

DYNAVAX TECHNOLOGIES CORP

Form 10-Q

August 03, 2007

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

Form 10-Q

(Mark One)

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

**For the quarterly period ended June 30, 2007**

**or**

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

**For the transition period from** \_\_\_\_\_ **to** \_\_\_\_\_  
**Commission file number: 000-24647**

**Dynavax Technologies Corporation**  
*(Exact name of registrant as specified in its charter)*

**Delaware**  
*(State or other jurisdiction of  
incorporation or organization)*

**33-0728374**  
*(IRS Employer  
Identification No.)*

**2929 Seventh Street, Suite 100**  
**Berkeley, CA 94710-2753**  
**(510) 848-5100**

*(Address, including Zip Code, and telephone number, including area code, of the registrant's principal executive  
offices)*

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 ☒ No ☐

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

Large accelerated filer ☐ Accelerated filer ☒ Non-accelerated filer ☐

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

As of July 31, 2007, the registrant had outstanding 39,740,794 shares of common stock.

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**DYNAVAX TECHNOLOGIES CORPORATION**

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*This Quarterly Report on Form 10-Q includes trademarks and registered trademarks of Dynavax Technologies Corporation. Products or service names of other companies mentioned in this Quarterly Report on Form 10-Q may be trademarks or registered trademarks of their respective owners.*

### **FORWARD-LOOKING STATEMENTS**

*This Quarterly report on Form 10-Q contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934 which are subject to a number of risks and uncertainties. Our forward-looking statements include discussions regarding our business and financing strategies, future research and development, preclinical and clinical product development efforts, intellectual property rights and ability to commercialize our product candidates, as well as the timing of the clinical development of our products, uncertainty regarding our future operating results and prospects for profitability. Our actual results may vary materially from those in such forward-looking statements as a result of various factors that are identified in*

*Item 1A Risk Factors and elsewhere in this document. All forward-looking statements speak only as of the date of this Quarterly Report on Form 10-Q. We assume no obligation to update any forward-looking statements.*

**PART I. FINANCIAL STATEMENTS**  
**ITEM 1. CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**Dynavax Technologies Corporation**  
**Condensed Consolidated Balance Sheets**  
**(In thousands, except per share amounts)**

	<b>June 30, 2007 (unaudited)</b>	<b>December 31, 2006 (Note 1)</b>
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 6,503	\$ 14,154
Marketable securities available-for-sale	40,977	58,677
Investments held by Symphony Dynamo, Inc.	35,098	13,363
Restricted cash	408	408
Accounts receivable	1,102	2,154
Inventory	248	257
Prepaid expenses and other current assets	1,760	673
Total current assets	86,096	89,686
Property and equipment, net	6,040	5,200
Goodwill	2,312	2,312
Other intangible assets, net	3,879	4,382
Other assets	155	1,310
Total assets	\$ 98,482	\$ 102,890
<b>Liabilities, noncontrolling interest and stockholders' equity</b>		
Current liabilities:		
Accounts payable	\$ 3,405	\$ 2,181
Accrued liabilities	9,636	10,742
Deferred revenues	548	778
Total current liabilities	13,589	13,701
Deferred revenues, noncurrent	10,000	10,000
Liability from Program Option exercised under the SDI collaboration	15,000	
Other long-term liabilities	82	117
Noncontrolling interest in Symphony Dynamo, Inc.	11,963	2,016
Commitments and contingencies		
Stockholders' equity:		
Preferred stock: \$0.001 par value; 5,000 shares authorized and no shares issued and outstanding at June 30, 2007 and December 31, 2006		

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Common stock: \$0.001 par value; 100,000 shares authorized at June 30, 2007 and December 31, 2006; 39,741 and 39,715 shares issued and outstanding at June 30, 2007 and December 31, 2006, respectively

	40	40
Additional paid-in capital	246,358	244,787
Accumulated other comprehensive income:		
Unrealized gain on marketable securities available-for-sale	35	28
Cumulative translation adjustment	152	144
Accumulated other comprehensive income	187	172
Accumulated deficit	(198,737)	(167,943)
Total stockholders' equity	47,848	77,056
Total liabilities, noncontrolling interest and stockholders' equity	\$ 98,482	\$ 102,890

See accompanying notes.

