action in Massachusetts federal district court alleging securities fraud and other violations against three of the Company s former executive officers, David McQuillin, Lisa Zappala and Lawrence Evans, arising out of six transactions in 1999 through 2002 that were reflected in the Company s originally filed

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consolidated financial statements for fiscal 2000 through 2004, the accounting for which was restated in March 2005. The Company and each of these former executive officers received Wells Notice letters of possible enforcement proceedings by the SEC. On the same day the SEC complaint was filed, the U.S. Attorney s Office for the Southern District of New York filed a criminal complaint against David McQuillin alleging criminal securities fraud violations arising out of two of those transactions. Mr. McQuillin pled guilty in March 2007 and was sentenced in October 2007.

On July 31, 2007, the Company entered into a settlement order with the SEC resolving the Wells Notice the Company received. Under the settlement order, the Company agreed to cease and desist from violations of certain provisions of the federal securities laws, and to comply with certain undertakings. No civil penalty was assessed by the SEC in connection with that settlement order, and the Company has not admitted or denied any wrongdoing in connection with that settlement order.

The SEC enforcement action and the U.S. Attorney s Office criminal action do not involve the Company or any of its current officers or directors. The Company can provide no assurance, however, that the U.S. Attorney s Office, the SEC or another regulatory agency will not bring an enforcement proceeding against the Company, its officers and employees or additional former officers and employees based on the consolidated financial statements that were restated in March 2005. The Company continues to cooperate with the SEC and the U.S. Attorney s Office.

Class action and opt-out claims

In March 2006, the Company settled class action litigation, including related derivative claims, arising out of the restated consolidated financial statements that include the periods referenced in the SEC enforcement action and the criminal complaint discussed above. Members of the class who opted out of the settlement (representing 1,457,969 shares of common stock, or less than 1% of the shares putatively purchased during the class action period) may bring or have brought their own state or federal law claims against the Company, referred to as opt-out claims.

Pursuant to the terms of the Class Action settlement, the Company paid $1.9 million and its insurance carrier paid $3.7 million into a settlement fund for a total of $5.6 million. The Company s $1.9 million payment was recorded in general and administrative expenses in the quarter ended September 30, 2005. All costs of preparing and distributing notices to members of the Class and administration of the settlement, together with all fees and expenses awarded to plaintiffs counsel and certain other expenses, will be paid out of the settlement fund, which will be maintained by an escrow agent under the Court s supervision.

Separate actions have been filed on behalf of the holders of approximately 1.1 million shares who either opted out of the class action settlement or were not covered by that settlement. The claims in those actions include claims against the Company and one or more of its former officers alleging securities and common law fraud, breach of contract, statutory treble damages, deceptive practices and/or rescissory damages liability, based on the restated results of one or more fiscal periods included in its restated consolidated financial statements referenced in the class action. Those actions are:

- *Blecker, et al. v. Aspen Technology, Inc., et al.*, filed on June 5, 2006 in the Business Litigation Session of the Massachusetts Superior Court for Suffolk County and docketed as Civ. A. No. 06-2357-BLS1 in that court, which is an opt out claim asserted by persons who received 248,411 shares of the Company s common stock in an acquisition;

- *Feldman v. Aspen Technology, Inc., et al.*, filed on July 17, 2006 in the Business Litigation Session of the Massachusetts Superior Court for Suffolk County and docketed as Civ. A. No. 06-3021-BLS2 in that court, which is an opt out claim asserted by an individual who received 323,324 shares of the Company s common stock in an acquisition; and

- *380544 Canada, Inc., et al. v. Aspen Technology, Inc.*, et al., filed on February 15, 2007 in the federal district court in Manhattan and docketed as Civ. A. No. 1:07-cv-01204-JFK in that court, which is a claim asserted by persons who purchased 566,665 shares of the Company s common stock in a private placement.

The damages sought in these actions total more than $20 million, not including claims for treble damages and attorneys fees. If these actions are not dismissed or settled on terms acceptable to the Company, the Company plans to defend the actions vigorously. The Company can provide no assurance as to the outcome of these opt-out claims or the likelihood of the filing of additional opt-out claims, and these claims may result in judgments against the Company for significant damages. Regardless of the outcome, such litigation has resulted in the past, and may continue to result in the future, in significant legal expenses and may require significant attention and resources of management, all of which could result in losses and damages that have a material adverse effect on the Company s business.

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On September 6, 2006, the Company also announced that, in connection with the preparation of financial statements for the fiscal year-ended June 30, 2006, a subcommittee of independent directors was appointed to review the Company s accounting treatment for stock option grants for prior years. Following that announcement, the Company and certain of its officers and directors were named defendants in a purported federal securities class action lawsuits filed in Massachusetts federal district court, alleging violations of the Exchange Act and claiming material misstatements concerning its financial condition and results. In response to the Company s motion to dismiss the complaint, the parties stipulated to voluntary dismissal of the plaintiff s claims with prejudice on September 26, 2006 without any payment by the Company.

Derivative suits

The Company may be named as a defendant in securities litigation or derivative lawsuits by current or former stockholders based on the restated consolidated financial statements. Further, the Company may be subject to claims relating to adverse tax consequences with respect to stock options covered by the restatement. Defending against potential claims will likely require significant attention and resources of management and could result in significant legal expenses.

On December 1, 2004, a derivative action lawsuit captioned *Caviness v. Evans, et al.*, Civil Action No. 04-12524, referred to as the Derivative Action, was filed in Massachusetts federal district court as a related action to the first filed of the putative class actions subsequently consolidated into the class action described above. The complaint, as subsequently amended, alleged, among other things, that the former and current director and officer defendants caused the Company to issue false and misleading financial statements, and brought derivative claims for the following: breach of fiduciary duty for insider trading, breach of fiduciary duty, abuse of control, gross mismanagement, waste of corporate assets and unjust enrichment. On August 18, 2005, the court granted the defendants motion to dismiss the Derivative Action for failure of the plaintiff to make a pre-suit demand on the board of directors to take the actions referenced in the Derivative Action complaint, and the Derivative Action was dismissed with prejudice.

On April 12, 2005, the Company received a letter on behalf of another purported stockholder, demanding that the board take actions substantially similar to those referenced in the Derivative Action. On February 28, 2006, the Company received a letter on behalf of the plaintiff in the Derivative Action, demanding that they take actions referenced in the Derivative Action complaint. The board responded to both of the foregoing letters that the board has taken the letters under advisement pending further regulatory investigation developments, which the board continues to monitor and with which the Company continues to cooperate. In its responses, the board also requested confirmation of each person s status as one of the Company s stockholders and, with respect to the most recent letter, also referred the purported stockholder to the March 2006 settlement in the class action.

