HOLOGIC INC
Form 10-Q
August 04, 2011
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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

(Mark One)

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

For the quarterly period ended June 25, 2011

or

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

For the transition period from _____ to _____

Commission File Number: 0-18281

Hologic, Inc.

(Exact name of registrant as specified in its charter)

Delaware	**04-2902449**
(State of incorporation)	**(I.R.S. Employer Identification No.)**
35 Crosby Drive,	
Bedford, Massachusetts	**01730**
(Address of principal executive offices)	**(Zip Code)**

(781) 999-7300

(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 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes x No ¨

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 x No ¨

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

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

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

As of July 28, 2011, 262,137,104 shares of the registrant s Common Stock, $0.01 par value, were outstanding.

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HOLOGIC, INC.

CONSOLIDATED BALANCE SHEETS

(Unaudited)

(In thousands, except per share data)

	June 25, 2011	September 25, 2010
ASSETS		
Current assets:		
Cash and cash equivalents	$ 613,801	$ 515,625
Restricted cash	557	942
Accounts receivable, less reserves of $6,721 and $7,769, respectively	292,324	283,103
Inventories	232,835	192,482
Deferred income tax assets	40,576	72,808
Prepaid income taxes		3,944
Prepaid expenses and other current assets	27,703	29,977
Total current assets	1,207,796	1,098,881
Property and equipment, net	247,592	251,698
Intangible assets, net	2,145,120	2,118,948
Goodwill	2,286,695	2,108,847
Other assets	50,020	47,460
Total assets	$ 5,937,223	$ 5,625,834
LIABILITIES AND STOCKHOLDERS EQUITY		
Current liabilities:		
Accounts payable	$ 51,794	$ 57,480
Accrued expenses	290,183	183,054
Deferred revenue	124,814	120,516
Notes payable	347	1,362
Deferred gain		79,500
Total current liabilities	467,138	441,912
Convertible debt (principal of $1,725,000)	1,470,110	1,447,053
Deferred income tax liabilities	971,067	955,611
Deferred service obligations long-term	9,832	10,011
Other long-term liabilities	108,783	72,698
Commitments and contingencies (Note 6)		
Stockholders equity:		
Preferred stock, $0.01 par value 1,623 shares authorized; 0 shares issued		
Common stock, $0.01 par value 750,000 shares authorized; 262,341 and 259,488 shares issued, respectively	2,623	2,595
Capital in excess of par value	5,297,423	5,224,399
Accumulated deficit	(2,397,489)	(2,527,070)
Accumulated other comprehensive income	9,254	143
Treasury stock, at cost 219 shares	(1,518)	(1,518)
Total stockholders equity	2,910,293	2,698,549

Total liabilities and stockholders equity	$ 5,937,223	$ 5,625,834

See accompanying notes.

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HOLOGIC, INC.

CONSOLIDATED STATEMENTS OF OPERATIONS

(Unaudited)

(In thousands, except per share data)

	Three Months Ended		Nine Months Ended	
	June 25, 2011	June 26, 2010	June 25, 2011	June 26, 2010
Revenues:				
Product sales	$ 372,790	$ 353,677	$ 1,092,345	$ 1,058,206
Service and other revenues	78,292	67,016	229,959	193,047
	451,082	420,693	1,322,304	1,251,253
Costs and expenses:				
Cost of product sales	129,420	126,336	386,421	360,240
Cost of product sales amortization of intangible assets	44,877	43,524	131,478	130,570
Cost of service and other revenues	42,503	40,944	124,981	120,470
Research and development	29,725	25,691	88,615	77,051
Selling and marketing	73,293	59,425	212,253	185,483
General and administrative	39,811	32,426	119,174	110,870
Amortization of intangible assets	14,794	13,573	43,842	40,729
Contingent consideration compensation expense	2,114		2,114	
Contingent consideration fair value adjustments	629		(3,546)	
Gain on sale of intellectual property, net			(84,502)	
Litigation-related settlement charges			450	12,500
Restructuring and divestiture charges				696
	377,166	341,919	1,021,280	1,038,609
Income from operations	73,916	78,774	301,024	212,644
Interest income	485	321	1,352	907
Interest expense	(28,673)	(33,653)	(85,767)	(97,778)
Loss on extinguishment of debt			(29,891)	
Other (expense) income, net	(1,304)	305	(938)	1,825
Income before income taxes	44,424	45,747	185,780	117,598
Provision for income taxes	8,228	18,299	56,199	43,437
Net income	$ 36,196	$ 27,448	$ 129,581	$ 74,161
Net income per common share:				
Basic	$ 0.14	$ 0.11	$ 0.50	$ 0.29
Diluted	$ 0.14	$ 0.10	$ 0.49	$ 0.28
Weighted average number of common shares outstanding:				
Basic	261,784	259,107	260,744	258,595
Diluted	265,167	262,106	264,114	261,463

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HOLOGIC, INC.

CONSOLIDATED STATEMENTS OF CASH FLOWS

(Unaudited)

(In thousands)

	Nine Months Ended	
	June 25, 2011	June 26, 2010
OPERATING ACTIVITIES		
Net income	$ 129,581	$ 74,161
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation	51,038	51,026
Amortization	175,320	171,299
Non-cash interest expense amortization of debt discount and deferred financing costs	57,363	66,879
Stock-based compensation expense	27,245	24,524
Excess tax benefit related to exercise of non-qualified stock options	(3,268)	(1,828)
Deferred income taxes	(35,346)	(48,304)
Gain on sale of intellectual property, net	(84,502)	
Impairment of cost-method investments	2,445	
Loss on extinguishment of debt	29,891	
Fair value adjustments to contingent consideration	(3,546)	
Fair value write-up of inventory sold	3,298	
Loss on disposal of property and equipment	1,820	2,303
Loss on divestiture		341
Other non-cash activity	(1,185)	1,387
Changes in operating assets and liabilities:		
Accounts receivable	12,120	(4,713)
Inventories	(34,731)	(11,222)
Prepaid income taxes	3,944	(7,255)
Prepaid expenses and other assets	1,358	437
Accounts payable	(8,361)	6,064
Accrued expenses and other liabilities	9,548	(7,583)
Deferred revenue	3,083	20,425
Net cash provided by operating activities	337,115	337,941
INVESTING ACTIVITIES		
Acquisition of business, net of cash acquired	(189,800)	
Payment of additional acquisition consideration	(19,660)	
Divestiture of business, net of cash transferred to the buyer	1,129	(2,164)
Purchase of insurance contracts	(5,322)	(5,322)
Proceeds from sale of intellectual property	13,250	72,250
Purchase of other intangible assets	(3,021)	(500)
Proceeds from sale of cost-method investment		678
Purchase of cost-method investment	(99)	(721)
Purchase of property and equipment	(21,894)	(19,686)
Increase in equipment under customer usage agreements	(20,641)	(14,661)
Decrease in restricted cash	385	69
Net cash (used in) provided by investing activities	(245,673)	29,943

FINANCING ACTIVITIES		
Repayments under credit agreement		(174,167)
Payment of debt issuance costs	(5,327)	
Repayments of notes payable	(1,015)	(2,504)
Payment of contingent consideration	(4,295)	
Purchase of non-controlling interests		(2,683)
Net proceeds from issuance of common stock pursuant to employee stock plans	24,078	11,294
Excess tax benefit related to exercise of non-qualified stock options	3,268	1,828
Payment of employee restricted stock tax withholding requirements	(10,394)	(2,522)
Net cash provided by (used in) financing activities	6,315	(168,754)
Effect of exchange rate changes on cash and cash equivalents	419	(948)
Net increase in cash and cash equivalents	98,176	198,182
Cash and cash equivalents, beginning of period	515,625	293,186
Cash and cash equivalents, end of period	$ 613,801	$ 491,368

See accompanying notes.