**Dynavax Technologies Corporation**  
**Condensed Consolidated Statements of Operations**  
(In thousands, except per share amounts)  
(Unaudited)

	<b>Three Months Ended June 30,</b>		<b>Six Months Ended June 30,</b>	
	<b>2007</b>	<b>2006</b>	<b>2007</b>	<b>2006</b>
Revenues:				
Collaboration revenue	\$ 752	\$	\$ 1,499	\$
Services and license revenue	461	224	570	224
Grant revenue	587	305	1,715	593
Total revenues	1,800	529	3,784	817
Operating expenses:				
Research and development	19,164	10,762	32,796	17,354
General and administrative	4,206	3,380	8,386	5,983
Acquired in-process research and development		4,180		4,180
Amortization of intangible assets	252	196	503	196
Total operating expenses	23,622	18,518	41,685	27,713
Loss from operations	(21,822)	(17,989)	(37,901)	(26,896)
Interest and other income, net	1,081	685	2,054	1,420
Loss including noncontrolling interest in Symphony Dynamo, Inc.	(20,741)	(17,304)	(35,847)	(25,476)
Amount attributed to noncontrolling interest in Symphony Dynamo, Inc.	3,037	2,031	5,053	2,031
Net loss	\$ (17,704)	\$ (15,273)	\$ (30,794)	\$ (23,445)
Basic and diluted net loss per share	\$ (0.45)	\$ (0.50)	\$ (0.78)	\$ (0.77)
Shares used to compute basic and diluted net loss per share	39,741	30,536	39,734	30,524

*See accompanying notes.*

**Dynavax Technologies Corporation**  
**Condensed Consolidated Statements of Cash Flows**  
(In thousands)  
(Unaudited)

	<b>Six Months Ended June 30,</b>	
	<b>2007</b>	<b>2006</b>
<b>Operating activities</b>		
Net loss	\$ (30,794)	\$ (23,445)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	712	227
Amount attributed to noncontrolling interest in Symphony Dynamo, Inc.	(5,053)	(2,031)
Acquired in-process research and development		4,180
Amortization of intangible assets	503	196
Gain on disposal of property and equipment		(50)
Accretion and amortization on marketable securities	(1,239)	169
Realized loss on sale of marketable securities		23
Stock-based compensation expense	1,497	1,396
Changes in operating assets and liabilities:		
Accounts receivable	1,052	468
Prepaid expenses and other current assets	(1,087)	2
Inventory	9	
Other assets	1,155	(505)
Accounts payable	1,224	242
Accrued liabilities	(1,106)	1,300
Deferred revenues	(230)	(87)
Net cash used in operating activities	(33,357)	(17,915)
<b>Investing activities</b>		
Change in investments held by Symphony Dynamo, Inc.	(21,735)	(19,044)
Cash paid for acquisition, net of cash acquired		(14,045)
Purchases of marketable securities	(40,504)	(7,653)
Proceeds from sales of marketable securities		10,987
Proceeds from maturities of marketable securities	59,450	31,318
(Purchases) disposal of property and equipment, net	(1,587)	41
Net cash (used in) provided by investing activities	(4,376)	1,604
<b>Financing activities</b>		
Proceeds from purchase of noncontrolling interest by preferred shareholders in Symphony Dynamo, Inc., net of fees	30,000	17,405
Issuance cost associated with common stock offering	(19)	
Proceeds from employee stock purchase plan	71	57
Proceeds from exercise of stock options	22	149



