SIGMA TAU FINANZIARIA SPA
Form SC 13D/A
October 02, 2009

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 13D/A1 (Amendment No. 1)

Under the Securities Exchange Act of 1934

Soligenix, Inc.

(Name of Issuer)

Common Stock, Par Value $0.001 per share

(Title of Class of Securities)

258094101

(CUSIP Number)

James Robinson, Esq.
Cahill Gordon & Reindel llp
80 Pine Street
New York, NY 10005
(212) 701-3000

(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications)

September 24, 2009

(Date of Event which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of §§ 240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box [X].

NOTE: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See Rule 240.13d-7 for other parties to whom copies are to be sent.

*The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

CUSIP No. 258094101

(1)	NAME OF REPORTING PERSONS I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (entities only) Paolo Cavazza	
(2)	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (See Instructions) (a) [ ] (b) [ ]	
(3)	SEC USE ONLY	
(4)	SOURCE OF FUNDS AF, PF	
(5)	CHECK IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e) [ ]	
(6)	CITIZENSHIP OR PLACE OF ORGANIZATION Italy	
Number of Shares	(7)	SOLE VOTING POWER 1,190,770
Beneficially Owned	(8)	SHARED VOTING POWER 47,951,620
by Each Reporting	(9)	SOLE DISPOSITIVE POWER 1,190,770
Person With	(10)	SHARED DISPOSITIVE POWER 47,951,620
(11)	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON 49,142,390	
(12)	CHECK IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES [ ]	
(13)	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11) 26.3% (based on 167,424,666 shares of Common Stock outstanding as of August 10, 2009, as reported in the Issuer’s Quarterly Report on Form 10-Q, filed pursuant to the Securities Exchange Act of 1934, as amended, with the Securities and Exchange Commission on August 14, 2009, plus 17,352,569 shares of Common Stock issued by the Issuer pursuant to its private placement in September 2009, as reported in the Issuer’s Current Report on Form 8-K, filed pursuant to the Securities Exchange Act of 1934, as amended, with the Securities and Exchange Commission on September 29, 2009, plus 1,976,284 shares of Common Stock issuable upon exercise of the Warrant (as defined below)).	
(14)	TYPE OF REPORTING PERSON IN	

CUSIP No. 258094101

(1)	NAME OF REPORTING PERSONS I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (entities only) Claudio Cavazza	
(2)	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (See Instructions) (a) [ ] (b) [ ]	
(3)	SEC USE ONLY	
(4)	SOURCE OF FUNDS AF	
(5)	CHECK IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e) [ ]	
(6)	CITIZENSHIP OR PLACE OF ORGANIZATION Italy	
Number of Shares	(7)	SOLE VOTING POWER 0
Beneficially Owned	(8)	SHARED VOTING POWER 47,595,520
by Each Reporting	(9)	SOLE DISPOSITIVE POWER 0
Person With	(10)	SHARED DISPOSITIVE POWER 47,595,520
(11)	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON 47,595,520	
(12)	CHECK IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES [ ]	
(13)	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11) 25.5% (based on 167,424,666 shares of Common Stock outstanding as of August 10, 2009, as reported in the Issuer's Quarterly Report on Form 10-Q, filed pursuant to the Securities Exchange Act of 1934, as amended, with the Securities and Exchange Commission on August 14, 2009, plus 17,352,569 shares of Common Stock issued by the Issuer pursuant to its private placement in September 2009, as reported in the Issuer's Current Report on Form 8-K, filed pursuant to the Securities Exchange Act of 1934, as amended, with the Securities and Exchange Commission on September 29, 2009, plus 1,976,284 shares of Common Stock issuable upon exercise of the Warrant (as defined below)).	
(14)	TYPE OF REPORTING PERSON IN	

CUSIP No. 258094101

(1)	NAME OF REPORTING PERSONS I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (entities only) Sigma-Tau Finanziaria S.p.A.	
(2)	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (See Instructions) (a) [ ] (b) [ ]	
(3)	SEC USE ONLY	
(4)	SOURCE OF FUNDS AF	
(5)	CHECK IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e) [ ]	
(6)	CITIZENSHIP OR PLACE OF ORGANIZATION Italy	
Number of Shares	(7)	SOLE VOTING POWER 0
Beneficially Owned	(8)	SHARED VOTING POWER 47,595,520
by Each Reporting	(9)	SOLE DISPOSITIVE POWER 0
Person With	(10)	SHARED DISPOSITIVE POWER 47,595,520
(11)	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON 47,595,520	
(12)	CHECK IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES [ ]	
(13)	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11) 25.5% (based on 167,424,666 shares of Common Stock outstanding as of August 10, 2009, as reported in the Issuer’s Quarterly Report on Form 10-Q, filed pursuant to the Securities Exchange Act of 1934, as amended, with the Securities and Exchange Commission on August 14, 2009, plus 17,352,569 shares of Common Stock issued by the Issuer pursuant to its private placement in September 2009, as reported in the Issuer’s Current Report on Form 8-K, filed pursuant to the Securities Exchange Act of 1934, as amended, with the Securities and Exchange Commission on September 29, 2009, plus 1,976,284 shares of Common Stock issuable upon exercise of the Warrant (as defined below)).	
(14)	TYPE OF REPORTING PERSON CO	

CUSIP No. 258094101

(1)	NAME OF REPORTING PERSONS I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (entities only) Sigma-Tau International S.A.	
(2)	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (See Instructions) (a) [ ] (b) [ ]	
(3)	SEC USE ONLY	
(4)	SOURCE OF FUNDS AF	
(5)	CHECK IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e) [ ]	
(6)	CITIZENSHIP OR PLACE OF ORGANIZATION Luxembourg	
Number of Shares	(7)	SOLE VOTING POWER 0
Beneficially Owned	(8)	SHARED VOTING POWER 47,595,520
by Each Reporting	(9)	SOLE DISPOSITIVE POWER 0
Person With	(10)	SHARED DISPOSITIVE POWER 47,595,520
(11)	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON 47,595,520	
(12)	CHECK IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES [ ]	
(13)	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11) 25.5% (based on 167,424,666 shares of Common Stock outstanding as of August 10, 2009, as reported in the Issuer’s Quarterly Report on Form 10-Q, filed pursuant to the Securities Exchange Act of 1934, as amended, with the Securities and Exchange Commission on August 14, 2009, plus 17,352,569 shares of Common Stock issued by the Issuer pursuant to its private placement in September 2009, as reported in the Issuer’s Current Report on Form 8-K, filed pursuant to the Securities Exchange Act of 1934, as amended, with the Securities and Exchange Commission on September 29, 2009, plus 1,976,284 shares of Common Stock issuable upon exercise of the Warrant (as defined below)).	
(14)	TYPE OF REPORTING PERSON CO	

CUSIP No. 258094101

(1)	NAME OF REPORTING PERSONS I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (entities only) Sigma-Tau America S.A.	
(2)	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (See Instructions) (a) [ ] (b) [ ]	
(3)	SEC USE ONLY	
(4)	SOURCE OF FUNDS AF	
(5)	CHECK IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e) [ ]	
(6)	CITIZENSHIP OR PLACE OF ORGANIZATION Luxembourg	
Number of Shares	(7)	SOLE VOTING POWER 0
Beneficially Owned	(8)	SHARED VOTING POWER 47,595,520
by Each Reporting	(9)	SOLE DISPOSITIVE POWER 0
Person With	(10)	SHARED DISPOSITIVE POWER 47,595,520
(11)	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON 47,595,520	
(12)	CHECK IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES [ ]	
(13)	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11) 25.5% (based on 167,424,666 shares of Common Stock outstanding as of August 10, 2009, as reported in the Issuer’s Quarterly Report on Form 10-Q, filed pursuant to the Securities Exchange Act of 1934, as amended, with the Securities and Exchange Commission on August 14, 2009, plus 17,352,569 shares of Common Stock issued by the Issuer pursuant to its private placement in September 2009, as reported in the Issuer’s Current Report on Form 8-K, filed pursuant to the Securities Exchange Act of 1934, as amended, with the Securities and Exchange Commission on September 29, 2009, plus 1,976,284 shares of Common Stock issuable upon exercise of the Warrant (as defined below)).	
(14)	TYPE OF REPORTING PERSON CO	

CUSIP No. 258094101

(1)	NAME OF REPORTING PERSONS I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (entities only) Sigma-Tau Pharmaceuticals, Inc.	
(2)	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (See Instructions) (a) [ ] (b) [ ]	
(3)	SEC USE ONLY	
(4)	SOURCE OF FUNDS WC	
(5)	CHECK IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e) [ ]	
(6)	CITIZENSHIP OR PLACE OF ORGANIZATION Nevada	
Number of Shares	(7)	SOLE VOTING POWER 0
Beneficially Owned	(8)	SHARED VOTING POWER 47,595,520
by Each Reporting	(9)	SOLE DISPOSITIVE POWER 0
Person With	(10)	SHARED DISPOSITIVE POWER 47,595,520
(11)	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON 47,595,520	
(12)	CHECK IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES [ ]	
(13)	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11) 25.5% (based on 167,424,666 shares of Common Stock outstanding as of August 10, 2009, as reported in the Issuer’s Quarterly Report on Form 10-Q, filed pursuant to the Securities Exchange Act of 1934, as amended, with the Securities and Exchange Commission on August 14, 2009, plus 17,352,569 shares of Common Stock issued by the Issuer pursuant to its private placement in September 2009, as reported in the Issuer’s Current Report on Form 8-K, filed pursuant to the Securities Exchange Act of 1934, as amended, with the Securities and Exchange Commission on September 29, 2009, plus 1,976,284 shares of Common Stock issuable upon exercise of the Warrant (as defined below)).	
(14)	TYPE OF REPORTING PERSON CO	

Item 1. Security and Issuer.

Item 1 of the Schedule 13D is hereby amended and restated in its entirety as follows:

This Amendment No. 1 by Paolo Cavazza, an Italian citizen, Claudio Cavazza, an Italian citizen, Sigma-Tau Finanziaria S.p.A., an Italian corporation (“Sigma-Tau Finanziaria “), Sigma -Tau International S.A., a Luxembourg corporation (“Sigma-Tau International”), Sigma-Tau America S.A., a Luxembourg corporation (“Sigma-Tau America”) and Sigma-Tau Pharmaceuticals, a Nevada Corporation (“Sigma-Tau Pharmaceuticals” and, together with Paolo Cavazza, Claudio Cavazza, Sigma-Tau Finanziaria, Sigma-Tau International and Sigma-Tau America, the “Reporting Parties”) amends the Schedule 13D filed with the SEC on February 20, 2009 with respect to the Common Stock, $0.001 par value (the “Common Stock”), of Soligenix, Inc. (formerly DOR BioPharma, Inc.) (the “Issuer”), a Delaware corporation whose principal offices are located at 29 Emmons Drive, Suite C-10, Princeton, New Jersey 08540.

Item 2. Identity and Background.

Item 2 of the Schedule 13D is hereby amended and restated in its entirety as follows:

This Schedule 13D is being filed jointly on behalf of Paolo Cavazza, Claudio Cavazza, Sigma-Tau Finanziaria, Sigma-Tau International, Sigma-Tau America and Sigma-Tau Pharmaceuticals. Claudio Cavazza directly and indirectly owns 57% of Sigma-Tau Finanziaria. Paolo Cavazza directly and indirectly owns 38% of Sigma-Tau Finanziaria. Sigma-Tau International is a direct wholly-owned subsidiary of Sigma-Tau Finanziaria. Sigma-Tau America is a direct wholly-owned subsidiary of Sigma-Tau International. Sigma-Tau Pharmaceuticals is a direct wholly-owned subsidiary of Sigma-Tau America.

The business address of Sigma-Tau Finanziaria is Via Sudafrica, 20, Rome, Italy 00144. The principal business of Sigma Tau Finanziaria is as a parent holding company whose principal assets consist of the common stock of its subsidiaries which form a fully integrated pharmaceutical company operating in Europe, the United States and Africa.

The business address of Sigma-Tau International is 19-21 Boulevard du Prince Henri,

L-1724 Luxembourg. Sigma-Tau International is a subsidiary holding company whose principal assets consist of the common stock of its subsidiaries which form a fully integrated pharmaceutical company operating in Europe (excluding Italy), the United States and Africa.

The business address of Sigma-Tau America is 19-21 Boulevard du Prince Henri, L-1724 Luxembourg. Sigma-Tau America is a subsidiary holding company whose principal assets consist of the common stock of its subsidiaries which form a fully integrated pharmaceutical company operating mainly in the United States.

The business address of Sigma-Tau Pharmaceuticals is 9841 Washingtonian Boulevard, Suite 500, Gaithersburg, Maryland 20878. Sigma-Tau Pharmaceuticals is a pharmaceuticals company engaged in the global development and commericalization of pharmaceuticals for patients with rare diseases.

The name, address, principal occupation or employment and citizenship of each of the executive officers and directors of, and each person, including Claudio Cavazza and Paolo Cavazza, controlling Sigma-Tau Finanziaria, Sigma-Tau International , Sigma-Tau America and Sigma-Tau Pharmaceuticals are set forth in Schedule A hereto. Neither the Reporting Parties nor any of the persons listed on

Schedule A has been, during the last five years, (a) convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) or (b) a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, federal or state securities laws or finding any violation with respect to such laws.

Item 3. Source and Amount of Funds or Other Consideration.

Item 3 of the Schedule 13D is hereby amended and restated in its entirety as follows:

In July 2006, Chaumiere-Consultadoria e Servicos SDC Unipessoal LDA ("Chaumire") purchased 356,100 shares of Common Stock in the open market at an average cash purchase price of $0.267 per share. Chaumiere used its working capital to purchase such shares. Chaumiere is an indirect wholly-owned subsidiary of Aptafin S.A. ("Aptafin"). Aptafin is owned by Paolo Cavazza and members of his family.

During the period from July 18, 2006 through September 8, 2006, Paolo Cavazza purchased 1,190,770 shares of Common Stock in the open market at an average cash purchase price of $0.2713 per share. Paolo Cavazza used personal funds to purchase such shares.

On November 26, 2008, pursuant to a Letter of Intent, dated November 26, 2008, between the Issuer and Sigma-Tau Pharmaceuticals (the "Letter of Intent"), Sigma-Tau Pharmaceuticals purchased 16,666,667 shares of Common Stock at a cash purchase price of $0.09 per share. Sigma-Tau Pharmaceuticals used its working capital to purchase such shares.

On February 11, 2009, pursuant to a Common Stock Purchase Agreement, dated as of February 11, 2009, between the Issuer and Sigma-Tau Pharmaceuticals (the "February 2009 Purchase Agreement"), Sigma-Tau Pharmaceuticals purchased 25,000,000 shares of Common Stock at a cash purchase price of $0.18 per share. Sigma-Tau Pharmaceuticals used its working capital to purchase such shares.

On September 24, 2009, pursuant to a Securities Purchase Agreement, dated as of September 23, 2009, among the Issuer, Sigma-Tau Pharmaceuticals and the other Investors identified therein (the "September 2009 Purchase Agreement"), Sigma-Tau Pharmaceuticals agreed to purchase and, on September 28, 2009, Sigma-Tau Pharmaceuticals purchased, 3,952,569 shares of Common Stock at a cash purchase price of $0.253 per share. Sigma-Tau Pharmaceuticals used its working capital to purchase such shares. In consideration of the purchase of such shares, the Issuer issued a warrant to Sigma-Tau Pharmaceuticals to purchase 1,976,284 shares of Common Stock (the "Warrant"), exercisable at a price of $0.278 per share, in whole or in part, at any time and from time to time from September 28, 2009 through September 27, 2014. The expiration date of the Warrant may be accelerated at the Issuer's option if the shares of Common Stock meets certain price thresholds and the Common Stock underlying the Warrant is registered for resale pursuant to an effective registration statement or are freely transferable without volume restrictions pursuant to Rule 144 under the Securities Act of 1933, as amended.

Item 4. Purpose of the Transaction.

Item 4 of the Schedule 13D is hereby amended and restated in its entirety as follows:

The purpose of the transactions was to acquire equity investment interests in the Issuer and to support the Issuer in its development of Beclomethasone Dipropionate.

The February 2009 Purchase Agreement provides that, to the extent Sigma-Tau Pharmaceuticals continues to beneficially own ten percent of the Common Stock issued by the Issuer, Sigma-Tau Pharmaceuticals shall have the right to nominate one member of the Issuer's Board of Directors, who shall be reasonably satisfactory to the Issuer. If it is determined that such nominee cannot be nominated for the 2009 annual election of the Issuer's Board of Directors, the Issuer shall appoint such nominee to fill any current vacancy that exists on the Issuer's Board of Directors.

The Issuer undertook in the February 2009 Purchase Agreement to use the proceeds from the sale of the stock pursuant to the Letter of Intent and the February 2009 Purchase Agreement only for the furtherance of a phase 3 clinical study relating to Beclomethasone Dipropionate and product development activities necessary to obtain and maintain the authorizations from regulatory authorities necessary for the marketing, use, distribution and sale of such product. The September 2009 Purchase Agreement provides that the net proceeds from the offer and sale of the securities thereunder will be used to advance the preclinical, clinical and regulatory development of the Issuer's drug and vaccine candidates. A portion of the net proceeds shall also be used for general corporate purposes, including the maintenance of in-licensed patent rights and proprietary intellectual property patent applications and patents. No portion of the net proceeds will be used to redeem outstanding securities of the Issuer.

Other than as set forth above, none of the Reporting Parties has any present plans or proposals which relate to or would result in any transaction, change or event specified in clauses (a) through (j) of Item 4 of Schedule 13D.

Item 5. Interest in Securities of Issuer.

Item 5 of the Schedule 13D is hereby amended and restated in its entirety as follows:

(a) Paolo Cavazza is the beneficial owner of 49,142,390 shares of Common Stock representing 26.3% (based on 167,424,666 shares of Common Stock outstanding as of August 10, 2009, as reported in the Issuer's Quarterly Report on Form 10-Q, filed pursuant to the Securities Exchange Act of 1934, as amended, with the Securities and Exchange Commission on August 14, 2009, plus 17,352,569 shares of Common Stock issued by the Issuer pursuant to its private placement in September 2009, as reported in the Issuer's Current Report on Form 8-K, filed pursuant to the Securities Exchange Act of 1934, as amended, with the Securities and Exchange Commission on September 29, 2009, plus 1,976,284 shares of Common Stock issuable upon exercise of the Warrant (as defined below)).

Claudio Cavazza is the beneficial owner of 47,595,520 shares of Common Stock representing 25.5% (based on 167,424,666 shares of Common Stock outstanding as of August 10, 2009, as reported in the Issuer's Quarterly Report on Form 10-Q, filed pursuant to the Securities Exchange Act of 1934, as amended, with the Securities and Exchange Commission on August 14, 2009, plus 17,352,569 shares of Common Stock issued by the Issuer pursuant to its private placement in September 2009, as reported in the Issuer's Current Report on Form 8-K, filed pursuant to the Securities Exchange Act of 1934, as amended, with the Securities and Exchange Commission on September 29, 2009, plus 1,976,284 shares of Common Stock issuable upon exercise of the Warrant (as defined below)).

Sigma-Tau Finanziaria is the beneficial owner of 47,595,520 shares of Common Stock representing 25.5% (based on 167,424,666 shares of Common Stock outstanding as of August 10, 2009, as reported in the Issuer's Quarterly Report on Form 10-Q, filed pursuant to the Securities Exchange Act of 1934, as amended, with the Securities and Exchange Commission on August 14, 2009, plus 17,352,569 shares of Common Stock issued by the Issuer pursuant to its private placement in September 2009, as reported in the Issuer's Current Report on Form 8-K, filed pursuant to the Securities Exchange Act of 1934,

as amended, with the Securities and Exchange Commission on September 29, 2009, plus 1,976,284 shares of Common Stock issuable upon exercise of the Warrant (as defined below)).

Sigma-Tau International is the beneficial owner of 47,595,520 shares of Common Stock representing 25.5% (based on 167,424,666 shares of Common Stock outstanding as of August 10, 2009, as reported in the Issuer's Quarterly Report on Form 10-Q, filed pursuant to the Securities Exchange Act of 1934, as amended, with the Securities and Exchange Commission on August 14, 2009, plus 17,352,569 shares of Common Stock issued by the Issuer pursuant to its private placement in September 2009, as reported in the Issuer's Current Report on Form 8-K, filed pursuant to the Securities Exchange Act of 1934, as amended, with the Securities and Exchange Commission on September 29, 2009, plus 1,976,284 shares of Common Stock issuable upon exercise of the Warrant (as defined below)).

Sigma-Tau America is the beneficial owner of 47,595,520 shares of Common Stock representing 25.5% (based on 167,424,666 shares of Common Stock outstanding as of August 10, 2009, as reported in the Issuer's Quarterly Report on Form 10-Q, filed pursuant to the Securities Exchange Act of 1934, as amended, with the Securities and Exchange Commission on August 14, 2009, plus 17,352,569 shares of Common Stock issued by the Issuer pursuant to its private placement in September 2009, as reported in the Issuer's Current Report on Form 8-K, filed pursuant to the Securities Exchange Act of 1934, as amended, with the Securities and Exchange Commission on September 29, 2009, plus 1,976,284 shares of Common Stock issuable upon exercise of the Warrant (as defined below)).

Sigma-Tau Pharmaceuticals is the beneficial owner of 47,595,520 shares of Common Stock representing 25.5% (based on 167,424,666 shares of Common Stock outstanding as of August 10, 2009, as reported in the Issuer's Quarterly Report on Form 10-Q, filed pursuant to the Securities Exchange Act of 1934, as amended, with the Securities and Exchange Commission on August 14, 2009, plus 17,352,569 shares of Common Stock issued by the Issuer pursuant to its private placement in September 2009, as reported in the Issuer's Current Report on Form 8-K, filed pursuant to the Securities Exchange Act of 1934, as amended, with the Securities and Exchange Commission on September 29, 2009, plus 1,976,284 shares of Common Stock issuable upon exercise of the Warrant (as defined below)).

(b) The number of shares of Common Stock as to which Paolo Cavazza has the sole power to vote or direct the vote is 1,190,770. The number of shares of Common Stock as to which Paolo Cavazza shares the power to vote or direct the vote is 47,951,620. The number of shares of Common Stock as to which Paolo Cavazza has the sole power to dispose or direct the disposition is 1,190,770. The number of shares of Common Stock as to which Paolo Cavazza shares the power to dispose or direct the disposition is 47,951,620.

The number of shares of Common Stock as to which Claudio Cavazza has the sole power to vote or direct the vote is zero. The number of shares of Common Stock as to which Claudio Cavazza shares the power to vote or direct the vote is 47,595,520. The number of shares of Common Stock as to which Claudio Cavazza has the sole power to dispose or direct the disposition is zero. The number of shares of Common Stock as to which Claudio Cavazza shares the power to dispose or direct the disposition is 47,595,520

The number of shares of Common Stock as to which Sigma-Tau Finanziaria has the sole power to vote or direct the vote is zero. The number of shares of Common Stock as to which Sigma-Tau Finanziaria shares the power to vote or direct the vote is 47,595,520. The number of shares of Common Stock as to which Sigma-Tau Finanziaria has the sole power to dispose or direct the disposition is zero. The number of shares of Common Stock as to which Sigma-Tau Finanziaria shares the power to dispose or direct the disposition is 47,595,520.

