NAVISITE INC
Form 10-Q
March 17, 2009

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UNITED STATES SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
FORM 10-Q

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

For the quarterly period ended January 31, 2009

OR

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

For the transition period from __________ to __________

Commission file number: 000-27597

NAVISITE, INC.

(Exact name of registrant as specified in its charter)

Delaware	**52-2137343**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
400 Minuteman Road Andover, Massachusetts	**01810**
(Address of principal executive offices)	(Zip Code)

(978) 682-8300

(Registrant s telephone number, including area code)

None

(Former name, former address and former fiscal year, if changed since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes þ No o

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer o	Accelerated filer o	Non-accelerated filer þ (Do not check if a smaller reporting company)	Smaller reporting company o

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes o No þ

As of March 2, 2009, there were 35,596,800 shares outstanding of the registrant s common stock, par value $.01 per share.

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REPORT ON FORM 10-Q
FOR THE QUARTER ENDED JANUARY 31, 2009

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PART I: FINANCIAL INFORMATION

Item 1. Financial Statements

NAVISITE, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
(Unaudited)
(In thousands, except par value)

	January 31, 2009	July 31, 2008
ASSETS		
Current assets:		
Cash and cash equivalents	$ 2,958	$ 3,261
Accounts receivable, less allowance for doubtful accounts of $918 and $897 at January 31, 2009 and July 31, 2008, respectively	19,719	18,927
Unbilled accounts receivable	1,644	1,711
Prepaid expenses and other current assets	7,216	11,557
Total current assets	31,537	35,456
Property and equipment, net	33,963	38,141
Intangible assets	25,620	29,290
Goodwill	66,566	66,683
Other assets	4,967	4,258
Restricted cash	1,617	1,885
Total assets	$ 164,270	$ 175,713
LIABILITIES AND STOCKHOLDERS EQUITY (DEFICIT)		
Current liabilities:		
Notes payable, current portion	$ 5,987	$ 6,100
Capital lease obligations, current portion	3,348	3,166
Accounts payable	5,173	7,033
Accrued expenses and other current liabilities	13,058	13,336
Deferred revenue, deferred other income and customer deposits	5,023	4,163
Total current liabilities	32,589	33,798
Capital lease obligations, less current portion	10,688	14,922
Accrued lease abandonment costs, less current portion	244	428
Deferred tax liability	6,596	5,597
Other long-term liabilities	4,516	4,361
Note payable, less current portion	105,632	107,850
Total liabilities	160,265	166,956
Series A Convertible Preferred Stock, $0.01 par value; Authorized 5,000 shares; Issued and outstanding: 3,471 at January 31, 2009 and 3,320 at July 31, 2008	29,156	27,529
Commitments and contingencies (Note 11)		
Stockholders equity (deficit):		
Common stock, $0.01 par value; Authorized 395,000 shares; Issued and outstanding: 35,592 at January 31, 2009 and 35,232 at July 31, 2008	356	352

Accumulated other comprehensive (loss) income	(1,399)	253
Additional paid-in capital	485,393	485,086
Accumulated deficit	(509,501)	(504,463)
Total stockholders equity (deficit)	(25,151)	(18,772)
Total liabilities and stockholders equity (deficit)	$ 164,270	$ 175,713

See accompanying notes to condensed consolidated financial statements.

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NAVISITE, INC.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)
(In thousands, except per share amounts)

	Three Months Ended		Six Months Ended	
	January 31, 2009	January 31, 2008	January 31, 2009	January 31, 2008
Revenue, net	$37,548	$38,831	$77,326	$74,863
Revenue, related parties	111	72	194	147
Total revenue, net	37,659	38,903	77,520	75,010
Cost of revenue, excluding depreciation and amortization and restructuring charge	19,962	21,734	41,693	42,592
Depreciation and amortization	5,669	5,216	11,372	9,403
Restructuring charge	(5)		209	
Cost of revenue	25,626	26,950	53,274	51,995
Gross profit	12,033	11,953	24,246	23,015
Operating expenses:				
Selling and marketing	4,821	5,112	10,261	10,276
General and administrative	5,730	5,498	11,693	11,120
Restructuring charge	(82)		180	
Total operating expenses	10,469	10,610	22,134	21,396
Income from operations	1,564	1,343	2,112	1,619
Other income (expense):				
Interest income	21	63	25	177
Interest expense	(3,759)	(3,010)	(6,803)	(5,667)
Loss on debt extinguishment				(1,651)
Other income (expense), net	232	202	693	477
Loss from continuing operations before income taxes and discontinued operations	(1,942)	(1,402)	(3,973)	(5,045)
Income taxes	(499)	(500)	(998)	(913)
Loss from continuing operations before discontinued operations	(2,441)	(1,902)	(4,971)	(5,958)
Loss from discontinued operations, net of income taxes	(50)	(237)	(67)	(551)
Net loss	(2,491)	(2,139)	(5,038)	(6,509)
Accretion of preferred stock dividends	(825)	(736)	(1,627)	(1,120)
Net loss attributable to common stockholders	$ (3,316)	$ (2,875)	$ (6,665)	$ (7,629)
Basic and diluted net loss per common share:				
Loss from continuing operations before discontinued operations attributable to common	$ (0.09)	$ (0.07)	$ (0.19)	$ (0.20)

stockholders				
Loss from discontinued operations, net of income taxes		(0.01)		(0.02)
Net loss attributable to common stockholders	$ (0.09)	$ (0.08)	$ (0.19)	$ (0.22)
Basic and diluted weighted average number of common shares outstanding	35,457	34,927	35,401	34,422
Stock-based compensation expense:				
Cost of revenue	$ 312	$ 636	$ 691	$ 1,192
Selling and marketing	134	176	316	428
General and administrative	322	459	730	888
Restructuring charge	(32)		19	
Total stock-based compensation expense	$ 736	$ 1,271	$ 1,756	$ 2,508

See accompanying notes to condensed consolidated financial statements.

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NAVISITE, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)
(In thousands)

	Six Months Ended	
	January 31, 2009	**January 31, 2008**
Cash flows from operating activities of continuing operations:		
Net loss	$ (5,038)	$ (6,509)
Loss from discontinued operations	67	551
Loss from continuing operations before discontinued operations	(4,971)	(5,958)
Adjustments to reconcile net loss to net cash provided by (used for) operating activities of continuing operations:		
Depreciation and amortization	11,717	9,781
Mark to market for interest rate cap	61	117
Gain on disposal of assets		1
Stock based compensation	1,756	2,508
Provision for bad debts	339	192
Deferred income tax expense	998	913
Loss on debt extinguishment		1,651
Changes in operating assets and liabilities:		
Accounts receivable	(1,748)	1,057
Unbilled accounts receivable	(19)	(1,063)
Prepaid expenses and other current assets, net	4,283	(1,458)
Long-term assets	94	(5,014)
Accounts payable	(1,675)	2,726
Long-term liabilities	156	(42)
Accrued expenses, deferred revenue and customer deposits	1,063	(6,517)
Net cash provided by (used for) operating activities of continuing operations	12,054	(1,106)
Cash flows from investing activities of continuing operations:		
Purchase of property and equipment	(6,204)	(5,642)
Cash used for acquisitions, net of cash acquired		(31,277)
Releases of (transfers to) restricted cash	(76)	8,566
Proceeds from the sale of assets		1
Net cash used for investing activities of continuing operations	(6,280)	(28,352)
Cash flows from financing activities of continuing operations:		
Proceeds from exercise of stock options and warrants	181	1,488
Proceeds from notes payable	3,477	27,881
Repayment of notes payable	(6,062)	(3,165)
Debt issuance costs	(1,184)	(1,072)
Payments on capital lease obligations	(2,139)	(1,976)
Net cash (used for) provided by financing activities of continuing operations	(5,727)	23,156
Cash used for operating activities of discontinued operations	(9)	(494)

Effect of exchange rate changes on cash and cash equivalents	(341)	
Net (decrease) increase in cash and cash equivalents	(303)	(6,796)
Cash and cash equivalents, beginning of period	3,261	11,701
Cash and cash equivalents, end of period	$ 2,958	$ 4,905
Supplemental disclosure of cash flow information:		
Cash paid for interest	$ 5,941	$ 5,399
Equipment and leasehold improvements acquired under capital leases	$ 2,068	$ 16,434
Issuance of Series A Convertible Preferred Stock in connection with netASPx acquisition	$	$ 24,873
Accretion of Preferred Stock	$ 1,627	$ 1,120

See accompanying notes to condensed consolidated financial statements.