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Net cash provided by financing activities	30,074	17,611
Effect of exchange rate on cash and cash equivalents	8	65
Net (decrease) increase in cash and cash equivalents	(7,651)	1,365
Cash and cash equivalents at beginning of period	14,154	8,725
Cash and cash equivalents at end of period	\$ 6,503	\$ 10,090
<b>Supplemental disclosure of non-cash investing and financing activities</b>		
Disposal of fully depreciated property and equipment	\$ 24	\$
Warrants issued in conjunction with the Symphony Dynamo, Inc. transaction	\$	\$ 5,646
Liability from Program Option exercised under the SDI collaboration	\$ 15,000	\$

*See accompanying notes.*

**Dynavax Technologies Corporation**  
**Notes to Condensed Consolidated Financial Statements**  
**(Unaudited)**

**1. Organization and Summary of Significant Accounting Policies**

Dynavax Technologies Corporation is a biopharmaceutical company that discovers, develops and intends to commercialize innovative Toll-like Receptor 9, or TLR9, agonist-based products to treat and prevent infectious diseases, allergies, cancer and chronic inflammatory diseases using versatile, proprietary approaches that alter immune system responses in highly specific ways. Our TLR9 agonists are based on immunostimulatory sequences, or ISS, which are short DNA sequences that enhance the ability of the immune system to fight disease and control chronic inflammation.

**Basis of Presentation**

Our accompanying unaudited condensed consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles for interim financial information and pursuant to the instructions to Form 10-Q and Article 10 of Regulation S-X. In our opinion, these unaudited condensed consolidated financial statements include all adjustments, consisting only of normal recurring adjustments, which we consider necessary to fairly state our financial position and the results of our operations and cash flows. Interim-period results are not necessarily indicative of results of operations or cash flows for a full-year period or any other interim-period. The condensed consolidated balance sheet at December 31, 2006 has been derived from audited financial statements at that date, but does not include all disclosures required by U.S. generally accepted accounting principles for complete financial statements.

These unaudited condensed consolidated financial statements and the notes accompanying them should be read in conjunction with our Annual Report on Form 10-K for the year ended December 31, 2006 as filed with the Securities and Exchange Commission, or SEC, on March 16, 2007.

The unaudited condensed consolidated financial statements include the accounts of Dynavax and our wholly-owned subsidiaries as well as a variable interest entity, Symphony Dynamo, Inc., for which we are the primary beneficiary as defined by Financial Accounting Standards Board, or FASB, Interpretation No. 46 (revised 2003),

Consolidation of Variable Interest Entities, or FIN 46R. All intercompany accounts and transactions have been eliminated. We operate in one business segment, which is the discovery and development of biopharmaceutical products.

**Use of Estimates**

The preparation of financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the amounts reported in the unaudited condensed consolidated financial statements and accompanying notes. Actual results may differ from these estimates.

**Significant Accounting Policies**

We believe that there have been no significant changes in our critical accounting policies during the six months ended June 30, 2007 as compared with those disclosed in its Annual Report on Form 10-K for the year ended December 31, 2006.

**Recent Accounting Pronouncements**

In March 2007, the FASB discussed Emerging Issues Task Force (EITF) Issue No. 07-3, Accounting for Nonrefundable Advance Payments for Goods or Services to Be Used in Future Research and Development Activities, which agreed to address the accounting for nonrefundable advance payments. The EITF concluded that nonrefundable advance payments for goods or services to be received in the future for use in research and development activities should be deferred and capitalized. The capitalized amounts should be expensed as the related goods are delivered or the services performed. If an entity's expectations change such that it does not expect it will need the goods to be delivered or the services to be rendered, capitalized nonrefundable advance payment should be charged to expense. Issue 07-3 is effective for new contracts entered into during fiscal years beginning after December 15, 2007, including interim periods within those fiscal years. The consensus may be applied to earlier periods. Early adoption of the provision of the consensus is not permitted. Accordingly, we must adopt Issue 07-3 in the first quarter of fiscal 2008 and we are currently evaluating the effect that the adoption will have on our consolidated results of operations and

financial condition.