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HOLOGIC, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Unaudited)

(all tabular amounts in thousands except per share data)

(1) Basis of Presentation

The consolidated financial statements of Hologic, Inc. (the Company) presented herein have been prepared pursuant to the rules of the Securities and Exchange Commission for quarterly reports on Form 10-Q and do not include all of the information and disclosures required by U.S. generally accepted accounting principles. These financial statements should be read in conjunction with the consolidated financial statements and notes thereto for the year ended September 25, 2010, included in the Company s Form 10-K as filed with the Securities and Exchange Commission on November 24, 2010. In the opinion of management, the financial statements and notes contain all adjustments (consisting of normal recurring accruals) considered necessary for a fair presentation of the Company s financial position, results of operations and cash flows for the periods presented.

The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries. All intercompany transactions and balances have been eliminated in consolidation.

The preparation of financial statements in conformity with U.S. generally accepted accounting principles requires management to make significant estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting periods. Actual results could differ from management s estimates if past experience or other assumptions do not turn out to be substantially accurate. Operating results for the three and nine months ended June 25, 2011 are not necessarily indicative of the results to be expected for any other interim period or the entire fiscal year ending September 24, 2011.

During the fourth quarter of fiscal 2010, the Company determined that certain amounts previously classified as a component of cost of product sales should be reclassified to cost of service and other revenues. This reclassification was $1.5 million and $4.4 million for the three and nine months ended June 26, 2010, respectively, and was not material to the Company s consolidated financial statements. The Company also reclassified certain amounts previously classified as a component of general and administrative expenses to research and development expenses. This reclassification was $1.5 million and $4.3 million for the three and nine months ended June 26, 2010, respectively, and was not material to the Company s consolidated financial statements. The above referenced reclassification adjustments are reflected in the Consolidated Statement of Operations for the three and nine months ended June 26, 2010.

(2) Fair Value Measurements

The Company applies the provisions of Accounting Standards Codification (ASC) 820, *Fair Value Measurements and Disclosures*, for its financial assets and liabilities that are re-measured and reported at fair value each reporting period and its nonfinancial assets and liabilities that are re-measured and reported at fair value on a non-recurring basis. Fair value is the price that would be received from selling an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. When determining fair value, the Company considers the principal or most advantageous market in which it would transact and considers assumptions that market participants would use when pricing the asset or liability.

Fair Value Hierarchy

ASC 820 establishes a three-level valuation hierarchy for disclosure of fair value measurements. Financial assets and liabilities are categorized within the valuation hierarchy based upon the lowest level of input that is significant to the measurement of fair value. The three levels of the hierarchy are defined as follows:

Level 1 Inputs to the valuation methodology are quoted market prices for identical assets or liabilities.

Level 2 Inputs to the valuation methodology are other observable inputs, including quoted market prices for similar assets or liabilities and market-corroborated inputs.

Level 3 Inputs to the valuation methodology are unobservable inputs based on management s best estimate of inputs market participants would use in pricing the asset or liability at the measurement date, including assumptions about risk.

Assets/Liabilities Measured and Recorded at Fair Value on a Recurring Basis

As of June 25, 2011 and September 25, 2010, the Company s financial assets that are re-measured at fair value on a recurring basis included $0.3 million in money market mutual funds in both periods that are classified as cash and cash equivalents in the Consolidated Balance Sheets. As there are no withdrawal restrictions, they are classified within Level 1 of the fair value hierarchy and are valued using quoted market prices for identical assets. The Company has a payment obligation under its Supplemental Executive Retirement Program (SERP) to the participants of the SERP. This liability is recorded at fair value based on the underlying value of certain hypothetical investments as designated by each participant for their benefit. Since the value of the SERP obligation is based on market prices, the liability is classified within Level 1. In addition, the Company has contingent consideration liabilities related to its acquisitions that it records at fair value. The fair values of these liabilities are based on Level 3 inputs and are discussed in Note 3.

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Assets and liabilities measured and recorded at fair value on a recurring basis consisted of the following at June 25, 2011:

		Fair Value at Reporting Date Using		
	Balance as of June 25, 2011	Quoted Prices in Active Market for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets:				
Money market funds	$ 314	$ 314	$	$
Total	$ 314	$ 314	$	$
Liabilities:				
SERP liability	$ 19,281	$ 19,281	$	$
Contingent consideration	108,259			108,259
Total	$ 127,540	$ 19,281	$	$ 108,259

The following table presents a reconciliation of the only asset or liability, which are contingent consideration liabilities, the Company measures and records at fair value on a recurring basis using significant unobservable inputs (Level 3):

	For the Three Months Ended June 25	For the Nine Months Ended June 25
Beginning balance	$ 111,925	$ 29,500
Total net unrealized (gains)/losses included in earnings	629	(3,546)
Total net unrealized (gains)/losses included in other comprehensive income		
Transfers into level 3 (gross)		
Transfers out of level 3 (gross)		
Net purchases, issuances, sales and settlements	(4,295)	82,305
Ending balance	$ 108,259	$ 108,259

There were no such recurring measurements using significant unobservable inputs for the three and nine months ended June 26, 2010.

Assets Measured and Recorded at Fair Value on a Nonrecurring Basis

The Company remeasures the fair value of certain assets and liabilities upon the occurrence of certain events. Such assets comprise cost-method equity investments and long-lived assets, including property and equipment, intangible assets and goodwill.

The Company holds certain cost-method equity investments in non-publicly traded securities aggregating $4.6 million and $7.0 million at June 25, 2011 and September 25, 2010, respectively, which are included in other long-term assets on the Company s Consolidated Balance Sheets. These investments are generally carried at cost. As the inputs utilized for the Company s periodic impairment assessment are not based on observable market data, these cost method investments are classified within Level 3 of the fair value hierarchy. To determine the fair value of these investments, the Company uses all available financial information related to the entities, including information based on recent or pending third-party equity investments in these entities. In certain instances, a cost method investment s fair value is not estimated as there are no identified events or changes in circumstances that may have a significant adverse effect on the fair value of the investment and to do so would be impractical. During the three and nine month periods ended June 25, 2011, the Company recorded other-than-temporary impairment charges of $0.3 million and $2.4 million, respectively related to these investments.

Refer to Note 5 for disclosure of the nonrecurring fair value measurement related to the loss on extinguishment of debt recorded in the first quarter of fiscal 2011.

Disclosure of Fair Value of Financial Instruments

The Company s financial instruments mainly consist of cash and cash equivalents, accounts receivable, cost-method equity investments, insurance contracts and related SERP liability, accounts payable and debt obligations. The carrying amounts of the Company s cash equivalents, accounts receivable and accounts payable approximate their fair value due to the short-term nature of

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these instruments. The carrying amount of the insurance contracts are recorded at the cash surrender value, as required by U.S. generally accepted accounting principles, which approximates fair value, and the related SERP liability is recorded at fair value. The Company believes the carrying amounts of its cost-method investments approximate fair value and has not performed an in-depth analysis of the fair values as it is not practical to do so.