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NAVISITE, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

(1) Description of Business

NaviSite, Inc. (NaviSite , the Company , we , us or our) provides application management, managed hosting solutions and professional services for mid-market organizations. Leveraging our set of technologies and subject matter expertise, we deliver cost-effective, flexible solutions that provide responsive and predictable levels of service for our customers businesses. Over 1,400 companies across a variety of industries rely on NaviSite to build, implement and manage their mission-critical systems and applications. NaviSite is a trusted advisor committed to ensuring the long-term success of our customers business applications and technology strategies. At January 31, 2009, NaviSite had 16 state-of-the-art data centers in the United States and United Kingdom and a network operations center in India. Substantially all revenue is generated from customers in the United States.

(2) Summary of Significant Accounting Policies

(a) Basis of Presentation and Principles of Consolidation

The accompanying unaudited condensed consolidated financial statements include the accounts and operations of the Company and its wholly-owned subsidiaries and have been prepared pursuant to the rules and regulations of the Securities and Exchange Commission regarding interim financial reporting. Accordingly, they do not include all of the information and notes required by U.S. generally accepted accounting principles (U.S. GAAP) for complete financial statements and thus should be read in conjunction with the audited consolidated financial statements included in our Annual Report on Form 10-K filed on November 6, 2008. In the opinion of management, the accompanying unaudited condensed consolidated financial statements contain all adjustments, consisting only of those of a normal recurring nature, necessary for a fair presentation of the Company s financial position, results of operations and cash flows at the dates and for the periods indicated. The results of operations for the three and six months ended January 31, 2009 are not necessarily indicative of the results expected for the remainder of the fiscal year ending July 31, 2009.

All significant intercompany accounts and transactions have been eliminated in consolidation.

(b) Use of Estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reported period. Actual results could differ from those estimates. Significant estimates made by management include the useful lives of fixed assets and intangible assets, the recoverability of long-lived assets, the collectability of receivables, the determination and valuation of goodwill and acquired intangible assets, the determination of revenue and related revenue reserves, the determination of the fair value of stock-based compensation, the determination of the deferred tax valuation allowance, the determination of certain accrued liabilities and other assumptions for sublease and lease abandonment reserves.

(c) Revenue Recognition

Revenue, net consists of monthly fees for application management services, managed hosting solutions, co-location and professional services. Reimbursable expenses charged to clients are included in revenue, net and cost of revenue. Application management, managed hosting solutions and co-location services are billed and recognized as revenue over the term of the contract, generally one to five years. Installation and up-front fees associated with application management, managed hosting solutions and co-location services are billed at the time the installation service is provided and recognized as revenue over the longer of the expected term or the term of the related contract. Payments received in advance of providing services are deferred until the period such services are delivered.

Revenue from professional services is recognized as services are delivered for time and materials type contracts and using the percentage of completion method for fixed price contracts. For fixed price contracts, progress towards completion is measured by a comparison of the total hours incurred on the project to date to the total estimated hours required upon completion of the project. When current contract estimates indicate that a loss is probable, a provision is made for the total anticipated loss in the current period. Contract losses are determined to be the amount by which the estimated service delivery costs of the contract exceed the estimated revenue that will be generated by the contract. Unbilled accounts receivable represent revenue for services performed that have not yet been billed as of the balance sheet date. Billings in excess of revenue recognized are recorded as deferred revenue until the applicable revenue recognition criteria are met.

In accordance with Emerging Issues Task Force (EITF) Issue No. 00-21, Revenue Arrangements with Multiple Deliverables , when more than one element such as professional services, installation and hosting services are contained in a single arrangement, the Company allocates revenue between the elements based on acceptable fair value allocation methodologies, provided that each element meets the criteria for treatment as a separate unit of accounting. An item is considered a separate unit of accounting if it has value to the customer on a stand alone basis and there is objective and reliable evidence of the fair value of the undelivered items. The fair value of the undelivered elements is determined by the price charged when the element is sold separately, or in cases when the item is not sold separately, by using other acceptable objective evidence. Management applies judgment to ensure appropriate application of EITF 00-21, including the determination of fair value for multiple deliverables, determination of whether undelivered elements are essential to the functionality of delivered elements, and timing of revenue recognition, among others. For those arrangements where the deliverables do not qualify as a separate unit of accounting, revenue from all deliverables are treated as one accounting unit and generally is recognized ratably over the term of the arrangement.

(d) Cash and Cash Equivalents and Restricted Cash

The Company considers all highly liquid securities with original maturities of three months or less to be cash equivalents. The Company had restricted cash of $2.0 million as of January 31, 2009 and $1.9 million as of July 31, 2008, including $0.4 million that was classified as short-term in the January 31, 2009 Condensed Consolidated Balance Sheet and is included in Prepaid expenses and other current assets . At January 31, 2009, restricted cash consists of cash collateral requirements for standby letters of credit associated with several of the Company s facility and equipment leases.

(e) Property and Equipment

Property and equipment are stated at cost. Depreciation is computed using the straight-line method over the estimated useful lives of the assets, which range from three to five years. Leasehold improvements and assets acquired under capital leases that transfer ownership are amortized using the straight-line method over the shorter of the lease term or the estimated useful life of the asset. Assets acquired under capital leases that do not transfer ownership or contain a bargain purchase option are amortized over the lease term. Expenditures for maintenance and repairs are charged to expense as incurred.

Renewals and betterments, which materially extend the life of assets, are capitalized and depreciated. Upon disposal, the asset cost and related accumulated depreciation are removed from their respective accounts and any gain or loss is reflected within Other income (expense), net in our Condensed Consolidated Statements of Operations.

(f) Long-lived Assets, Goodwill and Other Intangibles

The Company follows the provisions of Statement of Financial Accounting Standards (SFAS) No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets* . SFAS No. 144 requires that long-lived assets and certain identifiable intangibles be reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to the undiscounted future net cash flows expected to be generated by the asset. If such assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceeds the fair value of the assets. Assets to be disposed of are reported at the lower of the carrying amount or fair value less cost to sell.

The Company reviews the valuation of goodwill in accordance with SFAS No. 142, *Goodwill and Other Intangible Assets*. Under the provisions of SFAS No. 142, goodwill is required to be tested for impairment annually in lieu of being amortized. This testing is generally done in the fourth fiscal quarter of each year. Furthermore, goodwill is required to be tested for impairment on an interim basis if an event or circumstance indicates that it is more likely than not that an impairment loss has been incurred. An impairment loss shall be recognized to the extent that the carrying amount of goodwill exceeds its fair value. Impairment losses are recognized in operations. The Company s valuation methodology for assessing impairment requires management to make judgments and assumptions based on historical experience and projections of future operating performance. If these assumptions differ materially from future results, the Company may record impairment charges in the future.

(g) Concentration of Credit Risk

Our financial instruments include cash, accounts receivable, obligations under capital leases, debt agreement, derivative instruments, preferred stock, accounts payable, and accrued expenses. Financial instruments that may subject us to concentrations of credit risk consist primarily of accounts receivable. Concentrations of credit risk with respect to trade receivables are limited due to the large number of customers across many industries that comprise our customer base. No customer accounted for more than 5% of total revenues for the six months ended January 31, 2009 or more than 5% of total accounts receivable balance as of January 31, 2009.

(h) Comprehensive Income (Loss)

Comprehensive income (loss) is defined as the change in equity of a business enterprise during a period of time from transactions and other events and circumstances from non-owner sources. The Company records the components of comprehensive income (loss), primarily foreign currency translation adjustments, in the Condensed Consolidated Balance Sheets as a component of Stockholders Deficit, Accumulated other comprehensive income (loss). For the three and six months ended January 31, 2009, comprehensive loss totaled approximately $1.9 million and $5.6 million, respectively. For the three and six months ended January 31, 2008, comprehensive income (loss) totaled approximately $2.3 million and $6.5 million, respectively.

(i) Advertising Costs

The Company charges advertising costs to expense in the period incurred. Advertising expense for the three and six months ended January 31, 2009 were approximately $107,000 and $207,000, respectively. Advertising expense for the three and six months ending January 31, 2008 were approximately $171,000 and $312,000, respectively.

(j) Income Taxes

We account for income taxes under the asset and liability method in accordance with SFAS No. 109, *Accounting for Income Taxes"*. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases and operating loss and tax credit carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date.

