ASPEN TECHNOLOGY INC /DE/
Form 10-Q
November 09, 2009

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

(Mark One)

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

For the quarterly period ended December 31, 2008

OR

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

For the transition period from to
Commission File Number: 000-24786

Aspen Technology, Inc.

(Exact name of registrant as specified in its charter)

Delaware (State or other jurisdiction of incorporation or organization)	**04-2739697** (I.R.S. Employer Identification No.)
200 Wheeler Road **Burlington, Massachusetts** (Address of Principal Executive Offices)	**01803** (Zip Code)

(781) 221-6400
(Registrant's telephone number, including area code)

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 twelve 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 o No ý

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 (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes o No ý

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.

Large Accelerated Filer o	Accelerated Filer ý	Non-Accelerated Filer o (Do not check if a smaller reporting company)	Smaller reporting company o

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

As of October 18, 2009, there were 90,115,300 shares of the registrant's common stock (par value $0.10 per share) outstanding.

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PART I. FINANCIAL INFORMATION

Item 1. ***Condensed Consolidated Financial Statements (unaudited)***

ASPEN TECHNOLOGY, INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS

(Unaudited and in thousands, except per share data)

	Three Months Ended December 31,		Six Months Ended December 31,	
	2008	**2007**	**2008**	**2007**
Revenues:				
Software licenses	$ 47,272	$ 37,579	$ 96,909	$ 68,698
Service and other	35,355	36,640	72,124	70,359
Total revenues	82,627	74,219	169,033	139,057
Cost of revenues:				
Cost of software licenses	2,877	3,831	5,499	7,207
Cost of service and other	15,287	18,069	31,806	34,408
Amortization of technology-related intangible assets			25	
Total cost of revenues	18,164	21,900	37,330	41,615
Gross profit	64,463	52,319	131,703	97,442
Operating costs:				
Selling and marketing	21,030	23,293	44,540	45,584
Research and development	9,472	10,584	20,739	22,261
General and administrative	14,276	13,201	28,391	25,489
Restructuring charges	231	1,291	265	8,517
(Gain) loss on sales and disposals of assets	(1)	(120)	3	(100)
Impairment of goodwill and intangible assets	623		623	
Total operating costs	45,631	48,249	94,561	101,751
Income (loss) from operations	18,832	4,070	37,142	(4,309)
Interest income	5,955	5,748	11,870	11,946
Interest expense	(2,743)	(4,834)	(5,597)	(9,228)
Other income, net	2,920	2,030	(661)	2,193
Income before provision for taxes	24,964	7,014	42,754	602
(Provision for) benefit from income taxes	(2,003)	2,244	(8,140)	(347)
Net income	$ 22,961	$ 9,258	$ 34,614	$ 255

Earnings per common share:

Basic	$	0.26	$	0.10	$	0.38	$	0.00
Diluted	$	0.25	$	0.10	$	0.37	$	0.00
Weighted average shares outstanding:								
Basic		90,043		89,602		90,031		89,299
Diluted		92,030		94,730		93,055		94,297

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

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ASPEN TECHNOLOGY, INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED BALANCE SHEETS

(Unaudited and in thousands, except share data)

	December 31, 2008	June 30, 2008
ASSETS		
Current assets:		
Cash and cash equivalents	$ 122,803	$ 134,048
Accounts receivable, net	52,973	86,870
Current portion of installments receivable, net	49,591	51,762
Current portion of collateralized receivables, net	43,970	43,186
Unbilled services	2,076	3,459
Prepaid expenses and other current assets	23,993	11,710
Deferred tax assets	1,846	2,305
Total current assets	297,252	333,340
Non-current installments receivable, net	104,214	82,528
Non-current collateralized receivables, net	80,349	92,163
Property, equipment and leasehold improvements, net	10,337	11,799
Computer software development costs	4,842	5,443
Other intangible assets, net	214	615
Goodwill	16,024	19,019
Non-current deferred tax assets	6,821	7,743
Other non-current assets	1,881	1,976
	$ 521,934	$ 554,626
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Current portion of secured borrowing	$ 101,707	$ 47,816
Accounts payable	5,444	6,586
Accrued expenses	40,196	61,746
Income taxes payable	9,451	13,877
Deferred revenue	56,700	86,551
Current deferred tax liability	489	457
Total current liabilities	213,987	217,033
Long-term secured borrowing	36,357	99,391
Deferred revenue	20,859	20,354
Non-current deferred tax liability	662	725
Other non-current liabilities	42,346	44,310
Commitments and contingencies (Note 9)		
Series D redeemable convertible preferred stock, $0.10 par value		
Authorized 3,636 shares as of December 31, 2008 and June 30, 2008		
Issued and outstanding none as of December 31, 2008 and June 30, 2008		
Stockholders' equity:		
Common stock, $0.10 par value Authorized 120,000,000 shares		
Issued 90,283,404 shares as of December 31, 2008 and 90,235,526 shares at June 30, 2008		
Outstanding 90,049,940 shares at December 31, 2008 and 90,002,062 shares at June 30, 2008	9,028	9,024
Additional paid-in capital	495,364	493,088
Accumulated deficit	(301,903)	(336,517)
Accumulated other comprehensive income	5,747	7,731
Treasury stock, at cost 233,464 shares of common stock as of December 31, 2008 and June 30, 2008	(513)	(513)
Total stockholders' equity	207,723	172,813
	$ 521,934	$ 554,626

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

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ASPEN TECHNOLOGY, INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

(Unaudited and in thousands)

	Six Months Ended December 31, 2008	Six Months Ended December 31, 2007
Cash flows from operating activities:		
Net income	$ 34,614	$ 255
Adjustments to reconcile net income to net cash provided by operating activities		
Depreciation and amortization	4,615	5,901
Net foreign currency loss (gain)	2,025	(1,443)
Stock-based compensation	2,379	6,290
Non-cash interest expense from amortization of debt issuance costs		476
Loss on disposal of property, equipment and leasehold improvements	299	
Deferred income taxes	1,273	(2,607)
Provision for doubtful accounts	516	258
Loss on impairment of goodwill and intangible assets	623	
Changes in assets and liabilities:		
Accounts receivable	30,067	(23,493)
Unbilled services	840	2,508
Prepaid expenses and other current assets	(9,929)	776
Installments and collateralized receivables	(12,043)	13,725
Income taxes payable	(2,507)	(925)
Accounts payable, accrued expenses and other current liabilities	(16,082)	(8,406)
Deferred revenue	(28,575)	22,498
Other non-current liabilities	(114)	4,515
Net cash provided by operating activities	8,001	20,328
Cash flows from investing activities:		
Purchase of property, equipment and leasehold improvements	(1,391)	(5,329)
Capitalized computer software development costs	(1,465)	
Decrease in other assets	(815)	(8)
Net cash used in investing activities	(3,671)	(5,337)
Cash flows from financing activities:		
Proceeds from secured borrowings	5,532	53,541
Repayment of secured borrowings	(19,905)	(71,703)
Exercise of stock options and warrants		2,802
Issuance of common stock under employee stock purchase plan		467
Payment of tax withholding obligations related to restricted stock	(205)	(825)
Payments of long-term debt and capital lease obligations		(128)
Net cash used in financing activities	(14,578)	(15,846)

Effects of exchange rate changes on cash and cash equivalents	(997)	174
Decrease in cash and cash equivalents	(11,245)	(681)
Cash and cash equivalents, beginning of period	134,048	132,267
Cash and cash equivalents, end of period	$ 122,803	$ 131,586
Supplemental disclosure of cash flow information:		
Interest paid	$ 5,633	$ 8,713
Income taxes paid	18,226	3,812

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

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1. Interim Unaudited Condensed Consolidated Financial Statements

The accompanying interim unaudited condensed consolidated financial statements (Interim Financial Statements) of Aspen Technology, Inc. and subsidiaries (AspenTech or the Company) have been prepared on the same basis as our annual consolidated financial statements. We condensed or omitted certain information and footnote disclosures normally included in our annual consolidated financial statements. Such Interim Financial Statements have been prepared in conformity with U.S. generally accepted accounting principles (GAAP) for interim financial information and pursuant to the rules and regulations of the U.S. Securities and Exchange Commission (the SEC) for reporting on Form 10-Q. It is suggested that these Interim Financial Statements be read in conjunction with the audited consolidated financial statements for the year ended June 30, 2008, which are contained in our Annual Report on Form 10-K as previously filed with the SEC. In the opinion of management, all adjustments, consisting of normal and recurring adjustments, considered necessary for a fair presentation of the financial position, results of operations, and cash flows at the dates and for the periods presented have been included and all intercompany accounts and transactions have been eliminated in consolidation. The results of operations for the three and six-month periods ended December 31, 2008 are not necessarily indicative of the results to be expected for the full fiscal year.

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions. These estimates and assumptions affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

2. Immaterial Correction of Errors

During the first quarter of fiscal 2009, we identified certain errors related to income taxes, stock compensation expense and foreign transactions, that originated in prior periods and concluded that the errors were not material to any of the previously reported periods. These immaterial errors were corrected in the first quarter 2009 Interim Financial Statements. The impact to certain captions in the unaudited condensed consolidated statement of operations for the six months ended December 31, 2008, resulting from these out-of-period components of the immaterial corrections, is as follows (in thousands):

	Six Months Ended December 31, 2008 Increase (Decrease)
Total revenues	$
Income from operations	887
Income before provision for taxes	315
Net income	(3,618)

During the second quarter of fiscal 2008, we identified certain errors that originated in prior periods and concluded that the errors were not material to any of the previously reported periods. These immaterial errors were corrected in the second fiscal quarter 2008 Interim Financial Statements. The impact to certain captions in the unaudited condensed consolidated statements of operations for

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the three and six months ended December 31, 2007, resulting from these out-of-period components of the immaterial corrections, is as follows (in thousands):

	Three and Six Months Ended December 31, 2007 Increase (Decrease)
Total revenues	$ (1,117)
Income from operations	(1,337)
Income before provision for taxes	(486)
Net income	358

3. Intangible Assets and Goodwill

We test goodwill for impairment annually at the reporting unit level using a fair value approach in accordance with the provisions of Statement of Financial Accounting Standards (SFAS) No. 142, "Goodwill and other Intangible Assets." We conduct our annual impairment test on December 31, of each year. The initial step requires us to determine the fair value of each reporting unit and compare it to the carrying value, including goodwill, of such reporting unit. If the fair value exceeds the carrying value, no impairment loss is to be recognized. However, if the carrying value of the reporting unit exceeds its fair value, the goodwill of this unit may be impaired. The amount of impairment, if any, is then measured based upon the estimated fair value of goodwill at the valuation date. Our last annual impairment test occurred on December 31, 2008. If an event occurs or circumstances change that would more likely than not reduce the fair value of a reporting unit below its carrying value, goodwill will be evaluated for impairment between annual tests.