The number of shares of Common Stock as to which Sigma-Tau International has the sole power to vote or direct the vote is zero. The number of shares of Common Stock as to which Sigma-Tau International shares the power to vote or direct the vote is 47,595,520. The number of shares of Common Stock as to which Sigma-Tau International has the sole power to dispose or direct the disposition is zero. The number of shares of Common Stock as to which Sigma-Tau International shares the power to dispose or direct the disposition is 47,595,520.

The number of shares of Common Stock as to which Sigma-Tau America has the sole power to vote or direct the vote is zero. The number of shares of Common Stock as to which Sigma-Tau America shares the power to vote or direct the vote is 47,595,520. The number of shares of Common Stock as to which Sigma-Tau America has the sole power to dispose or direct the disposition is zero. The number of shares of Common Stock as to which Sigma Tau America shares the power to dispose or direct the disposition is 47,595,520.

The number of shares of Common Stock as to which Sigma-Tau Pharmaceuticals has the sole power to vote or direct the vote is zero. The number of shares of Common Stock as to which Sigma-Tau Pharmaceuticals shares the power to vote or direct the vote is 47,595,520. The number of shares of Common Stock as to which Sigma-Tau Pharmaceuticals has the sole power to dispose or direct the disposition is zero. The number of shares of Common Stock as to which Sigma-Tau Pharmaceuticals shares the power to dispose or direct the disposition is 47,595,520.

(c) On September 24, 2009, pursuant to a Securities Purchase Agreement dated as of September 23, 2009, Sigma-Tau Pharmaceuticals agreed to purchase and, on September 28, 2009, Sigma-Tau Pharmaceuticals purchased 3,952,569 shares of Common Stock for a cash purchase price of $0.253 per share in a private placement. In consideration of the purchase of such shares, the Issuer issued the Warrant to Sigma-Tau Pharmaceuticals to purchase 1,976,284 shares of Common Stock, exercisable at a price of $0.278 per share, in whole or in part, at any time and from time to time from September 28, 2009 through September 27, 2014. The expiration date of the Warrant may be accelerated at the Issuer's option if the Common Stock meets certain price thresholds and the Common Stock underlying the Warrant is registered for resale pursuant to an effective registration statement or are freely transferable without volume restrictions pursuant to Rule 144 under the Securities Act of 1933, as amended.

(d) N/A.

(e) N/A.

Item 6. Contracts, Arrangements, Understanding or Relationships with Respect to Securities of the Issuer.

Item 6 of the Schedule 13D is hereby amended and restated in its entirety as follows:

Pursuant to the Letter of Intent, the Issuer and Sigma-Tau Pharmaceuticals entered into a Registration Rights Agreement pursuant to which the Issuer has granted Sigma-Tau Pharmaceuticals certain demand and piggyback registration rights covering the shares of Common Stock sold pursuant to the Letter of Intent. Pursuant to the February 2009 Purchase Agreement, the Issuer has granted to Sigma-Tau Pharmaceuticals certain demand and piggyback registration rights covering the shares of Common Stock sold pursuant to the February 2009 Purchase Agreement.

Pursuant to the September 2009 Purchase Agreement, the Issuer and Sigma-Tau Pharmaceuticals entered into a registration rights agreement pursuant to which the Issuer has agreed to file a reg-

istration statement covering the shares of Common Stock sold pursuant to the September 2009 Purchase Agreement and the shares of Common Stock issuable upon exercise of the Warrant.

The Issuer has agreed in the September 2009 Purchase Agreement that, until 60 days after the closing of the transaction under the September 2009 Purchase Agreement, neither it nor any of its subsidiaries will issue any shares of Common Stock or any security that entitles the holder thereof to receive Common Stock except pursuant to certain exempted issuances.

Except as otherwise set forth in Items 3 and 4 and this Item 6 of this Schedule 13D, to the best knowledge of the Reporting Parties there are no other contracts, arrangements, understandings or relationships (legal or otherwise) among the persons named in Item 2 and between such persons and any person with respect to any securities of the Issuer, including but not limited to, transfer or voting of any of the securities of the Issuer, finders fees, joint ventures, loan or oppositions arrangements, puts or calls, guarantees of profits, division of profits or loss, or the giving or withholding of proxies, or a pledge or contingency the occurrence of which would give another person voting power over the securities of the Issuer.

Item 7. Material to Be Filed as Exhibits.

Item 7 of the Schedule 13D is hereby amended and restated in its entirety as follows:

A. Joint Filing Agreement dated October 2, 2009 by and among Paolo Cavazza, Claudio Cavazza, Sigma-Tau Finanziaria S.p.A., Sigma-Tau Pharmaceuticals, Inc., Sigma-Tau America S.A. and Sigma-Tau International S.A.

B. Power of Attorney, dated January 9, 2007, granted by Messrs. Dominique Audia and Luca Checchinato, directors of Sigma-Tau International S.A., in favor of Messrs. Gregg Lapointe and Don DeLillo[1]

C. Power of Attorney, dated January 9, 2007, granted by Messrs. Dominique Audia and Luca Checchinato, directors of Sigma-Tau America S.A., in favor of Messrs. Gregg Lapointe and Don DeLillo[2]

D. Power of Attorney, dated January 10, 2007, granted by Mr. Paolo Cavazza in favor of Messrs. Antonio Nicolai and Maurizio Terenzi[3]

---

1 Incorporated by reference to the Reporting Person’s Schedule 13G filed with the SEC on January 12, 2007.

2 Incorporated by reference to the Reporting Person’s Schedule 13G filed with the SEC on January 12, 2007.

3 Incorporated by reference to the Reporting Person’s Schedule 13G filed with the SEC on January 12, 2007.

E. Power of Attorney, dated January 10, 2007, granted by Mr. Claudio Cavazza, President of Sigma-Tau Finanziaria S.p.A., in favour of Messrs. Antonio Nicolai and Maurizio Terenzi[4]

F. Power of Attorney, dated January 10, 2007, granted by Mr. Claudio Cavazza in favor of Messrs. Antonio Nicolai and Maurizio Terenzi[5]

G. Form of Letter of Intent dated November 26, 2008[6]

H. Form of Common Stock Purchase Agreement dated as of February 11, 2009[7]

I. Form of Securities Purchase Agreement[8]

J. Form of Warrant[9]

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7 Incorporated by reference to Exhibit 10.44 to the Issuer's Registration Statement on Form S-1 (333-157322) filed with the SEC on February 13, 2009.

8 Incorporated by reference to Exhibit 10.1 to the Issuer's Current Report on Form 8-K filed with the SEC on September 29, 2009.

9 Incorporated by reference to Exhibit 10.2 to the Issuer's Current Report on Form 8-K filed with the SEC on September 29, 2009.

SIGNATURE

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement with respect to Paolo Cavazza is true, complete and correct.

Date: October 2, 2009

PAOLO CAVAZZA

By: /s/ Maurizio Terenzi
Name: Maurizio Terenzi
Title: Proxy-holder authorized

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement with respect to Claudio Cavazza is true, complete and correct.

Date: October 2, 2009

CLAUDIO CAVAZZA

By: /s/ Maurizio Terenzi
Name: Maurizio Terenzi
Title: Proxy-holder authorized

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement with respect to Sigma-Tau Finanziaria S.p.A. is true, complete and correct.

Date: October 2, 2009

SIGMA-TAU FINANZIARIA S.P.A.

By: /s/ Maurizio Terenzi

Name: Maurizio Terenzi
Title: Proxy-holder authorized

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement with respect to Sigma-Tau International S.A. is true, complete and correct.

Date: October 2, 2009

SIGMA-TAU
INTERNATIONAL
S.A.

By: /s/ Gregg
Lapointe
Name: Gregg Lapointe
Title: Attorney-in-fact

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement with respect to Sigma-Tau America S.A. is true, complete and correct.

Date: October 2, 2009

SIGMA-TAU
AMERICA S.A.

By: /s/ Gregg
Lapointe
Name: Gregg Lapointe
Title: Attorney-in-fact

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement with respect to Sigma-Tau Pharmaceuticals, Inc. is true, complete and correct.

Date: October 2, 2009

SIGMA-TAU
PHARMACEUTICALS,
INC.

By: /s/ Gregg
Lapointe
Name: Gregg Lapointe
Title: Chief Executive
Officer

The original statement shall be signed by each person on whose behalf the statement is filed or his authorized representative. If the statement is signed on behalf of a person by his authorized representative (other than an executive officer or general partner of the filing persons), evidence of the representative's authority to sign on behalf of such persons shall be filed with the statement; provided, however, that a power of attorney for this purpose which is already on file with the Commission may be incorporated by reference. The name and any title of each person who signs the statement shall be typed or printed beneath his signature.

Attention: Intentional misstatements or omissions of fact constitute Federal criminal violations (See 18 U.S.C. 1001)

SCHEDULE A

Sigma Tau Finanziaria S.p.A.

The (a) name, (b) business address, (c) present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is conducted and (d) citizenship of each executive officer and director (other than Messrs. E. Cavazza, Jones, Platé, Artali and Cerrina Feroni) of Sigma-Tau Finanziaria are set forth below:

1. (a) Claudio Cavazza, (b) Via Pontina Km. 30,400, Pomezia (Rome), Italy, 00040, (c) President, and (d) Italy.

2. (a) Ugo Di Francesco, (b) Via Sudafrica, 20, Rome, Italy 00144, (c) Vice President and Chief Executive Officer, and (d) Italy.

3. (a) Marco Codella, (b) Via Sudafrica, 20, Rome, Italy 00144, (c) Managing Director, and (d) Italy.

4. (a) Mauro Bove, (b) Via Sudafrica, 20, Rome, Italy 00144, (c) Managing Director, and (d) Italy.

5. (a) Stefano Marino, (b) Via Pontina Km. 30,400, Pomezia (Rome), Italy, 00040, (c) General Counsel of Sigma-Tau Industrie Farmaceutiche Riunite SpA; Corporate Legal and Intellectual Property Director at Sigma-Tau Finanziaria SpA, and (d) Italy.

The (a) name, (b) business address, (c) present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is conducted and (d) citizenship of each director (other than Messrs. C. Cavazza, Di Francesco, Codella, Bove and Marino) of Sigma-Tau Finanziaria are set forth below:

1. (a) Enrico Cavazza, (b) Via Pontina Km. 30,400, Pomezia (Rome), Italy, (c) executive, Sigma-Tau Industrie Farmaceutica Riunite SpA, and (d) Italy.

2. (a) Trevor Jones, (b) Woodhyrst House, 18 Friths Drive, REIGATE, Surrey, Great Britain, (c) professor, and (d) Great Britain.

3. (a) Emilio Platé, (b) Via Finocchiaro Aprile n.5,Varese, Italy, (c) business consultant, and (d) Italy.

4. (a) Mario Artali, (b) Piazza F. Meda 4, Milano, Italy 20121, (c) Deputy Chairman, Banca Popolare di Milano, and (d) Italy.

5. (a) Marco Cerrina Feroni, (b) Piazza Paolo Ferrari 10, Milano, Italy 20121, (c) executive, Intesa Sanpaolo SpA, and (d) Italy.

The (a) name, (b) business address, (c) present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is conducted and (d) citizenship of each controlling person of Sigma-Tau Finanziaria are set forth below:

1. (a) Claudio Cavazza, (b) Pontina Km. 30,400, Pomezia (Rome), Italy 00040, (c) President, Sigma Tau, and (d) Italy.

2. (a) Paolo Cavazza, (b) Via Tesserete, 10, Lugano, Switzerland, (c) entrepreneur, Sigma Tau, Aptafin SpA and Esseti S.A., and (d) Italy.

Claudio Cavazza directly and indirectly owns 57% of Sigma Tau and Paolo Cavazza directly and indirectly owns 38% of Sigma Tau.

Sigma-Tau International S.A.

The (a) name, (b) business address, (c) present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is conducted and (d) citizenship of each executive officer and director of Sigma-Tau International are set forth below:

1. (a) Ugo Di Francesco, (b) Via Sudafrica, 20, Rome, Italy 00144, (c) Vice President and Chief Executive Officer of Sigma Tau Finanziaria S.P.A, located at Via Sudafrica 20 – 00144 Rome (Italy), and (d) Italy.

2. (a) Dominique Audia, (b) 19/21 Boulevard du Prince Henri - L-1724 Luxembourg, (c) Manager of Société Européenne de Banque S.A located at 19/21 Boulevard du Prince Henri - L-1724 Luxembourg, and (d) French.

3. (a) Mauro Bove, (b) Via Sudafrica, 20, Rome, Italy 00144, (c) Managing Director of Sigma Tau Finanziaria S.P.A, located at Via Sudafrica 20, and (d) Italy.

4. (a) Antonio Nicolai, (b) Via Pontina Km. 30,400, Pomezia (Rome), Italy, 00040, (c) President of Sigma Tau Pharmaceuticals located at 9841 Washingtonian Blvd, Suite 500- Gaithersburg MD 20878, and (d) Italy.

5. (a) Luca Checchinato, (b) 19/21 Boulevard du Prince Henri L-1724 Luxembourg, (c) Manager of Société Européenne de Banque S.A, located at 19/21 Boulevard du Prince Henri - L-1724 Luxembourg, and (d) Italy.

6. (a) Francesco Moglia, (b) 19/21 Boulevard du Prince Henri -L-1724 Luxembourg, (c) Manager of Société Européenne de Banque S.A. located at 19/21 Boulevard du Prince Henri - L-1724 Luxembourg, and (d) Italy.

7. (a) Gustave Stoffel, (b) 31, Boulevard Grande – Duchesse Charlotte- L – 1331 Luxembourg, (c) CEO of Profida Luxembourg located at 31, Boulevard Grande – Duchesse Charlotte- L – 1331 Luxembourg, and (d) Luxembourg.

Sigma-Tau America S.A.

The (a) name, (b) business address, (c) present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is conducted and (d) citizenship of each director of Sigma-Tau America are set forth below:

1. (a) Luca Checchinato, (b) 19/21 Boulevard du Prince Henri L-1724 Luxembourg, (c) Manager of Société Européenne de Banque S.A, located at 19/21 Boulevard du Prince Henri - L-1724 Luxembourg, and (d) Italy.

2. (a) Antonio Nicolai, (b) Via Pontina Km. 30,400, Pomezia (Rome), Italy, 00040, (c) President of Sigma Tau Pharmaceuticals located at 9841 Washingtonian Blvd, Suite 500- Gaithersburg MD 20878, and (d) Italy.

3. (a) Dominique Audia, (b) 19/21 Boulevard du Prince Henri - L-1724 Luxembourg, (c) Manager of Société Européenne de Banque S.A, located at 19/21 Boulevard du Prince Henri - L-1724 Luxembourg, and (d) French.

4. (a) Cristobalina Moron, (b) 19/21 Boulevard du Prince Henri - L-1724 Luxembourg, (c) Employee of Société Européenne de Banque S.A, located at 19/21 Boulevard du Prince Henri - L-1724 Luxembourg, and (d) French.

5. (a) Mauro Bove, (b) Via Sudafrica, 20, Rome, Italy 00144, (c) Managing Director of Sigma Tau Finanziaria S.P.A, located at Via Sudafrica 20, and (d) Italy.

6. (a) Christophe Velle, (b) 19/21 Boulevard du Prince Henri - L-1724 Luxembourg, (c) Manager of Société Européenne de Banque S.A located at 19/21 Boulevard du Prince Henri - L-1724 Luxembourg, and (d) French.

Sigma-Tau Pharmaceuticals. Inc.

The (a) name, (b) business address, (c) present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is conducted and (d) citizenship of each director of Sigma-Tau Pharmaceuticals are set forth below:

1. (a) Antonio Nicolai, (b) Via Pontina Km. 30,400, Pomezia (Rome), Italy, 00040, (c) President, and (d) Italy.

2. (a) Gregg Lapointe, (b) 9841 Washingtonian Blvd, Suite 500- Gaithersburg MD 20878, (c) Chief Executive Officer, and (d) United States.

3. (a) Ugo Di Francesco, (b) Via Sudafrica, 20, Rome, Italy 00144, (c) Vice President and Chief Executive Officer of Sigma-Tau Finanziaria S.p.A. located at Via Sudafrica 20, Rome, Italy 00144, and (d) Italy.

4. (a) Mauro Bove, (b) Via Sudafrica, 20, Rome, Italy 00144, (c) Head Corporate & Business Development of Sigma-Tau Finanziaria S.p.A. located at Via Sudafrica 20, Rome, Italy 00144, and (d) Italy.

5. (a) Stefano Marino, (b) Via Pontina Km. 30,400, Pomezia (Rome), Italy, 00040, (c) General Counsel of Sigma-Tau Industrie Farmaceutiche Riunite SpA located at Via Pontina Km. 30,400, Pomezia (Rome), Italy; Corporate Legal and Intellectual Property Director at Sigma-Tau Finanziaria SpA located at Via Sudafrica 20, Rome, Italy 00144, and (d) Italy.

6. (a) Paolo Carminati, (b) Via Pontina Km. 30,400, Pomezia (Rome), Italy, 00040, (c) Corporate Research & Development Director of Sigma-Tau Industrie Farmaceutica Riunite SpA, located at Via Pontina Km. 30,400, Pomezia (Rome), Italy, and (d) Italy.

7. (a) Marco Codella, (b) Via Sudafrica, 20, Rome, Italy 00144, (c) Managing Director of Sigma-Tau Finanziaria S.p.A., and (d) Italy.

EXHIBIT INDEX

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EXHIBIT A

JOINT FILING AGREEMENT

The undersigned hereby agree that the amended and restated statement on Schedule 13D with respect to the Common Stock of Soligenix, Inc. dated as of October 2, 2009 is, and any amendments thereto signed by each of the undersigned shall be, filed on behalf of each of us pursuant to and in accordance with the provisions of Rule 13d-1(f) under the Securities Exchange Act of 1934.

Dated: October 2, 2009 PAOLO CAVAZZA

By: /s/ Maurizio Terenzi
Name: Maurizio Terenzi
Title: Proxy-holder authorized

Dated: October 2, 2009 CLAUDIO CAVAZZA

By: /s/ Maurizio Terenzi
Name: Maurizio Terenzi
Title: Proxy-holder authorized

Dated: October 2, 2009 SIGMA-TAU FINANZIARIA S.P.A.

By: /s/ Maurizio Terenzi
Name: Maurizio Terenzi
Title: Proxy-holder authorized

Dated: October 2, 2009 pay substantial monetary damages; or
expend significant resources to redesign the products that use the technology and to develop non-infringing technology.
Any of these actions could result in a substantial reduction in our revenue and could result in losses over an extended period of time.

On January 5, 2010, Finisar Corporation, or Finisar, filed a complaint in the U.S. District Court for the Northern District of California against Source Photonics, Inc., MRV Communications, Inc., Oplink Communications, Inc. and us, or collectively, the co-defendants. In the complaint, Finisar alleged infringement of certain of its U.S. patents arising from the co-defendants’ respective manufacture, importation, use, sale of or offer to sell certain optical transceiver products in the U.S. On March 23, 2010, we filed an answer to the complaint and counterclaims, asserting two claims of patent infringement and additional claims asserting that Finisar has violated state and federal competition laws and violated its obligations to license on reasonable and non-discriminatory terms. On May 5, 2010, the court dismissed without prejudice all co-defendants (including us) except Source Photonics, Inc., on grounds that such claims should have been asserted in four separate lawsuits, one against each co-defendant. This dismissal without prejudice does not prevent Finisar from bringing a new similar lawsuit against us. Since that time, we and Finisar entered into agreements that tolled our respective claims until Finisar resolved its litigation against certain other co-defendants, which litigation subsequently was resolved (commencing the tolling period with us).

On May 3, 2012, we and Finisar agreed to further toll our respective claims until the refiling of certain of the previously asserted claims from this dispute. As a result, Finisar is permitted to bring a new lawsuit against us if it chooses to do so, and we may bring new claims against Finisar upon seven days written notice prior to filing such claims.

If we are unsuccessful in our defense of the Finisar patent infringement claims, a license to use the allegedly infringing technology may not be available to us at all, and if it is, it may not be available on commercially reasonable terms and therefore may limit or preclude us from competing in the market for optical transceivers in the U.S., which may have a material adverse effect on our results of operations and financial condition, and otherwise materially harm our business.

Although we believe that we would have meritorious defenses to the infringement allegations and intend to defend any new similar lawsuit vigorously, there can be no assurance that we will be successful in our defense. Even if we are successful, we may incur substantial legal fees and other costs in defending the lawsuit. Further, a new lawsuit, if brought by either party, would be likely to divert the efforts and attention of our management and technical personnel, which could harm our business.

If we fail to obtain the right to use the intellectual property rights of others which are necessary to operate our business, and to protect their intellectual property, our business and results of operations will be adversely affected.

From time to time we may choose to or be required to license technology or intellectual property from third parties in connection with the development of our products. We cannot assure you that third-party licenses will be available to us on commercially reasonable terms, if at all. Generally, a license, if granted, would include payments of up-front fees, ongoing royalties or both. These payments or other terms could have a significant adverse impact on our results of operations. The inability to obtain a necessary third-party license required for our product offerings or to develop new products and product enhancements could require us to substitute technology of lower quality or performance standards, or of greater cost, either of which could adversely affect our business. If we are not able to obtain licenses from third parties, if necessary, then we may also be subject to litigation to defend against infringement claims from these third parties. Our competitors may be able to obtain licenses or cross-license their technology on better terms than we can, which could put us at a competitive disadvantage. Also, we typically enter into confidentiality agreements with such third parties in which we agree to protect and maintain their proprietary and confidential information, including requiring our employees to enter into agreements protecting such information. There can be no assurance that the confidentiality agreements will not be breached by any of our employees or that such third parties will not make claims that their proprietary information has been disclosed.

Any potential dispute involving our patents or other intellectual property could also include our customers using our products, which could trigger our indemnification obligations to them and result in substantial expenses to us.

In any potential dispute involving our patents or other intellectual property, our customers could also become the target of litigation. Because we often indemnify our customers for intellectual property claims made against them for products incorporating our technology, any claims against our customers could trigger indemnification obligations in some of our supply agreements, which could result in substantial expenses such as increased legal expenses, damages for past infringement or royalties for future use. While we have not incurred any indemnification expenses to date, any future indemnity claim could adversely affect our relationships with our customers and result in substantial costs to us. Our insurance does not cover intellectual property infringement.

If we fail to adequately manage our long-term growth and expansion requirements, our business and financial results will suffer.

In recent years, we have experienced significant growth through, among other things, internal expansion programs, product development and acquisitions of other businesses and products. Our business has expanded to numerous locations, both foreign and domestic, and as a result become more complex, more demanding of management’s attention and subject to new laws and regulations. If we fail to comply with new laws and regulations related to the expansion of our business, our business could suffer.

