Spansion Inc.
Form 10-K
May 13, 2009
Table of Contents

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K

(Mark One)

x **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934.**
For the fiscal year ended December 28, 2008

OR

¨ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934.**
For the transition period from to

Commission File Number 000-51666

SPANSION INC.

(DEBTOR-IN-POSSESSION as of March 1, 2009)

(Exact name of registrant as specified in its charter)

Delaware	**20-3898239**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**

915 DeGuigne Drive

P.O. Box 3453

Sunnyvale, CA 94088

(408) 962-2500

(Address, including zip code, and telephone number, including area code, of registrant s principal executive offices)

Securities registered pursuant to Section 12(b) of the Act:

None

Securities registered pursuant to Section 12(g) of the Act:

Title of each class	**Name of each exchange on which registered**
Class A Common Stock, $0.001 Par Value Per Share	NASDAQ Stock Market LLC

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ¨ No x

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ¨ No x

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant s knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ¨

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 ¨ 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 definition of accelerated filer, large accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ¨	Accelerated filer x	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 by Rule 12b-2 of the Exchange Act). Yes ¨ No x

The aggregate market value of Common Stock held by non-affiliates of the registrant based upon the closing sale price on the NASDAQ Global Select Market on June 29, 2008 was approximately $308.6 million. Shares held by each executive officer, director and by each person who owns 10 percent or more of the outstanding Common Stock have been excluded in that such persons may be deemed to be affiliates. This determination of affiliate status is not necessarily a conclusive determination for other purposes.

Indicate by check mark whether the registrant has filed all documents and reports required to be filed by Section 12, 13, or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court. Yes ¨ No x

The number of shares outstanding of each of the registrant s classes of common stock as of the close of business on May 11, 2009:

Class	**Number of Shares**
Class A Common Stock, $0.001 par value	161,956,210

DOCUMENTS INCORPORATED BY REFERENCE

None

Table of Contents

Spansion Inc.

FORM 10-K

For The Fiscal Year Ended December 28, 2008

INDEX

Table of Contents

PART I

Cautionary Statement Regarding Forward-Looking Statements

The statements in this report include forward-looking statements. These statements relate to future events or our future financial performance. Forward-looking statements may include words such as may, will, should, expect, plan, intend, anticipate, believe, estimate, predict, potential, continue or other wording indicating future results or expectations. Forward-looking statements are subject to risks and uncertainties, and actual events or results may differ materially. Factors that could cause our actual results to differ materially include, but are not limited to, those discussed under Risk Factors in this report and the following factors: (i) risks and uncertainties relating to our Creditor Protection Proceedings including: (a) risks associated with our ability to: stabilize the business to maximize the chances of preserving all or a portion of the enterprise; develop, obtain required approvals for and successfully implement a comprehensive restructuring plan; narrow our strategic focus on the embedded portion of the integrated category of the Flash memory market in an effective and timely manner; identify, pursue and successfully execute our plan to execute a strategic alternative for our wireless business; resolve ongoing issues with creditors and other third parties whose interests may differ from ours; generate cash from operations and maintain adequate cash on hand; if necessary, arrange for sufficient debtor-in-possession or other financing; continue to maintain cash management arrangements and obtain any further approvals from the Creditors Committee, the Floating Rate Noteholders or other third parties, as necessary to continue such arrangements; obtain sufficient exit financing to support a comprehensive restructuring plan; realize full or fair value for any assets or business that may be divested as part of a comprehensive restructuring plan; attract and retain customers or avoid reduction in, or delay or suspension of, customer orders as a result of the uncertainty caused by the Creditor Protection Proceedings; maintain market share, as competitors move to capitalize on customer concerns; actively and adequately communicate on and respond to events, media and rumors associated with the Creditor Protection Proceedings that could adversely affect our relationships with customers, suppliers, partners and employees; retain and incentivize key employees and attract new employees; retain, or if necessary, replace major suppliers on acceptable terms and avoid disruptions in our supply chain; maintain current relationships with reseller partners, joint venture partners and strategic alliance partners; obtain court orders or approvals with respect to motions filed from time to time; prevent third parties from obtaining court orders or approvals that are contrary to our interests; reject, repudiate or terminate contracts; and (b) risks and uncertainties associated with: limitations on actions against any Debtor during the Creditor Protection Proceedings; the values, if any, that will be prescribed pursuant to any comprehensive restructuring plan to outstanding Spansion securities; the delisting of Spansion common stock from The NASDAQ Stock Market; the uncertainty of the existence of a trading market in our shares of common stock; claims not discharged in the Creditor Protection Proceedings and their effect on our results of operations and profitability; our ability to obtain additional financing in the future; our substantial indebtedness and its impact on our financial health and operation and (ii) risks and uncertainties relating to our business including: (a) our ability to improve our gross margins and to continue to implement successfully our cost reduction efforts; our ability to control our operating expenses, particularly our sales, general and administrative costs; our ability to obtain materials in support of our business at terms favorable to us; our ability to retain and expand our customer base in our focus markets, and our ability to retain and grow our share of business within our customer base; our ability to successfully introduce our next generation products to market in a timely manner; our ability to effectively and timely achieve volume production of our next generation products; our ability to increase market acceptance of our products based on our MirrorBit technology; our ability to penetrate further the integrated category of the Flash memory market with our high density products and expand the number of customers in emerging markets; our ability to successfully develop and transition to the latest technologies; our ability to develop our MirrorBit NAND2, EcoRAM and MirrorBit Eclipse architectures, introduce new products based on these architectures, and achieve customer acceptance of these products; our ability to develop systems-level solutions that provide value to customers of our products; our ability to enter new markets not traditionally served by Flash memory, for example, replacing DRAM in servers with EcoRAM; our ability to negotiate successfully patent and other intellectual property licenses and patent cross-licenses and acquire additional patents; and (b) the sustained and

Table of Contents

expanding economic downturn and extraordinarily volatile market conditions and resulting negative impact on our business, results of operations and financial position and our ability to accurately forecast our results and cash position; cautious capital spending by customers as a result of factors including current economic uncertainties; fluctuations in foreign currency exchange rates; and the sufficiency of workforce and cost reduction initiatives. We undertake no obligation to revise or update any forward-looking statements to reflect any event or circumstance that arises after the date of this report, or to conform such statements to actual results or changes in our expectations.

ITEM 1. BUSINESS

Our Company

We are a semiconductor device company exclusively dedicated to designing, developing, manufacturing, marketing, licensing and selling Flash memory solutions. Our Flash memory is integrated into a broad range of electronic products, including mobile phones, consumer electronics, automotive electronics, networking and telecommunications equipment, servers and computer peripherals. Our Flash memory solutions are incorporated in products from original equipment manufacturers, or OEMs, in each of these markets, including all of the top ten mobile phone OEMs, all of the top ten consumer electronics OEMs and all of the top ten automotive electronics OEMs. We license our Flash memory technology to semiconductor manufacturers who use this technology to develop and manufacture a variety of semiconductor solutions.

We are headquartered in Sunnyvale, California, with research and development, manufacturing and assembly operations in the United States, Middle East, Europe and Asia. We operate three Flash memory wafer fabrication facilities, or fabs and four assembly and test facilities. For financial information about geographic areas and for information with respect to our sales, refer to the information set forth in Item 7 Management s Discussion and Analysis of Financial Condition and Results of Operations, beginning on page 52, below.

We were originally organized as a Flash memory manufacturing venture of Advanced Micro Devices, Inc. (AMD) and Fujitsu Limited (Fujitsu) in 1993 named Fujitsu AMD Semiconductor Limited, or FASL. The primary function of FASL was to manufacture and sell Flash memory wafers to AMD and Fujitsu, who in turn converted the Flash memory wafers into finished Flash memory products and sold them to their customers. AMD and Fujitsu were also responsible for all research and development and marketing activities and provided FASL with various support and administrative services.

By 2003, AMD and Fujitsu desired to expand the operations of FASL to: achieve economies of scale; add additional Flash memory wafer fabrication capacity; include assembly, test, mark and pack operations; include research and development capabilities and include various marketing and administrative functions. To accomplish these goals, in 2003, AMD and Fujitsu reorganized our business as a Flash memory company called FASL LLC, later renamed Spansion LLC, by integrating the manufacturing venture with other Flash memory assets of AMD and Fujitsu. From this reorganization until the beginning of the second quarter of fiscal 2006, we manufactured and sold finished Flash memory devices to customers worldwide through our two sole distributors, AMD and Fujitsu. Since the beginning of the second quarter of fiscal 2006, we have sold our products directly to our customers, including customers not served solely by Fujitsu. We currently rely on Fujitsu Microelectronics Limited (FML), through its subsidiary Fujitsu Electronics Inc. (FEI, together with FML and Fujitsu Limited, Fujitsu) , to act as the largest distributor of our products to customers in Japan and also as a nonexclusive distributor throughout the rest of the world, other than Europe and the Americas with limited exceptions. We were reorganized from Spansion LLC into Spansion Inc., a Delaware corporation, in connection with our initial public offering in December 2005.

On March 18, 2008, we completed the acquisition of all of the outstanding shares of Saifun Semiconductor Ltd. (Saifun), a provider of intellectual property (IP) solutions for the non-volatile memory (NVM) market. Saifun licenses it IP to semiconductor manufacturers that use this technology to develop and manufacture a variety of stand-alone and embedded NVM products. The acquisition of Saifun provides an opportunity for us to expand our product portfolio and enter into the technology licensing business.

Table of Contents

Our mailing address and executive offices are located at 915 DeGuigne Drive, Sunnyvale, California 94088, and our telephone number is (408) 962-2500. References in this report to Spansion, we, us, our, or the Company shall mean Spansion Inc. and our consolidated subsidiar unless the context indicates otherwise. We post on the Investor Relations page of our Web site, *www.spansion.com*, a link to our filings with the Securities and Exchange Commission, or SEC, our Code of Ethics for our Chief Executive Officer, Chief Financial Officer, Corporate Controller and other Senior Finance Executives, our Code of Business Conduct, which applies to all directors and all our employees, and the charters of our Audit, Compensation, Finance and Nominating and Corporate Governance committees. Our filings with the SEC are posted as soon as reasonably practical after they are filed electronically with the SEC. Please note that information contained on our Web site is not incorporated by reference in, or considered to be a part of, this document. You can also obtain copies of these documents by writing to us at: Corporate Secretary, Spansion Inc., 915 DeGuigne Drive, Sunnyvale, California 94088, or emailing us at: *Corporate.Secretary@spansion.com*. These documents and filings are provided free of charge.

For fiscal 2008, our net sales were approximately $2.3 billion and our net loss was approximately $2.4 billion as compared with net sales of approximately $2.5 billion and net loss of approximately $263.5 million for fiscal 2007.

According to market research firm iSuppli, in 2008, we were responsible for approximately 38 percent of all NOR Flash memory net sales, making us the largest supplier of NOR Flash memory in the world. We were also one of the largest suppliers for the overall Flash memory market, with a 13 percent market share for 2008, based on end sales of our products. In 2007, based on iSuppli data, we were the largest supplier of NOR Flash memory, responsible for approximately 33 percent of all NOR Flash memory sales, and we were one of the largest suppliers for the overall Flash memory market, with a 12 percent market share, based on end sales of our products.

Creditor Protection Proceedings

On February 10, 2009, Spansion Japan Limited, a wholly-owned subsidiary of Spansion LLC (Spansion Japan), filed a proceeding under the Corporate Reorganization Law (Kaisha Kosei Ho) of Japan to obtain protection from Spansion Japan s creditors (the Spansion Japan Proceeding) and successively the Spansion Japan Proceeding was formally commenced on March 3, 2009 (the Commencement Date), when the Tokyo District Court entered the commencement order and appointed the incumbent represented director of Spansion Japan as trustee. On March 1, 2009 (the Petition Date), Spansion Inc., Spansion Technology LLC, Spansion LLC, Spansion International, Inc. and Cerium Laboratories LLC (the Debtors), each filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the Chapter 11 Cases). The Chapter 11 Cases, together with the Spansion Japan Proceeding are referred to collectively as the Creditor Protection Proceedings. Non-U.S subsidiaries that are not included in the Creditor Protection Proceedings continue to operate outside these Creditor Protection Proceedings.

Chapter 11 Cases

The Debtors continue to operate their businesses as debtors-in-possession under jurisdiction of the U.S. Bankruptcy Court and in accordance with the applicable provisions of the U.S. Bankruptcy Code and orders of the U.S. Bankruptcy Court. Under the U.S. Bankruptcy Code, the Debtors may assume, assume and assign, or reject certain executory contracts including unexpired leases, subject to the approval of the U.S. Bankruptcy Court and certain other conditions. Any reference to any such agreements or instruments and termination rights or a quantification of our obligations under any such agreements or instruments is qualified by any overriding rejection, repudiation or other rights the Debtors may have as a result of or in connection with the Creditor Protection Proceedings.

Table of Contents

As required under the U.S. Bankruptcy Code, the United States Trustee for the District of Delaware (Trustee) appointed an official committee of unsecured creditors on March 12, 2009 (U.S. Creditors Committee). In addition, a group purporting to hold substantial amounts of our publicly traded Senior Secured Floating Rate Notes due 2013 has organized (the Floating Rate Noteholders). The role of the U.S. Creditors Committee and the Floating Rate Noteholders in the Creditor Protection Proceedings may develop and change over the course of such proceedings.

The U.S. Bankruptcy Court has approved payment of certain of the Debtors pre-petition obligations, including, among other things, employee wages, salaries and benefits, and other business-related payments necessary to maintain the operation of our businesses. The Debtors have retained, with U.S. Bankruptcy Court approval, legal and financial professionals to advise the Debtors on the Chapter 11 Cases and certain other ordinary course professionals. From time to time, the Debtors may seek U.S. Bankruptcy Court approval for the retention of additional professionals.

Spansion Japan Proceeding

Unlike a Chapter 11 proceeding in the United States, the Spansion Japan Proceeding conducted under the Corporate Reorganization Law is a receivership proceeding, meaning that a court-appointed trustee takes over the operation of the company. The Japanese Court accepted Spansion Japan s proposal to appoint Mr. Masao Taguchi, Spansion Japan s incumbent representative director, as the trustee.

The Corporate Reorganization Law creates protections that Spansion Japan would not have under ordinary circumstances. For example, subject to the applicable laws, Spansion Japan may at its discretion assume or reject certain executory contracts in existence as of the Commencement Date, including unexpired leases, while the counterparty s termination rights on grounds that Spansion Japan has filed the reorganization proceeding are restricted. In addition, any liquidated damages arising from the rejection of such executory contracts will be treated as pre-petition obligations, so they are subject to the stay imposed pursuant to the Spansion Japan Proceeding. Thus, any reference to any such agreements, termination rights or a quantification of our obligations under any such agreements may be qualified by such overriding rejection or repudiation rights as Spansion Japan may have in connection with the Spansion Japan Proceeding.

