ADVANCED CELL TECHNOLOGY, INC.
Form 10-Q
November 09, 2010

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON D.C. 20549

FORM 10-Q

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

FOR THE QUARTERLY PERIOD ENDED SEPTEMBER 30, 2010

OR

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

FOR THE TRANSITION PERIOD FROM TO .

COMMISSION FILE NUMBER: 0-50295

ADVANCED CELL TECHNOLOGY, INC.
(EXACT NAME OF REGISTRANT AS SPECIFIED IN ITS CHARTER)

DELAWARE	87-0656515
(STATE OR OTHER JURISDICTION OF INCORPORATION OR ORGANIZATION)	(I.R.S. EMPLOYER IDENTIFICATION NO.)

33 LOCKE DRIVE, MARLBOROUGH, MASSACHUSETTS 01752
(ADDRESS, INCLUDING ZIP CODE, OF PRINCIPAL EXECUTIVE OFFICES)

REGISTRANT'S TELEPHONE NUMBER, INCLUDING AREA CODE: (508) 756-1212

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes o No o

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

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

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes o No x

Indicate the number of shares outstanding of each of the issuer’s classes of common stock, as of the latest practicable date.

Class:	Outstanding at November 5, 2010:
Common Stock, $0.001 par value per share	1,088,212,464 shares

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ADVANCED CELL TECHNOLOGY, INC. AND SUBSIDIARY

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Part I – FINANCIAL INFORMATION
Item 1. Financial Statements

ADVANCED CELL TECHNOLOGY, INC. AND SUBSIDIARY
CONSOLIDATED BALANCE SHEETS
AS OF SEPTEMBER 30, 2010 AND DECEMBER 31, 2009

	September 30, 2010 (unaudited)	December 31, 2009
ASSETS		
CURRENT ASSETS:		
Cash and cash equivalents	$2,195,118	$2,538,838
Prepaid expenses	7,695	9,054
Deferred royalty fees, current portion	91,598	91,598
Total current assets	2,294,411	2,639,490
Property and equipment, net	197,832	113,904
Deferred royalty fees, less current portion	317,989	386,689
Deposits	14,766	2,170
Deferred issuance costs, net of amortization of $4,017,621 and $3,535,245, respectively	1,463,379	1,945,755
TOTAL ASSETS	$4,288,377	$5,088,008
LIABILITIES AND STOCKHOLDERS' DEFICIT		
CURRENT LIABILITIES:		
Accounts payable	$4,355,648	$6,172,881
Accrued expenses	2,331,836	2,031,032
Deferred revenue, current portion	962,300	805,926
Amended and restated convertible debentures, net of discounts of $24,059 and $585,088, respectively	2,009,397	7,605,107
Convertible promissory notes, current portion, net of discounts of $1,057,847 and $905,973, respectively	200,954	685,233
2009 Convertible debentures, current portion, net of discounts of $187,201 and $1,599,073, respectively	1,401,836	246,893
Embedded conversion option liabilities, current portion	1,631,939	6,772,200
Deferred joint venture obligations, current portion	9,379	56,602
Total current liabilities	12,903,289	24,375,874

Convertible promissory notes, less current portion, net of discounts of $1,063,644 and $1,150,300, respectively	202,055	59,184
2009 Convertible debentures, less current portion, net of disounts of $0 and $222,656, respectively	-	34,378
Embedded conversion option liabilities, less current portion	1,305,579	1,837,604
Warrant derivative liabilities	10,873,187	18,168,597
Deferred joint venture obligations, less current portion	1,853	6,870
Deferred revenue, less current portion	5,158,542	5,780,389
Total liabilities	30,444,505	50,262,896
Preferred stock, Series A-1 Redeemable; $0.001 par value; 50,000,000 shares authorized,		
113 and 92 shares issued and outstanding; aggregate liquidation value: $1,320,882 and $1,044,305, respectively	1,235,076	908,195
Commitments and contingencies		
STOCKHOLDERS' DEFICIT:		
Preferred stock, Series B; $0.001 par value; 50,000,000 shares authorized,		
250 and 0 shares issued and outstanding	-	-
Common stock, $0.001 par value; 1,750,000,000 shares authorized,		
1,060,082,682 and 663,649,294 shares issued and outstanding	1,060,083	663,649
Additional paid-in capital	113,737,207	79,829,080
Promissory notes receivable, net of discount of $746,095 and $0, respectively	(2,628,905)	-
Accumulated deficit	(139,559,589)	(126,575,812)
Total stockholders' deficit	(27,391,204)	(46,083,083)
TOTAL LIABILITIES AND STOCKHOLDERS' DEFICIT	$4,288,377	$5,088,008

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

ADVANCED CELL TECHNOLOGY, INC. AND SUBSIDIARY
CONSOLIDATED STATEMENTS OF OPERATIONS
FOR THE THREE AND NINE MONTHS ENDED SEPTEMBER 30, 2010 AND 2009
(UNAUDITED)

	Three Months Ended September 30, 2010	Three Months Ended September 30, 2009	Nine Months Ended September 30, 2010	Nine Months Ended September 30, 2009
Revenue (License fees and royalties)	$205,158	$248,141	$615,474	$785,112
Cost of Revenue	66,650	108,049	199,950	324,148
Gross profit	138,508	140,092	415,524	460,964
Operating expenses:				
Research and development	1,348,503	700,818	6,728,225	2,275,683
Grant reimbursements	-	-	-	(136,840)
General and administrative expenses	1,094,604	453,561	13,662,066	1,961,195
Change in estimate of accrued liabilities	(30,336)	-	(1,600,302)	-
Loss on settlement of litigation	3,132,300	110,000	3,132,300	4,903,949
Total operating expenses	5,545,071	1,264,379	21,922,289	9,003,987
Loss from operations	(5,406,563)	(1,124,287)	(21,506,765)	(8,543,023)
Non-operating income (expense):				
Interest income	4,389	371	15,368	2,129
Interest expense and late fees	(2,382,253)	(2,354,537)	(8,164,546)	(3,890,447)
Finance cost	-	-	(1,602,400)	-
Loss on extinguishment of convertible debentures and note	-	(8,200,984)	-	(8,200,984)
Charges related to repricing derivative liabilities	-	(26,279,143)	-	(28,075,511)
Adjustments to fair value of derivatives	9,550,745	36,754,306	18,077,454	(788,680)
Gain on forgiveness of debt	169,397	-	197,370	-
Losses attributable to equity method investment	-	-	-	(144,438)
Total non-operating income (expense)	7,342,278	(79,987)	8,523,246	(41,097,931)
Income (loss) before income tax	1,935,715	(1,204,274)	(12,983,519)	(49,640,954)
Income tax	-	-	-	-
Net income (loss)	$1,935,715	$(1,204,274)	$(12,983,519)	$(49,640,954)
Weighted average shares outstanding :				
Basic	969,174,877	501,293,320	756,009,975	477,394,516
Diluted	969,759,448	501,293,320	756,009,975	477,394,516
Income (Loss) per share:				
Basic	$0.00	$(0.00)	$(0.02)	$(0.10)

Diluted	$0.00	$(0.00)	$(0.02)	$(0.10)

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

ADVANCED CELL TECHNOLOGY, INC. AND SUBSIDIARY
CONSOLIDATED STATEMENT OF STOCKHOLDERS' DEFICIT
FOR THE NINE MONTHS ENDED SEPTEMBER 30, 2010
(UNAUDITED)

	Series B Preferred Stock		Common Stock		Additional Paid-in	Promissory Notes Receivable,	Accumulated	Total Stockholders'
	Shares	Amount	Shares	Amount	Capital	net	Deficit	Deficit
Balance December 31, 2009	-	$-	663,649,294	$663,649	$79,829,080	$-	$(126,575,812)	$(46,083,083)
Redemptions of convertible debentures	-	-	105,380,062	105,380	7,622,511	-	-	7,727,891
Conversions of convertible debentures	-	-	20,107,935	20,108	1,922,576	-	-	1,942,684
Conversions of Series A-1 preferred stock	-	-	6,206,961	6,207	614,489	-	-	620,696
Conversions of amended convertible promissory notes	-	-	60,604,426	60,604	3,494,370	-	-	3,554,974
Common stock issued on exercise of debenture warrants	-	-	37,000	37	3,663	-	-	3,700
Common stock issued to executives for compensation	-	-	107,051,697	107,052	9,527,601	-	-	9,634,653

Common stock issued to directors for board compensation	-	-	16,773,597	16,774	1,543,439	-	-	1,560,213
Common stock issued for settlements	-	-	47,432,598	47,433	3,278,182	-	-	3,325,615
Issuance of stock for financing costs	-	-	250,000	250	22,250	-	-	22,500
Issuance of Series B preferred stock	250	-	-	-	2,500,000	-	-	2,500,000
Common stock issued upon exercise of Series B preferred stock warrants	-	-	32,589,112	32,589	2,462,602	(2,495,191)	-	-
Dividends on Series B preferred stock	-	-	-	-	133,972	-	(133,972)	-
Accretion of note receivable discount	-	-	-	-	-	(133,714)	133,714	-
Option compensation charges	-	-	-	-	782,472	-	-	782,472
Net loss for nine months ended September 30, 2010	-	-	-	-	-	-	(12,983,519)	(12,983,519)
Balance September 30,	250	$-	1,060,082,682	$1,060,083	$113,737,207	$(2,628,905)	$(139,559,589)	$(27,391,204)

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

ADVANCED CELL TECHNOLOGY, INC. AND SUBSIDIARY
CONSOLIDATED STATEMENTS OF CASH FLOWS
FOR THE NINE MONTHS ENDED SEPTEMBER 30, 2010 AND 2009
(UNAUDITED)

	Nine Months Ended September 30, 2010	Nine Months Ended September 30, 2009
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net loss	$(12,983,519)	$(49,640,954)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	94,867	304,083
Amortization of deferred charges	68,700	136,648
Amortization of deferred revenue	(615,474)	(785,112)
Redeemable preferred stock dividend accrual	67,108	84,209
Stock based compensation	782,473	277,351
Amortization of deferred issuance costs	482,377	603,447
Amortization of discounts	7,614,736	1,805,531
(Gain) loss on extinguishment of debt	-	8,200,984
Charges related to repricing derivative liabilities	-	28,075,511
Adjustments to fair value of derivatives	(18,077,454)	788,680
Shares of common stock issued for services	11,250,034	-
Options issued for consulting services	132,197	-
Non-cash financing costs	1,602,400	-
Loss on settlement of litigation	3,132,300	4,903,949
Loss attributable to investment in joint venture	-	144,438
Amortization of deferred joint venture obligations	(52,240)	(125,164)
Gain on forgiveness of debt	(27,973)	-
(Increase) / decrease in assets:		
Accounts receivable	-	261,504
Prepaid expenses	1,359	(22,990)
Increase / (decrease) in current liabilities:		
Accounts payable and accrued expenses	(920,431)	(2,433,053)
Accrued interest	-	1,311,330
Deferred revenue	150,000	3,050,000
Net cash used in operating activities	(7,298,540)	(3,059,608)
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchases of property and equipment	(186,449)	(5,368)
Payments of deposits	(12,596)	(2,170)
Net cash used in investing activities	(199,045)	(7,538)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Proceeds from exercise of warrants	3,700	-

Proceeds from issuance of convertible debentures	1,685,000	-
Proceeds from issuance of convertible notes	2,650,000	1,020,000
Proceeds from issuance of Series A-1 convertible preferred stock	830,165	2,288,000
Proceeds from issuance of Series B preferred stock, net	1,985,000	-
Net cash provided by financing activities	7,153,865	3,308,000
NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	(343,720)	240,854
CASH AND CASH EQUIVALENTS, BEGINNING BALANCE	2,538,838	816,904
CASH AND CASH EQUIVALENTS, ENDING BALANCE	$2,195,118	$1,057,758
CASH PAID FOR:		
Interest	$-	$-
Income taxes	$9,508	$514
SUPPLEMENTAL DISCLOSURE OF NON-CASH FINANCING ACTIVITIES:		
Issuance of 105,380,062 and 12,627,425 shares of common stock in redemption of debt	$7,727,891	$1,262,742
Issuance of 86,919,322 and 41,608,113 shares of common stock in conversion of debt and preferred stock	$6,118,354	$3,181,799
Issuance of 0 and 24,900,000 shares of common stock in payment convertible preferred stock issuance costs	$-	$4,731,000
Issuance of note receivable on exercise of warrants for 32,589,112 and 0 shares of common stock	$3,375,000	$-
Issuance of 47,282,598 and 39,380,847 shares of common stock in settlements	$3,315,115	$5,299,148
Issuance of 150,000 and 0 shares of common stock for services	$10,500	$-
Issuance of 16,773,597 and 0 shares of common stock in payment of board fees	$1,560,213	$-
Issuance of 107,051,697 and 0 shares of common stock in payment of executive compensation	$9,634,653	$-
Issuance of 250,000 and 0 shares of common stock in payment of financing costs	$22,500	$-
Series B preferred stock dividend	$133,972	$-
Interest accreted on promissory notes receivable	$133,714	$-

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

ADVANCED CELL TECHNOLOGY, INC. AND SUBSIDIARY
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
September 30, 2010

1. ORGANIZATIONAL MATTERS

Organization and Nature of Business

Advanced Cell Technology, Inc. (the “Company”) is a biotechnology company, incorporated in the state of Delaware, focused on developing and commercializing human embryonic and adult stem cell technology in the emerging fields of regenerative medicine. Principal activities to date have included obtaining financing, securing operating facilities, and conducting research and development. The Company has no therapeutic products currently available for sale and does not expect to have any therapeutic products commercially available for sale for a period of years, if at all. These factors indicate that the Company’s ability to continue its research and development activities is dependent upon the ability of management to obtain additional financing as required.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation —The Company follows accounting standards set by the Financial Accounting Standards Board (“FASB”). The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (“GAAP”). References to GAAP issued by the FASB in these footnotes are to the FASB Accounting Standards Codification,™ sometimes referred to as the Codification or ASC.

Principles of Consolidation — The accounts of the Company and its wholly-owned subsidiary Mytogen, Inc. (“Mytogen”) are included in the accompanying consolidated financial statements. All intercompany balances and transactions were eliminated in consolidation.

Segment Reporting —ASC 280, “Segment Reporting” requires use of the “management approach” model for segment reporting. The management approach model is based on the way a company’s management organizes segments within the company for making operating decisions and assessing performance. The Company determined it has one operating segment. Disaggregation of the Company’s operating results is impracticable, because the Company’s research and development activities and its assets overlap, and management reviews its business as a single operating segment. Thus, discrete financial information is not available by more than one operating segment.

Use of Estimates — These consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States and, accordingly, require management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Specifically, the Company’s management has estimated variables used to calculate the Black-Scholes option pricing model used to value derivative instruments as discussed below under “Fair Value Measurements”. In addition, management has estimated the expected economic life and value of the Company’s licensed technology, the Company’s net operating loss for tax purposes, share-based payments for compensation to employees, directors, consultants and investment banks, and the useful lives of the Company’s fixed assets. Actual results could differ from those estimates.

Reclassifications — Certain prior year financial statement balances have been reclassified to conform to the current year presentation. For greater clarity in presentation, the Company reclassified $8,200,984 from loss on extinguishment of convertible debentures and note to charges related to repricing derivative liabilities in the accompanying statements of operations for the three and nine months ended September 30, 2009. These reclassifications had no effect on the recorded net income or net loss.

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Cash and Cash Equivalents — Cash equivalents are comprised of certain highly liquid investments with maturities of three months or less when purchased. The Company maintains its cash in bank deposit accounts, which at times, may exceed federally insured limits. The Company has not experienced any losses related to this concentration of risk. As of September 30, 2010 and December 31, 2009, the Company had deposits in excess of federally-insured limits totaling $1,422,102 and $2,028,195, respectively. The Company has not experienced any losses in such accounts.

Property and Equipment — The Company records its property and equipment at historical cost. The Company expenses maintenance and repairs as incurred. Upon disposition of property and equipment, the gross cost and accumulated depreciation are written off and the difference between the proceeds and the net book value is recorded as a gain or loss on sale of assets. In the case of certain assets acquired under capital leases, the assets are recorded net of imputed interest, based upon the net present value of future payments. Assets under capital lease are pledged as collateral for the related lease.

The Company provides for depreciation over the assets' estimated useful lives as follows:

Machinery & equipment	4 years
Computer equipment	3 years
Office furniture	4 years
Leasehold improvements	Lesser of lease life or economic life
Capital leases	Lesser of lease life or economic life

Equity Method Investment — The Company follows ASC 323 "Investments-Equity Method and Joint Ventures" in accounting for its investment in the joint venture. In the event the Company's share of the joint venture's net losses reduces the Company's investment to zero, the Company will discontinue applying the equity method and will not provide for additional losses unless the Company has guaranteed obligations of the joint venture or is otherwise committed to provide further financial support for the joint venture. If the joint venture subsequently reports net income, the Company will resume applying the equity method only after its share of that net income equals the share of net losses not recognized during the period the equity method was suspended.

Deferred Issuance Costs — Payments, either in cash or share-based payments, made in connection with the sale of debentures are recorded as deferred debt issuance costs and amortized using the effective interest method over the lives of the related debentures. The weighted average amortization period for deferred debt issuance costs is 48 months.

Long-Lived Assets — The Company follows ASC 360-10, "Property, Plant, and Equipment," which established a "primary asset" approach to determine the cash flow estimation period for a group of assets and liabilities that represents the unit of accounting for a long-lived asset to be held and used. Long-lived assets to be held and used are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. The carrying amount of a long-lived asset is not recoverable if it exceeds the sum of the undiscounted cash flows expected to result from the use and eventual disposition of the asset. Long-lived assets to be disposed of are reported at the lower of carrying amount or fair value less cost to sell. Through September 30, 2010, the Company had not experienced impairment losses on its long-lived assets.

Fair Value Measurements — For certain financial instruments, including accounts payable, accrued expenses, interest payable, convertible debt and convertible preferred stock, the carrying amounts approximate fair value due to their relatively short maturities.

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On January 1, 2008, the Company adopted ASC 820-10, "Fair Value Measurements and Disclosures." ASC 820-10 defines fair value, and establishes a three-level valuation hierarchy for disclosures of fair value measurement that enhances disclosure requirements for fair value measures. The carrying amounts reported in the consolidated balance sheets for receivables and current liabilities each qualify as financial instruments and are a reasonable estimate of their fair values because of the short period of time between the origination of such instruments and their expected realization and their current market rate of interest. The three levels of valuation hierarchy are defined as follows:

- Level 1 inputs to the valuation methodology are quoted prices for identical assets or liabilities in active markets.
- Level 2 inputs to the valuation methodology include quoted prices for similar assets and liabilities in active markets, and inputs that are observable for the asset or liability, either directly or indirectly, for substantially the full term of the financial instrument.
- Level 3 inputs to the valuation methodology are unobservable and significant to the fair value measurement.

The Company analyzes all financial instruments with features of both liabilities and equity under ASC 480, "Distinguishing Liabilities From Equity" and ASC 815, "Derivatives and Hedging." Derivative liabilities are adjusted to reflect fair value at each period end, with any increase or decrease in the fair value being recorded in results of operations as adjustments to fair value of derivatives. The effects of interactions between embedded derivatives are calculated and accounted for in arriving at the overall fair value of the financial instruments. In addition, the fair values of freestanding derivative instruments such as warrant and option derivatives are valued using the Black-Scholes model.

The Company's warrant and non-employee option derivative liabilities are carried at fair value totaling $10,873,187 and $18,168,597, as of September 30, 2010 and December 31, 2009, respectively. The Company's embedded conversion option liabilities associated with their convertible debt and Series A-1 preferred stock are carried at fair value totaling $2,937,518 and $8,609,804 as of September 30, 2010 and December 31, 2009, respectively. The Company used Level 2 inputs for its valuation methodology for the warrant derivative liabilities and embedded conversion option liabilities as their fair values were determined by using the Black-Scholes option pricing model based on various assumptions. The Company's derivative liabilities are adjusted to reflect fair value at each period end, with any increase or decrease in the fair value being recorded in results of operations as adjustments to fair value of derivatives.

At September 30, 2010, the Company identified the following assets and liabilities that are required to be presented on the balance sheet at fair value:

		Fair Value Measurements at September 30, 2010 Using Fair Value Hierarchy		
Derivative Liabilities	Fair Value As of September 30, 2010	Level 1	Level 2	Level 3
Warrant derivative liabilities	$10,873,187	$-	10,873,187	-
Embedded conversion option liabilities	2,937,518	-	2,937,518	-
	$13,810,705	$-	13,810,705	-

For the three months ended September 30, 2010 and 2009, the Company recognized a gain of $9,550,745 and 36,754,306, respectively, for the changes in the valuation of the aforementioned liabilities. For the nine months ended September 30, 2010 and 2009, the Company recognized a gain (loss) of $18,077,454 and ($788,680), respectively, for the changes in the valuation of the aforementioned liabilities.

The Company did not identify any other non-recurring assets and liabilities that are required to be presented in the consolidated balance sheets at fair value in accordance with ASC 815.

Revenue Recognition — The Company's revenues are generated from license and research agreements with collaborators. Licensing revenue is recognized on a straight-line basis over the shorter of the life of the license or the estimated economic life of the patents related to the license. License fee revenue begins to be recognized in the first full month following the effective date of the license agreement. Deferred revenue represents the portion of the license and other payments received that has not been earned. Costs associated with the license revenue are deferred and recognized over the same term as the revenue. Reimbursements of research expense pursuant to grants are recorded in the period during which collection of the reimbursement becomes assured, because the reimbursements are subject to approval.

Research and Development Costs — Research and development costs consist of expenditures for the research and development of patents and technology, which cannot be capitalized. The Company's research and development costs consist mainly of payroll and payroll related expenses, research supplies and research grants. Reimbursements of research expense pursuant to grants are recorded in the period during which collection of the reimbursement becomes assured, because the reimbursements are subject to approval. Research and development costs are expensed as incurred.

Share-Based Compensation — The Company records stock-based compensation in accordance with ASC 718, "Compensation – Stock Compensation." ASC 718 requires companies to measure compensation cost for stock-based employee compensation at fair value at the grant date and recognize the expense over the employee's requisite service period. The Company recognizes in the statement of operations the grant-date fair value of stock options and other equity-based compensation issued to employees and non-employees. There were 40,626,119 options outstanding as of September 30, 2010.

Income Taxes — Deferred income taxes are provided using the liability method whereby deferred tax assets are recognized for deductible temporary differences and operating loss and tax credit carryforwards, and deferred tax liabilities are recognized for taxable temporary differences. Temporary differences are the differences between the reported amounts of assets and liabilities and their tax bases. Deferred tax assets are reduced by a valuation allowance when, in the opinion of management, it is more likely than not that some portion or all of the deferred tax assets will not be realized. Deferred tax assets and liabilities are adjusted for the effects of the changes in tax laws and rates of the date of enactment.

When tax returns are filed, it is highly certain that some positions taken would be sustained upon examination by the taxing authorities, while others are subject to uncertainty about the merits of the position taken or the amount of the position that would be ultimately sustained. The benefit of a tax position is recognized in the financial statements in the period during which, based on all available evidence, management believes it is more likely than not that the position will be sustained upon examination, including the resolution of appeals or litigation processes, if any. Tax positions taken are not offset or aggregated with other positions. Tax positions that meet the more-likely-than-not recognition threshold are measured as the largest amount of tax benefit that is more than 50 percent likely of being realized upon settlement with the applicable taxing authority. The portion of the benefits associated with tax positions taken that exceeds the amount measured as described above is reflected as a liability for unrecognized tax benefits in the accompanying balance sheets along with any associated interest and penalties that would be payable to the taxing authorities upon examination.

Applicable interest and penalties associated with unrecognized tax benefits are classified as additional income taxes in the statements of operations.