The Company had $1.47 billion and $1.45 billion of Convertible Notes recorded (See Note 5) as of June 25, 2011 and September 25, 2010, respectively. The aggregate principal amount of the Convertible Notes at both periods was $1.725 billion. On November 18, 2010, the Company entered into separate, privately-negotiated exchange agreements under which it retired $450.0 million in aggregate principal of its Original Notes for $450.0 million in aggregate principal of new 2.00% Convertible Exchange Senior Notes due 2037 (Exchange Notes). Following these transactions, $1.275 billion in principal amount of the Original Notes remained outstanding. The fair value of the remaining Original Notes and the Exchange Notes as of June 25, 2011 was approximately $1.23 billion and $514.7 million, respectively. The aggregate fair value of the Company s Convertible Notes was approximately $1.62 billion as of September 25, 2010. Fair value is based on the trading prices of the respective notes at the dates noted.

(3) Business Combinations

Fiscal 2011 Acquisition:

TCT International Co. Ltd.

On June 1, 2011, the Company completed the acquisition of 100% of the equity interest in TCT International Co. Ltd. (TCT) and subsidiaries, a privately-held distributor of medical products, including the Company s ThinPrep Pap Test, related instruments and other diagnostic and surgical products. TCT s operating subsidiaries are located in Beijing, China. The Company s acquisition of TCT has enabled it to obtain an established nationwide sales organization and customer support infrastructure in China, which is consistent with the Company s international expansion strategy. TCT is being integrated within the Company s international operations, and its results will be primarily reported within the Company s Diagnostics reporting segment and to a lesser extent within the Company s GYN Surgical reporting segment.

The Company concluded that the acquisition of TCT did not represent a material business combination, and therefore, no pro forma financial information has been provided herein. Subsequent to the acquisition date, the Company s results of operations include the results of TCT. The Company accounted for the TCT acquisition as a purchase of a business under ASC 805, *Business Combinations*.

The preliminary purchase price of $141.9 million is comprised of $135.0 million in cash, of which $100.0 million was paid up-front and $35.0 million is deferred for one year, plus a working capital adjustment, which has been preliminarily estimated to be $6.9 million and is payable with the deferred payment. In addition, the majority of the former shareholders of TCT will receive two annual contingent earn-out payments (subject to adjustment) not to exceed $200.0 million less the deferred payment. The contingent earn-out payments are based on a multiple of incremental revenue growth for the one year periods beginning January 1, 2011 and January 1, 2012 as compared to the respective prior year periods, and are payable after the first and second anniversaries from the date of acquisition, respectively. Since these payments are contingent on future employment, they will be recognized as compensation expense ratably over the required service period, which are commensurate with the first and second year anniversaries from the date of acquisition. As a result, based on its revenue projections for the TCT business, the Company recorded compensation expense of $2.1 million for these contingent payments in the third quarter of fiscal 2011.

The Company did not issue any equity awards in connection with this acquisition. The Company incurred third-party transaction costs of $1.3 million, which were expensed within general and administrative expenses primarily in fiscal 2011.

The allocation of the preliminary purchase price was based on preliminary estimates of the fair value of assets acquired and liabilities assumed as of June 1, 2011. The Company is continuing to obtain information to complete its valuation of intangible assets, as well as to determine the acquired assets and liabilities, including tax assets and liabilities. The components and allocation of the preliminary purchase price consists of the following approximate amounts:

Cash	$ 27,961
Accounts receivable	18,032
Inventory	5,469
Property and equipment	4,039
Other tangible assets	1,081

Taxes payable	(12,685)
Accounts payable and accrued expenses	(7,677)
Customer relationships	37,300
Business licenses	2,500
Trade names	2,300
Deferred taxes, net	(10,610)
Goodwill	74,226
Purchase Price	$ 141,936

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As part of the preliminary purchase price allocation, the Company has preliminarily determined that the separately identifiable intangible assets were customer relationships, business licenses, and trade names related to the TCT company name. The fair value of the intangible assets was determined through the application of the income approach, and the cash flow projections were discounted at 10.0%. Customer relationships relate to relationships that TCT s founders and sales force have developed with obstetricians, gynecologists, hospitals, and clinical laboratories.

Customer relationships, business licenses and trade names are being amortized over a weighted average period of 13.6 years, 10 years and 13 years, respectively.

The excess of the purchase price over the fair value of the tangible net assets and intangible assets acquired was recorded to goodwill. The goodwill recognized is attributable to the established sales and distribution network of TCT and expected synergies that the Company will realize from this acquisition. None of the goodwill is expected to be deductible for income tax purposes.

Interlace Medical, Inc.

On January 6, 2011, the Company consummated the acquisition of 100% of the equity interest in Interlace Medical, Inc. (Interlace), a privately-held company located in Framingham, Massachusetts. Interlace is the developer, manufacturer and supplier of the MyoSure hysteroscopic tissue removal system (MyoSure). The MyoSure system is a new and innovative tissue removal device that is designed to provide incision-less removal of fibroids and polyps within the uterus. Interlace s operations have been integrated within the Company s GYN Surgical reporting segment. The Company believes that MyoSure is a complementary product to its existing surgical product portfolio.

The Company concluded that the acquisition of Interlace did not represent a material business combination, and therefore, no pro forma financial information has been provided herein. Subsequent to the acquisition date, the Company s results of operations include the results of Interlace. The Company accounted for the Interlace acquisition as a purchase of a business under ASC 805.

The purchase price was comprised of $126.8 million in cash (Initial Consideration), which was net of certain adjustments, plus two annual contingent payments up to a maximum of an additional $225.0 million in cash. In addition to the Initial Consideration, $2.1 million was disbursed to certain employees upon the completion of three and six months of service from the date of acquisition. Since these payments were contingent on future employment, they were recognized as compensation expense ratably over the required service period. For the three and nine month periods ended June 25, 2011, the Company recorded $1.0 million and $2.1 million, respectively, in the Consolidated Statement of Operations.

The agreement includes an indemnification provision that provides for the reimbursement of a portion of legal expenses in defense of the Interlace intellectual property. The Company has the right to collect certain amounts set aside in escrow from the Initial Consideration and, as applicable, offset contingent consideration payments of qualifying legal costs.

The contingent payments are based on a multiple of incremental revenue growth during a two-year period following the completion of the acquisition. Pursuant to ASC 805, the Company recorded its estimate of the fair value of the contingent consideration liability based on future revenue projections of the Interlace business under various potential scenarios and weighted probability assumptions of these outcomes. As of the date of acquisition, these cash flow projections were discounted using a rate of 15.6%. The discount rate is based on the weighted-average cost of capital of the acquired business plus a credit risk premium for non-performance risk related to the liability pursuant to ASC 820. This analysis resulted in an initial contingent consideration liability of $86.6 million, which will be adjusted periodically as a component of operating expenses based on changes in fair value of the liability driven by the accretion of the liability for the time value of money and changes in the assumptions pertaining to the achievement of the defined revenue growth milestones. This fair value measurement was based on significant inputs not observable in the market and thus represented a Level 3 measurement as defined in ASC 820. As of June 25, 2011, there were no significant changes in the estimated outcomes for the contingent consideration recognized or the discount rate used to determine the fair value. In connection with updating the fair value calculation at June 25, 2011, the Company recorded charges of $3.3 million and $6.0 million for the three and nine months ended June 25, 2011, respectively, to record the liability at its fair value of $92.6 million.

The Company did not issue any equity awards in connection with this acquisition. The Company incurred third-party transaction costs of $0.4 million, which were expensed within general and administrative expenses in fiscal 2011.