Certain negative macroeconomic factors began to impact the global credit markets in late calendar 2008 and we noted significant unfavorable trends in business conditions in the second quarter of fiscal 2009. Concurrently with these unfavorable developments, we commenced the annual impairment assessment of goodwill and certain intangible assets. In connection with preparing the annual impairment assessment, we identified significant deterioration in the expected future financial performance of the professional services segment compared to the expected future financial performance of this segment at the end of fiscal 2008. As a result, we recognized goodwill and intangible assets impairments of $0.5 million and $0.1 million, respectively, within the professional services segment during the second fiscal quarter of 2009, which ended December 31, 2008. The method for determining fair value was based on weighting estimates of future cash flows from the reporting units and estimates of the market value of the reporting units, based on comparable companies. These impairment losses were recorded as loss on impairment of goodwill and intangible assets in the condensed consolidated statement of operations.

4. Secured Borrowings Covenants

We have arrangements with financial institutions providing for borrowings that are secured by our installment and other receivable contracts, and for which limited recourse exists against us. The terms of the asset purchase agreement for one of the programs requires the timely reporting of financial information. As of December 31, 2008, we were not in compliance with that requirement. We have obtained waivers for such non-compliance which extends the deadline for delivering the fiscal 2009 financial information until November 30, 2009. We are in the process of obtaining an additional waiver to extend the reporting deadline for the financial information for the first quarter of fiscal 2010. Because we have been unable to timely report financial information and the waiver of this covenant does not extend the grace period for a year and a day past the balance sheet date, the obligation under this program has been classified as a current obligation in the accompanying consolidated balance sheet

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as of December 31, 2008. This resulted in a reclassification of amounts previously classified as long term secured borrowings totaling $56.0 million to the current portion of secured borrowings.

5. Supplementary Balance Sheet Information

Property, equipment and leasehold improvements in the accompanying unaudited condensed consolidated balance sheets consist of the following (in thousands):

	December 31, 2008	June 30, 2008
Property, equipment and leasehold improvements at cost		
Computer equipment	$ 9,632	$ 9,908
Purchased software	17,327	24,756
Furniture & fixtures	6,340	6,311
Leasehold improvements	3,896	4,009
Accumulated depreciation	(26,858)	(33,185)
Property, equipment and leasehold improvements net	$ 10,337	$ 11,799

Accrued expenses in the accompanying unaudited condensed consolidated balance sheets consist of the following (in thousands):

	December 31, 2008	June 30, 2008
Royalties and outside commissions	$ 6,354	$ 6,576
Payroll and payroll-related	7,807	19,434
Restructuring accruals	4,805	4,658
Amounts due to receivable sale facilities for collections	442	5,687
Other	20,788	25,391
Total accrued expenses	$ 40,196	$ 61,746

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

	December 31, 2008	June 30, 2008
Restructuring accruals	$ 9,271	$ 11,727
Deferred rent	2,478	2,562
Royalties and outside commissions	7,563	6,368
Other	23,034	23,653
Total other non-current liabilities	$ 42,346	$ 44,310

6. Net Income

Basic earnings per share was determined by dividing net income by the weighted average common shares outstanding during the period. Diluted earnings per share was determined by dividing net income by diluted weighted average shares outstanding during the period. Diluted weighted average shares reflects the dilutive effect, if any, of potential common shares. To the extent their effect is dilutive, potential common shares include common stock options and warrants, based on the treasury stock method, and other commitments to be settled in common stock. The calculations of basic and

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diluted net income per share attributable to common shareholders and basic and diluted weighted average shares outstanding are as follows (in thousands, except per share data):

	Three Months Ended December 31,						Six Months Ended December 31,					
	2008			2007			2008			2007		
	Income	Shares	Per Share Amount	Income	Shares	Per Share Amount	Income	Shares	Per Share Amount	Income	Shares	Per Share Amount
Basic earnings per share:												
Net income	$ 22,961	90,043	$ 0.26	$ 9,258	89,602	$ 0.10	$ 34,614	90,031	$ 0.38	$ 255	89,299	$
Diluted earnings per share:												
Employee equity awards		1,642			4,317			2,596			4,120	
Warrants		345			811			428			878	
Net income giving effect to dilutive adjustments	$ 22,961	92,030	$ 0.25	$ 9,258	94,730	$ 0.10	$ 34,614	93,055	$ 0.37	$ 255	94,297	$

The following potential common shares were excluded from the calculation of diluted weighted average shares outstanding because the exercise price of the stock options and warrants exceeded the average market price for our common stock and their effect would be anti-dilutive at the balance sheet date (in thousands):

	Three Months Ended December 31,		Six Months Ended December 31,	
	2008	2007	2008	2007
Employee equity awards and warrants	2,313	722	1,810	1,505

7. Comprehensive Income

Comprehensive income is defined as the change in equity of a business enterprise during a period from transactions and other events and circumstances from non-owner sources. The components of comprehensive income for the three and six months ended December 31, 2008 and 2007 were as follows (in thousands):

	Three Months Ended December 31,		Six Months Ended December 31,	
	2008	2007	2008	2007
Net Income	$ 22,961	$ 9,258	$ 34,614	$ 255
Foreign currency translation adjustments	(2,604)	(1,509)	(1,984)	93
Total comprehensive income	$ 20,357	$ 7,749	$ 32,630	$ 348

8. Restructuring Charges

During the three and six months ended December 31, 2008, we recorded $0.2 and $0.3 million, respectively, in restructuring charges, primarily related to accretion and changes in estimate of pre-existing lease obligations.

At December 31, 2008, total restructuring liabilities for all plans of $14.1 million consisted almost entirely of liabilities for the closure of facilities. Management anticipates that payments of $5.0 million will be made over the next twelve months with the remaining $10.4 million paid through 2016.

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During the six months ended December 31, 2008, the following activity was recorded (in thousands):

Summary Restructuring Plans	**Closure/ Consolidation of Facilities**	**Employee Severance, Benefits, and Related Costs**	**Total**
Accrued expenses and other non-current liabilities, June 30, 2008	$ 16,354	$ 31	$ 16,385
Restructuring charge Accretion	330		330
Change in estimate	(224)	158	(66)
Sub-total	106	158	264
Payments	(2,396)	(177)	(2,573)
Accrued expenses and other non-current liabilities, December 31, 2008	$ 14,064	$ 12	$ 14,076

9. Commitments and Contingencies

(a) FTC and Honeywell Settlement

In December 2004, we entered into a consent decree with the Federal Trade Commission (FTC) with respect to a civil administrative complaint filed by the FTC in August 2003 alleging that our acquisition of Hyprotech Ltd. and related subsidiaries of AEA Technology plc (Hyprotech) in May 2002 was anticompetitive in violation of Section 5 of the Federal Trade Commission Act and Section 7 of the Clayton Act. In connection with the consent decree we entered into an agreement with Honeywell International, Inc. (Honeywell) on October 6, 2004 (Honeywell Agreement), pursuant to which we transferred our operator training business and our rights to the intellectual property of various legacy Hyprotech products.

On December 23, 2004, we completed the transactions contemplated by the Honeywell Agreement. Under the terms of the transactions:

- We agreed to a cash payment of approximately $6.0 million from Honeywell in consideration of the transfer of our operator training services business, our covenant not to compete in the operator training business until the third anniversary of the closing date, and the transfer of ownership of the intellectual property of our Hyprotech engineering products, $1.2 million of which was held back by Honeywell and a portion of which was released upon resolution of adjustments for uncollected billed accounts receivable and unbilled accounts receivable, as discussed below;

- We transferred and Honeywell assumed, as of the closing date, approximately $4.0 million in accounts receivable relating to the operator training business; and

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

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

We are subject to ongoing compliance obligations under the FTC consent decree. We responded to requests by the Staff of the FTC beginning in 2006 for information relating to the Staff's investigation of whether we have complied with the consent decree. In addition, the FTC voted to recommend to the Consumer Litigation Division (Division) of the U.S. Department of Justice that the Division commence litigation against us relating to our alleged failure to comply with certain aspects of the

decree. Although we believe that we complied with the consent decree and that the assertions by the FTC Staff were without merit, we engaged in settlement discussions with the FTC Staff regarding this matter. Following such discussions, on July 6, 2009, we announced that the FTC closed the investigation relating to the alleged violations of the decree, and issued an order modifying the consent decree. Following a thirty-day period for public comment on the modification to the original decree, the modified order became final on August 20, 2009. The modification to the 2004 consent decree requires that we continue to provide the ability for users to save input variable case data for Aspen HYSYS and Aspen HYSYS Dynamics software in a standard "portable" format, which will make it easier for users to transfer case data from later versions of the products to earlier versions. AspenTech will also provide documentation to Honeywell of the Aspen HYSYS and Aspen HYSYS Dynamics input variables, as well as documentation of the covered heat exchange products. These requirements will apply to all existing and future versions of the covered products through 2014.

In March 2007, we were served with a complaint and petition to compel arbitration filed by Honeywell in New York State Supreme Court. The complaint alleges that we failed to comply with our obligations to deliver certain technology under the Honeywell Agreement, that we owe approximately $0.8 million to Honeywell under the Honeywell Agreement, and that Honeywell is entitled to some portion of the $1.2 million holdback retained by Honeywell under the holdback provisions of the Honeywell Agreement, plus unspecified monetary damages. In accordance with the Honeywell Agreement, certain of Honeywell's claims relating to the holdback were the subject of a proceeding before an independent accountant, who determined in December 2008 that we were entitled to a portion of the holdback. We reached a settlement in June 2009 and the matter has been dismissed. In connection with the settlement, AspenTech has provided to Honeywell a license to modify and distribute (in object code form) certain versions of AspenTech's flare system analyzer software.