On September 27, 2006, a derivative action lawsuit was filed in Massachusetts Superior Court captioned *Rapine v. McArdle, et al.,* Civil Action No. 06-3455. The complaint alleged, among other things, that the former and current director and officer defendants authorized, modified, or failed to halt backdating of stock options in dereliction of their fiduciary duties to the Company as directors and officers. On October 16, 2006, defendants removed the action to Massachusetts federal district court and moved to dismiss the complaint. On October 30, 2006, the purported stockholder plaintiff filed an amended complaint, asserting derivative claims for breach of fiduciary duty; unjust enrichment; insider trading; violations of Sections 10(b), 14 and 20(a) of the Securities Exchange Act of 1934; and corporate waste. In October 2007, the court closed this action and consolidated the action with the Risberg case referenced below, which was subsequently dismissed.

In February 2007, a derivative action lawsuit was filed in Massachusetts federal district court captioned *Risberg v. McArdle et al.,* 07-CV-10354. The plaintiff purports to bring a derivative action on our behalf alleging, among other things, that several former and current directors and officer defendants authorized, were aware of, or received backdated stock options. The complaint asserts claims for breach of fiduciary duty; unjust enrichment; violations of Sections 10(b), 14 and 20(a) of the Securities Exchange Act of 1934; corporate waste; and breach of contract. In January 2008, the court granted defendants motion to dismiss this action for failure of the plaintiff to make a pre-suit demand on the Company s board of directors, and judgment on the order of dismissal was entered in favor of all defendants.

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Other

The Company is currently defending claims that certain of its software products and implementation services have failed to meet customer expectations. On May 11, 2007, one of the claims resulted in an arbitration award against the Company in the amount of $1.4 million. As of June 30, 2007, the Company has accrued the amount of the arbitration award. The Company is defending other claims in excess of $5 million, primarily consisting of a customer claim, as well as other general commercial claims. Although the Company believes the remaining claims to be without merit, and is defending the claims vigorously, the results of litigation and claims cannot be predicted with certainty, and unfavorable resolutions are possible and could, depending on the amount and timing of any outcome, materially affect the Company s results of operations, cash flows or financial position. In addition, regardless of the outcome, litigation could have an adverse impact on the Company because of defense costs, diversion of management resources and other factors.

Item 1A. Risk Factors

Investing in our common stock involves a high degree of risk. You should carefully consider the risks and uncertainties described below before purchasing our common stock. The risks and uncertainties described below are not the only ones facing our company. Additional risks and uncertainties may also impair our business operations. If any of the following risks actually occur, our business, financial condition, results of operations or cash flows would likely suffer. In that case, the trading price of our common stock could fall, and you may lose all or part of the money you paid to buy our common stock.

Risks Related to Our Business

Fluctuations in our quarterly revenues, operating results and cash flow may cause the market price of our common stock to fall.

Our revenues, operating results and cash flow have fluctuated in the past and may fluctuate significantly in the future as a result of a variety of factors, many of which are outside of our control, including:

- demand for our products and services;
- our customers purchasing patterns;
- the length of our sales cycle;

- the size of customer orders;
- changes in the mix of our license revenues and service revenues;
- the timing of introductions of new solutions and enhancements by us and our competitors;
- seasonal weakness in the first quarter of each fiscal year (which for us is the three months ending September 30), primarily caused by a seasonal slowdown in business in some of our international markets;
- the timing of our investments in new product development;
- the mix of domestic and international sales;
- our continued ability to sell long-term installments receivable;
- changes in our operating expenses;
- implementations of new quotations and order entry applications and procedures for the automations of our contracting process; and
- fluctuating economic conditions, particularly as they affect companies in the oil and gas, chemicals, petrochemicals and petroleum industries.

We ship software products within a short period after receipt of an order and typically do not have a material backlog of unfilled orders for software products. Consequently, revenues from software licenses in any quarter are substantially dependent on orders booked and shipped in that quarter. Historically, a majority of each quarter s revenues from software licenses has come from license agreements that have been entered into in the final weeks of the quarter. Therefore,

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even a short delay in the consummation of an agreement may cause our revenues to fall below expectations of public market analysts and investors for that quarter.

Since a substantial majority of our expenses are fixed in advance of a particular quarter, we are not able to adjust our spending quickly enough to compensate for any revenue shortfall in any given quarter and any such shortfall would likely have a disproportionately adverse effect on our operating results for that quarter. We expect that the factors listed above will continue to affect our operating results for the foreseeable future. Because of the factors listed above, we believe that period-to-period comparisons of our operating results are not necessarily meaningful and should not be relied upon as indications of future performance.

Term license renewal negotiations may be difficult and more time consuming than negotiations for new licenses. Moreover, customers may choose not to renew term licenses, resulting in reduced revenue to us. In addition, customers may wish to negotiate renewals of term licenses on terms and conditions that require us to change the way we recognize revenue under our existing revenue recognition practices at the time of such renewal with such customers. Any such changes could result in a material adverse effect on our results.

If, due to one or more of the foregoing factors or an unanticipated cause, our operating results fail to meet the expectations of public market analysts and investors in a future quarter, the market price of our common stock would likely decline.

Our lengthy sales cycle makes it difficult to predict quarterly revenue levels and operating results.

Because license and implementation fees for our software products are substantial and the decision to purchase our products typically involves members of our customers senior management, the sales process for our solutions is lengthy and can exceed one year. Accordingly, the timing of our license revenues is difficult to predict, and the delay of an order could cause our quarterly revenues to fall substantially below our expectations and those of public market analysts and investors. Moreover, to the extent that we succeed in licensing our integrated aspenONE product suite rather than stand-alone software products, our sales cycle may lengthen, which could increase the likelihood of delays and cause the effect of a delay to become more pronounced. Delays in sales could cause significant shortfalls in our revenues and operating results for any particular period.

We derive a majority of our total revenues from customers in or serving the oil and gas, chemicals, petrochemicals and petroleum industries, which are highly cyclical, and our operating results may suffer if these industries experience an economic downturn.

We derive a majority of our total revenues from companies in or serving the oil and gas, chemicals, petrochemicals and petroleum industries. Accordingly, our future success depends upon the continued demand for manufacturing optimization software and services by companies in these process manufacturing industries. The oil and gas, chemicals, petrochemicals and petroleum industries are highly cyclical and highly reactive to the price of oil, as well as general economic conditions.

Adverse changes in the economy and global economic and political uncertainty have previously caused delays and reductions in information technology spending by our customers and a consequent deterioration of the markets for our products and services, particularly our manufacturing/supply chain product suites. If adverse economic conditions occur, we would likely experience reductions, delays and postponements of customer purchases that will negatively impact our revenue and operating results.