In February 2007, the FASB issued Statement of Financial Accounting Standards No. 159 (SFAS 159), The Fair Value Option for Financial Assets and Financial Liabilities, which allows entities to account for most financial instruments at fair value rather than under other applicable generally accepted accounting principles such as historical cost. The accounting results in the instrument being marked to fair value every reporting period with the gain/loss from a change in fair value recorded in the income statement. SFAS 159 is effective as of the beginning of an entity's first fiscal year that begins after November 15, 2007. Accordingly, we must adopt SFAS 157 in the first quarter of fiscal 2008 and we are currently evaluating the effect that the adoption will have on our consolidated results of operations and financial condition.

In September 2006, the FASB issued SFAS 157, Fair Value Measurements. SFAS 157 provides guidance for using fair value to measure assets and liabilities. It also responds to investors' requests for expanded information about the extent to which companies measure assets and liabilities at fair value, the information used to measure fair value, and the effect of fair value measurements on earnings. SFAS 157 is effective for financial statements issued for fiscal years beginning after November 15, 2007. Accordingly, we must adopt SFAS 157 in the first quarter of fiscal 2008 and we are currently evaluating the effect that the adoption will have on our consolidated results of operations and financial condition.

In July 2006, the FASB released the Final Interpretation No. 48 Accounting for Uncertainty in Income Taxes (FIN 48). FIN 48 prescribes the minimum recognition threshold a tax position is required to meet before being recognized in the financial statements. FIN 48 also requires additional disclosure of the beginning and ending unrecognized tax benefits and details regarding the uncertainties that may cause the unrecognized benefits to increase or decrease within a twelve month period.

We adopted the provisions of FIN 48 on January 1, 2007. There was no impact on our consolidated financial position, results of operations and cash flows as a result of adoption. We have no unrecognized tax benefit as of June 30, 2007, including no accrued amounts for interest and penalties. Our policy will be to recognize interest and penalties related to income taxes as a component of general and administrative expense. We are subject to income tax examinations for U.S. incomes taxes and state income taxes from 1996 forward. We are subject to tax examinations in Singapore and Germany from 2003 and 2004 forward, respectively. We do not anticipate that total unrecognized tax benefits will significantly change prior to June 30, 2008.

## 2. Inventory

Inventories as of June 30, 2007 consist of the following (in thousands):

	<b>June 30, 2007</b>	<b>December 31, 2006</b>
Raw materials	\$ 184	\$ 194
Finished goods	64	63
Total	\$ 248	\$ 257

## 3. Intangible Assets

Intangible assets consist of manufacturing process, customer relationships, and developed technology acquired in connection with the acquisition of Rhein Biotech GmbH, or Rhein or Dynavax Europe, in April 2006. Purchased intangible assets other than goodwill are amortized on a straight-line basis over their respective useful lives. The following table presents details of the purchased intangible assets acquired as part of the acquisition (in thousands, except years):

<b>June 30, 2007</b>	<b>Original Estimated Useful Life (in Years)</b>	<b>Gross</b>	<b>Accumulated Amortization</b>	<b>Net</b>
Manufacturing process	5	\$ 3,670	\$ 876	\$ 2,794

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Customer relationships	5	1,230	294	936
Developed technology	7	180	31	149
Total		\$ 5,080	\$ 1,201	\$ 3,879

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The estimated future amortization expense of purchased intangible assets is as follows (in thousands):

<b>Year ending December 31,</b>	
2007 (remaining six months)	\$ 503
2008	1,006
2009	1,006
2010	1,005
2011	325
Thereafter	34
<b>Total</b>	<b>\$ 3,879</b>

#### **4. Collaborative Research and Development Agreements**

In September 2006, we entered into a research collaboration and license agreement with AstraZeneca AB, or AstraZeneca, for the discovery and development of TLR9 agonist-based therapies for the treatment of asthma and chronic obstructive pulmonary disease, or COPD. Under the terms of the agreement, we are collaborating with AstraZeneca to identify lead TLR9 agonists and conduct appropriate research phase studies. AstraZeneca is responsible for any development and worldwide commercialization of products arising out of the research program. We received an upfront payment of \$10 million upon signing the agreement and are eligible to receive research funding, preclinical milestones and future development milestones that in total could approximate \$136 million. Upon commercialization, we are also eligible to receive royalties based on product sales. Collaboration revenue resulting from the performance of research services amounted to \$0.8 million and \$1.5 million for the three and six months ended June 30, 2007, respectively. As of June 30, 2007, our deferred revenue was \$10.5 million associated with the upfront fee and amounts billed in advance for research services per the contract terms.