(b) Class action and opt-out claims

In March 2006, we settled a class action litigation, including related derivative claims, arising out of our originally filed consolidated financial statements for fiscal 2000 through 2004, the accounting for which we restated in March 2005. Members of the class who opted out of the settlement (representing 1,457,969 shares of common stock, or less than 1% of the shares putatively purchased during the class action period) brought their own state or federal law claims against us, referred to as "opt-out" claims.

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

Feldman v. Aspen Technology, Inc., et al., filed on July 17, 2006 in the Business Litigation Session of the Massachusetts Superior Court for Suffolk County and docketed as Civ. A. No. 06-3021-BLS2 in that court, is an opt-out claim asserted by an individual who received 323,324 shares of our common stock in an acquisition. We reached a settlement with the plaintiff effective as of March 31, 2009 providing for dismissal of all the plaintiff's claims with prejudice, and a stipulation effectuating the dismissal was filed on May 29, 2009.

Blecker, et al. v. Aspen Technology, Inc., et al., filed on June 5, 2006 in the Business Litigation Session of the Massachusetts Superior Court for Suffolk County and docketed as Civ. A. No. 06-2357-BLS1 in that court, is an opt-out claim asserted by persons who received 248,411 shares of our common stock in an acquisition. Fact discovery in this action closed on July 18, 2008, and a non-jury trial began on November 3, 2009. On October 17, 2008, the plaintiffs filed

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a new complaint in the Superior Court of the Commonwealth of Massachusetts, captioned *Herbert G. and Eunice E. Blecker v. Aspen Technology, Inc. et al*., Civ. A. No. 08-4625-BLS1 (Blecker II). The sole claim in Blecker II is based on the Massachusetts Uniform Securities Act. We served a motion to dismiss on December 3, 2008 which the plaintiffs have opposed. The motion was argued before the court on March 23, 2009 and is pending.

380544 Canada, Inc., et al. v. Aspen Technology, Inc., et al., filed on February 15, 2007 in the federal district court for the Southern District of New York and docketed as Civ. A. No. 1:07-cv-01204-JFK in that court, is a claim asserted by persons who purchased 566,665 shares of our common stock in a private placement. Certain motions to dismiss filed by other defendants were resolved on May 5, 2009, and discovery is scheduled to conclude on February 12, 2010.

The remaining claims in the *Blecker* and *380544 Canada* actions referenced above are for damages totaling at least $20 million, not including claims for treble damages and attorneys' fees. We plan to defend the actions vigorously. We can provide no assurance as to the outcome of these opt-out claims or the likelihood of the filing of additional opt-out claims, and these claims may result in judgments against us for significant damages. Regardless of the outcome, such litigation has resulted in the past, and may continue to result in the future, in significant legal expenses and may require significant attention and resources of management, all of which could result in losses and damages that have a material adverse effect on our business.

(c) ATME Arbitration

Prior to October 6, 2009, we had an exclusive reseller relationship covering certain countries in the Middle East with a reseller known as , AspenTech Middle East W.L.L., a Kuwait corporation (ATME or the reseller). Effective October 6, 2009, we terminated the reseller relationship for material breach by the reseller based on certain actions of the reseller. On November 2, 2009 the reseller filed a Claim Form (Arbitration) in the High Court of Justice, Queen's Bench Division, Commercial Court, London, England, reference 2009 Folio 1436 in the matter of an intended arbitration between the reseller and us, seeking an injunction against certain activities by us in the alleged former territory of the reseller. We believe that the reseller's claims are without merit, inasmuch as our termination of the relationship was based on actions by the reseller constituting material breach as defined in the reseller agreement document, and that the reseller is not entitled to such an injunction. We therefore intend to defend the claims vigorously. We can provide no assurance as to the outcome of this proceeding or the likelihood of the filing of additional proceedings such as a full arbitration, and these claims may result in judgments against us for significant damages and a possible injunction that would threaten our ability to do business directly in certain countries in the Middle East. In addition, regardless of the outcome, such claims may result in significant legal expenses and may require significant attention and resources of management, all of which could result in losses and damages that have a material adverse effect on our business. The reseller agreement document relating to the terminated relationship contained a provision whereby we could be liable for a termination fee if the agreement were terminated other than for material breach. This fee would be calculated based on a formula contained in the reseller agreement that we believe was originally developed based on certain assumptions about the future financial performance of the reseller, as well as the reseller's actual financial performance. Based on the formula and the financial information provided to us by the reseller, which we have not had the opportunity to verify independently, a recent calculation associated with termination other than for material breach based on the formula would result in a termination fee of between $60 million and $77 million. Under the terminated reseller agreement document, no termination fee is owed on termination for material breach.

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(d) Other

We are currently defending a customer claim of approximately $5 million that certain of our software products and implementation services failed to meet customer expectations. Although we are defending the claim vigorously, the results of litigation and claims cannot be predicted with certainty, and unfavorable resolutions are possible and could materially affect our results of operations, cash flows or financial position. In addition, regardless of the outcome, litigation could have an adverse impact on us because of defense costs, diversion of management resources and other factors.

(e) Other Commitments and Contingencies

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

We have entered into agreements with other executive officers, providing for severance payments in the event that the executive is terminated by us other than for cause. Payments under these agreements consist of continuation of base salary for a period of 12 months, payment of pro rated incentive plan amounts and other benefits specified therein.

10. Segment Information

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

We have three operating segments: license, professional services, and maintenance and training. The chief operating decision maker assesses financial performance and allocates resources based upon the three lines of business.

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

The accounting policies of the operating segments are the same as those described in the summary of significant accounting policies. We do not track assets or capital expenditures by operating segments. Consequently, it is not practical to show assets, capital expenditures, depreciation or amortization by operating segments.

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The following table presents a summary of operating segments for the three and six months ended December 31, 2008 and 2007 (in thousands):

	License	Professional Services	Maintenance and Training	Total
Three Months Ended December 31, 2008				
Segment revenue	$ 47,272	$ 12,878	$ 22,477	$ 82,627
Segment expenses	14,687	9,437	3,448	27,572
Segment operating profit(1)	$ 32,585	$ 3,441	$ 19,029	$ 55,055
Three Months Ended December 31, 2007				
Segment revenue	$ 37,579	$ 15,617	$ 21,023	$ 74,219
Segment expenses	15,965	11,383	3,455	30,803
Segment operating profit(1)	$ 21,614	$ 4,234	$ 17,568	$ 43,416
Six Months Ended December 31, 2008				
Segment revenue	$ 96,909	$ 28,304	$ 43,820	$ 169,033
Segment expenses	31,083	20,086	7,033	58,202
Segment operating profit(1)	$ 65,826	$ 8,218	$ 36,787	$ 110,831
Six Months Ended December 31, 2007				
Segment revenue	$ 68,698	$ 28,778	$ 41,581	$ 139,057
Segment expenses	30,701	21,693	6,719	59,113
Segment operating profit(1)	$ 37,997	$ 7,085	$ 34,862	$ 79,944

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

Reconciliation to Income Before Provision for Taxes:

The following table presents a reconciliation of total segment operating profit to income before provision for income taxes for the three and six months ended December 31, 2008 and 2007 (in thousands):

	Three Months Ended December 31,		Six Months Ended December 31,	
	2008	2007	2008	2007
Total segment operating profit for reportable segments	$ 55,055	$ 43,416	$ 110,831	$ 79,944
Cost of license and amortization for technology related costs	(2,877)	(3,831)	(5,524)	(7,207)
Selling and Marketing	(3,629)	(3,401)	(8,565)	(7,723)
Research and development	(7,098)	(7,626)	(15,903)	(16,404)
General and administrative and overhead	(19,315)	(17,797)	(38,623)	(34,934)
Stock compensation and employee tax reimbursements	(1,507)	(3,788)	(2,379)	(6,290)
Corporate and executive bonuses	(944)	(1,732)	(1,804)	(3,278)
Restructuring charges and FTC legal costs	(231)	(1,291)	(265)	(8,517)
Gain (loss) on sales and disposals of assets	1	120	(3)	100

Impairment of goodwill and intangible assets		(623)				(623)		
Interest income (net)		3,212		914		6,273		2,718
Other income (expense)		2,920		2,030		(661)		2,193
Income before(provision for) benefit from income taxes	$	24,964	$	7,014	$	42,754	$	602

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

We begin Management's Discussion and Analysis of Financial Condition and Results of Operations with an overview of our key operating business segments and significant trends. This overview is followed by a summary of our critical accounting policies and estimates that we believe are important to understanding the assumptions and judgments incorporated in our reported financial results. We then provide a more detailed analysis of our financial condition and results of operations.

In addition to historical information, this Quarterly Report on Form 10-Q contains forward-looking statements that involve risks and uncertainties that could cause our actual results to differ materially. When used in this report, the words "expects," "anticipates," "intends," "plans," "believes," "seeks," "estimates" and similar expressions are generally intended to identify forward-looking statements. You should not place undue reliance on these forward-looking statements, which reflect our opinions only as of the date of this Quarterly Report. You should carefully review the risk factors described in "Item 1A. Risk Factors" of Part II below, other documents we file from time to time with the U.S. Securities and Exchange Commission, including our Annual Report on Form 10-K for our fiscal year ended June 30, 2008, together with subsequent reports we have filed with the Securities and Exchange Commission on Forms 8-K, which may supplement, modify, supersede, or update those risk factors. We undertake no obligation to publicly release any revisions to the forward-looking statements after the date of this document.

Our fiscal year ends on June 30, and references in this Form 10-Q to a specific fiscal year are the twelve months ended June 30 of such year (for example, "fiscal 2009" refers to the year ending June 30, 2009).