We expect to continue to grow, which could require us to expand our manufacturing operations, including hiring new personnel, purchasing additional equipment, leasing or purchasing additional facilities, developing the management infrastructure and developing our suppliers to manage any such expansion. If we fail to secure these expansion requirements or manage our future growth effectively, our business could suffer.

We have pursued and may continue to pursue acquisitions. Acquisitions could be difficult to integrate, divert the attention of key personnel, disrupt our business, dilute stockholder value and impair our financial results.

As part of our business strategy, we have pursued and intend to continue to pursue acquisitions of complementary businesses, products, services or technologies that we believe could accelerate our ability to compete in our existing markets or allow us to enter new markets. Any of these transactions could be material to our financial condition and results of operations. For instance, in October 2011, we completed the acquisition of Santur Corporation, a designer and manufacturer of InP-based PIC products, and in March 2013 we completed the acquisition of the optical semiconductor business unit of LAPIS Semiconductor Co., Ltd., now known as NeoPhotonics Semiconductor. If we fail to properly evaluate or integrate acquisitions, we may not achieve the anticipated benefits of any such acquisitions, and we may incur costs in excess of what we anticipate.

Acquisitions involve numerous risks, any of which could harm our business, including:

difficulties in integrating the operations, technologies, products, existing contracts, accounting and personnel of the target company and realizing the anticipated synergies of the combined businesses;
difficulties in realizing our expectations for the financial performance of the target company;
difficulties in supporting and transitioning customers, if any, of the target company;

difficulties in managing and integrating different cultures with respect to our international acquisitions;
dependence or reliance on subcontractors or suppliers to the acquired company that may not have been fully qualified or evaluated for their position in supplying the acquired company previously;
diversion of management time and potential business disruption;
the incurrence of debt to provide capital for any cash-based acquisitions;
the price we pay or other resources that we devote may exceed the value we realize, or the value we could have realized if we had allocated the purchase price or other resources to another opportunity;
risks of entering new markets in which we have limited or no experience;
potential loss of key employees, customers and strategic alliances from either our current business or the target company's business;

assumption of unanticipated problems or latent liabilities, such as problems with the quality of the target company's products;
exposure to environmental liabilities that have not yet been discovered associated with acquired businesses' facilities;
expenses, distractions and actual or threatened claims or litigation resulting from acquisitions, whether or not they are completed;
unexpected capital expenditure requirements
inability to generate sufficient revenue to offset increased expenses association with any acquisition;
issues arising from weaknesses or deficiencies in internal controls over financial reporting for acquired businesses that were not previously subject to internal control requirements of a U.S. public company;
in the event of international acquisitions, risks associated with accounting and business practices that are different from applicable U.S. practices and requirements;
dilutive effect on our stock as a result of any equity-based acquisitions;
incurring potential writeoffs, contingent liabilities and amortization expense; and,
opportunity costs of committing capital to such acquisitions.
The failure to successfully evaluate and execute acquisitions or otherwise adequately address these risks could materially harm our business and financial results.

Acquisitions also frequently result in the recording of goodwill and other intangible assets which are subject to potential impairments which have occurred in the past and which, were they to occur in the future, could harm our financial results. As a result, if we fail to properly evaluate acquisitions or investments, we may not achieve the anticipated benefits of any such acquisitions, and we may incur costs in excess of what we anticipate. The failure to successfully evaluate and execute acquisitions or investments or otherwise adequately address these risks could materially harm our business and financial results.

Failure to realize the anticipated benefits from our acquisition of Santur and NeoPhotonics Semiconductor may affect our future results of operations and financial condition.

In connection with our acquisitions of Santur and NeoPhotonics Semiconductor, we have integrated the commercial operations and personnel into our existing infrastructure. If there are unexpected difficulties in our integration of these acquired businesses, the anticipated benefits of the transaction may not be realized or may take longer to realize than expected. The anticipated benefits of the acquisition could be materially reduced by a number of factors, including the following:

the future revenue and gross margins of the acquired products may be materially different from those we originally anticipated;
we could incur material unanticipated expenses;
acquired products may not achieve the performance levels or specifications required by our customers;
claims or lawsuits may arise from the acquisition transaction or from their previous business operations;
we may experience difficulties in managing inventory and other operational processes in facilities that we acquire or lease as a result of the acquisitions;
we may experience difficulties in implementing effective internal controls over financial reporting as part of our integration actions, particularly since neither of these businesses were historically subject as a stand-alone entity to the internal control requirements of a U.S. public company;
potential growth, expected financial results, perceived synergies and anticipated opportunities may not be realized through the ongoing integration actions;
we may face competition from existing customers as well as new competitors;
some existing customers of NeoPhotonics Semiconductor may view our larger company as a competitor, and therefore may reduce or end their purchases of NeoPhotonics Semiconductor products for competitive reasons;

Japanese customers of NeoPhotonics Semiconductor, who had previously been buying from OCU as a Japanese supplier, could choose to find another Japanese supplier rather than buying products from a U.S.-headquartered company;

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a potential decline in revenues could occur from NeoPhotonics Semiconductor's legacy products for network applications that are declining within our customer base (such as NeoPhotonics Semiconductor's gallium arsenide integrated circuits for 10G network applications)
we could have difficulty implementing and maintaining financial reporting requirements for NeoPhotonics Semiconductor's previous business operations, which have not previously been previously audited nor subject to the internal compliance structure of a U.S. public company;
we could have difficulty implementing our existing management, production and accounting software and programs for NeoPhotonics Semiconductor's previous business operations;
we could incur additional costs associated with known and unknown environmental contamination of the real estate acquired from NeoPhotonics Semiconductor; and
we could incur costs associated with new export or compliance issues associated with NeoPhotonics Semiconductor products.
The occurrence of any or all of these events may have an adverse effect on our business and results of operations.

Natural disasters, terrorist attacks or other catastrophic events could harm our operations and our financial results.

Our worldwide operations could be subject to natural disasters and other business disruptions, which could harm our future revenue and financial condition and increase our costs and expenses. For example, our corporate headquarters and wafer fabrication facility in Silicon Valley, California and our Tokyo, Japan facility are located near major earthquake fault lines, and our manufacturing facilities are located in Shenzhen and Dongguan, China, areas that are susceptible to typhoons. Further, a terrorist attack, including one aimed at energy or communications infrastructure suppliers, could hinder or delay the development and sale of our products. In the event that an earthquake, tsunami, typhoon, terrorist attack or other natural or man-made catastrophe were to destroy any part of our facilities, destroy or disrupt vital infrastructure systems or interrupt our operations or the facilities or operations of our suppliers or customers for any extended period of time, our business, financial condition and results of operations would be materially and adversely affected. We are not insured against many natural disasters, including earthquakes.

Similarly, our worldwide operations could be subject to secondary effects of natural disasters and other business disruptions, which could harm our future revenue and financial condition and increase our costs and expenses. For instance, natural disasters and other business disruptions have created significant secondary effects in the past (such as the 2011 floods in Thailand and the 2011 earthquakes, tsunami and subsequent crisis relating to nuclear power facilities in Japan). Any of these types of events in the future could result in a slowdown of business or inability to manufacture products by our customers or others in the industry that are located in the affected areas; a disruption to the global supply chain for products manufactured in the affected areas that are included in the products either by us or by our customers; a disruption to manufacturing resulting from power shortages or other rationing of inputs to production; an increase in the cost of products that we purchase due to reduced supply; and other unforeseen impacts. These secondary effects could have a material and adverse effect on our business, financial condition, and results of operations.

Rapidly changing standards and regulations could make our products obsolete, which would cause our revenue and results of operations to suffer.

We design our products to conform to regulations established by governments and to standards set by industry standards bodies worldwide, such as The American National Standards Institute, the European Telecommunications Standards Institute, the International Telecommunications Union and the Institute of Electrical and Electronics Engineers, Inc. Various industry organizations are currently considering whether and to what extent to create standards for elements used in 100Gbps systems. Because certain of our products are designed to conform to current specific industry standards, if competing or new standards emerge that are preferred by our customers, we would have to make significant expenditures to develop new products. If our customers adopt new or competing industry standards with which our products are not compatible, or the industry groups adopt standards or governments issue regulations with which our products are not compatible, our existing products would become less desirable to our customers and our revenue and results of operations would suffer.

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Failure to realize the anticipated benefits from our planned expansion in the Russian Federation may affect our future results of operations and financial condition.

In connection with our raising capital in an April 2012 private placement of common stock, we have established a wholly-owned subsidiary and company operations in the Russian Federation. The establishment of successful operations in the Russian Federation will require capital expenditure in 2014 and 2015, and will be in part dependent on the cooperation of the Russian government and other third parties. If there are delays in our efforts to establish operations in the Russian Federation, the anticipated benefits of our Russian expansion may not be realized or may take longer to realize than expected. The anticipated benefits of our Russian expansion could be materially reduced by a number of factors, including the following:

- the future revenue and gross margins of products produced in the Russian Federation may be materially different from those we originally anticipated;
- we could incur material unanticipated expenses; and
- we could have difficulty managing a business in the Russian Federation, where we did not previously have a material business presence.

In addition, in connection with the private placement transaction, we entered into a rights agreement with the sponsoring investor. Pursuant to the rights agreement, we have agreed to make a $30.0 million investment towards our Russian operations. We are required to satisfy this investment obligation by July 31, 2014, or, in the event we have not recorded aggregate revenue from sales of our products in the Russian Federation of at least $26.8 million during the period beginning July 1, 2012 and ending June 30, 2014, then by March 31, 2015. We expect the date for achievement of the investment obligation will be extended to March 31, 2015. Pursuant to the rights agreement, failure to perform the investment obligation by the deadline will result in an obligation to pay damages to the investor in the amount of $5.0 million.

In recent years the Russian Federation has undergone substantial political, economic and social change. The business, legal and regulatory infrastructure in the Russian Federation is less well-developed that would generally exist in a more mature free market economy. In addition, the tax, currency and customs legislation within the Russian Federation is subject to varying interpretations and changes, which can occur frequently. The future economic direction of the Russian Federation remains largely dependent upon the effectiveness of economic, financial and monetary measures undertaken by the government, together with tax, legal, regulatory and political developments. Our failure to manage the risks associated with our planned Russian expansion could have a material adverse effect upon our results of operations.

Our planned Russian expansion could also be delayed or adversely affected by direct or indirect events arising out of the recent crisis in Ukraine. For instance, any trade restrictions or economic sanctions that may be imposed by the United States or other countries as a consequence of Russia's recent or future involvement in Ukraine could harm our business in the Russian Federation. Furthermore, we could be adversely affected by any actions taken by Russia in response to U.S. or international sanctions, such as restrictions place by Russia on U.S. companies doing business in Russia.

The occurrence of any or all of these events may have an adverse effect on our business, and results of operations and financial condition.

Potential changes in our effective tax rate could negatively affect our future results.

We are subject to income taxes in the U.S., China and other various foreign jurisdictions, and our domestic and international tax liabilities are subject to the allocation of expenses in differing jurisdictions. Our tax rate is affected by changes in the mix of earnings and losses in countries with differing statutory tax rates, certain non-deductible expenses and the valuation of deferred tax assets and liabilities, including our ability to utilize our net operating losses. Increases in our effective tax rate could negatively affect our results of operations.

Our future results of operations may be subject to volatility as a result of exposure to fluctuations in foreign exchange rates, primarily the Chinese Renminbi (RMB) and Japanese Yen (JPY) exchange rates.

We are exposed to foreign exchange risks. Foreign currency fluctuations may adversely affect our revenue and our costs and expenses, and hence our results of operations. A substantial portion of our business is conducted through our subsidiaries based in China, whose functional currency is the RMB and Japan, whose functional currency is the JPY. The value of the RMB against the U.S. dollar and other currencies and the value of the JPY against the U.S. dollar and other currencies fluctuate and are affected by, among other things, changes in political and economic conditions.

The People's Bank of China regularly intervenes in the foreign exchange market to limit fluctuations in RMB exchange rates and achieve policy goals. Since July 21, 2005, the RMB has no longer been pegged solely to the value of the U.S. dollar. Instead, the RMB is now pegged against a basket of currencies, determined by the People's Bank of China, against which it can rise or fall by as much as 1.0% each day (which may further widen in the future). This change in policy has resulted in approximately 36% appreciation of the RMB against the U.S. dollar between July 21, 2005 and December 31, 2013. In the long term, the RMB may appreciate or depreciate significantly in value against the U.S. dollar, depending upon the fluctuation of the basket of currencies against which it is currently valued, or it may be permitted to enter into a full float, which may also result in a significant appreciation or depreciation of the RMB against the U.S. dollar.

Foreign currency exchange rates are subject to fluctuation and may cause us to recognize transaction gains and losses in our statements of operations. To the extent that transactions by our subsidiaries in China and Japan are denominated in currencies other than the RMB and JPY, we bear the risk that fluctuations in the exchange rates of the RMB and JPY in relation to other currencies could decrease our revenue or increase our costs and expenses, therefore having an adverse effect on our future results of operations.

While we generate a significant portion of our revenue in RMB and JPY, a majority of our operating expenses are in U.S. dollars. Therefore depreciation in RMB or JPY against the U.S. dollar would negatively impact our revenue upon translation to U.S. dollars but the impact on operating expenses would be less. For example, for the year ended December 31, 2013, a 10% depreciation in RMB against the U.S. dollar would have resulted in a $7.8 million decrease in our revenue and a $0.2 million increase in our net loss and a 10% depreciation in JPY would have resulted in a $0.8 million decrease in our revenue and a $0.03 million increase in our net loss.

We also transact in other currencies that have had historical volatility, including Russian Rubles. Fluctuations in the exchange rates of these currencies may cause us to recognize additional transaction gains or losses which could impact our results of operations.

To date, we have not entered into any hedging transactions in an effort to reduce our exposure to foreign currency exchange risk. While we may decide to enter into hedging transactions in the future, the availability and effectiveness of these hedging transactions may be limited and we may not be able to successfully hedge our exposure. In addition, our currency exchange variations may be magnified by Chinese exchange control regulations that restrict our ability to convert RMB into foreign currency.

We face a variety of risks associated with international sales and operations, which if not adequately managed could adversely affect our business and financial results.

We currently derive, and expect to continue to derive, a significant portion of our revenue from international sales in various markets. In addition, a major portion of our operations is based in Shenzhen and Dongguan, China as well as our having additional operations in Japan and Canada. We are also in the process of establishing operations in Russia. Our international revenue and operations are subject to a number of material risks, including, but not limited to:

difficulties in staffing, managing and supporting operations in more than one country;
difficulties in enforcing agreements and collecting receivables through foreign legal systems;
fewer legal protections for intellectual property in foreign jurisdictions;
compliance with local regulations;
foreign and U.S. taxation issues and international trade barriers;
general economic and political conditions in the markets in which we operate;
difficulties in obtaining any necessary governmental authorizations for the export of our products to certain foreign jurisdictions;

fluctuations in foreign economies;
fluctuations in the value of foreign currencies and interest rates;
trade and travel restrictions;
outbreaks of avian flu, Severe Acute Respiratory Syndrome, or SARS, H1N1 swine flu or other contagious disease;
domestic and international economic or political changes, hostilities and other disruptions in regions where we currently operate or may operate in the future;
difficulties and increased expenses in complying with a variety of U.S. and foreign laws, regulations and trade standards, including the Foreign Corrupt Practices Act; and

different and changing legal and regulatory requirements in the jurisdictions in which we currently operate or may operate in the future.

Negative developments in any of these areas in China, Japan, Russia or other countries could result in a reduction in demand for our products, the cancellation or delay of orders already placed, difficulties in producing and delivering our products, threats to our intellectual property, difficulty in collecting receivables, and a higher cost of doing business.

In addition, although we maintain an anti-corruption compliance program throughout our company, violations of our compliance program may result in criminal or civil sanctions, including material monetary fines, penalties and other costs against us or our employees, and may have a material adverse effect on our business.

In making an investment decision relating to our common stock, you should evaluate our business in light of the risks, expenses and difficulties frequently encountered by companies operating on a global platform, particularly companies in the rapidly changing communications networks industry.

We are subject to governmental export and import controls that could subject us to liability or impair our ability to compete in international markets.

We are subject to export and import control laws, trade regulations and other trade requirements that limit which products we sell and where and to whom we sell our products, especially laser-dependent products. In some cases, it is possible that export licenses would be required from U.S. government agencies for some of our products in accordance with various statutory authorities, including but not limited to the International Traffic in Arms Regulations, the Export Administration Act of 1979, the International Emergency Economic Powers Act of 1977, the Trading with the Enemy Act of 1917 and the Arms Export Control Act of 1976 and various country-specific trade sanctions legislation. In addition, various countries regulate the import of certain technologies and have enacted laws that could limit our ability to distribute our products. We may not be successful in obtaining the necessary export and import licenses. Failure to comply with these and similar laws on a timely basis, or at all, or any limitation on our ability to export or sell our products or to obtain any required licenses would adversely affect our business, financial condition and results of operations.

Changes in our products or changes in export and import laws and implementing regulations may create delays in the introduction of new products in international markets, prevent our customers from deploying our products internationally or, in some cases, prevent the export or import of our products to certain countries altogether. Any change in export or import regulations or related legislation, shift in approach to the enforcement or scope of existing regulations, or change in the countries, persons or technologies targeted by such regulations, could result in decreased use of our products by, or in our decreased ability to export or sell our products to, existing or potential customers with international operations. In such event, our business and results of operations could be adversely affected.

We have identified material weaknesses in our internal control over financial reporting which could, if not remediated, result in material misstatements in our financial statements.

Our management is responsible for establishing and maintaining adequate internal control over our financial reporting, as defined in Rule 13a-15(f) under the Securities Exchange Act of 1934, as amended, or the Exchange Act.

The following material weaknesses in our internal control over financial reporting were identified during 2013 and had not been remediated at December 31, 2013 :

Control Environment — We did not maintain an effective control environment, which is the foundation for the discipline and structure necessary for effective internal control over financial reporting, as evidenced by: (i) an insufficient number of personnel appropriately qualified to perform control monitoring activities, including the recognition of the risks and complexities of our transactions and business operations, (ii) an insufficient number of personnel with an appropriate level of GAAP knowledge and experience or ongoing training in the application of GAAP commensurate with our financial reporting requirements, which resulted in erroneous judgments regarding the proper application of GAAP and (iii) insufficient corporate involvement to identify and resolve errors in recording transactions and financial results at our non-US subsidiaries. This control environment material weakness was exacerbated by our acquisition of NeoPhotonics Semiconductor in March 2013 and contributed to the following additional material weaknesses.

Accounting for complex transactions — We did not maintain effective internal controls related to complex transactions, including the acquisition of NeoPhotonics Semiconductor. Our controls over the accounting, process and procedures for the NeoPhotonics Semiconductor acquisition were not effective to provide reasonable assurance that (i) the business combination accounting identified and considered all known acquired liabilities, (ii) the business combination accounting reflected the appropriate application of GAAP and (iii) there was appropriate review of the purchase price allocation entries recorded in the consolidated financial statements. This material weakness resulted in the restatement of our condensed consolidated financial statements for the quarters ended March 31, 2013 and June 30, 2013.

Preparation and review of consolidated financial statements — We did not maintain effective internal control over financial reporting related to the preparation and review of our consolidated financial statements. Specifically, we did not execute controls related to the review of transactions and balances for proper classification in our balance sheet, statement of operations and statement of cash flows. This material weakness resulted in the restatement of our condensed consolidated financial statements for the quarters ended March 31, 2013 and June 30, 2013.

We have developed remediation plans designed to address these material weaknesses. If our remedial measures are insufficient to address the material weaknesses or if additional material weaknesses in our internal control are discovered or occur in the future, our consolidated financial statements may contain material misstatements and we could be required to restate our financial results. For more information see “Item 9A. Controls and Procedures”.

If we fail to maintain effective internal control over financial reporting in the future, the accuracy and timing of our financial reporting may be adversely affected.

Preparing our consolidated financial statements involves a number of complex manual and automated processes, which are dependent upon individual data input or review and require significant management judgment. One or more of these elements may result in errors that may not be detected and could result in a material misstatement of our consolidated financial statements. Since the year ended December 31, 2011, we have been required to comply with the internal control requirements of the Sarbanes-Oxley Act of 2002. In addition, we may experience difficulties in implementing effective internal controls over financial reporting as part of our integration of NeoPhotonics Semiconductor. NeoPhotonics Semiconductor was not subject as a stand-alone entity to the internal control requirements of a U.S. public company. We could also experience unanticipated additional operating costs in implementing and managing effective internal controls over financing reporting at the NeoPhotonics Semiconductor facilities and operations, which could adversely affect our financial performance.

If a material misstatement occurs in the future, we may fail to meet our future reporting obligations, we may need to restate our financial results and the price of our common stock may decline. Our internal control over financial reporting may not prevent or detect misstatements because of its inherent limitations, including the possibility of human error, the circumvention or overriding of controls, or fraud. Even effective internal controls can provide only reasonable assurance with respect to the preparation and fair presentation of financial statements. If we fail to maintain the adequacy of our internal controls, including any failure to implement required new or improved controls, or if we experience difficulties in the implementation, our business and operating results may be harmed and we may fail to meet our financial reporting obligations. Any failure of our internal controls could also adversely affect the results of the periodic management evaluations and annual independent registered public accounting firm attestation reports regarding the effectiveness of our internal control over financial reporting that is now applicable to us under the rules of the Securities and Exchange Commission, or the SEC. Effective internal controls are necessary for us to produce reliable financial reports and are important to helping prevent financial fraud. If we cannot provide reliable financial reports or prevent fraud, our business and results of operations could be harmed, investors could lose confidence in our reported financial information, and the trading price of our stock could drop significantly.

We may be subject to disruptions or failures in information technology systems and network infrastructures that could have a material adverse effect on our business and financial condition.

We rely on the efficient and uninterrupted operation of complex information technology systems and network infrastructures to operate our business. A disruption, infiltration or failure of our information technology systems as a result of software or hardware malfunctions, system implementations or upgrades, computer viruses, third-party security breaches, employee error, theft or misuse, malfeasance, power disruptions, natural disasters or accidents could cause breaches of data security, loss of intellectual property and critical data and the release and misappropriation of sensitive competitive information and partner, customer and employee personal data. Any of these events could harm our competitive position, result in a loss of customer confidence, cause us to incur significant costs to remedy any damages and ultimately materially adversely affect our business and financial condition.

Covenants in our credit facilities may limit our flexibility in responding to business opportunities and competitive developments and increase our vulnerability to adverse economic or industry conditions.

We have lending arrangements with several financial institutions, including a revolving credit and term loan agreement with Comerica Bank and East-West Bank in the U.S. Our U.S. revolving credit and term loan agreement requires us to maintain certain financial covenants, including a liquidity ratio and a quarterly ratio of funded debt to adjusted EBITDA, and restricts our ability to take certain actions such as incurring additional debt, paying dividends, or engaging in certain transactions like mergers and acquisitions, investments and asset sales. On May 19, 2014 we executed an amendment to the credit agreement that waived testing of certain covenants for compliance, including the debt to EBITDA covenant, provided that we maintain compensating balances equal to outstanding amounts under the credit agreement in accounts for which the bank will have sole access. We intend to work with the bank to restructure the credit agreement, including the covenant requirements. In the absence of a restructured agreement, we believe we will have difficulty complying with the existing debt to EBITDA covenant for at least the next twelve months.