Earnings Per Share — Earnings per share is calculated in accordance with the ASC 260-10, "Earnings Per Share." Basic earnings per share is based upon the weighted average number of common shares outstanding. Diluted earnings per share is based on the assumption that all dilutive convertible shares and stock options were converted or exercised. Dilution is computed by applying the treasury stock method. Under this method, options and warrants are assumed to be exercised at the beginning of the period (or at the time of issuance, if later), and as if funds obtained thereby were used to purchase common stock at the average market price during the period.

At September 30, 2010 and 2009, approximately 338,868,000 and 406,476,000 potentially dilutive shares, respectively, were excluded from the shares used to calculate diluted earnings per share as their inclusion would be anti-dilutive.

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The following is a reconciliation of the number of shares (denominator) used in the basic and diluted earnings per share computations for the three and nine months ended September 30, 2010 and 2009:

Three Months Ended	September 30, 2010		September 30, 2009	
	Shares	Per Share Amount	Shares	Per Share Amount
Basic earnings per share	969,174,877	$-	501,293,320	$-
Effect of dilutive stock options and warrants	584,571	-	-	-
Diluted earnings per share	969,759,448	$-	501,293,320	$-

Nine Months Ended	September 30, 2010		September 30, 2009	
	Shares	Per Share Amount	Shares	Per Share Amount
Basic earnings per share	756,009,975	$(0.02)	477,394,516	$(0.10)
Effect of dilutive stock options and warrants	-	-	-	-
Diluted earnings per share	756,009,975	$(0.02)	477,394,516	$(0.10)

Concentrations and Other Risks —Currently, the Company's revenues are concentrated on a small number of customers. The following table shows the Company's concentrations of its revenue for those customers comprising greater than 10% of total license revenue for the three and nine months ended September 30, 2010 and 2009.

	3 Months Ended September 30,		9 Months Ended September 30,	
	2010	2009	2010	2009
Genzyme Transgenics Corporation	*	13%	*	12%
Exeter Life Sciences, Inc.	15%	12%	15%	12%
START Licensing, Inc.	12%	10%	12%	10%
Terumo Corporation	*	*	*	13%
International Stem Cell Corporation	18%	15%	18%	*
Transition Holdings, Inc.	25%	21%	25%	19%
CHA Biotech and SCRMI	16%	11%	16%	*

*License revenue earned during the period was less than 10% of total license revenue.

Other risks include the uncertainty of the regulatory environment and the effect of future regulations on the Company's business activities. As the Company is a biotechnology research and development company, there is also the attendant risk that someone could commence legal proceedings over the Company's discoveries. Acts of God could also adversely affect the Company's business.

Recent Accounting Pronouncements

In October 2009, the FASB issued Accounting Standards Update 2009-15 ("ASU 2009-15") regarding accounting for own-share lending arrangements in contemplation of convertible debt issuance or other financing. This ASU requires that at the date of issuance of the shares in a share-lending arrangement entered into in contemplation of a convertible debt offering or other financing, the shares issued shall be measured at fair value and be recognized as an issuance cost, with an offset to additional paid-in capital. Further, loaned shares are excluded from basic and diluted earnings per share unless default of the share-lending arrangement occurs, at which time the loaned shares would be included in the basic and diluted earnings-per-share calculation. This ASU is effective for fiscal years beginning on or after

December 15, 2009, and interim periods within those fiscal years for arrangements outstanding as of the beginning of those fiscal years. The adoption of this ASU did not have a significant impact on the Company's consolidated financial statements.

In January 2010, the Financial Accounting Standards Board ("FASB") issued Accounting Standard Update ("ASU") No. 2010-06, Improving Disclosures about Fair Value Measurements ("ASU No. 2010-06"). The new standard addresses, among other things, guidance regarding activity in Level 3 fair value measurements. Portions of ASU No. 2010-06 that relate to the Level 3 activity disclosures are effective for the annual reporting period beginning after December 15, 2010. The Company will provide the required disclosures beginning with the Company's Annual Report on Form 10-K for the year ending December 31, 2011. Based on the initial evaluation, the Company does not anticipate a material impact to the Company's financial position, results of operations or cash flows as a result of this change.

On February 25, 2010, the FASB issued ASU 2010-09 Subsequent Events Topic 855 "Amendments to Certain Recognition and Disclosure Requirements," effective immediately. The amendments in the ASU remove the requirement for an SEC filer to disclose a date through which subsequent events have been evaluated in both issued and revised financial statements. Revised financial statements include financial statements revised as a result of either correction of an error or retrospective application of U.S. GAAP. The FASB believes these amendments remove potential conflicts with the SEC's literature. The adoption of this ASU did not have a material impact on the Company's consolidated financial statements.

On March 5, 2010, the FASB issued ASU No. 2010-11 Derivatives and Hedging Topic 815 "Scope Exception Related to Embedded Credit Derivatives." This ASU clarifies the guidance within the derivative literature that exempts certain credit related features from analysis as potential embedded derivatives requiring separate accounting. The ASU specifies that an embedded credit derivative feature related to the transfer of credit risk that is only in the form of subordination of one financial instrument to another is not subject to bifurcation from a host contract under ASC 815-15-25, Derivatives and Hedging — Embedded Derivatives — Recognition. All other embedded credit derivative features should be analyzed to determine whether their economic characteristics and risks are "clearly and closely related" to the economic characteristics and risks of the host contract and whether bifurcation is required. The ASU is effective for the Company on July 1, 2010. Early adoption is permitted. The adoption of this ASU will not have a material impact on the Company's consolidated financial statements.

3. INVESTMENT IN JOINT VENTURE

On December 1, 2008, the Company and CHA Bio & Diostech Co., Ltd. formed an international joint venture. The new company, Stem Cell & Regenerative Medicine International, Inc. ("SCRMI"), will develop human blood cells and other clinical therapies based on the Company's hemangioblast program, one of the Company's core technologies. Under the terms of the agreement, the Company purchased upfront a 33% interest in the joint venture, and received another 7% interest upon fulfilling certain obligations under the agreement through April 30, 2010. The Company's contribution includes (a) the uninterrupted use of a portion of its leased facility at the Company's expense, (b) the uninterrupted use of certain equipment in the leased facility, and (c) the release of certain of the Company's research and science personnel to be employed by the joint venture. In return, for a 60% interest, CHA has agreed to contribute $150,000 cash and to fund all operational costs in order to conduct the hemangioblast program. Effective May 1, 2010, the Company holds a 40% interest in the joint venture and CHA Bio & Diostech, Ltd. owns a 60% interest.

The Company has agreed to collaborate with the joint venture in securing grants to further research and development of its technology. Additionally, SCRMI has agreed to pay the Company a fee of $500,000 for an exclusive, worldwide license to the Hemangioblast Program. The Company has recorded $22,059 and $22,059 in license fee revenue for the nine months ended September 30, 2010 and 2009, also, $7,353 and $7,353 for the three months ended September 30, 2010 and 2009, respectively, in its accompanying consolidated statements of operations, and the balance of unamortized license fee of $447,304 and $469,363 has been accrued in deferred revenue in the accompanying consolidated balance sheets at September 30, 2010 and December 31, 2009, respectively.

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The following table is a summary of key financial data for the joint venture as of and for the nine months ended September 30, 2010:

Current assets	$717,833
Noncurrent assets	$690,882
Current liabilities	$1,116,216
Noncurrent liabilities	$1,056,960
Net revenue	$69,979
Net loss	$(1,439,923)

4. PROPERTY AND EQUIPMENT

Property and equipment consisted of the following at September 30, 2010 and December 31, 2009:

	September 30, 2010	December 31, 2009
Machinery & equipment	$1,489,074	$1,470,306
Computer equipment	449,893	441,744
Office furniture	76,201	76,201
Leasehold improvements	279,075	127,197
Capital leases	51,235	51,235
Accumulated depreciation	(2,147,646)	(2,052,779)
Property and equipment, net	$197,832	$113,904

Depreciation expense for the three months ended September 30, 2010 and 2009 amounted to $27,429 and $71,332, respectively. Furthermore, depreciation expense was $94,867 and $304,083 for the nine months ended September 30, 2010 and 2009, respectively.

5. AMENDED AND RESTATED CONVERTIBLE DEBENTURES

In connection with the amended and restated convertible debentures, the Company issued a total of 192,172,519 warrants to the holders. The terms of the amended and restated warrants include a reduced exercise price of $0.10, subject to certain customary anti-dilution adjustments. The termination date under the amended and restated warrants was extended until June 30, 2014. The warrants were valued at $8,892,995 and $16,072,842 at September 30, 2010 and December 31, 2009, respectively, at fair value using the Black-Scholes model. The decrease in the fair value of this warrant liability was $3,719,688 and $14,397,252 during the three months ended September 30, 2010 and 2009, respectively, which was recorded through the results of operations as an adjustment to fair value of derivatives. The increase (decrease) in the fair value of this warrant liability was ($5,968,418) and $2,513,644 during the nine months ended September 30, 2010 and 2009, respectively, which was recorded through the results of operations as an adjustment to fair value of derivatives. The assumptions used in the Black-Scholes option pricing model at September 30, 2010 are as follows: (1) dividend yield of 0%; (2) expected volatility of 170%, (3) risk-free interest rate of 0.64%, and (4) expected life of 3.75 years.

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The Company has complied with the provisions of ASC 815 “Derivatives and Hedging”, and recorded the fair value of the embedded conversion option liability associated with the amended and restated convertible debentures. As of September 30, 2010 and December 31, 2009, the convertible debentures were convertible at the option of the holders into a total of 20,334,640 and 81,901,980 shares, respectively, subject to anti-dilution and other customary adjustments. The fair value of the embedded conversion option was $306,942 and $4,519,815 at September 30, 2010 and December 31, 2009, respectively. The decrease in the fair value of this liability was $972,316 and $19,131,327 during the three months ended September 30, 2010 and 2009, respectively, which was recorded through the results of operations as an adjustment to fair value of derivatives. The decrease in the fair value of this liability recorded through the results of operations was $4,386,654 and $5,554,035 during the nine months ended September 30, 2010 and 2009, respectively. The assumptions used in the Black-Scholes option pricing model at September 30, 2010 are as follows: (1) dividend yield of 0%; (2) expected volatility of 170%, (3) risk-free interest rate of 0.16%, and (4) expected life of 0.25 years.

On August 30, 2010, an investor was granted a preliminary injunction against the Company, whereby the Company delivered to the investor 49,220,665 shares of its common stock. Further, on September 30, 2010, under the terms of a final settlement and mutual release with the same investor, the Company exchanged a new convertible debenture to the investor in exchange for the investor’s outstanding convertible debenture. The terms of the new convertible debenture are the same as the amended and restated debentures, except that the amounts under the debenture are due and payable on or before December 31, 2010 and June 30, 2011, and the conversion and redemption prices are subject to a floor price of $0.06 per share. Concurrently with the settlement and release, all common stock purchase warrants previously issued to the investor were cancelled (23,701,263 warrants in total) and the legal actions were dismissed. The Company recorded a loss on settlement in the amount of $3,132,300 during the three months ended September 30, 2010 in its accompanying statement of operations.

Interest expense from amortization of debt discounts for the three months ended September 30, 2010 and 2009 was $100,253 and $487,025, respectively, and for the nine months ended September 30, 2010 and 2009 was $561,030 and $487,025, respectively.

The Company issued 92,966,010 and 35,444,261 shares of common stock upon redemption and conversion of these debentures during the nine months ended September 30, 2010 and 2009, respectively.

The following table summarizes the amended and restated convertible debentures outstanding at September 30, 2010:

Convertible promissory notes, principal	$2,033,456
Debt discounts	(24,059)
Net convertible promissory notes	$2,009,397
Less current portion	(2,009,397)
Convertible promissory notes, long term	$-

6. AMENDED CONVERTIBLE PROMISSORY NOTES

During the nine months ended September 30, 2010, the Company received from JMJ Financial a total of $1,550,000 under the amended convertible promissory notes, which equates to a principal amount of $1,826,786, including a $276,786 original issue discount. On the draw dates, this principal was convertible into 23,837,426 shares of the

Company’s common stock.

During the nine months ended September 30, 2010, the Company also issued three additional convertible promissory notes to JMJ Financial, for a total of $3,000,000 available to receive in cash, for a principal sum of $3,850,000, which includes an original issue discount of $850,000. During the nine months ended Sepember 30, 2010, the Company received a total of $1,100,000 on these additional notes, which equates to a principal amount of $1,452,000, including a $352,000 original issue discount. Upon initial draws of the notes during the nine months ended September 30, 2010, the outstanding principal balance on these notes was convertible into 22,703,099 shares of the Company’s commons stock. The notes mature on March 30, 2013.

The initial fair value of the embedded conversion option liability associated with the funds received during the nine months ended September 30, 2010 was valued using the Black-Scholes model, resulting in an initial fair value of $3,688,664. The assumptions used in the Black-Scholes option pricing model at the dates the funds were received are as follows: (1) dividend yield of 0%; (2) expected volatility of 175-180%, (3) risk-free interest rate of 0.87 – 1.60%, and (4) expected life of 2.47 – 3.00 years.

As of September 30, 2010 and 2009, respectively, the convertible promissory notes were convertible at the option of the holders into a total of 50,814,338 and 10,420,077 shares, subject to anti-dilution and other customary adjustments. The fair value of the embedded conversion option was $2,509,766 and $1,055,904 at September 30, 2010 and December 31, 2009, respectively. The increase (decrease) in the fair value of this liability was ($3,370,026) and $436,430 during the three months ended September 30, 2010 and 2009, respectively, which was recorded through the results of operations as an adjustment to fair value of derivatives. The increase (decrease) in the fair value of this liability was ($3,650,627) and ($417,996) during the nine months ended September 30, 2010 and 2009, respectively. The assumptions used in the Black-Scholes option pricing model at September 30, 2010 are as follows: (1) dividend yield of 0%; (2) expected volatility of 170%, (3) risk-free interest rate of 0.42%, and (4) expected life of 2.08 – 2.50 years.

Interest expense from amortization of debt discounts for the three months ended September 30, 2010 and 2009 was $1,371,897 and $0, respectively. The expense for the nine months ended September 30, 2010 and 2009 was $3,213,565 and $0, respectively.

The following table summarizes the JMJ Financial convertible promissory notes outstanding at September 30, 2010:

Convertible promissory notes, principal	$2,524,500
Debt discounts	(2,121,491)
Net convertible promissory notes	$403,009
Less current portion	(200,954)
Convertible promissory notes, long term	$202,055

The Company issued 60,604,426 and 11,614,864 shares of common stock upon redemption and conversion of these promissory notes during the nine months ended September 30, 2010 and 2009, respectively.

7. 2009 CONVERTIBLE DEBENTURES

On February 18, 2010, the Company completed the second closing, issuing additional debentures, under the same terms of the initial closing, in the principal amount of up to $2,076,451 for a purchase price of $1,730,375 (including $45,375 previously owed to a subscriber for legal services), in a closing that was to occur within 90 days of the initial closing. Pursuant to the initial closing under the Subscription Agreement, the Company also issued an aggregate of (i) 13,808,400 Class A Warrants.

The term of the 13,808,400 warrants is five years from the initial close and is subject to anti-dilution and other customary adjustments. The initial fair value of the warrants was estimated at $1,175,007 using the Black-Scholes pricing model. The assumptions used in the Black-Scholes option pricing model at February 18, 2010 for all warrants issued in connection with these promissory notes are as follows: (1) dividend yield of 0%; (2) expected volatility of

180%, (3) risk-free interest rate of 0.34%, and (4) expected life of 4.73 years.

The fair value of the embedded conversion option liability was valued using the Black-Scholes model, resulting in an initial fair value of $1,001,140 at February 18, 2010. The convertible debenture is convertible at the option of the holders into a total of 20,764,510 shares of common stock at a conversion price of $0.10 per share, subject to anti-dilution and other customary adjustments. The assumptions used in the Black-Scholes option pricing model at February 18, 2010 are as follows: (1) dividend yield of 0%; (2) expected volatility of 180%, (3) risk-free interest rate of 0.34%, and (4) expected life of 0.73 years.

The fair value of the embedded conversion option liability was again valued using the Black-Scholes model, resulting in a fair value of $73,542 and $1,092,273 at September 30, 2010 and December 31, 2009, respectively. The convertible debenture was convertible at the option of the holders into a total of 15,890,360 and 0 shares of common stock at September 30, 2010 and 2009, respectively, at a conversion price of $0.10 per share, subject to anti-dilution and other customary adjustments. The assumptions used in the Black-Scholes option pricing model at September 30, 2010 are as follows: (1) dividend yield of 0%; (2) expected volatility of 170%, (3) risk-free interest rate of 0.14%, and (4) expected life of 0.12 years. The decrease in fair value of the embedded converse on option of $607,046 and $0 was recorded through the results of operations as an adjustment to the fair value of derivatives for the three months ended September 30, 2010 and 2009, respectively, and $2,019,871 and $0 for the nine months ended September 30, 2010 and 2009, respectively.

The total of 27,793,350 warrants was valued at $1,485,072 and $1,200,151 at September 30, 2010 and December 31, 2009, respectively, at fair value using the Black-Scholes model. The assumptions used in the Black-Scholes option pricing model at September 30, 2010 for all warrants issued in connection with these convertible debentures are as follows: (1) dividend yield of 0%; (2) expected volatility of 170%, (3) risk-free interest rate of 1.27%, and (4) expected life of 4.12 years. The decrease in fair value of the warrants of $571,406 and $0 was recorded through the results of operations as an adjustment to the fair value of derivatives for the three months ended September 30, 2010 and 2009, respectively, and $890,086 and $0 for the nine months ended September 30, 2010 and 2009, respectively.

Interest expense associated with amortization of debt discounts from this debenture for the three months ended September 30, 2010 and 2009 was $737,412 and $0, respectively. The expense for the nine months ended September 30, 2010 and 2009 was $3,710,977 and $0, respectively.

The Company redeems the notes monthly commencing in May 2010, in the amount of 14.28% of the initial principal amount of the notes, in cash or common stock at the Company’s option, until the notes are paid in full. During the nine months ended September 30, 2010, the Company issued 20,371,987 shares of its common stock upon conversion and redemption of $2,590,414 of its 2009 convertible debentures.

The following table summarizes the 2009 convertible promissory notes outstanding at September 30, 2010:

Convertible promissory notes, principal	$1,589,037
Debt discounts	(187,201)
Net convertible promissory notes	$1,401,836
Less current portion	(1,401,836)
Convertible promissory notes, long term	$-

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8. SERIES A-1 REDEEMABLE CONVERTIBLE PREFERRED STOCK

The following table summarizes the Series A-1 redeemable convertible preferred stock and embedded derivative outstanding at September 30, 2010:

	September 30, 2010
Principal due	$1,130,165
Accrued dividend	190,717
Debt discount	(85,806)
	1,235,076
Less current portion	-
Non-current portion	$1,235,076
Aggregate liquidation value*	$1,320,882

* Represents the sum of principal due and accrued dividends.

The outstanding balance at September 30, 2010 of $1,130,165 is convertible into 1,506,887 shares of the Company's common stock. The Company values the conversion option initially when each draw takes place. The embedded conversion option was valued at $47,268 at September 30, 2010 at fair value using the Black-Scholes model. The assumptions used in the Black-Scholes model to value the embedded conversion option at each draw date during the nine months ended September 30, 2010 were as follows: (1) dividend yield of 0%; (2) expected volatility of 170%, (3) risk-free interest rate of 0.64%, and (4) expected life of 2.52 years. The decrease in the fair value of the embedded conversion option liability of $29,311 and $295,670 for the three months ended September 30, 2010 and 2009, respectively, was recorded through the results of operations as an adjustment to fair value of derivatives. The decrease in the fair value of the embedded conversion option liability of $557,579 and $26,916 for the nine months ended September 30, 2010 and 2009, respectively, was recorded through the results of operations as an adjustment to fair value of derivatives.

The Company recorded accrued dividends on the Series A-1 redeemable convertible preferred stock of $67,109 for the nine months ended September 30, 2010. During the nine months ended September 30, 2010, the Company issued 83 shares of its Series A-1 convertible preferred stock upon draws of $830,165 under the financing. During the same period, the Company issued 6,206,961 shares of its common stock in conversion of $620,696 of its Series A-1 preferred stock.

Interest expense from amortization of the debt discount and deferred issuance costs for the three months ended September 30, 2010 and 2009 was $112,296 and $334,560, respectively. Interest expense from amortization of the debt discount and deferred issuance costs for the nine months ended September 30, 2010 and 2009 was $538,986 and $634,580, respectively.

9. SERIES B PREFERRED STOCK

During the nine months ended September 30, 2010, the Company delivered tranche notices to Optimus Life Sciences Capital Partners, LLC for delivery of a total of 250 shares under the Series B preferred stock for funding in the amount of $2,500,000 ($1,985,000 in cash proceeds, $500,000 of commitment fee applied, and $15,000 in legal fees).

During the nine months ended September 30, 2010, in connection with the funding, the Company issued 32,589,112 shares of its common stock upon exercise of the same number of warrants, which were granted simultaneously with the Company's tranche notice. The Company received secured promissory notes in the amount of $3,375,000 to settle the warrant exercise during the nine months ended September 30, 2010.

Secured Promissory Notes

In accordance with the terms of the Series B preferred stock agreement, Optimus issued to the Company a secured promissory note in consideration for receiving warrants under each tranche. The value of each secured promissory note equals the value of the warrants that Optimus received. Interest on the notes accrues at 2% per year, compounding annually if the interest remains unpaid at the end of each year. The note is secured by freely tradable marketable securities belonging to Optimus. Each promissory note matures on the fourth anniversary of its issuance. In the event the Company redeems all or a portion of any shares of Series B preferred stock held by Optimus, the Company will be permitted to offset the full amount of such proceeds against amounts outstanding under the promissory notes. Accordingly, the Company included the discounted value of the secured promissory notes as a separate component of stockholders' deficit at September 30, 2010. The value of the secured promissory notes in the accompanying consolidated balance sheets was $2,628,905, net of discounts of $746,095 at September 30, 2010, reflecting a face value of $3,375,000. However, the Company determined that a 10% discount is appropriate, in order to consistently reflect the Company's cost of borrowing under the terms of the underlying Series B preferred stock that permits offset. The Company recorded an initial discount on the promissory notes in the amount of $879,809 during the nine months ended September 30, 2010. The Company accretes interest at 10% over the respective four-year terms of the promissory notes. During the three and nine months ended September 30, 2010, the Company accreted interest on the promissory note in the amount of $62,892 and $133,714, respectively, which was recorded in retained earnings during the period then ended. The Company recorded $63,014 and $133,972 in dividends on its Series B preferred stock during the three and nine months period ended September 30, 2010, respectively, which was also recorded against retained earnings, for a net change of $258 to retained earnings as a result of these offsets in interest and dividends.

As of September 30, 2010 and December 31, 2009, 250 and 0 shares of Series B preferred stock were outstanding, respectively.

10. WARRANT SUMMARY

Warrant Activity

A summary of warrant activity for the nine months ended September 30, 2010 is presented below:

	Number of Warrants	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (in years)	Aggregate Intrinsic Value (000)
Outstanding, December 31, 2009	218,625,788	$0.13	4.35	$49
Granted	47,397,512	0.11		
Exercised	(56,327,375)	0.12		
Forfeited/Canceled	-	-		
Outstanding, September 30, 2010	209,695,925	$0.13	3.69	$12
Vested and expected to vest at September 30, 2010	209,695,925	$0.13	3.69	12

Exercisable, September 30, 2010	209,695,925	$0.13	3.69	12

On January 22, 2010, the Company issued 1,000,000 warrants to an investor, to purchase the same number of shares of common stock. The term of these warrants is 4.92 years and is subject to anti-dilution and other customary adjustments. The initial fair value of the warrants was estimated at $95,464 using the Black-Scholes pricing model. The assumptions used in the Black-Scholes option pricing model at January 22, 2010 for all warrants issued in connection with these promissory notes are as follows: (1) dividend yield of 0%; (2) expected volatility of 180%, (3) risk-free interest rate of 2.37%, and (4) expected life of 4.92 years. The Company valued all warrants unrelated to its debentures at September 30, 2010 and December 31, 2009 at $315,781 and $765,065, respectively. The decrease in fair value of $280,952 and $604,220 during the three and nine months ended September 30, 2010, respectively, was recorded through the results of operations as an adjustment to fair value of derivatives.