(k) Stock Based Compensation

Stock Options

The Company maintains three stock incentive plans under which employees and outside directors have been granted nonqualified stock options to purchase the Company s common stock. Only one plan, the NaviSite 2003 Stock Incentive Plan (2003 Plan), is currently available for new equity award grants. For the Company s employees, options granted are generally exercisable as to 25% of the original number of shares on the sixth month anniversary of the option holder s grant date and, thereafter, in equal amounts monthly over the three year period commencing on the sixth month anniversary of the option holder s grant date, provided that the option holder is employed on each such vesting date. Options granted under the 2003 Plan have a maximum term of ten years.

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The Company s current practice is to grant all options with an exercise price equal to the fair market value of the Company s common stock on the date of grant. During the three and six months ended January 31, 2009, the Company issued stock options for the purchase of approximately 0.1 million and 0.6 million shares of common stock at a weighted average exercise price per share of $0.43 and $1.66, respectively. During the three and six months ended January 31, 2008, the Company issued stock options for the purchase of approximately 0.3 million and 1.4 million shares of common stock at a weighted average exercise price per share of $6.68 and $7.42, respectively.

The fair value of each option issued under the 2003 Plan is estimated on the date of grant using the Black-Scholes Model, based upon the following weighted average assumptions:

	Three Months Ended January 31,		Six Months Ended January 31,	
	2009	**2008**	**2009**	**2008**
Expected life (years)	2.5	2.5	2.5	2.5
Expected volatility	93.28%	77.76%	83.06%	83.94%
Expected dividend rate	0.00%	0.00%	0.00%	0.00%
Risk-free interest rate	1.07%	2.86%	1.78%	3.80%

Stock-based compensation expense related to stock options recognized in the Condensed Consolidated Statements of Operations is as follows:

	Three Months Ended January 31, (in thousands)		Six Months Ended January 31, (in thousands)	
	2009	**2008**	**2009**	**2008**
Cost of revenue	$253	$ 636	$ 572	$1,192
Selling and marketing	114	176	261	428
General and administrative	92	295	274	633
Total	$459	$1,107	$1,107	$2,253

For the six months ended January 31, 2009, there is a total of $19,000 of stock-based compensation which relates to an acceleration of stock-based compensation expense due to a change in status pursuant to separation agreements. Of this total, $13,000 is a general and administrative expense and $6,000 is a cost of revenue expense.

Non-vested Shares

In December 2008, the Company granted 63,000 non-vested shares to certain members of the Company s Board of Directors under the 2003 Plan, at a weighted average grant date fair value of $0.37 per share. These non-vested shares carry restrictions as to resale which lapse with time over the twelve month period beginning with the date of grant, provided that such member of the Board of Directors serves on the Board of Directors as of each vesting date. The grant date fair value of the non-vested shares was determined based on the market price of the Company s common stock on the date of grant.

In August 2008, the Company granted approximately 0.8 million non-vested shares of common stock to certain executives under the 2003 Plan, at a weighted average grant date fair value of $3.29 per share. The grant date fair value of the non-vested shares was determined using Monte Carlo simulations allowing for the incorporation of market based hurdles. These shares are subject to certain vesting criteria: (i) for the first third of the shares, 50% vests upon the Company exceeding a market capitalization of $182,330,695 for 20 consecutive trading days and the remaining 50% of such one third vests on the one year anniversary thereafter, (ii) for the second third of the shares, 50% vests upon the company exceeding a market capitalization of $232,330,695 for 20 consecutive trading days and the remaining 50% of such one third vests on the one year anniversary thereafter, (iii) for the final third of the shares, 50% vests upon the Company exceeding a market capitalization of $282,330,695 for 20 consecutive trading days and the remaining 50% of such one third vests on the one year anniversary thereafter. A participant will only vest in such shares if he or she is employed by the Company on a vesting date. If the vesting criteria is not met at the tenth anniversary of the grant date all unvested shares shall automatically be forfeited to the Company. Compensation expense will be recognized over the derived service period.

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In December 2007, the Company granted 63,000 non-vested shares to certain members of the Company s Board of Directors under the 2003 Plan, at a weighted average grant date fair value of $5.50 per share. These non-vested shares carry restrictions as to resale which lapse with time over the twelve month period beginning with the date of grant, provided that such member of the Board of Directors serves on the Board of Directors as of each vesting date. The grant date fair value of the non-vested shares was determined based on the market price of the Company s common stock on the date of grant

In August 2007, the Company granted approximately 0.2 million non-vested shares of common stock to certain executives, under the 2003 Plan, at a weighted average grant date fair value of $7.93 per share. These non-vested shares carry restrictions which lapse as to one-third of the shares per annum on each of the first, second, and third anniversaries of the date of grant. With respect to 0.1 million of the non-vested shares, there was a potential for the restrictions to lapse on an earlier date as to 100% of the shares if the Company achieved certain revenue and EBITDA targets for its 2008 fiscal year. The targets were not met and the restrictions did not lapse on an accelerated basis. The grant date fair value of the non-vested shares was determined based on the market price of the Company s common stock on the date of grant.

The following table summarizes stock based compensation expense related to non-vested shares under SFAS 123R for the three and six months ended January 31, 2009 and January 31, 2008.

	Three Months Ended January 31, (in thousands)		Six Months Ended January 31, (in thousands)	
	2009	**2008**	**2009**	**2008**
Cost of revenue	$ 38		$ 80	$
Selling and marketing	12		33	
General and administrative	200	164	456	255
Total	$250	$164	$569	$255

The non-vested shares are excluded from our issued and outstanding share amounts presented in our Condensed Consolidated Balance Sheet at January 31, 2009.

Employee Stock Purchase Plan (ESPP)

Under the ESPP, employees who elect to participate instruct the Company to withhold a specified amount through payroll deductions during the offering period of six months. On the last business day of each offering period, the amount withheld is used to purchase the Company s common stock at an exercise price equal to 85% of the lower of the market price on the first or last business day of the offering period. During the fiscal quarter ended January 31, 2009, the Company issued 0.2 million shares under the ESPP at a price of $0.34. During the fiscal quarter ended January 31, 2008, the Company did not issue any shares under the ESPP.

Compensation expense for the ESPP is recognized over the offering period. The following table summarizes stock based compensation expense related to the ESPP under SFAS 123R for the three and six months ended January 31, 2009 and 2008.

	Three Months Ended January 31, (in thousands)		Six Months Ended January 31, (in thousands)	
	2009	**2008**	**2009**	**2008**
Cost of revenue	$16	$	$44	$
Selling and marketing	8		22	
General and administrative	3		14	

Total	$27	$	$80	$

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(l) Net Loss Per Common Share

Basic net loss per share is computed by dividing net loss by the weighted average number of common shares outstanding for the period. Diluted net loss per share is computed using the weighted average number of common and diluted common equivalent shares outstanding during the period. The Company utilizes the treasury stock method for options, warrants, and non-vested shares and the if-converted method for convertible preferred stock and notes, unless such amounts are anti-dilutive.

The following table sets forth common stock equivalents that are not included in the calculation of diluted net loss per share available to common stockholders because to do so would be anti-dilutive for the periods indicated.

	Three Months Ended January 31, 2009	Three Months Ended January 31, 2008	Six Months Ended January 31, 2009	Six Months Ended January 31, 2008
Common stock options		2,372,225	84,151	2,658,198
Common stock warrants	1,170,541	1,204,636	1,191,407	1,210,310
Non-vested stock	32,954	34,970	50,440	159,952
Series A Convertible Preferred Stock	3,518,807	3,223,482	3,518,807	3,223,482
Employee Stock Purchase Plan	56,501	17,797	300,580	24,006
Total	4,778,803	6,853,110	5,145,385	7,275,948

(m) Segment Reporting

We currently operate in one segment, managed IT services. The Company s chief operating decision maker reviews financial information at a consolidated level.

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(n) Foreign Currency

The functional currencies of our wholly-owned subsidiaries are the local currencies. The financial statements of the subsidiaries are translated into U.S. dollars using period end exchange rates for assets and liabilities and average exchange rates during corresponding periods for revenue, net, cost of revenue and expenses. Translation gains and losses are recorded as a separate component of Stockholders Deficit.

(o) Derivative Financial Instruments

Derivative instruments are recorded in the balance sheet as either assets or liabilities, measured at fair value. Changes in fair value are recognized currently in earnings. The Company has utilized interest rate derivatives to mitigate the risk of rising interest rates on a portion of its floating rate debt and has not qualified for hedge accounting. The interest rate differentials to be received under such derivatives are recognized as adjustments to interest expense and the changes in the fair value of the instruments is recognized over the life of the agreements as Other income (expense), net. The principal objectives of the derivative instruments are to minimize the risks and reduce the expenses associated with financing activities. The Company does not use derivative financial instruments for trading purposes.