The Japanese Court has approved payment by Spansion Japan of certain of its pre-petition obligations, including, among other things, business-related payments that fall within the scope of Spansion Japan s ordinary course of business. Spansion Japan has retained in the trustee s name, with the Japanese Court s approval, legal and financial professionals to advise the company on issues relating to the Spansion Japan Proceeding. However, Spansion Japan is subject to the general supervision of the Japanese Court and the court-appointed supervisory attorney (chosa i in) and is required to seek approvals, from time to time, from them on various issues relating to the proceeding. However, at any point during the Creditor Protection Proceedings, actions taken by either (i) Spansion Japan (at the direction of the Spansion Japan trustee or pursuant to orders of the Japanese Court or otherwise) or (ii) Spansion Inc. or Spansion LLC (pursuant to the order of the U.S Bankruptcy Court or otherwise), may adversely affect the ability of Spansion LLC and Spansion Japan to continue operating as a globally integrated unit from an operational perspective. For example, if Spansion LLC was required to transfer wafer production from the fabrication facilities owned and operated by Spansion Japan to Spansion LLC s Fab 25 or to a third party, or if sales of Spansion Products in Japan were no longer to be able to be conducted by Spansion Japan, our business would be materially adversely affected.

Circumstances Leading to the Commencement of Creditor Protection Proceedings

A variety of external economic factors have contributed to the decline in our operating performance, such as persistent oversupply in the Flash memory industry compounded by the global economic recession, which significantly reduced demand for our products in the fourth quarter of 2008 and continues to negatively impact current demand. These two factors are further complicated by our inability to obtain the additional external financing necessary to meet capital expenditure needs and operational costs in a market characterized by swift technological advances and constantly changing manufacturing processes.

Our strategy was historically based on aggressive revenue and market share growth, leveraging advanced technology, and low cost, high-volume manufacturing. In our 2006 long range planning cycle, forecasted revenue growth supported the construction of a $1.2 billion advanced wafer fabrication facility (SP1). Debt financing was arranged and construction on SP1 commenced in early 2007.

Although we continued to increase our NOR memory market segment share according to third-party industry sources, steep average selling price (ASP) declines during the first half of 2007 negatively affected revenue, profitability and operating cash flow. At that time, we anticipated an improvement in the market environment for the second half of 2007 and aggressively continued the construction of SP1 and incurred associated capital expenditures with the ultimate goal of significant cost reductions that would enhance our competitive position.

During the second half of 2007, the ASP environment stabilized relative to earlier in the year. However, we faced customer qualification issues resulting in a shortfall of anticipated revenue and increased inventory levels which contributed to our failure to meet financial performance targets in the second half of 2007. For fiscal 2007, cash flow from operations was $216.3 million, which was significantly lower than anticipated. Driven by the facilitization of SP1 and investments in our research and development facilities, our capital spending in 2007 was approximately $1.1 billion.

Our 2008 operating plan included capital expenditures of approximately $535.0 million, of which approximately 80 percent were expected to occur in the first half of the year in order to complete the phase 1 facilitization of SP1. Upon completion of the first phase, SP1 was anticipated to generate approximately $300 million in revenue in 2008.

In the first quarter of 2008, we lost liquidity in our investment in $121.9 million of AAA/Aaa rated auction rate securities (the ARS) because the auctions in which these ARSs were traded failed. Throughout the second and third quarters of 2008, the credit markets continued to deteriorate and we intensified our cash management efforts. Operationally, the ramp-up of SP1 was delayed due to slower than expected customer qualifications and a sharp decline in the Japanese wireless market. In the third quarter of 2008, we engaged investment bankers and capital restructuring advisors to evaluate the situation and to accelerate plans to improve liquidity. Multiple initiatives were launched and/or accelerated, including efforts to sell production facilities, raise capital and seek liquidity options for the ARS.

In the fourth quarter of 2008, the macroeconomic environment deteriorated significantly, causing a sharp decline in worldwide demand for consumer goods, and consequently a sharp reduction of demand for our products. Furthermore, continued tightening of credit availability and general market liquidity initiatives curtailed our ability to execute the liquidity initiatives launched in the third quarter of 2008. As these events unfolded, we intensified our strategic restructuring efforts to include, among other things, pursuing a potential sale of some or all of our assets. The sharp decline in demand, coupled with our inability to execute liquidity initiatives limited our ability to generate sufficient funding for our operations and meet our debt servicing requirements, ultimately leading to the Creditor Protection Proceedings.

The Creditor Protection Proceedings allow us to continue operating our business while continuing to pursue a sale or standalone reorganization process. There is no assurance that we will be successful in completing a sale or reorganization.

Developments Related to our Creditor Protection Proceedings

The Spansion Japan Proceeding and the Chapter 11 Cases constituted events of default under the instruments governing substantially all of the indebtedness issued or guaranteed by us. In addition, we may not be in compliance with certain other covenants under the indentures related to certain of our debt or lease instruments.

In February 2009, we implemented a workforce reduction of approximately 2,400 employees or 28 percent of the existing employees. In an effort to further reduce costs as we continued our restructuring efforts and explored various strategic alternatives.

On March 4, 2009, we received notice of a determination of the NASDAQ Listing Qualifications Department to delist our common stock from trading on NASDAQ Market because of the Chapter 11 Cases. On March 16, 2009, we received an additional notice of a determination for our failure to timely file our Annual Report on Form 10-K for the fiscal year ended December 28, 2008. On April 16, 2009, we received an additional notice of a determination that our failure to pay certain fees in accordance with NASDAQ Marketplace Rule 5210(d) is an additional basis for delisting our securities from the NASDAQ Global Select Market. On April 23, 2009, we attended a hearing to contest these delisting determinations. On May 5, 2009, NASDAQ denied our request for continued listing on The NASDAQ Stock Market and informed us that trading of shares of our common stock will be suspended effective at the open of business on Thursday, May 7, 2009. We do not intend to request a review of this decision, and expect NASDAQ to file an application on Form 25-NSE with the Securities and Exchange Commission to effect the delisting of our common stock. We expect that our common stock will be publicly traded on the Pink Sheets with ticker symbol SPSN.PK. However, because trading on the Pink Sheets requires a market maker to quote our common stock, trading on the Pink Sheets is not within our control and could be discontinued at any time if no market maker is willing to offer a quote.

In connection with developing a plan of reorganization under the Creditor Protection Proceedings, we have decided to pursue a standalone strategy focused on the market for embedded applications and licensing our intellectual property portfolio. As a result, we plan to pursue strategic alternatives for our wireless business.

For a discussion of certain risks and uncertainties related to the Debtors Creditor Protection Proceedings, please refer to Item 1A. Risk Factors in this Annual Report on Form 10-K. In addition, we can not assure that potential adverse publicity associated with the Creditor Protection Proceedings and the resulting uncertainty regarding our future prospects will not materially hinder our ongoing business activities and our ability to operate, fund and execute our business plan by impairing relations with existing and potential customers; negatively impacting our ability to attract, retain and compensate key executives and to retain employees generally; limiting our ability to obtain trade credit; and impairing present and future relationships with vendors and service providers. Accordingly, no assurance can be given as to what values, if any, will be ascribed in the Chapter 11 Cases to each of the respective creditor and equity security holder constituencies or what types or amounts of distributions, if any, they would receive. If certain requirements of the U. S. Bankruptcy Code are met, a plan of reorganization can be confirmed notwithstanding rejection by a company s equity security holders and notwithstanding the fact that such equity security holders do not receive or retain any property on account of their equity interests under the plan. Accordingly, we urge that appropriate caution be exercised with respect to existing and future investments in our common stock or other equity securities, or any claims relating to pre-petition liabilities.

Our Industry

Consumers are increasingly demanding access to digital content through sophisticated communications equipment, consumer electronic products and automotive electronics. People now expect to instantly access, store and interact with multimedia content, including photos, music, video and text files using such products as mobile phones, digital cameras, DVD players, digital HDTVs, set top boxes, or STBs, MP3 players, video players and automotive electronics such as navigation systems. The primary semiconductor component used to store and access this kind of digital content is Flash memory, and as a result, Flash memory has become one of the most critical components of electronic products. Most electronic products use Flash memory to store important program instructions, known as code, as well as multimedia or other digital content, known as data. Code storage allows the basic operating instructions, operating system software or program code to be retained, which allows an electronic product to function, while data storage allows digital content, such as multimedia files, to be retained. There are two major architectures of Flash memory in the market today: NOR Flash memory, which is used for code and data storage in mobile phones and primarily for code storage in consumer and industrial electronics and NAND Flash memory, which is primarily used for data storage in removable memory applications such as Flash memory cards and USB drives, embedded applications such as MP3 players, high-end mobile phones and solid state drives (SSD).

The Flash memory market can be divided into two major categories based on application: the integrated category, which includes wireless and embedded applications, and the removable storage category, which includes Flash memory cards and USB drives. Within the integrated category, portable, battery-powered communications applications are referred to as wireless and all other applications, such as consumer, industrial, telecommunications and automotive electronics, are referred to as embedded. Based on iSuppli data, the wireless portion of the integrated category, which primarily consists of mobile phones, was the leading market for NOR Flash memory in fiscal 2008. For products we manufacture, we have focused historically on the integrated category of the Flash memory market, including wireless and embedded applications. Global demand for NAND Flash memory is growing faster than that of NOR Flash memory largely on the strength of growth in multimedia consumer applications such as MP3 audio players, video players and high-end mobile phones together with removable storage in applications such as Flash memory cards for digital photography, USB storage for general purpose use and an emerging trend for SSD solutions to replace hard drives in portable computer applications.

Products

Our current product portfolio is based on NOR architecture, and ranges from 1 megabit to 2 gigabits with a broad array of interfaces and features. Historically our products were based on floating gate technology; however, the majority of our new product designs use MirrorBit technology. Our products have traditionally been designed to support code and data storage applications, and serve the wireless and/or embedded applications in the integrated category of the Flash memory market.

In fiscal 2006, our net sales for wireless applications, such as mobile phones, accounted for a majority our net sales. However, in fiscal 2007, the net sales for embedded applications, such as gaming, set top boxes, DVD players and automotive and industrial electronics, grew as a proportion of our total net sales and we began to see a shift toward a balance between net sales of wireless and embedded applications. In fiscal 2008, the net sales of these two applications each represented approximately 50 percent of our total net sales. Sales of MirrorBit technology-based products increased from approximately 50 percent of our total net sales in fiscal 2006 to approximately 71 percent in fiscal 2007 and to approximately 79 percent in fiscal 2008. The remainder of our sales has been based on floating gate technology.

In connection with developing a plan of reorganization under the Creditor Protection Proceedings, we are pursuing a standalone business strategy focused on the market for embedded applications and licensing our intellectual property portfolio. As a result, we plan to pursue strategic alternatives for our wireless business.

Technology

We have developed two Flash memory technologies, single-bit-per-cell floating gate technology and one-, two- or more-bit-per-cell MirrorBit technology, with current MirrorBit products based primarily on two-bits per cell. Our products that are designed primarily for code storage and execution applications are based on NOR Flash memory architecture and utilize either traditional floating gate technology or our MirrorBit technology. Our products that are designed primarily for data storage applications utilize our MirrorBit ORNAND architecture based on MirrorBit NOR technology. We are currently developing MirrorBit NAND2 cell technology, with higher performance and lower cost structure than MirrorBit ORNAND for products designed to support enhanced data storage functionality with higher performance and lower cost structure than MirrorBit ORNAND products. We have created and own fundamental intellectual property in both floating gate and the charge trapping technology used for MirrorBit products.

Table of Contents

Floating Gate Technology. Floating gate is the conventional memory cell technology that is utilized by most Flash memory companies today for both NOR and NAND products. A memory cell comprises a transistor having a source, a drain and a control gate to regulate the current flow between the source and the drain, thereby defining whether the memory cell stores a 0 bit or a 1 bit by storing charge in the cell storage medium. Floating gate is a memory cell technology in which the floating gate is a conductive storage medium between the control gate and the source and drain. It is referred to as a floating gate as it is electrically isolated or floating from the rest of the cell to ensure that stored charge does not leak away resulting in memory loss. We have created innovations in floating gate technology that have become industry standards, such as negative gate erase, single power supply and embedded programming algorithms, and we continue to hold a leading position in the NOR Flash memory segment with our products based on floating gate technology. Our products using floating gate technology are typically used for code storage in applications requiring very high read speeds or the ability to operate at extreme temperatures in harsh environments such as those found in automotive applications. The majority of low density applications also use products based on floating gate technology. In addition, floating gate technology intellectual property is a core component of our technology licensing business.

MirrorBit Technology. To achieve storage density of two bits per cell, we developed MirrorBit NOR technology. MirrorBit NOR technology stores two distinct charges in a single memory cell, with each charge equivalent to one bit of data thereby at least doubling the density, or storage capacity, of each memory cell and enabling higher density, lower cost products. This is made possible because MirrorBit technology stores charge in a nonconductive storage medium, silicon nitride, which eliminates the need for a floating gate, which is the conductive storage medium used by floating gate technology. While electrons stored in a particular location of a MirrorBit nitride cell stay in place, those stored in a floating gate diffuse, preventing the storage of more than one charge in a floating gate cell. This characteristic of MirrorBit technology that enables the storage of charge without it diffusing, moving or flowing throughout the storage region is referred to as charge trapping technology. The quantity of charge stored in each of the two charge storage locations in a MirrorBit cell can also be varied. The combination of the two charge locations and the ability to produce the equivalent of two bits of data in a single charge location results in a total of four bits per cell.

MirrorBit technology is the foundation for expanding our product roadmap with enhanced capabilities. For example, we are developing MirrorBit NAND2, a new MirrorBit cell technology that when combined in a NAND array architecture is designed to support enhanced performance and a process cost structure similar to floating gate NAND manufactured on the same process node. Also, we have leveraged our MirrorBit technology to expand our Flash memory offering into new areas such as Spansion EcoRAM solutions, which are designed to largely replace the use of DRAM with Flash memory based on MirrorBit technology in certain types of servers. We believe that Flash memory innovations made possible by MirrorBit technology will enable us to expand our opportunity in the Flash memory market through products and technology licensing.

Process Technology

Process technology refers to the particular method used to manufacture semiconductor integrated circuits. Like most semiconductor companies, we direct significant efforts toward the invention and development of manufacturing process technologies that achieve one or more of the following objectives: reduction of our manufacturing costs, improvement of our device performance and/or addition of product features and capabilities. We achieve these goals primarily through a combination of optimizing the number of process steps required to produce a product, and by reducing the scale or size of key structures in our integrated circuits such as the cells or transistors used to store charge and the surrounding circuits that manage and interface to these cells. We develop each process technology using particular design rules and refer to this as the process or technology node using nanometers as a measurement of length of certain critical structures in the process. By shrinking the transistors, we enable more transistors in the same area, which allows us to manufacture more bits per wafer at each successive process node, decreasing material cost per bit and increasing yield for a given density. During fiscal 2008, we offered products manufactured on technology nodes from 320-nanometer to 65-nanometer, utilizing MirrorBit and floating gate cell technology. We continue to manufacture products based on floating gate technology at process nodes from 320-nanometer to 110-nanometer. However, during fiscal 2008, the majority of our wafer production was focused on the manufacture of MirrorBit products using 110- and 90-nanometer process technology. We also manufactured MirrorBit ORNAND products and MirrorBit NOR products on 65-nanometer process technology.