Business Overview

We are a leading supplier of integrated software and services to the process industries, for which the principal markets consist of: energy, chemicals, pharmaceuticals, and engineering and construction. Additionally, we also serve other industries such as power and utilities, consumer products, metals and mining, pulp and paper and biofuels, which manufacture and produce products from a chemical process. We provide a comprehensive, integrated suite of software applications that utilize proprietary empirical models of chemical manufacturing processes to improve plant and process design, economic evaluation, production, production planning and scheduling, supply chain optimization, and operational performance, and an array of services designed to optimize the utilization of these products by our customers. We are organized into three operating segments: software licenses, maintenance and training, and professional services. Each of these operating segments has unique characteristics and faces different opportunities and challenges. Although we report our actual results in U.S. dollars, we conduct a significant number of transactions in currencies other than U.S. dollars.

Adverse changes in the economy and global economic and political uncertainty have previously caused delays and reductions in information technology spending by our customers and a consequent deterioration of the markets for our products and services, particularly our manufacturing/supply chain product suites. As a result of the decline in economic conditions during fiscal 2009, we experienced some reductions, delays and postponements of customer purchases that negatively impacted our bookings, revenues and operating results.

Our Commercial Model

We license software products to our customers predominantly through our direct sales force, and indirectly through channel partners. As described more fully below, revenues are generated from the following sources:

- software license fees licensing the use of our products;

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maintenance and training fees providing customer technical support, access to software fixes, updates and enhancements, and education/training; and

professional services providing consulting to assist customers in realizing maximum value from our software solutions as well as implementation and configuration services.

The timing and amount of fees recognized as revenue during a reporting period are determined in accordance with GAAP, and revenues are reported net of applicable sales taxes. Under this commercial model, we license our products on both a term and perpetual basis. However, increasingly the majority of our software licenses are term-based.

Historically, the majority of our license revenue has been recognized on an up-front basis once all revenue recognition criteria have been met in accordance with Statement of Position 97-2 "Software Revenue Recognition,", as amended by SOP 98-9 "Modification of SOP 97-2, Software Revenue Recognition, With Respect to Certain Transactions." We refer to this licensing practice as "the up-front revenue model". For licenses that did not meet the required criteria for immediate up-front revenue recognition, revenues were either deferred until such time as the criteria had been met, or recognized over the license term.

An overview of our three operating segments is described below.

Software Licenses

Our solutions are focused on three primary business areas of our customers: engineering, manufacturing, and supply chain management, and are delivered both as stand-alone solutions and as part of the integrated aspenONE product suite. The aspenONE framework enables our products to be integrated in modular fashion so that data can be shared among such products, and additional modules can be added as the customer's requirements evolve. The result is enterprise-wide access to real-time, model-based information designed to enable manufacturers to forecast or simulate the economic impact of potential actions and make better, faster and more profitable operating decisions. The first version of the aspenONE suite was delivered in late 2004. Since that time, each major software release was designed to increase the level of integration and functionality across our product portfolio.

Engineering Process manufacturers must be able to address a variety of challenging questions relating to strategic planning, collaborative engineering, debottlenecking and process improvement from where they should locate their facilities, to how they can make their products at the lowest cost, to what is the best way to operate for maximum efficiency. To address these issues, they must improve asset optimization to enable faster, better execution of complex projects. Our engineering solutions help companies maximize their return on plant assets and enable collaboration with engineers on common models and projects.

Our engineering solutions are used on the process engineer's desktop to design and improve plants and processes. Customers use our engineering software and services during both the design and ongoing operation of their facilities to model and improve the way they develop and deploy manufacturing assets. Our products enable our customers to improve their return on capital, improve physical plant operating performance and bring new products to market more quickly.

Our engineering tools are based on an open environment and are implemented on Microsoft Corporation's operating systems. Implementation of our engineering products does not typically require substantial professional services, although services may be provided for customized model designs, process synthesis and energy management analyses.

Manufacturing Our manufacturing products focus on optimizing customers' day-to-day process industry activities, enabling them to make better, more profitable decisions and improve plant performance. The typical production cycle offers many opportunities for optimizing profits. Process manufacturers must be able to address a wide range of issues driving execution efficiency and cost; from selecting the right feedstock and raw materials, to production scheduling, to identifying the right balance among customer satisfaction, costs and inventory. Our manufacturing products support the execution of the optimal operating plan in real time. These solutions include desktop and server applications and IT infrastructure that enable companies to model, manage and control their plants more efficiently, helping them to make better-informed, more profitable decisions. These solutions help companies make decisions that can reduce fixed and variable costs in the plant, improve product yields, procure the right raw materials and evaluate opportunities for cost savings and efficiencies in their operations.

Supply chain management Our supply chain management products enable companies to reduce inventory and increase asset efficiency by giving them the tools to optimize their supply chain decisions, from choosing the right raw materials to delivering finished product in the most cost-effective manner. The ever-changing nature of the process industries means new profit opportunities can appear at any time. To identify and seize these opportunities, process manufacturers must be able to increase their access to data and information across the value chain, optimize planning and collaborate across the value chain, and detect and exploit supply chain opportunities. Our supply chain management solutions include desktop and server applications and IT infrastructure that enable manufacturers to operate their plants and supply chains more efficiently, from customer demand through manufacturing to delivery of the finished product. These solutions help companies to reduce inventory carrying costs, respond more quickly to changes in market conditions and improve customer service.

Because fees for our software products can be substantial and the decision to purchase our products often involves members of our customers' senior management, the sales process for our solutions is frequently lengthy and can exceed one year. Accordingly, the timing of our license bookings and revenues is difficult to predict. Additionally, we derive a majority of our total revenues from companies in or serving the energy, chemicals, pharmaceutical, and engineering and construction industries. Accordingly, our future success depends upon the continued demand for manufacturing optimization software and services by companies in these process manufacturing industries. The energy, chemicals, pharmaceutical, and engineering and construction industries are highly cyclical and highly reactive to the price of oil, as well as general economic conditions.

Our software license business represented 57.6% of our total revenues on a trailing four-quarter basis. During 2009, we continued to grow our installed base of software licenses and increased the total value of signed license contracts on a year over year basis.

Maintenance and Training

Our maintenance business consists primarily of providing customer technical support and access to software fixes and upgrades, when and if they become available. Our customer technical support services are provided throughout the world by our three global call centers as well as via email and through our support website. Our training business consists of a variety of training solutions ranging from standardized training, which can be delivered in a public forum or onsite at a customer's location, to customized training sessions which can be tailored to fit customer needs.

Revenues generated by our maintenance and training business represented 25.1% of our total revenues on a trailing four quarter basis and are closely correlated to changes in our installed base of software licenses. The majority of our customers renew their support contracts when eligible to do so, and the majority of new software license contracts sold include a maintenance component.

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Professional Services

We offer professional services that include designing, analyzing, debottlenecking and improving plant performance through continuous process improvements, coupled with activities aimed at operating the plant safely and reliably while minimizing energy costs and improving yields and throughput. Our implementation and configuration services are primarily associated with assisting customers in their deployment of our manufacturing and supply chain management solutions.

Customers who obtain professional services from us typically engage us to provide such services over periods of up to 24 months. We generally charge customers for professional services, ranging from supply chain to on-site advanced process control and optimization assistance services, on a fixed-price basis or time-and-materials basis. The professional services business represented 17.3% of our total revenues on a trailing four-quarter basis, and has experienced lower margins than our other business segments.

Critical Accounting Estimates and Judgments

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

- revenue recognition for both software licenses and fixed-fee professional services;
- impairment of goodwill and intangible assets;
- accounting for contingencies; and
- accounting for income taxes.

Please refer to Management's Discussion and Analysis of Financial Condition and Results of Operations contained in Part II, Item 7 of our Annual Report on Form 10-K for our fiscal year ended June 30, 2008 for a more complete discussion of our critical accounting policies and estimates.

Impairment of Goodwill and Intangible Assets

In accordance with SFAS No. 142, "Goodwill and Other Intangible Assets," on an annual basis we conduct an assessment of the carrying value of goodwill. Our assessment is completed as of December 31 and is based on weighting estimates of future cash flows from the reporting units or estimates of the market value of the reporting units, based on comparable companies. We also perform impairment analyses whenever events or circumstances indicate that goodwill or certain intangibles may be impaired. Currently our reporting units are the same as our operating segments. These estimates of future discounted cash flows are based upon historical results, adjusted to reflect our best estimate of future market and operating conditions. Historically, actual results have occasionally differed from our estimated future cash flow estimates. In the future, actual results may differ materially from these estimates. In addition, the comparable companies used to establish market value for our reporting units is based on management's judgment.

Certain negative macroeconomic factors began to impact the global credit markets in late calendar 2008 and we noted significant unfavorable trends in business conditions in the second quarter of fiscal 2009. Concurrently with these unfavorable developments, we commenced the annual impairment

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assessment of goodwill and certain intangible assets. In connection with preparing the annual impairment assessment, we identified significant deterioration in the expected future financial performance of the professional services segment compared to the expected future financial performance of this segment at the end of fiscal 2008. As a result, we recognized goodwill and intangible assets impairments of $0.5 million and $0.1 million, respectively, within the professional services reporting unit during the second fiscal quarter of 2009, which ended December 31, 2008. The method for determining fair value was based on weighting estimates of future cash flows from the reporting units and estimates of the market value of the reporting units, based on comparable companies. These impairment losses were recorded as impairment of goodwill and intangible assets in the consolidated statement of operations.

The timing and size of any future impairment charges involves the application of management's judgment and estimates and could result in the impairment of all, or substantially all, of our goodwill, intangible assets or other long-lived assets.