In connection with the final settlement and release agreement discussed in Note 5, the Company cancelled 23,701,263 warrants.

During the nine months ended September 30, 2010, the Company issued 32,589,112 warrants to Optimus in connection with its Series B preferred stock, which warrants were simultaneously exercised. See Note 9.

The aggregate intrinsic value in the table above is before applicable income taxes and is calculated based on the difference between the exercise price of the warrants and the quoted price of the Company's common stock as of the reporting date.

The following table summarizes information about warrants outstanding and exercisable at September 30, 2010:

	Warrants Outstanding			Warrants Exercisable	
Exercise Price	Number of Shares	Weighted Average Remaining Life (Years)	Average Exercise Price	Weighted Number of Shares	Weighted Average Exercise Price
$0.05	1,226,000	1.93	$0.05	1,226,000	$0.05
0.10 - 0.11	201,264,986	3.78	0.09	201,264,986	0.09
0.38 - 0.40	2,580,636	3.41	0.39	2,580,636	0.39
0.85 - 0.96	4,231,386	0.30	0.95	4,231,386	0.95
2.20	72,917	0.88	2.20	72,917	2.20
2.48 - 2.54	320,000	0.55	2.54	320,000	2.54
	209,695,925			209,695,925	

11. STOCKHOLDERS' EQUITY TRANSACTIONS

On March 10, 2010, the Company issued 5,000,000 shares of its restricted common stock to each of its directors in connection with their services on the board of directors.

During the nine months ended September 30, 2010, the Company issued a total of 107,051,697 shares of its common stock to its chief executive officer and chief scientific officer. Further, the Company is to issue an additional 12,421,101 shares of its common stock to the same officers. The Company recorded $10,752,552 in officer compensation expense during the nine months ended September 30, 2010 for the value of these shares.

During the nine months ended September 30, 2010, the Company issued a total of 16,773,597 shares of its common stock to its directors as compensation for services provided as directors. The Company recorded $1,560,213 in board compensation expense for the value of these shares.

On February 19, 2010, the Company issued 250,000 shares of its common stock in connection with its Series A-1 financing described in Note 8.

During the nine months ended September 30, 2010, the Company issued a total of 32,589,112 shares of common stock upon exercise of warrants issued in connection with its Series B preferred stock. During the same period, the Company received promissory notes in the amount of $3,375,000 from Optimus, in consideration for warrants issued to Optimus. The promissory notes have been included as a separate component of stockholders' deficit at September 30, 2010. See Note 9.

In connection with the preliminary injunction discussed in Note 5, the Company delivered to the investor 49,220,665 shares of its common stock.

12. STOCK-BASED COMPENSATION

Stock Plans

The following table summarizes the Company's stock incentive plans as of September 30, 2010:

Stock Plan	Options/Shares Issued	Options Outstanding	Options/Shares Available For Grant
2004 Stock Plan	2,492,000	820,000	370,000
2004 Stock Plan II	1,301,161	1,071,161	230,000
2005 Plan	41,745,484	38,734,958	112,880,892
	45,538,645	40,626,119	113,480,892

Stock Option Activity

A summary of option activity for the nine months ended September 30, 2010 is presented below:

	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (in years)	Aggregate Intrinsic Value (000)
Outstanding, December 31, 2009	28,486,119	$0.32	8.09	$33
Granted	12,140,000	0.09		
Exercised	-	-		
Forfeited/canceled	-	-		
Outstanding, September 30, 2010	40,626,119	$0.25	7.94	$8
Vested and expected to vest				
at September 30, 2010	38,799,963	0.26	7.89	8
Exercisable, September 30, 2010	26,578,767	0.33	7.35	8

The aggregate intrinsic value in the table above is before applicable income taxes and is calculated based on the difference between the exercise price of the options and the quoted price of the Company’s common stock as of the reporting date.

As of September 30, 2010, total unrecognized stock-based compensation expense related to nonvested stock options was approximately $1,191,000, which is expected to be recognized over a weighted average period of approximately 9 years.

The following table summarizes information about stock options outstanding and exercisable at September 30, 2010.

	Options Outstanding			Options Exercisable	
Exercise Price	Number of Shares	Weighted Average Remaining Life (Years)	Weighted Average Exercise Price	Number of Shares	Weighted Average Exercise Price
$0.05	820,000	3.87	$0.05	820,000	$0.05
0.09	12,140,000	10.00	0.09	1,896,876	0.09
0.10	14,501,273	9.13	0.10	12,544,501	0.10
0.21	5,811,669	7.11	0.21	3,964,212	0.21
0.25 - 0.76	1,071,161	4.25	0.25	1,071,161	0.25
0.85	5,604,099	4.34	0.85	5,604,100	0.85
1.35 - 2.48	677,917	5.11	2.04	677,917	2.04
	40,626,119			26,578,767	

The assumptions used in calculating the fair value of options granted using the Black-Scholes option- pricing model for options granted during the nine months ended September 30, 2010 and 2009 are as follows:

	2010	2009
Risk-free interest rate	2.29 - 3.84 %	2.50 %
Expected life of the options	5 - 10 years	4 years
Expected volatility	170 - 180 %	148 %
Expected dividend yield	0 %	0 %
Expected forfeitures	13 %	13 %

13. COMMITMENTS AND CONTINGENCIES

On January 29, 2010, the Company signed a new lease to move from its Worcester facility to a new 10,607 square-foot facility in Marlboro, Massachusetts. The lease term is from April 1, 2010 through June 30, 2015. Monthly base rent in 2010 is $12,596.

Rent expense for the three months ended September 30, 2010 and 2009 was approximately $46,000 and $99,000, respectively. Rent expense recorded in the financial statements for the nine months ended September 30, 2010 and 2009 was approximately $227,000 and $397,000, respectively.

On October 1, 2007 Gary D. Aronson brought suit against the Company with respect to a dispute over the interpretation of the anti-dilution provisions of our warrants issued to Mr. Aronson on or about September 14, 2005. John S. Gorton initiated a similar suit on October 10, 2007. The two cases have been consolidated. The plaintiffs allege that we breached warrants to purchase securities issued by us to these individuals by not timely issuing stock after the warrants were exercised, failing to issue additional shares of stock in accordance with the terms of the warrants and failing to provide proper notice of certain events allegedly triggering Plaintiffs' purported rights to additional shares. The Plaintiffs withdrew their case the day before the trial date. The Company sought attorney fees relating the Company defending the case over the past 2.5 years. The court denied the motion and the Company has appealed.

The Company and its subsidiary Mytogen, Inc. are currently defending themselves against a civil action brought in Suffolk Superior Court, No. 09-442-B, by their former landlord at 79/96 Thirteenth Street, Charlestown, Massachusetts, a property vacated by us and Mytogen effective May 31, 2008. In that action, Alexandria Real Estate-79/96 Charlestown Navy Yard (“ARE”) is alleging that it has been unable to relet the premises and therefore seeking rent for the vacated premises since September 2008. Alexandria is also seeking certain clean-up and storage expenses. The Company is defending against the suit, claiming that ARE had breached the covenant of quiet enjoyment as of when Mytogen vacated, and that had ARE used reasonable diligence in its efforts to secure a new tenant, it would have been more successful. Discovery has commenced and a trial date is set for December 2010. No conclusions have been reached as to the potential exposure to the Company or whether the Company has a liability.

The Company has been named as a third party defendant in this action, filed September 16, 2009, in which the plaintiff alleges that Alexandria Real Estate (“Alexandria”) improperly charged a trustee holding approximately $146,000 of funds in a Company account that Bristol claimed as collateral. Alexandria brought a third party complaint against the Company for indemnification. No conclusions have been reached as to the potential exposure to the Company or whether the Company has a liability, though the Company believes it has no liability in the case.

During the nine months ended September 30, 2010, the Company revised its estimate of certain accrued liabilities arising principally from legal and professional services received. Accordingly, the Company recognized $30,336 and $1,600,302 as change in estimate of accrued liabilities during the three and nine months ended September 30, 2010, respectively, in its accompanying consolidated statements of operations.

The Company has entered into employment contracts with certain executives and research personnel. The contracts provide for salaries, bonuses and stock option grants, along with other employee benefits. The employment contracts generally have no set term and can be terminated by either party. There is a provision for payments of three months to one year of annual salary as severance if the Company terminates a contract without cause, along with the acceleration of certain unvested stock option grants.

14. RELATED PARTY TRANSACTIONS

During the nine months ended September 30, 2010, the Company issued a total of 107,051,697 shares of its restricted common stock to its chief executive officer and chief scientific officer. Further, the Company is to issue an additional 12,421,101 shares of its common stock to the same officers. See Note 11.

During the nine months ended September 30, 2010, the Company issued a total of 16,773,597 shares of its common stock to its directors as compensation for services provided as directors. See Note 11.

15. SUBSEQUENT EVENTS

The Company has evaluated all subsequent events that occurred up to the time of the Company's issuance of its financial statements.

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q and the materials incorporated herein by reference contain forward-looking statements that involve risks and uncertainties. We use words such as “may,” “assumes,” “forecasts,” “positions,” “predicts,” “strategy,” “will,” “expects,” “estimates,” “anticipates,” “believes,” “projects,” “intends,” “plans,” “budgets,” “potential,” “con variations thereof, and other statements contained in this quarterly report, and the exhibits hereto, regarding matters that are not historical facts and are forward-looking statements. Because these statements involve risks and uncertainties, as well as certain assumptions, actual results may differ materially from those expressed or implied by such forward-looking statements. Factors that could cause actual results to differ materially include, but are not limited to risks inherent in: our early stage of development, including a lack of operating history, lack of profitable operations and the need for additional capital; the development and commercialization of largely novel and unproven technologies and products; our ability to protect, maintain and defend our intellectual property rights; uncertainties regarding our ability to obtain the capital resources needed to continue research and development operations and to conduct research, preclinical development and clinical trials necessary for regulatory approvals; uncertainty regarding the outcome of clinical trials and our overall ability to compete effectively in a highly complex, rapidly developing, capital intensive and competitive industry. Readers are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date that they are made. We undertake no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

Forward-looking statements include our plans and objectives for future operations, including plans and objectives relating to our products and our future economic performance. Assumptions relating to the foregoing involve judgments with respect to, among other things, future economic, competitive and market conditions, future business decisions, and the time and money required to successfully complete development and commercialization of our technologies, all of which are difficult or impossible to predict accurately and many of which are beyond our control. Although we believe that the assumptions underlying the forward-looking statements contained herein are reasonable, any of those assumptions could prove inaccurate and, therefore, we cannot assure you that the results contemplated in any of the forward-looking statements contained herein will be realized. Based on the significant uncertainties inherent in the forward-looking statements included herein, the inclusion of any such statement should not be regarded as a representation by us or any other person that our objectives or plans will be achieved.

ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

OVERVIEW

The following discussion should be read in conjunction with the financial statements and notes thereto included in Part I, Item 1 of this Quarterly Report on Form 10-Q.

We are a biotechnology company focused on developing and commercializing human stem cell technology in the emerging fields of regenerative medicine and stem cell therapy. Principal activities to date have included obtaining financing, securing operating facilities, and conducting research and development. We have no therapeutic products currently available for sale and do not expect to have any therapeutic products commercially available for sale for a period of years, if at all. These factors indicate that our ability to continue research and development activities is dependent upon the ability of management to obtain additional financing as required.

CRITICAL ACCOUNTING POLICIES

Deferred Issuance Cost— Payments, either in cash or share-based payments, made in connection with the sale of debentures are recorded as deferred debt issuance costs and amortized using the effective interest method over the lives of the related debentures. The weighted average amortization period for deferred debt issuance costs is 48 months.

Fair Value Measurements — For certain financial instruments, including accounts receivable, accounts payable, accrued expenses, interest payable and notes payable, the carrying amounts approximate fair value due to their relatively short maturities.

On January 1, 2008, we adopted FASB ASC 820-10, "Fair Value Measurements and Disclosures." FASB ASC 820-10 defines fair value, and establishes a three-level valuation hierarchy for disclosures of fair value measurement that enhances disclosure requirements for fair value measures. The carrying amounts reported in the consolidated balance sheets for receivables and current liabilities each qualify as financial instruments and are a reasonable estimate of their fair values because of the short period of time between the origination of such instruments and their expected realization and their current market rate of interest. The three levels of valuation hierarchy are defined as follows:

- Level 1 inputs to the valuation methodology are quoted prices for identical assets or liabilities in active markets.

- Level 2 inputs to the valuation methodology include quoted prices for similar assets and liabilities in active markets, and inputs that are observable for the asset or liability, either directly or indirectly, for substantially the full term of the financial instrument.

- Level 3 inputs to the valuation methodology are unobservable and significant to the fair value measurement.

Management analyzes all financial instruments with features of both liabilities and equity under ASC 480, “Distinguishing Liabilities From Equity” and ASC 815, “Derivatives and Hedging.” Derivative liabilities are adjusted to reflect fair value at each period end, with any increase or decrease in the fair value being recorded in results of operations as adjustments to fair value of derivatives. The effects of interactions between embedded derivatives are calculated and accounted for in arriving at the overall fair value of the financial instruments. In addition, the fair values of freestanding derivative instruments such as warrant and option derivatives are valued using the Black-Scholes model.

Revenue Recognition— Our revenue is generated from license and research agreements with collaborators. Licensing revenue is recognized on a straight-line basis over the shorter of the life of the license or the estimated economic life of the patents related to the license. Deferred revenue represents the portion of the license and other payments received that has not been earned. Costs associated with the license revenue are deferred and recognized over the same term as the revenue. Reimbursements of research expense pursuant to grants are recorded in the period during which collection of the reimbursement becomes assured, because the reimbursements are subject to approval.

Stock Based Compensation— We record stock-based compensation in accordance with ASC 718, “Compensation – Stock Compensation.” ASC 718 requires companies to measure compensation cost for stock-based employee compensation at fair value at the grant date and recognize the expense over the employee’s requisite service period. We recognize in the statement of operations the grant-date fair value of stock options and other equity-based compensation issued to employees and non-employees.

Recent Accounting Pronouncements

In October 2009, the FASB issued Accounting Standards Update 2009-15 ("ASU 2009-15") regarding accounting for own-share lending arrangements in contemplation of convertible debt issuance or other financing. This ASU requires that at the date of issuance of the shares in a share-lending arrangement entered into in contemplation of a convertible debt offering or other financing, the shares issued shall be measured at fair value and be recognized as an issuance cost, with an offset to additional paid-in capital. Further, loaned shares are excluded from basic and diluted earnings per share unless default of the share-lending arrangement occurs, at which time the loaned shares would be included in the basic and diluted earnings-per-share calculation. This ASU is effective for fiscal years beginning on or after December 15, 2009, and interim periods within those fiscal years for arrangements outstanding as of the beginning of those fiscal years. The adoption of this ASU did not have a significant impact on our consolidated financial statements.

In January 2010, the Financial Accounting Standards Board (“FASB”) issued Accounting Standard Update (“ASU”) No. 2010-06, Improving Disclosures about Fair Value Measurements (“ASU No. 2010-06”). The new standard addresses, among other things, guidance regarding activity in Level 3 fair value measurements. Portions of ASU No. 2010-06 that relate to the Level 3 activity disclosures are effective for the annual reporting period beginning after December 15, 2010. The Company will provide the required disclosures beginning with the Company’s Annual Report on Form 10-K for the year ending December 31, 2011. Based on our initial evaluation, we do not anticipate a material impact to our financial position, results of operations or cash flows as a result of this change.

On February 25, 2010, the FASB issued ASU 2010-09 Subsequent Events Topic 855 “Amendments to Certain Recognition and Disclosure Requirements,” effective immediately. The amendments in the ASU remove the requirement for an SEC filer to disclose a date through which subsequent events have been evaluated in both issued and revised financial statements. Revised financial statements include financial statements revised as a result of either correction of an error or retrospective application of U.S. GAAP. The FASB believes these amendments remove potential conflicts with the SEC's literature. The adoption of this ASU did not have a material impact on our consolidated financial statements.

On March 5, 2010, the FASB issued ASU No. 2010-11 Derivatives and Hedging Topic 815 "Scope Exception Related to Embedded Credit Derivatives." This ASU clarifies the guidance within the derivative literature that exempts certain credit related features from analysis as potential embedded derivatives requiring separate accounting. The ASU specifies that an embedded credit derivative feature related to the transfer of credit risk that is only in the form of subordination of one financial instrument to another is not subject to bifurcation from a host contract under ASC 815-15-25, Derivatives and Hedging — Embedded Derivatives — Recognition. All other embedded credit derivative features should be analyzed to determine whether their economic characteristics and risks are "clearly and closely related" to the economic characteristics and risks of the host contract and whether bifurcation is required. The ASU is effective for the Company on July 1, 2010. Early adoption is permitted. The adoption of this ASU will not have a material impact on our consolidated financial statements.

RESULTS OF OPERATIONS

Comparison of Three Months Ended September 30, 2010 and 2009

	Three Months Ended September 30, 2010		Three Months Ended September 30, 2009	
	Amount	% of Revenue	Amount	% of Revenue
Revenue	$205,158	100.0 %	$248,141	100.0 %
Cost of Revenue	66,650	32.5 %	108,049	43.5 %
Gross profit	138,508	67.5 %	140,092	56.5 %
Research and development expenses	1,348,503	657.3 %	700,818	282.4 %
General and administrative expenses	1,094,604	533.5 %	453,561	182.8 %
Change in estimate of accrued liabilities	(30,336)	-14.8 %	-	0.0 %
Loss on settlement of litigation	3,132,300	1526.8 %	110,000	44.3 %
Non-operating income (expense)	7,342,278	3578.8 %	(79,987)	-32.2 %
Net income (loss)	$1,935,715	943.5 %	$(1,204,274)	-485.3 %

Revenue

Revenue for the three months ended September 30, 2010 and 2009 was $205,158 and $248,141, respectively, which represented a decrease of $42,983, or 17%. These amounts relate primarily to license fees and royalties collected that are being amortized over the period of the license granted, and are therefore typically consistent between periods. The decrease in revenue during the three months ended September 30, 2010 was due to licenses being terminated during the fourth quarter 2009, while just one license renewal for $150,000 was added during 2010.

Of the revenue recognized during the three months ended September 30, 2010, we recognized $51,470 (25% of total revenue) in license fee revenue from Transition Holdings, Inc. and another $37,500 (18% of total revenue) from International Stem Cell Corporation.

Research and Development Expenses and Grant Reimbursements

R&D expenses for the three months ended September 30, 2010 and 2009 were $1,348,503 and $700,818, respectively, an increase of $647,685, or 92%. R&D consists mainly of facility costs, payroll and payroll related expenses, research supplies and costs incurred in connection with specific research grants, and for scientific research. The increase in R&D expenditures during the three months ended September 30, 2010 as compared to the same period in 2009 is primarily due to increased lab, supply and personnel expenses in 2010 pursuant to our recent IND submission with the Federal Drug Administration for our research in the treatment of Stargardt's Macular Dystrophy (SMD).

Our research and development expenses consist primarily of costs associated with basic and pre-clinical research exclusively in the field of human stem cell therapies and regenerative medicine, with focus on development of our technologies in cellular reprogramming, reduced complexity applications, and stem cell differentiation. These expenses represent both pre-clinical development costs and costs associated with non-clinical support activities such as quality control and regulatory processes. The cost of our research and development personnel is the most significant category of expense; however, we also incur expenses with third parties, including license agreements, sponsored research programs and consulting expenses.

We do not segregate research and development costs by project because our research is focused exclusively on human stem cell therapies as a unitary field of study. Although we have three principal areas of focus for our research, these areas are completely intertwined and have not yet matured to the point where they are separate and distinct projects. The intellectual property, scientists and other resources dedicated to these efforts are not separately allocated to individual projects, but rather are conducting our research on an integrated basis.

We expect that research and development expenses will continue to increase in the foreseeable future as we add personnel, expand our pre-clinical research, begin clinical trial activities, and increase our regulatory compliance capabilities. The amount of these increases is difficult to predict due to the uncertainty inherent in the timing and extent of progress in our research programs, and initiation of clinical trials. In addition, the results from our basic research and pre-clinical trials, as well as the results of trials of similar therapeutics under development by others, will influence the number, size and duration of planned and unplanned trials. As our research efforts mature, we will continue to review the direction of our research based on an assessment of the value of possible commercial applications emerging from these efforts. Based on this continuing review, we expect to establish discrete research programs and evaluate the cost and potential for cash inflows from commercializing products, partnering with others in the biotechnology or pharmaceutical industry, or licensing the technologies associated with these programs to third parties.

We believe that it is not possible at this stage to provide a meaningful estimate of the total cost to complete our ongoing projects and bring any proposed products to market. The use of human embryonic stem cells as a therapy is an emerging area of medicine, and it is not known what clinical trials will be required by the FDA in order to gain marketing approval. Costs to complete could vary substantially depending upon the projects selected for development, the number of clinical trials required and the number of patients needed for each study. It is possible that the completion of these studies could be delayed for a variety of reasons, including difficulties in enrolling patients, delays in manufacturing, incomplete or inconsistent data from the pre-clinical or clinical trials, and difficulties evaluating the trial results. Any delay in completion of a trial would increase the cost of that trial, which would harm our results of operations. Due to these uncertainties, we cannot reasonably estimate the size, nature nor timing of the costs to complete, or the amount or timing of the net cash inflows from our current activities. Until we obtain further relevant pre-clinical and clinical data, we will not be able to estimate our future expenses related to these programs or when, if ever, and to what extent we will receive cash inflows from resulting products.

General and Administrative Expenses

General and administrative expenses for the three months ended September 30, 2010 and 2009 were $1,094,604 and $453,561, respectively, an increase of $641,043, or 141%. The third quarter 2010 increase was primarily due to an increase stock option expense during the three months ended September 30, 2010. Additionally, during the three months ended September 30, 2010, we experienced an increase in legal fees in our efforts to secure financing and in defending the Company in various legal matters.

Change in Estimate of Accrued Liabilities

During the three months ended September 30, 2010, we revised our estimate of certain accrued liabilities arising principally from legal and professional services received, and accordingly, recognized $30,336 as a reduction to our accrued liabilities.

Non-operating income (expense)

Non-operating income (expense) for the three months ended September 30, 2010 and 2009 was $7,342,278 and ($79,987), respectively, which represents an increase of $7,422,265. The change in non-operating income (expense) during the three months ended September 30, 2010, compared to that of 2009, relates primarily to ($8,200,984) in loss on extinguishment of convertible debentures and note during the three months ended September 30, 2009, and a total of $10,475,163 in income related to changes in valuation of derivative liabilities during the three months ended September 30, 2009 compared with $9,550,745 during the same period in 2010.

Interest income was $4,389 and $371 during the three months ended September 30, 2010 and 2009, respectively. Interest income was higher in the three months ended September 30, 2010 than in the three months ended September 30, 2009 due to the higher cash balances held in interest-bearing deposits during the periods. Interest expense was $2,382,253 and $2,354,537 for the three months ended September 30, 2010 and 2009, respectively, which represents an increase of $27,716, or 1%.

The adjustment to fair value of derivatives was $9,550,745 and ($36,754,306) for the three months ended September 30, 2010 and 2009, respectively. The significant reduction in our debt balances due to conversions to common stock contributed most significantly to the change in the fair value of derivatives during the three months ended September 30, 2010 as compared with the same period in 2009.

Net Income (Loss)

Net income (loss) for the three months ended September 30, 2010 and 2009 was $1,935,715 and ($1,204,274), respectively. The change in net income (loss) in each period is primarily the related to charges from our derivative liabilities, as well as charges arising from settlements.