Architecture

Flash memory architecture may be defined as the connection of cells in a memory array with circuits that give access to and manage these cells for read, write and erase operations. Traditionally, customers requiring fast read performance and superior reliability have chosen a NOR architecture for program code storage as well as for combined code and data storage purposes. Flash memory customers requiring higher densities, faster write speeds and lower costs mostly for removable data storage applications have typically chosen a NAND architecture. Our products have historically implemented a NOR architecture and therefore have fast random and sequential read, fast random write and high reliability. To address applications in the integrated category of the market that use products with a NAND architecture, we developed an architecture called MirrorBit ORNAND based on our MirrorBit NOR technology.

In the second half of fiscal 2008, we started manufacturing products based on our new MirrorBit Eclipse architecture, which provides high-performance code execution and fast write capability.

In June 2008, we announced plans for Spansion EcoRAM, a system solution developed to replace DRAM in certain types of computing servers. The combination of the fast read and write speed and low energy consumption of Spansion EcoRAM devices in combination with Spansion EcoRAM accelerator technology is designed to enable significant cost and performance improvements in computing data centers.

In September 2008, we announced plans for products based on a new generation of MirrorBit ORNAND architecture, which we refer to as MirrorBit NAND2. The new architecture, planned for introduction at the 43-nanometer process node, is expected to leverage new Flash memory cell technology in a ORNAND Flash memory array that requires 25 percent fewer mask layers than our 65-nanometer MirrorBit NAND technology and is expected to support faster read speed performance, faster write speed performance and lower cost. In addition the MirrorBit NAND2 architecture is designed to support applications serviced through potential independent third parties who may choose to license the technology from Spansion.

Starting at the 65-nanometer process node, both new and existing architectures, such as MirrorBit NOR and MirrorBit Eclipse, include a new capability we refer to as Built In Self Test, or BIST. BIST is available because a microcontroller is designed and built into our Flash memory die. Within a customers application, this microcontroller manages the Flash memory, replacing the previous use of fixed function circuits dedicated to this task. However, at the test stage of our manufacturing process we can utilize this same microcontroller to perform self-testing of the Flash memory die. This ability for the die to test itself enables the use of lower cost testers and also permits all die on a wafer to be tested simultaneously. The ability to test all die on a wafer simultaneously is particularly significant in combination with 300-millimeter manufacturing. When using BIST, the test time for a 300-millimeter wafer is similar to a 200-millimeter wafer when producing the same Flash memory die. However, a 300-millimeter wafer can produce more than twice the number of die, effectively doubling test throughput and cutting the test cost in half. Utilizing BIST in the manufacturing processes enables us to significantly reduce test cost and support additional cost savings over conventional test processes using more expensive testers.

Wireless Products

Our products for wireless applications, particularly for mobile phones, offer a combination of low power consumption with fast performance and competitive cost structure for a wide range of customer platforms and wireless applications with different interface requirements. Key wireless products include the following:

WS and NS Families. The WS and NS product families, with a 1.8 volt interface, are used for a broad range of mobile phones from low-end to higher-end with capabilities such as complex ring tones, enhanced color displays, higher resolution cameras and larger internal storage for multimedia content including music, videos and pictures. The WS and NS families, which include products based on floating gate and MirrorBit technology, combine a high performance burst-mode 1.8-volt interface, with Simultaneous Read/Write and Advanced Sector Protection features at 16-megabit to 512-megabit densities for code and data requirements. WS and NS products are usually combined with third-party SRAM, pSRAM or DRAM die in a single MCP to meet mobile phone memory needs.

PL and GL Families. The PL and GL product families, with a 3-volt interface, enable code and data applications in low-end and mid-range mobile phones. The PL and GL product families, which are manufactured using floating gate and MirrorBit technology, include products with a page-mode interface, simultaneous Read/ Write capability and Advanced Sector Protection at 16-megabit to 256-megabit densities for wireless applications providing scalable platforms for code and data applications. PL and GL products are usually combined with third-party SRAM and pSRAM die in a single MCP to meet mobile phone memory needs.

MS Family. The MS family, which includes 512-megabit to 2-gigabit density devices with a 1.8-volt interface, enables enhanced data applications in mid-range and higher-end mobile phones. The MS family, which is manufactured using ORNAND architecture based on MirrorBit NOR technology, includes an interface similar to floating gate NAND. MS products, on their own or together with code-optimized Flash memory products such as those from the WS and NS families, are usually combined with third-party low-power SDRAM die in a single MCP to meet mobile phone memory needs.

We have decided to pursue a standalone business strategy focused on the market for embedded applications and licensing our intellectual property portfolio. As a result, we plan to pursue strategic alternatives for our wireless business.

Embedded Products

We offer a variety of general purpose as well as highly optimized products to serve the diverse needs of the embedded portion of the integrated category. Key embedded products include the following:

AL and GL Families. The AL and GL product families address applications where high reliability coupled with low cost are important, including consumer, gaming, networking and telecommunications. The AL product family offers densities as low as 4 megabits, supports a simpler feature set and provides a standard interface for value-focused applications, such as DVD players. The GL product family offers densities up to 1 gigabit in production and includes a page-mode interface and Advanced Sector Protection to support high performance consumer applications, such as high-end STBs and digital video recorders, or DVRs. MirrorBit technology is utilized for the GL family, while both MirrorBit and floating gate technology are utilized for the AL family.

CD Family. The CD product family addresses automotive engine and transmission control applications, which require high reliability and feature rich, high performance solutions operating over wide temperature ranges. The CD product family combines a high performance burst-mode 2.5-volt interface, with Simultaneous Read/Write and Advanced Sector Protection at 16- and 32-megabit densities. Because engine and transmission control units must withstand extreme temperatures, this family operates at up to 145°C and is available in a fully tested die-only solution for incorporation into special customer modules. We use our floating gate technology to meet the extreme operating temperature range and very high reliability requirements of automotive Flash memory customers.

FL Family. The FL product family addresses the need for continued cost reduction in, for example, consumer electronics and industrial applications. The FL family utilizes our MirrorBit technology and a Serial Peripheral Interface with a low pin count package to provide low cost solutions at densities from 32 to 128 megabits.

Development Platforms

We provide development tools and subsystems to customers of our Flash memory products that help them easily and quickly design Flash memory devices into their integrated products. We assist these customers in prototyping their designs with our Flash memory devices by providing the necessary hardware development tools and platforms for design, development, verification, evaluation and programming. Our goal is to streamline and simplify the design and development cycle by providing consistent and comprehensive tools to support the design and development process, from initial system bring-up to final product deployment.

For example, our Productivity, Adaptive Communication & Entertainment, or PACE, development platform offers customers of our Flash memory products the benefit of utilizing our products on fully functional cell phone and PDA platforms running with multiple operating systems and with a variety of popular baseband and CPU chipsets. We believe this reference platform can remove significant design overhead and complexity from product development cycles. Additionally, PACE enables system tuning and optimization before final product release. PACE is used in generating benchmarks, creating reference designs, debugging software, integrating new hardware platforms and systems and prototyping next generation wireless architectures.

Together with our key partners, we created the Platform Independent Storage Module, or PISMO, memory interface standard. PISMO is used to create standard memory modules recommended for development platforms and we offer comprehensive support of our Flash memory products on PISMO modules. PISMO modules enable our partners and customers to significantly reduce system development and debugging time and the PISMO standard is supported by a large number of system and chipset companies. PISMO allows design and system validation of memory combinations before any MCP is produced, allowing system design and software development to start while the final product is being manufactured. Together with our partners, we offer a comprehensive set of personal computer and embedded development environments based on PISMO.

Other examples of our development tools include Spansion USB Programmer, or SUP, and a variety of devices models. SUP is a portable Flash programmer system used to program and verify our Flash memory devices. The SUP provides basic programming and verification functions in addition to the ability to exercise our advanced Flash memory features and enhancements all through the USB port of any personal computer or laptop.

Sales and Marketing

We market and sell our products worldwide under the Spansion trademark. Since the beginning of the second quarter of fiscal 2006, we have sold our products to our customers directly or through distributors. We rely on Fujitsu to act as our largest distributor in Japan and our nonexclusive distributor throughout the rest of the world, other than Europe and the Americas, with limited exceptions.

We market our products through a variety of direct and indirect channels. We focus on direct relationships with many of the top mobile phone and embedded Flash memory customers worldwide. We supplement this effort with programs designed to support design-in of our products on reference designs, which are typically used by a broad base of wireless handset manufacturers when choosing Flash memory solutions and selectively by embedded Flash memory customers. In addition, for embedded Flash memory customers, we focus our marketing efforts on providers of complementary silicon to ensure our products interoperate effectively with the most widely used components in various embedded applications.

Our marketing activities targeting customers, reference design houses and our potential partners include a combination of direct marketing activities such as trade shows, events and marketing collateral and indirect activities such as public relations and other marketing communications activities.

Customers

We serve our customers worldwide directly or through our distributors, including Fujitsu, who buy products from us and resell them to their customers, either directly or through third-party distributors. Customers for our products consist of OEMs, original design manufacturers, or ODMs, and contract manufacturers. Among those customers, Nokia Corporation accounted for approximately 18 percent and 10 percent of our net sales in fiscal

Table of Contents

2008 and fiscal 2007, respectively. For fiscal 2006, AMD accounted for approximately 13 percent of our net sales. For fiscal 2008, fiscal 2007 and fiscal 2006, Fujitsu accounted for approximately 29 percent, 35 percent and 36 percent of our net sales, respectively. We rely on Fujitsu to act as our largest distributor in Japan and as a nonexclusive distributor throughout the rest of the world, other than Europe and the Americas, with limited exceptions.

Original Equipment Manufacturers

OEMs consist primarily of foreign and domestic manufacturers of mobile phones, consumer electronics, automotive electronics and networking equipment companies, selected regional accounts and customers in other target applications.

Third-Party Distributors

Our third-party distributors typically resell to OEMs, ODMs and contract manufacturers. Sales through our direct distributors are typically made pursuant to agreements that provide return rights for discontinued products or for products that are not more than twelve months older than their manufacturing date code. In addition, some of our agreements with distributors may contain standard stock rotation provisions permitting limited levels of product returns. Our distribution agreement with Fujitsu grants limited stock rotation rights to Fujitsu and allows Fujitsu to provide similar limited rights to some of its distributors. However, to date, Fujitsu has not extended these rights to its distributors. Prior to December 2008, Spansion Japan recognized revenue on all its shipments to Fujitsu upon billing based on terms of the Spansion Fujitsu 2003 distribution agreement. In December 2008, Spansion Japan initiated a distribution agreement with a new distributor instead of selling directly through Fujitsu. Spansion Japan is employing a deferred revenue model for this distributor accounting for $0.9 million of the gross deferred revenue at December 28, 2008.

We generally warrant that products sold to our customers and our distributors will, at the time of shipment, be free from defects in workmanship and materials and conform to our approved specifications. Subject to specific exceptions, we offer a one-year limited warranty.

Research and Development

Research and development is critical to our success and is focused on process, product and system level development. We conduct our product and system engineering activities primarily in Sunnyvale, California and Kawasaki, Japan, with additional design and development engineering teams located in the United States, Europe and Asia. Our primary development focus is on MirrorBit products for the embedded category of the Flash memory market. We conduct our process development primarily in Sunnyvale, California, our Fab 25 facility located in Austin, Texas and our facilities in Aizu-Wakamatsu, Japan. Currently, we are developing new non-volatile memory process technologies with continuing refinement of our 65-nanometer process technology and plans for development of 45-nanometer and more advanced technology. In April 2009, we stopped further production of development wafers at our research and development manufacturing facility known as the Sub-micron Development Center, or SDC, in Sunnyvale, California, as part of our strategy to reduce research and development costs. We intend to create a restructuring plan that will include evaluation of all alternatives available to us for future research and development wafer production.

Our research and development expenses for fiscal 2008, fiscal 2007 and fiscal 2006 were approximately $431.8 million, $436.8 million, and $342.0 million, respectively. For more information, see Management s Discussion and Analysis of Financial Condition and Results of Operations.

Manufacturing

We own and operate seven manufacturing facilities, of which three, Fab 25, JV3 and SP1, are wafer fabrication facilities and four are assembly and test facilities. Fab 25 and JV3 are in production with 200-millimeter wafers and we began production of 300-millimeter wafers at SP1 in fiscal 2008.

Table of Contents

To augment our internal wafer fabrication capacity, we have foundry agreements with Semiconductor Manufacturing International Corporation, or SMIC, and Fujitsu Limited. We believe the arrangement with SMIC provides flexibility to support customer demand for advanced technology products if we are unable to support such demand from our own in house capacity. In addition, we believe the scale of 300-millimeter foundry manufacturing provides the ability to leverage the lower cost structure provided by such scale. Also, the deployment of leading edge technology in support of foundry manufacturing provides a more cost efficient solution for future research and development wafer production as an alternative to an in house dedicated research and development manufacturing facility for wafer production. We believe the arrangement with Fujitsu Limited, using our former JV1 and JV2 wafer fabrication facilities which we sold to them in April 2007, provides us with the ability to efficiently support the declining customer demand for legacy products on legacy production process nodes. However, in the future we may change the locations where our products are manufactured to reflect changes in customer demand. We have in the past, and may in the future, obtain foundry, subcontractor and other arrangements with third parties to meet demand.

The locations of our wafer fabrication facilities, the process technologies currently employed and the approximate clean room square footage are described in the table below.

Wafer Fabrication Facilities

Name/Location	**Wafer Size (diameter in millimeters)**	**Process Technology (in nanometers)**	**Approximate Clean Room Square Footage**
Austin, Texas			
Fab 25	200	65 to 110	114,000
Aizu-Wakamatsu, Japan			
JV3	200	110 to 170	120,000
SP1	300	65	95,000

The following table describes the location and approximate clean room square footage of our assembly and test facilities.

Assembly and Test Facilities

Location	**Approximate Clean Room Square Footage**
Bangkok, Thailand	26,597
Kuala Lumpur, Malaysia	20,350
Penang, Malaysia	50,275
Suzhou, China	16,528

Our manufacturing processes require many raw materials, such as silicon wafers, mold compound, substrates and various chemicals and gases, and the necessary equipment for manufacturing. We obtain these materials and equipment from a large number of suppliers located throughout the world.

Environmental Matters

Many of our facilities are located on properties or in areas with a long history of industrial activity. Prior to our reorganization in 2003, environmental audits were conducted for each of our manufacturing facilities. The audits described various conditions customary of facilities in our industry and, in particular, noted historical soil and groundwater contamination at our Sunnyvale, California facility arising from the leakage of chlorinated solvent storage tanks that previously had been located on this property. This property is listed on the U.S. Environmental Protection Agency s Superfund National Priorities List. AMD, as the former owner of the property, is investigating and remediating this contamination.

Table of Contents

In connection with our reorganization in 2003, each of AMD and Fujitsu agreed to indemnify us against losses arising out of the presence or release, prior to June 30, 2003, of hazardous substances at or from these and other sites they each contributed to us. Conversely, our subsidiary agreed to indemnify each of AMD and Fujitsu from and against liabilities arising out of events or circumstances occurring after June 30, 2003, in connection with the operation of our business. We also share some permits and facilities with AMD and Fujitsu. For example, our Aizu-Wakamatsu manufacturing facilities are located adjacent to other manufacturing facilities of Fujitsu. AMD and Fujitsu, on the one hand, and we, on the other, agreed to indemnify the other against liability arising from permit violations attributable to our respective activities. To the extent AMD and Fujitsu cannot meet their obligations under any of their indemnity agreements, or material environmental conditions arise, we may be required to incur costs to address these matters, which could have a material adverse effect on us.