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Results of Operations

Comparison of the Three and Six Months Ended December 31, 2008 and 2007

The following table sets forth the percentage of total revenues represented by certain condensed consolidated statements of operations data for the three and six months ended December 31, 2008 and 2007 (in thousands):

	Three Months Ended December 31,				Six Months Ended December 31,			
	2008		2007		2008		2007	
Revenues:								
Software licenses	$ 47,272	57.2%	$ 37,579	50.6%	$ 96,909	57.3%	$ 68,698	49.4%
Service and other	35,355	42.8	36,640	49.4	72,124	42.7	70,359	50.6
Total revenues	82,627	100.0	74,219	100.0	169,033	100.0	139,057	100.0
Cost of revenues:								
Cost of software licenses	2,877		3,831		5,499		7,207	
Cost of service and other	15,287		18,069		31,806		34,408	
Amortization of technology-related intangible assets					25			
Total cost of revenues	18,164	22.0	21,900	29.5	37,330	22.1	41,615	29.9
Gross profit	64,463	78.0	52,319	70.5	131,703	77.9	97,442	70.1
Operating costs:								
Selling and marketing	21,030	25.5	23,293	31.4	44,540	26.3	45,584	32.8
Research and development	9,472	11.5	10,584	14.3	20,739	12.3	22,261	16.0
General and administrative	14,276	17.3	13,201	17.8	28,391	16.8	25,489	18.3
Restructuring charges	231	0.3	1,291	1.7	265	0.2	8,517	6.1
(Gain) loss on sales and disposals of assets	(1)	(0.0)	(120)	(0.2)	3	0.0	(100)	(0.1)
Impairment of goodwill and intangible assets	623	0.8		0.0	623	0.4		0.0
Total operating	45,631		48,249		94,561		101,751	

costs

Income (loss) from operations	18,832	22.8	4,070	5.5	37,142	22.0	(4,309)	(3.1)
Interest income	5,955	7.2	5,748	7.7	11,870	7.0	11,946	8.6
Interest expense	(2,743)	(3.3)	(4,834)	(6.5)	(5,597)	(3.3)	(9,228)	(6.6)
Other income, net	2,920	3.5	2,030	2.7	(661)	(0.4)	2,193	1.6
Income before provision for taxes	24,964	30.2	7,014	9.5	42,754	25.3	602	0.4
(Provision) benefit for income taxes	(2,003)		2,244		(8,140)		(347)	
Net income	$ 22,961	27.8%	$ 9,258	12.5%	$ 34,614	20.5%	$ 255	0.2%

Revenues.

Total revenues for the second quarter of fiscal 2009 increased by $8.4 million compared to the corresponding period in the prior fiscal year.

Total revenues for the first half of fiscal 2009 increased by $30.0 million compared to the corresponding period in the prior fiscal year.

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Software License Revenues

Software license revenues are generated primarily from term license contracts, and to a lesser degree, from perpetual arrangements. Since we have relationships with most leading companies in the process industries, growth in our software license revenues is derived from the expansion of existing customer relationships, either through licensing for incremental users or by licensing additional software products in the aspenONE suite. The addition of new customers has traditionally represented a smaller component of our revenue growth.

During the second quarter and first half of fiscal 2009 and fiscal 2008, a significant portion of our license bookings were not recorded as revenue in the same fiscal period due to certain revenue recognition criteria not being met (see further discussion under "Liquidity and Capital Resources" related to deferred revenue). Revenues from software licenses in the second quarter and first half of fiscal 2009 increased $9.7 million and $28.2 million, respectively, compared to the corresponding periods of the prior fiscal year. The period-over-period revenue increase was primarily driven by the timing of revenue recognition under GAAP as opposed to a function of actual license bookings. During the second quarter and first half of fiscal 2009, a significant amount of prior period license bookings were recognized as revenue. This level of prior period bookings being recognized as revenue represents a considerable increase over the second quarter and first half of fiscal 2008.

Service and Other Revenues

Service and other revenues primarily consist of professional services, post-contract maintenance support on software licenses, and training, and are dependent upon a number of factors.

- the number, value and rate per hour of services transactions booked during the current and preceding periods;
- the number and availability of service resources actively engaged on billable projects;
- the timing of milestone acceptance for engagements contractually requiring customer sign-off;
- the timing of collection of cash payments when collectability is uncertain;
- the timing of negotiating and signing maintenance renewals; and
- the size of the installed base of license contracts.

Service and other revenues in the second quarter of fiscal 2009 decreased by $1.3 million compared to the corresponding period in the prior fiscal year. This decrease was due to lower professional services revenue during the second quarter of fiscal 2009 of $2.7 million. The global economic environment during the first half of fiscal 2009 generally impacted our customers' ability to commit to more discretionary spending initiatives, which affected our professional services business. The professional services decreases were partially offset by higher maintenance revenues of $1.5 million during the period.

Service and other revenues in first half of fiscal 2009 increased by $1.8 million compared to the corresponding period in the prior fiscal year. This increase was driven by higher maintenance revenues of $2.2 million offset by a decrease in professional service revenues of $0.5 million.

Cost of Software Licenses

Cost of software licenses consists of royalties, amortization of previously capitalized software costs, costs related to delivery of software, including disk duplication and third-party software costs, printing of manuals and packaging.

Cost of software licenses in the second quarter and first half of fiscal 2009 decreased $1.0 million and $1.7 million, respectively, compared to the corresponding periods in the prior fiscal year. These period over period decreases were primarily due to lower capitalized software amortization charges and reduced royalty expenses. The royalty fees were lower as a result of a change in the mix of license products sold.

Cost of Service and Other

Cost of service and other consists primarily of personnel-related and external consultant costs associated with providing professional services, post-contract maintenance support, and training to customers.

Costs of service and other in the second quarter and first half of fiscal 2009 decreased by $2.8 million and $2.6 million, respectively, compared to the corresponding periods in the prior fiscal year. These decreases were primarily due to lower staffing needs as a result of the decreased demand for our professional services, as well as a decrease in stock-based compensation. Stock-based compensation expense decreased because we have been unable to issue new equity based compensation awards since fiscal 2007. Additionally, the cost to deliver maintenance support was reduced by consolidating work and bringing previously outsourced services, which carried a higher cost to us, in house.

Selling and Marketing

Selling costs are primarily the personnel and travel expenses related to the effort expended to license our products and services to current and potential customers, as well as for overall management of customer relationships. Marketing costs include expenses needed to promote the Company and our products and to acquire market research and measure customer opinions to help us better understand our customers and their business needs.

Selling and marketing expenses in the second quarter of fiscal 2009 decreased by $2.3 million compared to the corresponding period in the prior fiscal year. This decrease was largely the result of lower personnel related costs including salaries, commissions, bonuses, and stock based compensation. Stock-based compensation expense decreased because we have been unable to issue new equity based compensation awards since fiscal 2007. Additionally, we experienced other decreases in costs related to travel, external consultants and marketing events.

Selling and marketing expenses in the first half of fiscal 2009 decreased by $1.0 million compared to the corresponding period in the prior fiscal year. This decrease was primarily attributable to lower stock based compensation costs because we have been unable to issue new equity based compensation awards since fiscal 2007.

Research and Development

Research and development ("R&D") expenses primarily consist of personnel and external consultants costs related to the creation of new products, and enhancements and engineering changes to existing products.

R&D expenses in the second quarter and first half of fiscal 2009 decreased by $1.1 million and $1.5 million, respectively due to a reduction in incentive bonuses for employees and decreases in stock based compensation. Stock-based compensation expense decreased because we have been unable to issue new equity based compensation awards since fiscal 2007. Additionally, we capitalized a higher portion of our R&D costs during the first half of fiscal year 2009 as compared to the corresponding periods of the prior fiscal year, which contributed to a period-over-period decrease in R&D expenses.

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General and Administrative

General and administrative expenses include the costs of corporate and support functions which include executive leadership and administration groups: finance; legal; human resources; corporate communications, and other costs such as outside professional and consultant fees and provisions for doubtful accounts.

General and administrative expenses in the second quarter of fiscal 2009 increased by $1.1 million compared to the corresponding period in the prior fiscal year. The increase was primarily attributed to extensive use of external financial consultants. These finance costs increases were partially offset by lower: legal costs; audit and accounting; and stock based compensation. Stock-based compensation expense also decreased because we have been unable to issue new equity based compensation awards since fiscal 2007.

General and administrative expenses in the first half of fiscal 2009 increased by $2.9 million compared to the corresponding period in the prior fiscal year. The increase was primarily attributed to extensive use of external financial consultants and to a lesser extent, an increase in legal costs. These finance cost increases were partially offset by lower audit and accounting costs; and stock based compensation. Stock compensation expense also decreased because we have been unable to issue new equity based compensation awards since fiscal 2007.

Restructuring Charges

Restructuring charges in the second quarter and first half of fiscal 2009 decreased by $1.1 million and $8.3 million, respectively, compared to the corresponding period in the prior fiscal year. Costs during the fiscal 2009 periods were primarily related to revisions of estimates associated with lease exit costs and were significantly lower than the restructuring charge that was incurred in the corresponding periods of the prior fiscal year which were associated with the relocation of our corporate headquarters.

Interest Income

Interest income is generated from the accretion of interest on the long term installment payments on software license contracts where revenue was recognized up-front, and to a lesser extent from the investment of cash balances in short term instruments.

Interest income for the second quarter and first half of fiscal 2009 remained fairly consistent compared to the corresponding periods in the prior fiscal year, increasing $0.2 million and decreasing less than $0.1 million, principally due to lower period over period average receivables balance.

Interest Expense

Interest expense is incurred primarily from our secured borrowings. The secured borrowings are derived from our borrowing arrangements with unrelated financial institutions.

Interest expense for second quarter and first half of fiscal 2009 decreased by $2.1 million and $3.6 million, respectively, compared to the corresponding periods in the prior fiscal year. The decrease was attributable to lower average secured borrowing balances, principally due to the repayment of three significant securitizations during fiscal 2008.

Other Income, Net

Other income (expense), net is comprised primarily of foreign currency exchange gain (loss) generated from transactions denominated in foreign currencies. To mitigate this risk we occasionally enter into foreign currency forward contracts to attempt to minimize the adverse impact related to

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unfavorable exchange rate movements. Our foreign currency forward contracts have not been designated as hedging instruments and, therefore, do not qualify for fair value or cash flow hedge treatment under the criteria of SFAS No. 133 "Accounting for Derivative Instruments and Hedging Activities". Therefore, the unrealized gains and losses on the foreign currency forward contracts, as well as the underlying transactions we are attempting to shield from exchange rate movements, have been recognized as a component of other income (expense), net.