In 2003, we were awarded government grants totaling \$8.3 million to fund research and development. Certain of these grants have been extended through the first quarter of 2008. Revenue associated with these grants is recognized as the related expenses are incurred. For the six months ended June 30, 2007 and 2006, we recognized revenue of approximately \$1.7 million and \$0.5 million, respectively.

#### **5. Symphony Dynamo, Inc.**

In April 2006, we entered into a series of related agreements with Symphony Capital Partners, LP to advance specific Dynavax ISS-based programs for cancer, hepatitis B therapy and hepatitis C therapy through certain stages of clinical development. Pursuant to the agreements, Symphony Dynamo, Inc., or SDI, agreed to fund up to \$50.0 million for the clinical development of these programs and we licensed to SDI our intellectual property rights related to these programs. SDI is a wholly-owned subsidiary of Symphony Dynamo Holdings LLC, or Holdings, which provided \$20.0 million in funding to SDI at closing and \$30.0 million in April 2007. We are primarily responsible for the development of these programs.

Pursuant to the agreements, we issued to Holdings a five-year warrant to purchase 2,000,000 shares of common stock at \$7.32 per share, representing a 25% premium over the applicable 60-day trading range average of \$5.86 per share. The warrant exercise price is subject to reduction to \$5.86 per share under certain circumstances. The warrant may be exercised or surrendered for a cash payment upon consummation of an all cash merger or acquisition of Dynavax, the obligation for which would be settled by the surviving entity. The warrant issued upon closing was assigned a value of \$5.6 million using the Black-Scholes valuation model, and was recorded as a reduction in the noncontrolling interest in SDI and an increase in additional paid in capital.

In consideration for the warrant, we received an exclusive purchase option, defined as the Purchase Option, to acquire all of the programs through the purchase of all of the equity in SDI during the five-year term at specified prices. The Purchase Option exercise price is payable in cash or a combination of cash and shares of Dynavax common stock, at our sole discretion. We also received an option to purchase either the hepatitis B or hepatitis C program, defined as the Program Option. We exercised the Program Option in April 2007 for the hepatitis B program. The exercise of the Program Option requires a payment obligation of \$15 million to Holdings upon the expiration of

the SDI collaboration in 2011 if the Purchase Option for all programs is not exercised at any time through the remaining term of the collaboration. The long-term liability for the Program Option is payable in cash only and will be fully creditable against the exercise price for any subsequent exercise of the Purchase Option. If we do not exercise our exclusive right to purchase the remaining programs licensed under the agreement, the intellectual property rights to those programs at the end of the development period will remain with SDI. The long-term liability of \$15.0 million was offset against the noncontrolling interest in SDI.

In accordance with Financial Standards Board Interpretation No. 46 (revised 2003), Consolidation of Variable Interest Entities, or FIN 46R, we have determined that SDI is a variable interest entity for which we are the primary beneficiary. As a result, the financial position and results of operations of SDI have been included in our consolidated financial statements as of June 30, 2007 and for the period from April 18, 2006 through December 31, 2006. Accordingly, the investments held by SDI in the consolidated balance sheet include the \$50.0 million of funding, less funds spent to date on the development of the programs. The noncontrolling interest in SDI reflects \$50.0 million of funding reduced by (i) the structuring fee and other closing costs of \$2.6 million, (ii) the value assigned to the warrants issued to Holdings upon closing of \$5.6 million, (iii) the Program Option obligation of \$15.0 million, and (iv) SDI's losses through June 30, 2007. Reimbursable expenses incurred under the SDI programs were \$6.6 million for the six months ended June 30, 2007.