Fair Value - Effective August 1, 2008, the Company adopted Statement of Financial Accounting Standard No. 157 (SFAS 157), (*Fair Value Measurements*), which establishes a framework for measuring fair value and requires enhanced disclosures about fair value measurements. SFAS 157 requires disclosure about how fair value is determined for assets and liabilities and establishes a hierarchy for which these assets and liabilities must be grouped, based on significant levels of inputs as follows:

Level 1 quoted prices in active markets for identical assets or liabilities;

Level 2 quoted prices in active markets for similar assets and liabilities and inputs that are observable for the asset or liability; or

Level 2 unobservable inputs, such as discounted cash flow models or valuations.

The determination of where assets and liabilities fall within this hierarchy is based upon the lowest level of input that is significant to the fair value measurement. The Company s interest rate derivatives required to be measured at fair value on a recurring basis and where they are classified within the hierarchy as of January 31, 2009 are as follows:

	Level 1	Level 2	Level 3	Total
Interest Rate Derivatives		$ 29,000		$ 29,000
		$ 29,000		$ 29,000

Interest Rate Derivatives: The initial fair values of these instruments were determined by our counterparties and we continue to value these securities based on quotes from our counterparties. The changes in fair value for the three and six months ended January 31, 2009 and 2008, was approximately $57,000 and $61,000, and $48,000 and $117,000, respectively.

(p) Recent Accounting Pronouncements

In November 2008, the SEC issued for comment a proposed roadmap regarding the potential use by U.S. issuers of financial statements prepared in accordance with International Financial Reporting Standards (IFRS). IFRS is a comprehensive series of accounting standards published by the International Accounting Standards Board (IASB). Under the proposed roadmap, the Company could be required in fiscal 2015 to prepare financial statements in accordance with IFRS, and the SEC will make a determination in 2011 regarding the mandatory adoption of IFRS. We are currently assessing the impact that this potential change would have on our consolidated financial statements, and we will continue to monitor the development of the potential implementation of IFRS.

In May 2008, the FASB issued Statement of Financial Accounting Standards No. 162, The Hierarchy of Generally Accepted Accounting Principles (SFAS 162), which identifies the sources of accounting principles and the framework for selecting the principles to be used in the preparation of financial statements of nongovernmental entities that are presented in conformity with U.S. GAAP. SFAS 162 is effective for the Company 60 days following the SEC s approval of the Public Company Accounting Oversight Board (PCAOB) amendments to AU Section 411, The Meaning of Present Fairly in Conformity with Generally Accepted Accounting Principles. The adoption of SFAS 162 is not expected to have a material impact on our results of operations or financial position.

In April 2008, the FASB issued FSP FAS 142-3, Determination of the Useful Life of Intangible Assets (FSP FAS 142-3). FSP FAS 142-3 amends the factors that should be considered in developing renewal or extension assumptions used to determine the useful life of a recognized intangible asset under FASB Statement No. 142, Goodwill and Other Intangible Asset. FSP FAS 142-3 is effective for the Company beginning in fiscal 2010. The Company is currently evaluating FSP FAS 142-3 and the impact, if any, that it may have on its results of operations or financial position.

In March 2008, the FASB issued Statement of Financial Accounting Standards No. 161 (SFAS 161), Disclosures about Derivative Instruments and Hedging Activities an amendment of FASB Statement No. 133 . SFAS 161 requires enhanced disclosures about an entity s derivative and hedging activities and thereby improves the transparency of financial reporting. SFAS 161 is effective for fiscal years beginning on or after November 15, 2008. The Company is currently evaluating the impact that the adoption of SFAS 161 will have on its financial position, results of operations and cash flows.

In December 2007, the FASB issued SFAS No. 160, Non-controlling Interests in Consolidated Financial Statements, an amendment of ARB NO. 151, (SFAS 160), which requires non-controlling interests (previously referred to as minority interest) to be treated as a separate component of equity, not as a liability as is current practice. SFAS 160 applies to non-controlling interests and transactions with non-controlling interest holders in consolidated financial statements. SFAS 160 is effective for periods beginning on or after December 15, 2008. We are currently evaluating the effect that SFAS 160 will have on our consolidated financial condition and results of operations.

In December 2007, the FASB issued SFAS No. 141(R), Business Combinations, (SFAS 141R), which requires most identifiable assets, liabilities, non-controlling interests, and goodwill acquired in a business combination to be recorded at full fair value. Under SFAS 141R, all business combinations will be accounted for under the acquisition method. Significant changes, among others, from current guidance resulting from SFAS 141R include the requirement that contingent assets and liabilities and contingent consideration shall be recorded at estimated fair value as of the acquisition date, with any subsequent changes in fair value charged or credited to earnings. Further, acquisition-related costs will be expensed rather than treated as part of the acquisition. SFAS 141R is effective prospectively to business combinations for which the acquisition date is on or after the beginning of the first annual reporting period beginning on or after December 15, 2008. We will apply the provisions of SFAS 141R to any acquisitions after July 31, 2009.

In September 2006, the FASB issued SFAS No. 157, Fair Value Measurements (SFAS 157). SFAS 157 defines fair value, establishes a framework for measuring fair value in accordance with generally accepted accounting principles, and expands disclosures about fair value measurements. SFAS 157 was adopted by the Company beginning August 1, 2008. The adoption of SFAS 157 did not have a material impact on the Company s consolidated financial position or results of operation.

(3) Reclassifications

Certain fiscal year 2008 amounts have been reclassified to conform to the current year presentation.

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(4) Discontinued Operations

In August 2007, the Company launched America s Job Exchange (AJE), an employment services web site. This site utilizes technology developed in connection with the provision of services to a former customer. Upon termination of the use of the service by our customer, AJE was launched as an independent employment services site utilizing an advertising revenue and premium enhanced services model. In August 2007, the Company determined that AJE is not core to its business and pursuant to a plan developed in August 2007, the Company is actively seeking to dispose of AJE and, accordingly, the results of its operations, its assets and liabilities and its cash flows have been presented as discontinued operations in these condensed consolidated financial statements. The Company expects that AJE will be disposed of during fiscal year 2009. Subsequent to disposal, the Company does not expect to have any on-going involvement in the operations of AJE. Operating results related to AJE for the three and six months ended January 31, 2009 and 2008 were as follows (in thousands):

	Three months ended January 31, 2009	**Three months ended January 31, 2008**	**Six months ended January 31, 2009**	**Six months ended January 31, 2008**
Revenue	$359	$ 48	$ 663	$ 48
Cost of revenues	167	225	238	471
Depreciation and amortization	29	29	58	57
Total cost of revenues	196	254	296	528
Gross profit	163	(206)	367	(480)
Operating expenses:				
Selling and marketing	213	31	434	71
Loss from discontinued operations before income taxes	(50)	(237)	(67)	(551)
Income taxes				
Loss from discontinued operations, as reported	$ (50)	$ (237)	$ (67)	$ (551)

The recorded assets and liabilities of AJE at January 31, 2009 and July 31, 2008 were not material.

(5) Restructuring Charge

During the three months ended October 31, 2008, the Company initiated the restructuring of its professional services organization in an effort to realign resources. As a result of this initiative, the Company terminated several employees resulting in a restructuring charge for severance and related costs of $0.5 million.

The following is a roll forward of the restructuring accrual as of January 31, 2009:

	(In thousands)
Restructuring accrual balance at July 31, 2008	$
Restructuring and other related charges	476
Cash payments and other settlements	(160)
Restructuring accrual balance at October 31, 2008	$ 316

Cash payments and other settlements		(261)
Other adjustments		(55)
Restructuring accrual balance at January 31, 2009	$	

As of January 31, 2009 there was no further obligation. During the three months ending January 31, 2009 the Company adjusted the initial restructuring charge by $87,000 to reflect the reduction of future payments of $55,000 due under this plan and the reversal of $32,000 of previously recorded stock based compensation.

(6) Property and Equipment

Property and equipment at January 31, 2009 and July 31, 2008 are summarized as follows:

	January 31, 2009	July 31, 2008
	(In thousands)	
Office furniture and equipment	$ 4,170	$ 4,522
Computer equipment	73,982	68,968
Software licenses	15,354	15,270
Leasehold improvements	24,519	26,981
	118,025	115,741
Less: Accumulated depreciation and amortization	(84,062)	(77,600)
Property and equipment, net	$ 33,963	$ 38,141

The estimated useful lives of our fixed assets are as follows: office furniture and equipment, 5 years; computer equipment, 3 years; software licenses, 3 years or life of the license; and leasehold improvements, lesser of the lease term or the asset s estimated useful life.