The purchase price was as follows:

Cash	$ 126,798
Contingent consideration	86,600
Total purchase price	$ 213,398

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The allocation of the purchase price was based on preliminary estimates of the fair value of assets acquired and liabilities assumed as of January 6, 2011. The Company is continuing to obtain information pertaining to tax assets and liabilities. The components and allocation of the purchase price consists of the following approximate amounts:

Cash	$ 9,070
Inventory, including fair value adjustments	1,795
Other tangible assets	1,291
Accounts payable and accrued expenses	(1,988)
Developed technology	158,741
Trade names	1,750
Deferred taxes, net	(44,756)
Goodwill	87,495
Purchase Price	$ 213,398

As part of the purchase price allocation, the Company determined that the separately identifiable intangible assets were developed technology and trade names related to the MyoSure product name. The fair value of the intangible assets was determined through the application of the income approach, and the cash flow projections were discounted at 12.7%. Developed technology represented currently marketable Interlace products that the Company will continue to sell as well as utilize to enhance and incorporate into the Company s existing products. In determining the allocation of the purchase price to existing technology, consideration was only given to products that had been approved by the FDA. Based on the early stage of other projects and an insignificant allocation of resources to those projects, the Company concluded that there were no in-process projects of a material nature.

Developed technology and trade names are being amortized over 15 years and 13 years, respectively.

The excess of the purchase price over the fair value of the tangible net assets and intangible assets acquired was recorded to goodwill. The goodwill recognized is attributable to expected synergies that the Company will realize from this acquisition. None of the goodwill is expected to be deductible for income tax purposes.

Beijing Healthcome Technology Company, Ltd.

On July 19, 2011, the Company completed its acquisition of Beijing Healthcome Technology Company, Ltd. (Healthcome), a privately-held manufacturer of medical equipment, including mammography equipment, located in Beijing, China. The purchase price is $9.8 million in cash, subject to adjustment. In addition, the Company is obligated to make future payments to the shareholders, who remain employed, up to an additional $7.1 million over three years. Since these payments are contingent on future employment, they will be recognized as compensation expense ratably over the respective service periods.

Fiscal 2010 Acquisition:

Sentinelle Medical Inc.

On August 5, 2010, the Company completed its acquisition of 100% of the equity interests in Sentinelle Medical Inc. (Sentinelle Medical), a privately-held company located in Toronto, Canada, pursuant to a definitive agreement dated July 6, 2010. Sentinelle Medical develops, manufactures and markets magnetic resonance imaging (MRI) breast coils, tables and visualization software. Sentinelle Medical is dedicated to developing advanced imaging technologies used in high-field strength MRI systems. Sentinelle Medical s products enhanced and broadened the Company s portfolio of product offerings in the areas of breast cancer detection and intervention.

The Company concluded that the acquisition of Sentinelle Medical did not represent a material business combination, and therefore, no pro forma financial information has been provided herein. Subsequent to the acquisition date, the Company s results of operations include the results of Sentinelle Medical, which is included within the Company s Breast Health reporting segment. The Company accounted for the Sentinelle Medical acquisition as a purchase of a business under ASC 805.

The purchase price was comprised of an $84.8 million cash payment, which was net of certain adjustments, plus three contingent payments up to a maximum of an additional $250.0 million in cash. The contingent payments are based on a multiple of incremental revenue growth during the two-year period following the completion of the acquisition as follows: six months after acquisition, 12 months after acquisition, and 24 months after acquisition. Pursuant to ASC 805, the Company recorded its estimate of the fair value of the contingent consideration liability based on future revenue projections of the Sentinelle Medical business under various potential scenarios and weighted probability assumptions of these outcomes. As of the date of acquisition, these cash flow projections were discounted using a rate of 16.5%. The discount rate is based on the weighted-average cost of capital of the acquired business plus a credit risk premium for non-performance risk related to the liability pursuant to ASC 820. This analysis resulted in an initial contingent consideration liability of $29.5 million, which will be adjusted periodically as a component of operating expenses

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based on changes in the fair value of the liability driven by the accretion of the liability for the time value of money and changes in the assumptions pertaining to the achievement of the defined revenue growth milestones. This fair value measurement was based on significant inputs not observable in the market and thus represented a Level 3 measurement as defined in ASC 820.

During each quarter in fiscal 2011, the Company has re-evaluated its assumptions and updated the revenue and probability assumptions for future earn-out periods and lowered its projections. As a result of these adjustments, which were partially offset by the accretion of the liability, and using a current discount rate of approximately 17.0%, the Company recorded a reversal of expense of $2.7 million and $9.6 million for the three and nine month periods ended June 25, 2011, respectively, to record the contingent consideration liability at fair value. In addition, during the second quarter of fiscal 2011, the first earn-out period ended, and the Company adjusted the fair value of the contingent consideration liability for actual results during the earn-out period. This payment of $4.3 million was made in the third quarter of fiscal 2011. At June 25, 2011, the fair value of the liability is $15.6 million.

The Company did not issue any equity awards in connection with this acquisition. The Company incurred third-party transaction costs of $1.2 million, which were expensed within general and administrative expenses in fiscal 2010.

The purchase price was as follows:

Cash	$ 84,751
Contingent consideration	29,500
Total purchase price	$ 114,251

The allocation of the purchase price was based on preliminary estimates of the fair value of assets acquired and liabilities assumed as of August 5, 2010. The Company is continuing to obtain information pertaining to tax assets and liabilities. The components and allocation of the purchase price consists of the following approximate amounts:

Cash	$ 429
Inventory, including fair value adjustments	10,066
Other tangible assets	7,247
Accounts payable and accrued expenses	(6,304)
Deferred revenue, including fair value adjustments	(2,056)
Developed technology	60,900
In-process research and development	4,800
Trade names	1,600
Non-compete agreements	300
Deferred taxes, net	(10,884)
Goodwill	48,153
Purchase Price	$ 114,251

As part of the purchase price allocation, the Company determined that the separately identifiable intangible assets were developed technology, in-process research and development, trade names and non-compete agreements. The fair value of the intangible assets was determined through the application of the income approach, and the cash flow projections were discounted using rates of 15.0% to 16.0%. Developed technology represented currently marketable purchased products that the Company will continue to sell as well as utilize to enhance and incorporate into the Company s existing products. In determining the allocation of the purchase price to existing technology, consideration was only given to products that had been approved by the FDA. The trade names related to both the Sentinelle Medical name and certain product names.

The amount allocated to acquired in-process research and development represented the estimated fair value of in-process projects based on risk-adjusted cash flows utilizing a discount rate of 17.0%. These in-process projects had not yet reached technological feasibility and had no future alternative uses as of the date of the acquisition. The primary basis for determining the technological feasibility of these projects was obtaining regulatory approval to market the underlying products. The acquired in-process research and development assets are not subject to

amortization until such time the projects are complete, at which time they will be amortized over their estimated remaining useful lives ranging from 10 to 20 years. These projects related to a prostate MRI coil and certain software. In the first quarter of fiscal 2011, the Company received FDA approval for the software project. Research and development for the MRI coil project is still in process.

The developed technology assets are being amortized over a weighted average life of approximately 19 years, and trade names are being amortized over a weighted average life of approximately 9 years. Non-compete agreements are being amortized over 3 years.

The excess of the purchase price over the fair value of the tangible net assets and intangible assets acquired was recorded to goodwill. The goodwill recognized is attributable to expected synergies that the Company will realize from this acquisition. None of the goodwill is expected to be deductible for income tax purposes.