In addition, in the past worldwide economic downturns and pricing pressures experienced by oil and gas, chemical, petrochemical and petroleum companies have led to consolidations and reorganizations. These downturns, pricing pressures and reorganizations have caused delays and reductions in capital and operating expenditures by many of these companies. These delays and reductions have reduced demand for products and services like ours. A recurrence of these industry patterns, as well as general domestic and foreign economic conditions and other factors that reduce spending by companies in these industries, could harm our operating results in the future.

Securities and derivative litigation and government investigations based on our restatement of our consolidated financial statements due to our prior software accounting practices may subject us to substantial damages and expenses, may require significant management time and may damage our reputation.

In January 2007, the SEC filed a civil enforcement action in Massachusetts federal district court alleging securities

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fraud and other violations against three of our former executive officers, David McQuillin, Lisa Zappala and Lawrence Evans, arising out of six transactions in 1999 through 2002 that were reflected in our originally filed consolidated financial statements for fiscal 2000 through 2004, the accounting for which we restated in March 2005. We and each of these former executive officers received Wells Notice letters of possible enforcement proceedings by the SEC. On the same day the SEC complaint was filed, the U.S. Attorney s Office for the Southern District of New York filed a criminal complaint against David McQuillin alleging criminal securities fraud violations arising out of two of those transactions. Mr. McQuillin pled guilty to securities fraud in March 2007 and was sentenced in October 2007.

On July 31, 2007, we entered into a settlement order with the SEC resolving the Wells Notice we received. Under the settlement order, we agreed to cease and desist from violations of certain provisions of the federal securities laws, and to comply with certain undertakings. No civil penalty was assessed by the SEC in connection with that settlement order, and we have not admitted or denied any wrongdoing in connection with that settlement order.

We continue to cooperate with the SEC and U.S. Attorney s Office. The SEC enforcement action and the U.S. Attorney s Office criminal action do not involve our company or any of our current officers or directors. We can provide no assurance, however, that the U.S. Attorney s Office, the SEC or another regulatory agency will not bring an enforcement proceeding against us, our officers and employees or additional former officers and employees based on the consolidated financial statements that were restated in March 2005.

Any such proceeding would divert the resources of management and could result in significant legal expenses and judgments against us for significant damages. In addition, even if we are successful in defending against such an enforcement action, such a proceeding may cause our customers, employees and investors to lose confidence in our company, which could result in significant costs to us and adversely affect the market price of our common stock.

We are required to advance legal fees (subject to undertakings of repayment if required) and may be required to indemnify certain of our current or former directors and officers (including one or more of the three former executive officers discussed above) in connection with civil, criminal or regulatory proceedings or actions, and such indemnification commitments may be costly. Our executive and organization liability insurance policies provide only limited liability protection relating to such actions against us and certain of our officers and directors and may not cover the costs of director and officer indemnification or other liabilities incurred by us. If these policies do not adequately cover expenses and liabilities relating to any proceeding or lawsuit, or if we are unable to achieve a favorable settlement thereof, our financial condition could be materially harmed. Also, increased premiums could materially harm our financial results in future periods. Our inability to obtain coverage due to prohibitively expensive premiums would make it more difficult to retain and attract officers and directors and expose us to potentially self-funding any potential future liabilities ordinarily mitigated by such liability insurance.

In March 2006, we settled class action litigation, including related derivative claims, arising out of our restated consolidated financial statements that include the periods referenced in the SEC enforcement action and the criminal complaint discussed above. Members of the class who opted out of the settlement (representing 1,457,969 shares of common stock, or less than 1% of the shares putatively purchased during the class action period) may bring or have brought their own state or federal law claims against us, which we refer to as opt-out claims.

Separate actions have been filed on behalf of the holders of approximately 1.1 million shares who either opted out of the class action settlement or were not covered by that settlement. The claims in those actions include claims against us and one or more of our former officers alleging securities and common law fraud, breach of contract, statutory treble damages, deceptive practices and/or rescissory damages liability, based on the restated results of one or more fiscal periods included in our restated consolidated financial statements referenced in the class action. Those actions are:

- *Blecker, et al. v. Aspen Technology, Inc., et al.*, filed on June 5, 2006 in the Business Litigation Session of the Massachusetts Superior Court for Suffolk County and docketed as Civ. A. No. 06-2357-BLS1 in that court, which is an opt out claim asserted by persons who received 248,411 shares of our common stock in an acquisition;

- *Feldman v. Aspen Technology, Inc., et al.*, filed on July 17, 2006 in the Business Litigation Session of the Massachusetts Superior Court for Suffolk County and docketed as Civ. A. No. 06-3021-BLS2 in that court, which is an opt out claim asserted by an individual who received 323,324 shares of our common stock in an acquisition; and

- *380544 Canada, Inc., et al. v. Aspen Technology, Inc., et al.*, filed on February 15, 2007 in the federal district court in Manhattan and docketed as Civ. A. No. 1:07-cv-01204-JFK in that court, which is a claim asserted by persons who purchased 566,665 shares of our common stock in a private placement.

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The damages sought in these actions total more than $20 million, not including claims for treble damages and attorneys fees. If these actions are not dismissed or settled on terms acceptable to us, we plan to defend these actions vigorously. We can provide no assurance as to the outcome of these opt-out claims or the likelihood of the filing of additional opt-out claims, and these claims may result in judgments against us for significant damages. Regardless of the outcome, such litigation has resulted in the past, and may continue to result in the future, in significant legal expenses and may require significant attention and resources of management, all of which could result in losses and damages that have a material adverse effect on our business.

On December 1, 2004, a derivative action lawsuit captioned *Caviness v. Evans, et al*., Civil Action No. 04-12524, referred to as the Derivative Action, was filed in Massachusetts federal district court as a related action to the first filed of the putative class actions subsequently consolidated into the class action described above. The complaint, as subsequently amended, alleged, among other things, that the former and current director and officer defendants caused us to issue false and misleading financial statements, and brought derivative claims for the following: breach of fiduciary duty for insider trading, breach of fiduciary duty, abuse of control, gross mismanagement, waste of corporate assets and unjust enrichment. On August 18, 2005, the court granted the defendants motion to dismiss the Derivative Action for failure of the plaintiff to make a pre-suit demand on the board of directors to take the actions referenced in the Derivative Action complaint, and the Derivative Action was dismissed with prejudice.

On April 12, 2005, we received a letter on behalf of another purported stockholder, demanding that the board take actions substantially similar to those referenced in the Derivative Action. On February 28, 2006, we received a letter on behalf of the plaintiff in the Derivative Action, demanding that we take actions referenced in the Derivative Action complaint. The board responded to both of the foregoing letters that the board has taken the letters under advisement pending further regulatory investigation developments, which the board continues to monitor and with which we continue to cooperate. In its responses, the board also requested confirmation of each person s status as one of our stockholders and, with respect to the most recent letter, also referred the purported stockholder to the March 2006 settlement in the class action.