Comparison of Nine Months Ended September 30, 2010 and 2009

	Nine Months Ended September 30, 2010		Nine Months Ended September 30, 2009	
	Amount	% of Revenue	Amount	% of Revenue

Revenue	$615,474	100.0 %	$785,112	100.0 %
Cost of Revenue	199,950	32.5 %	324,148	41.3 %
Gross profit	415,524	67.5 %	460,964	58.7 %
Research and development expenses and				
Grant reimbursements	6,728,225	1093.2 %	2,138,843	272.4 %
General and administrative expenses	13,662,066	2219.8 %	1,961,195	249.8 %
Change in estimate of accrued liabilities	(1,600,302)	-260.0 %	-	0.0 %
Loss on settlement of litigation	3,132,300	508.9 %	4,903,949	624.6 %
Non-operating income (expense)	8,523,246	1384.8 %	(41,097,931)	-5234.7 %
Net loss	$(12,983,519)	-2109.5 %	$(49,640,954)	-6322.8 %

Revenue

Revenue for the nine months ended September 30, 2010 and 2009 was $615,474 and $785,112, respectively, which represented a decrease of $169,638, or 22%. These amounts relate primarily to license fees and royalties collected that are being amortized over the period of the license granted, and are therefore typically consistent between periods. The decrease in revenue during the nine months ended September 30, 2010 was due to licenses being terminated during the fourth quarter 2009, while just one license renewal for $150,000 was added during the nine months ended September 30, 2010.

Of the revenue recognized during the nine months ended September 30, 2010, we recognized $154,410 (25%of total revenue) in license fee revenue from Transition Holdings, Inc. and another $112,500 (18% of total revenue) from International Stem Cell Corporation.

Research and Development Expenses and Grant Reimbursements

R&D expenses for the nine months ended September 30, 2010 and 2009 were $6,728,225 and $2,275,683, respectively, an increase of $4,452,542, or 196%. R&D consists mainly of facility costs, payroll and payroll related expenses, research supplies and costs incurred in connection with specific research grants, and for scientific research. The increase in R&D expenditures during the nine months ended September 30, 2010 as compared to the same period in 2009 is primarily due to 30,192,203 shares of common stock issued and to be issued to our chief scientific officer, valued at $2,717,298 during the nine months ended September 30, 2010. Further, we increased lab, supply and personnel expenses in 2010 pursuant to our recent IND submission with the Federal Drug Administration for our research in the treatment of Stargardt's Macular Dystrophy (SMD).

Our research and development expenses consist primarily of costs associated with basic and pre-clinical research exclusively in the field of human stem cell therapies and regenerative medicine, with focus on development of our technologies in cellular reprogramming, reduced complexity applications, and stem cell differentiation. These expenses represent both pre-clinical development costs and costs associated with non-clinical support activities such as quality control and regulatory processes. The cost of our research and development personnel is the most significant category of expense; however, we also incur expenses with third parties, including license agreements, sponsored research programs and consulting expenses.

We do not segregate research and development costs by project because our research is focused exclusively on human stem cell therapies as a unitary field of study. Although we have three principal areas of focus for our research, these areas are completely intertwined and have not yet matured to the point where they are separate and distinct projects. The intellectual property, scientists and other resources dedicated to these efforts are not separately allocated to individual projects, but rather are conducting our research on an integrated basis.

We expect that research and development expenses will continue to increase in the foreseeable future as we add personnel, expand our pre-clinical research, begin clinical trial activities, and increase our regulatory compliance capabilities. The amount of these increases is difficult to predict due to the uncertainty inherent in the timing and extent of progress in our research programs, and initiation of clinical trials. In addition, the results from our basic research and pre-clinical trials, as well as the results of trials of similar therapeutics under development by others, will influence the number, size and duration of planned and unplanned trials. As our research efforts mature, we will continue to review the direction of our research based on an assessment of the value of possible commercial applications emerging from these efforts. Based on this continuing review, we expect to establish discrete research programs and evaluate the cost and potential for cash inflows from commercializing products, partnering with others in the biotechnology or pharmaceutical industry, or licensing the technologies associated with these programs to third parties.

We believe that it is not possible at this stage to provide a meaningful estimate of the total cost to complete our ongoing projects and bring any proposed products to market. The use of human embryonic stem cells as a therapy is an emerging area of medicine, and it is not known what clinical trials will be required by the FDA in order to gain marketing approval. Costs to complete could vary substantially depending upon the projects selected for development, the number of clinical trials required and the number of patients needed for each study. It is possible that the completion of these studies could be delayed for a variety of reasons, including difficulties in enrolling patients, delays in manufacturing, incomplete or inconsistent data from the pre-clinical or clinical trials, and difficulties evaluating the trial results. Any delay in completion of a trial would increase the cost of that trial, which would harm our results of operations. Due to these uncertainties, we cannot reasonably estimate the size, nature nor timing of the costs to complete, or the amount or timing of the net cash inflows from our current activities. Until we obtain further relevant pre-clinical and clinical data, we will not be able to estimate our future expenses related to these programs or when, if ever, and to what extent we will receive cash inflows from resulting products.

General and Administrative Expenses

General and administrative expenses for the nine months ended September 30, 2010 and 2009 were $13,662,066 and $1,961,195, respectively, an increase of $11,700,871, or 597%. This expense increase was primarily due to 89,280,595 shares of our common stock issued or to be issued to our chief executive officer, valued at $8,035,254, and another 16,773,597 shares of our common stock issued to our directors, valued at $1,533,513, during the nine months ended September 30, 2010. Additionally, during the nine months ended September 30, 2010, we experienced an increase in legal fees in our efforts to secure financing and in defending the Company in various legal matters.

Change in Estimate of Accrued Liabilities

During the nine months ended September 30, 2010, we revised our estimate of certain accrued liabilities arising principally from legal and professional services received, and accordingly, recognized $1,600,302 as a reduction to our accrued liabilities.

Loss on Settlement of Litigation

Loss on settlement for the nine months ended September 30, 2010 and 2009 were $3,132,300 and $4,903,949, respectively. During the nine months ended September 30, 2009, we entered into a settlement agreement pursuant to which we agreed to settle certain past due accounts payable, for previous professional services and other operating expenses incurred, by the issuance of shares of our common stock. During that period, we settled $505,199 in accounts payable through the issuance of 39,380,847 shares of our common stock with a value of $5,299,148. Accordingly, we recorded a loss on settlement of $4,793,949 for the nine months ended September 30, 2009.

Non-operating income (expense)

Non-operating income (expense) for the nine months ended September 30, 2010 and 2009 was $8,523,246 and ($41,097,931), respectively, which represents an increase of $49,621,177. The change in non-operating income (expense) during the nine months ended September 30, 2010, compared to that of 2009, relates primarily to ($8,200,984) in loss on extinguishment of convertible debentures and note during the nine months ended September 30, 2009, and a total of ($28,864,191) in charges related to changes in valuation of derivative liabilities during the three months ended September 30, 2009 compared with $18,077,454 during the same period in 2010.

Interest income was $15,368 and $2,129 during the nine months ended September 30, 2010 and 2009, respectively. Interest income was higher in the nine months ended September 30, 2010 than in the nine months ended September 30, 2009 due to the higher cash balances held in interest-bearing deposits during the periods. Interest expense was $8,164,546 and $3,890,447 for the nine months ended September 30, 2010 and 2009, respectively, which represents an increase of $4,274,099, or 110%. The increase in interest expense in the nine months ended September 30, 2010, compared to the earlier period primarily to amortization of debt discounts and deferred financing costs being recorded during 2010 for all debt and preferred stock outstanding.

The change in the fair value of derivatives was $18,077,454 and ($788,680) for the nine months ended September 30, 2010 and 2009, respectively. The significant reduction in our debt balances due to conversions to common stock, as well as changes in the value of the Company's common stock contributed most significantly to the change in the fair value of derivatives during the nine months ended September 30, 2010.

Net Loss

Net loss for the nine months ended September 30, 2010 and 2009 was $12,983,519 and $49,640,954, respectively. The change in net loss in each period is primarily the result of changes to the fair value of derivatives, offset by interest charges related to convertible debentures and interest charges on our debt.

LIQUIDITY AND CAPITAL RESOURCES

Cash Flows

The following table sets forth a summary of our cash flows for the periods indicated below:

	Nine Months Ended September 30,	
	2010	2009
Net cash used in operating activities	$(7,298,540)	$(3,059,608)

Net cash used in investing activities	(199,045)	(7,538)
Net cash provided by financing activities	7,153,865	3,308,000
Net increase (decrease) in cash and cash equivalents	(343,720)	240,854
Cash and cash equivalents at the end of the period	$2,195,118	$1,057,758

Operating Activities

Our net cash used in operating activities during the nine months ended September 30, 2010 and 2009 was $7,298,540 and $3,059,608, respectively. Cash used in operating activities increased during the current period primarily due to an increase in operating expenditures.

Cash Flows from Investing and Financing Activities

Cash used in investing activities during the nine months ended September 30, 2010 and 2009 was $199,045 and $7,538, respectively. Our cash used in investing activities during the nine months ended September 30, 2010 was attributed to payment of a deposit on a leased space as well as payments for the purchase of fixed assets for approximately $186,000. Cash flows provided by financing activities during the nine months ended September 30, 2010 was $7,153,865. During the nine months ended September 30, 2010, we received $830,165 from the issuance of Series A-1 convertible preferred stock, $1,985,000 from the issuance of Series B preferred stock, $1,685,000 from the issuance of convertible debentures and $2,650,000 from the issuance of convertible promissory notes.

We plan to fund our operations for the next twelve months primarily from the following financings:

- During 2010, we received cash proceeds of $2,650,000 in convertible promissory note financings with JMJ Financial. As of September 30, 2010, $3,520,000 remains available to us.
- During 2010, we received $1,685,000 from the 2009 convertible debenture.
- During 2010, we received $830,165 from the issuance of our Series A-1 convertible preferred stock credit facility. The facility allows for a maximum placement of $5,000,000.
- During 2010, we received $1,985,000 from the issuance of Series B preferred stock. The agreement allows for a maximum placement of $10,000,000.
- We continue to repay our debt financings in shares of common stock, enabling us to use our cash resources to fund our operations.

To a substantially lesser degree, financing of our operations is provided through grant funding, payments received under license agreements, and interest earned on cash and cash equivalents.

With the exception of 2002, when we sold certain assets of a subsidiary resulting in a gain for the year, we have incurred substantial net losses each year since inception as a result of research and development and general and administrative expenses in support of our operations. We anticipate incurring substantial net losses in the future.

On a longer term basis, we have no expectation of generating any meaningful revenues from our product candidates for a substantial period of time and will rely on raising funds in capital transactions to finance our research and development programs. Our future cash requirements will depend on many factors, including the pace and scope of our research and development programs, the costs involved in filing, prosecuting and enforcing patents, and other costs associated with commercializing our potential products. We intend to seek additional funding primarily through public or private financing transactions, and, to a lesser degree, new licensing or scientific collaborations, grants from governmental or other institutions, and other related transactions. If we are unable to raise additional funds, we will be forced to either scale back or business efforts or curtail our business activities entirely. We anticipate that our available cash and expected income will be sufficient to finance most of our current activities through December 31, 2011. We cannot assure you that public or private financing or grants will be available on acceptable terms, if at all. Several factors will affect our ability to raise additional funding, including, but not limited to, the volatility of our common stock.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Our exposure to market risk is limited primarily to interest income sensitivity, which is affected by changes in the general level of U.S. interest rates, particularly because a significant portion of our investments are in short-term debt securities issued by the U.S. government and institutional money market funds. The primary objective of our investment activities is to preserve principal. Due to the nature of our marketable securities, we believe that we are not exposed to any material market risk. We do not have any derivative financial instruments or foreign currency instruments. If interest rates had varied by 10% in the quarter ended September 30, 2010, it would not have had a material effect on our results of operations or cash flows for that period.

ITEM 4. CONTROLS AND PROCEDURES

Disclosure Controls and Procedures

We maintain disclosure controls and procedures designed to ensure that information required to be disclosed in the reports we file pursuant to the Exchange Act are recorded, processed, summarized and reported within the time periods specified in the rules and forms of the Securities and Exchange Commission, and that such information is accumulated and communicated to our Chief Executive Officer ("CEO"), who also serves as the Company's Principal Financial Officer ("PFO"), to allow timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, management recognized that any controls and procedures, no matter how well designed and operated, can only provide a reasonable assurance of achieving the desired control objectives, and in reaching a reasonable level of assurance, management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Management designed the disclosure controls and procedures to provide reasonable assurance of achieving the desired control objectives.

We carried out an evaluation, under the supervision and with the participation of our management, including our CEO and PFO, of the effectiveness of the design and operation of our disclosure controls and procedures as of the end of the period covered by this Quarterly Report. Based upon that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that the Company's disclosure controls and procedures are effective.

Changes in Internal Control over Financial Reporting

There have been no significant changes in our internal controls over financial reporting (as such term is defined in Rule 13a-15(f) and 15d-15(f) under the Securities Exchange Act) during the quarter ended September 30, 2010 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

Gary D. Aronson v. Advanced Cell Technology, Inc., Superior Court of California, County of Alameda, Case No. RG07348990. John S. Gorton v. Advanced Cell Technology, Inc, Superior Court of California, County of Alameda Case No. RG07350437. On October 1, 2007 Gary D. Aronson brought suit against us with respect to a dispute over the interpretation of the anti-dilution provisions of our warrants issued to Mr. Aronson on or about September 14, 2005. John S. Gorton initiated a similar suit on October 10, 2007. The two cases have been consolidated. The plaintiffs allege that we breached warrants to purchase securities issued by us to these individuals by not timely issuing stock after the warrants were exercised, failing to issue additional shares of stock in accordance with the terms of the warrants and failing to provide proper notice of certain events allegedly triggering Plaintiffs' purported rights to additional shares. The Plaintiffs withdrew their case the day before the trial date. We sought attorney fees relating us defending the case over the past 2.5 years. The court denied the motion and we have appealed.

Alexandria Real Estate-79/96 Charlestown Navy Yard v. Advanced Cell Technology, Inc. and Mytogen, Inc. (Suffolk County, Massachusetts) : The Company and its subsidiary Mytogen, Inc. are currently defending themselves against a civil action brought in Suffolk Superior Court, No. 09-442-B, by their former landlord at 79/96 Thirteenth Street, Charlestown, Massachusetts, a property vacated by us and Mytogen effective May 31, 2008. In that action, Alexandria Real Estate-79/96 Charlestown Navy Yard (“ARE”) is alleging that it has been unable to relet the premises and therefore seeking rent for the vacated premises since September 2008. Alexandria is also seeking certain clean-up and storage expenses. We are defending against the suit, claiming that ARE had breached the covenant of quiet enjoyment as of when Mytogen vacated, and that had ARE used reasonable diligence in its efforts to secure a new tenant, it would have been more successful. Discovery has commenced and a trial date is set for December 2010.

Bristol Investment Fund, Ltd. as Collateral Agent for the Holders of Certain Original Issue Discount Senior Convertible Debentures v. Alexandria Real Estate—79/96 Charlestown Navy Yard, LLC (Suffolk Superior Court). The Company has been named as a third party defendant in this action, filed September 16, 2009, in which the plaintiff alleges that Alexandria Real Estate (“Alexandria”) improperly charged a trustee holding approximately $146,000 of funds in a Company account that Bristol claimed as collateral. Alexandria brought a third party complaint against the Company for indemnification.

Bristol Investment Fund, Ltd. and Bristol Capital, LLC v. Advanced Cell Technology, Inc. and Mytogen, Inc. (Supreme Court of the State of New York, County of New York)—On March 9, 2009, plaintiffs filed a complaint and summons in the Supreme Court of the State of New York, County of New York against the Company and its subsidiary Mytogen, Inc. Plaintiffs’ complaint alleged, among other things, that the Company has breached the terms of certain contracts with plaintiffs; namely, convertible debentures and a consulting agreement. Plaintiffs seek preliminary and permanent injunctive relief directing the Company to deliver to plaintiff Bristol Investment Fund, Ltd. (“Bristol”) 2.5 million shares of its common stock, declaring a conversion price of $0.02 for the convertible debentures held by plaintiffs, and directing the Company to honor plaintiff’s future conversion requests. Plaintiffs also sought compensatory damages in an amount to be determined at trial, but alleged in the complaint to exceed $1.5 million. On or about September 16, 2009, plaintiffs filed an order to show cause, seeking the issuance of a preliminary injunction directing the Company to deliver to Bristol 2.5 shares of its common stock pursuant to a convertible debenture and 47.4 million shares of its common stock pursuant to common stock purchase warrants, declaring a conversion price of $0.02 for the convertible debenture held by plaintiffs, and enjoining or restraining the Company from issuing shares of its common stock to any entity other than plaintiffs or the other holders of convertible debentures. On September 25, 2009, the Company submitted its response in opposition to plaintiffs’ motion and moved by cross-motion for dismissal of the complaint, based on the terms of the consent, waiver, amendment and exchange agreement entered into between the Company and the holders of over 95% of the outstanding principal amount of the Amended and Restated Debentures. On August 30, 2010, the court granted plaintiff's motion and directed the Company to issue the 49,220,665 shares of common stock. On September 30, 2010, the Company entered into a settlement agreement and mutual release with the plaintiffs, pursuant to which the Company exchanged a new convertible debenture to the plaintiff in exchange for the plaintiff's outstanding convertible debenture. Concurrently therewith, all common stock purchase warrants previously issued to the plaintiffs were cancelled and the legal actions were dismissed with prejudice and without costs.

ITEM 1A. RISK FACTORS

During the quarter ended September 30, 2010, there were no material changes from the risk factors included in our Annual Report on Form 10-K for the year ended December 31, 2009.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

On February 4, 2010, the Company awarded 85,325,595 shares of one-year restricted common stock to William M. Caldwell, IV, Chief Executive Officer.

On February 4, 2010, the Company awarded its board of directors a total of 15,000,000 one-year restricted common stock.

In connection with the foregoing, the Company relied upon the exemption from securities registration afforded by Rule 506 of Regulation D as promulgated by the United States Securities and Exchange Commission under the Securities Act of 1933, as amended (the "Securities Act") and/or Section 4(2) of the Securities Act. No advertising or general solicitation was employed in offering the securities. The offerings and sales were made to a limited number of persons, all of whom were accredited investors, and transfer was restricted by the Company in accordance with the requirements of the Securities Act of 1933.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. [REMOVED AND RESERVED]

ITEM 5. OTHER INFORMATION

None.

ITEM 6. EXHIBITS

	Exhibit Description
31.1	Section 302 Certification of Principal Executive Officer and Principal Financial Officer.*
32.1	Certification of Principal Executive Officer and Principal Financial Officer pursuant to 18 U.S.C. Section 1350.*
99.1	Settlement Agreement and Mutual Release with Bristol Investment Fund, Ltd and Bristol Capital, LLC*

* Filed herewith

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

ADVANCED CELL TECHNOLOGY, INC.

By: /s/ William M. Caldwell, IV
William M. Caldwell, IV
Chief Executive Officer (Principal Executive Officer and Principal Financial Officer)

Dated: November 8, 2010

ASU required an entity to present the components of net income and other comprehensive income and total comprehensive income (which includes net income) either in a single continuous statement of comprehensive income or in two separate but consecutive statements. This ASU eliminated the option to present the components of other comprehensive income as part of the statement of equity, but did not change the items that must be reported in other comprehensive income. This ASU was effective January 1, 2012, and the Company is presenting total comprehensive income in a separate statement. Additionally, in December 2011, the

FASB deferred the effective date for the requirement in this ASU for presenting reclassification adjustments for each component of accumulated other comprehensive income in both net income and other comprehensive income on the face of the financial statements.

As of January 1, 2012, the Company adopted ASU 2011-08 related to the testing of goodwill for impairment. The objective of this ASU was to simplify goodwill impairment testing by adding a qualitative review step to assess whether the required quantitative impairment analysis is necessary. This ASU permitted an entity to first perform a qualitative assessment to determine whether it is more likely than not that the fair value of a reporting unit is less than its carrying value. If it is concluded that this is the case, it is necessary to perform the prescribed two-step goodwill impairment test. Otherwise, the two-step goodwill impairment test is not required. This ASU was effective for the Company beginning January 1, 2012. Adoption of this new guidance did not have a material impact on the Company s financial statements. The Company did not elect to perform the qualitative screen for the year ended December 31, 2012.

Revenue Recognition

The Company primarily derives revenue from the sale of content delivery and VAS to its customers. The Company s customers generally execute contracts with terms of one year or longer, which are referred to as recurring revenue contracts or long-term contracts. These contracts generally commit the customer to a minimum monthly level of usage with additional charges applicable for actual usage above the monthly minimum commitment. The Company defines usage as customer data sent or received using its content delivery service, or content that is hosted or cached by the Company at the request or direction of its customer. The Company recognizes the monthly minimum as revenue each month provided that an enforceable contract has been signed by both parties, the service has been delivered to the customer, the fee for the service is fixed or determinable, and collection is reasonably assured. Should a customer s usage of the Company s services exceed the monthly minimum commitment, the Company recognizes revenue for such excess in the period of the usage. For annual or other non-monthly period revenue commitments, the Company recognizes revenue monthly based upon the customer s actual usage each month of the commitment period and only recognizes any remaining committed amount for the applicable period in the last month thereof.

The Company typically charges the customer an installation fee when the services are first activated. The Company does not charge installation fees for contract renewals. Installation fees are recorded as deferred revenue and recognized as revenue ratably over the estimated life of the customer arrangement. The Company also derives revenue from services and events sold as discrete, non-recurring events or based solely on usage. For these services, the Company recognizes revenue after an enforceable contract has been signed by both parties, the fee is fixed or determinable, the event or usage has occurred and collection is reasonably assured.

The Company has on occasion entered into multi-element arrangements. Revenue arrangements with multiple deliverables are divided into separate units of accounting if each deliverable has stand-alone value to the customer. Arrangements not meeting these criteria are combined into a single unit of accounting.

For services sold in multiple-element arrangements, consideration is allocated to each deliverable at the inception of an arrangement based on relative selling prices. Substantially all services are sold on a stand-alone basis, providing vendor specific objective evidence (VSOE) of selling prices. In the absence of VSOE or third-party evidence of selling prices, consideration would be allocated based on the Company s best estimate of such prices.

The Company recognized approximately $2.8 million, $4.3 million, and $11.0 million, respectively, in revenue under multi-element arrangements for the years ended December 31, 2012, 2011, and 2010. As of December 31, 2012, the Company had deferred revenue related to these multi-element arrangements of approximately $0.2 million that will be recognized over the remaining terms of the respective arrangements based on the underlying elements of the arrangements in accordance with its revenue recognition policies.

The Company also sells services through a reseller channel. Assuming all other revenue recognition criteria are met, revenue from reseller arrangements is recognized over the term of the contract, based on the reseller s contracted non-refundable minimum purchase commitments plus amounts sold by the reseller to its customers in excess of the minimum commitments. These excess commitments are recognized as revenue in the period in which the service is provided. Reseller revenue was approximately 3%, 4%, and 5%, respectively, of the Company s total revenue for the years ended December 31, 2012, 2011, and 2010.

At the inception of a customer contract for service, the Company makes an assessment as to that customer s ability to pay for the services provided. If the Company subsequently determines that collection from the customer is not reasonably assured, the Company records an allowance for doubtful accounts and bad debt expense or deferred revenue for all of that customer s unpaid invoices and ceases recognizing revenue for continued services provided until cash is received.

Deferred revenue represents amounts billed to customers for which revenue has not been recognized. Deferred revenue primarily consists of the unearned portion of monthly billed service fees, prepayments made by customers for future periods, and deferred installation fees.

Cash and Cash Equivalents

The Company holds its cash and cash equivalents in checking, money market, and highly-liquid investments. The Company considers all highly liquid investments with maturities of three months or less when purchased to be cash equivalents.