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(4) Other Balance Sheet Information

Components of selected captions in the Consolidated Balance Sheets consisted of:

	June 25, 2011	September 25, 2010
Inventories		
Raw material and work-in-process	$ 145,614	$ 124,303
Finished goods	87,221	68,179
	$ 232,835	$ 192,482
Property and equipment		
Equipment and software	$ 222,710	$ 207,382
Equipment under customer usage agreements	170,811	147,736
Building and improvements	58,962	57,350
Leasehold improvements	43,832	41,130
Furniture and fixtures	12,306	11,346
Land	8,942	8,882
	517,563	473,826
Less accumulated depreciation and amortization	(269,971)	(222,128)
	$ 247,592	$ 251,698

(5) Debt

The Company had total debt with a carrying value of $1.47 billion and $1.45 billion at June 25, 2011 and September 25, 2010, respectively, which consisted principally of Convertible Notes (principal of $1.725 billion). The Company has recorded the Convertible Notes net of the unamortized debt discount as required by U.S. generally accepted accounting principles.

Convertible Notes

Original Convertible Notes. On December 10, 2007, the Company issued and sold $1.725 billion, at par, of 2.00% Convertible Senior Notes due 2037 (the Original Notes). Net proceeds from the offering were $1.69 billion, after deducting the underwriters discounts of $34.5 million and estimated offering expenses of $1.5 million, and were used to repay certain of the Company s outstanding senior secured indebtedness. On November 18, 2010, the Company entered into separate, privately-negotiated exchange agreements under which it retired $450.0 million in aggregate principal of its Original Notes for $450.0 million in aggregate principal of new 2.00% Convertible Exchange Senior Notes due 2037 (Exchange Notes). Following these transactions, $1.275 billion in principal amount of the Original Notes remained outstanding. In connection with this exchange transaction, the Company recorded a loss on extinguishment of debt of $29.9 million in its Consolidated Statements of Operations in the first quarter of fiscal 2011.

Holders may require the Company to repurchase the Original Notes on December 13, 2013, and each of December 15, 2017, 2022, 2027 and 2032 or upon a fundamental change, as defined, at a repurchase price equal to 100% of their accreted principal amount, plus accrued and unpaid interest. The Company may redeem any of the Original Notes beginning December 18, 2013, by giving holders at least 30 days notice. The Company may redeem the Original Notes either in whole or in part at a redemption price equal to 100% of their principal amount, plus accrued and unpaid interest, including contingent interest and liquidated damages, if any, to, but excluding, the redemption date.

The Original Notes bear interest at a rate of 2.00% per year on the principal amount, payable semi-annually in arrears in cash on June 15 and December 15 of each year, beginning June 15, 2008 and ending on December 15, 2013. The Original Notes will accrete principal from December 15, 2013 at a rate that provides holders with an aggregate annual yield to maturity of 2.00% per year. Beginning with the six month interest period commencing December 15, 2013, the Company will pay contingent interest during any six month interest period to the holders of Original Notes if the trading price , as defined, of the Original Notes for each of the five trading days ending on the second trading day immediately preceding the first day of the applicable six month interest period equals or exceeds 120% of the accreted principal amount of the

Original Notes. The holders of the Original Notes may convert the notes into shares of the Company s common stock at a conversion price of approximately $38.60 per share, subject to adjustment, prior to the close of business on September 15, 2037 under any of the following circumstances: (1) during any calendar quarter if the last reported sale price of the Company s common stock exceeds 130% of the conversion price for at least 20 trading days in the 30 consecutive trading days ending on the last trading day of the preceding calendar quarter; (2) during the five business day period after any five consecutive trading day period in which the trading price per note for each day of such period was less than 98% of the product of the last reported sale price of the Company s common stock and the conversion rate on each such day; (3) if the notes have been called for redemption; or (4) upon the occurrence of specified corporate events. None of these triggering events had occurred as of June 25, 2011.

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In lieu of delivery of shares of the Company s common stock in satisfaction of the Company s obligation upon conversion of the Original Notes, the Company may elect to deliver cash or a combination of cash and shares of its common stock. If the Company elects to satisfy its conversion obligation in a combination of cash and shares of the Company s common stock, the Company is required to deliver up to a specified dollar amount of cash per $1,000 original principal amount of Original Notes, and will settle the remainder of its conversion obligation in shares of its common stock. It is the Company s current intent and policy to settle any conversion of the Original Notes as if the Company had elected to make the net share settlement election.

The Original Notes are the Company s senior unsecured obligations and rank equally with all of its existing and future senior unsecured debt and prior to all future subordinated debt. The Convertible Notes are effectively subordinated to any future secured indebtedness to the extent of the collateral securing such indebtedness, and structurally subordinated to all indebtedness and other liabilities (including trade payables) of the Company s subsidiaries.

Exchange Convertible Notes. On November 18, 2010, pursuant to separate, privately-negotiated exchange agreements, the Company retired $450.0 million in aggregate principal of its Original Notes for $450.0 million in aggregate principal of Exchange Notes.

Holders may require the Company to repurchase the Exchange Notes on December 15, 2016, and on each of December 15, 2020, December 15, 2025, December 13, 2030 and December 14, 2035 or upon a fundamental change, as defined in the Second Supplemental Indenture, at a repurchase price equal to 100% of their accreted principal amount, plus accrued and unpaid interest. The Company may redeem any of the notes beginning December 19, 2016, by giving holders at least 30 days notice. The Company may redeem the Exchange Notes either in whole or in part at a redemption price equal to 100% of their principal amount, plus accrued and unpaid interest, including contingent interest and liquidated damages, if any, to, but excluding, the redemption date.

The Exchange Notes bear interest at a rate of 2.00% per year on the principal amount, payable semi-annually in arrears in cash on June 15 and December 15 of each year, beginning December 15, 2010, and ending on December 15, 2016 and will accrete principal from December 15, 2016 at a rate that provides holders with an aggregate annual yield to maturity of 2.00% per year. Beginning with the six month interest period commencing December 15, 2016, the Company will pay contingent interest during any six month interest period to the holders of Exchange Notes if the trading price , as defined, of the Exchange Notes for each of the five trading days ending on the second trading day immediately preceding the first day of the applicable six month interest period equals or exceeds 120% of the accreted principal amount of the Exchange Notes. The holders of the Exchange Notes may convert the Exchange Notes into shares of the Company s common stock at a conversion price of approximately $23.03 per share, subject to adjustment, prior to the close of business on September 15, 2037 under any of the following circumstances: (1) during any calendar quarter if the last reported sale price of the Company s common stock exceeds 130% of the conversion price for at least 20 trading days in the 30 consecutive trading days ending on the last trading day of the preceding calendar quarter; (2) during the five business day period after any five consecutive trading day period in which the trading price per note for each day of such period was less than 98% of the product of the last reported sale price of the Company s common stock and the conversion rate on each such day; (3) if the Exchange Notes have been called for redemption; or (4) upon the occurrence of specified corporate events. None of these triggering events had occurred as of June 25, 2011.

In lieu of delivery of shares of the Company s common stock in satisfaction of the Company s obligation upon conversion of the Exchange Notes, the Company may elect to deliver cash or a combination of cash and shares of its common stock. If the Company elects to satisfy its conversion obligation in a combination of cash and shares of the Company s common stock, the Company is required to deliver up to a specified dollar amount of cash per $1,000 original principal amount of Exchange Notes, and will settle the remainder of its conversion obligation in shares of its common stock. It is the Company s current intent and policy to settle any conversion of the Exchange Notes as if the Company had elected to make the net share settlement election.

The Exchange Notes are the Company s senior unsecured obligations and rank equally with all of its existing and future senior unsecured debt and prior to all future subordinated debt. The Exchange Notes are effectively subordinated to any future secured indebtedness to the extent of the collateral securing such indebtedness, and structurally subordinated to all indebtedness and other liabilities (including trade payables) of our subsidiaries.