Other income, net in second quarter and first half of fiscal 2009 increased $0.9 million and decreased $2.9 million, respectively, compared to the corresponding period in the prior fiscal year. These changes were due to fluctuations in the U.S. dollar against other currencies in which we conduct our operations.

Provision for Income Taxes.

The provision for income taxes for the second quarter and first half of fiscal 2009 increased by $4.2 million and $7.8 million, respectively, compared to the corresponding periods in the prior year. These increases were principally due to additional reserves for uncertain tax positions with respect to transfer pricing and intercompany transactions as well as a mix of profitability in certain of our foreign tax-paying subsidiaries versus certain other foreign subsidiaries and offset by a reduction in the valuation allowance in the United States.

Liquidity and Capital Resources

Resources

Our primary source of cash is from the licensing of our products and associated services. Our primary use of cash is payment of our operating costs which consist primarily of employee-related expenses, such as compensation and benefits, as well as general operating expenses for marketing, facilities and overhead costs. We historically have financed our operations through cash generated from operating activities, public offerings of our convertible debentures and common stock, private offerings of our preferred stock and common stock, borrowings secured by our installment receivable contracts and borrowings under bank credit facilities. As of December 31, 2008, our principal sources of liquidity consisted of $122.8 million in cash and cash equivalents and $17.9 million of unused borrowings under our credit facility. The amount of unused borrowings actually available under the credit facility varies in accordance with the terms of the agreement. We believe that the amount of borrowing capacity currently available, along with our current cash and cash equivalents balance and future cash flows from operations, will be sufficient to meet our anticipated cash needs for at least the next twelve months. We are not currently dependent upon short-term funding, and the limited availability of credit in the market has not affected our credit facility or our liquidity or materially impacted our funding costs.

The following table summarizes our cash flow activities for the six months ended December 31, 2008 (in thousands):

Cash flow provided by (used in):		
Operating activities	$	8,001
Investing activities		(3,671)
Financing activities		(14,578)
Effect of exchange rates on cash balances		(997)
Decrease in cash and cash equivalents	$	(11,245)

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Operating Activities

Cash generated by operating activities is one of our primary sources of liquidity and provided $8.0 million during the first half of fiscal 2009. This amount resulted from net income of $34.6 million, adjusted for non-cash charges of $11.7 million and a net $38.3 million use of cash due to an increase in working capital accounts.

Non-cash items within net income consisted primarily of $4.6 million of depreciation and amortization, $2.4 million of stock-based compensation, $2.0 million of net unrealized foreign currency losses driven by the strengthing of the U.S. dollar, and $1.3 million of deferred income taxes.

Our cash balance decreased in part due to a $38.3 million net increase in working capital. The change in working capital consisted primarily of: decreases in deferred revenues of $28.6 million; decreases in accounts payable and accrued expenses and other current liabilities of $16.1 million; increases in installments and collateralized receivables of $12.0 million and increases in prepaid expenses and other current assets of $9.9 million; partially offset by decreases in accounts receivable of $30.1 million.

The decrease in deferred revenue was primarily attributable to the timing of revenue recognition for certain license agreements that were signed during fiscal 2008, but not fully delivered and therefore did not meet revenue recognition criteria until fiscal 2009. While we had a material amount of license bookings closed during the first half of fiscal 2009 that were not recognized as revenue during the period, unlike fiscal 2008, the majority of these license bookings were not recorded as receivables and deferred revenue on our December 31, 2008 balance sheet. The decrease in accounts receivable resulted from a number of large contracts closed during the fourth quarter of fiscal 2008 where customers elected to pay for their multi-year contract at the outset of the arrangement, resulting in the full contract value of the receivable being recorded as accounts receivable at the end of fiscal 2008. There was a lower dollar value of contracts with similar terms in the second quarter of fiscal 2009. The decreases in accounts payable, accrued expenses and other current liabilities were primarily due to lower income taxes payable and accrued bonus amounts.

Looking ahead, we expect to generate positive cash flow from operations. We anticipate that existing cash balances, together with funds generated from operations, will be sufficient to finance our operations and meet our cash requirements for the foreseeable future.

Investing Activities

During the first half of fiscal 2009, we used $3.7 million of cash for investments to upgrade our financial reporting and management information systems as well as the purchase of additional property and equipment. We are continuing our efforts to enhance our information system and implement other related internal control changes, which have been designed in part to remediate our deficiencies in internal controls over financial reporting. A portion of the remediation costs are expected to be incurred to upgrade our existing financial applications. We do not expect these costs to be materially different from our IT investment costs in prior fiscal years.

We are not currently party to any material purchase contracts related to future capital expenditures.

Financing Activities

During the first half of fiscal 2009, we used $14.6 million of cash for financing activities of which $14.4 million was used to reduce our secured borrowings balance. Based on the current cash forecast, we expect secured borrowing balances to continue to decline during the remainder of fiscal 2009 and fiscal 2010.

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Borrowings Collateralized by Receivable Contracts

Traditional Programs

We historically have maintained arrangements, which we refer to as our Traditional Programs, with financial institutions providing for borrowings that are secured by our installment and other receivable contracts, and for which limited recourse exists against us. Under our arrangements with General Electric Capital Corporation, Bank of America and Silicon Valley Bank (SVB), both parties must agree to enter into each transaction and negotiate the amount borrowed and interest rate secured by each receivable. The customers' payments of the underlying receivables fund the repayment of the related amounts borrowed. The weighted average interest rate on the secured borrowings was 7.6% as of December 31, 2008 and June 30, 2008.

The collateralized receivables earn interest income, and the secured borrowings accrue borrowing costs at approximately the same interest rate. When we receive cash from a customer, the collateralized receivable is reduced and the related secured borrowing is reclassified to an accrued liability for amounts we must remit to the financial institution. The accrued liability is reduced when payment is remitted to the financial institutions. The terms of the customer receivables range from amounts that are due within 30 days to receivables that are due over five years.

Under these arrangements, we received aggregate cash proceeds of $5.5 million and $53.5 million for the six months ended December 31, 2008 and 2007, respectively. Since December 2007, we have not sold any receivables for the purpose of raising cash, but we have sold some large dollar receivables in order to fund the repurchase of several other groups of smaller receivables previously sold to the banks, for the purpose of simplifying the administration of the programs. As of December 31, 2008, we had outstanding secured borrowings of $138.1 million that were secured by collateralized receivables totaling $124.3 million under the Traditional Programs.

We estimate that there was in excess of $27.2 million available under the SVB program at December 31, 2008. As the collection of the collateralized receivables and resulting payment of the borrowing obligation will reduce the outstanding balance, the availability under the arrangement can be increased. We expect to maintain our access to cash under this arrangement, and to transfer installments receivable as business requirements dictate. Our ongoing ability to access the available capacity will depend upon a number of factors, including the generation of additional customer receivables and the financial institution's willingness to continue to enter into these transactions.

Under the terms of the Traditional Programs, we have transferred the receivables to the financial institutions with limited financial recourse to us. We can be required to repurchase the receivables under certain circumstances in case of specific defaults by us as set forth in the program terms. Potential recourse obligations are primarily related to the SVB arrangement that requires us to pay interest to SVB when the underlying customer has not paid by the receivable due date. This recourse is limited to a maximum period of 90 days after the due date. The amount of outstanding receivables that have this potential recourse obligation is $49.2 million at December 31, 2008. This 90 day recourse obligation is recognized as interest expense as incurred and totaled $0.1 million and $0.3 million for the six months ended December 31, 2008 and 2007, respectively. Other than the specific items noted above, the financial institutions bear the credit risk of the customers associated with the receivables the institution purchased.

In the ordinary course of acting as a servicing agent for receivables transferred to SVB, we regularly receive funds from customers that are processed and remitted onward to SVB. While in our possession, these cash receipts are contractually owned by SVB and are held by us on their behalf until remitted to the bank. Cash receipts held for the benefit of SVB recorded in our cash balances and current liabilities totaled $0.1 million and $0.9 million as of December 31, 2008 and June 30, 2008, respectively. Such amounts are restricted from our use.

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The terms of the asset purchase agreement for one of the programs requires the timely reporting of financial information. As of December 31, 2008, we were not in compliance with that requirement. We have obtained waivers for such non-compliance which extends the deadline for delivering the fiscal 2009 financial information until November 30, 2009. We are in the process of obtaining an additional waiver to extend the reporting deadline for the financial information for the first quarter of fiscal 2010. Because we have been unable to timely report financial information and the waiver of this covenant does not extend the grace period for a year and a day past the balance sheet date, the obligation under this program has been classified as a current obligation in the accompanying consolidated balance sheet as of December 31, 2008.

In June 2008, we paid the outstanding amount under the Bank of America program at its carrying value of $2.7 million inclusive of a one percent pre-payment penalty.

Securitization of Accounts Receivable

During fiscal 2005 and 2007 we entered into two securitization arrangements where we securitized and transferred receivables with a net carrying value of $71.9 million and $32.1 million, respectively, and received cash proceeds of $43.8 million and $20.0 million, respectively. These borrowings were secured by the transferred receivables, and the debt and borrowing costs were repaid as the receivables were collected. Neither arrangement met the criteria for a sale and as such had been accounted for as a secured borrowing. We received and retained collections on these receivables after all borrowing and related costs were paid to the financial institution. The financial institutions' rights to repayment were limited to the payments received from the receivables. Both securitizations were paid off during fiscal 2008 at their respective carrying values of $4.2 million and $12.2 million. The payments resulted in a reclassification to accounts receivable of $9.8 million and to current installments receivable of $17.8 million from the current portion of collateralized receivables, and $23.9 million from non-current collateralized receivables to non-current installment receivables.