Investments in Marketable Securities

Management determines the appropriate classification of its marketable securities at the time of purchase and reevaluates such classification as of each balance sheet date. The Company has classified its investments in marketable securities as available-for-sale. Available-for-sale investments are initially recorded at cost with temporary changes in fair value periodically adjusted through comprehensive income. Realized gains and losses and declines in value judged to be other than temporary are determined based on the specific identification method and are reported in the statements of operations. The Company periodically reviews its investments for other-than-temporary declines in fair value based on the specific identification method and writes down investments to their fair value when an other-than-temporary decline has occurred.

Accounts Receivable

Trade accounts receivable are recorded at the invoiced amounts and do not bear interest. The Company records reserves against its accounts receivable balance for service credits and for doubtful accounts. Estimates are used in determining both of these reserves. The allowance for doubtful accounts charges are included as a component of general and administrative expenses.

The Company s reserve for service credits relates to service credits that are expected to be issued to customers during the ordinary course of business, as well as for billing disputes. These credits typically relate to customer disputes and billing adjustments and are estimated at the time the revenue is recognized and recorded as a reduction of revenues. Estimates for service credits are based on an analysis of credits issued in previous periods.

The allowance for doubtful accounts is based upon a calculation that uses the Company s aging of accounts receivable and applies a reserve percentage to the specific age of the receivable to estimate the allowance for doubtful accounts. The reserve percentages are determined based on the Company s historical write-off experience. These estimates could change significantly if the Company s customers financial condition changes or if the economy in general deteriorates. The Company performs on-going credit evaluations of its customers. If such an evaluation indicates that payment is no longer reasonably assured for current services provided, any future services provided to that customer will result in the deferral of revenue until the Company receives payments or it determines payment is reasonably assured.

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Property and Equipment

Property and equipment are carried at cost less accumulated depreciation or amortization. Depreciation and amortization are computed using the straight-line method over the assets estimated useful lives of the applicable asset.

Network equipment	3 years
Computer equipment	3 years
Capitalized software	3 years
Furniture and fixtures	3-5 years
Other equipment	3-7 years

Leasehold improvements are amortized over the shorter of the asset s estimated useful life or the respective lease term. Repairs and maintenance are charged to expense as incurred.

Goodwill and Other Intangible Assets

Goodwill represents costs in excess of fair values assigned to the underlying net assets of the acquired company. Goodwill is not amortized but instead is tested for impairment annually or more frequently if events or changes in circumstances indicate Goodwill might be impaired.

The Company s other intangible assets represent existing technologies, trade names and trademarks, and customer relationship intangibles. Other intangible assets are amortized over their respective estimated lives, ranging from less than one year to six years. In the event that facts and circumstances indicate intangibles or other long-lived assets may be impaired, the Company evaluates the recoverability and estimated useful lives of such assets. Amortization of other intangible assets is included in depreciation and amortization in the accompanying consolidated statements of operations.

Contingencies

The Company records contingent liabilities resulting from asserted and unasserted claims when it is probable that a loss has been incurred and the amount of the loss is reasonably estimable. We disclose contingent liabilities when there is a reasonable possibility that the ultimate loss will exceed the recorded liability. Estimating probable losses requires analysis of multiple factors, in some cases including judgments about the potential actions of third party claimants and courts. Therefore, actual losses in any future period are inherently uncertain.

Long-Lived Assets

The Company reviews its long-lived assets for impairment annually. Whenever events or circumstances indicate that the carrying amount of an asset may not be fully recoverable, the Company recognizes an impairment loss if the sum of the expected long-term undiscounted cash flows that the long-lived asset is expected to generate is less than the carrying amount of the long-lived asset being evaluated. The Company treats any write-downs as permanent reductions in the carrying amounts of the assets. The Company believes the carrying amounts of its long-lived assets at December 31, 2012 and 2011 are fully realizable and has not recorded any impairment losses.

Deferred Rent and Lease Accounting

The Company leases bandwidth, co-location and office space in various locations. At the inception of each lease, the Company evaluates the lease terms to determine whether the lease will be accounted for as an operating or a capital lease. The term of the lease used for this evaluation includes renewal option periods only in instances where the exercise of the renewal option can be reasonably assured and failure to exercise the option would result in an economic penalty. The Company records tenant improvement allowances granted under the lease agreements as leasehold improvements within property and equipment and within deferred rent.

For leases that contain rent escalation provisions, the Company records the total rent payable during the lease term on a straight-line basis over the term of the lease (including any rent free period beginning upon possession of the premises), and records any difference between the actual rent paid and the straight-line rent expense recorded as increases or decreases in deferred rent.

Cost of Revenue

Cost of revenues consists primarily of fees paid to network providers for bandwidth and backbone, costs incurred for non-settlement free peering and connection to Internet service provider (ISP) networks and fees paid to data center operators for housing network equipment in third party network data centers, also known as co-location costs. Cost of revenues also includes depreciation of network equipment used to deliver the Company s content delivery services, payroll and related costs and share-based compensation for its network operations, and professional services personnel.

The Company enters into contracts for bandwidth with third party network providers with terms typically ranging from several months to five years. These contracts generally commit the Company to pay minimum monthly fees plus additional fees for bandwidth usage above contracted minimums. A portion of the global computing platform traffic delivery is completed through direct connection to ISP networks, called peering, generally at no charge. This entirely avoids the bandwidth cost associated with the delivery. The Company does not consider these relationships to represent the culmination of an earnings process. Accordingly, the Company does not recognize as revenue the value to the ISPs associated with the use of the Company s servers, nor does the Company recognize as expense the value of the rack space and bandwidth received at no cost.

Research and Development and Software Development Costs

Research and development costs consist primarily of payroll and related personnel costs for the design, development, deployment, testing, operation, and enhancement of the Company s services, and network. Costs incurred in the development of the Company s services are expensed as incurred.

Advertising Costs

Costs associated with advertising are expensed as incurred. Advertising expenses, which are comprised of Internet, trade show, and publications advertising, were approximately $2.5 million, $2.3 million, and $1.4 million, respectively, for the years ended December 31, 2012, 2011, and 2010.

Income Taxes

The Company accounts for income taxes under 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 included in the financial statements. Under this method, deferred tax assets and liabilities are determined based on the differences between the financial statements and tax basis of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to reverse. The effect of a change in tax rates on deferred tax assets and liabilities is recognized in income in the period that includes the enactment date.

The Company records net deferred tax assets to the extent it believes these assets will more likely than not be realized. In making such determination, the Company considers all available positive and negative evidence, including scheduled reversals of deferred tax liabilities, projected future taxable income, tax planning strategies, and recent financial performance. In the event the Company was to determine that it would be able to realize its deferred income tax assets in the future in excess of their net recorded amount, the Company would make an adjustment to the valuation allowance, which would reduce the provision for income taxes.

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The Company recognizes uncertain income tax positions in its financial statements when it is more-likely-than-not the position will be sustained upon examination.

Fair Value of Financial Instruments

The carrying amounts of cash and cash equivalents approximate fair value due to the nature and short maturity of those instruments. The respective fair values of marketable securities are determined based on quoted market prices, which approximate fair values. The carrying amounts of accounts receivable, accounts payable, and accrued liabilities reported in the consolidated balance sheets approximate their respective fair values due to the immediate or short-term maturity of these financial instruments.

Recently Issued Accounting Pronouncements

There are no recently issued accounting pronouncements that would have a material impact on the Company.

3. Investments in Marketable Securities

The following is a summary of marketable securities (designated as available-for-sale) at December 31, 2012 (in thousands):

	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Fair Value
Government agency bonds	$ 6,266	$ 4	$	$ 6,270
Certificate of deposit	2,741			2,741
Commercial paper	500			500
Corporate notes and bonds	9,527	3	(1)	9,529
	19,034	7	(1)	19,040
Publicly traded common stock	12	6		18
Total marketable securities	$ 19,046	$ 13	$ (1)	$ 19,058

At December 31, 2012, the Company evaluated its marketable securities and determined unrealized losses were due to fluctuations in interest rates.

Expected maturities can differ from contractual maturities because the issuers of the securities may have the right to prepay obligations without prepayment penalties, and the Company views its available-for-sale securities as available for current operations.

The amortized cost and estimated fair value of the marketable securities (designated as available-for-sale) at December 31, 2012, by maturity, are shown below (in thousands):

	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Fair Value
Available-for-sale securities				
Due in one year or less	$ 18,260	$ 6	$ (1)	$ 18,265
Due after one year and through five years	774	1		775
	$ 19,034	$ 7	$ (1)	$ 19,040

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The following is a summary of marketable securities (designated as available-for-sale) at December 31, 2011 (in thousands):

	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Fair Value
Government agency bonds	$ 9,614	$ 1	$ (1)	$ 9,614
Certificate of deposit	2,730			2,730
Commercial paper	1,749			1,749
Corporate notes and bonds	5,757	1	(1)	5,757
	19,850	2	(2)	19,850
Publicly traded common stock	12	39		51
Total marketable securities	$ 19,862	$ 41	$ (2)	$ 19,901

The amortized cost and estimated fair value of the marketable securities (designated as available-for-sale) at December 31, 2011, by maturity, are shown below (in thousands):

	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Fair Value
Available-for-sale securities				
Due in one year or less	$ 19,850	$ 2	$ (2)	$ 19,850
Due after one year and through five years				
	$ 19,850	$ 2	$ (2)	$ 19,850

4. Business Acquisitions

AcceloWeb, (IL) Ltd. Acquisition

On May 9, 2011, the Company acquired all of the issued and outstanding shares of AcceloWeb, (IL) Ltd. (AcceloWeb), a Tel Aviv, Israel-based privately-held provider of advanced technology that helps speed the presentation of websites and applications. The services provided by AcceloWeb aligned with the Company s current whole site acceleration strategy, provided a time to market advantage over development of a new product and furthered the Company s value-added services growth strategy. The aggregate purchase price of approximately $12.0 million consisted of approximately $5.0 million of cash paid at the closing (cash paid net of cash acquired was $4.7 million) and 1,100,629 shares of the Company s common stock with an estimated fair value of approximately $7.0 million on the acquisition date. The number of shares of common stock issued at the closing was determined on the basis of the average closing market price of the Company s common stock on the five days preceding the acquisition date. In addition, the purchase price included contingent consideration with an aggregate potential value of $8.0 million ($4.0 million payable in cash and $4.0 million payable in the Company s common stock), which may be earned upon the achievement of certain performance milestones which will be measured quarterly during the eight full consecutive quarters ending June 30, 2013 (the Earn-Out). As of December 31, 2011, the estimated value of the Earn-Out contingent consideration was $0.8 million. During the year ended December 31, 2012, 2012, the Company determined that the achievement of the Earn-Out performance milestones was not probable and reversed the previously recorded earn-out liability of $0.8 million. The reversal has been reflected as a reduction to general and administrative expense in the accompanying consolidated statement of operations for the year ended December 31, 2012.

Under the terms of the merger agreement, a portion of the purchase price consisting of 188,677 shares of the Company s common stock was set aside in an escrow account and was held for a period of up to 18 months following the closing date to satisfy any unresolved indemnification claims. There were no indemnification claims made on the escrow account, and in 2012 these shares were released from escrow.

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The Company s consolidated financial statements include the results of operations of AcceloWeb from the date of acquisition. The historical results of operations of AcceloWeb were not significant to the Company s consolidated results of operations for the periods presented. The total purchase consideration was allocated to the assets acquired and liabilities assumed at their estimated fair values as of the date of acquisition, as determined by management and, with respect to identifiable intangible assets, by management with the assistance of an appraisal provided by a third party valuation firm. The excess of the purchase price over the amounts allocated to assets acquired and liabilities assumed has been recorded as goodwill. The objective of the acquisition was to expand the Company s product offerings and customer base and is expected to achieve synergies related to cross selling opportunities, all of which contributed to the recognition of goodwill. The goodwill associated with the AcceloWeb acquisition will not be amortized and will be tested for impairment at least annually (see Note 8).

The following table presents the allocation of the purchase price for AcceloWeb for the period ended December 31, 2011:

	December 31, 2011 (In thousands)
Consideration:	
Cash	$ 5,000
Common stock	6,989
Contingent consideration cash	382
Contingent consideration common stock	382
Total consideration	$ 12,753
Acquisition-related costs (included in general and administrative expenses)	$ 304
Recognized amounts of identifiable assets acquired and liabilities assumed:	
Financial assets	$ 2,171
Property and equipment	5
Developed technology intangible asset	4,450
Financial liabilities	(2,457)
Total identifiable net assets	4,169
Goodwill	8,584
	$ 12,753

Developed technology with a value of approximately $4.5 million is being amortized over its expected useful life of five years.

The goodwill resulting from the AcceloWeb acquisition is not deductible for income tax purposes.

In determining the purchase price allocation, the Company considered, among other factors, how a market participant would likely use the acquired assets and the historical and estimated future demand for AcceloWeb services. The estimated fair value of intangible assets was based upon the income approach. The income approach relies on an estimation of the present value of the future monetary benefits expected to flow to the owner of an asset during its remaining economic life. This approach requires a projection of the cash flow that the asset is expected to generate in the future. The projected cash flow is discounted to its present value using a rate of return, or discount rate that accounts for the time value of money and the degree of risks inherent in the asset. The expected future cash flow that is projected should include all of the economic benefits attributable to the asset, including the tax savings associated with the amortization of the intangible asset value over the tax life of the asset. The income approach may take the form of a relief from royalty methodology, a cost savings methodology, a with and without methodology, or excess earnings methodology, depending on the specific asset under consideration.

The relief-from-royalty method was used to value the technology acquired from AcceloWeb. The relief-from-royalty method estimates the cost savings that accrue to the owner of an intangible asset that would otherwise be required to pay royalties or license fees on revenues earned through the use of the asset. The royalty rate used is based on an analysis of empirical, market-derived royalty rates for guideline intangible assets. Typically, revenue is projected over the expected remaining useful life of the intangible asset. The royalty rate is then applied to estimate the royalty savings. The key assumptions used in valuing the technology acquired are as follows: royalty rate of 20%, discount rate of 42%, tax rate of 39%, and an economic life of approximately five years.

The Company retained an independent third-party appraiser to assist management in its valuation which was finalized as of September 30, 2011.

Clickability Acquisition

On May 2, 2011, the Company acquired all of the issued and outstanding shares of Clickability, Inc. (Clickability), a privately-held SaaS provider of web content management located in San Francisco, California. The services provided by Clickability aligned with the Company s current value-added services and furthered the Company s value-added services growth strategy. The aggregate purchase price of approximately $9.6 million consisted of approximately $4.9 million of cash paid at the closing (cash paid net of cash acquired was $2.7 million), $0.1 million held by the Company to cover future claims and 732,000 shares of the Company s common stock with an estimated fair value of approximately $4.6 million on the date of acquisition. The Company issued 382,000 shares of common stock with an estimated fair value of approximately $2.4 million at the closing. The number of shares of the Company s common stock issued as consideration for Clickability was determined on the basis of the average closing market price of the Company s common stock on the 30 days preceding the acquisition date.

Under the terms of the merger agreement, a portion of the purchase price consisting of approximately 350,000 shares of the Company s common stock with an estimated fair market value on the acquisition date of approximately $2.2 million and $0.1 million of cash was unissued and available to cover future claims. There were no claims made on the escrow account and, 350,000 shares of common stock were issued and $0.1 million cash were released from escrow in 2012.

The Company s consolidated financial statements include the results of operations of Clickability from the date of acquisition. The historical results of operations of Clickability were not significant to the Company s consolidated results of operations for the periods presented. The total purchase consideration was allocated to the assets acquired and liabilities assumed at their estimated fair values as of the date of acquisition, as determined by management and, with respect to identifiable intangible assets, by management with the assistance of an appraisal provided by a third party valuation firm. The excess of the purchase price over the amounts allocated to assets acquired and liabilities assumed has been recorded as goodwill. The objective of the acquisition was to expand the Company s product offerings and customer base and is expected to achieve synergies related to cross selling opportunities, all of which contributed to the recognition of goodwill. The goodwill associated with the Clickability acquisition will not be amortized and will be tested for impairment at least annually (see Note 8).

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The following table presents the allocation of the purchase price for Clickability for the period ended December 31, 2011:

		(In thousands)
Consideration:		
Cash	$	5,000
Common stock		4,649
Total consideration	$	9,649
Acquisition-related costs (included in general and administrative expenses)	$	111
Recognized amounts of identifiable assets acquired and liabilities assumed:		
Financial assets	$	3,774
Property and equipment		429
Identifiable intangible assets		5,500
Financial liabilities		(4,133)
Total identifiable net assets		5,570
Goodwill		4,079
	$	9,649

The following were the identified intangible assets acquired and the respective estimated periods over which such assets will be amortized:

		Amount (In thousands)	Weighted Average useful life (In years)
Technology	$	2,120	3.0
Customer relationships		3,250	4.0
Trade names and trademarks		130	0.7
Total	$	5,500	

The total weighted average amortization period for the identifiable intangible assets acquired from Clickability is 3.5 years.

The goodwill resulting from the Clickability acquisition is not deductible for income tax purposes.

In determining the purchase price allocation, the Company considered, among other factors, how a market participant would likely use the acquired assets and the historical and estimated future demand for Clickability services. The estimated fair value of intangible assets was based upon the income approach. The income approach relies on an estimation of the present value of the future monetary benefits expected to flow to the owner of an asset during its remaining economic life. This approach requires a projection of the cash flow that the asset is expected to generate in the future. The projected cash flow is discounted to its present value using a rate of return, or discount rate that accounts for the time value of money and the degree of risks inherent in the asset. The expected future cash flow that is projected should include all of the economic benefits attributable to the asset, including the tax savings associated with the amortization of the intangible asset value over the tax life of the asset. The income approach may take the form of a relief from royalty methodology, a cost savings methodology, a with and without methodology, or excess earnings methodology, depending on the specific asset under consideration.

The relief-from-royalty method was used to value the trade names and trademarks and technology acquired from Clickability. The relief-from-royalty method estimates the cost savings that accrue to the owner of an intangible asset that would otherwise be required to pay royalties or license fees on revenues earned through the use of the asset. The royalty rate used is based on an analysis of empirical, market-derived royalty rates for guideline intangible assets. Typically, revenue is projected over the expected remaining useful life of the intangible asset. The royalty rate is then applied to estimate the royalty savings. The key assumptions used in valuing the existing trade names and trademarks acquired are as follows: royalty rate of 2.5%, discount rate of 21.5%, tax rate of 39% and an economic life of approximately 0.7 years. The key assumptions used in valuing the technology acquired are as follows: royalty rate of 10%, discount rate of 21.5%, tax rate of 39%, and an economic life of approximately three years.

The customer relationships were valued using a form of the income approach known as the multi-period excess earnings method. Inherent in the multi-period excess earnings method is the recognition that, in most cases, all of the assets of the business, both tangible and intangible, contribute to the generation of the cash flow of the business and the net cash flows attributable to the subject asset must recognize the support of the other assets which contribute to the realization of the cash flows. The contributory asset charges are based on the fair value of the contributory assets and either pre-tax or after-tax cash flows are assessed charges representing returns on the contributory assets. A contributory asset charge for the use of the technology was assessed on pre-tax cash flows, while contributory asset charges for the use of the working capital, fixed assets, and assembled work force have been deducted from the after-tax cash flow in each year to determine the net future cash flow attributable to the relationships. This future cash flow was then discounted using an estimated required rate of return for the asset to determine the present value of the future cash flows attributable to the asset. The key assumptions used in valuing the customer relationships acquired are as follows: discount rate of 21.5%, tax rate of 39%, and estimated average economic life of four years.

The Company retained an independent third-party appraiser to assist management in its valuation which was finalized as of September 30, 2011.

5. Discontinued Operations

On September 1, 2011, the Company completed the sale of its EyeWonder and chors rich media advertising services to DG for net proceeds of $61.0 million ($66.0 million gross cash proceeds less $5.0 million held in escrow) plus an estimated $10.9 million receivable from DG pursuant to the purchase agreement dated as of August 30, 2011 by and among the Company, DG and Limelight Networks Germany GmbH. The $5.0 million held in escrow was intended to cover DG s ordinary operating expenses associated with the integration of EyeWonder and chors. The Company estimates that it will not receive any portion of the funds held in escrow and has excluded such amount from its calculation of the gain on sale of discontinued operations.

The $10.9 million receivable from DG was determined by the Company based on estimated future cash payments equal to the excess of certain current assets over certain current liabilities of EyeWonder and chors as of August 30, 2011, as defined in the purchase agreement (the Net Working Capital). The Company estimated the Net Working Capital based on its determination of the current assets and current liabilities in accordance with the relevant provisions of the purchase agreement.

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As of August 31, 2011, the estimated Net Working Capital related to EyeWonder and chors was comprised of the following (in thousands):

Current assets	
Cash and cash equivalents	$ 2,677
Accounts receivable	9,643
Income tax receivables	500
Other current assets	528
Total current assets	13,348
Current liabilities	
Accounts payable and other current liabilities	(2,494)
Net Working Capital	$ 10,854

Under the terms of the purchase agreement, the $0.7 million excess of the cash and cash equivalents and other current assets over the current liabilities was immediately payable to the Company with the remaining Net Working Capital payable as the accounts receivable of $9.6 million and income tax receivable of $0.5 million are collected.

As of December 31, 2011 the receivable from DG was $10.9 million and no payments had been received from DG related to the Net Working Capital. The following is a summary of activity related to the receivable from DG for the year ended December 31, 2012 (in thousands):

Balance, December 31, 2011	$ 10,854
Payments received from DG	(7,440)
Allowance for doubtful accounts receivable and other receivables adjustments	(2,060)
Net Working Capital adjustments	(818)
Balance, December 31, 2012	$ 536

As of December 31, 2012, the Company has received payments totaling $7.4 million from DG. At December 31, 2012, approximately $0.5 million has been reflected on the balance sheet as due to the Company. This amount is comprised of net cash due from DG of $1.2 million plus income tax receivables of $0.1 million offset by Net Working Capital adjustments of $0.8 million.

The Company determined that certain adjustments to decrease the Net Working Capital amount due from DG were required. As of December 31, 2012, the Company estimated adjustments totaling $0.8 million which were recorded as a reduction to the receivable from DG.

After 120 days from the closing of the sale of EyeWonder and chors (the Receivables Collection Period), the Company and DG have the option to have the uncollected accounts receivable assigned to the Company (currently $1.6 million at December 31, 2012). Following the expiration of the Receivables Collections Period, DG and the Company may mutually agree to extend the Receivables Collections Period in 60 day increments. DG and the Company had agreed to extend the Receivables Collection Period and the accounts receivable were not assigned to the Company, however, DG allowed the Company to take the lead and work directly with its former international customers regarding collections. Based on the collection efforts performed to date and the age of the underlying receivables, the Company assessed the collectability of the remaining accounts receivable balance and recorded its estimate of the amount expected to be collected at December 31, 2012. As a result, the Company has provided an allowance for doubtful accounts receivable on the remaining uncollected balance of $1.6 million as of December 31, 2012. The Company expects to continue to pursue collections and will record recoveries as an adjustment to income (loss) from discontinued operations.

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During the year ended December 31, 2012, the Company recorded a charge to discontinued operations of $2.9 million in the consolidated statement of operations comprised of $2.1 million of allowance for doubtful accounts receivable and a reduction of $0.8 million related to Net Working Capital adjustments.

During the year ended December 31, 2011, the Company recorded a gain on sale of discontinued operations of $14.8 million net of income taxes. The gain on sale also reflects the realization of foreign currency translation adjustment gains of approximately $0.4 million and $0.1 million in unrealized losses on investments previously included in accumulated other comprehensive income (loss).