A determination that we have failed to comply with our existing consent decree with the Federal Trade Commission could have a material adverse effect on our business and financial condition.

In December 2004, we entered into a consent decree with the Federal Trade Commission, or FTC, with respect to a civil administrative complaint filed by the FTC in August 2003 alleging that our acquisition of Hyprotech in May 2002 was anticompetitive in violation of Section 5 of the Federal Trade Commission Act and Section 7 of the Clayton Act. In connection with the consent decree, we entered into an agreement with Honeywell International, Inc., which we refer to as the Honeywell agreement, pursuant to which we transferred our operator training business and our rights to the intellectual property of various legacy Hyprotech products. In addition, we transferred our AXSYS product line to Bentley Systems, Inc.

We are subject to ongoing compliance obligations under the FTC consent decree. We have been responding to requests by the Staff of the FTC for information relating to the Staff s investigation of whether we have complied with the consent decree. In addition, the FTC is considering whether to commence litigation against us arising from our alleged failure to comply with certain aspects of the decree. If the FTC or a court were to determine that we have not complied with our obligations under the consent decree, we could be subject to one or more of a variety of penalties, fines, injunctive relief and other remedies, and associated legal fees and expenses, any of which might materially limit our ability to operate under our current business plan and might have a material adverse effect on our operating results and financial condition.

In March 2007, we were served with a complaint and petition to compel arbitration filed by Honeywell in New York State Supreme Court. The complaint alleges that we failed to comply with our obligations to deliver certain technology under the Honeywell agreement referred to above, that we owe approximately $800,000 to Honeywell under the agreement and that Honeywell is entitled to some portion of the $1.2 million retained by Honeywell under the holdback provisions of the agreement, plus unspecified monetary damages arising from contracts assumed under the agreement. We believe the claims to be without merit and intend to defend the claims vigorously, and to pursue payment of the $1.2 million retained under the holdback provisions of the agreement. However, it is possible that the resolution of the claims may have an adverse impact on our financial position and results of operations.

In preparing our consolidated financial statements, we identified material weaknesses in our internal control over financial reporting, and our failure to remedy effectively the five material weaknesses identified as of June 30, 2007 and September 30, 2007 could result in material misstatements in our financial statements.

Our management is responsible for establishing and maintaining adequate internal control over our financial

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reporting, as defined in Rule 13a-15(f) under the Securities Exchange Act. Our management identified five material weaknesses in our internal control over financial reporting as of June 30, 2007 and September 30, 2007. A material weakness is defined as a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis.

The material weaknesses identified by management as of June 30, 2007 and September 30, 2007 consisted of:

- Inadequate and ineffective controls over the periodic financial close process;
- Inadequate and ineffective controls over the accounting for transfers of customer installment and accounts receivables under receivable sale facilities;
- Inadequate and ineffective controls over income tax accounting and disclosure;
- Inadequate and ineffective controls over the recognition of revenue; and
- Ineffective and inadequate controls over the accounts receivable function

As a result of these material weaknesses, our management concluded as of June 30, 2007 and September 30, 2007 that our internal control over financial reporting was not effective based on criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission in *Internal Control-Integrated Framework.*

We are implementing remedial measures designed to address these material weaknesses. If these remedial measures are insufficient to address these material weaknesses, or if additional material weaknesses or significant deficiencies in our internal control are discovered or occur in the future, we may fail to meet our future reporting obligations on a timely basis, our consolidated financial statements may contain material misstatements, we could be required to restate our prior period financial results, our operating results may be harmed, we may be subject to class action litigation and if we regain listing on a public exchange, our common stock could be delisted from that exchange. For example, material weaknesses that remain unremediated could result in material post-closing adjustments in future financial statements. Any failure to address the identified material weaknesses or any additional material weaknesses in our internal control could also adversely affect the results of the periodic management evaluations regarding the effectiveness of our internal control over financial reporting that are required to be included in our annual reports on Form 10-K. Internal control deficiencies could also cause investors to lose confidence in our reported financial information. We can give no assurance that the measures we have taken to date or any future measures will remediate the material weaknesses identified or that any additional material weaknesses or additional restatements of financial results will not arise in the future due to a failure to implement and maintain adequate internal control over financial reporting or circumvention of these controls. In addition, even if we are successful in strengthening our controls and procedures, those controls and procedures may not be adequate to prevent or identify irregularities or errors or to facilitate the fair presentation of our consolidated financial statements.

If we do not become current in our SEC filings, or if in the future we are not current in our SEC fillings, we will face several adverse consequences.

If we are unable to become or remain current in our financial filings, investors in our securities will not have information regarding our business and financial condition with which to make decisions regarding investment in our securities. In addition, we are and would not be able to have a registration statement under the Securities Act of 1933, covering a public offering of securities, declared effective by the SEC, and we will not be able to make offerings pursuant to existing registration statements or pursuant to certain private placement rules of the SEC under Regulation D to any purchasers not qualifying as accredited investors. We also are and would not be eligible to use a short form registration statement on Form S-3 for a period of 12 months after the time we become current in our filings. These restrictions may impair our ability to raise funds should we desire to do so and may adversely affect our financial condition. Also, if we are unable to become or remain current in our filings, and it we are not able to obtain waivers under our financing arrangements, it might become necessary to repay certain borrowings.

Our common stock has been delisted from The NASDAQ Stock Market and transferred to the Pink Sheets electronic quotation service, which may, among other things, reduce the price of our common stock and the levels of liquidity available to our stockholders.

As a result of our inability to timely file the Form 10-K, Nasdaq issued a Staff Determination to us that, in the absence of a request for a hearing, would have resulted in suspension of trading of our common stock, and filing of a Form

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25-NSE with the SEC to remove our securities from listing and registration on The NASDAQ Stock Market. Nasdaq subsequently issued an Additional Staff Determination citing our inability to timely file our Form 10-Q/A for the quarterly period ended September 30, 2007 as an additional basis for delisting our securities. An oral hearing was held at our request on November 15, 2007. At the hearing, we requested an extension of time to cure our SEC filing deficiency. The NASDAQ Listing Qualifications Panel, or the Panel, determined on January 7, 2008 to grant our request for continued listing, subject to certain conditions, including filing the Company s Form 10-K for the year ended June 30, 2007 and this Form 10-Q/A for the quarterly period ended September 30, 2007, by January 18, 2008. On January 28, 2008, the Panel granted our request for an extension for continued listing on The NASDAQ Global Market through February 8, 2008. On February 14, 2008, we received a letter advising us that the NASDAQ Listing Qualifications Panel had determined to delist our shares from The NASDAQ Stock Market, and trading of our shares was suspended effective at the open of business on February 19, 2008. Our common stock has been quoted on the Pink Sheets LLC electronic quotation service beginning on February 19, 2008.