Credit Facility

In January 2003 and through subsequent amendments, we executed a loan arrangement with SVB. This arrangement provides a line of credit of up to the lesser of (i) $25.0 million or (ii) 80% of eligible domestic receivables. The line of credit bears interest at the greater of the bank's prime rate (3.25% at December 31, 2008) plus 0.5%, or 4.75%. If we maintain a $10.0 million compensating cash balance with the bank, our unused line of credit fee will be 0.1875% per annum; otherwise it will be 0.375% per annum. The line of credit is collateralized by substantially all of our assets and we are required to provide certain financial information and to meet certain financial covenants, including minimum tangible net worth, minimum cash balances and an adjusted quick ratio. As of December 31, 2008, we were not in compliance with certain reporting requirements under the terms of the loan arrangement, and we have obtained waivers for such non-compliance. Furthermore, the terms of the loan arrangement restrict our ability to pay dividends, with the exception of dividends paid in common stock or preferred stock dividends paid in cash.

On November 3, 2009, we executed an amendment to the loan arrangement that adjusted certain terms of covenants, including modifying the date we must provide monthly unaudited and annual audited financial statements to the bank and the maturity date of the credit loan, which was extended to May 15, 2010. As of December 31, 2008, there were $8.1 million in letters of credit outstanding under the lines of credit, and there was $17.9 million available for future borrowing.

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

In the ordinary course of conducting business, we are exposed to certain risks associated with potential changes in market conditions. These market risks include changes in currency exchange rates and interest rates. In order to manage the volatility of our more significant market risks, we enter into derivative financial instruments such as forward currency exchange contracts.

Foreign Currency Exposure

Foreign currency risk arises primarily from the net difference between (a) non-U.S. dollar (non-USD) receipts from customers outside the U.S. and (b) non-USD operating costs for subsidiaries in foreign countries. Although it has been our historical practice to hedge the majority of our non-USD receipts, beginning in late fiscal 2008 we revised this practice to evaluate the need for hedges based on only the net exposure to foreign currencies. We measure our net exposure to each currency for which we have either cash inflows or outflows.

During fiscal 2009, our largest exposures to foreign exchange rates existed primarily with the Euro, British Pound Sterling, Canadian Dollar, and Japanese Yen against the U.S. dollar. The following table summarizes our forward contracts to sell foreign currencies in U.S. dollars at December 31, 2008 (in thousands):

	Notional Amount
Currency	
Euro	$ 4,128
British Pound Sterling	561
Japanese Yen	(78)
Canadian Dollar	1,711
Swiss Franc	67
Total	$ 6,389

Investment Portfolio

We do not use derivative financial instruments in our investment portfolio. We place our investments in instruments that meet high credit quality standards, as specified in our investment policy guidelines. We do not expect any material loss with respect to our investment portfolio from changes in market interest rates or credit losses, as our investments consist primarily of money market accounts. At December 31, 2008, all of the instruments in our investment portfolio were included in cash and cash equivalents.

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

a) 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 as of December 31, 2008. The term "disclosure controls and procedures," as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act, means controls and other procedures of a company that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Securities Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Securities Exchange Act is accumulated and communicated to the Company's management, including its principal executive and principal financial officers, as appropriate to allow timely decisions regarding required disclosure. Management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Based on the evaluation of our disclosure controls and procedures as of December 31, 2008, and due to the material weaknesses in our internal control over financial reporting described in our accompanying *Management's Report on Internal Control over Financial Reporting*, our chief executive officer and chief financial officer concluded that, as of such date, our disclosure controls and procedures were not effective.

b) Management's Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting for our Company. Internal control over financial reporting is defined in Rule 13a-15(f) and 15d-15(f) promulgated under the Exchange Act, as a process designed by, or under the supervision of, a Company's principal executive and principal financial officers and effected by the Company's board of directors, management and other personnel, 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 and includes those policies and procedures that:

- pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company;

- 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 in accordance with authorizations of management and directors of the company; and

- 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. 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.

Our management, including our chief executive officer and chief financial officer, assessed the effectiveness of our internal control over financial reporting as of December 31, 2008. In connection with this assessment, we identified the following material weaknesses in internal control over financial reporting as of June 30, 2008. A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of the annual or interim financial statements will not be prevented or detected on a timely basis. In making this assessment, our management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission in *Internal Control An Integrated Framework* (September 1992). Because of the material weaknesses described below, management concluded that, as of June 30, 2008, our internal control over financial reporting was not effective.

1) Inadequate and ineffective monitoring controls

Management did not sufficiently monitor internal control over financial reporting, specifically:

- we lacked a sufficient number of accounting, tax and finance professionals to perform adequate supervisory reviews and monitoring activities over financial reporting matters and controls;

- we did not have sufficient personnel with an appropriate level of technical accounting knowledge, experience, and training who could execute appropriate monitoring and review controls particularly in situations where transactions were complex or non-routine;

- we did not have sufficient personnel to monitor the timely review of period-end account reconciliations to ensure appropriate and timely recording of required adjustments; and

- we lacked a sufficient number of qualified professionals to monitor compliance with certain established policies and procedures related to our internal controls.

This material weakness contributed to the additional material weaknesses discussed below.

2) Inadequate and ineffective controls over the periodic financial close process

We did not have adequate controls in our financial close process that would provide reasonable assurance that financial statements could be prepared in accordance with GAAP. Specifically, we did not have: (a) properly designed or effectively operating process, systems and review of our periodic closing activities to ensure accurate and timely generation of financial statements; primarily with respect to timely and accurate recording of license and professional services revenue, non-standard expense accruals, tax expenses and deferred tax assets; (b) properly designed and consistently performed account reconciliations and review of manual journal entries; (c) effectively designed and operating controls for consolidation and accounting for intercompany activities including those denominated in foreign currencies; and (d) effectively operating reconciliation or review controls to ensure the appropriate accounting for stock-based awards.

This material weakness resulted in material post-closing adjustments reflected in the financial statements for the year ended June 30, 2008 and all reporting periods through the date of this filing. These adjustments resulted in changes to assets, liabilities, stockholders' equity, revenue and expenses.

3) Inadequate and ineffective controls over income tax accounting and disclosure

We did not have adequate design or operation of controls that provide reasonable assurance that the accounting for income taxes and related disclosures were prepared in accordance with GAAP. Specifically, we did not have sufficient staffing and technical expertise in the tax function to provide adequate review and control with respect to the (a) foreign subsidiary tax provisions and related accruals; (b) complete and accurate recording of deferred tax assets and liabilities due to differences in accounting treatment for book and tax purposes; and (c) complete and accurate recording of income tax accounting entries and corresponding tax provisions and accruals.

This material weakness contributed to material post-closing adjustments which have been reflected in the financial statements for the year ended June 30, 2008 and all reporting periods through the date of this filing. These adjustments resulted in changes in deferred income tax assets and liabilities, accrued tax liability, income tax expense, retained earnings and related disclosures.

4) Inadequate and ineffective controls over the recognition of revenue

We did not have adequate controls that provided reasonable assurance that revenue was recorded in accordance with GAAP. Specifically, the complexity of arrangements and timing of license shipments make it difficult to consistently determine appropriate revenue recognition in an accurate and timely manner. In addition, we did not have: (a) appropriately documented revenue recognition policies and procedures, and adequately designed or effectively operating review controls to ensure that revenue would be recorded consistently in accordance with GAAP; (b) effective communications between each of our departments regarding matters that may have accounting consequences; (c) appropriately designed or effectively operating review controls performed by individuals with appropriate technical expertise to ensure that multiple-element arrangements and non routine transactions were properly accounted for; (d) appropriately designed system configuration controls or effectively operating review and reconciliation controls to ensure that reports generated from our information systems could be relied upon for the purpose of recording revenue transactions in accordance with GAAP; (e) appropriately designed and effectively operating review controls to ensure that appropriate customer discount rates were used to calculate the present value of license contracts with extended payment terms; and (f) effectively designed and operating review controls to ensure that the delivery criterion was met for all license transactions prior to being recognized as revenue.

This material weakness resulted in material post closing adjustments which have been reflected in the financial statements for the period ended June 30, 2008 and all reporting periods through the date of this filing. These adjustments caused changes in accounts receivable, unbilled services, deferred revenue, revenue, commissions, and royalty expenses.

5) Inadequate and ineffective controls over the accounts receivable function

We did not have adequate controls to provide reasonable assurance that accounts receivable ledgers were properly maintained and valuation adjustments were properly recognized. Specifically, we did not have (a) appropriately designed configuration controls within our financial systems or effectively operating reconciliation or review controls to ensure that accurate and complete information was captured and reviewed to record sufficient provisions for doubtful accounts; (b) effectively operating reviews of credits and adjustments for sales and withholding taxes to ensure these items were accounted for in accordance with GAAP; and (c) effectively operating reconciliation or review controls over professional services delivered but not billed to ensure appropriate presentation in the balance sheet.

This material weakness resulted in material post closing adjustments which have been reflected in the financial statements for the year ended June 30, 2008 and all reporting periods through the date of this filing. These adjustments caused changes in the valuation of accounts and installments receivable, collateralized receivables, secured borrowing, accrued expenses, unbilled revenue, expenses and interest income.

c) Changes in Internal Control Over Financial Reporting

As previously reported in Item 9A of our Annual Report on Form 10-K for the year ended June 30, 2008 we reported material weaknesses in our internal control over financial reporting (as defined in Rule 13a-15(f) and 15d-15(f) under the Exchange Act). As a result of those material weaknesses in our internal control over financial reporting, our principal financial officer concluded that our internal controls over financial reporting were not effective as of June 30, 2008. Those material weaknesses included the following:

- Inadequate and ineffective monitoring controls
- Inadequate and ineffective controls over the periodic financial close process;
- Inadequate and ineffective controls over income tax accounting and disclosure;
- Inadequate and ineffective controls over the recognition of revenue; and
- Inadequate and ineffective controls over the accounts receivable function.

During the quarter ended December 31, 2008, there were no changes in our internal control over financial reporting, however, we made certain changes in the following periods through the date of this filing, as described below.

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d) Remediation Efforts

We determined that the following material weakness (reported in our 2008 Form 10-K) was remediated as of June 30, 2009:

- Inadequate and ineffective controls over the accounts receivable function

The remediation in our fourth quarter of fiscal 2009 included the following:

1) We implemented an updated Allowance for Doubtful Account (Receivable) policy to help increase the level and frequency of review of past due accounts in the accounts receivable aging. We also developed systemic aging reports to facilitate review of collection status and customer aging worldwide.