We have made and will continue to make capital and other expenditures to comply with environmental laws, but we do not expect compliance with environmental requirements to result in material expenditures in the foreseeable future. Environmental laws and regulations are complex, change frequently and have tended to become more stringent over time factors that could alter the current outlook. See Risk Factors We are subject to a variety of environmental laws that could result in liabilities.

Competition

Our principal NOR Flash memory competitors are Numonyx B.V. and Samsung Electronics Co., Ltd. We increasingly compete with NAND Flash memory manufacturers where NAND Flash memory has the ability to replace NOR Flash memory in customer applications and as we develop data storage solutions based on MirrorBit NAND2 for the integrated category of the Flash memory market. Our principal NAND Flash memory competitors include Samsung Electronics Co., Ltd, Toshiba Corporation, Hynix Semiconductor Inc. and Numonyx B.V. In the future, our principal NAND Flash memory competitors may include Intel Corporation, Micron Technology, Inc., IM Flash Technology LLC (the joint venture between Intel Corporation and Micron Technology, Inc.) and SanDisk Corporation.

We believe Flash memory providers must possess the following attributes to remain competitive:

- strong relationships with OEMs, ODMs and contract manufacturers that are acknowledged leaders within their respective industries;
- discipline to continually reduce costs ahead of historically declining semiconductor market prices;
- strong market focus to identify emerging Flash memory applications;
- leadership in research and development;
- flexibility in manufacturing capacity and utilization so as to take advantage of industry conditions through market cycles;
- access to the financial resources needed to maintain a highly competitive technological position;
- focus on sustainable and profitable segments;
- the ability to establish and sustain strategic relationships and alliances with key industry participants; and
- rapid time to market for new products, measured by the time elapsed from first conception of a new product to its commercialization.

Employees

As of December 28, 2008, we had approximately 8,700 employees. All employees of our wholly owned Japanese subsidiary, Spansion Japan, except contract and temporary employees and those who are in managerial positions, are represented by the company union. In February 2009, we implemented a workforce reduction of approximately 2,400 employees or 28 percent of our existing employees.

Backlog

We generally manufacture and market standard lines of products. Consequently, a significant portion of our sales are made from inventory on a current basis. Sales are made primarily pursuant to purchase orders for current delivery or agreements covering purchases over a period of time. These orders or agreements may be revised or canceled without penalty. Generally, in light of current industry practice and experience, we do not believe that backlog information is necessarily indicative of actual sales for any succeeding period.

Intellectual Property and Licensing

Our success depends in part on our proprietary technology. While we attempt to protect our proprietary technology through patents, copyrights and trade secrets, we believe that our success will depend more upon technological expertise, continued development of new products, and successful cost reductions achievable by improving process technologies. In addition, we have access to intellectual property through certain cross-license arrangements with AMD and Fujitsu. There can be no assurance that we will be able to protect our technology or that competitors will not be able to develop similar technology independently. We currently have a number of United States and foreign patents and patent applications. There can be no assurance that the claims allowed on any patents we hold will be sufficiently broad to protect our technology, or that any patents will issue from any application pending or filed by us. In addition, there can be no assurance that any patents issued to us will not be challenged, invalidated or circumvented or that the rights granted thereunder will provide competitive advantages to us.

Rights to Intellectual Property

We rely on a combination of protections provided by contracts, including confidentiality and non-disclosure agreements, copyrights, patents, trademarks and common law rights, such as trade secrets, to protect our intellectual property. Our U.S. patents are potentially valid and enforceable for either 17 years from the date they were issued or 20 years from the date they were filed. Accordingly, some of our existing patents will only survive for a few more years while others will survive for approximately another 15 years. We do not believe that the expiration of any specific patent will have a material adverse effect on us. In addition, the duration of our valid and enforceable trademarks is indefinite.

AMD and Fujitsu have each contributed to us various intellectual property rights pursuant to an Amended and Restated Intellectual Property Contribution and Ancillary Matters Agreement. Under this agreement, we became owners, or joint owners with each of Fujitsu and AMD, of certain patents, patent applications, trademarks, and other intellectual property rights and technology. AMD and Fujitsu reserved rights, on a royalty-free basis, to practice the contributed patents and to license these patents to their affiliates and successors-in-interest to their semiconductor groups. AMD and Fujitsu each have the right to use the jointly-owned intellectual property for their own internal purposes and to license such intellectual property to others to the extent consistent with their non-competition obligations to us. Subject to our confidentiality obligations to third parties, and only for so long as AMD s and Fujitsu s ownership interests in us remain above specific minimum levels, we are obligated to identify any of our technology to each of AMD and Fujitsu, and to provide copies of and training with respect to that technology to them. In addition, we have granted a non-exclusive, perpetual, irrevocable, fully paid and royalty-free license of our rights in that technology to each of AMD and Fujitsu.

In connection with our reorganization in June 2003, we entered into separate patent cross-license agreements with each of AMD and Fujitsu in which we granted to AMD or Fujitsu, as applicable, and AMD or Fujitsu, as applicable, each granted to us, non-exclusive licenses under certain patents and patent applications of their semiconductor groups to make, have made, use, sell, offer to sell, lease, import and otherwise dispose of specific semiconductor-related products anywhere in the world. The patents and patent applications that are licensed are those with an effective filing date prior to the termination of our patent cross-license agreements. Each agreement will automatically terminate on the later of June 30, 2013 or the date AMD or Fujitsu, whichever is the other party to the agreement, sells its entire equity interest in us. Each agreement may be terminated by a party on a change in control of the other party or its semiconductor group. The licenses to patents under license at the time of the termination will survive until the last such patent expires.

Under each agreement, in cases where there is a change of control of us or the other party (AMD or Fujitsu, or each of their semiconductor groups, as applicable), the other party shall have the right to terminate the agreement (or to invoke the provisions described in this paragraph if the agreement had been previously terminated) by giving 30 days written notice within 90 days after receiving notice of the change of control. If so terminated, the rights, licenses and immunities granted under the agreement will continue solely with respect to those licensed patents that are entitled to an effective filing date that is on or before, and are licensed as of, the date of such change of control, and will continue until the expiration of the last to expire of such licensed patents. Moreover, with respect to circuit patents, which are patents (other than process patents) covering elements relating to electrical signals to achieve a particular function, the rights, licenses and immunities granted to the party undergoing the change of control are limited solely to:

i. each existing and pending product of such party as of the date of change of control;

ii. each existing and pending product of the acquiring third party of such party as of the date of change of control that would have been in direct competition with products described in (i) above; and

iii. successor products of products described in (i) and (ii) above provided such successor product is based substantially on the same technology.

We will no longer make royalty payments associated with licenses that survive the termination of the cross-license agreement. In fiscal 2008, fiscal 2007 and fiscal 2006, we incurred royalty expenses of approximately $3 million, $3 million and $6 million, respectively, to each of AMD and Fujitsu under their respective patent cross-license agreements. The royalty rate we pay to each of AMD and Fujitsu under our patent cross-license agreements with them was reduced from one percent of net sales of our products to 0.5 percent on October 1, 2005, and was further reduced to 0.3 percent on December 21, 2005. Following the conversion of our Class D common stock into Class A common stock, the royalty rate was further reduced to 0.15 percent and declined to $0 in November 2008 and thereafter.

We may be subject to claims that we are infringing intellectual property rights of third parties through the manufacture and sale of our products and the operation of our business. Therefore, absent negotiating our own license agreements with the third parties who own such intellectual property, we will be vulnerable to claims by such parties that our products or operations infringe such parties patents or other intellectual property rights.

We will continue to attempt to negotiate our own agreements and arrangements with third parties for intellectual property and technology that is important to our business, including the intellectual property that we previously had access to through our relationship with AMD. We will also attempt to acquire new patents as our success in negotiating patent cross-license agreements with other industry participants will depend in large part upon the strength of our patent portfolio relative to that of the third party with which we are negotiating. If the third-party benefits from an existing patent cross-license agreement with AMD, in many cases it will retain the rights that it has under that agreement even after we cease to be an AMD subsidiary, including rights to utilize the patents that AMD and Fujitsu transferred to us in connection with our reorganization as Spansion LLC in June 2003 and in connection with our initial public offering. In many cases, any such third party will also retain such rights to utilize any patents that have been issued to us or acquired by us subsequent to our reorganization and prior to our no longer being a subsidiary of AMD. Our negotiating position will therefore be impaired, because the other party will already be entitled to utilize a large number, or even all, of our patents, while we will no longer have the right to utilize that party s patents. As a result, we may be unable to obtain access to the other party s patent portfolio on favorable terms or at all. Similarly, with respect to licenses from third parties for technology incorporated in our products or software used to operate our business, we may not be able to negotiate prices with these third parties on favorable terms. Third parties also may file lawsuits against us seeking damages (potentially including treble damages) or an injunction against the sale of our products that incorporate allegedly infringed intellectual property or against the operation of our business as presently conducted. Such litigation could be extremely expensive and time-consuming. We cannot assure you that such litigation would be avoided or successfully concluded. The award of damages, including material royalty payments, or the entry of an injunction against the manufacture or sale of some or all of our products, would have a material adverse effect on us, or that we will continue to file or prosecute patent applications in the United States or abroad.

Patents and Patent Applications

As of December 28, 2008, we had 1,376 U.S. patents and 683 foreign patents as well as 638 patent applications pending in the United States. We expect to file future patent applications in both the United States and abroad on significant inventions, as we deem appropriate. In addition, under our cross-license agreement with AMD, AMD granted us the right to use a substantial number of patents that AMD owns. Similarly, under our cross-license agreement with Fujitsu, Fujitsu also granted us the right to use a substantial number of patents that Fujitsu owns. There can be no assurance that the claims allowed on any patents we hold will be sufficiently broad to protect our technology, or that any patents will issue from any application pending or filed by us.

ITEM 1A. RISK FACTORS

Investing in our common stock involves a high degree of risk. You should carefully consider the risks described below and the other information in this annual report. If any of the following risks materialize, our business could be materially harmed, and our financial condition and results of operations could be materially and adversely affected. As a result, the price of our common stock could decline, and you could lose all or part of your investment.

Certain statements in this report contain words such as could, expect, may, anticipate, will, believe, intend, estimate, plan, envision, seek and other similar language and are considered forward-looking statements. These statements are based on our current expectations, estimates, forecasts and projections about the operating environment, economies and markets in which we operate. In addition, other written or oral statements that are considered forward-looking may be made by us or others on our behalf. These statements are subject to important risks, uncertainties and assumptions, that are difficult to predict and actual outcomes may be materially different. The Creditor Protection Proceedings will have a direct impact on our business and exacerbate these risks and uncertainties. In particular, the risks described below could cause actual events to differ materially from those contemplated in forward-looking statements. Unless otherwise required by applicable securities laws, we do not have any intention or obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

The risks described below are not the only ones facing us. Additional risks not currently known to us or that we currently believe are immaterial may also impair our business, results of operations, financial condition and liquidity.

Risks Related to the Creditor Protection Proceedings

On February 10, 2009 (the Proceeding Date), Spansion Japan Limited, a wholly-owned subsidiary of Spansion LLC (Spansion Japan), filed a proceeding under the Corporate Reorganization Law (*Kaisha Kosei Ho*) of Japan to obtain protection from Spansion Japan s creditors (the Spansion Japan Proceeding), and successively the Spansion Japan proceeding was formally commenced on March 3, 2009 (the Commencement Date), when the Tokyo District Court entered the commencement order and appointed the incumbent representative director of Spansion Japan as trustee. On March 1, 2009 (the Petition Date), Spansion Inc., Spansion Technology LLC, Spansion International, Inc. and Cerium Laboratories LLC each filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code in the U.S. Bankruptcy Court for the District of Delaware (the Chapter 11 Cases, together with the Spansion Japan Proceeding, the Creditor Protection Proceedings). The following risks relate to the Creditor Protection Proceedings.

Table of Contents

Our business, operations and financial position are subject to the risks and uncertainties associated with the Creditor Protection Proceedings.

For the duration of the Creditor Protection Proceedings, our business, operations and financial position will be subject to the risks and uncertainties associated with such proceedings. These risks, without limitation and in addition to the risks otherwise noted in this report, are comprised of:

Strategic risks, including risks associated with our ability to:

- stabilize the business to maximize the chances of preserving all or a portion of the enterprise;
- develop a comprehensive restructuring plan and narrow our strategic focus on the embedded solutions business in an effective and timely manner;
- resolve ongoing issues with creditors and other third parties whose interests may differ from ours;
- obtain creditor, court and any other requisite third party approvals for a comprehensive restructuring plan;
- successfully implement a comprehensive restructuring plan; and
- identify, pursue and successfully execute strategic alternatives for our wireless business.

Financial risks, including risks associated with our ability to:

- generate cash from operations and maintain adequate available cash;
- if necessary, arrange for sufficient debtor-in-possession or other financing during the Creditor Protection Proceedings;
- continue to maintain currently approved intercompany lending and transfer pricing arrangements and ongoing deployment of cash resources throughout the Company in connection with ordinary course intercompany trade obligations and requirements;
- continue to maintain our cash management arrangements; and obtain any further approvals from the court, creditors or other third parties, as necessary to continue such arrangements;
- raise capital to satisfy claims, including our ability to sell assets to satisfy claims against us;
- if necessary, obtain sufficient exit financing to support a comprehensive restructuring plan;

maintain research and development investments; and

realize full or fair value for any assets or business we may divest as part of a comprehensive restructuring plan.

Operational risks, including risks associated with our ability to:

continue operating as a globally integrated unit with Spansion Japan due to actions taken by either (i) Spansion Japan (at the direction of the Spansion Japan trustee or pursuant to orders of the Japanese Court or otherwise) or (ii) Spansion Inc. or Spansion LLC (pursuant to the order of the U.S. Bankruptcy Court or otherwise);

attract and retain customers despite the uncertainty caused by the Creditor Protection Proceedings;

avoid reduction in, or delay or suspension of, customer orders as a result of the uncertainty caused by the Creditor Protection Proceedings, including uncertainty surrounding future research and development expenditures and manufacturing plans;

maintain market segment share, as our competitors move to capitalize on customer concerns;

operate our business effectively in consultation with the court and creditors;

Table of Contents

actively and adequately communicate on and respond to events, media and rumors associated with the Creditor Protection Proceedings that could adversely affect our relationships with customers, suppliers, partners and employees;

retain and incentivize key employees and attract new employees;

retain, or if necessary, replace major suppliers on acceptable terms;

avoid disruptions in our supply chain as a result of uncertainties related to our Creditor Protection Proceedings; and

maintain current relationships with strategic alliance partners.

Procedural risks, including risks associated with our ability to:

obtain court orders or approvals with respect to motions we file from time to time, including motions seeking extensions of the applicable stays of actions and proceedings against us, or obtain timely approval of transactions outside the ordinary course of business, or other events that may require a timely reaction by us or present opportunities for us;

resolve the claims made against us in such proceedings for amounts not exceeding our recorded liabilities subject to compromise;

prevent third parties from obtaining court orders or approvals that are contrary to our interests, such as the termination or shortening of the exclusivity period in the United States during which we can propose and seek confirmation of a comprehensive restructuring plan or the conversion of our Chapter 11 Cases to Chapter 7 liquidation cases; in which case the U.S. Bankruptcy Court would sell the Debtors non-exempt property and distribute the proceeds to our creditors in accordance with the U.S. Bankruptcy Code; and

reject, repudiate or terminate contracts.