Accounting for the Convertible Notes

In May 2008, the FASB issued FSP APB 14-1, *Accounting for Convertible Debt Instruments That May Be Settled in Cash upon Conversion (Including Partial Cash Settlement)* (FSP APB 14-1)(codified within ASC 470, *Debt*). This accounting standard applies to certain convertible debt instruments that may be settled in cash (or other assets), or partially in cash, upon conversion. The liability and equity components of convertible debt instruments within the scope of this accounting standard must be separately accounted for in a manner that reflects the entity s nonconvertible debt borrowing rate when interest expense is subsequently recognized. The excess of the principal amount of the debt over the amount allocated to the liability component is recognized as the value of the embedded conversion feature within additional-paid-in capital in

stockholders equity and amortized to interest expense using the effective interest method.

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On September 27, 2009 (the first day of fiscal 2010), the Company adopted this accounting standard, which is applicable to its Convertible Notes because its terms include cash or partial cash settlement. Accordingly, the Company accounted for the liability and equity components of its Original Notes separately to reflect its nonconvertible debt borrowing rate. The Company estimated the fair value of the Original Notes without the conversion feature as of the date of issuance (liability component). The estimated fair value of the liability component of $1.256 billion was determined using a discounted cash flow technique. Key inputs used to estimate the fair value of the liability component included the Company s estimated nonconvertible debt borrowing rate as of December 10, 2007 (the date the Convertible Notes were issued), the amount and timing of cash flows, and the expected life of the Convertible Notes. The estimated effective interest rate of 7.62% was estimated by comparing other companies debt issuances that had features similar to the Company s debt excluding the conversion feature and who had similar credit ratings during the same annual period as the Company.

The excess of the gross proceeds received over the estimated fair value of the liability component totaling $468.9 million was allocated to the conversion feature (equity component) as an increase to capital in excess of par value with a corresponding offset recognized as a discount to reduce the net carrying value of the Convertible Notes. The discount is being amortized to interest expense over a six-year period ending December 18, 2013 (the expected life of the liability component) using the effective interest method. In addition, third-party transaction costs are required to be allocated to the liability and equity components based on their relative values. As such, a portion of the deferred financing costs were allocated to the equity component and recorded as a reduction to capital in excess of par value.

As of September 25, 2010, the carrying amount of the Original Notes and related equity component (recorded in capital in excess of par value, net of deferred taxes) consisted of the following:

Convertible notes principal amount	$ 1,725,000
Unamortized discount	(277,947)
Net carrying amount	$ 1,447,053
Equity component, net of taxes	$ 283,638

As noted above, on November 18, 2010, the Company executed separate, privately-negotiated exchange agreements, and the Company retired $450.0 million in aggregate principal of its Original Notes for $450.0 million in aggregate principal of Exchange Notes. The Company followed the derecognition provisions pursuant to subtopic ASC 470-20-40, which requires the allocation of the fair value of the consideration transferred (i.e., the Exchange Notes) between the liability and equity components of the original instrument to determine the gain or loss on the transaction. In connection with this transaction, the Company recorded a loss on extinguishment of debt of $29.9 million, which is comprised of the loss on the debt itself of $26.0 million and the write-off of the pro-rata amount of debt issuance costs of $3.9 million allocated to the notes retired. The loss on the debt itself is calculated as the difference between the fair value of the liability component of the Original Notes amount retired immediately before the exchange and its related carrying value immediately before the exchange. The fair value of the liability component was calculated similar to the description above for initially recording the Original Notes under FSP APB 14-1, and the Company used an effective interest rate of 5.46%, representing the estimated nonconvertible debt borrowing rate with a three year maturity at the measurement date. In addition, under this accounting guidance, a portion of the fair value of the consideration transferred is allocated to the reacquisition of the equity component, which is the difference between the fair value of the consideration transferred and the fair value of the liability component immediately before the exchange. As a result, $39.9 million was allocated to the reacquisition of the equity component of the original instrument, which is recorded net of deferred taxes within capital in excess of par value.

Since the Exchange Notes have the same characteristics as the Original Notes and can be settled in cash or a combination of cash and shares of common stock (i.e., partial settlement), the Company is required to account for the liability and equity components of its Exchange Notes separately to reflect its nonconvertible debt borrowing rate. The Company estimated the fair value of the Exchange Notes without the conversion feature as of the date of issuance (liability component). The estimated fair value of the liability component of $349.0 million was determined using a discounted cash flow technique. Key inputs used to estimate the fair value of the liability component included the Company s estimated nonconvertible debt borrowing rate as of November 18, 2010 (the date the Convertible Notes were issued), the amount and timing of cash flows, and the expected life of the Exchange Notes. The Company used an estimated effective interest rate of 6.52%.

The excess of the fair value transferred over the estimated fair value of the liability component totaling $97.3 million was allocated to the conversion feature as an increase to capital in excess of par value with a corresponding offset recognized as a discount to reduce the net carrying value of the Exchange Notes. As a result of the fair value of the Exchange Notes being lower than the Exchange Notes principal value, there is an additional discount on the Exchange Notes of $3.7 million at the measurement date. The total discount is being amortized to interest expense over a six-year period ending December 15, 2016 (the expected life of the liability component) using the effective interest method. In addition, third-party transaction costs have been allocated to the liability and equity components based on the relative values of these components.

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As of June 25, 2011, the Convertible Notes (both the Original Notes and Exchange Notes) and related equity components (recorded in capital in excess of par value, net of deferred taxes) consisted of the following:

Original Notes principal amount	$ 1,275,000
Unamortized discount	(162,223)
Net carrying amount	$ 1,112,777
Equity component, net of taxes	$ 259,000
Exchange Notes principal amount	$ 450,000
Unamortized discount	(92,667)
Net carrying amount	$ 357,333
Equity component, net of taxes	$ 60,054

Interest expense under the Convertible Notes is as follows:

	Three Months Ended		Nine Months Ended	
	June 25, 2011	June 26, 2010	June 25, 2011	June 26, 2010
Amortization of debt discount	$ 18,229	$ 18,499	$ 54,438	$ 54,418
Amortization of deferred financing costs	969	1,035	2,925	3,045
Non-cash interest expense	19,198	19,534	57,363	57,463
2.00% accrued interest	8,620	8,601	25,850	25,804
	$ 27,818	$ 28,135	$ 83,213	$ 83,267

If the Company fails to comply with the reporting obligations contained in the Convertible Notes agreements, the sole remedy of the holders of the Convertible Notes for the first 90 days following such event of default consists exclusively of the right to receive an extension fee in an amount equal to 0.25% of the accreted principal amount of the Convertible Notes. Based on the Company s evaluation of the Convertible Notes in accordance with ASC 815, *Derivatives and Hedging*, Subtopic 40, *Contracts in Entity s Own Equity*, the Company determined that the Convertible Notes contain a single embedded derivative, comprising both the contingent interest feature and the filing failure penalty payment, requiring bifurcation as the features are not clearly and closely related to the host instrument. The Company has determined that the value of this embedded derivative was nominal as of June 25, 2011 and September 25, 2010.

As of June 25, 2011, upon conversion, including the potential premium that could be payable on a fundamental change (as defined), the Company would issue a maximum of approximately 68.6 million common shares to the Convertible Note holders.