2) We enhanced the quality and timeliness of our procedures for the review and approval of customer credit memos and adjustments, including a monthly reconciliation of authorized amounts to actual credits and adjustments recorded.

3) We increased the level, frequency and timeliness of review of professional services projects with unbilled and unearned balances to ensure that the amounts recorded as unbilled services or deferred revenue are valid and accurate.

In the first three quarters of fiscal 2009, we hired key financial leaders with subject matter expertise. In our fourth quarter of fiscal 2009, we also implemented the following measures to improve our internal controls over financial reporting process. We plan to further enhance these measures in fiscal 2010.

- Integrated and automated our quote to invoicing revenue process within Oracle, to help management increase the level of quality and timely review and reconciliation of complex revenue transactions;

- Improved system configuration to automate some critical financial reports to provide management with reliable data to record revenue accurately and completely;

- Enhanced management review controls to help ensure that proper accounting for all complex, non-routine transactions is researched, detailed in memoranda and reviewed by senior management prior to recording;

- Implemented detailed period end closing and reporting schedule to help ensure that all closing activities were properly monitored and completed in a timely manner;

- Enhanced information technology general controls including configuration and user access review to help provide a reliable information infrastructure and reduce level of inefficient manual reviews and reconciliations;

- Enhanced procedures to include establishment, review and approval of customer creditworthiness; and

- Enhanced procedures and implemented system configuration controls to help ensure that cash flows used or provided from operating, investing and financing activities used to compile the cash flow statement are calculated accurately.

e) Remediation Plans

Management, in coordination with the input, oversight and support of our Audit Committee, has identified the following measures to strengthen our internal control over financial reporting and to address the material weaknesses described above. In addition to improving the effectiveness and compliance with key controls, our remediation efforts involve numerous business and accounting

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process improvements and the implementation of key system enhancements. The process and system enhancements are generally designed to simplify and standardize business practices and to improve timeliness and access to associated accounting data through increased systems automation. We began implementing certain of these measures prior to the filing of this Form 10-K. While we expect remedial actions to be essentially implemented in fiscal 2010, some may not be in place for a sufficient period of time to help us certify that material weaknesses have been fully remediated as of the end of fiscal year 2010. We will continue to develop our remediation plans and implement additional measures during fiscal 2010 and possibly into fiscal 2011.

- Enhance people management to help improve our monitoring controls
  - Continue our efforts to recruit and retain qualified finance professionals necessary to help ensure the accountability and effective implementation of key controls and remedial actions designed in the areas that material weaknesses were previously identified.
  - Continue to assess training requirements and the adequacy and expertise of the finance, tax and accounting staff on a global basis.
- Enhance the financial reporting process to ensure that we can complete periodic financial closing activities accurately and in a timely manner. Specifically, we will accomplish the following:
  - Redesign our key accounting process relating to management analysis, estimates and accruals to help ensure that related transactions are properly reviewed and recorded appropriately and in a timely manner;
  - Redesign our tax accounting function, processes and related controls to ensure that our tax provisions can be completed accurately and in a timely manner;
  - Enhance our management reporting process to improve the information query and reporting capability and provide reliable data for management to be used in performing timely and effective monitoring of our internal control; and
  - Redesign our processes in the professional services accounting and management function in order to enhance presales review to accelerate the process for timely revenue accounting determinations, and to help ensure that multiple-element arrangements where services are bundled with a license or other services arrangement are properly accounted for.
- Enhance the automation and configuration controls of our information systems to provide reliable data on a consistent basis to improve effectiveness and efficiency of our reconciliation and review controls. Specifically, we will:
  - Automate our order process including order entry, contract administration, billing and revenue recognition;
  - Reengineer the professional services process, including automating project accounting, in order to have appropriately designed system configuration controls to ensure that data and reports generated from the system can be relied upon for the purpose of accurately and timely recording revenue in accordance with GAAP.

In addition to the remedial measures discussed above, we recently introduced a new subscription-based license offering for our aspenONE software suite that was available as of July 9, 2009. This new aspenONE license offering will result in revenue being recognized on a subscription basis over the term of multi-year contracts and we expect that the majority of our customers will purchase under this offering. In our previous license offering, revenue was recognized for the net present value of license fees over the license term in the period in which the license agreement was signed and the software was delivered to the customer. We expect that this change from predominantly up-front revenue recognition will simplify certain business processes and decrease the complexities of our current license revenue recognition model. We expect that the simplification of these business processes combined with the remedial measures discussed above will increase the likelihood of successful remediation of our material weaknesses.

If the remedial measures described above are insufficient to address any of the identified material weaknesses or are not implemented effectively, or additional deficiencies arise in the future, material misstatements in our interim or annual financial statements may occur in the future and we may continue to be delinquent in our filings. We are currently working to improve and simplify our internal processes and implement enhanced controls, as discussed above, to address the material weaknesses in our internal control over financial reporting and to remedy the ineffectiveness of our disclosure controls and procedures. While this implementation phase is underway, we are relying on extensive manual procedures including the use of qualified external consultants and management detailed reviews, to assist us with meeting the objectives otherwise fulfilled by an effective internal control. A key element of our remediation effort is the ability to recruit and retain qualified individuals to support our remediation efforts as well as to complete the significant backlog of work required for us to become current with our SEC filings. While our Audit Committee and Board of Directors have been supportive of our efforts by supporting the hiring of various individuals in finance, treasury, tax and internal audit as well as funding efforts to improve our financial reporting system, improvement in internal control will be hampered if we can not recruit and retain more qualified professionals. Among other things, any unremediated material weaknesses could result in material post-closing adjustments in future financial statements. Furthermore, any such unremediated material weaknesses could have the effects described in "Item 1A. Risk Factors In preparing our consolidated financial statements, we identified material weaknesses in our internal control over financial reporting, and our failure to effectively remedy the material weaknesses identified as of December 31, 2008 could result in material misstatements in our financial statements" in Part I of this Form 10-Q.

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PART II. OTHER INFORMATION

Item 1. *Legal Proceedings*

(a) FTC and Honeywell Settlement

In December 2004, we entered into a consent decree with the FTC, with respect to a civil administrative complaint filed by the FTC in August 2003 alleging that our acquisition of Hyprotech Ltd. and related subsidiaries of AEA Technology plc (Hyprotech) in May 2002 was anticompetitive in violation of Section 5 of the Federal Trade Commission Act and Section 7 of the Clayton Act. In connection with the consent decree, we entered into an agreement with Honeywell International, Inc. (Honeywell) on October 6, 2004 (Honeywell Agreement), pursuant to which we transferred our operator training business and our rights to the intellectual property of various legacy Hyprotech products.

On December 23, 2004, we completed the transactions contemplated by the Honeywell Agreement. Under the terms of the transactions:

- We agreed to a cash payment of approximately $6.0 million from Honeywell in consideration of the transfer of our operator training services business, our covenant not to compete in the operator training business until the third anniversary of the closing date, and the transfer of ownership of the intellectual property of our Hyprotech engineering products, $1.2 million of which was held back by Honeywell and a portion of which was released upon resolution of adjustments for uncollected billed accounts receivable and unbilled accounts receivable, as discussed below;

- We transferred and Honeywell assumed, as of the closing date, approximately $4.0 million in accounts receivable relating to the operator training business; and

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

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

We are subject to ongoing compliance obligations under the FTC consent decree. We responded to requests by the Staff of the FTC beginning in 2006 for information relating to the Staff's investigation of whether we have complied with the consent decree. In addition, the FTC voted to recommend to the Consumer Litigation Division (Division) of the U.S. Department of Justice that the Division commence litigation against us relating to our alleged failure to comply with certain aspects of the decree. Although we believe that we complied with the consent decree and that the assertions by the FTC Staff were without merit, we engaged in settlement discussions with the FTC Staff regarding this matter. Following such discussions, on July 6, 2009, we announced that the FTC closed the investigation relating to the alleged violations of the decree, and issued an order modifying the consent decree. Following a thirty-day period for public comment on the modification to the original decree, the modified order became final on August 20, 2009. The modification to the 2004 consent decree requires that we continue to provide the ability for users to save input variable case data for Aspen HYSYS and Aspen HYSYS Dynamics software in a standard "portable" format, which will make it easier for users to transfer case data from later versions of the products to earlier versions. AspenTech will also provide documentation to Honeywell of the Aspen HYSYS and Aspen HYSYS Dynamics input variables, as well as documentation of the covered heat exchange products. These requirements will apply to all existing and future versions of the covered products through 2014.

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In March 2007, we were served with a complaint and petition to compel arbitration filed by Honeywell in New York State Supreme Court. The complaint alleges that we failed to comply with our obligations to deliver certain technology under the Honeywell Agreement, that we owe approximately $0.8 million to Honeywell under the Honeywell Agreement, and that Honeywell is entitled to some portion of the $1.2 million holdback retained by Honeywell under the holdback provisions of the Honeywell Agreement, plus unspecified monetary damages. In accordance with the Honeywell Agreement, certain of Honeywell's claims relating to the holdback were the subject of a proceeding before an independent accountant, who determined in December 2008 that we were entitled to a portion of the holdback. We reached a settlement in June 2009 and the matter has been dismissed. In connection with the settlement, AspenTech has provided to Honeywell a license to modify and distribute (in object code form) certain versions of AspenTech's flare system analyzer software.

There is no assurance that the actions required by the FTC's modified order and related settlement with Honeywell will not provide Honeywell with additional competitive advantages that could materially adversely affect our results of operations.

(b) Class action and opt-out claims

In March 2006, we settled class action litigation, including related derivative claims, arising out of our originally filed consolidated financial statements for fiscal 2000 through 2004, the accounting for which we restated in March 2005. Members of the class who opted out of the settlement (representing 1,457,969 shares of common stock, or less than 1% of the shares putatively purchased during the class action period) brought their own state or federal law claims against us, referred to as "opt-out" claims.

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

Feldman v. Aspen Technology, Inc., et al., filed on July 17, 2006 in the Business Litigation Session of the Massachusetts Superior Court for Suffolk County and docketed as Civ. A. No.&n