Because of these risks and uncertainties, and because we have not yet completed a comprehensive restructuring plan, we cannot predict the ultimate outcome of the restructuring process, or predict or quantify the potential impact on our business, financial condition or results of operations. The Creditor Protection Proceedings provide us with a period of time to attempt to stabilize our operations and financial condition and develop a comprehensive restructuring plan. However, it is not possible to predict the outcome of these proceedings and, as such, the realization of assets and discharge of liabilities are each subject to significant uncertainty. Accordingly, substantial doubt exists as to whether we will be able to continue as a going concern. Our independent registered public accounting firm has included a going-concern explanatory paragraph in its report on our consolidated financial statements for the year ended December 28, 2008.

Our continuation as a going concern is dependent upon, among other things, our ability to develop, obtain confirmation or approval and implement a comprehensive restructuring plan; generate cash from operations, maintain adequate cash on hand and obtain sufficient other financing during the Creditor Protection Proceedings and thereafter; resolve ongoing issues with creditors and other third parties; and achieve profitability. Even assuming a successful emergence from the Creditor Protection Proceedings, we cannot assure you as to the overall long-term viability of our operational reorganization, including our ability to generate sufficient cash to support our operating needs, fulfill our transformation objectives and fund continued investment in technology and product development without incurring substantial indebtedness that will hinder our ability to compete, adapt to market changes and grow our business in the future. In addition, our ability to raise long-term financing will in part depend on the fair market valuation of our business at emergence and the amount of leverage already inherent in our balance sheet. The application of fresh start accounting principles in accordance with U.S. GAAP upon eventual emergence from bankruptcy may result in valuations of long-lived and intangible assets that are less than the carrying value of those assets as currently reflected in the financial statements, which may further hinder our ability to raise financing at or subsequent to emergence from the Creditor Protection Proceedings.

Table of Contents

In addition, a long period of operating under Creditor Protection Proceedings may exacerbate the potential harm to our business and further restrict our ability to pursue certain business strategies or require us to take actions that we otherwise would not. These challenges are in addition to business, operational and competitive challenges that we would normally face absent the Creditor Protection Proceedings.

Continuing or increasing pressure on our business, cash and liquidity could materially and adversely affect our ability to fund and restructure our business operations, react to and withstand the current sustained and expanding economic downturn, as well as volatile and uncertain market and industry conditions, and develop and implement a comprehensive restructuring plan. Additional sources of funds may not be available.

Our restructuring measures in recent years have not provided adequate relief from the significant pressures we are experiencing. As global economic conditions dramatically worsened beginning the fourth quarter of 2008, we experienced significant pressure on our business and faced a deterioration of our cash and liquidity, globally as well as on a regional basis, as customers across all businesses suspended, delayed and reduced their expenditures. The extreme volatility in the financial, foreign exchange, equity and credit markets globally and the expanding economic downturn and potentially prolonged recessionary period have compounded the situation. We are continuing to experience significant pressure due to global economic conditions and additionally, we are seeing further impact to our business as a result of the Creditor Protection Proceedings.

Historically, we have deployed our cash throughout the enterprise, through a variety of intercompany borrowing and transfer pricing arrangements. As a result of the Creditor Protection Proceedings, cash in the various jurisdictions is generally available to fund operations in the particular jurisdictions, but generally is not freely transferable between jurisdictions or regions, other than as highlighted in Liquidity and Capital Resources in the Management s Discussion and Analysis of Financial Condition and Results of Operations section of this report. Thus, there is greater pressure and reliance on cash balances and generation capacity in specific regions and jurisdictions.

We cannot assure you that any further required court approvals for any future financing transactions will be obtained. Furthermore, we cannot assure you that we will be able to continue to maintain ongoing deployment of cash resources throughout our organization worldwide in connection with ordinary course intercompany trade obligations. If our subsidiaries are unable to pay dividends or provide us with loans or other forms of financing in sufficient amounts, or if we continue to have restrictions on the transfer of cash between us and our subsidiaries, including those imposed by courts, foreign governments and commercial limitations on transfers of cash, our cash position would likely be under considerable pressure and our liquidity and our ability to meet our obligations would be adversely affected.

Access to additional funds from liquidity-generating transactions, debtor-in-possession financing arrangements or other sources of external financing may not be available to us and, if available, would be subject to market conditions and certain limitations including court approvals and other requisite approvals by other third parties. We cannot provide any assurance that our net cash requirements will be as we currently expect and will be sufficient for the successful development, approval and implementation of a comprehensive restructuring plan.

We must continue to restructure and transform our business and the assumptions underlying these efforts may prove to be inaccurate. We may not be able to successfully develop, obtain all requisite approvals for, or implement a comprehensive restructuring plan. Failure to obtain the requisite approvals for, or failure to successfully develop and implement our comprehensive restructuring plan within the time granted by the courts would probably lead to the liquidation of all of our assets.

Pursuant to the ongoing Creditor Protection Proceedings we are working on developing a comprehensive restructuring plan. In order to successfully emerge from the Creditor Protection Proceedings, our senior management will be required to spend significant amounts of time developing a comprehensive restructuring plan, instead of focusing exclusively on business operations. Although we have engaged consultants to assist with the restructuring process, we cannot be certain that the diversion of management s attention from business operations will not adversely affect us.

In connection with the transformation of our business, we have made, and will continue to make, judgments as to whether we should further reduce, relocate or otherwise change our workforce. Costs incurred in connection with workforce reduction efforts may be higher than estimated. In addition, our workforce reduction efforts may impair our ability to achieve our current or future business objectives. Any further workforce efforts including reductions may not occur on the expected timetable and may result in the recording of additional charges.

Further, we have made, and will continue to make, judgments as to whether we should limit investment in, exit, or dispose of certain parts of our business. The Creditor Protection Proceedings and the development of a comprehensive restructuring plan may result in the sale or divestiture of assets, but we cannot assure you that we will be able to complete any sale or divestiture on acceptable terms or at all. Any decision by management to further limit investment in, or exit or dispose of parts of our business may result in the recording of additional charges. As part of our review of our restructured business, we look at the recoverability of tangible and intangible assets. Future market conditions may indicate these assets are not recoverable based on changes in forecasts of future business performance and the estimated useful life of these assets, and this may trigger further write-downs of these assets which may have a material adverse effect on our business, results of operations and financial condition.

We also must obtain the approvals of the respective courts and creditors. For example, we must submit our restructuring plan for the Spansion Japan Proceeding by August 2009 and we may not receive the requisite approvals for such plan from the Tokyo District Court. Similarly, we must submit a comprehensive restructuring plan for the Chapter 11 Cases and we may not receive the requisite approvals from the U.S. Bankruptcy Court. Even if we do receive the requisite approvals, a dissenting holder of a claim against us may challenge and ultimately delay the final approval and implementation of a comprehensive restructuring plan. If we are not successful in developing a comprehensive restructuring plan, or if we are successful in developing it but do not receive the requisite approvals, it is unclear whether we would be able to restructure our business and what distributions, if any, holders of claims against us would receive. Should the applicable stay or moratorium period and any subsequent extension thereof not be sufficient to develop and implement a comprehensive restructuring plan or should such plan not be approved by creditors and the courts and, in any such case, we or Spansion Japan lose the protection of such stay or moratorium, substantially all of our debt obligations will become due and payable immediately, or subject to acceleration, creating an immediate liquidity crisis that in all likelihood would lead to the liquidation of all of our assets, in which case it is likely that holders of claims would receive substantially less favorable treatment than they would receive if we were able to emerge as a viable, reorganized entity.

Trading in our securities during the pendency of the Creditor Protection Proceedings is highly speculative and poses substantial risks. Our common stock has been delisted from The NASDAQ Stock Market, which makes our common stock significantly less liquid, and may have little or no value.

Our securities may have little or no value. Trading prices are very volatile and may bear little or no relationship to the actual recovery, if any, by the holders under any eventual court-approved comprehensive restructuring plan. In such plan, our existing securities, in particular our common stock, may be cancelled and holders may receive no payment or other consideration in return, or they may receive a payment or other consideration that is less than the trading price or the purchase price of such securities.

On May 5, 2009, The NASDAQ Stock Market informed us that trading of shares of our common stock has been suspended effective at the open of business on Thursday, May 7, 2009. We expect NASDAQ to file an application on Form 25-NSE with the Securities and Exchange Commission to effect the delisting of our common stock.

We have been informed that a market maker will enable our common stock to be traded on the Pink Sheets under the symbol SPSN.PK. However, because trading on the Pink Sheets requires a market maker to quote our common stock, trading on the Pink Sheets is not within our control and could be discontinued at any time if no market maker is willing to offer a quote.

Consequently, the liquidity of our common stock could be greatly impaired, not only in the number of shares which could be bought and sold, but also through difficulties in obtaining price quotations, reduction in our coverage by security analysts and in the news media and lower prices for our securities than might otherwise be attained. These circumstances could have an adverse effect on the ability of an investor to sell any shares of our common stock as well as on the selling price for such shares.

Furthermore, over-the-counter (OTC) transactions involve risks in addition to those associated with transactions on a stock exchange. Many OTC stocks trade less frequently and in smaller volumes than stocks listed on an exchange. Accordingly, OTC-traded shares are less liquid and are likely to be more volatile than exchange-traded stocks.

During the pendency of the Creditor Protection Proceedings, our financial results may be volatile and may not reflect historical trends.

During the pendency of the Creditor Protection Proceedings, we expect our financial results to continue to be volatile as asset impairments, asset dispositions, restructuring activities, contract terminations and rejections and claims assessments may significantly impact our consolidated financial statements. As a result, our historical financial performance is likely not indicative of our financial performance following the filing of the Creditor Protection Proceedings. Further, we may sell or otherwise dispose of assets and liquidate or settle liabilities, with court approval, for amounts other than those reflected in our historical financial statements. Any such sale or disposition and any comprehensive restructuring plan could materially change the amounts and classifications reported in our historical consolidated financial statements, which do not give effect to any adjustments to the carrying value of assets or amounts of liabilities that might be necessary as a consequence of a comprehensive restructuring plan.

U.S. and Japanese laws impair the ability of claimants to take action against us under our existing contracts, including the outstanding notes and related guarantees by us. Subject to limited exceptions, all actions are stayed and ultimate recoveries cannot be determined at this time.

Generally, in connection with the Creditor Protection Proceedings, all actions to enforce or otherwise effect payment or repayment of our liabilities preceding the Petition Date for the Debtors and the Commencement Date for Spansion Japan, as well as pending litigation against us, are stayed. The U.S. Bankruptcy Code provides for all actions and proceedings against the U.S. Debtors to be stayed while the Chapter 11 Cases are pending, and the Corporate Reorganization Law of Japan similarly provides for all actions and proceedings against Spansion Japan to be stayed while the Spansion Japan Proceeding is pending.

In particular, the rights of the indenture trustees (who represent the holders of debt securities issued by us) to enforce remedies for defaults under our debt securities are subject to the stays, and could be delayed or limited by the restructuring provisions of applicable creditor protection legislation. Moreover, we have not made, and will likely continue not to make, any payments under our various debt securities during the Creditor Protection Proceedings, and holders of our debt securities may not be compensated for any delays in payment of principal, interest and costs, if any, including the fees and disbursements of the trustees.

A comprehensive restructuring plan, if successfully developed and accepted by the requisite majorities of each affected class of creditors and approved by the relevant courts, would be binding on all creditors within each affected class, including those that did not vote to accept the proposal. The ultimate recovery to creditors and security holders, if any, will not be determined until a comprehensive restructuring plan is developed and approved. At this time we do not know what values, if any, will be prescribed pursuant to any such plan to the securities held by each of these constituencies, or what form or amounts of distributions, if any, they may receive on account of their interests.

Table of Contents

If we are unable to attract and retain qualified personnel at reasonable costs, we may not be able to achieve our business objectives, and our ability to successfully emerge from the Creditor Protection Proceedings may be harmed.

We are dependent on the experience and industry knowledge of our senior management and other key employees to execute our current business plans and lead us, particularly during the Creditor Protection Proceedings and throughout the development and implementation of a comprehensive restructuring plan. Competition for certain key positions and specialized technical and sales personnel in the high-technology industry remains strong. Our deteriorating financial performance, along with the Creditor Protection Proceedings and workforce reduction create uncertainty that has led to an increase in unwanted attrition, and additional challenges in attracting and retaining new qualified personnel. We are at risk of losing or being unable to hire talent critical to a successful restructuring and ongoing operation of our business. Our ability to retain and attract critical talent is restricted in part by the Creditor Protection Proceedings that, among other things, limit our ability to implement a retention program or take other measures to attract new hires to the Company or motivate employees to remain with us. Our future success depends in part on our continued ability to hire, assimilate in a timely manner and retain qualified personnel, particularly in key senior management positions. If we are not able to attract, recruit or retain qualified employees (including as a result of headcount and salary reductions), we may not have the personnel necessary to develop and implement a comprehensive restructuring plan, and our business, results of operations and financial condition could be materially adversely impacted.

Our ability to independently manage our business is restricted during the Creditor Protection Proceedings, and steps or actions in connection therewith may require the approval of the respective courts, the creditors and the U.S. Trustee.

Pursuant to the various court orders and statutory regimes to which we are subject during the Creditor Protection Proceedings, some or all of the decisions with respect to our business may require consultation with, review by or ultimate approval of one or all of the respective courts in two jurisdictions, the U.S. general unsecured creditors committee and the Floating Rate Noteholders. The lack of independence and the related consulting and reporting requirements are expected to significantly extend the amount of time necessary for us to take necessary actions and conclude and execute on decisions, and may make it impossible for us to take actions that we believe are appropriate and necessary. We cannot assure you that the courts, the U.S. Creditors Committee, other creditors or the Floating Rate Noteholders will support our positions on matters presented to the courts in the future, or on any comprehensive restructuring plan, once developed and proposed. Disagreements between us and these various third parties could protract the Creditor Protection Proceedings, negatively impact our ability to operate and delay our emergence from the Creditor Protection Proceedings.

Transfers or issuances of our equity, or a debt restructuring, may impair or reduce our ability to utilize our net operating loss carryforwards and certain other tax attributes in the future.

Pursuant to U.S. tax rules, a corporation is generally permitted to deduct from taxable income in any year net operating losses (NOLs) carried forward from prior years. We have NOL carryforwards in the U.S. of approximately $657.0 million as of December 28, 2008. Our ability to utilize these NOL carryforwards could be subject to a significant limitation if we were to undergo an ownership change for purposes of Section 382 of the Internal Revenue Code of 1986, as amended, during or as a result of the Creditor Protection Proceedings. During the Creditor Protection Proceedings, the U.S. Bankruptcy Court has entered an order that places certain restrictions on trading in our common stock. However, we can provide no assurances that these limitations will prevent an ownership change or that our ability to utilize our NOL carryforwards may not be significantly limited as a result of our restructuring.