There is no assurance that we will regain listing of our common stock on a public exchange. If we regain listing and thereafter fail to keep current in our SEC filings or to comply with the applicable continued listing requirements, our common stock might be and subsequently would trade in the Pink Sheets electronic quotation service, or the Pink Sheets. The trading of our common stock in the Pink Sheets may reduce the price of our common stock and the levels of liquidity available to our stockholders. In addition, the trading of our common stock in the Pink Sheets would materially adversely affect our access to the capital markets, and the limited liquidity and potentially reduced price of our common stock could materially adversely affect our ability to raise capital through alternative financing sources on terms acceptable to us or at all. Stocks that trade in the Pink Sheets are no longer eligible for margin loans, and a company trading in the Pink Sheets cannot avail itself of federal preemption of state securities or blue sky laws, which adds substantial compliance costs to securities issuances, including pursuant to employee option plans, stock purchase plans and private or public offerings of securities. If we regain listing and are delisted in the future and transferred to the Pink Sheets, there may also be other negative implications, including the potential loss of confidence by suppliers, customers and employees, the loss of institutional investor interest in our company.

Claims and litigation based on our restatement of our consolidated financial statements due to our prior accounting for stock-based compensation may require that we incur substantial additional expenses and expend significant additional management time.

In connection with the preparation of our consolidated financial statements for fiscal 2006, a subcommittee of independent members of the board of directors determined that certain stock option grants during fiscal 1995 through 2004 were accounted for incorrectly and concluded that stock-based compensation associated with certain grants was misstated in fiscal 1995 through 2005 and the nine months ended March 31, 2006. As a result of these errors, some of our employees realized nonqualified deferred compensation for purposes of Section 409A of the Internal Revenue Code and, therefore became subject to an excise tax on the value of the options in the year in which they vest. We may be named as a defendant in securities litigation or derivative lawsuits by current or former stockholders based on the restated consolidated financial statements. Further, we may be subject to claims relating to adverse tax consequences with respect to stock options covered by the restatement. Defending against potential claims will likely require significant attention and resources of management and could result in significant legal expenses.

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On September 27, 2006, a derivative action lawsuit was filed in Massachusetts Superior Court captioned *Rapine v. McArdle, et al.,* Civil Action No. 06-3455. The complaint alleged, among other things, that the former and current director and officer defendants authorized, modified, or failed to halt backdating of stock options in dereliction of their fiduciary duties to the Company as directors and officers. On October 16, 2006, defendants removed the action to Massachusetts federal district court and moved to dismiss the complaint. On October 30, 2006, the purported stockholder plaintiff filed an amended complaint, asserting derivative claims for breach of fiduciary duty; unjust enrichment; insider trading; violations of Sections 10(b), 14 and 20(a) of the Securities Exchange Act of 1934; and corporate waste. In October 2007, the court closed this action and consolidated the action with the Risberg case referenced below, which was subsequently dismissed.

In February 2007, a derivative action lawsuit was filed in Massachusetts federal district court captioned *Risberg v. McArdle et al.,* 07-CV-10354. The plaintiff purports to bring a derivative action on our behalf alleging, among other things, that several former and current directors and officer defendants authorized, were aware of, or received backdated stock options. The complaint asserts claims for breach of fiduciary duty; unjust enrichment; violations of Sections 10(b), 14 and 20(a) of the Securities Exchange Act of 1934; corporate waste; and breach of contract. In January 2008, the court granted defedants motion to dismiss this action for failure of the plaintiff to make a pre-suit demand on our board of directors, and judgment on the order of dismissal was entered in favor of all defendants.

Our international operations are complex and if we fail to manage those operations effectively, the growth of our business would be limited and our operating results would be adversely affected.

As of September 30, 2007, we had 29 offices in 22 countries. We sell our products primarily through a direct sales force located throughout the world. In the event that we are unable to adequately staff and maintain our foreign operations, we could face difficulties managing our international operations. We also rely, to a lesser extent, on distributors and resellers to sell our products and market our services internationally, and our inability to manage and maintain those relationships would limit our ability to generate revenue outside the United States. The complexities of our operations also require us to make significant expenditures to ensure that our operations are compliant with regulatory requirements in numerous foreign jurisdictions. To the extent we are unable to manage the various risks associated with our complex international operations effectively, the growth and profitability of our business may be adversely affected.

Our business may suffer if we fail to address challenges associated with transacting business internationally.

Customers outside the United States accounted for approximately 57% and 53% of our total revenues in fiscal 2006 and 2007, respectively. We anticipate that revenues from customers outside the United States will continue to account for a significant portion of our total revenues for the foreseeable future. Our operations outside the United States are subject to additional risks, including:

- unexpected changes in regulatory requirements, exchange rates, tariffs and other barriers;
- political and economic instability;

- less effective protection of intellectual property;
- difficulties and delays in translating products and product documentation into foreign languages;
- difficulties and delays in negotiating software licenses compliant with accounting revenue recognition requirements in the United States;
- difficulties in collecting trade accounts receivable in other countries; and
- adverse tax consequences.

In addition, the impact of future exchange rate fluctuations on our operating results cannot be accurately predicted. In recent years, we have increased the extent to which we denominate arrangements with international customers in the currencies of the countries in which the software or services are provided. From time to time we have engaged in, and may

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continue to engage in, economic hedging of a significant portion of installment contracts denominated in foreign currencies. Any hedging policies implemented by us may not be successful, and the cost of these hedging techniques may have a significant negative impact on our operating results.

Competition from software offered by current competitors and new market entrants, as well as from internally developed solutions, could adversely affect our ability to sell our software products and related services and could result in pressure to price our products in a manner that reduces our margins.

Our markets in general are highly competitive:

- Our engineering software competes with products of businesses such as ABB, Chemstations, Honeywell, KBC, Shell Global Solutions, Simulation Sciences (a division of Invensys) and WinSim (formerly ChemShare).

- Our plant operations software competes with products of companies such as ABB, Honeywell, Invensys, Rockwell and Siemens and components of SAP s product offerings.

- Our supply chain management software competes with products of companies such as Honeywell, i2 Technologies, Manugistics (a subsidiary of JDA Software Group) and Infor and components of SAP s supply chain offering.

As we expand our engineering solutions into other markets we may face competition from companies that we have not typically competed against in the past or competition from companies in areas where we have not competed in the past, such as Dassault Systems, Oracle, SAP and Siemens. We also face competition in all areas of our business from large companies in the process industries that have internally developed their own proprietary software solutions.