The table below provides details of the computation of the gain on sale of EyeWonder and chors for the year ended December 31, 2011 (in thousands):

Gross cash proceeds	$ 66,000
Less:	
Escrow holdback	(5,000)
Estimated income taxes payable	(555)
Estimated selling expenses	(805)
Plus:	
Net receivable from DG per terms of the purchase agreement	10,854
Estimated net proceeds	70,494
Less:	
Book value of assets sold	(57,563)
Income tax provision related to sale of discontinued operations	(2,572)
Add:	
Book value of liabilities released	4,095
Other comprehensive income gains recognized	302
Gain on sale of discontinued operations, net of income taxes	$ 14,756

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The sale of EyeWonder and chors met the criteria to be reported as discontinued operations. Accordingly, the operating results of EyeWonder and chors were reclassified to discontinued operations in the accompanying consolidated statements of operations. The Company included only revenues and costs directly attributable to the discontinued operations in determining income (loss) from discontinued operations, and not those attributable to the ongoing entity. Accordingly, no general corporate overhead costs were allocated to discontinued operations. Operating results of discontinued operations for the years ended December 31, 2012, 2011, and 2010, respectively, were as follows (in thousands, except per share data):

	Years Ended December 31,		
	2012	**2011**	**2010 (a)**
Revenues	$	$ 22,302	$ 29,104
Cost of revenues		(8,843)	(8,137)
General and administrative expenses	163	(6,055)	(5,933)
Sales and marketing expenses		(8,183)	(8,138)
Research and development expenses		(4,853)	(4,914)
Depreciation and amortization		(3,761)	(3,899)
Interest expense		(16)	(15)
Interest income		21	4
Other (expense) income		(525)	28
(Loss) gain on sale of discontinued operations, net of income taxes	(3,024)	14,756	
(Loss) income before income taxes	(2,861)	4,843	(1,900)
Income tax (expense) benefit		(65)	3,779
(Loss) income from discontinued operations	$ (2,861)	$ 4,778	$ 1,879
(Loss) income from discontinued operations per weighted average share:			
Basic	$ (0.02)	$ 0.05	$ 0.02
Diluted	$ (0.02)	$ 0.05	$ 0.02
Shares used in per weighted average share calculation for discontinued operations:			
Basic and diluted	101,283	109,236	94,300

(a) Represent operating results from date of acquisition of chors (January 27, 2010) and EyeWonder (April 30, 2010) through December 31, 2010.

6. Accounts Receivable

Accounts receivable include (in thousands):

	December 31,	
	2012	**2011**
Accounts receivable	$ 23,675	$ 24,260
Unbilled accounts receivable	6,997	8,176
	30,672	32,436
Less: credit allowance	(640)	(810)
Less: allowance for doubtful accounts	(3,430)	(3,581)
Total accounts receivable, net	$ 26,602	$ 28,045

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7. Prepaid Expenses and Other Current Assets

Prepaid expenses and other current assets include (in thousands):

	December 31, 2012	December 31, 2011
Prepaid bandwidth and backbone services	$ 3,614	$ 2,544
Non-income taxes receivable (VAT)	1,739	2,067
Gaikai sale escrow receivable	1,237	
Receivable from DG (see note 5)	536	11,151
Employee advances and prepaid recoverable commissions	551	332
Vendor deposits and other	4,631	4,552
Total prepaid expenses and other current assets	$ 12,308	$ 20,646

In May 2010, the Company made a strategic investment in Gaikai Inc., a private cloud-based gaming technology company (Gaikai). In August 2012, Sony Computer Entertainment Inc. (Sony) acquired Gaikai and the Company recorded a gain on sale of its cost basis investment in Gaikai of $9.4 million, which is reflected in other income (expense) in the accompanying consolidated statement of operations for the year ended December 31, 2012. The carrying value of the Gaikai cost basis investment as of the sale date was approximately $2.0 million. The aggregate selling price was $11.4 million consisting of $10.2 million of cash received and $1.2 million held in escrow for a period of up to 15 months to cover any potential indemnification claims. As of December 31, 2012, the Company was not aware of any potential indemnification claims that are expected to reduce the amount received from escrow and recorded a current receivable of approximately $1.2 million, which is included in prepaid expenses and other current assets in the accompanying consolidated balance sheet for the year ended December 31, 2012.

Additionally, as a result of the acquisition by Sony, the Company s contract for services with Gaikai was terminated and the Company received approximately $1.3 million in terminations fees which was recorded as revenue in 2012.

8. Goodwill and Other Intangible Assets

The Company has recorded goodwill and other intangible assets as a result of its business acquisitions. Goodwill is recorded when the purchase price paid for an acquisition exceeds the estimated fair value of the net identified tangible and intangible assets acquired. In each of the Company s acquisitions, the objective of the acquisition was to expand the Company s product offerings and customer base and to achieve synergies related to cross selling opportunities, all of which contributed to the recognition of goodwill. The Company concluded that it has one reporting unit and assigned the entire balance of goodwill to this reporting unit at December 31, 2012.

The Company is required to perform an impairment assessment at least annually, and more frequently under certain circumstances. The Company performed its annual goodwill impairment test in the fourth quarter of 2012 (as of October 31, 2012). No impairment of goodwill was indicated during the Company s annual tests in 2012, 2011, or 2010. If the Company determines through the impairment process that goodwill has been impaired, the Company will record the impairment charge in the statement of operations. There can be no assurance that future goodwill impairment tests will not result in a charge to earnings.

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The changes in the carrying amount of goodwill for continuing operations for the years ended December 31, 2012 and 2011 were as follows (in thousands):

Balance, December 31, 2010	$ 68,390
Goodwill related to AcceloWeb acquisition	8,584
Goodwill related to Clickability acquisition	4,079
Foreign currency translation adjustment	(948)
Balance, December 31, 2011	$ 80,105
Foreign currency translation adjustment	173
Balance, December 31, 2012	$ 80,278

Other intangible assets that are subject to amortization consisted of the following (in thousands):

	December 31, 2012		
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Existing technologies	$ 8,436	$ (4,035)	$ 4,401
Customer relationships	3,412	(1,427)	1,985
Trade names and trademark	160	(159)	1
Total other intangible assets	$ 12,008	$ (5,621)	$ 6,387

	December 31, 2011		
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Existing technologies	$ 8,347	$ (1,976)	$ 6,371
Customer relationships	3,412	(589)	2,823
Trade names and trademark	160	(147)	13
Total other intangible assets	$ 11,919	$ (2,712)	$ 9,207

Aggregate expense related to amortization of other intangible assets included in continuing operations for the years ended December 31, 2012, 2011, and 2010, respectively, was approximately $2.9 million, $2.3 million, and $0.3 million, respectively. Based on the Company s other intangible assets as of December 31, 2012, aggregate expense related to amortization of other intangible assets is expected to be $2.8 million in 2013, and $2.1 million, $1.1 million, and $0.3 million for fiscal years 2014, 2015, and 2016, respectively.

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9. Property and Equipment

Property and equipment include (in thousands):

	December 31, 2012	December 31, 2011
Network equipment	$ 168,637	$ 176,307
Computer equipment	10,398	9,129
Furniture and fixtures	2,595	2,480
Leasehold improvements	6,684	6,775
Other equipment	534	453
	188,848	195,144
Less: accumulated depreciation	(147,597)	(138,776)
Total property and equipment, net	$ 41,251	$ 56,368

During the year ended December 31, 2012, the Company removed property, plant, and equipment and the associated accumulated depreciation of approximately $21.9 million to reflect the retirement of property, plant, and equipment that was fully depreciated and no longer in service.

Cost of revenue depreciation expense related to property and equipment was approximately $28.0 million, $28.0 million, and $22.2 million, respectively, for the years ended December 31, 2012, 2011, and 2010, respectively.

Operating expense depreciation and amortization expense related to property and equipment was approximately $3.0 million, $2.5 million, and $2.1 million, respectively, for the years ended December 31, 2012, 2011, and 2010, respectively.

10. Other Assets

Other assets include (in thousands):

	December 31, 2012	December 31, 2011
Prepaid bandwidth and backbone services	$ 5,799	$ 7,373
Vendor deposits and other	729	1,384
Deferred expenses	207	253
Cost basis investment		1,444
Total other assets	$ 6,735	$ 10,454

The Company enters into multi-year arrangements with a telecommunications providers for bandwidth and backbone capacity. The agreements sometimes require the Company to make advanced payments for future services to be received.

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11. Other Current Liabilities

Other current liabilities include (in thousands):

	December 31, 2012	December 31, 2011
Accrued compensation and benefits	$ 6,703	$ 4,421
Accrued cost of revenue	2,307	3,027
Accrued legal fees	1,591	1,507
Indirect taxes payable	1,029	633
Customer deposits	361	847
Other accrued expenses	2,875	2,760
Total other current liabilities	$ 14,866	$ 13,195

12. Other Long Term Liabilities

Other long term liabilities include (in thousands):

	December 31, 2012	December 31, 2011
Deferred rent	$ 3,543	$ 3,352
Income taxes payable	1,718	
Contingent consideration liability		842
Total other long term liabilities	$ 5,261	$ 4,194

13. Contingencies

Akamai Litigation

In June 2006, Akamai Technologies, Inc., or Akamai, and the Massachusetts Institute of Technology, or MIT, filed a lawsuit against the Company in the United States District Court for the District of Massachusetts alleging that the Company was infringing two patents assigned to MIT and exclusively licensed by MIT to Akamai, United States Patent No. 6,553,413 (the 413 patent) and United States Patent No. 6,108,703 (the 703 patent). In September 2006, Akamai and MIT expanded their claims to assert infringement of a third, recently issued patent United States Patent No. 7,103,645 (the 645 patent). Before trial, Akamai waived by stipulation its claims of indirect or induced infringement and proceeded to trial only on the theory of direct infringement. In February 2008, a jury returned a verdict in this lawsuit, finding that the Company infringed four claims of the 703 patent at issue and rejecting the Company s invalidity defenses. The jury awarded an aggregate of approximately $45.5 million which includes lost profits, reasonable royalties and price erosion damages for the period April 2005 through December 31, 2007. In addition, the jury awarded prejudgment interest which the Company estimated to be $2.6 million at December 31, 2007. The Company recorded an aggregate $48.1 million as a provision for litigation as of December 31, 2007. During 2008, the Company recorded a potential additional provision of approximately $17.5 million for potential additional infringement damages and interest. The total provision for litigation at December 31, 2008 was $65.6 million.

On July 1, 2008, the court denied the Company s Motions for Judgment as a Matter of Law (JMOL), Obviousness, and a New Trial. The court also denied Akamai s Motion for Permanent Injunction as premature and its Motions for Summary Judgment regarding the Company s equitable defenses. The court conducted a bench trial in November 2008 regarding the Company s equitable defenses. The Company also filed a motion for reconsideration of the court s earlier denial of the Company s motion for JMOL. The Company s motion for JMOL was based largely upon a clarification in the standard for a finding of joint infringement articulated by the

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Federal Circuit in the case of *Muniauction, Inc. v. Thomson Corp.*, released after the court denied the Company s initial motion for JMOL. On April 24, 2009, the court issued its order and memorandum setting aside the adverse jury verdict and ruling that the Company did not infringe Akamai s 703 patent and that the Company was entitled to JMOL. Based upon the court s April 24, 2009 order, the Company reversed the $65.6 million provision for litigation previously recorded for this lawsuit as the Company no longer believed that payment of any amounts represented by the litigation provision was probable. The court entered final judgment in favor of the Company on May 22, 2009, and Akamai filed its notice of appeal of the court s decision on May 26, 2009. On December 20, 2010, the Court of Appeals for the Federal Circuit issued its opinion affirming the trial court s entry of judgment in the Company s favor. On February 18, 2011, Akamai filed a motion with the Court of Appeals for the Federal Circuit seeking a rehearing and rehearing *en banc*. On April 21, 2011, the Court of Appeals for the Federal Circuit issued an order denying the petition for rehearing, granting the petition for rehearing *en banc*, vacating the December 20, 2010 opinion affirming the trial court s entry of judgment in the Company s favor, and reinstated the appeal.

On August 31, 2012, the Court of Appeals for the Federal Circuit issued its opinion in the case. The Court of Appeals stated that the trial court correctly determined that the Company did not directly infringe Akamai s 703 patent and upheld the trial court s decision to vacate the original jury s damages award. The Court of Appeals also held that the Company did not infringe Akamai s 413 or 645 patents. A slim majority in this three-way divided opinion also announced a revised legal theory of induced infringement, remanded the case to the trial court, and gave Akamai an opportunity for a new trial to attempt to prove that the Company induced its customers to infringe Akamai s patent under the Court of Appeals new legal standard. On December 28, 2012, the Company filed a petition for writ of certiorari to the United States Supreme Court to appeal this sharply divided Court of Appeals decision and sought to stay any proceedings at the trial court until the Supreme Court rules on that petition. Akamai then filed a cross petition for consideration of the Court of Appeals standard for direct infringement. The Company believes that the Court of Appeal s new induced infringement standard runs counter to the Patent Act and Supreme Court precedent, and it should be overturned by the Supreme Court. Additionally, just as the Company has successfully shown that it does not directly infringe Akamai s patent, the Company firmly believes that it ultimately would be successful in showing that it does not infringe Akamai s patent under the Court of Appeals majority s new induced infringement theory, and it will continue to vigorously defend against the allegation. The Company is not able at this time to estimate the range of a potential loss nor in light of the status of the litigation does it believe a loss is probable, and therefore no provision for this lawsuit is recorded in the consolidated financial statements.

Legal and other expenses associated with this case have been significant. The Company includes these litigation expenses in general and administrative expenses as incurred, as reported in its consolidated statement of operations.

Other Litigation

The Company is subject to various other legal proceedings and claims, either asserted or unasserted, arising in the ordinary course of business. While the outcome of these claims cannot be predicted with certainty, management does not believe the outcome of any of these matters will have a material adverse effect on the Company s business, financial position, results of operations, or cash flows. Litigation relating to the content delivery services industry is not uncommon, and the Company is, and from time to time has been, subject to such litigation. No assurances can be given with respect to the extent or outcome of any such litigation in the future.

Other Matters

The Company is subject to indirect taxation in various states and foreign jurisdictions. Laws and regulations that apply to communications and commerce conducted over the Internet are becoming more prevalent, both in the United States and internationally, and may impose additional burdens on the Company conducting business online or providing Internet-related services. Increased regulation could negatively affect the Company s business directly, as well as the businesses of its customers, which could reduce their demand for the Company s services. For example, tax authorities in various states and abroad may impose taxes on the Internet-related revenue the Company generates based on regulations currently being applied to similar but not directly comparable industries.

There are many transactions and calculations where the ultimate tax determination is uncertain. In addition, domestic and international taxation laws are subject to change. In the future, the Company may come under audit, which could result in changes to its tax estimates. The Company believes it maintains adequate tax reserves to offset potential liabilities that may arise upon audit. Although the Company believes its tax estimates and associated reserves are reasonable, the final determination of tax audits and any related litigation could be materially different than the amounts established for tax contingencies. To the extent these estimates ultimately prove to be inaccurate, the associated reserves would be adjusted, resulting in the recording of a benefit or expense in the period in which a change in estimate or a final determination is made.

14. Net (Loss) Income per Share

The Company calculates basic and diluted earnings per weighted average share based on net income (loss). The Company uses the weighted-average number of shares of common stock outstanding during the period for the computation of basic earnings per share. Diluted earnings per share include the dilutive effect of convertible stock options and restricted stock units in the weighted-average number of shares of common stock outstanding. Net income (loss) from continuing operations is utilized in determining whether potential shares of common stock are dilutive or antidilutive for purposes of computing diluted net income (loss) per share.

The following table sets forth the components used in the computation of basic and diluted net (loss) income per share for the periods indicated (in thousands, except per share data):

	2012	2011	2010
Net loss from continuing operations	$ (30,035)	$ (30,066)	$ (22,230)
Net (loss) income from discontinued operations	(2,861)	4,778	1,879
Net loss available to common stockholders	$ (32,896)	$ (25,288)	$ (20,351)
Basic weighted average shares of common stock	101,283	109,236	94,300
Basic weighted average shares of common stock	101,283	109,236	94,300
Dilutive effect of stock options and restricted stock units			
Diluted weighted average shares of common stock	101,283	109,236	94,300
Basic income (loss) per share:			
Continuing operations	$ (0.30)	$ (0.28)	$ (0.24)
Discontinued operations	(0.02)	0.05	0.02
Basic net loss per share	$ (0.32)	$ (0.23)	$ (0.22)
Diluted income (loss) per share:			
Continuing operations	$ (0.30)	$ (0.28)	$ (0.24)
Discontinued operations	(0.02)	0.05	0.02
Diluted net loss per share	$ (0.32)	$ (0.23)	$ (0.22)

For the years ended December 31, 2012, 2011 and 2010, outstanding options and restricted stock units of approximately 2.3 million, 4.4 million and 5.0 million, respectively, were excluded from the computation of diluted net loss per share because including them would have been anti-dilutive.

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15. Stockholders Equity

Common Stock

During 2012, the Company completed two stock repurchase plans and commenced a third. On September 12, 2011, the Company s Board of Directors (Board) authorized and approved a repurchase plan that authorized the Company to repurchase up to $25 million of its shares of common stock, exclusive of any commissions, markups or expenses, from time to time through March 12, 2012. During the year ended December 31, 2012, the Company repurchased and cancelled approximately 0.3 million shares under the initial repurchase plan. During the period September 12, 2011 through March 12, 2012, the Company repurchased and cancelled approximately 9.7 million shares of common stock for approximately $25.0 million ($25.2 million including commissions) under the initial repurchase plan. All repurchased shares were cancelled and returned to authorized but unissued status. As of December 31, 2012, the Company s initial repurchase plan was complete.

On May 3, 2012, the Company announced a second common stock repurchase plan that authorized the Company to repurchase up to $15 million of its shares of common stock, exclusive of any commissions, markups or expenses, from time to time through December 15, 2012. During the year ended December 31, 2012, the Company repurchased and cancelled approximately 5.7 million shares of common stock for approximately $15.0 million ($15.1 million including commissions) under the second repurchase plan. All repurchased shares were cancelled and returned to authorized but unissued status. As of December 31, 2012, the Company s second repurchase plan was complete.

On October 29, 2012, the Company s Board authorized and approved a third common stock repurchase plan that authorized the Company to repurchase up to $10 million of its shares of common stock, exclusive of any commissions, markups or expenses, from time to time through May 9, 2013. Any repurchased shares will be cancelled and return to authorized but unissued status. During the three months ended December 31, 2012, the Company purchased and cancelled approximately 2.2 million shares under the third repurchase plan for approximately $4.6 million including commissions.

During the year ended December 31, 2012, the Company issued 350,000 shares of its common stock in connection with the expiration of the holdback period related to the acquisition of Clickability. For additional information regarding the acquisition of Clickability, see Note 4.

The Company has reserved approximately 6,171,000 unissued shares of Common Stock for future options and restricted stock units under the incentive compensation plan.

Preferred Stock

The board of directors has authorized the issuance of up to 7,500,000 shares of preferred stock at December 31, 2012. The preferred stock may be issued in one or more series pursuant to a resolution or resolutions providing for such issuance duly adopted by the board of directors. As of December 31, 2012, the Board had not adopted any resolutions for the issuance of preferred stock.

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16. Share-Based Compensation

Incentive Compensation Plans

The Company maintains Incentive Compensation Plans (the Plans) to attract, motivate, retain, and reward high quality executives and other employees, officers, directors, and consultants by enabling such persons to acquire or increase a propriety interest in the Company. The Plans are intended to be qualified plans under the Internal Revenue Code.

The Plans allow the Company to award stock option grants and restricted stock units (RSUs) to employees, directors and consultants of the Company. During 2012, the Company has granted awards to employees, directors and consultants. The exercise price of incentive stock options granted under the Plan may not be granted at less than 100% of the fair market value of the Company s common stock on the date of the grant.

Data pertaining to stock option activity under the Plans are as follows:

	Number of Shares (In thousands)	Weighted Average Exercise Price
Balance at December 31, 2009	7,860	$ 5.22
Granted	5,751	4.17
Exercised	(829)	2.35
Cancelled	(774)	4.95
Balance at December 31, 2010	12,008	4.94
Granted	4,675	5.68
Exercised	(262)	2.30
Cancelled	(3,073)	5.04
Balance at December 31, 2011	13,348	5.23
Granted	2,972	2.40
Exercised	(175)	1.08
Cancelled	(1,834)	6.10
Balance at December 31, 2012	14,310	4.58

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The following table summarizes the information about stock options outstanding and exercisable at December 31, 2012:

		Options Outstanding			Options Exercisable	
Exercise Price		Number of Options Outstanding (In thousands)	Weighted Average Remaining Contractual Life (Years)	Weighted Average Exercise Price	Number of Options Exercisable (In thousands)	Weighted Average Exercise Price
$ 0.00	$ 1.50	725	2.95	$ 0.35	725	$ 0.35
$ 1.51	$ 3.00	2,759	9.32	2.09	408	2.37
$ 3.01	$ 4.50	4,742	7.21	3.80	3,099	3.78
$ 4.51	$ 6.00	2,708	7.39	5.19	1,728	5.09
$ 6.01	$ 7.50	1,907	5.04	6.46	1,725	6.46
$ 7.51	$ 9.00	891	7.70	8.03	477	8.00
$ 9.01	$10.50	10	4.86	9.93	10	9.93
$10.51	$12.00	164	4.22	11.13	142	11.15
$12.01	$13.50					
$13.51	$15.00	404	4.41	15.00	404	15.00
		14,310			8,718	

The weighted-average grant-date fair value of options granted during the year ended December 31, 2012, 2011, and 2010 on a per-share basis was approximately $1.60, $3.70, and $2.55, respectively. The total intrinsic value of the options exercised during the years ended December 31, 2012, 2011, and 2010 was approximately $0.3 million, $0.8 million, and $2.8 million, respectively. The aggregate intrinsic value of options outstanding at December 31, 2012 is approximately $2.0 million. The weighted average remaining contractual term of options currently exercisable at December 31, 2012 was 6 years.

The Company measures all employee share-based payment awards using a fair-value method. The grant date fair value is determined using the Black-Scholes-Merton pricing model. The Black-Scholes-Merton valuation calculation requires the Company to make key assumptions such as future stock price volatility, expected terms, risk-free rates, and dividend yield. The Company s expected volatility is derived from its own volatility rate as a publicly traded company and historical volatilities of similar public companies within the Internet services and network industry. Each company s historical volatility is weighted based on certain qualitative factors and combined to produce a single volatility factor used by the Company. The Company does not have enough historical experience as a public company to provide a reasonable estimate of the expected term; therefore, expected term is calculated using the short-cut method, which takes into consideration the grant s contractual life and the vesting periods. The risk-free interest factor is based on the United States Treasury yield curve in effect at the time of the grant for zero coupon United States Treasury notes with maturities of approximately equal to each grant s expected term. The Company estimates its forfeiture rate based on an analysis of its actual forfeitures and will continue to evaluate the adequacy of the forfeiture rate based on actual forfeiture experience, analysis of employee turnover behavior, and other factors. Any impact from a forfeiture rate adjustment will be recognized in full in the period of the adjustment.

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The fair value of each new option awarded is estimated on the grant date using the Black-Scholes-Merton model using the assumptions noted in the following table:

	Years Ended December 31,		
	2012	2011	2010
Expected volatility	78.10%	72.25%	67.08%
Expected term, years	5.88	6.08	6.08
Risk-free interest	0.91%	2.14%	2.57%
Expected dividends	0.00%	0.00%	0.00%

Unrecognized share-based compensation related to stock options totaled $11.8 million at December 31, 2012. The Company expects to amortize unvested stock compensation related to stock options over a weighted average period of approximately 2 years at December 31, 2012.

During the year ended December 31, 2012, 2011, and 2010, the Company recorded share-based compensation related to stock options of approximately $7.4 million, $9.6 million, and $9.8 million, respectively.