These restrictions may limit our flexibility in responding to business opportunities, competitive developments and adverse economic or industry conditions. In addition, our obligations under our U.S. revolving credit and term loan agreement with Comerica Bank and East-West Bank are secured by substantially all of our assets other than intellectual property assets, which limit our ability to provide collateral for additional financing. A breach of any of these covenants, or a failure to pay interest or indebtedness when due under any of our credit facilities, could result in a variety of adverse consequences, including the acceleration of our indebtedness.

We may be unable to utilize our net operating loss carryforwards to reduce our income taxes, which could adversely affect our future financial results.

As of December 31, 2013, we had net operating loss, or NOL, carryforwards for U.S. federal and state tax purposes of $238.0 million and $155.6 million, respectively. As these net operating losses have not been utilized, a portion will begin to expire in 2014 and will continue to expire further in the current and future years. The utilization of the NOL and tax credit carryforwards are subject to a substantial limitation imposed by Section 382 of the Internal Revenue Code of 1986, as amended, or the Code, and similar state provisions. We recorded deferred tax assets, net of valuation allowance, for the NOL carryforwards currently available after considering the existing Section 382 limitation. If we incur an additional limitation under Section 382, then the NOL carryforwards, as disclosed, could be reduced by the impact of any future limitation that would result in existing NOL carryforwards and tax credit carryforwards expiring unutilized and increases in future tax liabilities.

We incur increased costs as a result of operating as a public company, and our management is required to devote substantial time to new compliance initiatives.

We became a public reporting company in February 2011. As a public company, we incur legal, accounting and other expenses that we did not incur as a private company. In addition, the Sarbanes-Oxley Act, as well as rules subsequently implemented by the SEC and the New York Stock Exchange, or NYSE, imposes additional requirements on public companies, including specific corporate governance practices. For example, the listing requirements of the NYSE require that we satisfy certain corporate governance requirements relating to independent directors, audit and compensation committees, distribution of annual and interim reports, stockholder meetings, stockholder approvals, solicitation of proxies, conflicts of interest, stockholder voting rights and codes of conduct. Our management and other personnel need to devote a substantial amount of time to these compliance initiatives. Moreover, these rules and regulations increase our legal and financial compliance costs and make some activities more time-consuming and costly. For example, these rules and regulations may make it more difficult and more expensive for us to obtain director and officer liability insurance, and we may be required to accept reduced policy limits and coverage or incur substantial additional costs to maintain the same or similar coverage. These rules and regulations could also make it more difficult for us to attract and retain qualified persons to serve on our board of directors, our board committees or as executive officers.

We are subject to government regulations that could adversely impact our business.

The Federal Communications Commission, or FCC, has jurisdiction over the entire U.S. telecommunications industry and, as a result, our products and our U.S. customers are subject to FCC rules and regulations. Current and future FCC regulations affecting communications services, our products or our customers' businesses could negatively affect our business. In addition, international regulatory standards could impair our ability to develop products for international customers in the future. Delays caused by our compliance with regulatory requirements could result in postponements or cancellations of product orders. Further, we may not be successful in obtaining or maintaining any regulatory approvals that may, in the future, be required to operate our business. Any failure to obtain such approvals could harm our business and results of operations.

We may utilize conflict minerals in our production or rely on suppliers who utilize conflict minerals in their production, and the use of such conflict minerals may negatively impact our results of operations.

In August 2012, the U.S. Securities and Exchange Commission adopted its final rule to implement Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act regarding reporting obligations for the use of conflict minerals originating in the Democratic Republic of the Congo and adjoining countries, and beginning on January 1, 2013, we became subject to these reporting obligations. In connection with these requirements, we have been contacted by several customers and suppliers regarding the new conflict mineral rules and reporting obligations and continue to work with these customers and suppliers to implement any necessary or requested compliance programs. As a result of these new rules, our results in operations may suffer for a variety of reasons, including:

- difficulty in obtaining supplies that are conflict-free;
- shipping delays or the cancellation of orders for our products;
- costs associated with the implementation of the conflict minerals reporting obligations; and
- reputational damage in the event that we determine our products do incorporate conflict minerals or cannot be verified as not incorporating conflict minerals.

In some instances, we rely on third-party sales representatives to assist in selling our products, and the failure of these representatives to perform as expected could reduce our future revenue.

Although we primarily sell our products through direct sales to systems vendors, we also sell our products to some of our customers through third-party sales representatives. Many of our third-party sales representatives also market and sell competing products from our competitors. Our third-party sales representatives may terminate their relationships with us at any time, or with short notice. Our future performance will also depend, in part, on our ability to attract additional third-party sales representatives that will be able to market and support our products effectively, especially in markets in which we have not previously distributed our products. If our current third-party sales representatives fail to perform as expected, our revenue and results of operations could be harmed.

We are subject to environmental, health and safety laws and regulations, which could subject us to liabilities, increase our costs, or restrict our business or operations in the future.

Our manufacturing operations and our products are subject to a variety of federal, state, local and international environmental, health and safety laws and regulations in each of the jurisdictions in which we operate or sell our products. These laws and regulations govern, among other things, air emissions, wastewater discharges, the handling and disposal of hazardous substances and wastes, soil and groundwater contamination, employee health and safety, and the use of hazardous materials in, and the recycling of, our products. Our failure to comply with present and future environmental, health or safety requirements, or the identification of contamination, could cause us to incur substantial costs, including cleanup costs, monetary fines, civil or criminal penalties, or curtailment of operations. In addition, the enactment of more stringent laws and regulations, or other unanticipated events could restrict our ability to expand our facilities, require us to install costly pollution control equipment or incur other additional expenses, or require us to modify our manufacturing processes or the contents of our products, which could have a material adverse effect on our business, financial condition and results of operations.

Additionally, increasing efforts to control emissions of greenhouse gases, or GHG, may also impact us. Additional climate change or GHG control requirements are under consideration at the federal level in the U.S. and in China. Additional restrictions, limits, taxes, or other controls on GHG emissions could increase our operating costs and, while it is not possible to estimate the specific impact any final GHG regulations will have on our operations, there can be no assurance that these measures will not have significant additional impact on us.

Our Japan operations are subject to local environmental laws and regulations, and our failure to fully comply with all applicable environmental laws and regulations could negatively affect our operations and our future results.

Following our acquisition of NeoPhotonics Semiconductor, we now own and operate a semiconductor facility in Japan which is subject to local environmental laws and regulations, including the Japanese Environmental Quality Standards (“JEQS”) and the Water Pollution Control Law (“Water Law”), which includes provisions for periodic monitoring of groundwater quality. The JEQS provides guidelines for specified substances in groundwater, primarily including metals and volatile organic compounds, include some that are either used in our operations or have been used in our facilities in prior years. In addition, the Soil Contamination Countermeasures Law includes regulatory standards for many of the same substances regulated under the Water Law, some that are either used in our operations or have been used in our facilities in prior years. Should any of these regulated materials be detected in local water or soil, we could be subject to local law remedies, which could affect our ability to operate or could negatively affect our results of operations.

We may not be able to obtain capital when desired on favorable terms, if at all, or without dilution to our stockholders.

We believe that our existing cash and cash equivalents, and cash flows from our operating activities, will be sufficient to meet our anticipated cash needs for at least the next 12 months. We operate in an industry, however, that makes our prospects difficult to evaluate. It is possible that we may not generate sufficient cash flow from operations or otherwise have the capital resources to meet our future capital needs. If this occurs, we may need additional financing to execute on our current or future business strategies, including to:

- invest in our research and development efforts, including by hiring additional technical and other personnel;
- expand our operating or manufacturing infrastructure;
- acquire complementary businesses, products, services or technologies; or
- otherwise pursue our strategic plans and respond to competitive pressures.

If we raise additional funds through the issuance of equity or convertible debt securities, the percentage ownership of our stockholders could be significantly diluted, and these newly-issued securities may have rights, preferences or privileges senior to those of existing stockholders, including those acquiring shares in our initial public offering. We cannot assure you that additional financing will be available on terms favorable to us, or at all. If adequate funds are not available or are not available on acceptable terms, if and when needed, our ability to fund our operations, take advantage of unanticipated opportunities, develop or enhance our products, or otherwise respond to competitive pressures could be significantly limited.

Risks related to our operations in China

Our business operations conducted in China are critical to our success. A total of $122.4 million, or 43%, of our revenue in 2013 was recognized from customers for whom we shipped products to a location in China. Additionally, a substantial portion of our property, plant and equipment, 48% as of December 31, 2013, is located in China. We expect to make further investments in China in the foreseeable future. Therefore, our business, financial condition, results of operations and prospects are to a significant degree subject to economic, political, legal, and social events and developments in China.

Adverse changes in economic and political policies in China, or Chinese laws or regulations could have a material adverse effect on business conditions and the overall economic growth of China, which could adversely affect our business.

The Chinese economy differs from the economies of most developed countries in many respects, including the level of government involvement, level of development, growth rate and control of foreign exchange and allocation of resources. The Chinese economy has been transitioning from a planned economy to a more market-oriented economy. Despite reforms, the government continues to exercise significant control over China’s economic growth by way of the allocation of resources, control over foreign currency-denominated obligations and monetary policy and provision of preferential treatment to particular industries or companies. Moreover, the laws, regulations and legal requirements in China, including the laws that apply to foreign-invested enterprises are relatively new and are subject to frequent changes. The interpretation and enforcement of such laws is uncertain. Any adverse changes to these laws, regulations and legal requirements, including tax laws, or their interpretation or enforcement, or the creation of new laws or regulations relating to our business, could have a material adverse effect on our business. For example, the Chinese government’s recent crackdown on alleged price fixing and bribery of local officials by multinational companies could signal a broad trend toward elevated scrutiny of foreign corporations operating in the country.

Furthermore, while China's economy has experienced rapid growth in the past 20 years, growth has been uneven across different regions, among various economic sectors and over time. China has also in the past and may in the future experience economic downturns due to, for example, government austerity measures, changes in government policies relating to capital spending, limitations placed on the ability of commercial banks to make loans, reduced levels of exports and international trade, inflation, lack of financial liquidity, restrictions on the flow of capital and foreign exchange, stock market volatility and global economic conditions. Any of these developments could contribute to a decline in business and consumer spending in addition to other adverse market conditions, which could adversely affect our business.

Our cost advantage from having our manufacturing and part of our research and development in China may diminish over time due to increasing labor costs, which could materially and adversely affect our operating results.

The labor market in China, particularly in the manufacturing-heavy Southeast region of China where our manufacturing facilities are located, has experienced higher costs due to increased wages. We were required to pay additional employee benefits taxes beginning in late 2010 and were subject to increases in the minimum wage for hourly workers in 2011, 2012 and 2013. We expect that we will be subject to further increases in personnel costs and taxes in the future due to market conditions and/or government mandates. If labor costs in China continue to increase, our gross margins and profit margins and results of operations may be adversely affected. In addition, our competitive advantage against competitors with manufacturing in traditionally higher cost countries would be diminished.

The termination, expiration or unavailability of our preferential income tax treatment in China may have a material adverse effect on our operating results.

Effective January 1, 2008, the China Enterprise Income Tax Law, or the EIT law, imposes a single uniform income tax rate of 25% on all Chinese enterprises, including foreign-invested enterprises, and eliminates or modifies most of the tax exemptions, reductions and preferential treatment available under the previous tax laws and regulations. As a result, our subsidiaries in China may be subject to the uniform income tax rate of 25% unless we are able to qualify for preferential status. Currently, we have qualified for a preferential 15% tax rate that is available for new and high technology enterprises. The preferential rate applied to 2013, 2012 and 2011. We realized benefits from this 10% reduction in tax rate of $0.2 million, $0.9 million and $0.5 million for 2013, 2012 and 2011, respectively. We intend to renew the preferential rate for 2014. In order to retain the preferential rate, we must meet certain operating conditions, satisfy certain product requirements, meet certain headcount requirements and maintain certain levels of research expenditures. The preferential tax rate that we enjoy could be modified or discontinued altogether at any time, which could materially and adversely affect our financial condition and results of operations.

Our subsidiaries in China may be subject to restrictions on dividend payments, on making other payments to us or any other affiliated company, and on borrowing or allocating tax losses among our subsidiaries.

Current Chinese regulations permit our subsidiaries in China to pay dividends only out of their accumulated profits, if any, determined in accordance with Chinese accounting standards and regulations, which are different than U.S. accounting standards and regulations. In addition, our subsidiaries in China are required to set aside at least 10% of their respective accumulated profits each year, if any, to fund their statutory common reserves until such reserves have reached at least 50% of their respective registered capital, as well as to allocate a discretional portion of their after-tax profits to their staff welfare and bonus fund. As of December 31, 2013, our Chinese subsidiaries’ common reserves had not reached this threshold and, accordingly, these entities are required to continue funding such reserves with accumulated net profits. The statutory common reserves are not distributable as cash dividends except in the event of liquidation. In addition, current Chinese regulations prohibit inter-company borrowings or allocation of tax losses among subsidiaries in China. Further, if our subsidiaries in China incur debt on their own behalf in the future, the instruments governing the debt may restrict their ability to pay dividends or make other payments to us. Accordingly, we may not be able to move our capital easily, which could harm our business.

Restrictions on currency exchange may limit our ability to receive and use our revenue and cash effectively.

Because a substantial portion of our revenue is denominated in RMB, any restrictions on currency exchange may limit our ability to use revenue generated in RMB to fund any business activities we may have outside China or to make dividend payments in U.S. dollars. Under relevant Chinese rules and regulations, the RMB is currently convertible under the “current account,” which includes dividends, trade and service-related foreign exchange transactions, but not under the “capital account,” which includes foreign direct investment and loans, without the prior approval of the State

Administration of Foreign Exchange, or SAFE. Currently, our subsidiaries in China may purchase foreign exchange for settlement of “current account transactions,” including the payment of dividends to us, without the approval of SAFE. Although Chinese government regulations now allow greater convertibility of the RMB for current account transactions, significant restrictions remain. For example, foreign exchange transactions under our primary Chinese subsidiary’s capital account, including principal payments in respect of foreign currency-denominated obligations, remain subject to significant foreign exchange controls and the approval of SAFE. These limitations could affect the ability of our subsidiaries in China to obtain foreign exchange for capital expenditures through debt or equity financing, including by means of loans or capital contributions from us. We cannot be certain that Chinese regulatory authorities will not impose more stringent restrictions on the convertibility of the RMB, especially with respect to foreign exchange transactions. If such restrictions are imposed, our ability to adjust our capital structure or engage in foreign exchange transactions may be limited.

In August 2008, SAFE promulgated the Circular on the Relevant Operating Issues Concerning the Improvement of the Administration of Payment and Settlement of Foreign Currency Capital of Foreign-invested Enterprises, or Circular 142, a notice regulating the conversion by foreign-invested enterprises or FIE of foreign currency into RMB by restricting how the converted RMB may be used. Circular 142 requires that RMB converted from the foreign currency-dominated capital of a FIE may only be used for purposes within the business scope approved by the applicable government authority and may not be used for equity investments within China unless specifically provided for otherwise. In addition, SAFE strengthened its oversight over the flow and use of RMB funds converted from the foreign currency-dominated capital of a FIE. The use of such RMB may not be changed without approval from SAFE. Violations of Circular 142 may result in severe penalties, including substantial fines set forth in the Foreign Exchange Administration Regulations. As a result of Circular 142, our subsidiaries in China may not be able to convert our capital contributions to them into RMB for equity investments or acquisitions in China.

The Regulations on Mergers and Acquisitions of Domestic Enterprises by Foreign Investors, or the M&A Rules, establish complex procedures for some acquisitions of Chinese companies by foreign investors, which could make it more difficult for us to pursue growth through acquisitions in China.

The M&A Rules establish procedures and requirements that could make some acquisitions of Chinese companies by foreign investors more time-consuming and complex, including requirements in some instances that the Ministry of Commerce be notified in advance of any change-of-control transaction in which a foreign investor takes control of a Chinese domestic enterprise. We may seek to expand our business in part by acquiring complementary businesses. Complying with the requirements of the M&A Rules to complete such transactions could be time-consuming, and any required approval processes, including obtaining approval from the Ministry of Commerce, may delay or inhibit our ability to complete such transactions, which could affect our ability to expand our business or maintain our market share.

Uncertainties with respect to China’s legal system could adversely affect the legal protection available to us.

Our operations in China are governed by Chinese laws and regulations. Our subsidiaries in China are generally subject to laws and regulations applicable to foreign investments in China and, in particular, laws applicable to wholly foreign-owned enterprises. China’s legal system is a civil law system based on written statutes. Unlike common law systems, it is a legal system where decided legal cases have limited value as precedents. Since 1979, Chinese legislation and regulations have significantly enhanced the protections afforded to various forms of foreign investments in China. However, China has not developed a fully-integrated legal system, and recently-enacted laws and regulations may not sufficiently cover all aspects of economic activities in China. In particular, because these laws and regulations are relatively new, the interpretation and enforcement of these laws and regulations involve uncertainties, including regional variations within China. For example, we may have to resort to administrative and court proceedings to enforce the legal protection under contracts or law. However, since Chinese administrative and court authorities have significant discretion in interpreting and implementing statutory and contract terms, it may be more difficult to evaluate the outcome of administrative and court proceedings and the level of legal protection we would receive compared to more developed legal systems. These uncertainties may impede our ability to enforce the contracts we have entered into with our distributors, business partners, customers and suppliers. In addition, protections of intellectual property rights and confidentiality in China may not be as effective as in the U.S. or other countries or regions with more developed legal systems. Furthermore, the legal system in China is based in part on government policies and internal rules (some of which are not published on a timely basis or at all) that may have a retroactive effect. As a result, we may not be aware of our violation of these policies and rules until sometime after the violation. In addition, any litigation in China may be protracted and result in substantial costs and diversion of resources and management attention. All the uncertainties described above could limit the legal protections available to us and could materially and adversely affect our business and operations.

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Chinese regulations relating to offshore investment activities by Chinese residents and employee stock options granted by overseas-listed companies may increase our administrative burden, restrict our overseas and cross-border investment activity or otherwise adversely affect the implementation of our acquisition strategy. If our stockholders who are Chinese residents, or our Chinese employees who are granted or exercise stock options, fail to make any required registrations or filings under such regulations, we may be unable to distribute profits and may become subject to liability under Chinese laws.

Chinese foreign exchange regulations require Chinese residents and corporate entities to register with local branches of SAFE in connection with their direct or indirect offshore investment activities. These regulations apply to our stockholders who are Chinese residents and may apply to any offshore acquisitions that we make in the future. Pursuant to these foreign exchange regulations, Chinese residents who make, or have previously made, direct or indirect investments in offshore companies, will be required to register those investments. In addition, any Chinese resident who is a direct or indirect stockholder of an offshore company is required to file or update the registration with the local branch of SAFE, with respect to that offshore company, including any material change involving its round-trip investment, capital variation, such as an increase or decrease in capital, transfer or swap of shares, merger, division, long-term equity or debt investment or creation of any security interest. If any Chinese stockholder fails to make the required SAFE registration or file or update the registration, subsidiaries in China of that offshore parent company may be prohibited from distributing their profits and the proceeds from any reduction in capital, share transfer or liquidation, to their offshore parent company, and the offshore parent company may also be prohibited from injecting additional capital into their subsidiaries in China. Moreover, failure to comply with the various foreign exchange registration requirements described above could result in liability under Chinese laws for evasion of applicable foreign exchange restrictions. We cannot provide any assurances that all of our stockholders who are Chinese residents have made or obtained, or will make or obtain, any applicable registrations or approvals required by these foreign exchange regulations. The failure or inability of our stockholders in China to comply with the required registration procedures may subject us to fines and legal sanctions, restrict our cross-border investment activities, or limit our Chinese subsidiaries' ability to distribute dividends or obtain foreign-exchange-dominated loans. Moreover, because of the uncertainties in the interpretation and implementation of these foreign exchange regulations, we cannot predict how they will affect our business operations or future strategy. For example, we may be subject to a more stringent review and approval process with respect to our foreign exchange activities, such as remittance of dividends and foreign-currency-denominated borrowings, which may adversely affect our results of operations and financial condition. In addition, if we decide to acquire a domestic company in China, we cannot assure you that we or the owners of such company, as the case may be, will be able to obtain the necessary approvals or complete the necessary filings and registrations required by these foreign exchange regulations. This may restrict our ability to implement our acquisition strategy and could adversely affect our business and prospects.

On March 28, 2007, SAFE promulgated the Application Procedure of Foreign Exchange Administration for Domestic Individuals Participating in Employee Stock Holding Plan or Stock Option Plan of Overseas-Listed Company, or the Stock Option Rule. Under the Stock Option Rule, Chinese residents who are granted stock options by an overseas publicly-listed company are required, through a Chinese agent or Chinese subsidiary of such overseas publicly-listed company, to register with SAFE and complete certain other procedures. We and our Chinese employees who have been granted stock options are subject to the Stock Option Rule. We have completed the process of registering our stock option and appreciation plans with SAFE. On February 20, 2012, SAFE issued the Circular on Relevant Issues concerning Foreign Exchange Administration for Individuals in PRC Participating in Equity Incentive Plan of Overseas-Listed Companies, or Circular 7, which provides detailed procedures for conducting foreign exchange matters related to domestic individuals' participation in the equity incentive plans of overseas listed companies and supersedes the Stock Option Rule in its entirety. If we or our optionees in China fail to comply with the applicable regulations, we or our optionees in China may be subject to fines and legal sanctions. Several of our employees in China have exercised their stock options prior to our becoming an overseas publicly-listed company. Since there is not yet a clear regulation on how and whether Chinese employees can exercise their stock options granted by overseas private companies, it is unclear whether such exercises were permitted by Chinese laws and it is uncertain how SAFE or other government authorities will interpret or administer such regulations. Therefore, we cannot predict how such exercises will affect our business or operations. For example, we may be subject to more stringent review and approval processes with respect to our foreign exchange activities, such as remittance of dividends and foreign-currency-denominated borrowings, which may affect our results of operations and financial condition.

We may be obligated to withhold and pay individual income tax in China on behalf of our employees who are subject to individual income tax in China arising from the exercise of stock options. If we fail to withhold or pay such individual income tax in accordance with applicable Chinese regulations, we may be subject to certain sanctions and other penalties and may become subject to liability under Chinese laws.

The State Administration of Taxation has issued several circulars concerning employee stock options. Under these circulars, our Chinese employees (which could include both employees in China and expatriate employees subject to individual income tax in China) who exercise stock options will be subject to individual income tax in China. Our subsidiaries in China have obligations to file documents related to employee stock options with relevant tax authorities and withhold and pay individual income taxes for those employees who exercise their stock options. However, since there was not yet a clear regulation on how and whether Chinese employees could exercise stock options granted by overseas private companies and how Chinese employers shall withhold and pay individual taxes, the relevant tax authority verbally advised us that due to the difficulty in determining the fair market value of our shares as a private company, we did not need to withhold and pay the individual income tax for the exercises until after we completed our initial public offering in February 2011. Thus, we have not withheld or paid the individual income tax for the option exercises through the date of our initial public offering. However, we cannot be assured that the Chinese tax authorities will not act otherwise and request us to pay the individual income tax immediately and impose sanctions on us.