(6) Commitments and Contingencies

(a) Contingent Payments

As a result of the merger with Cytyc in October 2007, the Company assumed the obligation to the former Adiana, Inc. shareholders to make contingent payments tied to the achievement of milestones. The milestone payments include potential contingent payments of up to $155.0 million based on worldwide sales of the Adiana Permanent Contraception System in the first year following FDA approval and on annual incremental sales growth thereafter through December 31, 2012. FDA approval of the Adiana Permanent Contraception System occurred on July 6, 2009, and the Company began accruing contingent consideration in the fourth quarter of fiscal 2009 based on the defined percentage of worldwide sales of the product. The agreement includes an indemnification provision that provides for the reimbursement of qualifying legal expenses and liabilities associated with legal claims against the Adiana products and intellectual property, and the Company has the right to offset contingent consideration payments to the Adiana shareholders with these qualifying legal costs. The Company is recording legal fees related to the Conceptus litigation matter (described below) as a reduction to the accrued contingent consideration payments, which will result in

a lower payment to the Adiana shareholders. The Company made a payment of $19.7 million to the Adiana shareholders in October 2010, net of amounts withheld for the legal indemnification provision. At June 25, 2011, the accrued contingent consideration obligation is $26.9 million, net of qualifying legal costs.

The Company also has contingent consideration obligations related to its Sentinelle Medical, Interlace and TCT acquisitions. Pursuant to ASC 805, the amounts pertaining to the Sentinelle Medical and Interlace acquisitions are required to be recorded as a liability at fair value and aggregated $108.3 million as of June 25, 2011. The TCT contingent consideration is being recorded as compensation expense as it is earned, and the liability at June 25, 2011 is $2.1 million. Refer to Notes 2 and 3 for additional information.

(b) Litigation and Related Matters

On May 22, 2009, Conceptus, Inc. filed suit in the United States District Court for the Northern District of California seeking a declaration by the Court that Hologic s planned importation, use, sale or offer to sell of its forthcoming Adiana Permanent

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Contraception System would infringe five Conceptus patents. On July 9, 2009, Conceptus filed an amended complaint alleging infringement of the same five patents by the Adiana Permanent Contraception System. The complaint seeks preliminary and permanent injunctive relief and unspecified monetary damages. In addition to the amended complaint, Conceptus also filed a motion for preliminary injunction seeking to preliminarily enjoin sales of the Adiana System based on alleged infringement of certain claims of three of the five patents. A hearing on Conceptus preliminary injunction motion was held on November 4, 2009, and on November 6, 2009, the judge issued an order denying the motion. On January 19, 2010, upon stipulation of the parties, the Court dismissed all claims relating to three of the five asserted patents with prejudice. A Markman hearing on claim construction took place on March 10, 2010 and a ruling was issued on March 24, 2010. On April 12, 2010, in response to Hologic s counterclaims of unfair competition filed in October of 2009, the Court granted Conceptus leave to amend its counterclaims adding charges of unfair competition. On June 23, 2010, upon stipulation of the parties, the Court dismissed the asserted claims of an additional patent leaving three claims of U.S. patent 7,506,650 being asserted against the Company in the case. On August 10, 2010, the parties entered into a settlement agreement dismissing all unfair competition claims against each other. A hearing on both parties motions for summary judgment on the patent claims occurred on December 9, 2010, and on December 16, 2010, a ruling was issued granting Hologic summary judgment of no infringement of one of the three asserted claims. A trial on the two remaining patent claims is scheduled to begin on October 3, 2011. At this time, based on available information regarding this litigation, the Company is unable to reasonably assess the ultimate outcome of this case or determine an estimate, or a range of estimates, of potential losses.

On July 16, 2010 Smith & Nephew, Inc. filed suit against Interlace, which the Company acquired on January 6, 2011, in the United States District Court for the District of Massachusetts. In the complaint, it is alleged that the Interlace MyoSure hysteroscopic tissue removal device infringes U.S. patent 7,226,459. The complaint seeks permanent injunctive relief and unspecified damages. A Markman hearing was held November 9, 2010, and a ruling was issued on April 21, 2011. A trial on the issues has been scheduled for March 12, 2012. At this time, based on available information regarding this litigation, the Company is unable to reasonably assess the ultimate outcome of this case or determine an estimate, or a range of estimates, of potential losses.

On March 22, 2011, Jeffrey Schwindt filed suit against Hologic and its subsidiary, Suros Surgical Systems, Inc. in the United States District Court for the Southern District of Indiana alleging fraud, deception and misrepresentation based on Schwindt s belief that he should have been named an inventor on a Suros patent prior to the acquisition of Suros by Hologic. The complaint seeks a declaration that Scwhindt is a joint inventor of the patent in question as well as unspecified monetary damages. At this time, based on available information regarding this litigation, the Company is unable to reasonably assess the ultimate outcome of this case or determine an estimate, or a range of estimates, of potential losses.

On May 10, 2011, Tissue Extraction Devices filed suit against Hologic and its subsidiary, Suros Surgical Systems, Inc., in the United States District Court for the Southern District of Indiana alleging infringement of U.S. patent 7,749,172 by the ATEC and Eviva biopsy products. The complaint seeks a finding of infringement and unspecified monetary damages. At this time, based on available information regarding this litigation, the Company is unable to reasonably assess the ultimate outcome of this case or determine an estimate, or a range of estimates, of potential losses.

The Company is a party to various other legal proceedings and claims arising out of the ordinary course of its business. The Company believes that except for those described above there are no other proceedings or claims pending against it the ultimate resolution of which would have a material adverse effect on its financial condition or results of operations.

(c) Litigation-related Settlement Charge

On October 5, 2007, Ethicon Endo-Surgery, Inc. (Ethicon), a Johnson & Johnson operating company, filed a complaint against Hologic and its wholly-owned subsidiary Suros in the United States District Court for the Southern District of Ohio, Western Division. The complaint alleged that certain of the ATEC biopsy systems manufactured and sold by Suros infringed Ethicon patents, and sought to enjoin Hologic and Suros from conducting acts of unfair competition and infringing the patents as well as the recovery of unspecified damages and costs. On August 6, 2009, Ethicon filed a second complaint against the Company and its wholly-owned subsidiary Suros in the United States District Court for the District of Delaware. The complaint alleged that certain of the Eviva biopsy systems manufactured and sold by Suros infringed Ethicon patents and sought to enjoin Hologic and Suros from infringing the patents as well as recovery of damages and costs resulting from the alleged infringement. On February 17, 2010, the Company entered into a settlement agreement with Ethicon relating to the two lawsuits previously filed by Ethicon, and one previously filed by Hologic against Ethicon. As a result of the settlement agreement, all outstanding litigation between the parties has been dismissed, without acknowledgement of liability by either party. While details of the agreement are confidential, under the terms of the settlement agreement, Ethicon has agreed to pay Hologic ongoing royalties for sales of its Mammotome magnetic resonance imaging product. In addition, the Company agreed to pay Ethicon a one-time payment of $12.5 million, plus ongoing royalties for sales of its ATEC and EVIVA hand pieces. The Company recorded the $12.5 million charge in the second quarter of fiscal 2010.

(7) Sale of Makena

On January 16, 2008, the Company entered into a definitive agreement to sell full U.S. and world-wide rights to its Makena (formerly Gestiva) pharmaceutical product to K-V Pharmaceutical Company (KV) upon approval by the FDA of the then pending

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Makena new drug application (the Makena NDA) for a purchase price of $82.0 million. The Company had received $9.5 million of this amount, which had been recorded as a deferred gain, and the remainder was due upon FDA approval. Under this agreement, either party had the right to terminate the agreement if FDA approval was not obtained by February 19, 2010. On January 8, 2010, the parties executed an amendment (First Amendment) to the agreement eliminating the date by which FDA approval must be received and extending the term indefinitely. In consideration of executing the First Amendment, the purchase price was increased to $199.5 million. The Company received $70.0 million upon the signing of the amendment, which was recorded as a deferred gain, and was due to receive an additional $25.0 million upon FDA approval of the product and an additional $95.0 million over a nine-month period beginning one year following FDA approval. On February 3, 2011, the parties executed a second amendment (Second Amendment) to the agreement in which the payment provisions under the First Amendment were adjusted so that upon FDA approval the Company would be due $12.5 million, another $12.5 million one year after approval, and the remaining $95.0 million would be due over an 18 to 30 month period depending on which one of two payment options KV selects. In addition, KV will owe the Company a 5% royalty on sales for certain time periods determined based upon the payment option selected by KV.