Many of our current and potential competitors have greater financial, technical, marketing, service and other resources than we have. As a result, these companies may be able to offer lower prices, additional products or services, or other incentives that we cannot match or offer. These competitors may be in a stronger position to respond more quickly to new technologies and may be able to undertake more extensive marketing campaigns. They also may adopt more aggressive pricing policies and make more attractive offers to potential customers, employees and strategic partners. In addition, many of our competitors have established, and may in the future continue to establish, cooperative relationships with third parties to improve their product offerings and to increase the availability of their products in the marketplace. Competitors with greater financial resources may make strategic acquisitions to increase their ability to gain market share or improve the quality or marketability of their products.

Competition could seriously impede our ability to sell additional software products and related services on terms favorable to us. Businesses may continue to enhance their internally developed solutions, rather than investing in commercial software such as ours. Our current and potential commercial competitors may develop and market new technologies that render our existing or future products obsolete, unmarketable or less competitive. In addition, if these competitors develop products with similar or superior functionality to our products, we may need to decrease the prices for our products in order to remain competitive. If we are unable to maintain our current pricing due to competitive pressures, our margins will be reduced and our operating results will be negatively affected. We cannot assure you that we will be able to compete successfully against current or future competitors or that competitive pressures will not materially adversely affect our business, financial condition and operating results.

If we fail to develop new software products or enhance existing products and services, we will be unable to implement our product strategy successfully and our business could be seriously harmed.

Enterprises are requiring their application software vendors to provide greater levels of functionality and broader product offerings. Moreover, competitors continue to make rapid technological advances in computer hardware and software technology and frequently introduce new products, services and enhancements. We must continue to enhance our current product line and develop and introduce new products and services that keep pace with increasingly sophisticated customer requirements and the technological developments of our competitors. Our business and operating results could suffer if we cannot successfully respond to the technological advances of competitors or if our new products or product enhancements and services do not achieve market acceptance.

Under our business plan, we are investing significantly in the development of new business process products that are intended to anticipate and meet the emerging needs of our target markets. We are implementing a product strategy that unifies our software solutions under the aspenONE brand with differentiated aspenONE vertical solutions targeted at specific

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process industry segments. We cannot assure you that our product strategy will result in products that will meet market needs and achieve significant market acceptance.

Defects or errors in our software products could harm our reputation, impair our ability to sell our products and result in significant costs to us.

Our software products are complex and may contain undetected defects or errors. We have not suffered significant harm from any defects or errors to date, but we have from time to time found defects in our products and we may discover additional defects in the future. We may not be able to detect and correct defects or errors before releasing products. Consequently, we or our customers may discover defects or errors after our products have been implemented. We have in the past issued, and may in the future need to issue, corrective releases of our products to remedy defects or errors. The occurrence of any defects or errors could result in:

- lost or delayed market acceptance and sales of our products;
- delays in payment to us by customers;
- product returns;
- injury to our reputation;
- diversion of our resources;
- legal claims, including product liability claims, against us;
- increased service and warranty expenses or financial concessions; and
- increased insurance costs.

Defects and errors in our software products could result in an increase in service and warranty costs or claims for substantial damages against us.

We may be subject to significant expenses and damages because of liability claims related to our products and services.

We may be subject to significant expenses and damages because of liability claims related to our products and services. The sale and implementation of certain of our software products and services, particularly in the areas of advanced process control, supply chain and optimization, entail the risk of product liability claims and associated damages. Our software products and services are often integrated with our customers networks and software applications and are used in the design, operation and management of manufacturing and supply chain processes at large facilities, often for mission critical applications. Any errors, defects, performance problems or other failure of our software could result in significant liability to us for damages or for violations of environmental, safety and other laws and regulations. We are currently defending claims that certain of our software products and implementation services have failed to meet customer expectations. On May 11, 2007, one of the claims resulted in a $1.4 million arbitration award against us. We are defending other claims in excess of $5 million, primarily consisting of a customer claim, as well as other general commercial claims. In addition, our software products and implementation services could continue to give rise to warranty and other claims. We currently are unable to determine whether resolution of any of these matters will have a material adverse impact on our financial position, cash flows or results of operations, or, in many cases, reasonably estimate the amount of the loss, if any, that may result from the resolution of these matters.

Our agreements with our customers generally contain provisions designed to limit our exposure to potential product liability claims. It is possible, however, that the limitation of liability provisions in our agreements may not be effective as a result of federal, foreign, state or local laws or ordinances or unfavorable judicial decisions. A substantial product liability judgment against us could materially and adversely harm our operating results and financial condition. Even if our software is not at fault, a product liability claim brought against us could be time consuming, costly to defend and harmful to our operations. In addition, although we carry general liability insurance, our current insurance coverage may be insufficient to protect us from all liability that may be imposed under these types of claims.

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Implementation of our products can be difficult and time-consuming, and customers may be unable to implement our products successfully or otherwise achieve the benefits attributable to our products.

Our products are intended to work with complex business processes. Some of our software, such as scheduling applications and integrated supply chain products, must integrate with the existing computer systems and software programs of our customers. This can be complex, time-consuming and expensive. As a result, some customers may have difficulty in implementing or be unable to implement these products successfully or otherwise achieve the benefits attributable to these products. Delayed or ineffective implementation of the software products or related services may limit our ability to expand our revenues and may result in customer dissatisfaction, harm to our reputation and may result in customer unwillingness to pay the fees associated with these products.

We may suffer losses on fixed-price engagements.

We derive a substantial portion of our total revenues from service engagements and a significant percentage of these engagements have been undertaken on a fixed-price basis. Under these fixed-price engagements, we bear the risk of cost overruns and inflation, and as a result, any of these engagements may be unprofitable. In the past, we have had cost overruns on fixed-price service engagements. In addition, to the extent that we are successful in shifting customer purchases to our integrated suites of software and services and we price those engagements on a fixed-price basis, the size of our fixed-price engagements may increase, which could cause the impact of an unprofitable fixed-price engagement to have a more pronounced impact on our operating results.

We may not be able to protect our intellectual property rights, which could make us less competitive and cause us to lose market share.

We regard our software as proprietary and rely on a combination of copyright, patent, trademark and trade secret laws, license and confidentiality agreements, and software security measures to protect our proprietary rights. We have registered or have applied to register several of our significant trademarks in the United States and in certain other countries. We generally enter into non-disclosure agreements with our employees and customers, and historically have restricted access to our software products source codes, which we regard as proprietary information. In a few cases, we have provided copies of the source code for some of our products to customers solely for the purpose of special product customization and have deposited copies of the source code for some of our products in third-party escrow accounts as security for ongoing service and license obligations. In these cases, we rely on non-disclosure and other contractual provisions to protect our proprietary rights.

The steps we have taken to protect our proprietary rights may not be adequate to deter misappropriation of our technology or independent development by others of technologies that are substantially equivalent or superior to our technology. Any misappropriation of our technology or development of competitive technologies could harm our business and could force us to incur substantial costs in protecting and enforcing our intellectual property rights. The laws of some countries in which our products are licensed do not protect our products and intellectual property rights to the same extent as the laws of the United States.