If the Chinese government determines that we failed to obtain approvals of, or registrations with, the requisite Chinese regulatory authority with respect to our current and past import and export of technologies, we could be subject to sanctions, which could adversely affect our business.

China imposes controls on technology import and export. The term “technology import and export” is broadly defined to include, without limitation, the transfer or license of patents, software and know-how, and the provision of services in relation to technology. Depending on the nature of the relevant technology, the import and export of technology to or from China requires either approval by, or registration with, the relevant Chinese governmental authorities.

If we are found to be, or to have been, in violation of Chinese laws or regulations, the relevant regulatory authorities have broad discretion in dealing with such violation, including, but not limited to, issuing a warning, levying fines, restricting us from benefiting from these technologies inside or outside of China, confiscating our earnings generated from the import or export of such technology or even restricting our future export and import of any technology. If the Chinese government determines that our past import and export of technology were inconsistent with, or insufficient for, the proper operation of our business, we could be subject to similar sanctions. Any of these or similar sanctions could cause significant disruption to our business operations or render us unable to conduct a substantial portion of our business operations and may adversely affect our business and result of operations.

China regulation of loans and direct investment by offshore holding companies to China entities may delay or prevent us from using the proceeds we received from our initial public offering to make loans or additional capital contributions to our China subsidiaries.

From time to time, we may make loans or additional capital contributions to our China subsidiaries. Any loans to our China subsidiaries are subject to China regulations and approvals. For example, any loans to our China subsidiaries to finance their activities cannot exceed statutory limits, must be registered with SAFE, or its local counterpart, and must be approved by the relevant government authorities. Any capital contributions to our China subsidiaries must be approved by the Ministry of Commerce of China or its local counterpart. In addition, under Circular 142, our China subsidiaries, as FIEs, may not be able to convert our capital contributions to them into RMB for equity investments or acquisitions in China.

We cannot assure you that we will be able to obtain these government registrations or approvals on a timely basis, if at all, with respect to our future loans or capital contributions to our China subsidiaries. If we fail to receive such registrations or approvals, our ability to capitalize our China subsidiaries may be negatively affected, which could materially and adversely affect our liquidity and ability to fund and expand our business.

Dividends paid to us by our Chinese subsidiaries may be subject to Chinese withholding tax.

The EIT Law and the implementation regulations provide that a 10% withholding tax may apply to dividends payable to investors that are "non-resident enterprises," to the extent such dividends are derived from sources within China and in the absence of any tax treaty that may reduce such withholding tax rate. The comprehensive Double Taxation Arrangement between China and Hong Kong generally reduces the withholding tax on dividends paid from a Chinese company to a Hong Kong company to 5%. Dividends paid to us by our Chinese subsidiaries will be subject to Chinese withholding tax if, as expected, we are considered a "non-resident enterprise" under the EIT Law. If dividends from our Chinese subsidiaries are subject to Chinese withholding tax, our financial condition may be adversely impacted to the extent of such tax.

Our worldwide income may be subject to Chinese tax under the EIT Law.

The EIT Law provides that enterprises established outside of China whose “de facto management bodies” are located in China are considered “resident enterprises” and are generally subject to the uniform 25% enterprise income tax on their worldwide income. Under the implementation regulations for the EIT Law issued by the State Council, a “de facto management body” is defined as a body that has material and overall management and control over the manufacturing and business operations, personnel and human resources, finances and treasury, and acquisition and disposition of properties and other assets of an enterprise. If we are deemed to be a resident enterprise for Chinese tax purposes, we will be subject to Chinese tax on our worldwide income at the 25% uniform tax rate, which could have an impact on our effective tax rate and an adverse effect on our net income (loss), however, dividends paid to us by our Chinese subsidiaries may not be subject to withholding if we are deemed to be a resident enterprise.

Dividends payable by us to our investors and gains on the sale of our common stock by our foreign investors may be subject to tax under Chinese law.

Under the EIT Law and implementation regulations issued by the State Council, a 10% withholding tax is applicable to dividends payable to investors that are “non-resident enterprises.” Similarly, any gain realized on the transfer of common stock by such investors is also subject to a 10% withholding tax if such gain is regarded as income derived from sources within China. If we are determined to be a “resident enterprise,” dividends and other income we pay on our common stock, or the gain you may realize from the transfer of our common stock, would be treated as income derived from sources within China. If we are required under the EIT Law to withhold tax from dividends payable to investors that are “non-resident enterprises,” or if a gain realized on the transfer of our common stock is subject to withholding, the value of your investment in our common stock may be materially and adversely affected.

Our contractual arrangements with our subsidiaries in China may be subject to audit or challenge by the Chinese tax authorities, and a finding that our subsidiaries in China owe additional taxes could substantially reduce our net income and the value of our stockholders’ investment.

Under the applicable laws and regulations in China, arrangements and transactions among related parties may be subject to audit or challenge by the Chinese tax authorities. We would be subject to adverse tax consequences if the Chinese tax authorities were to determine that the contracts with or between our subsidiaries were not executed on an arm’s length basis, and as a result the Chinese tax authorities could require that our Chinese subsidiaries adjust their taxable income upward for Chinese tax purposes. Such an adjustment could adversely affect us by increasing our tax expenses.

Because a substantial portion of our business is located in China, we may have difficulty maintaining adequate management, legal and financial controls, which we are required to do in order to comply with Section 404 of the Sarbanes-Oxley Act and securities laws, and which could cause a material adverse impact on our consolidated financial statements, the trading price of our common stock and our business.

Chinese companies have historically not adopted a western style of management and financial reporting concepts and practices, which includes strong corporate governance, internal controls and computer, financial and other control systems. Most of our middle management staff and some of our top management staff in China are not educated and trained in the western system, and we may have difficulty hiring new employees in China with experience and expertise relating to accounting principles generally accepted in the U.S. and U.S. public-company reporting requirements. As a result of these factors, we may experience difficulty in maintaining management, legal and financial controls, collecting financial data and preparing financial statements, books of account and corporate records and instituting business practices that meet U.S. public-company reporting requirements. We may, in turn, experience difficulties in maintaining adequate internal controls as required under Section 404 of the Sarbanes-Oxley Act. This may result in material weaknesses in our internal controls which could impact the reliability of our consolidated financial statements and prevent us from complying with SEC rules and regulations and the requirements of the Sarbanes-Oxley Act. Any such material weaknesses or lack of compliance with SEC rules and regulations could result in restatements of our historical consolidated financial statements, cause investors to lose confidence in our reported financial information, have an adverse impact on the trading price of our common stock, adversely affect our ability to access the capital markets and our ability to recruit personnel, lead to the delisting of our securities from the stock exchange on which they are traded. This could lead to litigation claims, thereby diverting management's attention and resources, and which may lead to the payment of damages to the extent such claims are not resolved in our favor, lead to regulatory proceedings, which may result in sanctions, monetary or otherwise, and have a material adverse effect on our reputation and business.

See also the risk factor "If we fail to maintain effective internal control over financial reporting in the future, the accuracy and timing of our financial reporting may be adversely affected."

Our consolidated affiliated entities in China are audited by auditors who are not inspected by the Public Company Accounting Oversight Board and, as such, you are deprived of the benefits of such inspection.

Publicly traded companies in the United States are audited by independent registered public accounting firms registered with the U.S. Public Company Accounting Oversight Board, or the PCAOB, and are required by the laws of the United States to undergo regular inspections by the PCAOB to assess its compliance with the laws of the United States and professional standards. Because the auditors of our consolidated affiliated entities in China are located in China, a jurisdiction where the PCAOB is currently unable to conduct inspections without the approval of the Chinese authorities, such auditors are not currently inspected by the PCAOB. On May 24, 2013, the PCAOB announced that it had entered into a memorandum of understanding on enforcement cooperation with the China Securities Regulatory Commission and the Ministry of Finance of China that establishes a cooperative framework between the parties for the production and exchange of audit documents relevant to investigations in the United States and China. However, direct PCAOB inspections of independent registered accounting firms in China are still not permitted by Chinese authorities.

Inspections of auditing firms that the PCAOB has conducted outside China have identified deficiencies in those firms' audit procedures and quality control procedures, which may be addressed as part of the inspection process to improve future audit quality. This lack of PCAOB inspections in China prevents the PCAOB from regularly evaluating our Chinese auditor's audits and its quality control procedures. As a result, investors may be deprived of the benefits of PCAOB inspections.

Proceedings instituted by the SEC against five China-based accounting firms could result in our financial statements being determined to not be in compliance with the requirements of the Exchange Act.

In December 2012, the SEC instituted proceedings under Rule 102(e)(1)(iii) of the SEC's Rules of Practice against five China-based accounting firms, including the China affiliate of our independent registered public accounting firm, alleging that these firms had violated U.S. securities laws and the SEC's rules and regulations thereunder by failing to provide to the SEC the firms' work papers related to their audits of certain China-based companies that are publicly traded in the United States. On January 23, 2014, the administrative law judge presiding over the proceedings issued an initial decision denying the ability of the China affiliates of four accounting firms, including the China affiliate of our independent registered public accounting firm, to practice before the SEC for six months. This initial decision is subject to appeal. While we cannot predict the final outcome of the SEC's proceedings, if the China affiliate of our independent registered public accounting firm were denied, temporarily or permanently, the ability to practice before the SEC, and we are unable to find timely another registered public accounting firm in China which can audit the financial statements of our consolidated affiliated entities in China, our current independent registered public accounting firm may not be able to issue a report on our financial statements and our financial statements could be determined to not be in compliance with the requirements for financial statements of public companies with a class of securities registered under the Exchange Act. Such a determination could ultimately lead to the delisting of our common stock from the NYSE, which event would effectively terminate the trading market for our common stock, and to the SEC's revoking the registration of our common stock pursuant to Section 12(j) of the Exchange Act, in which event broker-dealers thereafter would be prohibited from effecting transactions in, or inducing the purchase or sale of, our common stock.

The turnover of direct labor in manufacturing industries in China is high, which could adversely affect our production, shipments, and results of operations.

Employee turnover of direct labor in the manufacturing sector in China is typically high and retention of such personnel is a challenge to companies located in or with operations in China. Although direct labor cost does not represent a high proportion of our overall manufacturing costs, direct labor is required for the manufacture of our products. If our direct labor turnover rates are higher than we expect, or we otherwise fail to adequately manage our direct labor turnover rates, then our results of operations could be adversely affected.

Our subsidiaries in China are subject to Chinese labor laws and regulations. Recently enacted Chinese labor laws may increase our operating costs in China, which could adversely affect our financial results.

China Labor Contract Law, effective January 1, 2008, together with its implementing rules, effective September 18, 2008, provides more protection to Chinese employees. Under the new rules, the probation period varies depending on contract terms and the employment contract can only be terminated during the probation period for cause upon three days' notice. Additionally, an employer may not be able to terminate a contract during the probation period on the grounds of a material change of circumstances or a mass layoff. The new law also has specific provisions on conditions when an employer has to sign an employment contract with open-ended terms. If an employer fails to enter into an open-ended contract in certain circumstances, the employer must pay the employee twice their monthly wage beginning from the time the employer should have executed an open-ended contract. Additionally an employer must pay severance for nearly all terminations, including when an employer decides not to renew a fixed-term contract.

On January 1, 2008, the Regulations on Paid Annual Leaves of Staff and Workers also took effect, followed by its implementing measures effective September 18, 2008. These regulations provide that employees who have worked consecutively for one year or more are entitled to paid annual leave. An employer must guarantee that employees receive the same wage income during the annual leave period as that for the normal working period. Where an employer cannot arrange annual leave for an employee due to production needs, upon agreement with the employee, the employer must pay daily wages equal to 300% of the employee's daily salary for each day of annual leave forfeited by such employee.

The Shenzhen municipal government, effective December 2010, issued a measure to require all government agencies, public institutions, and enterprises in Shenzhen to pay a monthly housing fund. The housing fund is designed to enhance the welfare and increase the funds available to Shenzhen employees when buying, building, renovating, or overhauling owner-occupied houses. Employee and employers are required to make equal contributions to the housing fund, which can range between 5% and 20% of the employees' average salary of the most recent year and we commenced making these contributions in the fourth quarter of 2010.

From time to time, the Chinese government has implemented requirements to increase the minimum wage for employees in China. These requirements have resulted in the past, and may result in the future, in higher employee costs for our personnel in China. Minimum wage rates generally vary by city and province within China and have historically increased as much as 20% on an annual basis. We were required to increase wages to comply with these requirements and it may be necessary for us to increase wages more than the minimum wage adjustment requires due to market conditions or additional government mandates. If labor costs in China continue to increase, our gross margins, profit margins and results of operations may be adversely affected. In addition, our competitive advantage against competitors with personnel costs or manufacturing in traditionally higher cost countries may be diminished. These newly introduced laws and regulations may materially increase the costs of our operations in China.

Adoption of international labor standards may increase our direct labor costs.

International standards of corporate social responsibility include strict requirements on labor work practices and overtime. As global service providers and their network equipment vendors adopt these standards, we have in the past incurred and may be required in the future to incur additional direct labor costs associated with our compliance with these standards.

If any of our subsidiaries in China becomes the subject of a bankruptcy or liquidation procedures, we may lose the ability to use its assets.

Because a substantial portion of our business and revenue are derived from China, if any of our subsidiaries in China goes bankrupt and all or part of its assets become subject to liens or rights of third-party creditors, we may be unable to continue some or all of our operations in China. Any delay, interruption or cessation of all or a part of our operations in China would negatively impact our ability to generate revenue and otherwise adversely affect our business.

We may be exposed to liabilities under the FCPA and Chinese anti-corruption laws, and any determination that we violated these laws could have a material adverse effect on our business.

We are subject to the Foreign Corrupt Practice Act of 1977, or FCPA, and other laws that prohibit improper payments or offers of payments to foreign governments and their officials and political parties by U.S. persons and issuers as defined by the statute, for the purpose of obtaining or retaining business. We have operations, agreements with third parties and we make significant sales in China. China also strictly prohibits bribery of government officials. Our activities in China create the risk of unauthorized payments or offers of payments by our employees, consultants, sales agents or distributors, even though they may not always be subject to our control. Although we have implemented policies and procedures to discourage these practices by our employees, our existing safeguards and any future improvements may prove to be less than effective, and our employees, consultants, sales agents or distributors may engage in conduct for which we might be held responsible. Violations of the FCPA or Chinese anti-corruption laws may result in severe criminal or civil sanctions, and we may be subject to other liabilities, which could negatively affect our business, operating results and financial condition. In addition, the U.S. government may seek to hold us liable for successor liability FCPA violations committed by companies in which we invest or that we acquire.

Risks related to ownership of our common stock

Our financial results may vary significantly from quarter-to-quarter due to a number of factors, which may lead to volatility in our stock price.

Our quarterly revenue and results of operations have varied in the past and may continue to vary significantly from quarter to quarter. This variability may lead to volatility in our stock price as research analysts and investors respond to these quarterly fluctuations. These fluctuations are due to numerous factors, including:

- fluctuations in demand for our products;
- the timing, size and product mix of sales of our products;
- changes in our pricing and sales policies or the pricing and sales policies of our competitors;
- our ability to design, manufacture and deliver products to our customers in a timely and cost-effective manner and that meet customer requirements;
- quality control or yield problems in our manufacturing operations;
- our ability to timely obtain adequate quantities of the components used in our products;
- length and variability of the sales cycles of our products;
- unanticipated increases in costs or expenses; and
- fluctuations in foreign currency exchange rates.

The foregoing factors are difficult to forecast, and these, as well as other factors, could materially adversely affect our quarterly and annual results of operations in the future. In addition, a significant amount of our operating expenses is relatively fixed in nature due to our internal manufacturing, research and development, sales and general administrative efforts. Any failure to adjust spending quickly enough to compensate for a revenue shortfall could magnify the adverse impact of such revenue shortfall on our results of operations. Moreover, our results of operations may not meet our announced guidance or the expectations of research analysts or investors, in which case the price of our common stock could decrease significantly. There can be no assurance that we will be able to successfully address these risks.

Our failure to comply with conditions required for our common stock to be listed on the NYSE could result in delisting of our common stock from the NYSE and have a significant negative effect on the value and liquidity of our securities as well as other matters.

As a result of our failure to timely file this Annual Report on Form 10-K as well as our Quarterly Report on Form 10-Q for the three months ended March 31, 2014, we are not in full compliance with the NYSE Listed Company Manual, Section 802.01E. We believe we will cure this deficiency by our filing this Annual Report and our expected filing of the Quarterly Report. We are required to comply with the NYSE Listed Company Manual as a condition for our common stock to continue to be listed on the NYSE. If we are unable to comply with such conditions, then our shares of common stock are subject to delisting from the NYSE.

If our common stock is delisted from the NYSE, such securities may be traded over-the-counter on the “pink sheets.” The alternative market, however, is generally considered to be less efficient than, and not as broad as, the NYSE. Accordingly, delisting of our common stock from the NYSE could have a significant negative effect on the value and liquidity of our securities. In addition, the delisting of such stock could adversely affect our ability to raise capital on terms acceptable to us or at all. In addition, delisting of our common stock may preclude us from using exemptions from certain state and federal securities regulations.

Our failure to prepare and file timely our periodic reports with the SEC may make it more difficult for us to access the public markets to raise debt or equity capital.

We did not file our Annual Report within the time frame required by the SEC. As a result of our failure to file this Annual Report by the filing date required by the SEC (including the grace period permitted by Rule 12b-25 under the Exchange Act), we are not eligible to file a Form S-3 registration statement to conduct public offerings until our filings with the SEC have been timely made for a full year. Our ineligibility to use Form S-3 during this time period may have a negative impact on our ability to quickly access the public capital markets because we would be required to file a long-form registration statement and wait for the SEC to declare such registration statement effective. This may limit our ability to access the public markets to raise debt or equity capital. Our limited ability to access the public markets could prevent us from pursuing transactions or implementing business strategies that we believe would be beneficial to our business.

Our stock price may be volatile.

The market price of our common stock could be subject to wide fluctuations in response to, among other things, the risk factors described in this section of our Annual Report on Form 10-K, and other factors beyond our control, such as fluctuations in the valuation of companies perceived by investors to be comparable to us.

The stock markets have experienced price and volume fluctuations that have affected and continue to affect the market prices of equity securities of many companies. These fluctuations often have been unrelated or disproportionate to the operating performance of those companies. These broad market and industry fluctuations, as well as general economic, political and market conditions, such as recessions, sovereign debt or liquidity issues, interest rate changes or international currency fluctuations, may negatively affect the market price of our common stock.

In the past, many companies that have experienced volatility in the market price of their stock have been subject to securities class action litigation. We may become the target of this type of litigation in the future. Securities litigation against us could result in substantial costs and divert our management's attention from other business concerns, which could seriously harm our business.

If research analysts do not publish research about our business or if they issue unfavorable commentary or downgrade our common stock, our stock price and trading volume could decline.

The trading market for our common stock depends in part on the research and reports that research analysts publish about us and our business. The price of our common stock could decline if one or more research analysts downgrade our stock or if those analysts issue other unfavorable commentary or cease publishing reports about us or our business. If one or more of the research analysts ceases coverage of our company or fails to publish reports on us regularly, demand for our common stock could decrease, which could cause our stock price or trading volume to decline.

The concentration of our capital stock ownership with our principal stockholders, executive officers and directors and their affiliates will limit other stockholders' ability to influence corporate matters.

As of December 31, 2013, our executive officers and directors, and entities that are affiliated with them, beneficially own an aggregate of approximately 55% of our outstanding common stock. This significant concentration of share ownership may adversely affect the trading price for our common stock because investors often perceive disadvantages in owning stock in companies with controlling stockholders. Also, as a result, these stockholders, acting together, will be able to control our management and affairs and matters requiring stockholder approval, including the election of directors and approval of significant corporate transactions. Consequently, this concentration of ownership may have the effect of delaying or preventing a change in control, including a merger, consolidation or other business combination involving us, or discouraging a potential acquirer from making a tender offer or otherwise attempting to obtain control, even if such a change in control would benefit our other stockholders.

We currently do not intend to pay dividends on our common stock and, consequently, your only opportunity to achieve a return on your investment is if the price of our common stock appreciates.

We currently do not plan to declare dividends on shares of our common stock in the foreseeable future. In addition, the terms of our U.S. revolving credit and term loan agreement with Comerica Bank and East-West Bank restrict our ability to pay dividends. Consequently, your only opportunity to achieve a return on your investment in our company will be if the market price of our common stock appreciates and you sell your shares at a profit. There is no guarantee that the price of our common stock that will prevail in the market after our initial public offering will ever exceed the price that you pay.

Our charter documents and Delaware law could prevent a takeover that stockholders consider favorable and could also reduce the market price of our stock.

Our amended and restated certificate of incorporation and our amended and restated bylaws contain provisions that could delay or prevent a change in control of our company. These provisions could also make it more difficult for stockholders to elect directors and take other corporate actions. These provisions include:

- providing for a classified board of directors with staggered, three-year terms;
- not providing for cumulative voting in the election of directors;
- authorizing our board of directors to issue, without stockholder approval, preferred stock rights senior to those of common stock;
- prohibiting stockholder action by written consent;

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- limiting the persons who may call special meetings of stockholders; and
- requiring advance notification of stockholder nominations and proposals.

In addition, we have been governed by the provisions of Section 203 of the Delaware General Corporate Law since the completion of our initial public offering. These provisions may prohibit large stockholders, in particular those owning 15% or more of our outstanding common stock, from engaging in certain business combinations without approval of substantially all of our stockholders for a certain period of time.

These and other provisions in our amended and restated certificate of incorporation, our amended and restated bylaws and under Delaware law could discourage potential takeover attempts, reduce the price that investors might be willing to pay for shares of our common stock in the future and result in the market price being lower than it would be without these provisions.

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ITEM 1B. UNRESOLVED STAFF COMMENTS
Not applicable.

ITEM 2. PROPERTIES
Our properties consist primarily of owned and leased office and manufacturing facilities. Our corporate headquarters are located in San Jose, California and our manufacturing facilities are primarily located in Shenzhen and Dongguan, China. The following schedule presents the approximate square footage of our facilities as of December 31, 2013:

Location	Square Feet	Commitment and Use
San Jose, California [1]	63,526	Leased; 2 buildings used for corporate headquarters offices and wafer fabrication.
Fremont, California	73,175	Leased; 2 buildings used for wafer fabrication and research and development.
Shenzhen, China [2]	236,715	Owned; 1 building and 1 floor of a building. Used for manufacturing, research and development, and sales and marketing.
Shenzhen, China	81,580	Leased; 3 buildings used for staff dormitory.
Dongguan, China	93,517	Leased; 2 buildings used for manufacturing and staff dormitory.
Tokyo, Japan	13,351	Owned; 1 building used for manufacturing, research and development and marketing.

(1) One building, 24,212 square feet has been sub-leased until October 2015.
(2) The owned floor of the building in Shenzhen, representing 23,361 square feet, was leased to a tenant effective February 2014.