(7) Goodwill and Intangible Assets

	(In thousands)
Goodwill balance at July 31, 2008	$ 66,683
Adjustments to goodwill	(117)
Goodwill balance at January 31, 2009	$ 66,566

Goodwill was adjusted during the six months ending January 31, 2009, reflecting the finalization of purchase accounting reserves made within one year of the acquisition date.

Intangible assets, net consisted of the following:

	January 31, 2009 (In thousands)		
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Customer lists	$39,670	$(25,121)	$14,549
Customer contract backlog	14,600	(6,267)	8,333
Developed technology	3,140	(1,236)	1,904
Vendor contracts	700	(476)	224
Trademarks	670	(165)	505
Non-compete agreements	206	(101)	105
Intangible assets, net	$58,986	$(33,366)	$25,620

	July 31, 2008 (In thousands)
	Accumulated

	Gross Carrying Amount	Amortization	Net Carrying Amount
Customer lists	$39,670	$(23,400)	$16,270
Customer contract backlog	14,600	(4,845)	9,755
Developed technology	3,140	(966)	2,174
Vendor contracts	700	(314)	386
Trademarks	670	(105)	565
Non-compete agreements	206	(66)	140
Intangible assets, net	$58,986	$(29,696)	$29,290

Intangible asset amortization expense for the three and six months ended January 31, 2009 and 2008 aggregated $1.8 million and $3.7 million and $2.2 million and $3.9 million, respectively. Intangible assets are being amortized over estimated useful lives ranging from two to eight years.

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The amount reflected in the table below for fiscal year 2009 includes year to date amortization. Amortization expense related to intangible assets for the next five years is projected to be as follows:

Year Ending July 31,	(In thousands)
2009	$ 7,198
2010	$ 6,068
2011	$ 5,921
2012	$ 5,776
2013	$ 2,307

(8) Accrued Expenses and Other Current Liabilities

Accrued expenses and other current liabilities consist of the following:

	January 31, 2009	July 31, 2008
	(In thousands)	
Accrued payroll, benefits and commissions	$ 3,898	$ 4,561
Accrued accounts payable	3,904	3,256
Accrued interest	1,777	1,367
Accrued lease abandonment costs, current portion	525	857
Accrued sales/use, property and miscellaneous taxes	641	599
Accrued legal	211	229
Other accrued expenses and current liabilities	2,102	2,467
	$ 13,058	$ 13,336

(9) Debt

Debt consists of the following:

	January 31, 2009	July 31, 2008
	(In thousands)	
Total Debt	$ 111,619	$ 113,950
Less other notes payable	470	
Total Term Loan and Revolver	111,149	113,950
Less current portion Term Loan and Revolver	5,517	6,100
Long-term debt Term Loan	$ 105,632	$ 107,850

Senior Secured Credit Facility

In June 2007, the Company entered into a senior secured credit agreement (the Credit Agreement) with a syndicated lending group. The Credit Agreement consisted of a six year single draw term loan (the Term Loan) totaling $90.0 million and a five year $10.0 million revolving credit facility (the Revolver). Proceeds from the Term Loan were used to pay our obligations to Silver Point Finance LLC, to pay fees and expenses totaling approximately $1.5 million related to the closing of the Credit Agreement, to provide financing for data center expansion (totaling approximately $8.7 million) and for general corporate purposes. Borrowings under the Credit Agreement were guaranteed by the Company and certain of its subsidiaries.

Under the Term Loan, the Company is required to make principal amortization payments during the six year term of the loan in amounts totaling $0.9 million per annum, paid quarterly on the first day of the Company s fiscal quarters. In April 2013, the balance of the Term Loan becomes due and payable. The outstanding principal under the Credit Agreement is subject to prepayment in the case of an Event of Default, as defined in the Credit Agreement. In addition, amounts outstanding under the Credit Agreement are subject to mandatory pre-payment in certain cases including, among others, a change in control of the Company, the incurrence of new debt and the issuance of equity of the Company. In the case of a mandatory pre-payment resulting from a debt issuance, 100% of the proceeds must be used to prepay amounts owed under the Credit Agreement. In the case of an equity offering, the Company was entitled to retain the first $20.0 million raised and would prepay amounts owed under the Credit Agreement with 50% of the proceeds from an equity offering that exceed $20.0 million.

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Amounts outstanding under the Credit Agreement bore interest at either the LIBOR rate plus 3.5% or the Base Rate, as defined in the Credit Agreement, plus the Federal Funds Effective Rate plus 0.5%, at the Company s option. Upon the attainment of a Consolidated Leverage Ratio, as defined, of no greater than 3:1, the interest rate under the LIBOR option can decrease to LIBOR plus 3.0%. Interest becomes due and is payable quarterly in arrears. The Credit Agreement requires us to maintain interest rate arrangements to minimize exposure to interest rate fluctuations on an aggregate notional principal amount of 50% of amounts borrowed under the Term Loan.

The Credit Agreement requires us to maintain certain financial and non-financial covenants. Financial covenants include a minimum fixed charge coverage ratio, a maximum total leverage ratio and an annual capital expenditure limitation. At July 31, 2007 we had exceeded the maximum allowable annual capital expenditures under the terms of the Credit Agreement for the fiscal year ended July 31, 2007. In September 2007, in connection with the Amended Credit Agreement (defined below), we received an increase in the maximum allowable annual capital expenditures for the fiscal year ended July 31, 2007, which waived the violation as of July 31, 2007. Non-financial covenants include restrictions on our ability to pay dividends, make investments, sell assets, enter into merger or acquisition transactions, incur indebtedness or liens, enter into leasing transactions, alter our capital structure or issue equity, among others. In addition, under the Credit Agreement, we are allowed to borrow, through one or more of our foreign subsidiaries, up to $10.0 million to finance data center expansion in the United Kingdom.

Proceeds from the Term Loan were used to extinguish all of the Company s outstanding debt with Silver Point Finance LLC. At the closing of the Credit Agreement, the Company had $75.5 million outstanding with Silver Point Finance LLC, which was paid in full. In addition, the Company incurred a $3.0 million pre-payment penalty which was paid with the proceeds of the Term Loan.

In August 2007, the Company entered into Amendment, Waiver and Consent Agreement No. 1 to the Credit Agreement (the Amendment). The Amendment permitted us to use approximately $8.7 million of cash originally borrowed under the Credit Agreement, which was restricted for data center expansion to partially fund the acquisition of Jupiter and Alabanza and amended the Credit Agreement to permit the issuance of up to $75.0 million of Permitted Indebtedness, as defined. Permitted Indebtedness must be unsecured, require no amortization payment and not become due or payable until 180 days after the maturity date of the Credit Agreement in June 2013.

In September 2007, the Company entered into an Amended and Restated Credit Agreement (Amended Credit Agreement). The Amended Credit Agreement provided the Company with an incremental $20.0 million in term loan borrowings and amended the rate of interest to LIBOR plus 4.0%, with a step-down to LIBOR plus 3.5% upon attainment of a 3:1 leverage ratio. All other terms of the Credit Agreement remained substantially the same. The Company recorded a loss on debt extinguishment of approximately $1.7 million for the six months ended January 31, 2008 to reflect this extinguishment of the Credit Agreement, in accordance with EITF 96-19 Debtor s Accounting for a Modification or Exchange of Debt Instruments.

In January 2008, the Company entered into Amendment, Waiver and Consent Agreement No. 3 to the Amended Credit Agreement (the January Amendment). The January Amendment amended the definition of Permitted UK Datasite Buildout Indebtedness (as that term is defined in the Amended Credit Agreement) to total $16.5 million as compared to $10.0 million and requires the reduction of the $16.5 million to no less than $10.0 million as such indebtedness is repaid as to principal.

In June 2008, the Company entered into Amendment and Consent Agreement No. 4 to the Amended Credit Agreement (the June Amendment). The June Amendment (i) amended the definition of Permitted UK Datasite Buildout Indebtedness (as that term is defined in the Amended Credit Agreement) to total $33.0 million as compared to $16.5 million, (ii) increased to $20.0 million the maximum amount of contingent obligations relating to all leases for any period of twelve months, and (iii) increased the rate of interest to either (x) LIBOR rate plus 5.0% or (y) Base Rate, as defined in the Amended Credit Agreement, plus 4.0%.