Third-party claims that we infringe upon the intellectual property rights of others may be costly to defend or settle and could damage our business.

We cannot be certain that our software and services do not infringe issued patents, copyrights, trademarks or other intellectual property rights of third parties. Litigation regarding intellectual property rights is common in the software industry, and we may be subject to legal proceedings and claims from time to time, including claims of alleged infringement of intellectual property rights of third parties by us or our licensees concerning their use of our software products and integration technologies and services. Although we believe that our intellectual property rights are sufficient to allow us to market our software without incurring liability to third parties, third parties may bring claims of infringement against us. Because our software is integrated with our customers networks and business processes, as well as other software applications, third parties may bring claims of infringement against us, as well as our customers and other software suppliers, if the cause of the alleged infringement cannot easily be determined. Such claims may be with or without merit.

Claims of alleged infringement may have a material adverse effect on our business and may discourage potential customers from doing business with us on acceptable terms, if at all. Defending against claims of infringement may be time-consuming and may result in substantial costs and diversion of resources, including our management s attention to our business. Furthermore, a party making an infringement claim could secure a judgment that requires us to pay substantial damages. A judgment could also include an injunction or other court order that could prevent us from selling our software or

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require that we re-engineer some or all of our products. Claims of intellectual property infringement also might require us to enter costly royalty or license agreements. We may be unable, however, to obtain royalty or license agreements on terms acceptable to us or at all. Our business, operating results and financial condition could be harmed significantly if any of these events occurred, and the price of our common stock could be adversely affected. Furthermore, former employers of our current and future employees may assert that our employees have improperly disclosed confidential or proprietary information to us. In addition, we have agreed, and may agree in the future, to indemnify certain of our customers against claims that our software infringes upon the intellectual property rights of others. Although we carry general liability insurance, our current insurance coverage may not apply to, and likely would not protect us from, liability that may be imposed under any of the types of claims described above.

Because some of our software products incorporate technology licensed from, or provided by, third parties, the loss of our right to use that third-party technology or defects in that technology could harm our business.

Some of our software products contain technology that is licensed from, or provided by, third parties. Any significant interruption in the supply or support of any such third-party software could adversely affect our sales, unless and until we can replace the functionality provided by the third-party software. Because some of our software incorporates software developed and maintained by third parties, we depend on these third parties to deliver and support reliable products, enhance our current software, develop new software on a timely and cost-effective basis and respond to emerging industry standards and other technological changes. In other instances, we provide third-party software with our current software, and we depend on these third parties to deliver reliable products, provide underlying product support and respond to emerging industry standards and other technological changes. The failure of these third parties to meet these criteria could harm our business.

New accounting standards or interpretations of existing accounting standards could adversely affect our operating results.

Generally accepted accounting principles, or GAAP, in the United States are subject to interpretation by the Financial Accounting Standards Board, the American Institute of Certified Public Accountants, the SEC and various bodies formed to promulgate and interpret appropriate accounting principles. A change in these principles or interpretations could have a significant effect on our reported financial results and could affect the reporting of transactions completed before the announcement of a change.

For example, we recognize software license revenue in accordance with SOP No. 97-2, as amended by SOP No. 98-4 and SOP No. 98-9, and in accordance with SOP No. 81-1. The accounting profession may continue to discuss certain provisions of relevant accounting literature with the objective of providing additional guidance on potential interpretations related to software revenue recognition and multiple element arrangements in which a single contract includes a software license, a maintenance services agreement and/or other elements that are bundled together in a total offering to the customer. These discussions and the issuance of interpretations, once finalized, could lead to unanticipated changes in our current revenue accounting practices, which could change the timing of revenue recognition.

If we are not successful in attracting, integrating and retaining highly qualified personnel, we may not be able to successfully implement our business strategy.

Our ability to establish and maintain a position of technology leadership in the highly competitive software market depends in large part upon our ability to attract, integrate and retain highly qualified managerial, sales, technical and accounting personnel. Competition for qualified personnel in the software industry is intense. We have from time to time in the past experienced, and we expect to continue to experience in the future, difficulty in hiring and retaining highly skilled employees with appropriate qualifications. Moreover, we have recently hired a significant number and percentage of the personnel in key areas of our operations, such as accounting and finance. Our management will need to devote significant attention and resources to strengthen relationships among these personnel, and our ability to grow our business will be impaired if these personnel are not able to work together effectively. Our future success will depend in large part on our ability to attract, integrate and retain a sufficient number of highly qualified personnel, and there can be no assurance that we will be able to do so.

If we are unable to develop or maintain strategic alliance relationships, our revenue growth, operating results, financial condition or cash flows may be materially and adversely affected.

An element of our growth strategy is to establish strategic alliances with selected third-party resellers, agents and systems integrators, which we refer to collectively as resellers, that market, sell and integrate our products and services. It is possible that our existing relationships with resellers might be terminated by us or the resellers, or that we will not adequately

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train, and enter into agreements with, a sufficient number of qualified resellers, or that potential resellers may focus their efforts on marketing competing products to the process industries.

In addition, the cessation or termination of certain relationships, by us or a reseller, may subject us to material liability and/or expense. This material liability and/or expense includes potential payments due upon the termination or cessation of the relationship by us or a reseller, costs related to the establishment of a direct sales presence or development of a new agent in the territory. No such events of termination or cessation have occurred. We are not able to reasonably estimate the amount of any such liability and/or expense if such an event were to occur, given the range of factors that could affect the ultimate determination of our liability. Actual payments could be in the range of zero to $30 million. If any of the foregoing were to occur, our future revenue growth could be limited or we may be subject to litigation and liability claims such that our operating results, cash flows and financial condition could be materially and adversely affected.

In addition, if our resellers fail to implement our solutions for our customers properly, our reputation could be harmed and we could be subject to claims by our customers. We intend to continue to establish business relationships with resellers to accelerate the development and marketing of our products and services. To the extent that we are unsuccessful in maintaining our existing relationships and developing new relationships, our operating results and financial condition could be materially and adversely affected.

Risks Related to Our Common Stock

Our common stock may experience substantial price and volume fluctuations.

The equity markets have from time to time experienced extreme price and volume fluctuations, particularly in the high technology sector, and those fluctuations have often been unrelated to the operating performance of particular companies. In addition, factors such as our financial performance, announcements of technological innovations or new products by us or our competitors, as well as market conditions in the computer software or hardware industries, may have a significant impact on the market price of our common stock.

In the past, following periods of volatility in the market price of a public company s securities, securities class action litigation has often been instituted against companies. This type of litigation could result in substantial liability and costs and divert management s attention and resources.