Under the arrangement, the Company had been continuing its efforts to obtain FDA approval of the Makena NDA. All costs incurred in these efforts were reimbursed by KV and recorded as a credit against research and development expenses. On February 3, 2011, the Company received FDA approval of Makena and, subject to a right of reversion for failure to make future payments, all rights to Makena were transferred to KV. The Company received $12.5 million, and including the $79.5 million previously received, the Company recorded a gain on the sale of intellectual property, net of the write-off of certain assets, of $84.5 million in the second quarter of fiscal 2011. Any amounts to be received in the future from KV have not been recorded in the Company s consolidated financial statements, and as the Company receives the amounts owed, the payments will be recorded as a gain within operating expenses in the Consolidated Statement of Operations in the period received.

(8) Pension and Other Employee Benefits

The Company has certain defined benefit pension plans covering the employees of its AEG German subsidiary. As of June 25, 2011 and September 25, 2010, the Company has recorded a pension liability of $9.6 million and $9.1 million, respectively, primarily as a component of long-term liabilities in the Consolidated Balance Sheets. As of June 25, 2011 and September 25, 2010, the pension plans held no assets. Under German law, there is no minimum funding requirement imposed on employers. The Company s net periodic benefit cost and components thereof were not material during the three and nine months ended June 25, 2011 and June 26, 2010.

(9) Net Income Per Share

Basic net income per share is computed by dividing net income by the weighted average number of common shares outstanding. Diluted net income per share is computed by dividing net income by the weighted average number of common shares outstanding plus the dilutive effect of potential common shares from outstanding stock options, restricted stock units, the employee stock purchase plan, and convertible debt determined by applying the treasury stock method. In accordance with ASC 718, *Stock Compensation*, the assumed proceeds under the treasury stock method include the average unrecognized compensation expense of stock options that are in-the-money and restricted stock units.

The Company applies the provisions of ASC 260, *Earnings per Share,* Subtopic 10-45-44, to determine the diluted weighted average shares outstanding as it relates to its outstanding Convertible Notes, and due to the type of debt instrument issued, the Company uses the treasury stock method and not the if-converted method. The dilutive impact of the Company s Convertible Notes is based on the difference between the Company s current period average stock price and the conversion price of the Convertible Notes, provided there is a premium. Pursuant to this accounting standard, there is no dilution from the accreted principal of the Convertible Notes.

A reconciliation of basic and diluted share amounts are as follows:

	Three Months Ended		Nine Months Ended	
	June 25, 2011	June 26, 2010	June 25, 2011	June 26, 2010
Numerator:				
Net income	$ 36,196	$ 27,448	$ 129,581	$ 74,161
Denominator:				
Basic weighted average common shares outstanding	261,784	259,107	260,744	258,595
Weighted average common stock equivalents from assumed exercise of stock options and restricted stock units	3,383	2,999	3,370	2,868

Diluted weighted average common shares outstanding	265,167	262,106	264,114	261,463
Basic net income per common share	$ 0.14	$ 0.11	$ 0.50	$ 0.29
Diluted net income per common share	$ 0.14	$ 0.10	$ 0.49	$ 0.28
Weighted-average anti-dilutive shares related to:				
Outstanding stock options	5,930	11,480	7,117	11,402
Restricted stock units		32		217

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Diluted weighted average shares outstanding do not include any effect resulting from the assumed conversion of the Company s Convertible Notes as their impact would be anti-dilutive for all periods presented. In those reporting periods in which the Company has reported net income, anti-dilutive shares comprise those common stock equivalents that have either an exercise price above the average stock price for the quarter or the common stock equivalents related average unrecognized stock compensation expense is sufficient to buy back the entire amount of shares.

(10) Stock-Based Compensation

Share-based compensation expense is as follows:

	Three Months Ended		Nine Months Ended	
	June 25, 2011	June 26, 2010	June 25, 2011	June 26, 2010
Cost of revenues	$ 992	$ 1,083	$ 3,533	$ 3,115
Research and development	1,081	1,024	3,633	2,946
Selling and marketing	1,342	1,083	4,486	3,577
General and administrative	4,364	4,759	15,593	14,886
	$ 7,779	$ 7,949	$ 27,245	$ 24,524

The Company granted approximately 2.2 million and 2.8 million stock options during the nine months ended June 25, 2011 and June 26, 2010, respectively, with weighted average exercise prices of $17.14 and $15.65, respectively. There were 15.6 million options outstanding at June 25, 2011 with a weighted average exercise price of $16.98.

The Company uses a binomial model to determine the fair value of its stock options. The weighted-average assumptions utilized to value these stock options are indicated in the following table:

	Three Months Ended		Nine Months Ended	
	June 25, 2011	June 26, 2010	June 25, 2011	June 26, 2010
Risk-free interest rate	1.0%	1.8%	1.0%	1.8%
Expected volatility	45%	47%	45%	47%
Expected life (in years)	4.2	3.9	4.2	3.9
Dividend yield				
Weighted average fair value of options granted	$ 7.96	$ 5.68	$ 6.23	$ 5.87

The Company granted approximately 1.2 million and 1.3 million restricted stock units (RSU) during the nine months ended June 25, 2011 and June 26, 2010, respectively, with weighted average grant date fair values of $16.87 and $15.62, respectively. As of June 25, 2011, there were 3.1 million unvested RSUs outstanding with a weighted average grant date fair value of $15.67.

The Company uses the straight-line attribution method to recognize stock-based compensation expense for stock options and RSUs. The vesting term of stock options granted to employees is generally five years with annual vesting of 20% per year on the anniversary of the grant date, and RSUs granted to employees either cliff vest at the end of three years or vest over four years with annual vesting at 25% per year on the anniversary of the grant date. The amount of stock-based compensation recognized during a period is based on the value of the portion of the awards that are ultimately expected to vest. Based on an analysis of historical forfeitures, the Company has determined a specific forfeiture rate for certain employee groups and has applied forfeiture rates ranging from 0% to 5% as of June 25, 2011. This analysis is periodically re-evaluated and forfeiture rates will be adjusted as necessary. Ultimately, the actual stock-based compensation expense recognized will only be for those stock options and RSUs that vest.

At June 25, 2011, there was $34.1 million and $35.7 million of unrecognized compensation expense related to stock options and RSUs, respectively, to be recognized over a weighted average period of 3.2 years and 2.4 years, respectively.

(11) Comprehensive Income

The Company s other comprehensive income solely relates to foreign currency translation adjustments. A reconciliation of comprehensive income is as follows:

	Three Months Ended		Nine Months Ended	
	June 25, 2011	June 26, 2010	June 25, 2011	June 26, 2010
Net income as reported	$ 36,196	$ 27,448	$ 129,581	$ 74,161
Translation adjustment	453	(5,780)	9,111	(11,099)
Comprehensive income	$ 36,649	$ 21,668	$ 138,692	$ 63,062

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(12) Business Segments and Geographic Information