The following table summarizes the different types of RSUs outstanding (in thousands):

	Year Ended December 31, 2012	Year Ended December 31, 2011	Year Ended December 31, 2010
RSUs with service-based vesting conditions	4,232	3,392	1,473
Performance-based RSUs	349	459	1,154
Unvested RSUs	4,581	3,851	2,627

Each RSU represents the right to receive one share of the Company s common stock upon vesting. The fair value of these RSUs was calculated based upon the Company s closing stock price on the date of grant, and the share-based compensation expense is being recognized over the service period of the award.

Data pertaining to RSUs activity under the Plan is as follows:

	Number of Units (In thousands)	Weighted Average Fair Value
Balance at December 31, 2009	2,184	$ 5.22
Granted	1,939	4.18
Vested	(1,039)	5.57
Cancelled	(457)	1.12
Balance at December 31, 2010	2,627	4.31
Granted	2,829	3.32
Vested	(986)	4.09
Cancelled	(619)	4.04
Balance at December 31, 2011	3,851	3.66
Granted	4,085	2.37
Vested	(2,450)	2.68
Cancelled	(905)	3.17

Balance at December 31, 2012	4,581	2.74

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The weighted-average grant-date fair value of RSUs granted during the years ended December 31, 2012, 2011, and 2010 was approximately $2.37, $3.32, and $4.18, respectively. The total intrinsic value of the units vested during the year ended December 31, 2012, 2011, and 2010 was approximately $5.4 million, $2.9 million, and $5.4 million, respectively. The aggregate intrinsic value of RSUs outstanding at December 31, 2012 is $10.2 million.

Share-based payment compensation related to all restricted stock awards and RSUs for the years ended December 31, 2012, 2011, and 2010 was approximately $7.1 million, $6.3 million, and $6.4 million, respectively. At December 31, 2012 there was approximately $8.4 million of total unrecognized compensation costs related to RSUs. That cost is expected to be recognized over a weighted-average period of approximately 2.30 years as of December 31, 2012.

The Company s stock option plan contains an early exercise provision. Upon early exercise of the option, the exercising holder receives restricted common stock. The restricted stock shares vest over the same period as the original stock option award. If the restricted stock does not vest because the required service period is unmet, the Company has the option to reacquire the restricted common stock for the lesser of the amount paid to acquire it or the fair value of the common stock at the call date. As of December 31, 2012, 2011, and 2010, respectively, there were no unvested shares of restricted common stock related to the early exercise of stock options subject to repurchase by the Company.

The Company applies the straight-line attribution method to recognize compensation costs associated with awards that are not subject to graded vesting. For awards that are subject to graded vesting and performance based awards, the Company recognizes compensation costs separately for each vesting tranche. The Company also estimates when and if performance-based awards will be earned. If an award is not considered probable of being earned, no amount of stock-based compensation is recognized. If the award is deemed probable of being earned, related compensation expense is recorded over the estimated service period. To the extent the Company s estimates of awards considered probable of being earned changes, the amount of stock-based compensation recognized will also change.

The Company recorded share-based compensation expense related to stock options, restricted stock and RSUs during the years ended December 31, 2012, 2011, and 2010 of approximately $14.5 million, $15.9 million, and $16.2 million, respectively. Unrecognized share-based compensation expense totaled approximately $20.1 million at December 31, 2012, which is expected to be recognized over a weighted average period of approximately 2.14 years.

The following table summarizes the components of share-based compensation expense included in the Company s consolidated statement of operations for the years ended December 31, 2012, 2011, and 2010 in accordance with current accounting standards (in thousands):

	Years Ended December 31,		
	2012	2011	2010
Share-based compensation expense by type of award:			
Stock options	$ 7,426	$ 9,568	$ 9,818
Restricted stock units	7,049	6,313	6,364
Total share-based compensation expense	$ 14,475	$ 15,881	$ 16,182
Effect of share-based compensation expense on income by financial statement line:			
Cost of services	$ 2,117	$ 2,419	$ 2,359
General and administrative expense	6,511	6,132	5,984
Sales and marketing expense	3,104	3,776	4,840
Research and development expense	2,743	3,554	2,999
Total cost related to share-based compensation expense	$ 14,475	$ 15,881	$ 16,182

17. Related Party Transactions

In July 2006, an aggregate of 39,869,960 shares of Series B Preferred Stock was issued at a purchase price of $3.26 per share to certain accredited investors in a private placement transaction. As a result of this transaction, entities affiliated with Goldman, Sachs & Co., one of the lead underwriters of the Company s initial public offering, became holders of more than 10% of the Company s common stock. On June 14, 2007, upon the closing of the Company s IPO, all outstanding shares of the Company s Series B Convertible Preferred Stock automatically converted into shares of common stock on a 1-for-1 share basis. As of December 31, 2012, 2011, and 2010, Goldman, Sachs & Co. owned approximately 31%, 29%, and 30%, respectively, of the Company s outstanding common stock.

The Company leased office space to an entity in which current members of its board of directors have an ownership interest. During the years ended December 31, 2012 and 2011, the Company invoiced and collected approximately $15,640 and $70,500, respectively, in office space rental from this entity. For the year ended December 31, 2010 there was no relationship between the Company and this entity for office space rental.

The Company sells services to entities owned, in whole or in part, by certain of the Company s executive officers and directors. Revenue derived from related parties was approximately 1% for the years ended December 31, 2012 and 2011, respectively. For the year ended December 31, 2010, the Company did not generate any revenue from related parties. Total outstanding accounts receivable from all related parties as of December 31, 2012 and 2011 was approximately $1.3 million and $0.4 million, respectively. As of December 31, 2012, the Company has an allowance for doubtful accounts receivable of approximately $0.8 million for an outstanding related party accounts receivable.

The Company leased office space from a company owned by one of the Company s executives. Rent expense for the lease, including reimbursement for telecommunication lines, was approximately $0 for the years ended December 31, 2012 and 2011, and was $4,000 for the year ended December 31, 2010.

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18. Leases and Commitments

Operating Leases

The Company is committed to various non-cancelable operating leases for office space and office equipment which expire through 2019. Certain leases contain provisions for renewal options and rent escalations upon expiration of the initial lease terms. Approximate future minimum lease payments over the remaining lease periods as of December 31, 2012 are as follows (in thousands):

2013	$ 3,559
2014	2,953
2015	2,714
2016	2,054
2017 and thereafter	4,033
Total minimum payments	$ 15,313

Purchase Commitments

The Company has long-term commitments for bandwidth usage and co-location with various networks and ISPs. The following summarizes minimum commitments as of December 31, 2012 (in thousands):

2013	$ 33,538
2014	21,114
2015	15,646
2016	3,578
2017 and thereafter	69
Total minimum payments	$ 73,945

Rent and operating expense relating to these operating lease agreements and bandwidth and co-location agreements was approximately $58.8 million, $60.1 million, and $52.4 million, respectively, for the years ended December 31, 2012, 2011, and 2010.

Capital Leases

The Company leases equipment under capital lease agreements which extend through 2016. As of December 31, 2012 and 2011, the outstanding balance for capital leases was approximately $2.1 and $3.9 million, respectively. The Company recorded assets under capital lease obligations of approximately $5.1 and $5.3 million, respectively, as of December 31, 2012 and 2011. Related accumulated amortization totaled approximately $2.9 million and $1.4 million, respectively as of December 31, 2012 and 2011. The assets acquired under capital leases and related accumulated amortization is included in property and equipment, net in the consolidated balance sheets. The related amortization is included in depreciation and amortization expense in the Consolidated Statements of Operations. The average interest rate on the Company s outstanding capital leases at December 31, 2012 was approximately seven percent. Interest expense related to capital leases was approximately $0.2 million, $0.2 million, and $0.1 million, respectively, for the years ended December 31, 2012, 2011, and 2010.

Future minimum capital lease payments at December 31, 2012 were as follows (in thousands):

2013	$ 1,377
2014	498
2015	238
2016	133
2017 and thereafter	5
Total	2,251
Amounts representing interest	(126)
Present value of minimum lease payments	$ 2,125

19. Concentrations

For each of the years ended December 31, 2012 and 2011, Netflix, Inc. represented approximately 11% of the Company s total revenue. During the year ended December 31, 2010, the Company did not have any customers for which revenue exceeded 10% of total revenue.

Revenue from sources outside North America totaled approximately $56.4 million, $52.0 million, and $42.0 million, respectively, for the years ended December 31, 2012, 2011, and 2010. During the year ended December 31, 2012, the Company had two countries, Japan and the United States, that accounted for 10% or more of the Company s total revenues. No single country outside of the United States accounted for 10% or more of the Company s total revenues during the years ended December 31, 2011 and 2010, respectively.

20. Income Taxes

(Loss) income before income taxes consists of the following (in thousands):

	Years Ended December 31,		
	2012	2011	2010
(Loss) income before income taxes:			
United States	$ (29,991)	$ (30,438)	$ (24,602)
Foreign	437	(1,866)	3,099
	$ (29,554)	$ (32,304)	$ (21,503)

The components of the provision (benefit) for income taxes are as follows (in thousands):

	Years Ended December 31,		
	2012	2011	2010
Current:			
Federal	$	$	$
State	(20)	198	130
Foreign	558	550	1,600
Total current	538	748	1,730
Deferred:			
Federal	16	(2,571)	80
State			

Foreign	(73)	(415)	(1,083)
Total deferred	(57)	(2,986)	(1,003)
Total (benefit) provision	$ 481	$ (2,238)	$ 727

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A reconciliation of the U.S. federal statutory rate to the Company s effective income tax rate is shown in the table below (in thousands, except percent):

	Years Ended December 31,					
	2012		2011		2010	
	Amount	Percent	Amount	Percent	Amount	Percent
U.S. federal statutory tax rate	$ (10,344)	35%	$ (11,306)	35%	$ (7,526)	35%
Impact related to sale of discontinued operations			7,893	(24)		
Valuation allowance	10,329	(35)	52		8,311	(38)
Foreign income taxes	351	(1)	797	(3)	(260)	1
State income taxes	(20)		198	(1)	131	(1)
Non-deductible expenses	168	(1)	136		110	
Uncertain tax positions	(18)		(9)		(366)	2
Share-based compensation					190	(1)
Other	15		1		137	(1)
Provision for (benefit from) income taxes	$ 481	(2)%	$ (2,238)	7%	$ 727	(3)%

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purpose. Significant components of the Company s deferred tax assets and liabilities are as follows (in thousands):

	December 31,	
	2012	2011
Deferred tax assets:		
Share-based compensation	$ 12,506	$ 12,540
Net operating loss and tax credit carry-forwards	27,484	17,951
Deferred revenue	3,984	4,058
Accounts receivable reserves	1,281	1,388
Fixed assets	4,904	3,822
Other	921	522
Total deferred tax assets	51,080	40,281
Deferred tax liabilities:		
Intangible assets	(2,103)	(3,053)
Prepaid expenses	(187)	(173)
Other	(160)	(181)
Total deferred tax liabilities	(2,450)	(3,407)
Valuation allowance	(46,215)	(36,215)
Net deferred tax assets (liabilities)	$ 2,415	$ 659

The Company made certain corrections to the December 31, 2011 deferred tax asset balances compared to the amounts presented in the prior year financial statements. These corrections related to fixed assets in the amount of $3.0 million and net operating loss and tax credit carryforwards in the amount of $0.4 million with an offsetting increase to the valuation allowance of $3.4 million as of December 31, 2011. The corrections did not impact the net deferred tax asset of $0.7 million as of December 31, 2011.

In addition to the deferred tax assets listed in the table above, the Company has unrecorded tax benefits of $10.0 million and $9.9 million at December 31, 2012 and December 31, 2011 respectively, primarily attributable to the difference between the amount of the financial statement expense and the allowable tax deduction associated with employee stock options and restricted stock units, which, if subsequently realized will be

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recorded to contributed capital. As a result of net operating loss carryforwards, the Company was not able to recognize the excess tax benefits of stock option deductions because the deductions did not reduce income tax payable. Although not recognized for financial reporting purposes, this unrecorded tax benefit is available to reduce future income and is incorporated into the disclosed amounts of the Company s federal and state NOL carryforwards, discussed below.

The federal and state net operating loss carryforwards relate to prior years NOLs, which may be used to reduce tax liabilities in future years. At December 31, 2012, the Company had $68.3 million federal and $52.4 million state net operating loss carryforwards, including the NOLs discussed in the preceding paragraph. The Company s federal net operating losses will begin to expire in 2019 and the state net operating loss carryforwards will begin to expire in 2012. Pursuant to Sections 382 and 383 of the Internal Revenue Code, the utilization of NOLs and other tax attributes may be subject to substantial limitations if certain ownership changes occur during a three-year testing period (as defined by the Internal Revenue Code). At December 31, 2012 the Company had state tax credit carryforwards of $0.6 million, which will expire at various dates beginning in 2013. At December 31, 2012 the Company had federal tax credit carryforwards of $0.3 million, which will expire at various dates beginning in 2026.

The Company reduces the carrying amounts of deferred tax assets by a valuation allowance, if based on the evidence available, it is more-likely-than-not that such assets will not be realized. In making the assessment under the more-likely-than-not standard, appropriate consideration must be given to all positive and negative evidence related to the realization of the deferred tax assets. This assessment considers, among other matters, the nature, frequency and severity of current and cumulative losses, forecasts of future profitability, the duration of statutory carry-forward periods by jurisdiction, unitary versus stand alone state tax filings, the Company s experience with loss carryforwards not expiring unutilized, and all tax planning alternatives that may be available.

A valuation allowance has been recorded against the Company s deferred tax assets, with the exception of deferred tax assets at certain foreign subsidiaries and deferred tax assets relating to the Company s uncertain tax positions, as management cannot conclude that it is more likely than not that these assets will be realized. No valuation allowance is being provided on $1.6 million of deferred tax assets associated with certain net operating losses because it is believed that they will be used to offset the Company s liabilities relating to its uncertain tax positions.

The Company has certain taxable temporary differences related to intangible assets that cannot be offset by existing deductible temporary differences resulting in a deferred tax liability of approximately $0.4 million and $0.6 million as of December 31, 2012 and 2011, respectively.

A summary of the activities associated with the Company s reserve for unrecognized tax benefits, interest and penalties follow (in thousands):

	Unrecognized Tax Benefits
Balance at January 1, 2011	$ 53
Settlements	
Reduction for tax positions of prior years	(14)
Balance at December 31, 2011	39
Additions for tax positions related to current year	1,718
Settlements	
Reduction for tax positions of prior years	
Balance at December 31, 2012	$ 1,757

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The Company recognizes interest and penalties related to unrecognized tax benefits in its tax provision. As of December 31, 2012, the Company had an interest and penalties accrual related to unrecognized tax benefits of $80,000, which decreased during 2012 by $18,000. The Company anticipates its unrecognized tax benefits may increase or decrease within twelve months of the reporting date, as audits or reviews are initiated or settled and as a result of settled potential tax liabilities in certain foreign jurisdictions. It is not currently reasonably possible to estimate the range of change.

The Company files income tax returns in jurisdictions with varying statues of limitations. Tax years 2009 through 2011 generally remain subject to examination by federal and most state tax authorities. As of December 31, 2012, the Company is not under any federal or state examinations.

Income taxes have not been provided on a portion of the undistributed earnings of the Company s foreign subsidiaries over which the Company had sufficient influence to control the distribution of such earnings and had determined that substantially all of such earnings were reinvested indefinitely. The undistributed earnings of the Company s foreign subsidiaries were approximately $1.2 million at December 31, 2012. These earnings could become subject to either or both federal income tax and foreign withholding tax if they are remitted as dividends, if foreign earnings are loaned to any of the Company s domestic subsidiaries, or if the Company sells its investment in such subsidiaries.

21. 401(k) Plan

Effective January 1, 2004, the Company adopted the Limelight Networks 401(k) Plan covering effectively all employees of the Company. The plan is a 401(k) profit sharing plan in which participating employees are fully vested in any contributions they make.

Effective January 1, 2007, the Company amended the plan to include a Company match. The Company will match employee deferrals as follows: a dollar-for-dollar match on eligible employee s deferral that does not exceed 3% of compensation for the year and a 50% match on the next 2% of the employee deferrals. Company employees may elect to reduce their current compensation up to the statutory limit. The Company made matching contributions of approximately $1.1 million, $0.9 million, and $0.7 million, respectively, during the years ended December 31, 2012, 2011, and 2010.

22. Segment Reporting

The Company operates in one industry segment content delivery and related services. The Company operates in three geographic areas North America, Europe, Middle East and Africa (EMEA) and Asia Pacific, including Japan.

Operating segments are defined as components of an enterprise about which separate financial information is available that is evaluated regularly by the chief operating decision maker, or decision making group, in deciding how to allocate resources and in assessing performance. The Company s chief operating decision maker is its Chief Executive Officer. The Company s Chief Executive Officer reviews financial information presented on a consolidated basis for purposes of allocating resources and evaluating financial performance. The Company has one business activity and there are no segment managers who are held accountable for operations, operating results and plans for products or components below the consolidated unit level. Accordingly, the Company reports as a single operating segment.

Revenue by geography is based on the location of the customer from which the revenue is earned. The following table sets forth revenue and long-lived assets by geographic area (in thousands):

	Years Ended December 31,		
	2012	2011	2010
Revenue			
Domestic revenue	$ 123,866	$ 119,298	$ 112,243
International revenue EMEA	26,476	25,968	23,984
International revenue Asia Pacific	29,894	26,026	17,996
Total revenue	$ 180,236	$ 171,292	$ 154,223

	Years Ended December 31,		
	2012	2011	2010
Long-lived Assets			
Domestic long-lived assets	$ 35,318	$ 49,831	$ 39,692
International long-lived assets	12,320	15,744	15,260
Total long-lived assets	$ 47,638	$ 65,575	$ 54,952

23. Fair Value Measurements

The Company evaluates certain of its financial instruments within the three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value. These tiers include:

Level 1	defined as observable inputs such as quoted prices in active markets;
Level 2	defined as inputs other than quoted prices in active markets that are either directly or indirectly observable; and
Level 3	defined as unobservable inputs in which little or no market data exists, therefore requiring an entity to develop its own assumptions.

As of December 31, 2012 and 2011, the Company held certain assets and liabilities that were required to be measured at fair value on a recurring basis. These include money market funds, commercial paper, corporate notes and bonds, U.S. government agency bonds, and publicly traded stocks, which are classified as either cash and cash equivalents or marketable securities. The Company also had acquisition related contingent consideration which is classified as a current liability on the Company s consolidated balance sheets.

The Company s financial assets are valued using market prices on both active markets (level 1) and less active markets (level 2). Level 1 instrument valuations are obtained from real-time quotes for transactions in active exchange markets involving identical assets. Level 2 instrument valuations are obtained from readily available pricing sources for comparable instruments or identical instruments in less active markets. Level 3 inputs are valued using models that take into account the terms of the arrangement as well as multiple inputs where applicable, such as estimated units sold and other customer utilization metrics.

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The following is a summary of fair value measurements at December 31, 2012 (in thousands):

		Fair Value Measurements at Reporting Date Using		
Description	**Total**	**Quoted Prices In Active Markets for Identical Assets (Level 1)**	**Significant Other Observable Inputs (Level 2)**	**Significant Unobservable Inputs (Level 3)**
Assets:				
Government agency bonds (1)	$ 6,270	$	$ 6,270	$
Money market funds (2)	14,697	14,697		
Corporate notes and bonds (1)	9,529		9,529	
Commercial paper (1)	500		500	
Certificate of deposit (1)	2,741		2,741	
Publicly traded common stock (1)	18	18		
Total assets measured at fair value	$ 33,755	$ 14,715	$ 19,040	$

(1) Classified in marketable securities

(2) Classified in cash and cash equivalents

For the year ended December 31, 2012, realized gains and losses for marketable securities are reported in interest income, unrealized gains and losses for marketable securities are included in other comprehensive income and expense. For the year ended December 31, 2012, the Company had net unrealized losses of approximately $28,000.

The fair value measurement for contingent consideration is based on significant inputs not observed in the market and thus represents a Level 3 measurement. Level 3 instruments are valued based on unobservable inputs that are supported by little or no market activity and reflect the Company s own assumptions in measuring fair value.

The progressions of the Company s Level 3 instruments for the year ended December 31, 2012 are shown in the table below (in thousands):

	Acquisition Related Contingent Consideration
Balance at December 31, 2011	$ 994
Adjustment to fair value of AcceloWeb contingent consideration	(842)
Payment of contingent consideration	(152)
Balance at December 31, 2012	$

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The following is a summary of money market funds, marketable securities, other investment-related assets and current liabilities at December 31, 2011 (in thousands):

		Fair Value Measurements at Reporting Date Using		
Description	**Total**	**Quoted Prices In Active Markets for Identical Assets (Level 1)**	**Significant Other Observable Inputs (Level 2)**	**Significant Unobservable Inputs (Level 3)**
Assets:				
Government agency bonds (1)	$ 9,614	$	$ 9,614	$
Money market funds (2)	24,855	24,855		
Corporate notes and bonds (1)	5,757		5,757	
Commercial paper (1) (2)	2,749		2,749	
Certificate of deposit (1)	2,730		2,730	
Publicly traded common stock (1)	51	51		
Total assets measured at fair value	$ 45,756	$ 24,906	$ 20,850	$
Liabilities:				
Acquisition related contingent consideration	$ 994	$	$	$ 994
Total liabilities measured at fair value	$ 994	$	$	$ 994

(1) Classified in marketable securities

(2) Classified in cash and cash equivalents

For the year ended December 31, 2011, realized gains and losses for marketable securities are reported in interest income, unrealized gains and losses for marketable securities are included in other comprehensive income and expense. For the year ended December 31, 2011, the Company had net unrealized gains of approximately $0.1 million.

On May 9, 2011, the Company acquired AcceloWeb. The total consideration associated with the AcceloWeb acquisition included contingent consideration with an aggregate potential value of $8.0 million ($4.0 million payable in cash and $4.0 million payable in the Company s common stock) with terms described in Note 4. Additionally, the total consideration associated with the Delve acquisition in July 2010 included contingent consideration of up to $0.5 million upon the achievement of certain financial milestones.

The progressions of the Company s Level 3 instruments for the year ended December 31, 2011 are shown in the table below (in thousands):

	Acquisition Related Contingent Consideration
Balance at December 31, 2010	$ 414
Additions	764
Accretion	97

Payment of contingent consideration		(281)
Balance at December 31, 2011	$	994

The carrying amount of cash equivalents approximates fair value because their maturity is less than three months. The carrying amount of short-term and long-term marketable securities approximates fair value as the securities are marked to market as of each balance sheet date with any unrealized gains and losses reported in stockholders equity. The carrying amount of accounts receivable, accounts payable and accrued liabilities approximates fair value due to the short-term maturity of the amounts.

The Company did not estimate the fair value of its cost basis investment at December 31, 2011 because the Company did not identify any events or circumstances that would have a significant adverse effect on the fair value of the investment. Determining fair value was not practicable because the entity in which the Company made the investment is not a publically traded company and information necessary to determine fair value was not available.