In addition, we lease a number of smaller offices for warehouse, manufacturing, research and other functions.

ITEM 3. LEGAL PROCEEDINGS

From time to time, we are involved in litigation that we believe is of the type common to companies engaged in our line of business, including commercial disputes and employment issues. As of the date of this Annual Report on Form 10-K, other than as described below, we are not involved in any pending legal proceedings that we believe could have a material adverse effect on our financial condition, results of operations or cash flows. However, as described below, a certain dispute involves a claim by a third party that our activities infringe their intellectual property rights. This and other types of intellectual property rights claims generally involve the demand by a third party that we cease the manufacture, use or sale of the allegedly infringing products, processes or technologies and/or pay substantial damages or royalties for past, present and future use of the allegedly infringing intellectual property. Claims that our products or processes infringe or misappropriate any third-party intellectual property rights (including claims arising through our contractual indemnification of our customers) often involve highly complex, technical issues, the outcome of which is inherently uncertain. Moreover, from time to time, we may pursue litigation to assert our intellectual property rights. Regardless of the merit or resolution of any such litigation, complex intellectual property litigation is generally costly and diverts the efforts and attention of our management and technical personnel which could adversely affect our business.

On January 5, 2010, Finisar Corporation, or Finisar, filed a complaint in the U.S. District Court for the Northern District of California against Source Photonics, Inc., MRV Communications, Inc., Oplink Communications, Inc. and us, or collectively, the co-defendants. In the complaint, Finisar alleged infringement of certain of its U.S. patents arising from the co-defendants' respective manufacture, importation, use, sale of or offer to sell certain optical transceiver products. On March 23, 2010, we filed an answer to the complaint and counterclaims, asserting two claims of patent infringement and additional claims asserting that Finisar has violated state and federal competition laws and violated its obligations to license on reasonable and non-discriminatory terms. On May 5, 2010, the court dismissed without prejudice all co-defendants (including us) except Source Photonics, Inc., on grounds that such claims should have been asserted in four separate lawsuits, one against each defendant. This dismissal without prejudice does not prevent Finisar from bringing a new similar lawsuit against us. On January 18, 2011, we and Finisar agreed to suspend their respective claims and not to refile the originally asserted claims against each other until at least 90 days after one or more specified events occur resulting in the partial or complete resolution of litigation involving the same Finisar patents between Oplink Communications, Inc. and Finisar. This tolling period expired on April 30, 2012. On May 3, 2012 we and Finisar agreed to further toll their respective claims until the refiling of certain of the previously asserted claims from this dispute. As a result, Finisar is permitted to bring a new lawsuit against us if it chooses to do so, and we may bring new claims against Finisar upon seven days written notice prior to filing such claims.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

As of May 27 , 2014, there were approximately 160 holders of record of our common stock (not including beneficial holders of our common stock holder in street names). We have not paid cash dividends on our common stock since our inception, and we do not anticipate paying any in the foreseeable future. Any future determination as to the declaration and payment of dividends, if any, will be at the discretion of our board of directors and will depend on then existing conditions, including our financial condition, operating results, contractual restrictions, capital requirements, business prospects, consent from our existing credit facility lender in the U.S., and other factors our board of directors may deem relevant.

The following table sets forth, for the periods indicated, the high and low sales prices of our common stock as reported by the New York Stock Exchange.

	Low	High
Fiscal Year 2013:		
First Quarter	$4.79	$6.09
Second Quarter	$4.75	$8.81
Third Quarter	$6.20	$9.77
Fourth Quarter	$5.31	$7.98
Fiscal Year 2012:		
First Quarter	$4.50	$6.38
Second Quarter	$3.92	$5.50
Third Quarter	$4.67	$6.08
Fourth Quarter	$4.90	$5.99

The graph below shows the cumulative total stockholder return of an investment of $100 (and the reinvestment of any dividends thereafter) on February 2, 2011 (the first trading day of NeoPhotonics Corporation common stock) in (i) our common stock, (ii) the S&P 500 Index and (iii) the NASDAQ Telecommunications Index. Our stock price performance shown in the graph below is not indicative of future stock price performance. The following graph and related information shall not be deemed "soliciting material" or be deemed to be "filed" with the SEC, nor shall such information be incorporated by reference into any future filing, except to the extent that we specifically state that such graph and related information are incorporated by reference into such filing.

	NeoPhotonics	S&P 500	NASDAQ Telecom
02/02/11	$ 100	$ 100	$ 100
12/31/11	$ 35	$ 96	$ 83
12/31/12	$ 43	$ 109	$ 84
12/31/13	$ 53	$ 142	$ 105

For equity compensation plan information refer to Item 12 of this Annual Report on Form 10-K.

ITEM 6. SELECTED FINANCIAL DATA

The following selected consolidated financial data should be read together with our consolidated financial statements and the related notes and "Management's Discussion and Analysis of Financial Condition and Results of Operations" appearing elsewhere in this Annual Report on Form 10-K. The selected consolidated financial data in this section is not intended to replace our consolidated financial statements and the related notes.

We derived the consolidated statements of operations data for the years ended December 31, 2013, 2012 and 2011 and the consolidated balance sheet data as of December 31, 2013 and 2012 from our consolidated financial statements appearing elsewhere in this Annual Report on Form 10-K. The consolidated statements of operations data for the years ended December 31, 2010 and 2009 and the consolidated balance sheet data as of December 31, 2011, 2010 and 2009 are derived from our consolidated financial statements, which are not included in this Annual Report on Form 10-K. Our historical results are not necessarily indicative of our future results.

In the fourth quarter of 2011, we initiated a plan to sell a component of our business, Shenzhen Photon Broadband Technology Co., Ltd. (Broadband), a subsidiary in China. In January 2012, we entered into a purchase agreement with a third party to dispose of our 100% equity interest in Broadband for a total cash consideration of RMB 13.0 million ($2.1 million), and the transaction closed in March 2012. As such, the net assets of Broadband were classified as held-for-sale in our consolidated balance sheets and the results of operations associated with Broadband were presented as discontinued operations in our consolidated statements of operations for all periods presented through 2012.

	Years ended December 31,				
Consolidated Statement of Operations Data:	2013 (2)	2012	2011 (1)	2010	2009
	(in thousands, except per share data)				
Revenue	$282,242	$245,423	$201,029	$177,679	$145,286
Cost of goods sold	217,069	184,163	150,944	123,373	106,833
Gross profit	65,173	61,260	50,085	54,306	38,453
Operating expenses (3)	98,846	78,167	78,551	47,812	41,222
Income (loss) from operations	(33,673)	(16,907)	(28,466)	6,494	(2,769)
Interest and other income (expense), net (4)	538	599	14,231	(533)	(593)
Provision for income taxes	(1,204)	(1,364)	(1,155)	(2,289)	(1,465)
Income (loss) from continuing operations	$(34,339)	$(17,672)	$(15,390)	$3,672	$(4,827)
Basic and diluted net income (loss) per share from continuing operations attributable to NeoPhotonics Corporation common stockholders: (5)	$(1.11)	$(0.62)	$(1.45)	$—	$(2.60)

Years ended December 31,

Consolidated Balance Sheet Data:	2013	2012	2011	2010	2009
	(in thousands)				
Cash and cash equivalents	$57,101	$36,940	$32,321	$24,659	$41,781
Short-term investments	17,916	64,301	54,063	—	—
Working capital [6]	124,298	152,374	124,199	44,129	44,167
Total assets	302,227	295,632	277,049	172,495	162,248
Long-term debt (including current portion)	34,475	22,167	27,166	8,836	8,147
Redeemable convertible preferred stock [7]	—	—	—	211,541	205,450
Common stock and additional paid-in capital [7][8]	447,546	438,934	392,854	93,354	91,899
Total equity (deficit)	176,811	202,680	173,654	(109,638)	(119,582)

(1) We acquired Santur on October 12, 2011 and its results of operations are included from the date of acquisition.
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(2) We acquired NeoPhotonics Semiconductor on March 29, 2013 and its results of operations are included from the date of acquisition.
(3) Due to the decrease in our market capitalization as of the end of the fourth quarter of 2011, we determined that the indicators of impairment existed and that the carrying value of our goodwill was not recoverable. As a result, we recorded a goodwill impairment charge of $13.1 million, of which $8.8 million was related to the acquisition of Santur in October 2011.
(4) In 2010, we purchased shares of Ignis ASA ("Ignis"), a Norwegian company traded on the Oslo Borse (Norway stock exchange) for $8.1 million. In 2011, we sold our shares in Ignis for $21.3 million and recognized a gain of $13.8 million. The gain was recognized as other income in the consolidated statement of operations for the year ended December 31, 2011.
(5) See Note 6 to the Consolidated Financial Statements for a description of our calculation of net income (loss) per share.
(6) Working capital is defined as total current assets less total current liabilities.
(7) In connection with the closing of our initial public offering in February 2011, all of the shares of Series 1, Series 2, Series 3 and Series X preferred stock outstanding automatically converted into shares of common stock.
(8) The December 31, 2012 balance reflects a revision related to the accounting for a $5.0 million penalty payment in connection with the sale of common stock in a private placement transaction in April, 2012. See Note 1 to the Consolidated Financial Statements.

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

You should read the following discussion and analysis by our management of our financial condition and results of operations in conjunction with our consolidated financial statements and the accompanying notes.

The following discussion contains forward-looking statements that involve risks and uncertainties, such as statements of our plans, objectives, expectations and intentions. Our actual results could differ materially from those discussed in the forward-looking statements. Please also see the cautionary language at the beginning of Part I of this Annual Report on Form 10-K regarding forward-looking statements. Factors that could cause or contribute to such differences include, but are not limited to, those discussed in "Risk Factors" of this Annual Report on Form 10-K.

Business overview

We are a leading designer and manufacturer of photonic integrated circuit, or PIC-based optoelectronic modules and subsystems for bandwidth-intensive, high-speed communications networks.

Our products are designed to enable high-speed transmission rates and efficient allocation of bandwidth over optical networks with high quality and low costs. Our PIC technology utilizes proprietary design elements that provide optical functionality on a silicon or indium phosphide or hybrid chip. PIC devices can integrate many more functional elements than discretely packaged components, enabling increased functionality in a small form factor while reducing packaging and interconnection costs. In addition, the cost advantages of PIC-based components are similar to the economics of semiconductor wafer mass manufacturing, where the marginal cost of producing an incremental chip is much less than that of a discrete component.

We have research and development and wafer fabrication facilities in San Jose and Fremont, California and in Tokyo, Japan which coordinate with our research and development and manufacturing facilities in Shenzhen and Wuhan, China and Ottawa, Canada. We utilize proprietary design tools and design-for-manufacturing techniques to align our design process with our precision nanoscale, vertically integrated manufacturing and testing capabilities. We sell our products to the leading network equipment vendors globally, including ADVA AG Optical Networking Ltd., Alcatel-Lucent SA, Ciena Corporation, Cisco Systems, Inc., Coriant Gmbh & Co. KG (formerly Nokia Siemens Networks B.V.), ECI Telecom Ltd., FiberHome Technologies Group, Fujitsu Limited, Huawei Technologies, Juniper Networks, Inc., Mitsubishi Electric Corporation, NEC Corporation, Telefonaktiebolaget LM Ericsson and ZTE Corporation. We refer to these companies as our Tier 1 customers.

In October 2011, we acquired Santur, a designer and manufacturer of Indium Phosphide (InP) based PIC products. The acquisition of Santur enhances the Company's position in PIC-based modules and subsystems for high speed networks.

In January 2012, we entered into a purchase agreement with a third party to divest our 100% equity interest in Shenzhen Photon Broadband Technology Co., Ltd. (Broadband) for a total cash consideration of RMB 13.0 million ($2.1 million), and the transaction closed in March 2012. The results of operations associated with Broadband are presented as discontinued operations in our consolidated statements of operations in 2011 and 2012. Unless otherwise indicated, all discussions relate to our continuing operations.

On April 27, 2012, we issued and sold approximately 4.97 million shares of our common stock in a private placement transaction at a price of $8.00 per share for a gross proceeds amount of approximately $39.8 million. We intend to use the amount received for general corporate purposes. The shares of common stock are restricted from transfer pursuant to a lockup agreement for up to two years, at the end of which we are obligated to file one or more registration statements covering the potential resale of the shares of common stock. Because we did not timely file our Quarterly

Report on Form 10-Q for the period ended September 30, 2013 and this Annual Report on Form 10-K for the fiscal year ended December 31, 2013, we are currently ineligible to file the required registration statement on Form S-3 within the original time frame and we have requested an extension from the purchaser. In connection with this private placement transaction, we agreed to certain performance obligations, including establishing a wholly-owned subsidiary in the Russian Federation and making a $30.0 million investment commitment towards our Russian operations. See—Liquidity and Capital Resources, Contractual Obligations and Commitments and Note 14 to the Consolidated Financial Statements.

On March 29, 2013, we acquired the semiconductor optical components business unit of LAPIS Semiconductor Co., Ltd., now known as NeoPhotonics Semiconductor. NeoPhotonics Semiconductor is a leading provider of lasers, drivers, and detectors for high speed 100Gbps applications and is located in Tokyo, Japan.

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In 2013, our revenue growth of 15% over the prior-year was driven primarily by demand for our 100Gbps speed products, as carriers continued to accelerate deployment of high capacity optical transport networks and by our acquisition of NeoPhotonics Semiconductor, many of whose products are 100Gbps. We operated a sales model that focused on direct alignment with our customers through coordination of our sales, product engineering and manufacturing teams. Our sales and marketing organizations supported our strategy of increasing product penetration with our Tier 1 customers while also serving our broader customer base. We used a direct sales force in the U.S., China, Canada, Israel, Japan, Russia and the European Union. These individuals worked with our product engineers, and product marketing and sales operations teams, in an integrated approach to address our customers' current and future needs. We also engaged independent commissioned representatives worldwide to extend our global reach.

We expect continued volume growth for our 100Gbps products; however at declining prices due to the results of our annual customer negotiations and new entrants into the market. We expect to continue experiencing competition from companies that range from large international companies offering a wide range of products to smaller companies specializing in narrow markets. We anticipate macroeconomic conditions, including the slow recovery in the U.S., European sovereign debt issues, and concerns relating to inflation in China, could impact our results.

Critical accounting policies and estimates

Our discussion and analysis of our financial condition and results of operations are based upon our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the U.S. ("U.S. GAAP"). These principles require us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenue, expenses and cash flow, and related disclosure of contingent assets and liabilities. Our estimates include those related to revenue recognition, stock-based compensation expense, impairment analysis of goodwill and long-lived assets, valuation of inventory, purchased intangibles, warranty liabilities and accounting for income taxes. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances. Actual results may differ from these estimates. To the extent that there are material differences between these estimates and our actual results, our future financial statements will be affected.

We believe that of our significant accounting policies, which are described in Note 2 of Notes to Consolidated Financial Statements, the following accounting policies involve a greater degree of judgment and complexity. Accordingly, we believe these are the most critical to fully understand and evaluate our financial condition and results of operations.

Revenue recognition

We recognize revenue from the sale of our products provided that persuasive evidence of an arrangement exists, delivery has occurred, the price is fixed or determinable and collectability is reasonably assured. Contracts and/or customer purchase orders are used to determine the existence of an arrangement. Shipping documents and customer acceptance, when applicable, are used to verify delivery. We assess whether the fee is fixed or determinable based on the payment terms associated with the transaction and whether the sales price is subject to refund or adjustment. We assess collectability based primarily on the creditworthiness of the customer as determined by credit checks and the customer's payment history.

We recognize revenue when the product is shipped and title has transferred to the buyer. We bear all costs and risks of loss or damage to the goods up to that point. On most orders, our terms of sale provide that title passes to the buyer upon shipment by us. In certain cases, our terms of sale may provide that title passes to the buyer upon delivery of the goods to the buyer. Revenue related to the sale of consignment inventory at customer vendor managed locations is not recognized until the product is pulled from inventory stock by customers. Payments made to third-party sales representatives are recorded to sales and marketing expense and not a reduction of revenue as the sales agent services they provide have an identifiable benefit and are made at similar rates of other sales agent service providers. Shipping and handling costs are included in the cost of goods sold. We present revenue net of sales taxes and any similar assessments.

Stock-based compensation expense

We grant stock options, stock purchase rights, stock appreciation units and restricted stock units to employees, directors and consultants. The stock-based awards are accounted for at fair value as of the measurement date. For stock options and restricted stock units, the measurement date is the grant date and for stock purchase rights the measurement date is the first day of the offering period. Stock appreciation units are subject to re-measurement each reporting period.

We recognize the fair value over the period during which an employee is required to provide services in exchange for the award, known as the requisite service period (usually the vesting period) on a straight-line basis. Stock-based compensation expense includes the impact of estimated forfeitures. We estimate future forfeitures at the date of grant and revise the estimates, if necessary, in subsequent periods if actual forfeitures differ from those estimates.

We generally account for stock-based compensation using the Black-Scholes-Merton option-pricing model. Determining the appropriate fair value model and calculating the fair value of stock-based awards requires judgment, including estimating stock price volatility, forfeiture rates and expected life. If any of these assumptions used in the option-pricing models change, our stock-based compensation expense could change on our consolidated financial statements.

Business Combinations

We allocate the fair value of purchase consideration to the tangible and intangible assets acquired and liabilities assumed based on their estimated fair values. The excess of the fair value of purchase consideration over the fair values of these identifiable assets and liabilities is recorded as goodwill. When determining the fair values of assets acquired and liabilities assumed, management makes significant estimates and assumptions, especially with respect to intangible assets.

Fair value estimates are based on the assumptions management believes a market participant would use in pricing the asset or liability. Critical estimates in valuing certain intangible assets include but are not limited to future expected cash flows from customer relationships and acquired patents and developed technology; and discount rates. Management's estimates of fair value are based upon assumptions believed to be reasonable, but which are inherently uncertain and unpredictable and, as a result, actual results may differ from estimates.

Amounts recorded in a business combination may change during the measurement period, which is a period not to exceed one year from the date of acquisition, as additional information about conditions existing at the acquisition date becomes available.

Long-lived assets

We assess the impairment of long-lived assets whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. An impairment loss would be recognized when the sum of the future net cash flows expected to result from the use of the asset and its eventual disposition is less than its carrying amount. The estimated future cash flows are based upon, among other things, assumptions about expected future operating performance and may differ from actual cash flows. If our estimates regarding future cash flows derived from such assets were to change, we may record an impairment to the value of these assets.

Valuation of inventories

We record inventories at the lower of cost (using the first-in, first-out method) or market, after we give appropriate consideration to obsolescence and inventories in excess of anticipated future demand. In assessing the ultimate recoverability of inventories, we are required to make estimates regarding future customer demand, the timing of new product introductions, economic trends and market conditions. If the actual product demand is significantly lower than forecasted, we could be required to record additional inventory write-downs which would be charged to cost of goods sold. Obsolescence is determined from several factors, including competitiveness of product offerings, market conditions and product life cycles. Write-downs of excess and obsolete inventory are charged to cost of goods sold. At the point of the loss recognition, a new, lower cost basis for that inventory is established, and subsequent changes in facts and circumstances do not result in the restoration or increase in that newly established cost basis. If this lower-cost inventory is subsequently sold, it will result in lower costs and higher gross margin for those products. Any write-downs would have an adverse impact on our gross margin. During the years ended December 31, 2013, 2012 and 2011, we recorded excess and obsolete inventory charges of \$3.2 million, \$3.1 million and \$0.6 million, respectively.

Warranty liabilities

We provide warranties to cover defects in workmanship, materials and manufacturing of our products for a period of one to two years to meet stated functionality specifications. From time to time, we have agreed, and may agree, to warranty provisions providing for extended terms or with a greater scope. We test products against specified functionality requirements prior to delivery, but we nevertheless from time to time experience claims under our warranty guarantees. We accrue for estimated warranty costs under those guarantees based upon historical experience, and for specific items at the time their existence is known and the amounts are determinable. We charge a provision for estimated future costs related to warranty activities to cost of goods sold based upon historical product failure rates and historical costs incurred in correcting product failures. If we experience an increase in warranty claims compared with our historical experience, or if the cost of servicing warranty claims is greater than expected, our gross margin and profitability would be adversely affected. We recorded warranty expense of $1.5 million, $0.1 million and $0.4 million for each of the years ended December 31, 2013, 2012 and 2011, respectively.

Accounting for income taxes

We record income taxes using the asset and liability method, which requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been recognized in our consolidated financial statements or tax returns. In estimating future tax consequences, generally we consider all expected future events, other than enactments or changes in tax law or rates. We provide valuation allowances when necessary to reduce deferred tax assets to the amount expected to be realized.

We operate in various tax jurisdictions and are subject to audit by various tax authorities. We provide for tax contingencies whenever it is deemed probable that a tax asset has been impaired or a tax liability has been incurred for events such as tax claims or changes in tax laws. Tax contingencies are based upon their technical merits, relevant tax law and the specific facts and circumstances as of each reporting period. Changes in facts and circumstances could result in material changes to the amounts recorded for such tax contingencies.

As part of the process of preparing our consolidated financial statements, we are required to estimate our taxes in each of the jurisdictions in which we operate. We estimate actual current tax exposure together with assessing temporary differences resulting from differing treatment of items, such as accruals and allowances not currently deductible for tax purposes. These differences result in deferred tax assets.

We make estimates and judgments about our future taxable income that are based on assumptions that are consistent with our plans and estimates. Should the actual amounts differ from our estimates, the amount of our valuation allowance could be materially impacted. Any adjustment to the deferred tax asset valuation allowance would be recorded in the consolidated statement of operations in the period that the adjustment is determined to be required.

Results of operations

The following table presents certain Consolidated Statements of Operations data for the periods indicated as a percentage of total revenue:

	Years Ended December 31,		
	2013	2012	2011
Revenue	100 %	100 %	100 %
Gross profit	23 %	25 %	25 %
Operating expenses	35 %	32 %	39 %
Loss from operations	(12)%	(7)%	(14)%
Interest and other income (expense), net	— %	— %	7 %
Loss before income taxes	(12)%	(7)%	(7)%
Net loss	(12)%	(7)%	(7)%

Revenue

(in thousands, except percentages)	2013	% Change 2012 to 2013	2012	% Change 2011 to 2012	2011
Total revenue	$282,242	15 %	$245,423	22 %	$201,029

We sell substantially all of our products to original equipment manufacturers, or OEMs. We recognize revenue upon delivery of our products to the OEM. We price our products based on market and competitive conditions and may periodically reduce the price of our products as market and competitive conditions change and as manufacturing costs are reduced. Our sales transactions to customers are denominated primarily in Chinese Renminbi (“RMB”), Japanese Yen (“JPY”) and U.S. dollars. Revenue is driven by the volume of shipments and may be impacted by pricing pressures. We have generated most of our revenue from a limited number of customers. Given the high concentration of network equipment vendors in our industry, our top ten customers represented 86%, 90% and 91% of our revenue in 2013, 2012 and 2011, respectively. For the year ended December 31, 2013, Huawei Technologies, Ciena Corporation and Alcatel-Lucent SA accounted for 27%, 16% and 14% of our revenue, respectively. For the year ended December 2012, Huawei Technologies, Ciena Corporation and Alcatel-Lucent SA accounted for 36%, 15% and 16% of our total revenue, respectively. For the year ended December 31, 2011, Huawei accounted for 51% of our total revenue. No other customers accounted for 10% or more of our total revenue in any year presented. For the year ended December 31, 2013, 2012 and 2011, our sales from our China-based subsidiaries, the majority of which were denominated in RMB were 31%, 49% and 64%, respectively.