In fiscal 2008, NOL carryfowards in the U.S. of approximately $382.3 million were nonutilizable against future taxable income due to the company under going an ownership change for purposes of section 382 of the Internal Review Code of 1986, as amended. This resulted in the reduction of gross deferred tax assets in the amount of $133.8 million.

Table of Contents

A restructuring of our debt pursuant to the Creditor Protection Proceedings may give rise to cancellation of indebtedness or debt forgiveness (COD), which if it occurs would generally be non-taxable. If the COD is non-taxable, we will be required to reduce our NOL carryforwards and other attributes such as capital loss carryforwards and tax basis in assets, by an amount equal to the non-recognized COD. Therefore, it is possible that, as a result of the successful completion of a comprehensive restructuring plan, we will have a reduction of NOL carryforwards and/or other tax attributes in an amount that cannot be determined at this time and that could have a material adverse effect on our financial position.

Risks Related to our Financial Condition

If we cannot generate sufficient operating cash flows and obtain external financing, we may be materially adversely affected.

As of December 28, 2008, we held cash and cash equivalents of $116.4 million and marketable securities of approximately $94.0 million. Our marketable securities consist solely of auction rate securities, auctions for which have not occurred since February 2008. Our capital expenditures, together with ongoing operating expenses, have been a substantial drain on our cash flows and have decreased our cash balances. In fiscal 2008, we increased cost cutting activities, including: salary reductions; cutting capital spending; freezing headcount; cutting research and development projects; and reducing administrative expenses. Many of these measures will not materially affect our cash outlays until fiscal 2009 or later. Some cost cutting activities may require initial cost outlays before the cost reductions are realized. We cannot assure you that we will be able to achieve anticipated expense reductions. If our expense reduction efforts are unsuccessful, our operating results and business may be materially adversely affected.

Additional funds from liquidity-generating transactions, debtor-in-possession financing arrangements or other sources of external financing may not be available to us. Such financing would be subject to certain limitations, including court approvals and other requisite approvals by other third parties. Our inability to obtain needed financing or to generate sufficient cash from operations may require us to abandon projects or curtail capital expenditures, or may have an adverse effect on our restructuring process. If we cannot generate sufficient operating cash flows or obtain external financing, we would be materially adversely affected.

Financial market conditions may impede access to or increase the cost of financing operations and investments.

The volatility and disruption in the capital and credit markets has reached unprecedented levels in recent months. These changes in U.S. and global financial and equity markets, including market disruptions and tightening of the credit markets, compounded by us being subject to the Creditor Protection Proceedings, may make it more difficult for us to obtain financing for our operations or investments or increase the cost of obtaining financing, which would materially adversely affect us.

We are party to several debt instruments for which, as a result of the Creditor Protection Proceedings, an event of default has occurred. In connection with our restructuring, we may enter into debt arrangements in the future, each of which may subject us to restrictive covenants which could limit our ability to operate our business.

As of December 28, 2008, we had an aggregate principal amount of approximately $1.5 billion in outstanding debt, almost all of which became due and immediately payable upon events of default triggered by the occurrence of recent events related to the Creditor Protection Proceedings. During the Creditor Protection Proceedings and upon emergence from them, we will likely need to incur additional indebtedness through arrangements such as credit agreements or term loans that may include restrictions and covenants that are similar or more restrictive than the covenants in our existing debt instruments. These restrictions and covenants limit, and any future covenants and restrictions likely will limit our ability to respond to market conditions, to make capital investments or to take advantage of business opportunities. Any debt arrangements we enter into would likely require us to make regular interest payments, which could adversely affect our results of operations.

Table of Contents

We cannot assure you that in the future we will be able to satisfy or comply with the provisions, covenants, financial tests and ratios of our debt instruments, which can be affected by events beyond our control. If we fail to satisfy or comply with such provisions, covenants, financial tests and ratios, or if we disagree with our lenders about whether or not we are in compliance, we cannot assure you that we will be able to obtain waivers for any future failures to comply with our financial covenants or any other terms of the debt instruments. We also may not be able to obtain amendments which will prevent a failure to comply in the future. A breach of any of the provisions, covenants, financial tests or ratios under our debt instruments could result in a default under the applicable agreement, which in turn could trigger cross-defaults under other debt instruments, any of which would materially adversely affect us.

Our investments in marketable debt securities are subject to risks which may cause losses and affect the liquidity of these investments.

As of December 28, 2008, our marketable securities totaled approximately $94.0 million and consisted solely of AAA/Aaa securities with auction reset features (auction rate securities or ARS) whose underlying assets are student loans and are substantially backed by the U.S. government Federal Family Education Loan Program. During 2008, we experienced failed auctions of our ARS and we cannot assure you that any future auctions would be successful. In November 2008, we accepted an offer to participate in an auction rate securities settlement from UBS Bank USA (UBS), providing us the right, but not the obligation, to sell to UBS up to 100 percent of our ARS at par, commencing June 30, 2010. Our right to sell the ARS to UBS commencing June 30, 2010 through July 2, 2012 represents a put option for a payment equal to the par value of the ARS. Upon acceptance of the offer with UBS, we elected to measure the put option under the fair value option of SFAS No. 159 and recorded $27.5 million as the fair value of the put option asset as of December 28, 2008 and transferred our ARS from available-for-sale to trading investment securities as long term assets. The transfer to trading securities reflects management s intent to exercise our put option during the period June 30, 2010 to July 3, 2012. In the third and fourth quarters of fiscal year 2008, we recognized other-than-temporary impairment charges of approximately $27.9 million, which were largely offset by the recording of the put option. To the extent market conditions result in changes in the fair value of our ARS, those conditions will also cause the fair value of our put option to change by a comparable offsetting amount.

The put option is subject to a number of risks. Given the substantial dislocation in the financial markets and among financial services companies, we cannot assure you that UBS will ultimately have the ability to repurchase our ARS at par, or at any other price during the put period described above. We will be required to periodically assess the economic ability of UBS to meet that obligation in assessing the fair value of the rights. Moreover, if we choose to not exercise or UBS is unable to honor the put option, our ability to liquidate our investments in the near term may be limited, and our ability to fully recover the carrying value of our investments may be limited or non-existent. If issuers of these securities are unable to successfully close future auctions or their credit ratings deteriorate, we may in the future be required to record further impairment charges on these investments. It could take until the final maturity of the underlying notes (up to 39 years) to realize our investments recorded value. We can provide no assurance as to when these investments will again become liquid or as to whether we may ultimately have to recognize additional impairment charges in our results of operations with respect to these investments. Delays in liquidating these securities in the future could have a material adverse effect on us.

For more information on the accounting for ARS, please see Fair Value of Marketable Securities section in Item 7 Management s Discussion and Analysis of Financial Condition and Results of Operations and also Note 17 of the Notes to Consolidated Financial Statements in this Annual Report.

On December 29, 2008, we entered into a Credit Line Agreement with UBS that provides up with an aggregate amount of $85 million in the form of an uncommitted revolving line of credit, which is secured by the auction rate securities we hold (the UBS Credit Line). The UBS Credit Line also provides, among other things, that (i) UBS may demand full or partial payment of the credit line at its sole discretion and without cause at any time; and (ii) UBS may at any time in its sole discretion terminate and cancel the credit line; provided, however, that UBS is required to provide us alternative financing on substantially similar terms, unless the demand right was exercised as a result of certain specified events, of which the Creditor Protection Proceedings is one, or the customer relationship between UBS and us is terminated for cause by UBS. On December 29, 2008, we borrowed approximately $74.8 million under the UBS Credit Line. The Creditor Protection Proceedings constituted an event of default under the UBS Credit Line.

Sustained decrease in our market capitalization may be an indicator, under accounting principles generally accepted in the United States, of a potential future impairment of long lived tangible and intangible assets including goodwill which could result in significant charges to earnings.

During fiscal 2008, we experienced a sustained, significant decline in our stock price which resulted in our market capitalization falling below the recorded value of our consolidated net assets. Under accounting principles generally accepted in the United States, we were required to record an impairment charge because changes in circumstances or events (of which one of the several indicators of impairment that was considered jointly is a significant and other than temporary decrease in the our market capitalization) indicated that the carrying values of such assets exceeded their fair value and were not recoverable. This impairment of our net assets resulted in a charge to earnings. A further decline in our market capitalization could result in additional impairment charges, which could further materially and adversely affect our financial results.

Risks Related to our Business

The demand for our products depends in large part on continued growth in the industries into which they are sold. A decline in the markets served by any of these industries, or a decline in demand for Flash memory products in these industries, would have a material adverse effect on our results of operations.

Sales of our Flash memory products are dependent upon consumer demand for mobile phones, consumer electronics such as set top boxes and DVD players, automotive electronics, and industrial electronics such as networking equipment, personal computers and personal computer peripheral equipment such as printers and gaming systems. Sales of our products are also dependent upon the inclusion of increasing amounts of Flash memory content in some of these products.

In fiscal 2008, sales of our products were divided between wireless applications, such as mobile phones, and the combination of consumer and industrial applications such as gaming, set top boxes, DVD players, automotive and industrial electronics. For fiscal 2008, sales for wireless applications and consumer and industrial applications accounted for approximately 50 percent of our total net sales each, as compared to 54 percent and 45 percent, respectively for fiscal 2007, and 60 percent and 40 percent, respectively for fiscal 2006 This represented a shift from fiscal 2007 and fiscal 2006 when sales for wireless applications accounted for a majority of our sales. As a result of the credit market crisis, including uncertainties with respect to financial institutions and global capital markets, increases in energy costs and other macroeconomic challenges, consumer and corporate spending may be modified, delayed or reduced.

Our sales in fiscal 2008 were more heavily weighted in a category of products where the market may be declining. If demand for mobile phones, other consumer products or industrial products in the integrated category of the Flash memory market decline, or if our sales are below industry analysts expectations, our business could be materially adversely affected. Also, if the functionality of successive generations of such products does not require increasing Flash memory density or if such products no longer require Flash memory due to alternative technologies or otherwise, our operating results would be materially adversely affected.

Our business has been characterized by an average selling price that declines over time, which can negatively affect our results of operations.

As a semiconductor manufacturing company, our financial results are primarily dependent upon the difference between our average selling price per product and our average costs per product. Generally, we endeavor to maintain or increase our average selling price while lowering our average costs, by improving our product mix, and selling more units. Historically, the selling prices of our products has decreased during the products lives, and we expect this trend to continue. When our selling prices decline, our net sales and gross margins also decline unless we are able to compensate by selling more units thereby reducing our manufacturing costs per product or introducing and selling new, higher margin products with higher densities and/or advanced features. If the average selling price for our products continues to decline, our operating results could be materially adversely affected.

During downturns, periods of extremely intense competition, or the presence of oversupply in the industry, the selling prices for our products has declined at a high rate over relatively short time periods as compared to historical rates of decline. We are unable to predict selling prices for any future periods and may experience unanticipated, sharp declines in selling prices for our products. When such pricing declines occur, we may not be able to mitigate the effects by selling more or higher margin units, or by reducing our manufacturing costs. In such circumstances, our operating results could be materially adversely affected.

The Flash memory market is highly cyclical and has experienced severe downturns that have materially adversely affected, and may in the future materially adversely affect, our business.

The Flash memory market is highly cyclical and is currently experiencing, and in the past has experienced severe downturns, generally as a result of wide fluctuations in supply and demand, constant and rapid technological change, continuous new product introductions and price erosion. Our financial performance has been, and may in the future be, adversely affected by these downturns. We have incurred substantial losses in past downturns, and as a result of the current downturn, due principally to:

- substantial declines in selling prices, particularly due to competitive pressures and an imbalance in product supply and demand;
- a decline in demand for end-user products that incorporate our products; and
- lower than expected demand in the distribution channels such as mobile phone OEMs.

Our historical financial information does not necessarily indicate what our results of operations, financial condition or cash flows will be in the future. If our net sales decline in the future, or if these or other similar conditions continue or occur again in the future, we would likely be materially adversely affected.

Our forecasts of customer demand for our products may be inaccurate, which could result in excess inventory and cause us to record write-downs that would adversely affect our gross margins.

We rely on our ability to forecast inventory and production mix in order to meet customer demand and produce requisite amounts of our products in order to fill current orders and future orders. Customer demand for our products may be difficult to predict because customers may change their inventory practices on short notice for any reason or they may cancel or defer product orders. The volatility and disruption in the capital and credit markets may make it more difficult for us to forecast demand because our customers may be increasingly focused on cash preservation and tighter inventory management. Finally, the uncertainty caused by the Creditor Protection Proceedings may also impact customer demand.

To forecast demand and value inventory, management considers, among other factors, the inventory on hand, historical customer demand data, backlog data, competitiveness of product offerings, market conditions and product life cycles. Historically, we have generally used a six-month demand forecast in assessing the salability of inventory on hand and did not value inventory in excess of six months of forecasted demand. Beginning in the second quarter of fiscal 2008, as part of a strategy to efficiently manage our new production capacity and to maintain strategic inventory levels of certain products, we have built and valued certain inventory to meet estimated demand as much as twelve months into the future.

If we anticipate future demand or market conditions to be less favorable than our previous projections, additional inventory write-downs may be required and would be reflected in cost of sales in the period the write-down is made. This would have a negative impact on our gross margin in that period. While we believe our understanding of the end markets we serve provides us with the ability to make reliable forecasts, we may be unable to forecast accurately. If we inaccurately forecast customer demand, it could result in excess or obsolete inventory that would reduce our profit margins, which would materially adversely affect us.

Any future business combinations, divestitures, acquisitions or mergers expose us to risks, including the risk that we may not be able to successfully integrate these businesses or achieve expected operating synergies.

During the Creditor Protection Proceedings we will, and upon emergence from them we may periodically, consider strategic transactions. We may evaluate acquisitions, divestitures, joint ventures, alliances or co-production programs as opportunities arise and we may be engaged in varying levels of negotiations with third parties at any time. We may not be able to effect transactions and if we enter into transactions, we also may not realize the benefits we anticipate. Moreover, the integration of companies that have previously been operated separately involves a number of risks. Consummating any acquisitions, divestitures, joint ventures, alliances or co-production programs could result in the incurrence of additional transaction-related expenses, as well as unforeseen contingent liabilities, which could materially adversely affect us.

We have lost rights to key intellectual property arrangements because we are no longer a beneficiary of AMD s patent cross-license agreements and other licenses, which creates a greatly increased risk of patent or other intellectual property infringement claims against us.

As a subsidiary of Advanced Micro Devices, Inc. (AMD) until our initial public offering in December 2005, we were the beneficiary of AMD s intellectual property arrangements with third parties, including patent cross-license agreements with other major semiconductor companies such as Intel, Motorola and IBM, and licenses from third parties for technology incorporated in our products and software used to operate our business. We are no longer a subsidiary of AMD. As a result, we may be subject to claims that we are infringing intellectual property rights of third parties through the manufacture and sale of our products and the operation of our business. Therefore, absent negotiating our own license agreements with the third parties who own such intellectual property, we will be vulnerable to claims by such parties that our products or operations infringe such parties patents or other intellectual property rights.