At July 31, 2008, the Company was not in compliance with its financial covenants of leverage, fixed charges and annual capital expenditures. In October 2008, the Company entered into Amendment, Waiver and Consent Agreement No. 5 to the Amended Credit Agreement (the October Amendment). The October Amendment (i) waived the existing covenant violations as of July 31, 2008, (ii) increased the rate of interest to either (x) LIBOR rate plus 6% or (y) Base Rate, as defined in the Amended Credit Agreement, plus 5%, (iii) added a 2% accruing payment-in-kind (PIK) interest until the leverage ratio has been lowered to 3:1, (iv) changed the excess cash flow sweep to 75% to be performed quarterly, (v) required certain settlement and asset sale proceeds to be used for debt repayment, (vi) modified certain financial covenants for future periods, and (vii) requires a payment to the lenders of 3% the outstanding term and revolving loans if a leverage ratio of 3:1 is not achieved by January 31, 2010.

At January 31, 2009, $111.1 million was outstanding under the Amended Credit Agreement of which $5.5 million was outstanding under the Revolver.

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(10) Derivative Instruments

In May 2006, the Company purchased an interest rate cap on a notional amount of 70% of the then outstanding principal of the debt owed to Silver Point Finance LLC (the Silver Point Debt). The Company paid approximately $320,000 to lock in a maximum variable interest rate of 6.5% that could be charged on the notional amount during the term of the agreement. In June 2007, upon refinancing of the Silver Point Debt, the Company maintained the interest rate cap, as the Credit Agreement required a minimum notional amount of 50% of the outstanding principal of the Credit Agreement. In October 2007, in connection with the execution of the Amended Credit Agreement in September 2007 (see Note 9), the Company purchased a second interest rate cap totaling $10.0 million of notional amount, as the Amended Credit Agreement required a minimum notional amount of 50% of all Indebtedness, as defined in the Amended Credit Agreement. As of January 31, 2009 the fair value of these interest rate derivatives (representing a notional amount of approximately $54 million at January 31, 2009) was approximately $29,000 which is included in Other Assets in the Company s Condensed Consolidated Balance Sheets. The change in fair value for the three and six months ended January 31, 2009 and 2008, was approximately $57,000 and $61,000, and $48,000 and $117,000, respectively. The change in fair value was charged to Other income, net in the accompanying Condensed Consolidated Statements of Operation.

(11) Commitments and Contingencies

(a) Leases

Abandoned Leased Facilities. During fiscal year 2008, in connection with the acquisitions of Jupiter Hosting, Inc. (Jupiter) and netASPx, Inc. (NetASPx) the Company recorded impairment accruals for four facilities two in Santa Clara, CA, one in Herndon, VA and one in Minneapolis, MN. The Santa Clara facilities and the Herndon, VA facility were vacated shortly after the acquisition of Jupiter and netASPx, respectively, pursuant to a plan of closure and relocation. The Minneapolis office space was underutilized as of the date of acquisition of netASPx and the recorded impairment accrual reflects this underutilized space. The initial impairment accruals related to these facilities was approximately $1.1 million.

During the six months ended January 31, 2009, we recorded no lease impairment accruals.

Details of activity in the lease exit accrual by geographic region for the six months ended January 31, 2009 are as follows (in thousands):

Lease Abandonment Costs for:	Balance July 31, 2008	Expense (Recovery)	Purchase Accounting and Other Adjustments	Payments, less accretion of interest	Balance January 31, 2009
Andover, MA	$ 262	$	$	$ (55)	$ 207
Chicago, IL	250			(140)	110
Houston, TX	113			(113)	
Syracuse, NY	21			(12)	9
Santa Clara, CA	77			(45)	32
Herndon, VA	56			(12)	44
Minneapolis, MN	506			(139)	367
	$ 1,285	$	$	$ (516)	$ 769

Minimum annual rental commitments under operating leases and other commitments are as follows as of January 31, 2009:

	Less than	After

Description	Total	1 Year	Year 2	Year 3	Year 4	Year 5	Year 5
				(In thousands)			
Short/Long-term debt	$ 114,369	$ 5,987	$ 1,081	$ 1,081	$ 1,081	$ 105,139	$
Interest on debt[(a)]	43,621	10,076	10,005	9,919	9,822	3,799	
Capital leases[(a)]	22,283	5,062	3,271	2,051	1,996	1,991	7,912
Bandwidth commitments	2,408	2,092	316				
Property leases[(a) (b) (c) (d)]	77,988	11,526	8,943	8,523	8,587	8,690	31,719
Total	$ 260,669	$ 34,743	$ 23,616	$ 21,574	$ 21,486	$ 119,619	$ 39,631

(a) Interest on debt assumes LIBOR is fixed at 3.15% and that Company s leverage ratio drops below 3:1 as of January 2010, resulting in a 2% interest rate decrease. The 2% accruing payment-in-kind interest will be paid in full at the end of the loan term.

Future commitments denominated in foreign currency are fixed at the exchange rate as of January 31, 2009.

(b) Amounts exclude certain common area maintenance and other property charges that are not included within the lease payment.

(c) On February 9, 2005, the Company entered into an Assignment and Assumption Agreement with a Las Vegas-based company, whereby this company purchased from us the right to use 29,000 square feet in our Las Vegas data center, along with the infrastructure and equipment associated with this space. In exchange, we received an initial payment of $600,000 and were to receive $55,682 per month over two years. On May 31, 2006, we received full payment for the remaining unpaid balance. This agreement shifts the responsibility for management of the data center and its employees, along with the maintenance of the facility s infrastructure, to this Las Vegas-based company. Pursuant to this agreement, we have subleased back 2,000 square feet of space, allowing us to continue servicing our existing customer base in this market.

Commitments related to property leases include an amount related to the 2,000 square feet sublease.

(d) In July 2008, the Company entered into a lease agreement for approximately 11,000 square feet of data center space in the U.K. (see Note 13). The Company has not yet accepted delivery of the data center and therefore the future committed property lease amounts are not reflected as of January 31, 2009.

Total bandwidth expense was $1.2 million and $2.6 million for the three and six months ended January 31, 2009, respectively. Total bandwidth expense was $1.6 million and $3.0 million for the three and six months ended January 31, 2008, respectively.

Total rent expense for property leases was $3.4 million and $6.7 million for the three and six months ended January 31, 2009, respectively. Total rent expense for property leases was $3.2 million and $6.4 million for the three and six months ended January 31, 2008, respectively.

With respect to the property lease commitments listed above, certain cash amounts are restricted pursuant to terms of lease agreements with landlords. At January 31, 2009, the Company had restricted cash of approximately $2.0 million related to these lease agreements and consisted of certificates of deposit and a treasury note and are recorded at cost, which approximates fair value.

(b) Legal Matters

IPO Securities Litigation

In 2001, lawsuits naming more than 300 issuers and over 50 investment banks were filed in the United States District Court for the Southern District of New York and assigned to the Honorable Shira A. Scheindlin (the Court) for all pretrial purposes (the IPO Securities Litigation). Between June 13, 2001 and July 10, 2001 five purported class action lawsuits seeking monetary damages were filed against us, Joel B. Rosen, our then chief executive officer, Kenneth W. Hale, our then chief financial officer, Robert E. Eisenberg, our then president, and the underwriters of our initial public offering of October 22, 1999. On September 6, 2001, the Court consolidated the five similar cases and a consolidated, amended complaint was filed on April 19, 2002 (the Class Action Litigation) against us and Messrs. Rosen, Hale and Eisenberg (collectively, the NaviSite Defendants) and against underwriter defendants Robertson Stephens (as successor-in-interest to BancBoston), BancBoston, J.P. Morgan (as successor-in-interest to