Total revenue increased by $36.8 million in 2013 compared to 2012, representing a 15% increase. This increase was primarily attributable to a $44.9 million increase in revenue from our high speed 100Gbps and 40Gbps products, including a significant contribution from the newly acquired NeoPhotonics Semiconductor in Japan, partially offset by a decrease in revenue contribution from our legacy products. In 2013, high speed products were up 69% over 2012, while our Access products were down 13% from 2012.

Total revenue increased by $44.4 million in 2012 compared to 2011, representing a 22% increase. This increase in revenue was primarily attributable to growth in our high speed 100Gbps and 40Gbps products which generally have higher average selling prices as compared to more mature products. Our high speed 100Gbps products grew more than 300% from 2011 to 2012. On a global basis, in 2012 we experienced greater revenue growth from Western customers compared to customers located in China, while in 2011 the increase in revenue was primarily realized in China and to a lesser extent in the U.S.

In 2014, we expect continued growth in revenue from our 100Gbps products. We also expect that a significant portion of our revenue will continue to be derived from a limited number of customers. As a result, the loss of, or a significant reduction in orders from our largest customers, including Alcatel-Lucent, Ciena and Huawei Technologies, or any of our other key customers would materially affect our revenue and results of operations. We expect a significant portion of our sales to continue to be denominated in RMB, and, to a lesser extent, in JPY and therefore may be affected by changes in foreign exchange rates.

Cost of goods sold and gross profit

(in thousands, except percentages)	2013	% Change 2012 to 2013	2012	% Change 2011 to 2012	2011
Cost of goods sold	$217,069	18 %	$184,163	22 %	$150,944

	2013	2012	2011
Gross margin	23 %	25 %	25 %

Our cost of goods sold consists primarily of the cost to produce wafers and to manufacture and test our products. Additionally, our cost of goods sold includes stock-based compensation, write-downs of excess and obsolete inventory, royalty payments, amortization of certain purchased intangible assets, depreciation, acquisition-related fair value adjustments, restructuring cost, warranty, shipping and allocated facilities and IT costs.

Gross margin decreased to 23% in 2013 compared to 25% in both 2012 and 2011. The decrease in gross margin partially resulted from costs associated with our NeoPhotonics Semiconductor acquisition, including $2.9 million fair value of the inventory over its cost at the acquisition date recognized during the period, as well as a $1.4 million increase in our warranty provision primarily due to higher warranty-related costs in the US and China and a $0.3 million warranty accrual release in 2012 related to Santur. Our 2013 gross margin was also impacted by restructuring charges of $0.7 million and lower average selling prices resulting from increased competition and pricing pressure from our major customers.

We expect that our gross profit is likely to continue to fluctuate due to a variety of factors, including the introduction of new products, production volume, production volume compared to sales over time, the mix of products sold, inventory changes, changes in the average selling prices of our products, changes in the cost and volumes of materials purchased from our suppliers, changes in labor costs, changes in overhead costs or requirements, revaluation of stock appreciation unit awards that are impacted by our stock price, write-downs of excess and obsolete inventories and warranty costs. In addition, we periodically negotiate pricing with certain customers which can cause our gross margins to fluctuate, particularly in the quarters in which the negotiations occurred. We strive to increase our gross margin through management of the costs of our supply chain and productivity in our manufacturing processes.

Operating expenses

(in thousands, except percentages)	2013	% Change 2012 to 2013	2012	% Change 2011 to 2012	2011
Research and development	$45,853	20 %	$38,288	24 %	$30,855
Sales and marketing	14,242	8 %	13,241	13 %	11,686
General and administrative	30,012	23 %	24,361	16 %	20,911
Acquisition-related transaction costs	5,406	274 %	1,447	46 %	989
Amortization of purchase intangible assets	1,532	16 %	1,316	32 %	994
Adjustment to fair value of contingent consideration	1,026	285 %	(554)	57 %	(1,287)
Goodwill impairment charges	—	— %	—	(100)%	13,106
Restructuring charges	775	1040 %	68	(95)%	1,297
Total operating expenses	$98,846	26 %	$78,167	— %	$78,551

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Research and development

Research and development expense consists of personnel costs, including stock-based compensation, for our research and development personnel, and product development costs, including engineering services, development software and hardware tools, depreciation of equipment and facility costs. We record all research and development expense as incurred.

Research and development expense increased by $7.6 million in 2013 compared to 2012, representing a 20% increase. The acquisition of NeoPhotonics Semiconductor increased our research and development expense by $3.7 million. Other increases in 2013 included $2.9 million for research and development projects to support our business growth, $1.4 million for labor and facilities expenses related to manufacturing support of research and development activities, $0.5 million in higher compensation-related costs, partially offset by a $1.0 million decrease related to additional retention-related compensation costs in 2012 related to the acquisition of Santur.

Research and development expense increased by $7.4 million in 2012 compared to 2011, representing a 24% increase. This increase was primarily due to a $4.6 million increase in additional compensation and employee-related costs mainly due to the acquisition of Santur in the fourth quarter of 2011, $1.6 million increase in depreciation expense and $0.8 million increase in stock-based compensation expense.

We believe that investments in research and development are important to help meet our strategic objectives. In 2014, we plan to continue to invest in certain research and development activities including new products that will further enhance our competitive position. As a percentage of total revenue, our research and development expense may vary as our investment levels and revenue change over time.

Sales and marketing

Sales and marketing expense consists primarily of personnel costs, including stock-based compensation and sales commissions, costs related to sales and marketing programs and services and facility costs.

Sales and marketing expense increased by $1.0 million in 2013 compared to 2012, representing an 8% increase which was primarily due to increases from the acquisition of NeoPhotonics Semiconductor and higher variable compensation costs.

Sales and marketing expense increased by $1.6 million in 2012 compared to 2011, representing a 13% increase. This increase was primarily due to a $0.9 million increase in additional compensation and employee-related costs as a result of increased headcount.

We expect our sales and marketing expense to grow modestly in 2013 as our business continues to expand geographically. As a percentage of total revenue, our sales and marketing expense may vary as our revenue changes over time.

General and administrative

General and administrative expense consists of personnel costs, including stock-based compensation, for our finance, human resources and information technology personnel and certain executive officers, as well as professional services costs related to accounting, tax, banking, legal and information technology services, depreciation and facility costs.

General and administrative expense increased by $5.7 million in 2013 compared to 2012, representing a 23% increase. Consulting and professional fees increased by $3.6 million primarily related to resources to assist us in the process of remediating weaknesses in our controls over financial reporting, to provide technical accounting support and to fill key vacant positions on an interim basis as well as costs related to the restatement of our Quarterly Report on forms 10-Q for the quarters ended March 31 and June 30, 2013. Additional increases included $1.4 million in higher software license and other IT-related expenses, costs from the newly acquired NeoPhotonics Semiconductor of $1.3 million, $0.5 million in higher audit-related fees, $0.6 million in loss on disposal of fixed assets, $1.2 million in higher stock-based compensation, payroll and related costs and $0.5 million in other costs to support our continued growth. These increases were partially offset by a $3.3 million decrease in bonus expense and a $0.4 million decrease in depreciation expense.

General and administrative expense increased by $3.5 million in 2012 compared to 2011, representing a 16% increase. This was primarily due to a $1.3 million increase in depreciation expenses as a result of the acquisition of Santur, a $1.6 million increase in compensation and employee-related costs, and a $1.0 million increase in accounting system upgrades.

We expect the higher consulting and professional fees to continue through the first half of 2014 and to then decrease in the second half of 2014 with completion of the filing of our 2013 Quarterly Reports, including restatements, and this Annual Report on Form 10-K. As a percentage of total revenue, our general and administrative expense may vary as our revenue changes over time.

Amortization of purchased intangible assets

Our intangible assets are being amortized over their estimated useful lives. Amortization expense relating to technology and patents and leasehold interests are included within cost of goods sold, while customer relationships and noncompete agreements are recorded within operating expenses.

Amortization of purchased intangible assets increased by $0.2 million in 2013 compared to 2012, representing a 16% increase and was due to intangible assets from our NeoPhotonics Semiconductor in 2013.

Amortization of purchased intangible assets increased by $0.3 million in 2012 compared to 2011, representing a 32% increase and was due to assets acquired from Santur in the fourth quarter of 2011.

Adjustment to the fair value of contingent consideration

In May 2014, we entered into a settlement agreement covering the outstanding claims in connection with our 2011 acquisition of Santur. Under the terms of the settlement agreement, a net amount of $1.9 million was paid to us from the escrow account that was set up under the original merger agreement, which comprises $3.9 million related to certain indemnification claims by us ("Indemnification Amount") which were partially offset by $2.0 million related to additional consideration for the business acquisition that was contingent upon Santur's gross profit performance during 2012 ("Contingent Consideration Amount"). Prior to this settlement, we had recorded $1.0 million as our estimated fair value of the Contingent Consideration Amount. As a result of this settlement, we recorded an additional $1.0 million in our operating expenses in 2013 to adjust the fair value of the Contingent Consideration Amount to the full $2.0 million settlement amount. Because it is considered to be a contingent gain, the $3.9 million Indemnification Amount will not be recognized until the quarter ended June 30, 2014.

Goodwill impairment charge

Due to the decrease in our market capitalization as of the end of the fourth quarter of 2011, and based on our assessment, we determined that the indicators of impairment existed and that the carrying value of our goodwill may not be recoverable. As a result, we recognized a goodwill impairment charge of $13.1 million, representing the entire balance of our goodwill.

Restructuring charges

During 2013, we exited and closed one facility at our headquarters location to align our facilities usage with its current size. Additionally, we approved and implemented a restructuring action in which we reduced our workforce and closed a facility in China and exited our contract manufacturing activities in Malaysia. We recorded a restructuring charge of $1.5 million during 2013 related to these actions, of which $0.8 million was recorded in operating expenses with the remainder recorded in cost of goods sold.

In 2011, we implemented a restructuring plan to effect cost-cutting measures, primarily in research and development. We made additional reductions as a result of redundancy in positions due to the acquisition of Santur in October 2011. As a result, we recorded a restructuring charge of $1.3 million for severance and benefit costs in 2011 and an additional $68,000 related to this restructuring during 2012. As of December 31, 2012, all of this restructuring expense was paid.

Interest and other income (expense), net

(in thousands, except percentages)	2013	% Change 2012 to 2013	2012	% Change 2011 to 2012	2011
Interest and other income (expense), net	$538	(10)%	$599	(96)%	$14,231

Interest and other income (expense), net consists of interest income, interest expense and other income (expense). Interest income consists of income earned on our cash, cash equivalents and short-term investments. Interest expense consists of amounts incurred for interest on our outstanding debt. Other income (expense) also includes government subsidies and foreign currency transaction gains and losses. The functional currency of our subsidiaries in China and Japan is the RMB and the JPY, respectively.

Interest and other income (expense), net, decreased by 10% in 2013 compared to 2012. The decrease is primarily due to a $0.4 million increase in interest expense related to higher long-term debt in 2013 and a $0.2 million decrease in interest income, which was partially offset by a $0.6 million increase in other income. Included in other income was a $0.9 million net foreign exchange gain in 2013 which was a $1.1 million increase from a $0.2 million foreign exchange loss in 2012.

Interest and other income (expense), net decreased by $13.6 million in 2012 compared to 2011, representing a 96% decrease. The decrease was primarily due to a gain of $13.8 million from the sale of an investment in an unconsolidated investee in 2011.

Income taxes

	Years ended December 31,		
(in thousands, except percentages)	2013	2012	2011
Provision for income taxes	$(1,204)	$(1,364)	$(1,155)
Effective tax rate	(4)%	(8)%	(8)%

In 2013, 2012 and 2011, our income tax provision was primarily related to the operating profit realized in our foreign subsidiaries, despite a consolidated loss before income taxes. Historically, we have experienced net losses in the U.S. and in the short term, we expect this trend to continue. In China, one of our subsidiaries has qualified for a preferential 15% tax rate available for high technology enterprises. The preferential rate applied to 2013, 2012 and 2011. We realized benefits from this 10% reduction in tax rate of $0.2 million, $0.9 million and $0.5 million for 2013, 2012 and 2011, respectively. We intend to apply for renewal of the preferential rate for 2014. In order to retain the preferential rate, we must meet certain operating conditions, satisfy certain product requirements, meet certain headcount requirements and maintain certain levels of research expenditures. The preferential tax rate that we enjoy could be modified or discontinued altogether at any time, which could materially and adversely affect our financial condition and results of operations.

The effective tax rate in 2013 of 4% was 4% lower than the 8% effective rate in 2012 and 2011, primarily due to a higher U.S. loss relative to our earnings in foreign subsidiaries.

Liquidity and capital resources

At December 31, 2013, we had working capital of $124.3 million and total cash, cash equivalents and short-term investments of $75.0 million of which 31% was held in accounts by our subsidiaries in China and 20% was held in accounts by our subsidiaries in Japan.

Approximately $6.5 million of our accumulated deficit at December 31, 2013 was subject to restriction due to the fact that our subsidiaries in China are required to set aside at least 10% of their respective accumulated profits each year to fund statutory common reserves as well as allocate a discretional portion of their after-tax profits to their staff welfare and bonus fund. This restricted amount is not distributable as cash dividends except in the event of liquidation.

We have a bank credit agreement with Comerica Bank as the lead bank. As of December 31, 2013 this credit agreement included the following:

A revolving credit facility under which there was no amount outstanding and $20.0 million available for borrowing at December 31, 2013, subject to covenant requirements. There was $8.0 million outstanding under this line at December 31, 2012. Amounts borrowed are due on or before March 2016 and borrowings bear interest at an interest rate option of a base rate as defined in the agreement plus 1.5% or LIBOR plus 2.5%. As of December 31, 2013 the rate on the LIBOR option was 2.67%.

A term loan facility under which $24.5 million was outstanding at December 31, 2013. Interest is payable quarterly in arrears and the principal is paid in equal quarterly installments over the term of the loan ending in June 2017. Borrowings under the term loan bear interest at an interest rate option of a base rate as defined in the agreement plus 1.75% or LIBOR plus 2.75%. As of December 31, 2013 the rate on the LIBOR option was 2.92%.

Our credit agreement requires the maintenance of specified financial covenants, including a debt to EBITDA ratio and liquidity ratios. The agreement also restricts our ability to incur additional debt or to engage in specified transactions, restricts the payment of dividends and is secured by substantially all of our U.S. assets, other than intellectual property assets. We were not in compliance with the debt to EBITDA covenant at December 31, 2013 and obtained a waiver from the bank with respect to such noncompliance.

We executed a series of amendments to the credit agreement through April 2014 that modified certain covenants and extended the delivery date of certain of our Quarterly Reports on Form 10-Q and this Annual Report on Form 10-K. The amendments also increased the applicable interest margins by 0.25% per annum. As amended, loans under the term loan facility bear interest equal to either the LIBOR rate, plus an applicable margin equal to 3.00% per annum, or a base rate (as defined) plus an applicable margin equal to 2.00% per annum. Loans under the revolving loan facility bear interest at a rate equal to either the LIBOR rate, plus an applicable margin equal to 2.75% per annum, or a base rate (as defined) plus an applicable margin equal to 1.75% per annum. These new interest rate options will be in effect at least until the lender's review of our June 30, 2014 financial statements.

On May 19, 2014 we executed an amendment to the credit agreement that waived testing of certain covenants for compliance, including the debt to EBITDA covenant, provided that we maintain compensating balances equal to outstanding amounts under the credit agreement in accounts for which the bank will have sole access. We intend to work with the bank to restructure the credit agreement, including the covenant requirements. In the absence of a restructured agreement, we believe we may need to continue to maintain the compensating balances at least through the end of 2014. As of May 19, 2014, the amount of our cash and short-term investments in these compensating balance accounts was $21.1 million.

At December 31, 2013 our subsidiaries in China had two short-term line of credit facilities with banking institutions. Amounts requested by us were not guaranteed and were subject to the banks' funds and currency availability. As of December 31, 2013, we had no short-term loans outstanding under these facilities. As of June 3, 2014, both credit facilities had expired and were in the process of being renewed.

We also issue notes payable to our suppliers in China in exchange for accounts payable. These notes are supported by non-interest bearing bank acceptance drafts and are due three to six months after issuance. As a condition of the notes payable arrangements, we are required to keep a compensating balance at the issuing banks that is a percentage of the total notes payable balance until the amounts are settled. These balances are classified as restricted cash on our consolidated balance sheets. As of December 31, 2013, our restricted cash totaled $2.1 million. In May 2014, one of our subsidiaries in China issued a 90-day bank acceptance draft of approximately $8.0 million to another of our subsidiaries that required a compensating balance of approximately $2.4 million. This bank acceptance draft can be sold for cash at a discount prior to its expiration.

On May 23, 2014, one of our subsidiaries in China borrowed CNY 50 million ($8.0 million) under a working capital loan agreement with a bank. The loan bears interest at 7% per annum. Interest is payable monthly and the principle is due on November 23, 2014.

From time to time we accept notes receivable in exchange for accounts receivable from certain of our customers in China. These notes receivable are non-interest bearing and are generally due within six months. Historically, we have collected on the notes receivable in full at the time of maturity.

We believe that our existing cash, cash equivalents and cash flows from our operating activities will be sufficient to meet our anticipated cash needs for at least the next 12 months, even with the compensating balance requirement discussed above. Our future capital requirements will depend on many factors including our growth rate, the timing and extent of spending to support development efforts, the expansion of sales and marketing activities, the introduction of new and enhanced products, the costs to increase our manufacturing capacity and our foreign operations, the continuing market acceptance of our products and acquisitions of businesses and technology. In the event that additional financing is required from outside sources, we may not be able to raise it on terms acceptable to us or at all. If we are unable to raise additional capital when desired, our business, operating results and financial condition would be adversely affected.

Private placement transaction

In connection with the 2012 private placement transaction (see—Business Overview), we agreed to certain performance obligations including establishing a wholly-owned subsidiary in Russia and making a $30.0 million investment commitment (the 'Investment Obligation') towards our Russian operations. The Investment Obligation can be partially satisfied by cash and/or stock investment inside or outside of Russia and/or by way of non-cash asset transfers, including but not limited to capital equipment, small tools, intellectual property, and other intangibles. A minimum of $15.0 million of the Investment Obligation is required to be satisfied by making capital expenditure investments and we expect that the remaining $15.0 million will be satisfied through cash and non-cash general working capital and research and development expenditures and commitments. All of the amount for general working capital can be spent either inside or outside of Russia. However, at least 80% of the amount expended for research and development must be spent inside Russia. General working capital can include cash or stock acquisition of technology and other businesses or portions thereof to be owned by the Russian subsidiary. Our current plan is to substantially meet the $15.0 million capital expenditure portion of the Investment Obligation by transferring non-cash assets from other entities within the consolidated Company to the Russian subsidiary, subject to the purchaser's approval as required in the rights agreement. We expect that the remaining $15.0 million will be satisfied through some combination of working capital and research and development spending, which may include technology or other acquisitions acquired by cash or stock through March 2015. The exact timing and composition of those expenditures has not yet been determined.

The purchaser of the common stock has nontransferable veto rights over our Russian subsidiary's annual budget during the investment period, and non-cash asset transfers to be made in satisfaction of the Investment Obligation requires approval by the

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purchaser. Spending and/or commitments to spend for general working capital and research and development do not require approval by the purchaser. There are no legal restrictions on the specific usage of amounts received in the private placement transaction or on withdrawal from our bank accounts for use in general corporate purposes.

We are required to satisfy the Investment Obligation by July 31, 2014, or, in the event we have not recorded aggregate revenue from sales of our products in the Russian Federation of at least $26.8 million during the period beginning July 1, 2012 and ending June 30, 2014, then by March 31, 2015. We expect the date for achievement of the Investment Obligation will be extended to March 31, 2015. Therefore, we intend to meet the Investment Obligation by March 31, 2015. If we fail to meet the Investment Obligation by the deadline, including failure to meet the Investment Obligation because the purchaser of the common stock does not approve the transfer of non-cash assets, we will be required to pay a $5.0 million penalty as the sole and exclusive remedy for damages and monetary relief available to the purchaser for failure to meet the Investment Obligation.

Cash flow discussion

The table below sets forth selected cash flow data for the periods presented:

	Year ended December 31,		
(in thousands)	2013	2012	2011
Net cash provided by (used in) operating activities	$4,511	$(8,790)	$(12,510)
Net cash provided by (used in) investing activities	13,304	(20,999)	(83,863)
Net cash provided by financing activities	2,515	34,064	102,635
Effect of exchange rates on cash and cash equivalents	(169)	180	758
Net increase in cash and cash equivalents	$20,161	$4,455	$7,020

Operating activities

In 2013, net cash provided by operating activities was $4.5 million, which was a $13.3 million increase over the $8.8 million cash used in operating activities in 2012. Contributing to the increase was a decrease in accounts receivable, particularly in China where days sales outstanding declined and revenue was lower at the end of 2013 compared to the end of 2012. Additionally, operating cash flow benefitted from an increase in accounts payable primarily due to higher inventory purchases in China near the end of 2013 and higher accrued and other current liabilities, partially offset by a higher net loss in 2013.

In 2012, net cash used in operating activities was $8.8 million. During the year ended December 31, 2012, we recognized a net loss of $17.5 million, which incorporated non-cash charges, including depreciation and amortization of $18.7 million, stock-based compensation expenses of $4.8 million and write-down of inventories of $3.1 million. These amounts were partially offset by the purchase of inventory of $11.8 million, a reduction of accounts payable of $3.0 million and a reduction of accrued and other liabilities of $1.0 million.

In 2011, net cash used in operating activities was $12.5 million. During the year ended December 31, 2011, we recognized a net loss of $14.8 million, which incorporated non-cash charges, including goodwill impairment charges of $13.1 million, depreciation and amortization of $12.9 million and stock-based compensation expenses of $3.2 million. These amounts were partially offset by the gain on sale of our investment in an unconsolidated investee of $13.9 million, the purchase of inventory of $8.5 million to replenish our inventories in preparation for higher customer demand in future periods, and changes in accrued and other liabilities.

Investing activities

In 2013, net cash provided by investing activities was $13.3 million, which was a $34.3 million increase from the $21.0 million used in investing activities in 2012. The increase was due to $56.0 million in higher net proceeds from the sale and maturity of marketable securities, partially offset by $13.1 million cash used to purchase NeoPhotonics Semiconductor and $6.8 million in higher purchases of property and equipment in 2013.

In 2012, net cash used in investing activities was $21.0 million. During 2012, we used $155.9 million of cash for the purchase of equity securities and $12.7 million for capital equipment, which was offset by $145.2 million of cash received for the sale and maturity of equity securities. We also received $1.8 million from the sale of our former Broadband subsidiary.