## 6. Commitments

We lease our facilities in Berkeley, California, or the Berkeley Lease, and Düsseldorf, Germany, or the Düsseldorf Lease, under operating leases that expire in September 2014 and August 2009, respectively. The Berkeley Lease can be terminated in September 2009 at no cost to us but otherwise extends automatically until September 2014. The Berkeley Lease provides for periods of escalating rent. The total cash payments over the life of the lease were divided by the total number of months in the lease period and the average rent is charged to expense each month during the lease period. In addition, our Berkeley Lease provided a tenant improvement allowance of \$0.4 million, which is considered a lease incentive and accordingly, has been included in accrued liabilities and other long-term liabilities in the consolidated balance sheets as of June 30, 2007 and December 31, 2006. The Berkeley Lease incentive is amortized as an offset to rent expense over the estimated initial lease term, through September 2009. Total net rent expense related to our operating leases for the six months ended June 30, 2007 and June 30, 2006, was \$1.0 million and \$0.8 million, respectively. Deferred rent was \$0.2 million as of June 30, 2007.

We have entered into a sublease agreement under the Berkeley Lease for a certain portion of the leased space with scheduled payments to us totaling \$0.4 million annually through 2007. This sublease agreement extends until August 2007.

Future minimum payments under the non-cancelable portion of our operating leases at June 30, 2007, excluding payments from the sublease agreement, are as follows (in thousands):

### Year ending December 31,

2007 (remaining six months)	\$ 1,109
2008	2,255
2009	1,529
<b>Total</b>	<b>\$ 4,893</b>

During the fourth quarter of 2004, we established a letter of credit with Silicon Valley Bank as security for our Berkeley Lease in the amount of \$0.4 million. The letter of credit remained outstanding as of June 30, 2007 and is collateralized by a certificate of deposit which has been included in restricted cash in the consolidated balance sheets as of June 30, 2007 and December 31, 2006. Under the terms of the Berkeley Lease, if the total amount of our cash, cash equivalents and marketable securities falls below \$20.0 million for a period of more than 30 consecutive days during the lease term, the amount of the required security deposit will increase to \$1.1 million, until such time as our projected cash and cash equivalents will exceed \$20.0 million for the remainder of the lease term, or until our actual cash and cash equivalents remains above \$20.0 million for a period of 12 consecutive months.

In addition to the non-cancelable commitments included above, we have entered into contractual arrangements that obligate us to make payments to the contractual counterparties upon the occurrence of future events. In the normal course of operations, we have entered into license and other agreements and intend to continue to seek additional rights relating to compounds or technologies in connection with our discovery, manufacturing and development programs. Under the terms of the agreements, we may be required to pay future up-front fees, milestones and royalties on net sales of products originating from the licensed technologies. We consider these potential obligations to be



contingent and have summarized all significant arrangements below.

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We rely on research institutions, contract research organizations, clinical investigators and clinical material manufacturers. As of June 30, 2007, under the terms of our agreements, we are obligated to make future payments as services are provided of approximately \$11 million through 2008. These agreements are terminable by us upon written notice. We are generally only liable for actual effort expended by the organizations at any point in time during the contract, subject to certain termination fees and penalties.

Under the terms of our exclusive license agreements with the Regents of the University of California, as amended, for certain technology and related patent rights and materials, we pay annual license or maintenance fees and will be required to pay milestones and royalties on net sales of products originating from the licensed technologies. Such fees and milestone payments to the Regents could approximate \$1 million in 2007.

In April 2006, Rhein and Green Cross Vaccine Corp. ( Green Cross ) entered into an exclusive license agreement whereby Green Cross granted Rhein an exclusive license relating to SUPERVAX, a hepatitis B vaccine. In exchange, Rhein is required to pay Green Cross a specified profit share until Green Cross's development costs for the product are recouped and thereafter a specified profit share for a designated period of time. To date revenue from SUPERVAX has not been material.