Hambrecht & Quist), Hambrecht & Quist and First Albany. The plaintiffs uniformly alleged that all defendants, including the NaviSite Defendants, violated Sections 11 and 15 of the Securities Act of 1933, Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 and Rule 10b-5 by issuing and selling our common stock in the offering, without disclosing to investors that some of the underwriters, including the lead underwriters, allegedly had solicited and received undisclosed agreements from certain investors to purchase aftermarket shares at pre-arranged, escalating prices and also to receive additional commissions and/or other compensation from those investors. The Class Action Litigation seeks certification of a plaintiff class consisting of all persons who acquired shares of our common stock between October 22, 1999 and December 6, 2000. The claims against Messrs. Rosen, Hale and Eisenberg were dismissed without prejudice on November 18, 2002, in return for their agreement to toll any statute of limitations applicable to those claims. At this time, plaintiffs have not specified the amount of damages they are seeking in the Class Action Litigation. On October 13, 2004, the Court certified a class in a sub-group of cases (the Focus Cases) in the IPO Securities Litigation, which was vacated on December 5, 2006 by the United States Court of Appeals for the Second Circuit (the Second Circuit). The Class Action Litigation is not one of the Focus Cases. Plaintiffs-appellees January 5, 2007 petition with the Second Circuit for rehearing and rehearing en banc was denied by the Second Circuit on April 6, 2007. Plaintiffs renewed their certification motion in the Focus Cases on September 27, 2007 as to redefined classes pursuant to Fed. R. Civ. P. 23(b)(3) and 23(c)(4). On October 3, 2008, after briefing, in connection with the renewed class certification proceedings was completed, plaintiffs withdrew without prejudice the renewed certification motion in the Focus Cases. On October 10, 2008, the Court confirmed plaintiffs request and directed the clerk to close the renewed certification motion. Additionally, on August 14, 2007, plaintiffs filed amended class action complaints in the Focus Cases, along with an accompanying set of Amended Master Allegations (collectively, the Amended Complaints). Plaintiffs therein (i) revise their allegations with respect to (1) the issue of investor knowledge of the alleged undisclosed agreements with the underwriter defendants and (2) the issue of loss causation; (ii) include new pleadings concerning alleged governmental investigations of certain underwriters; and (iii) add additional plaintiffs to certain of the Amended Complaints. On March 26, 2008, the Court entered an order granting in part and denying in part the motions to dismiss filed by the defendants named in the Focus Cases. Specifically, the Court dismissed the Section 11 claims brought by plaintiffs (1) who lacked recoverable Section 11 damages and (2) whose claims were time barred, but otherwise denied the motions as to the other claims alleged in the Amended Complaints.

On October 12, 2007, a purported shareholder of the Company filed a complaint for violation of Section 16(b) of the Securities Exchange Act of 1934, which prohibits short-swing trading, against two of the underwriters of the public offering at issue in the Class Action Litigation. The complaint was filed in the United States District Court for the Western District of Washington and is captioned Vanessa Simmonds v. Bank of America Corp., et al. An amended complaint was filed on February 28, 2008. Plaintiff sought the recovery of short-swing profits from the underwriters on behalf of the Company, which was named only as a nominal defendant and from whom no recovery was sought. Similar complaints have been filed against the underwriters of the public offerings of approximately 55 other issuers also involved in the IPO Securities Litigation. A joint status conference was held on April 28, 2008, at which the Court stayed discovery and ordered the parties to file motions to dismiss by July 25, 2008. On July 25, 2008, the Company joined 29 other nominal defendant issuers and filed Issuer Defendants Joint Motion to Dismiss the Amended Complaint. On the same date, the Underwriter Defendants also filed a Joint Motion to Dismiss. On September 8, 2008, plaintiff filed her oppositions to the motions. The replies in support of the motions to dismiss were filed on October 23, 2008. Oral argument on all motions to dismiss was held on January 16, 2009, at which time the Judge took the pending motions to dismiss under advisement. On March 12, 2009, the Court entered an order granting the motions to dismiss filed by the Issuer Defendants and the Underwriter Defendants. Specifically, the Court dismissed the claims brought by the plaintiff against the Issuer Defendants and the Underwriter Defendants without prejudice (which means the claims against them cannot be re-filed).

We believe that the allegations against us in the IPO Securities Litigation are without merit and we intend to vigorously defend against the plaintiffs claims. Due to the inherent uncertainty of litigation, we are not able to predict the possible outcome of the suits and their ultimate effect, if any, on our business, financial condition, results of operations or cash flows.

Other litigation

Alabanza Class Actions

In October 2007, the Company, pursuant to its integration plans, closed the former Alabanza data center in Baltimore, Maryland and moved all equipment to the Company s data center in Andover, Massachusetts (the Data Migration). In connection with the Data Migration, the Company encountered unforeseen circumstances which led to extended down-time for certain of its customers.

On November 14, 2007, Pam Kagan Marketing, Inc., d/b/a Earthplaza, filed a complaint in the United States District Court for the District of Maryland (the Court) against the Company and Alabanza Corporation seeking a class status for the customers who experienced web hosting service interruptions as a result of the Data Migration (the November Class Action Litigation). The total damages claimed approximate $5.0 million. On January 4, 2008, Palmatec, LLC, NYC Merchandise and Taglogic RFID, Ltd. filed a complaint in the Maryland State Court, Circuit Court for Baltimore against the Company seeking a class status for the direct customers (the Direct Subclass) and the entities that purchased hosting services from those direct customers (the Non-Privity Subclass) (the January Class Action Litigation). The total damages claimed approximate $10.0 million. The January Class Action Litigation was removed to the Court by the Company. On May 11, 2008, the Court issued an order consolidating the two cases. On August 5, 2008, the plaintiffs in the January Class Action Litigation voluntarily withdrew their case, without prejudice, because of the inadequacy of their class representative. On January 7, 2009 the District Court issued a Preliminary Approval Order in Connection with Settlement Proceedings, providing initial approval to a proposed class settlement. A hearing will take place on May 8, 2009 to determine final court approval of the settlement.

La Touraine, Inc.

On November 26, 2007, La Touraine, Inc. (LTI) commenced an arbitration against the Company with the American Arbitration Association, File No. 74 494 Y 01377 07 LUCM (the demand). The demand alleges that Jupiter, an entity the Company acquired in 2007, breached two agreements with LTI, and fraudulently induced both of those agreements. LTI contends that the Company is liable for Jupiter s alleged misconduct, seeks rescission of those contracts, and damages. LTI also claims that the Company intentionally interfered with the operations of certain of its websites causing damages. LTI s arbitration demand followed the Company s demand on LTI for payment of money due under the agreements that LTI now alleges Jupiter induced by fraud. The Company has counterclaimed in the arbitration seeking $5.9 million, plus accrued interest of 1% per month. The Company plans to defend itself vigorously; however, at this time, due to the inherent uncertainty of litigation, we are not able to predict the possible outcome of the suit and its ultimate effect, if any, on our business, financial condition, results of operations or cash flows.

(12) Income Tax Expense

The Company recorded $0.5 million and $0.5 million of deferred income tax expense during the three months ended January 31, 2009 and 2008, respectively. The Company recorded $1.0 million and $0.9 million of deferred income tax expense during the six months ended January 31, 2009 and 2008, respectively. No deferred tax benefit was recorded for the losses incurred due to a valuation allowance recognized against deferred tax assets. The deferred tax expense results from tax goodwill amortization related to the acquisitions of Surebridge, Inc., AppliedTheory Corporation, netASPx, Alabanza, LLC and iCommerce, Inc. For financial statement purposes, goodwill is not amortized for any acquisitions but is tested for impairment annually. Tax amortization of goodwill results in a taxable temporary difference, which will not reverse until the goodwill is impaired or written off. The resulting taxable temporary difference may not be offset by deductible temporary differences currently available, such as net operating loss carryforwards which expire within a definite period.

On August 1, 2007, the Company adopted the provisions of Financial Accounting Standards Board Interpretation No. 48, Accounting for Uncertainty in Income Taxes (FIN 48). The purpose of FIN 48 is to increase the comparability in financial reporting of income taxes. FIN 48 requires that in order for a tax benefit to be recorded in the income statement, the item in question must meet the more-likely-than-not (greater than 50% likelihood of being sustained upon examination by the taxing authorities) threshold. The adoption of FIN 48 did not have a material effect on the Company s financial statements. No cumulative effect was booked through beginning retained earnings.

The Company is not currently under audit by the Internal Revenue Service or a similar equivalent for the foreign jurisdictions in which the Company files tax returns. The Company conducts business in multiple locations throughout the world resulting in tax filings outside of the United States. The Company is subject to tax examinations regularly as part of the normal course of business. The Company s major jurisdictions are the United States, the United Kingdom and India. With few exceptions, the Company is no longer subject to United States federal, state and local, or non-U.S. income tax examinations for fiscal years before 2004. However, years prior to fiscal 2004 remain open to examination by United States federal and state revenue authorities to the extent of future utilization of net operating losses generated in each preceding year.

The Company records interest and penalty charges related to income taxes, if incurred, as a component of general and administrative expenses.

(13) Related Party Transactions

During the three and six months ended January 31, 2009 and 2008, respectively the Company generated revenue from three related parties, ClearBlue Technologies (UK) Limited, and two separate entities who are affiliated with our Chief Executive Officer, totaling approximately $111,000 and $72,000 and $194,000 and $147,000, respectively. As of January 31, 2009, the net amount due from Clearblue Technologies (UK) Limited was not significant and the amount owed from the remaining two related parties totaled approximately $0.2 million. ClearBlue Technologies (UK) Limited is controlled by the Company s Chairman of the Board of Directors.