24. Quarterly Financial Results (unaudited)

The following table sets forth certain unaudited quarterly results of operations of the Company for the years ended December 31, 2012 and 2011. In the opinion of management, this information has been prepared on the same basis as the audited consolidated financial statements and all necessary adjustments, consisting only of normal recurring adjustments, have been included in the amounts below for a fair statement of the quarterly information when read in conjunction with the audited consolidated financial statements and related notes included elsewhere in this annual report on Form 10-K (in thousands, except per share data):

	For the Three Months Ended			
	March 31, 2012	June 30, 2012	Sept. 30, 2012	Dec. 31, 2012
Revenues	$ 44,316	$ 44,447	$ 45,001	$ 46,471
Gross profit	$ 16,986	$ 16,884	$ 16,718	$ 17,933
Net loss from continuing operations	$ (9,697)	$ (9,437)	$ (610)	$ (10,291)
Net loss from discontinued operations	$ (309)	$ (391)	$ (218)	$ (1,943)
Net loss	$ (10,006)	$ (9,828)	$ (828)	$ (12,234)
Basic and diluted net loss per share from continuing operations	$ (0.09)	$ (0.10)	$ (0.01)	$ (0.10)
Basic and diluted net loss per share from discontinued operations	$ (0.01)	$ 0.00	$ 0.00	$ (0.02)
Basic and diluted net loss per share	$ (0.10)	$ (0.10)	$ (0.01)	$ (0.12)
Basic and diluted weighted average common shares outstanding	104,226	102,783	99,359	98,765

	For the Three Months Ended			
	March 31, 2011	June 30, 2011	Sept. 30, 2011	Dec. 31, 2011
Revenues	$ 41,403	$ 41,558	$ 42,352	$ 45,979
Gross profit	$ 15,138	$ 13,181	$ 15,074	$ 18,313
Net loss from continuing operations	$ (6,500)	$ (11,169)	$ (6,402)	$ (5,995)
Net (loss) income from discontinued operations	$ (3,318)	$ (2,766)	$ 11,420	$ (558)
Net (loss) income	$ (9,818)	$ (13,935)	$ 5,018	$ (6,553)
Basic and diluted net loss per share from continuing operations	$ (0.06)	$ (0.10)	$ (0.06)	$ (0.06)
Basic and diluted net (loss) income per share from discontinued operations	$ (0.03)	$ (0.02)	$ 0.10	$ (0.00)
Basic and diluted net (loss) income per share	$ (0.09)	$ (0.12)	$ 0.04	$ (0.06)
Basic and diluted weighted average common shares outstanding	103,917	113,113	113,662	106,253

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In May 2010, the Company made a strategic investment in Gaikai, a private cloud-based gaming technology company that allows users to play major PC and console games through a web browser. In June 2012, Sony entered into a definitive agreement to acquire Gaikai for approximately $380 million. In August 2012, Sony completed its acquisition of Gaikai and the Company recorded a gain on sale of its cost basis investment in Gaikai of $9.4 million, which is included in the Company s quarterly results for the three month period ended September 30, 2012.

On January 27, 2010 and April 30, 2010, the Company acquired chors and EyeWonder. On September 1, 2011, the Company completed the sale of its EyeWonder and chors video and rich media advertising services to DG. Accordingly, the results related to the sale of EyeWonder and chors for the year ended December 31, 2011 and prior periods have been reclassified to discontinued operations. For the three month periods ended March 31, 2011 and the three month period ended June 30, 2011, the quarterly information previously reported on Form 10-Q was revised to reflect the operations of EyeWonder and chors as discontinued operations.

The table below reflects the revisions made to revenues and gross profit for the applicable periods (in thousands):

	As Reported	Discontinued Operations	Continuing Operations
Revenue:			
March 31, 2011	$ 49,817	$ (8,414)	$ 41,403
June 30, 2011	$ 50,539	$ (8,981)	$ 41,558
Gross Profit:			
March 31, 2011	$ 20,405	$ (5,267)	$ 15,138
June 30, 2011	$ 18,678	$ (5,497)	$ 13,181

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Item 9. ***Changes in and Disagreements with Accountants on Accounting and Financial Disclosure***

None.

Item 9A. ***Controls and Procedures***

Evaluation of Disclosure Controls and Procedures

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures pursuant to Rule 13a-15 under the Exchange Act, as of the end of the period covered by this annual report on Form 10-K.

Based on this evaluation, our Chief Executive Officer and Chief Financial Officer concluded that, as of December 31, 2012, our disclosure controls and procedures are designed at a reasonable assurance level and are effective to provide reasonable assurance that information we are required to disclose in reports that we file or submit under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in the SEC s rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

Changes in Internal Control over Financial Reporting

During the third quarter of 2012, we identified a material weakness in our internal controls over financial reporting. The material weakness related to the classification of cash collected from DG related to the sale of EyeWonder and chors in the unaudited Condensed Consolidated Statements of Cash Flows. The cash collected from DG was classified as cash generated from operations in the Condensed Consolidated Statements of Cash Flows, which was incorrect. The cash collected from DG should have been classified in investing activities in the Condensed Consolidated Statements of Cash Flows. The correction of the improperly classified cash was corrected in the third quarter of 2012, and we amended our March 31, 2012 Form 10-Q and our June 30, 2012 Form 10-Q to reflect the correct classification. The correction of the classification error had no impact on our results of operations for either period. Since the date of discovery of this material weakness and through the date of this Form 10-K, we have taken steps that we feel have strengthened our internal controls, including implementing a stronger review process around the preparation of our consolidated statement of cash flows and updating our processes and procedures to ensure that accounting personnel have sufficient guidance to remediate the material weakness. The actions we have taken to remediate this material weakness are subject to continued management review supported by confirmation and testing, as well as oversight by the Audit Committee of our Board of Directors. As of December 31, 2012, this material weakness has been remediated.

There were no other changes in our internal control over financial reporting that occurred during the quarter ended December 31, 2012 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Management s Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as defined in Rule 13a-15(f) of the Exchange Act. Our management assessed the effectiveness of our internal control over financial reporting as of December 31, 2012. In making this assessment, our management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in *Internal Control Integrated Framework*. Based on our assessment under the framework in *Internal Control Integrated Framework*, our management concluded that our internal control over financial reporting was effective as of December 31, 2012. Management reviewed the results of its assessment with our Audit Committee.

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The effectiveness of our internal control over financial reporting as of December 31, 2012 has been audited by Ernst & Young LLP, an independent registered public accounting firm, as stated in its report which is included in this annual report on Form 10-K.

Limitations on Effectiveness of Controls and Procedures

In designing and evaluating the disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives. In addition, the design of disclosure controls and procedures must reflect the fact that there are resource constraints and that management is required to apply its judgment in evaluating the benefits of possible controls and procedures relative to their costs.

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Report of Independent Registered Public Accounting Firm

The Board of Directors and Stockholders of Limelight Networks, Inc.

We have audited Limelight Networks, Inc. s internal control over financial reporting as of December 31, 2012, based on criteria established in Internal Control Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (the COSO criteria). Limelight Networks, Inc. s management is responsible for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management s Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the company s internal control over financial reporting based on our audit.

We conducted our audits 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 effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinion.

A company s internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company s internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company s assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, Limelight Networks, Inc. maintained, in all material respects, effective internal control over financial reporting as of December 31, 2012, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of Limelight Networks, Inc. as of December 31, 2012 and 2011, and the related consolidated statements of operations, comprehensive income (loss), stockholders equity, and cash flows for each of the three years in the period ended December 31, 2012 and our report dated March 1, 2013 expressed an unqualified opinion thereon.

/s/ Ernst & Young LLP

Phoenix, Arizona

March 1, 2013

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Item 9B. ***Other Information***

None.

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PART III

Item 10. ***Directors, Executive Officers and Corporate Governance***

The information required by this item relating to our directors and nominees is included under the captions Proposal One: Election of Directors, Information About the Directors and Nominees, and Board of Directors Meetings and Committees Nominating and Governance Committee in our Proxy Statement related to the 2013 Annual Meeting of Shareholders and is incorporated herein by reference.

The information required by this item regarding our Audit Committee is included under the caption Board of Directors Meetings and Committees in our Proxy Statement related to the 2013 Annual Meeting of Shareholders and is incorporated herein by reference.

Pursuant to General Instruction G(3) of Form 10-K, the information required by this item relating to our executive officers is included under the caption Executive Officers of the Registrant in Part I of this report.

The information required by this item regarding compliance with Section 16(a) of the Securities Act of 1934 is included under the caption Executive Compensation and Other Matters Section 16(a) Beneficial Ownership Reporting Compliance in our Proxy Statement related to the 2013 Annual Meeting of Shareholders and is incorporated herein by reference.

We have adopted a code of ethics and business conduct that applies to our Chief Executive Officer, Chief Financial Officer and all other principal executive and senior financial officers and all employees, officers and directors. This code of ethics and business conduct is posted on our website. The Internet address for our website is *www.limelight.com*, and the code of ethics may be found from our main webpage by clicking first on Company and then on Investor Overview , next on Corporate Governance , and finally on Code of Ethics under Governance Documents.

We intend to satisfy any disclosure requirement under Item 5.05 of Form 8-K regarding an amendment to, or waiver from, a provision of this code of ethics by posting such information on our website, on the webpage found by clicking through to Code of Business Conduct as specified above.

Item 11. ***Executive Compensation***

The information appearing under the headings Executive Compensation and Other Matters, Director Compensation, Board of Directors Meetings and Committees Compensation Committee Interlocks and Insider Participation, and Compensation Committee Report in our Proxy Statement related to the 2013 Annual Meeting of Shareholders is incorporated herein by reference.

Item 12. ***Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters***

The information required by this item relating to security ownership of certain beneficial owners and management is included under the heading Security Ownership of Certain Beneficial Owners and Management in our Proxy Statement related to the 2013 Annual Meeting of Shareholders, and is incorporated herein by reference.

Equity Compensation Plan Information

The following table provides information regarding our current equity compensation plans as of December 31, 2012 (shares in thousands):

Plan category	Number of securities to be issued upon exercise of outstanding options, warrants and rights (a)	Weighted-average exercise price of outstanding options, warrants and rights (b)	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a)) (c)
Equity compensation plans approved by security holders	14,310	$ 4.58	6,171
Equity compensation plans not approved by security holders			
Total	14,310	$ 4.58	6,171

Item 13. ***Certain Relationships, Related Transactions, and Director Independence***

The information required by this item relating to review, approval or ratification of transactions with related persons is included under the heading Certain Relationships and Related Transactions, and the information required by this item relating to director independence is included under the headings Proposal One: Election of Directors and Board of Directors Meetings and Committees Board Independence, in each case in our Proxy Statement related to the 2013 Annual Meeting of Shareholders, and is incorporated herein by reference.

Item 14. ***Principal Accountant Fees and Services***

The information required by this item is included under the headings Audit Committee Report Principal Accountant Fees and Services and Audit Committee Pre-Approval Policy, in each case in our Proxy Statement related to the 2013 Annual Meeting of Shareholders, and is incorporated herein by reference.

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PART IV

Item 15. ***Exhibits and Financial Statement Schedules.***

(a) Documents included in this annual report on Form 10-K.

(1) *Financial Statements.* See Item 8 Financial Statements and Supplementary Data included in this annual report on Form 10-K.

(2) *Financial Schedules.* The schedule listed below is filed as part of this annual report on Form 10-K:

All other schedules are omitted as the information required is inapplicable or the information is presented in the consolidated financial statements and the related notes.

(b) *Exhibits.* The exhibits required by Item 601 of Regulation S-K are listed in the Exhibit Index immediately preceding the exhibits and are incorporated herein.

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

LIMELIGHT NETWORKS, INC.

Date: March 1, 2013

By: /s/ DOUGLAS S. LINDROTH
Douglas S. Lindroth

Senior Vice President,

Chief Financial Officer and Treasurer

(Principal Financial Officer and Principal Accounting Officer)

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Robert A. Lento and Douglas S. Lindroth and each of them, each with the power of substitution, their attorney-in-fact, to sign any amendments to this Annual Report on Form 10-K (including post-effective amendments), and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact, or their substitute or substitutes, may do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Signature	Title	Date
/s/ ROBERT A. LENTO **Robert A. Lento**	President, Chief Executive Officer and Director (Principal Executive Officer)	March 1, 2013
/s/ DOUGLAS S. LINDROTH **Douglas S. Lindroth**	Senior Vice President, Chief Financial Officer and Treasurer (Principal Financial Officer and Principal Accounting Officer)	March 1, 2013
/s/ WALTER D. AMARAL **Walter D. Amaral**	Non-Executive Chairman of the Board and Director	March 1, 2013
/s/ THOMAS FALK **Thomas Falk**	Director	March 1, 2013
/s/ JEFFREY T. FISHER **Jeffrey T. Fisher**	Director	March 1, 2013
/s/ JOSEPH H. GLEBERMAN **Joseph H. Gleberman**	Director	March 1, 2013

/s/ Fredric W. Harman **Fredric W. Harman**	Director	March 1, 2013
/s/ Peter J. Perrone **Peter J. Perrone**	Director	March 1, 2013
/s/ David C. Peterschmidt **David C. Peterschmidt**	Director	March 1, 2013
/s/ Nathan F. Raciborski **Nathan F. Raciborski**	Co-Founder, Chief Technology Officer and Director	March 1, 2013

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SCHEDULE

LIMELIGHT NETWORKS, INC.

VALUATION AND QUALIFYING ACCOUNTS

SCHEDULE II VALUATION AND QUALIFYING ACCOUNTS

(In thousands)

		Additions		Deductions	
Description	**Balance at Beginning of Period**	**Charged to Costs and Expenses**	**Charged Against Revenue**	**Write-Offs Net of Recoveries**	**Balance at End of Period**
Year ended December 31, 2010:					
Allowances deducted from asset accounts:					
Reserves for accounts receivable	$ 9,226	1,194	(110)	3,578	$ 6,732
Deferred tax asset valuation allowance	$ 34,368	752			$ 35,120
Year ended December 31, 2011:					
Allowances deducted from asset accounts:					
Reserves for accounts receivable	$ 6,732	1,357	(270)	3,428	$ 4,391
Deferred tax asset valuation allowance	$ 35,120	1,095			$ 36,215
Year ended December 31, 2012:					
Allowances deducted from asset accounts:					
Reserves for accounts receivable	$ 4,391	2,062	(170)	2,213	$ 4,070
Deferred tax asset valuation allowance	$ 36,215	10,000			$ 46,215

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INDEX TO EXHIBITS

Exhibit Number	Exhibit Title
2.1(1)	Agreement and Plan of Merger by and among Registrant, Elvis Merger Sub One Corporation, Elvis Merger Sub Two LLC, EyeWonder, Inc., John J. Vincent, as Stockholder Representative and Deutsche Bank National Trust, as Escrow Agent, dated December 21, 2009.
2.2(2)	Purchase Agreement dated as of August 30, 2011 by and among DG FastChannel, Inc., Limelight Networks, Inc. and Limelight Networks Germany GmbH.
3.1(3)	Amended and Restated Certificate of Incorporation of the Registrant, as currently in effect.
3.2(4)	Amended and Restated Bylaws of the Registrant, as currently in effect.
4.1(5)	Specimen Common Stock Certificate of the Registrant.
4.2(5)	Amended and Restated Investors Rights Agreement dated July 12, 2006.
10.1(5)	Form of Indemnification Agreement for directors and officers.
10.2(5)	Amended and Restated 2003 Incentive Compensation Plan and form of agreement thereunder.
10.3(5)	2007 Equity Incentive Plan and form of agreement thereunder.
10.4(5)	Employment Agreement between the Registrant and Jeffrey W. Lunsford dated October 20, 2006.
10.4.01 (6)	Equity Award Amendment and Grant of Restricted Stock Units under the Registrant s 2007 Equity Incentive Plan dated November 25, 2008.
10.4.02(7)	Amendment to Employment Agreement between the Registrant and Jeffrey W. Lunsford dated December 30, 2008.
10.5 (8)	Bandwidth/Capacity Agreement between the Registrant and Global Crossing Bandwidth, Inc., dated August 29, 2001, and amendments thereto.
10.5.01 (9)	Amendments to Bandwidth/Capacity Agreement between the Registrant and Global Crossing Bandwidth, Inc., dated August 29, 2001.
10.5.02 (10)	Amendment #23 to Bandwidth/Capacity Agreement between the Registrant and Global Crossing Bandwidth, Inc., dated August 29, 2001, as amended.
10.5.03 (11)	Amendment #24 to Bandwidth/Capacity Agreement between the Registrant and Global Crossing Bandwidth, Inc., dated August 29, 2001, as amended.
10.6(12)	Form of At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement for officers and employees.
10.7(13)	Employment Agreement between the Registrant and David M. Hatfield dated March 27, 2007.
10.7.01(14)	Amendment to Employment Agreement between the Registrant and David M. Hatfield dated December 30, 2008.
10.8 (15)	Edge Computing Network Service and License Agreement dated March 1, 2007 between the Registrant and Microsoft Corporation, and Addendum to the Edge Computing Network Service and License Agreement dated March 19, 2007.
10.8.01 (16)	Amendment to Edge Computing Network Service and License Agreement between the Registrant and Microsoft Corporation dated October 1, 2008.
10.9(17)	Employment Agreement between the Registrant and Philip C. Maynard effective October 22, 2007.

Exhibit **Number**	**Exhibit Title**
10.9.01(18)	Amendment to Employment Agreement between the Registrant and Philip C. Maynard dated December 30, 2008.
10.10(19)	Employment Agreement between the Registrant and Nathan F. Raciborski dated September 22, 2008.
10.10.01(20)	Amendment to Employment Agreement between the Registrant and Nathan F. Raciborski dated December 30, 2008.
10.11(21)	Employment Agreement between the Registrant and Douglas S. Lindroth dated October 14, 2008.
10.11.01(22)	Amendment to Employment Agreement between the Registrant and Douglas S. Lindroth dated December 30, 2008.
10.11.02	Amendment No. 2 to Employment Agreement between the Registrant and Douglas S. Lindroth dated December 3, 2012.
10.12(23)	Master Executive Bonus and Management Bonus Plan.
10.13(24)	Form of 2007 Equity Incentive Plan Restricted Stock Unit Agreement.
10.14(25)	Form of 2007 Equity Incentive Plan Restricted Stock Unit Agreement for Non-U.S. Employees.
10.15(26)	European Expansion Consulting Agreement among the Registrant, eValue AG and Thomas Falk dated April 13, 2010.
10.16(27)	Non-Competition Agreement between the Registrant and Thomas Falk dated April 13, 2010.
10.17(28)	Standard Office Lease between the Registrant and GateWay Tempe LLC dated as of July 20, 2010.
10.18(29)	Employment Agreement between the Registrant and Charles Kirby Wadsworth dated June 22, 2012.
10.19	Employment Agreement between the Registrant and Indu Kodukula dated October 8, 2012.
10.20	Interim CEO Employment Agreement between the Registrant and Robert A. Lento dated November 8, 2012.
10.21	Employment Agreement between the Registrant and Robert A. Lento dated January 22, 2013.
10.22	Employment Agreement between the Registrant and George Vonderhaar dated January 22, 2013.
21.1(30)	List of subsidiaries of the Registrant.
23.1	Consent of Ernst & Young LLP, Independent Registered Public Accounting Firm.
24.1	Power of Attorney (See signature page).
31.1	Certification of Chief Executive Officer pursuant to Securities Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of Chief Financial Officer pursuant to Securities Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1*	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

Exhibit Number	Exhibit Title
32.2*	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.INS**	XBRL INSTANCE DOCUMENT.
101.SCH**	XBRL TAXONOMY EXTENSION SCHEMA DOCUMENT.
101.CAL**	XBRL TAXONOMY EXTENSION CALCULATION LINKBASE DOCUMENT.
101.DEF**	XBRL TAXONOMY EXTENSION DEFINITION LINKBASE DOCUMENT.
101.LAB**	XBRL TAXONOMY EXTENSION LABEL LINKBASE DOCUMENT.
101.PRE**	XBRL TAXONOMY EXTENSION PRESENTATION LINKBASE DOCUMENT.

(1) Incorporated by reference to Exhibit 2.1 of the Registrant s Current Report on Form 8-K filed on December 21, 2009.

(2) Incorporated by reference to Exhibit 2.1 of the Registrant s Current Report on Form 8-K filed on September 6, 2011.

(3) Incorporated by reference to Exhibit 3.1 of the Registrant s Current Report on Form 8-K filed on June 14, 2011.

(4) Incorporated by reference to Exhibit 3.4 of the Registrant s Form S-1 Registration Statement (Registration No. 333-141516), declared effective by the Securities and Exchange Commission on June 7, 2007.

(5) Incorporated by reference to the same number exhibit of the Registrant s Form S-1 Registration Statement (Registration No. 333-141516), declared effective by the Securities and Exchange Commission on June 7, 2007.

(6) Incorporated by reference to Exhibit 99.1 of the Registrant s Current Report on Form 8-K filed on November 26, 2008.

(7) Incorporated by reference to Exhibit 99.1 of the Registrant s Current Report on Form 8-K filed on December 31, 2008.

(8) Incorporated by reference to Exhibit 10.10 of the Registrant s Form S-1 Registration Statement (Registration No. 333-141516), declared effective by the Securities and Exchange Commission on June 7, 2007.

(9) Incorporated by reference to Exhibit 10.10.01 of the Registrant s Quarterly Report on Form 10-Q filed on August 14, 2008.

(10) Incorporated by reference to Exhibit 10.10.02 of the Registrant s Annual Report on Form 10-K filed on March 13, 2009.

(11) Incorporated by reference to Exhibit 10.10.03 of the Registrant s Quarterly Report on Form 10-Q filed on November 6, 2009.

(12) Incorporated by reference to Exhibit 10.12 of the Registrant s Form S-1 Registration Statement (Registration No. 333-141516), declared effective by the Securities and Exchange Commission on June 7, 2007.

(13) Incorporated by reference to Exhibit 10.13 of the Registrant s Form S-1 Registration Statement (Registration No. 333-141516), declared effective by the Securities and Exchange Commission on June 7, 2007.

(14) Incorporated by reference to Exhibit 99.6 of the Registrant s Current Report on Form 8-K filed on December 31, 2008.

(15) Incorporated by reference to Exhibit 10.15 of the Registrant s Quarterly Report on Form 10-Q filed on November 14, 2007.

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(16) Incorporated by reference to Exhibit 10.15.01 of the Registrant s Quarterly Report on Form 10-Q filed on November 13, 2008.

(17) Incorporated by reference to Exhibit 99.2 of the Registrant s Current Report on Form 8-K filed on November 13, 2007.

(18) Incorporated by reference to Exhibit 99.7 of the Registrant s Current Report on Form 8-K filed on December 31, 2008.

(19) Incorporated by reference to Exhibit 99.1 of the Registrant s Current Report on Form 8-K filed on September 23, 2008.

(20) Incorporated by reference to Exhibit 99.2 of the Registrant s Current Report on Form 8-K filed on December 31, 2008.

(21) Incorporated by reference to Exhibit 99.1 of the Registrant s Current Report on Form 8-K filed on October 15, 2008.

(22) Incorporated by reference to Exhibit 99.4 of the Registrant s Current Report on Form 8-K filed on December 31, 2008.

(23) Incorporated by reference to Exhibit 99.1 of the Registrant s Current Report on Form 8-K filed on May 19, 2009.

(24) Incorporated by reference to Exhibit (a)(1)(I) of the Registrant s Schedule TO filed on May 15, 2008.

(25) Incorporated by reference to Exhibit (a)(1)(J) of the Registrant s Schedule TO filed on May 15, 2008.

(26) Incorporated by reference to Exhibit 99.3 of the Registrant s Current Report on Form 8-K filed on May 6, 2010.

(27) Incorporated by reference to Exhibit 99.4 of the Registrant s Current Report on Form 8-K filed on May 6, 2010.

(28) Incorporated by reference to Exhibit 10.32 of the Registrant s Quarterly Report on Form 10-Q filed on November 5, 2010.

(29) Incorporated by reference to Exhibit 10.29 of the Registrant s Quarterly Report on Form 10-Q filed on November 5, 2012.

(30) Incorporated by reference to Exhibit 21.1 of the Registrant s Annual Report on Form 10-K filed on March 2, 2012.

* This exhibit shall not be deemed filed for purposes of Section 18 of the Securities Exchange Act of 1934 or otherwise subject to the liabilities of that Section, nor shall it be deemed incorporated by reference in any filings under the Securities Act of 1933 or the Securities Exchange Act of 1934, whether made before or after the date hereof and irrespective of any general incorporation language in any filings.

**

In accordance with Rule 406T of Regulation S-T, XBRL (Extensible Business Reporting Language) information deemed not filed or part of a registration statement or prospectus for purposes of Sections 11 or 12 of the Securities Act of 1933, is deemed not filed for purposes of Section 18 of the Securities Exchange Act of 1934, and otherwise is not subject to liability under these sections.

Confidential treatment has been requested or granted for portions of this exhibit by the Securities and Exchange Commission.