We may attempt to negotiate our own agreements and arrangements with third parties for intellectual property and technology that are important to our business, including the intellectual property that we previously had access to through our relationship with AMD. We may also attempt to acquire new patents as our success in negotiating patent cross-license agreements with other industry participants will depend in large part upon the strength of our patent portfolio relative to that of the third party with which we are negotiating. In many cases, third parties also have rights to utilize any patents that have been issued to us or acquired by us between the dates of our reorganization in 2003 and our initial public offering in 2005 or, in some cases, between the dates of our reorganization in 2003 and the conversion of the Class D common stock in 2006. Our negotiating position may therefore be impaired, because the other party will already be entitled to utilize a large number of our patents, while we will no longer have the right to utilize that party s patents. As a result, we may be unable to obtain access to the other party s patent portfolio on favorable terms or at all. Similarly, with respect to licenses from third parties for technology incorporated in our products or software used to operate our business, we may not be able to negotiate prices with these third parties on terms as favorable to us as those previously available to us because we are no longer able to take advantage of AMD s size and purchasing power. These parties, and other third parties with whom AMD had no prior intellectual property arrangement, may file lawsuits against us seeking damages (potentially including treble damages) or an injunction against the sale of our products that incorporate allegedly infringed intellectual property or against the operation of our business as presently conducted. Such litigation could be extremely expensive and time consuming. We cannot assure you that such litigation would be avoided or successfully concluded. The award of damages, including material royalty payments, or the entry of an injunction against the manufacture or sale of some or all of our products, would have a material adverse effect on us.

A significant market shift to NAND architecture would materially adversely affect us.

Flash memory products are generally based on either NOR or NAND architecture. To date, our Flash memory products have been based on NOR architecture which are typically produced at a higher cost-per-bit than NAND-based products. We have developed our MirrorBit ORNAND and MirrorBit Eclipse architectures to address certain portions of the integrated category of the Flash memory market served by NAND-based products, but we cannot be certain that our MirrorBit ORNAND- or Eclipse-based products will satisfactorily address those market needs.

In each of the last five years from 2004 to 2008, industry sales of NAND-based Flash memory products increased as a percentage of total Flash memory sales compared to sales of NOR-based Flash memory products, resulting in NAND vendors in aggregate gaining a greater share of the overall Flash memory market and NOR vendors in aggregate losing overall market share. In 2008, according to iSuppli, total sales for the Flash memory market reached approximately $17.9 billion, of which approximately 34 percent was classified as sales of NOR-based Flash memory products and approximately 66 percent was classified as sales of NAND-based Flash memory products. iSuppli estimates that sales of NAND-based Flash memory products declined by approximately 15 percent from 2007 to 2008 and will grow at a 5 percent compound annual growth rate from 2008 to 2013, while sales of NOR-based Flash memory products declined by approximately 21 percent from 2007 to 2008 and will decline by approximately 12 percent compound annual rate from 2008 to 2013. We expect the Flash memory market trend of decreasing market share for NOR-based Flash memory products relative to NAND-based Flash memory products to continue in the foreseeable future.

Moreover, the removable storage category of the Flash memory market, which is predominantly served by floating gate NAND vendors, is expected to constitute a significant portion of the Flash memory market for the foreseeable future. As mobile phones and other consumer electronics become more advanced, they will require higher density Flash memory to meet the increased data storage requirements associated with music downloads, photos and videos. Because storage requirements will increase to accommodate data-intensive applications, OEMs may increasingly choose higher density floating gate NAND-based Flash memory products over MirrorBit NOR-, ORNAND- or Eclipse-based Flash memory products for their applications. If this occurs and OEMs continue to prefer floating gate NAND-based products over those of MirrorBit NOR-, ORNAND or Eclipse-based products for their applications, we may be materially and adversely affected. Moreover, some of our competitors are able to manufacture floating gate NAND-based Flash memory products on 300-millimeter wafers produced in much larger capacity fabs than our SP1 fab or the wafer manufacturing fabs of our third party wafer foundry. In addition, some of our competitors may choose to utilize more advanced manufacturing process technologies than we may have available to offer products competitive to ours at a lower cost. If floating gate NAND vendors continue to increase their share of the Flash memory market, our market share may decrease, which would materially adversely affect us.

In addition, even if products based on NAND architecture are unsuccessful in displacing products based on NOR architecture, the average selling price for our products may be adversely affected by a significant decline in the price for NAND-based products. Such a decline may result in downward price pressure in the overall Flash memory market affecting the price we can obtain for our NOR-based products, which would adversely affect us. We believe such downward pricing pressure was a factor in the significant declines in the selling prices of our products in 2007 and 2008. If the prices for NAND products do not improve, or continue to decline, we may be materially adversely affected.

We cannot be certain that our substantial investments in research and development will lead to timely improvements in technology or that we will have sufficient resources to invest in the level of research and development that is required to remain competitive.

In order to compete, we are required to make substantial investments in research and development for design, process technologies and production in an effort to design and manufacture advanced Flash memory products. For example, in fiscal 2008 and fiscal years 2007 and 2006, our research and development expenses were approximately $ 431.8 million, $436.8 million and $342.0 million, respectively, or approximately 19, 17 and 13 percent, respectively, of our net sales.

Currently, we are developing new non-volatile memory process technologies, including 45-nanometer process technologies. We cannot assure you that we will have sufficient resources to maintain the level of investment in research and development that is required for us to remain competitive, which could materially adversely affect us. Further, we cannot assure you that our investments in research and development will result in increased sales or competitive advantage, which could adversely affect our operating results.

If we fail to successfully develop, introduce and commercialize new products and technologies or to accelerate our product development cycle, we may be materially adversely affected.

Our success depends to a significant extent on the development, qualification, production, introduction and acceptance of new product designs and improvements that provide value to Flash memory customers. Our ability to develop and qualify new products and related technologies to meet evolving industry requirements at prices acceptable to our customers and on a timely basis affects our competitiveness in our target markets. If we are delayed in developing or qualifying new products or technologies, we could be materially adversely affected.

Competitors may introduce new memory or other technologies that may make our Flash memory products uncompetitive or obsolete.

Our competitors are working on a number of new technologies, including FRAM, MRAM, polymer, charge trapping and phase-change based memory technologies. One of our competitors began shipping products based on phase-change based memory technology in 2008. If such products are successfully developed and commercialized as a viable alternative to MirrorBit or floating gate Flash memory, these other products could pose a competitive threat to existing Flash memory companies, including us. In addition, some of Saifun s licensees and customers are our competitors or work with our competitors and have licensed Flash memory intellectual property associated with charge trapping technology from Saifun. Use of this charge trapping intellectual property or use of independently developed charge trapping Flash memory technology by our competitors, if successfully developed and commercialized, may allow these competitors to develop Flash memory technology that may compete with our proprietary MirrorBit technology.

If we fail to successfully develop products based on our new MirrorBit ORNAND, MirrorBit Eclipse or MirrorBit NAND2 architectures, or if there is a lack of market acceptance of these products, our future operating results would be materially adversely affected.

We are attempting to position ourselves to address the increasing demand for data optimized Flash memory by offering higher density, lower cost and more versatile products based on our new MirrorBit ORNAND, MirrorBit Eclipse and MirrorBit NAND2 architectures. The success of these architectures requires that we timely and cost effectively develop, manufacture and market products based on these architectures that are competitive with floating gate NAND-based Flash memory solutions. While we have made some progress on developing and commercializing products based on these architectures, we may not be able to continue to do so in accordance with our product development plans or at a rate and cost structure required for us to remain competitive. If we fail to continue to develop and commercialize products based on these architectures on a timely basis at a competitive cost structure, our future operating results would be materially adversely affected. Furthermore, if market acceptance of products based on our MirrorBit architectures occurs at a slower rate than we anticipate, our ability to compete will be reduced, and we would be materially adversely affected. If we do not achieve market acceptance of these architectures or subsequent MirrorBit products, our future operating results would be materially adversely affected.

If we fail to successfully develop new applications and markets for our products our future operating results would be materially adversely affected.

We are developing new applications and opportunities for our products beyond our traditional customer base and in some cases plan to deploy our Flash memory solutions beyond current Flash memory markets. We expect these new applications to grow future net sales, future margin or a combination of both. However, some of these opportunities require that we are successful in creating, marketing, gaining customer acceptance of and deploying these new system architectures into a customer base where we do not have a historic business relationship and where our solution is required to replace established and proven solutions. In some cases our solutions rely on third parties to contribute a significant and necessary component of the solution without which the solution is nonviable. If we are unsuccessful in our attempts to bring new products to market, experience significant delays in generating sales, fail to establish the value of this solution or face competition from third parties or incumbent suppliers that result in lower margins than expected, then our future operating results would be materially adversely affected.

Our reliance on third-party manufacturers entails risks that could materially adversely affect us.

We have in the past and plan in the future to obtain foundry, subcontractor and other arrangements with third parties to meet demand. Foundry services suppliers, from which we may obtain foundry services in the future, include Fujitsu Microelectronics Limited (as a result of the sale of our JV1/JV2 manufacturing facilities in April 2007) and Semiconductor Manufacturing International Corporation from which we may obtain foundry services in the future. We also use independent contractors to perform some of the assembly, testing and packaging of our products. Third-party manufacturers are often under no obligation to provide us with any specified minimum quantity of product. We depend on these manufacturers to allocate to us a portion of their manufacturing capacity sufficient to meet our needs, to produce products of acceptable quality and at acceptable manufacturing yields and to deliver those products to us on a timely basis at acceptable prices. We also rely on these manufacturers to invest capital into their facilities to meet our needs. Given the Creditor Protection Proceedings and the current volatility and disruption in the capital and credit markets worldwide, we cannot assure you that they will make the investments in their facilities previously contemplated. We cannot assure you that these manufacturers will be able to meet our near-term or long-term manufacturing requirements and may not be able to attain qualification from our customers. In addition, any significant change in the payment terms we have with our key suppliers could adversely affect us.

These manufacturers also make products for other companies, including certain of our competitors, and/or for themselves and could choose to prioritize capacity for themselves or other customers beyond any minimum guaranteed amounts, reduce deliveries to us or, in the absence of price guarantees, increase the prices they charge us on short notice, such that we may not be able to pass cost increases on to our customers. The likelihood of this occurring may be greater as a result of the Creditor Protection Proceedings. Because it could take several quarters or more to establish a relationship with a new manufacturing partner, we may be unable to secure an alternative supply for specific products in a short timeframe or at all at an acceptable cost to satisfy our production requirements. In addition, we may be required to incur additional development, manufacturing and other costs to establish alternative sources of supply. Other risks associated with our increased dependence on third-party manufacturers include: their ability to adapt to our proprietary technology, reduced control over delivery schedules, quality assurance, manufacturing yields and cost, lack of capacity in periods of excess demand, misappropriation of our intellectual property, reduced ability to manage inventory and parts and risks associated with operating in foreign countries. If we are unable to secure sufficient or reliable suppliers of wafers or obtain the necessary assembling, testing and packaging services, our ability to meet customer demand for our products may be adversely affected, which could have a material adverse effect on us.

Industry overcapacity could require us to take actions which could have a material adverse effect on us.

Semiconductor companies with their own manufacturing facilities and specialist semiconductor foundries, which are subcontractors that manufacture semiconductors designed by others, have added significant capacity in recent years. In 2008, the significant excess capacity led to oversupply and a downturn in the memory industry. The contraction of the worldwide economy, especially in the fourth quarter of 2008, further compounded industry over capacity. Continuing manufacturing overcapacity in the industry is having a material adverse effect on us. Furthermore, fluctuations in the growth rate of industry capacity relative to the growth rate in demand for Flash memory products can contribute to cyclicality in the Flash memory market, which may in the future negatively impact our selling prices and materially adversely affect us.

It is difficult to predict future growth or decline in the markets we serve, making it very difficult to estimate requirements for production capacity. If our target markets do not grow as we anticipate, we may under-utilize our manufacturing capacity. This may result in write-downs or write-offs of inventories and losses on products the demand for which is lower than we anticipate. In addition, during periods of industry overcapacity, customers do not generally order products as far in advance of the scheduled shipment date as they do during periods when our industry is operating closer to capacity, which can exacerbate the difficulty in forecasting capacity requirements.

Many of our costs are fixed. Additionally, pursuant to some of our subcontractor and foundry arrangements with third parties we may incur and pay penalties, according to which we have agreed to pay for a certain amount of product even if we do not accept delivery of all of such amount. Accordingly, during periods in which we under-utilize our manufacturing capacity as a result of reduced demand for some of our products, our costs cannot be reduced in proportion to the reduced net sales for such periods. When this occurs, our operating results are materially adversely affected.

Our customers ability to change booked orders may lead to excess inventory.

Because our manufacturing processes require long lead times, we use indicators such as booking rates in conjunction with other business metrics, to schedule production in our fabrication facilities. Consequently, when customers change orders booked with us, our planned manufacturing capacity may be greater or less than actual demand, resulting in less than optimal inventory levels. When this occurs, we adjust our production levels but such adjustments may not prevent our production of excess inventory in environments when bookings are strong. As a result, our business may be materially adversely affected.

Intense competition in the Flash memory market could materially adversely affect us.

Our principal NOR Flash memory competitors are Numonyx B.V. and Samsung Electronics Co., Ltd. Additional significant NOR Flash memory competitors include Silicon Storage Technology, Inc., Macronix International Co., Ltd., Toshiba Corporation and Sharp Electronics Corp.

We increasingly compete with NAND Flash memory manufacturers where NAND Flash memory has the ability to replace NOR Flash memory in customer applications and as we develop data storage solutions based on our MirrorBit ORNAND, MirrorBit Eclipse and MirrorBit NAND2 architectures for the integrated category and select portions of the removable category of the Flash memory market. Our principal NAND Flash memory competitors include Samsung Electronics Co., Ltd, Toshiba Corporation, Hynix Semiconductor Inc. and Numonyx. In the future our principal NAND Flash memory competitors may include Intel Corporation, Micron Technology, Inc., IM Flash Technology LLC, the joint venture between Intel and Micron Technology, Inc. and SanDisk Corporation.

The Flash memory market is characterized by intense competition. The basis of competition is cost, selling price, performance, quality, customer relationships and ability to provide value-added solutions. In particular, in the past, our competitors have aggressively priced their products, which resulted in a decreased selling prices for our products in the first half of fiscal 2007 and adversely impacted our results of operations. Some of our competitors, including Samsung, Toshiba and Sharp, are more diversified than we are and may be able to sustain lower operating margins in their Flash memory business based on the profitability of their other, non-Flash

Table of Contents

memory businesses. In addition, capital investments by competitors have resulted in substantial industry manufacturing capacity, which may further contribute to a competitive pricing environment. Some of our competitors are able to manufacture floating gate NAND-based Flash memory products on 300-millimeter wafers produced in much larger capacity fabs than we may have access to or may choose to utilize more advanced manufacturing process technologies than we will have to offer products competitive to ours at a lower cost. Moreover, products based on our MirrorBit ORNAND-, MirrorBit Quad-, MirrorBit Eclipse- and MirrorBit NAND2-based architectures may not have the price, performance, quality and other features necessary to compete successfully for these applications.

We expect competition in the market for Flash memory devices to intensify as existing manufacturers introduce new products, new manufacturers enter the market, industry-wide production capacity increases and competitors aggressively price their Flash memory products to increase market share. The competition we face may also intensify, particularly in light of the Creditor Protection Proceedings, if our competitors, who may have greater financial resources than us, increase their focus on the Flash memory products, or segments of the Flash memory markets, that generate a significant portion of our net sales.