Our ability to raise capital in the future may be limited, and our failure to raise capital when needed could prevent us from executing our business plan.

We expect that our current cash balances, future cash flows from our operations, and continued ability to sell installment receivable contracts will be sufficient to meet our anticipated cash needs for at least the next twelve months. We may need to obtain additional financing thereafter or earlier, however, if our current plans and projections prove to be inaccurate or our expected cash flows prove to be insufficient to fund our operations because of lower-than-expected revenues, fewer sales of installment contracts, unanticipated expenses or other unforeseen difficulties.

Our ability to obtain additional financing will depend on a number of factors, including market conditions, our operating performance, the quality of our installment contracts, the reaction of the capital and credit markets to our financial restatement with the inclusion of secured borrowings, and investor interest. These factors may make the timing, amount, terms and conditions of any financing unattractive. If adequate funds are not available, or are not available on acceptable terms, we may have to forego strategic acquisitions or investments, reduce or defer our development activities or delay our introduction of new products and services.

Any additional capital raised through the sale of equity or convertible debt securities may dilute the existing shareholder percentage ownership of our common stock. Furthermore, any new securities we issue could have rights, preferences and privileges superior to our common stock. Capital raised through debt financings could require us to make periodic interest payments and could impose potentially restrictive covenants on the conduct of our business.

Our corporate documents and provisions of Delaware law may prevent a change in control or management that stockholders may consider desirable.

Section 203 of the Delaware General Corporation Law, our charter and our by-laws contain provisions that might enable our management to resist a takeover of our company.

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These provisions include:

- limitations on the removal of directors;
- a classified board of directors so that not all members of our board are elected at one time;
- advance notice requirements for stockholder proposals and nominations;
- the inability of stockholders to act by written consent or to call special meetings;
- the ability of our board of directors to make, alter or repeal our by-laws; and
- the ability of our board of directors to designate the terms of and issue new series of preferred stock without stockholder approval.

These provisions could:

- have the effect of delaying, deferring or preventing a change in control of our company or a change in our management that stockholders may consider favorable or beneficial;
- discourage proxy contests and make it more difficult for stockholders to elect directors and take other corporate actions; and
- limit the price that investors might be willing to pay in the future for shares of our common stock.

We have also adopted a stockholder rights plan that could significantly dilute the equity interests of a person seeking to acquire control of our company without the approval of the board of directors.

We are obligated to register for public sale shares of common stock issued upon the conversion of our previously outstanding Series D-1 preferred stock, and sales of those shares may result in a decrease in the price of our common stock.

Private equity funds managed by Advent International Corporation have the right to require that we register under the Securities Act the shares of common stock that were issued upon the conversion of our previously outstanding Series D-1 preferred stock and upon the exercise of certain previously outstanding warrants. In May 2006, we received a demand letter from such funds requesting the registration of all of the shares of common stock covered by those registration rights, for sale in an underwritten public offering. Pursuant to this request, in April 2007 we filed a registration statement for a public offering of 18,000,000 shares of common stock held by such funds. The registration statement also covered 2,700,000 shares that would be subject to an option to be granted to the underwriters by such funds solely to cover overallotments. This registration statement remains on file with the SEC. Any sale of common stock into the public market pursuant to the pending registration statement could cause a decline in the trading price of our common stock.

Item 4. ***Submission of Matters to a Vote of Security Holders***

None.

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Item 6. ***Exhibits***

Exhibit Number	Description	Filed with this Form 10-Q/A	Form	Incorporated by Reference Filing Date with SEC	Exhibit Number
10.1	Amendment dated September 5, 2007 to Lease Agreement dated January 30, 1992 between Aspen Technology, Inc. and MA-Ten Canal Park, L.L.C.		10-K	April 11, 2008	10.1c
10.2	Sublease dated September 5, 2007 between Aspen Technology, Inc. and MA-Ten Canal Park L.L.C. regarding 10 Canal Park, Cambridge, Massachusetts		10-K	April 11, 2008	10.2
10.3	Twelfth Amendment dated October 16, 2007 to Non-Recourse Receivables Purchase Agreement dated December 31, 2003 between Silicon Valley Bank and Aspen Technology, Inc.		10-K	April 11, 2008	10.15l
10.4	Thirteenth Amendment dated December 12, 2007 to Non-Recourse Receivables Purchase Agreement dated December 31, 2003 between Silicon Valley Bank and Aspen Technology, Inc.		10-K	April 11, 2008	10.15m
10.5	Fourteenth Amendment dated December 28, 2007 to Non-Recourse Receivables Purchase Agreement dated December 31, 2003 between Silicon Valley Bank and Aspen Technology, Inc.		8-K	January 7, 2008	10.2
10.6	Release Letter dated December 28, 2007 relating to Loan Agreement dated June 15, 2005 among Aspen Technology, Inc., Aspen Technology Receivables II LLC, Guggenheim Corporate Funding, LLC and the Lenders named therein		8-K	January 7, 2008	10.1
10.7	Fifteenth Loan Modification Agreement dated August 30, 2007 to Loan and Security Agreement dated January 30, 2003 among Silicon Valley Bank and Aspen Technology, Inc., AspenTech, Inc. and Hyprotech Company		10-K	April 11, 2008	10.22p
10.8	Sixteenth Loan Modification Agreement dated October 16, 2007 to Loan and Security Agreement dated January 30, 2003 among Silicon Valley Bank and Aspen Technology, Inc., AspenTech, Inc. and Hyprotech Company		10-K	April 11, 2008	10.22q
10.9	Seventeenth Loan Modification Agreement dated December 2007 to Loan and Security Agreement dated January 30, 2003 among Silicon Valley Bank and Aspen Technology, Inc., AspenTech, Inc. and Hyprotech Company		8-K	January 7, 2008	10.3

10.10 ^	Amended and Restated Employment Agreement effective October 3, 2007 between Aspen Technology, Inc. and Mark E. Fusco	10-K	April 11, 2008	10.50

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31.1	Certification of Chief Executive Officer pursuant to Exchange Act Rules 13a-14 and 15d-14, as adopted pursuant to Section 302 of Sarbanes-Oxley Act of 2002	X
31.2	Certification of Chief Financial Officer pursuant to Exchange Act Rules 13a-14 and 15d-14, as adopted pursuant to Section 302 of Sarbanes-Oxley Act of 2002	X
32.1	Certification of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	X

^ Management contract or compensatory plan

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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.

ASPEN TECHNOLOGY, INC.

Date: February 19, 2009	By:	/s/ Mark E. Fusco Mark E. Fusco *President and Chief Executive Officer*
Date: February 19, 2009	By:	/s/ Bradley T. Miller Bradley T. Miller *Senior Vice President and Chief Financial Officer*

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^ Management contract or compensatory plan