On February 4, 2008, our subsidiary, NaviSite Europe Limited, with the Company as guarantor, entered into a Lease Agreement (the Lease) for approximately 10,000 square feet of data center space located in Watford, Hertfordshire, England (the Data Center) with Sentrum III Limited. The Lease has a ten year term. NaviSite Europe

Limited and the Company are also parties to a Services Agreement with Sentrum Services Limited for the provision of services within the data center. At January 31, 2009, the Company had capital lease obligations totaling $10.0 million related to equipment under the lease agreements. During the three and six months ended January 31, 2009, the Company paid $0.6 million and $1.2 million under these arrangements. Our Chairman of the Board of Directors has a financial interest in each of Sentrum III Limited and Sentrum Services Limited.

In November 2007, our subsidiary NaviSite Europe Limited, with the Company as guarantor, entered into a lease option agreement for data center space in Woking, Surrey, England with Sentrum IV Limited. As part of this lease option agreement the Company made a fully refundable deposit of $5.0 million in order to secure the right to lease the space upon the completion of the building construction. In July 2008, the final lease agreement was completed for approximately 11,000 square feet of data center space. In August 2008, the deposit was returned to the Company. Our Chairman of the Board of Directors has a financial interest in Sentrum IV Limited.

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(14) Subsequent Event

On November 6, 2008, the Company received notice from the Nasdaq Listing Qualifications Staff (the Staff) that the Company was not in compliance with the Nasdaq Marketplace Rule 4310(c)(3) (the Rule), which requires the Company to have a minimum of $2,500,000 in stockholders equity, $35,000,000 market value of listed securities or $500,000 of net income from continuing operations for the most recently completed fiscal year or two of the three most recently completed fiscal years. On November 21, 2008, the Company submitted to the Staff a specific plan to achieve and sustain compliance with all Nasdaq Capital Market listing requirements.

On December 12, 2008, the Company received notice from the Staff granting the Company an extension until February 19, 2009 to regain compliance with the Rule. Under the terms of the extension, on or before February 19, 2009, the Company was required to furnish to the Securities and Exchange Commission and Nasdaq a publicly available filing evidencing its compliance with the Rule.

The Company did not regain compliance with the Rule on or prior to February 19, 2009 and, accordingly, on February 24, 2009, the Company received written notification (the Staff Determination) from The Nasdaq Stock Market stating that the Company s common stock would be subject to delisting as a result of the deficiency unless the Company requested a hearing before a Nasdaq Listing Qualifications Panel (the Panel). The Staff Determination has no effect on the listing of the Company s common stock at this time.

On March 3, 2009, the Company requested a hearing before the Panel to address the deficiency, which stayed any action with respect to the Staff Determination until the Panel renders a decision subsequent to the hearing, which is scheduled for April 23, 2009. At the hearing, the Company intends to present a plan to regain compliance with the Rule. There can be no assurance that the Panel will grant the Company s request for continued listing.

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

This Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended, and Section 27A of the Securities Act of 1933, as amended, that involve risks and uncertainties. All statements other than statements of historical information provided herein are forward-looking statements and may contain information about financial results, economic conditions, trends and known uncertainties. Our actual results could differ materially from those discussed in the forward-looking statements as a result of a number of factors, which include those discussed in this section and elsewhere in this report under Item 1A. Risk Factors and in our annual report on Form 10-K under Item 1A. Risk Factors and the risks discussed in our other filings with the Securities and Exchange Commission. Readers are cautioned not to place undue reliance on these forward-looking statements, which reflect management s analysis, judgment, belief or expectation only as of the date hereof. We undertake no obligation to publicly revise these forward-looking statements to reflect events or circumstances that arise after the date hereof.

Overview

NaviSite is an enterprise hosting and application service provider to middle market companies. We offer a range of hosting and Enterprise Resource Planning (ERP) application solutions to our customers, helping them to achieve a scalable, outsourced technology solution at lower total cost of ownership. Leveraging our set of technologies and subject matter expertise, we deliver cost-effective, flexible solutions that provide responsive and predictable levels of service for our customers businesses. We provide services throughout the information technology lifecycle and are dedicated to delivering quality services and meeting rigorous standards, including maintenance of SAS 70 Type II compliance and Microsoft Gold, and Oracle Certified Partner certifications.

We believe that by leveraging economies of scale utilizing our global delivery approach, industry best practices and process automation, our services enable our customers to achieve significant cost savings. In addition to delivering enterprise hosting and application services, we are able to leverage our infrastructure and application management platform, NaviView^{tm}, to enable our partners software to be delivered on-demand, providing an alternative delivery model to the traditional licensed software model. As the platform provider for an increasing number of independent software vendors (ISV), we enable solutions and services to a wider and growing customer base.

Our services include:

Enterprise Hosting Services

Platform as a Service Hardware and software support delivered from one of our 16 data centers. Services include dedicated and virtualized hosting, business continuity and disaster recovery, connectivity, content distribution, database administration and performance tuning, hardware management, monitoring, network management, security management, server and operating system management and storage management.

Software as a Service (SaaS) Enablement of SaaS to the ISV community. Services include SaaS starter kits and services specific to the needs of ISVs who offer their software in an on-demand or subscription model.

Co-location Physical space offered in a data center. In addition to providing the physical space, NaviSite offers environmental support, specified power with back-up power generation and network connectivity options.

Application Services

ERP Application and Messaging Management Services Customer defined services for specific packaged applications.

Applications include:

- Oracle e-Business Suite
- PeopleSoft Enterprise
- Siebel
- JD Edwards
- Hyperion
- Lawson
- Kronos
- Microsoft Dynamics
- Microsoft Exchange
- Lotus Notes

Services include implementation, upgrade support, monitoring, diagnostics, problem resolution and functional end-user support.

- ERP Professional Services Planning, implementation, optimization, enhancement and upgrade support for third party ERP applications we support.
- Custom Development Services Planning, implementation, optimization and enhancement for custom applications that we or our customers have developed.

We provide these services to a range of vertical industries, including financial services, healthcare and pharmaceutical, manufacturing and distribution, publishing, media and communications, business services and public sector and software, through both our own sales force and sales channel relationships.

Our managed application and hosting services are facilitated by our proprietary NaviView™ collaborative infrastructure and application management platform. Our NaviView™ platform enables us to provide highly efficient, effective and customized management of enterprise applications and hosted infrastructure. Comprised of a suite of third-party and proprietary products, NaviView™ provides tools designed specifically to meet the needs of customers who outsource their IT needs.

Supporting both our managed hosting services and applications services is a range of hardware and software technologies designed for the specific needs of our customers. NaviSite is a leader in using virtualized processing, storage and networking as a platform to optimize services for performance, cost and operational efficiency. Utilizing both hardware and software based virtualization strategies; NaviSite continues to innovate as technology develops.

We believe that the combination of NaviView™, our dedicated and virtual platform, with our physical infrastructure and technical staff gives us a unique ability to provide complex enterprise hosting and application services for mid-market customers. NaviView™ is application and operating system neutral. Designed to enable enterprise hosting and software applications to be monitored and managed, the NaviView™ technology allows us to offer new solutions to our software vendors and new products to our current customers.

We provide our services from a global platform of 14 data centers in the United States, two in the United Kingdom and a Network Operations Center (NOC) in India. We believe that our data centers and infrastructure have the capacity necessary to expand our business for the foreseeable future. Further, trends in hardware virtualization and the density of computing resources, which reduce footprint in the data center, are favorable to NaviSite s services-oriented offerings as compared with traditional co-location or managed hosting providers. Our services combine our developed infrastructure with established processes and procedures for delivering hosting and application management services. Our high availability infrastructure, high performance monitoring systems, and proactive and collaborative problem resolution and change management processes are designed to identify and address potentially crippling problems before they disrupt our customers operations.

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We currently service over 1,400 customers. Our hosted customers typically enter into service agreements for a term of one to five years, which provide for monthly payment installments, providing us with a base of recurring revenue. Our revenue growth comes from adding new customers or delivering additional services to existing customers. Our recurring revenue base is affected by new customers, renewals and terminations of agreements with existing customers.

During fiscal 2008 and in past years, we have grown through business acquisitions and have restructured our operations. Specifically, in December 2002, we completed a common control merger with ClearBlue Technologies Management, Inc.; in February 2003, we acquired Avasta, Inc.; in April 2003, we acquired Conxion Corporation; in May 2003, we acquired assets of Interliant, Inc. in August 2003 and April 2004, we completed a common control merger with certain subsidiaries of ClearBlue Technologies, Inc