In 2011, net cash used in investing activities was $83.9 million. During 2011, we used $173.0 million of cash for the purchase of equity securities, which was partially offset by $118.5 million of cash received for the sale and maturity of equity securities. We also used $39.0 million of cash for the acquisition of Santur, net of cash acquired, and received $21.3 million for the sale of our investment in an unconsolidated investee. During 2011, capital expenditures totaled $11.7 million.

Financing activities

Net cash provided by financing activities was $2.5 million and $34.1 million in 2013 and 2012, respectively. In 2012, the major factor was $39.6 million generated from the private placement transaction. Additionally, 2013 cash from financing activities benefitted from $7.4 million in lower net payments of bank loans and notes payable and $1.3 million in higher proceeds from the exercise of stock options and stock issued under the ESPP.

In 2012, net cash provided by financing activities was $34.1 million. Our private placement transaction generated proceeds of $39.6 million, net of offering expenses. We also received $2.1 million of proceeds from the purchase of common stock under the ESPP and the exercise of employee stock options. In addition, we received $26.0 million of proceeds from the issuance of notes payable, offset by $28.6 million of repayment of notes payable and $5.0 million of repayment of bank existing bank loans.

In 2011, net cash provided by financing activities was $102.6 million. In February 2011, we completed our initial public offering, which generated proceeds of $86.4 million, net of offering expenses. We received cash proceeds of $28.0 million from our newly amended lending arrangement, drawn by us in connection with our acquisition of Santur, which was partially offset by $14.2 million of cash used for the repayment of existing bank loans. In addition, we received $1.2 million of proceeds from the issuance of notes payable, net of repayment. We also received $0.9 million of proceeds from purchase of our equity securities pursuant to our ESPP.

Contractual obligations and commitments

The following summarizes our contractual obligations as of December 31, 2013:

	Payments due by period				
(in thousands)	Total	Less than 1 Year	1-3 Years	3-5 Years	More than 5 Years
Notes payable (1)	$9,738	$ 9,738	$—	$—	$ —
Acquisition-related note payable (2)	9,975	3,325	6,650	—	—
Bank borrowings (3)	24,500	7,000	14,000	3,500	—
Retirement obligations (4)	5,882	200	710	1,139	3,833
Operating leases (5)	5,310	1,756	2,087	1,020	447
Purchase commitments (6)	40,000	40,000	—	—	—
Contingent consideration (7)	1,985	1,985	—	—	—
Penalty payment derivative (8)	239	—	239	—	—
Asset retirement obligations (9)	837	—	—	—	837
	98,466	64,004	23,686	5,659	5,117
Expected interest payments (10)	1,415	720	674	21	—
Total commitments	$99,881	$ 64,724	$24,360	$5,680	$ 5,117

(1) In China, we issue notes payable to our suppliers frequently. The notes payable are generally due within six months of issuance and are non-interest bearing. The amount presented in the table represents the principal portion of the obligations.

(2) In connection with acquisition of NeoPhotonics Semiconductor on March 29, 2013, we have 1,050 million Yen to be paid in three equal installments on the first, second and third anniversaries of the closing date for the purchase of the real estate used by the NeoPhotonics Semiconductor. The amount in the table is presented in USD.

(3) We have a credit agreement led by Comerica Bank in the U.S., which has been amended by our lender several times as business conditions require. The amount presented in the table represents the principal portion of the

obligations. Interest is paid monthly over the term of the debt arrangement.

(4) In connection with our acquisition of NeoPhotonics Semiconductor on March 29, 2013, we assumed two defined benefit plans that provide retirement benefits to the NeoPhotonics Semiconductor employees in Japan. The net pension liability was $5.9 million as of December 31, 2013.

(5) We have entered into various non-cancelable operating lease agreements for our offices in China, U.S. and Japan.

(6) This is an estimate of the amount outstanding under open purchase orders for the purchase of inventory and other goods at December 31, 2013. Certain of these open purchase orders may be cancellable without penalty.

(7) Contingent consideration is related to our acquisition of Santur.

(8) See "Private placement transaction" below and Note 14 to the Consolidated Financial Statements.

(9) We have an asset retirement obligation of $0.7 million associated with our facility lease in California which is included in other noncurrent liabilities in the consolidated balance sheet as of December 31, 2013. We also have a $0.1 million asset retirement obligation in Japan.

(10) We calculate the expected interest payments based on our outstanding notes payable, loan and debt obligations at prevailing interest rates as of December 31, 2013.

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Uncertain Tax Positions

As of December 31, 2013, the liability for uncertain tax positions was $0.2 million. We cannot conclude on the timing of cash payments associated with our uncertain tax positions.

Private placement transaction

In connection with our April 2012 common stock private placement transaction, we agreed to certain performance obligations including establishing a wholly-owned subsidiary in Russia and making a $30.0 million investment (the “Investment Obligation”) towards our Russian operations. The Investment Obligation can be partially satisfied by cash and/or stock investment inside or outside of Russia and/or by way of non-cash asset transfers, including but not limited to capital equipment, small tools, intellectual property, and other intangibles. A minimum of $15.0 million of the Investment Obligation is required to be satisfied by making capital expenditure investments and we expect that the remaining $15.0 million will be satisfied through cash and non-cash general working capital and research and development expenditures and commitments. All of the amount for general working capital can be spent either inside or outside of Russia. However, at least 80% of the amount expended for research and development must be spent inside Russia. General working capital can include cash or stock acquisition of other businesses or portions thereof to be owned by the Russian subsidiary.

Our current plan is to substantially meet the $15.0 million capital expenditure portion of the Investment Obligation by transferring non-cash assets from other entities within the consolidated Company to the Russian subsidiary, subject to the purchaser’s approval as required in the rights agreement. We expect that the remaining $15.0 million will be satisfied through some combination of working capital and research and development spending, which may include technology or other acquisitions acquired by cash or stock through March 2015. The exact timing and composition of those expenditures has not yet been determined. There are no legal restrictions on the specific usage of amounts received in the private placement transaction or on withdrawal from our bank accounts for use in general corporate purposes.

We are required to satisfy the Investment Obligation by July 31, 2014, or, in the event we have not recorded aggregate revenue from sales of our products in the Russian Federation of at least $26.8 million during the period beginning July 1, 2012 and ending June 30, 2014, then by March 31, 2015. We expect the date for achievement of the Investment Obligation will be extended to March 31, 2015. Therefore, we intend to meet the Investment Obligation by March 31, 2015. If we fail to meet the Investment Obligation by the deadline, including failure to meet the Investment Obligation because the purchaser of the common stock does not approve the transfer of non-cash assets, we will be required to pay a $5.0 million penalty as the sole and exclusive remedy for damages and monetary relief available to the purchaser for failure to meet the Investment Obligation.

Off-balance sheet arrangements

During the years ended December 31, 2013, and 2012, we did not have any significant off-balance sheet arrangements, as defined in Item 303(a)(4)(ii) of Regulation S-K.

Recent accounting pronouncements

In February 2013, the Financial Accounting Standard Board (“FASB”) issued amendments to the FASB Accounting Standard Codification to improve the reporting of reclassifications out of accumulated other comprehensive income. The amendments require new disclosures for items reclassified out of accumulated other comprehensive income (“AOCI”), including (1) changes in AOCI balances by component and (2) significant items reclassified out of AOCI. The guidance does not amend any existing requirements for reporting net income or OCI in the financial statements.

As this guidance only requires expanded disclosures, the adoption of this guidance did not have a material effect on our consolidated financial statements.

In March 2013, the FASB issued amendments to the FASB Accounting Standard Codification, which indicates that the entire amount of a cumulative translation adjustment related to an entity's investment in a foreign entity should be released when there has been a (i) sale of a subsidiary or group of net assets within a foreign entity and the sale represents the substantially complete liquidation of the investment in the foreign entity, (ii) loss of a controlling financial interest in an investment in a foreign entity, or (iii) step acquisition for a foreign entity. The amendments were effective prospectively for fiscal years beginning after December 15, 2013. Early adoption is permitted. The adoption of this guidance did not have an impact on our consolidated financial statements.

In July 2013, the FASB issued amendments to the FASB Accounting Standard Codification on Income Taxes, to improve the presentation of an unrecognized tax benefit when a net operating loss carryforward, a similar tax loss, or a tax credit carryforward exists. This guidance is expected to reduce diversity in practice and is expected to better reflect the manner in which an entity would settle at the reporting date any additional income taxes that would result from the disallowance of a tax position when net operating loss carryforwards, similar tax losses, or tax credit carryforwards exist. This guidance is effective for reporting periods beginning after December 15, 2013. The adoption of this guidance did not have an impact on our consolidated financial statements.

In April 2014, the FASB issued Accounting Standards Update ("ASU") No. 2014-08, Presentation of Financial Statements (Topic 205) and Property, Plant, and Equipment (Topic 360): Reporting Discontinued Operations and Disclosures of Disposals of Components of an Entity ("ASU 2014-08") which raises the threshold for a disposal to qualify as a discontinued operation and requires new disclosures of both discontinued operations and certain other disposals that do not meet the definition of a discontinued operation. ASU 2014-08 is effective for annual periods beginning on or after December 15, 2014. Early adoption is permitted but only for disposals that have not been reported in financial statements previously issued. We are currently in the process of evaluating the impact of the adoption on our consolidated financial statements.

In May 2014, the FASB issued ASU No. 2014-09, Revenue from Contracts with Customers (“ASU 2014-09”). The standard provides companies with a single model for use in accounting for revenue arising from contracts with customers and supersedes current revenue recognition guidance, including industry-specific revenue guidance. The core principle of the model is to recognize revenue when control of the goods or services transfers to the customer, as opposed to recognizing revenue when the risks and rewards transfer to the customer under the existing revenue guidance. ASU 2014-09 is effective for annual reporting periods beginning after December 15, 2016. Early adoption is not permitted. The guidance permits companies to either apply the requirements retrospectively to all prior periods presented, or apply the requirements in the year of adoption, through a cumulative adjustment. We are in the process of evaluating the impact of adoption on our consolidated financial statements.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Interest rate fluctuation risk

The primary objective of our investment activities is to preserve principal while at the same time maximizing the income we receive from our investments without significantly increasing risk. To achieve this objective, we invest our excess cash in a variety of securities, including U.S. government agency securities, corporate notes and bonds and money market funds meeting certain criteria. These securities are classified as available-for-sale which are recorded on the balance sheet at fair value. We have determined that the gross unrealized gains or losses on the available-for-sale securities at December 31, 2013 are temporary in nature. We may sell these marketable securities investments in the future to fund future operating needs. As a result, we recorded all our marketable securities in short-term investments as of December 31, 2013, regardless of the contractual maturity date of the securities.

As of December 31, 2013 we had $24.5 million outstanding under our U.S. credit facilities, which was subject to fluctuations in interest rates. For the year ended December 31, 2013, a hypothetical 10% increase in the interest rate could result in approximately $71,000 of additional annual interest expense. The hypothetical assumptions made above will be different from what actually occurs in the future. Furthermore, the computations do not anticipate actions that may be taken by our management should the hypothetical market changes actually occur over time. As a result, actual impacts on our results of operations in the future will differ from those quantified above.

Foreign currency exchange risk

Foreign currency exchange rates are subject to fluctuation and may cause us to recognize transaction gains and losses in our statements of operations. A large portion of our business is conducted through our subsidiaries in China, whose functional currency is the RMB and, to a lesser extent in 2013, Japan, whose functional currency is the JPY. To the extent that transactions by these subsidiaries are in currencies other than their functional currencies, we bear the risk that fluctuations in the exchange rates of the RMB and JPY in relation to other currencies could decrease our revenue and increase our costs and expenses. During the year ended December 31, 2013, we recognized foreign currency transaction gains of $0.9 million. We use the U.S. dollar as the reporting currency for our consolidated financial statements. Any significant revaluation of the RMB or JPY may materially and adversely affect our results of operations upon translation of these subsidiaries' financial statements into U.S. dollars. While we generate a significant portion of our revenue in RMB and JPY, a majority of our operating expenses are in U.S. dollars. Therefore depreciation in RMB or JPY against the U.S. dollar would negatively impact our revenue upon translation to U.S. dollars but the impact on operating expenses would be less. For example, for the year ended December 31, 2013, a 10% depreciation in RMB against the U.S. dollar would have resulted in a $7.8 million decrease in our revenue and a $0.2 million increase in our net loss and a 10% depreciation in JPY would have resulted in a $0.8 million decrease in our revenue and a $0.03 million increase in our net loss.

In connection with the NeoPhotonics Semiconductor acquisition in March 2013, we recorded a note payable of $11.1 million. The payment is denominated in Japanese Yen. Any currency fluctuations may impact our results of operations.

To date, we have not entered into any hedging transactions in an effort to reduce our exposure to foreign currency exchange risk. While we may decide to enter into hedging transactions in the future, the availability and effectiveness of these hedging transactions may be limited and we may not be able to successfully hedge our exposure. In addition, our currency exchange variations may be magnified by any Chinese exchange control regulations that restrict our ability to convert RMB into foreign currency.

Inflation risk

Inflationary factors, such as increases in our cost of goods sold and operating expenses, may adversely affect our results of operations. Although we do not believe that inflation has had a material impact on our financial position or results of operations to date, an increase in the rate of inflation in the future, particularly in China, may have an adverse effect on our levels of gross profit and operating expenses as a percentage of revenue if the sales prices for our products do not proportionately increase with these increased expenses.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA
INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of NeoPhotonics Corporation

San Jose, CA

We have audited the accompanying consolidated balance sheet of NeoPhotonics Corporation and subsidiaries (the "Company") as of December 31, 2013, and the related consolidated statements of operations, comprehensive loss, stockholders' equity, and cash flows for the year then ended. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, such 2013 consolidated financial statements present fairly, in all material respects, the financial position of NeoPhotonics Corporation and subsidiaries at December 31, 2013, and the results of their operations and their cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Company's internal control over financial reporting as of December 31, 2013, based on the criteria established in Internal Control—Integrated Framework (1992) issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated June 3, 2014 expressed an adverse opinion on the Company's internal control over financial reporting because of material weaknesses.

/s/ DELOITTE & TOUCHE LLP

San Jose, CA

June 3, 2014

Report of Independent Registered Public Accounting Firm

To the Board of Directors and Stockholders of NeoPhotonics Corporation:

In our opinion, the consolidated balance sheet as of December 31, 2012 and the related consolidated statements of operations, comprehensive loss, redeemable convertible preferred stock and stockholders’ equity and cash flows for each of two years in the period ended December 31, 2012 present fairly, in all material respects, the financial position of NeoPhotonics Corporation and its subsidiaries at December 31, 2012, and the results of their operations and their cash flows for each of the two years in the period ended December 31, 2012, in conformity with accounting principles generally accepted in the United States of America. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits of these statements in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

/s/PricewaterhouseCoopers LLP

San Jose, California

March 15, 2013, except for the effects of the revision discussed in Note 1 to the consolidated financial statements, as to which the date is May 30, 2014

NEOPHOTONICS CORPORATION

CONSOLIDATED BALANCE SHEETS

	December 31,	
(In thousands, except share and per share data)	2013	2012 Revised, see Note 1
ASSETS		
Current assets:		
Cash and cash equivalents	$57,101	$ 36,940
Short-term investments	17,916	64,301
Restricted cash	2,138	2,626
Accounts receivable, net of allowance for doubtful accounts of $531 and $963 at December 31, 2013 and 2012, respectively	64,533	70,354
Inventories	64,908	43,793
Prepaid expenses and other current assets	9,977	7,630
Total current assets	216,573	225,644
Property, plant and equipment, net	68,851	54,440
Purchased intangible assets, net	15,005	14,213
Other long-term assets	1,798	1,335
Total assets	$302,227	$ 295,632
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$48,569	$ 36,308
Notes payable	9,738	12,003
Current portion of long-term debt	10,325	5,000
Accrued and other current liabilities	23,643	19,959
Total current liabilities	92,275	73,270
Long-term debt, net of current portion	24,150	17,167
Deferred income tax liabilities	1,004	653
Other noncurrent liabilities	7,987	1,862
Total liabilities	125,416	92,952
Commitments and contingencies (Note 13)		
Stockholders' equity:		
Preferred stock, $0.0025 par value, 10,000,000 shares authorized, no shares issued or outstanding	—	—
Common stock, $0.0025 par value, 100,000,000 shares authorized		
At December 31, 2013, 31,571,584 shares issued and outstanding; At December 31, 2012, 30,546,155 shares issued and outstanding	79	76
Additional paid-in capital	447,467	438,858
Accumulated other comprehensive income	11,687	11,829
Accumulated deficit	(282,422)	(248,083)
Total stockholders' equity	176,811	202,680
Total liabilities and stockholders' equity	$302,227	$ 295,632

See accompanying Notes to Consolidated Financial Statements.

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NEOPHOTONICS CORPORATION

CONSOLIDATED STATEMENTS OF OPERATIONS

(In thousands, except share and per share data)	Years ended December 31, 2013	2012	2011
Revenue	$282,242	$245,423	$201,029
Cost of goods sold	217,069	184,163	150,944
Gross profit	65,173	61,260	50,085
Operating expenses:			
Research and development	45,853	38,288	30,855
Sales and marketing	14,242	13,241	11,686
General and administrative	30,012	24,361	20,911
Acquisition-related transaction costs	5,406	1,447	989
Amortization of purchased intangible assets	1,532	1,316	994
Adjustment to fair value of contingent consideration	1,026	(554)	(1,287)
Goodwill impairment charges	—	—	13,106
Restructuring charges	775	68	1,297
Total operating expenses	98,846	78,167	78,551
Loss from operations	(33,673)	(16,907)	(28,466)
Interest income	348	592	407
Interest expense	(996)	(568)	(422)
Other income (expense), net	1,186	575	14,246
Total interest and other income (expense), net	538	599	14,231
Loss before income taxes	(33,135)	(16,308)	(14,235)
Provision for income taxes	(1,204)	(1,364)	(1,155)
Loss from continuing operations	(34,339)	(17,672)	(15,390)
Income from discontinued operations, net of tax	—	142	636
Net loss	(34,339)	(17,530)	(14,754)
Deemed dividend on beneficial conversion of Series X redeemable convertible preferred stock	—	—	(17,049)
Accretion of redeemable convertible preferred stock	—	—	(7)
Net loss attributable to NeoPhotonics Corporation common stockholders	$(34,339)	$(17,530)	$(31,810)
Basic and diluted net income (loss) per share attributable to NeoPhotonics Corporation common stockholders:			
Continuing operations	$(1.11)	$(0.62)	$(1.45)
Discontinued operations	$—	$—	$0.03
Net loss	$(1.11)	$(0.62)	$(1.42)
Basic and diluted weighted average shares used to compute net loss per share attributable to NeoPhotonics Corporation common stockholders	31,000,325	28,529,849	22,359,802

See accompanying Notes to Consolidated Financial Statements.

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NEOPHOTONICS CORPORATION

CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS

(in thousands)	2013	2012	2011
Net loss	$(34,339)	$(17,530)	$(14,754)
Other comprehensive income (loss)			
Foreign currency translation adjustments (net of zero tax)	41	101	3,265
Unrealized gains (losses) on available-for-sale securities (net of zero tax)	(65)	375	(307)
Defined benefit pension plans adjustment (net of tax of $73)	(118)	—	—
Unrealized gain on equity investment (net of zero tax)	—	—	8,291
Less: Reclassification adjustment for gain on sale of equity investment included in net income (net of zero tax)	—	—	(12,703)
Total other comprehensive income (loss)	(142)	476	(1,454)
Comprehensive loss	$(34,481)	$(17,054)	$(16,208)

See accompanying Notes to Consolidated Financial Statements.

NEOPHOTONICS CORPORATION

CONSOLIDATED STATEMENTS OF REDEEMABLE CONVERTIBLE PREFERRED STOCK AND STOCKHOLDERS' EQUITY

	Redeemable convertible preferred stock		Common stock					
(In thousands, except share data)	Shares	Amount	Shares	Amount	Additional paid-in capital	Accumulated other comprehensive income	Accumulated deficit	Total stockholders' equity
Balances at December 31, 2010	6,658,010	$211,541	1,955,280	$5	$93,349	$12,807	$(215,799)	$(109,638)
Comprehensive loss						(1,454)	(14,754)	(16,208)
Accretion of preferred stock to redemption value	—	7	—	—	(7)	—	—	(7)
Deemed dividend on beneficial conversion of Series X redeemable convertible preferred stock	—	17,049	—	—	(17,049)	—	—	(17,049)
Issuance of common stock upon initial public offering at $11.00 per share, net of issuance costs of $4,263	—	—	8,625,000	22	83,949	—	—	83,971
Conversion of preferred stock into shares of common stock	(6,658,010)	(228,597)	14,038,489	35	228,562	—	—	228,597
Issuance of common stock upon exercise of stock options	—	—	79,144	—	340	—	—	340
Repurchase of common stock	—	—	(51)	—	—	—	—	—
	—	—	164,723	—	863	—	—	863

Issuance of common stock under employee stock purchase plan								
Vesting of early exercised stock options	—	—	—	—	19	—	—	19
Stock-based compensation expense	—	—	—	—	2,766	—	—	2,766
Balances at December 31, 2011	—	—	24,862,585	62	392,792	11,353	(230,553)	173,654
Comprehensive loss	—	—	—	—	—	476	(17,530)	(17,054)
Initial public offering cost adjustment	—	—	—	—	63	—	—	63
Issuance of common stock for investment (revised, see Note 1)	—	—	4,972,905	12	39,389	—	—	39,401
Issuance of common stock upon exercise of stock options	—	—	190,554	1	101	—	—	102
Issuance of common stock under employee stock purchase plan	—	—	520,111	1	1,865	—	—	1,866
Stock-based compensation expense	—	—	—	—	4,648	—	—	4,648
Balances at December 31, 2012	—	—	30,546,155	76	438,858	11,829	(248,083)	202,680
Comprehensive loss	—	—	—	—	—	(142)	(34,339)	(34,481)
Issuance of common stock upon exercise of stock options	—	—	260,604	1	1,212	—	—	1,213
Issuance of common stock under employee stock purchase plan	—	—	487,856	2	2,155	—	—	2,157
	—	—	276,969	—	—	—	—	—

Issuance of common stock for vested restricted stock units								
Tax withholding related to vesting of restricted stock units	—	—	—	—	(565)	—	—	(565)
Stock-based compensation expense	—	—	—	—	5,807	—	—	5,807
Balances at December 31, 2013	—	$—	31,571,584	$ 79	$ 447,467	$ 11,687	$ (282,422)	$ 176,811

See accompanying Notes to Consolidated Financial Statements.

NEOPHOTONICS CORPORATION

CONSOLIDATED STATEMENTS OF CASH FLOWS

(In thousands)	Years ended December 31, 2013	2012	2011
Cash flows from operating activities			
Net loss	$(34,339)	$(17,530)	$(14,754)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:			
Depreciation and amortization	20,381	18,716	12,931
Goodwill impairment charges	—	—	13,106
Stock-based compensation expense	5,736	4,777	3,156
Deferred taxes	(469)	221	