## 7. Net Loss Per Share

Basic net loss per share is calculated by dividing the net loss by the weighted-average number of common shares outstanding during the period. Diluted net loss per share is computed by dividing the net loss by the weighted-average number of common shares outstanding during the period and potentially dilutive common shares using the treasury-stock method. For purposes of this calculation, common stock subject to repurchase by us, preferred stock, options and warrants are considered to be potentially dilutive common shares and are only included in the calculation of diluted net loss per share when their effect is dilutive. Outstanding warrants and stock options to purchase 6.2 million and 5.6 million shares of common stock as of June 30, 2007 and 2006, respectively, were excluded from the calculation of diluted net loss per share because the effect would have been anti-dilutive.

The following is a reconciliation of the numerator and denominator used in the basic and diluted net loss per share computations (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2007	2006	2007	2006
Numerator:				
Net loss	\$(17,704)	\$(15,273)	\$(30,794)	\$(23,445)
Denominator:				
Weighted-average common shares outstanding used for basic and diluted net loss per share	39,741	30,536	39,734	30,524

## 8. Comprehensive Loss

Comprehensive loss is comprised of net loss and other comprehensive income or loss. Other comprehensive income or loss includes certain changes in stockholder's equity not included in the net loss. Comprehensive loss is as follows:

	Six Months Ended June 30,	
	2007	2006
Net loss	\$(30,794)	\$(23,445)
Increase in unrealized gain on marketable securities available-for-sale	7	72
Increase in cumulative translation adjustment	8	65
Comprehensive loss	\$(30,779)	\$(23,308)

**9. Stockholders Equity**

As of June 30, 2007, we have two share-based compensation plans: the 2004 Stock Incentive Plan, which includes the 2004 Non-Employee Director Option Program; and the 2004 Employee Stock Purchase Plan. The 1997 Equity Incentive Plan, or 1997 Plan, expired in the first quarter of 2007. Upon expiration of the 1997 Plan, 273,188 shares previously available for grant expired. Any

outstanding options under the 1997 Plan that are cancelled in future periods will automatically expire and will no longer be available for grant.

Under our stock-based compensation plans, option awards generally vest over a 4-year period contingent upon continuous service and expire 10 years from the date of grant (or earlier upon termination of continuous service). The fair value of each option is estimated on the date of grant using the Black-Scholes option valuation model and the following weighted-average assumptions:

	<b>Employee Stock Options</b>				<b>Employee Stock Purchase Plan</b>	
	<b>Three Months Ended</b>		<b>Six Months Ended</b>		<b>Six Months Ended</b>	
	<b>June 30,</b>		<b>June 30,</b>		<b>June 30,</b>	
	<b>2007</b>	<b>2006</b>	<b>2007</b>	<b>2006</b>	<b>2007</b>	<b>2006</b>
Weighted-average fair value	\$2.78	\$3.79	\$3.75	\$3.99	\$2.64	\$2.65
Risk-free interest rate	4.8%	5.1%	4.8%	4.8%	5.0%	4.7%
Expected life (in years)	4.0	5.8	4.6	5.7	1.2	1.2
Volatility	0.7	0.8	0.8	0.8	0.7	0.7
Expected dividends						

Expected volatility is based on historical volatility of our stock and comparable peer data. The expected life of options granted is estimated based on historical option exercise and employee termination data. Executive level employees, who hold a majority of the options outstanding, and non-executive level employees were each found to have similar historical option exercise and termination behavior and thus were grouped and considered separately for valuation purposes. The risk-free rate for periods within the contractual life of the option is based on the U.S. Treasury yield curve in effect at the time of grant.

We recognized the following amounts of stock-based compensation expense (in thousands):

	<b>Three Months Ended</b>		<b>Six Months Ended</b>	
	<b>June 30,</b>		<b>June 30,</b>	
	<b>2007</b>	<b>2006</b>	<b>2007</b>	<b>2006</b>
Employee and director stock-based compensation expense	\$ 674	\$ 731	\$ 1,471	\$ 1,388
Other stock-based compensation expense	15			