Competition also may increase if NOR memory vendors merge, if NAND memory vendors acquire NOR businesses or other NAND businesses, or if our competitors otherwise consolidate their operations. Furthermore, we face increasing competition from NAND Flash memory vendors in some portions of the integrated Flash memory market.

To compete successfully, we must decrease our manufacturing costs and develop, introduce and sell products at competitive prices that meet the increasing demand for greater Flash memory content in mobile phones, consumer electronics, automotive and other applications. If we are unable to compete effectively, we could be materially adversely affected.

Unless we maintain manufacturing efficiency, we may not become profitable and our future profitability could be materially adversely affected.

The Flash memory industry is characterized by rapid technological changes. For example, new manufacturing process technologies using smaller feature sizes and offering better performance characteristics are generally introduced every one to two years. The introduction of new manufacturing process technologies allows us to increase the functionality of our products while at the same time optimizing performance parameters, decreasing power consumption and/or increasing storage capacity. In addition, the reduction of feature sizes enables us to produce smaller chips offering the same functionality and thereby considerably reduces the costs per bit. In order to remain competitive, it is essential that we secure the capabilities to develop and qualify new manufacturing process technologies. For example, our leading Flash memory products must be manufactured at 65-nanometer and more advanced process technologies and on 300-millimeter wafers. If we are delayed in transitioning to these technologies and other future technologies, we could be materially adversely affected. As a result of the Creditor Protection Proceedings and in conjunction with developing a plan of reorganization, we may be forced to shut down or abandon current plans for our manufacturing facilities. These actions would likely exacerbate this risk.

Manufacturing our products involves highly complex processes that require advanced equipment. Our manufacturing efficiency is an important factor in our profitability, and we cannot be sure that we will be able to maintain or increase our manufacturing efficiency to the same extent as our competitors. For example, we continuously modify our manufacturing processes in an effort to improve yields and product performance and decrease costs. We are continuing to transition products to 65-nanometer process technology for the manufacture of some of our products. During periods when we are implementing new process technologies, manufacturing facilities may not be fully productive. We may fail to achieve acceptable yields or may experience product delivery delays as a result of, among other things, capacity constraints, delays in the development of new process technologies, changes in our process technologies, upgrades or expansion of existing facilities, impurities or other difficulties in the manufacturing process. Any of these occurrences could adversely impact our relationships with customers, cause harm to our reputation in the marketplace, cause customers to move future business to our competitors or cause us to make financial concessions to our customers.

Improving our manufacturing efficiency in future periods is dependent on our ability to:

- develop advanced process technologies and advanced products that utilize those technologies;
- successfully transition to 65-nanometer and more advanced process technologies;
- continue to reduce test times;
- ramp product and process technology improvements rapidly and effectively to commercial volumes across our facilities;
- achieve acceptable levels of manufacturing wafer output and yields, which may decrease as we implement more advanced technologies; and
- maintain our quality controls and rely upon the quality and process controls of our suppliers.

If we cannot adequately protect our technology or other intellectual property in the United States and abroad, through patents, copyrights, trade secrets, trademarks and other measures, we may lose a competitive advantage and incur significant expenses.

We rely on a combination of protections provided by contracts, including confidentiality and non-disclosure agreements, copyrights, patents, trademarks and common law rights, such as trade secrets, to protect our intellectual property. However, we cannot assure you that we will be able to adequately protect our technology or other intellectual property from third-party infringement or from misappropriation in the United States and abroad. Any patent owned or licensed by us or issued to us could be challenged, invalidated or circumvented or rights granted under these patents or licenses may not provide a competitive advantage to us. Furthermore, patent applications that we file may not result in issuance of a patent or, if a patent is issued, the patent may not be issued in a form that is advantageous to us. Despite our efforts to protect our intellectual property rights, others may independently develop similar products, duplicate our products or design around our patents and other intellectual property rights. In addition, it is difficult to monitor compliance with, and enforce, our intellectual property on a worldwide basis in a cost-effective manner. Foreign laws may provide less intellectual property protection than afforded in the United States. If we cannot adequately protect our technology or other intellectual property rights in the United States and abroad, we may be materially adversely affected.

We are party to intellectual property litigation and may become party to other intellectual property claims or litigation that could cause us to incur substantial costs or pay substantial damages or prohibit us from selling our products.

We provide indemnities relating to non-infringement of patents and other intellectual property indemnities to certain of our customers in connection with the delivery, design, manufacture and sale of our products. From time to time, we may be notified, or third parties may bring actions against us based on allegations, that we are infringing the intellectual property rights of others. If any such claims are asserted against us, we may seek to obtain a license under the third party s intellectual property rights. We cannot assure you that we will be able to obtain all of the necessary licenses on satisfactory terms, if at all. In the event that we cannot obtain a license, these parties may file lawsuits against us seeking damages (potentially including treble damages) or an injunction against the sale of our products that incorporate allegedly infringed intellectual property or against the operation of our business as presently conducted, which could result in our having to stop the sale of some of our products, increase the costs of selling some of our products, or cause damage to our reputation. The award of damages, including material royalty payments, or the entry of an injunction against the manufacture and sale of some or all of our products, would have a material adverse effect on us. We could decide, in the alternative, to redesign our products or to resort to litigation to challenge or defend such claims, either of which could be expensive and time-consuming and may have a material adverse effect on us.

36

For example, Tessera, Inc., LSI Corporation, Agere Systems, Inc. and Fast Memory Erase LLC filed lawsuits against us alleging that we have infringed certain of their respective patents. Tessera, LSI and Agere have sought to enjoin such alleged infringements, to recover an unspecified amount of damages, and to bar our importation and sale of allegedly infringing products. In addition, Fujitsu has informed us that Texas Instruments has asserted that a number of our products infringe some of Texas Instruments patents. Fujitsu has also informed us that it expects us to defend and indemnify Fujitsu against Texas Instruments claims. Fujitsu has provided us with formal notice that they believe we have a duty to defend or indemnify Fujitsu under the terms of our distribution agreement. Since then, we and Fujitsu have been discussing the issues raised by this notice, and if Fujitsu were to terminate our distribution agreement, we could be materially adversely affected. Defending these alleged infringement claims and similar claims could be extremely expensive and time-consuming and an award of damages or an injunction could have a material adverse effect on us. We cannot assure you that litigation related to the intellectual property rights of ours or others can be avoided or will be successfully concluded.

If essential equipment or adequate supplies of satisfactory materials are not available to manufacture our products, we could be materially adversely affected.

Our manufacturing operations depend upon obtaining deliveries of equipment and adequate supplies of materials on a timely basis. We purchase equipment and materials from a number of suppliers. From time to time, suppliers may extend lead times, limit supply to us or increase prices due to capacity constraints or other factors. Because the equipment that we purchase is complex, it is difficult for us to substitute one supplier for another or one piece of equipment for another. Some raw materials we use in the manufacture of our products are available from a limited number of suppliers or only from a limited number of suppliers in a particular region. In addition, we purchase raw materials such as gold which prices on the world markets have fluctuated significant during recent periods. Our manufacturing operations also depend upon the quality and usability of the materials we use in our products, including raw materials and wafers we receive from our suppliers. If the materials we receive from our suppliers do not meet our manufacturing requirements or product specifications, are not obtained in a timely manner or if there are significant increases in costs of materials, we may be materially adversely affected.

We also rely on purchasing commercial memory die such as DRAMs from third-party suppliers to incorporate these die into multi-chip package, or MCP, products. The availability of these third-party purchased commercial die is subject to market availability, and the process technology roadmaps and manufacturing capacities of our vendors. In addition, some of our major suppliers, including Samsung, are also our competitors. Interruption of supply from a competitor that is a supplier or otherwise or increased demand in the industry could cause shortages and price increases in various essential materials. If we are unable to procure these materials, or if the materials we receive from our suppliers do not meet our production requirements or product specifications, we may have to reduce our manufacturing operations or our manufacturing yields may be adversely affected. Such a reduction and yield issues have in the past and could in the future have a material adverse effect on us.

Costs related to defective products could have a material adverse effect on us.

One or more of our products may be found to be defective after the product has been shipped to customers in volume. The cost of product replacements or product returns may be substantial, and our reputation with our customers would be damaged. In addition, we could incur substantial costs to implement modifications to fix defects. Any of these problems could materially adversely affect us.

Unfavorable currency exchange rate fluctuations could adversely affect us.

As a result of our foreign operations, we have sales, expenses, assets and liabilities that are denominated in Japanese yen and other foreign currencies. For example:

- some of our manufacturing costs are denominated in Japanese yen, Chinese renminbi, and other foreign currencies such as the Thai baht and Malaysian ringgit;

Table of Contents

- sales of our products to Fujitsu are denominated in both US dollars and Japanese yen; and
- some fixed asset purchases are denominated in Japanese yen and European Union euros.

Consequently, movements in exchange rates could cause our net sales and expenses to fluctuate, affecting our profitability and cash flows.

Worldwide economic and political conditions may adversely affect demand for our products.

We operate in more than ten countries and we derive a majority of our net sales outside the United States. Our business depends on the overall worldwide economic conditions and the economic and business conditions within our customers industries. Our business may also be affected by economic factors that are beyond our control, such as downturns in economic activity in a specific country or region. A further weakening of the worldwide economy or the economy of individual countries or the demand for our customers products may cause a greater decrease in demand for our products, which could materially adversely affect us.

Our consolidated financial results could also be significantly and adversely affected by geopolitical concerns and world events, such as wars and terrorist attacks. Our net sales and financial results have been and could be negatively affected to the extent geopolitical concerns continue and similar events occur or are anticipated to occur. In particular, consequences of military action in the Middle East have in the past, and may in the future, adversely affect demand for our products and our relationship with various third parties with which we collaborate. In addition, terrorist attacks may negatively affect our operations, directly or indirectly, and such attacks or related armed conflicts may directly impact our physical facilities or those of our suppliers or customers. Furthermore, these attacks may make travel and the transportation of our products more difficult and more expensive, which could materially adversely affect us.

The United States has been and may continue to be involved in armed conflicts that could have a further impact on our sales and our supply chain. Political and economic instability in some regions of the world may also result and could negatively impact our business. The consequences of armed conflicts are unpredictable, and we may not be able to foresee events that could have a material adverse effect on us. More generally, any of these events could cause consumer confidence and spending to decrease or result in increased volatility in the U.S. economy and worldwide financial markets. Any of these occurrences could have a material adverse effect on us.

Our operations in foreign countries are subject to political and economic risks, which could have a material adverse effect on us.

The majority of our wafer fabrication capacity is located in Japan, which is subject to the Spansion Japan Proceeding, and nearly all final test and assembly of our products is performed at our facilities in China, Malaysia and Thailand and by third parties in Taiwan and Japan. In addition, we have international sales operations and, as part of our business strategy, we are continuing to seek to expand our product sales in high growth markets. The political and economic risks associated with our sales to, and operations in, foreign countries include:

- expropriation;
- changes in political or economic conditions;
- changes in tax laws, trade protection measures and import or export licensing requirements;
- difficulties in protecting our intellectual property;
- difficulties in achieving headcount reductions;
- changes in foreign currency exchange rates;

restrictions on transfers of funds and other assets of our subsidiaries between jurisdictions;

Table of Contents

- changes in freight and interest rates;

- disruption in air transportation between the United States and our overseas facilities; and

- loss or modification of exemptions for taxes and tariffs.

We manufacture wafers in our JV3 and SP1 fabrication facilities in Japan. If we are required for any reason to transfer wafer production from our Japan facilities to our Fab 25 facility in Austin, Texas or to third party foundries, we may not be able to make this transition in a timely manner or find third-party manufacturers with sufficient capacity to produce wafers of acceptable quality at acceptable manufacturing yields and prices or to deliver wafers in a timely manner. If we are not able to successfully transition this manufacturing to other facilities, we may be materially adversely affected. In addition, our sales in Japan, and certain other locations throughout the world, are made through Spansion Japan. If Spansion Japan no longer manages these sales for us, we would be required to develop alternative methods of distributing and selling our products. To sell our products in Japan, we would have to establish a separate sales force and administrative support in Japan and continue to rely on Fujitsu as a distributor, or rely on another distributor. If we are unsuccessful in establishing alternative sales channels, our sales in Japan may decline and we may be materially adversely affected.

Our subsidiary, Saifun, conducts business in Israel, which is affected and surrounded by unstable political, economic and military conditions. We cannot predict the effect of continued or increased violence in Lebanon or Gaza, or the effect of military action elsewhere in the Middle East. Continued armed conflicts or political instability in the region would harm business conditions and could adversely affect the combined company s results of operations. Furthermore, several countries continue to restrict or ban business with Israel and Israeli companies. These restrictive laws and policies may limit the combined company s ability to make sales in those countries, and, as a global company, may limit our own ability to efficiently administer our worldwide resources.

Any conflict or uncertainty in the countries in which we operate, including public health or safety concerns, natural disasters or general economic factors, could have a material adverse effect on our business. Any of the above risks, should they occur, could have a material adverse effect on us.

We are subject to a variety of environmental laws that could result in liabilities.

Our properties and many aspects of our business operations are subject to various domestic and international environmental laws and regulations, including those relating to materials used in our products and manufacturing processes; chemical use and handling; waste minimization; discharge of pollutants into the environment; the treatment, transport, storage and disposal of solid and hazardous wastes; and remediation of contamination. Certain of these laws and regulations require us to obtain permits for our operations, including permits related to the discharge of air pollutants and wastewater. From time to time, our facilities are subject to investigation by governmental regulators. Environmental compliance obligations and liability risks are inherent in many of our manufacturing and other activities. Any failure to comply with applicable environmental laws, regulations or permits may subject us to a range of consequences, including fines, suspension of production, alteration of manufacturing processes, sales limitations, and criminal and civil liabilities or other sanctions. We could also be held liable for any and all consequences arising out of exposure to hazardous materials used, stored, released, disposed of by us or located at or under our facilities, or for other environmental or natural resource damage. Certain environmental laws, including the U.S. Comprehensive, Environmental Response, Compensation and Liability Act of 1980, or the Superfund Act, impose joint and several liability on current and previous owners or operators of real property for the cost of removal or remediation of hazardous substances and costs related to damages to natural resources. Liability can attach even if the owner or operator did not know of, or was not responsible for, the release of such hazardous substances. These environmental laws also can result in liability for persons, like us, who arrange for hazardous substances to be sent to disposal or treatment facilities, in the event such facilities are found to be contaminated. Such persons can be responsible for cleanup costs at a disposal or treatment facility, even if they never owned or operated the contaminated facility. One property where we currently conduct research and development operations is listed on the U.S. Environmental Protection Agency s

Table of Contents

Superfund National Priorities List. However, other parties currently are responsible for all investigation, cleanup and remediation activities. Although we have not been named a responsible party at this site, if we were so named, costs associated with the cleanup of the site could have material adverse effect upon us.

We have not been named a responsible party at any Superfund or other contaminated site. If we were ever so named, costs associated with the cleanup of the site could be material. Additionally, contamination that has not yet been identified could exist at one or more of our facilities, and identification of such contamination could have a material adverse effect on us.

Our business is subject to complex and dynamic environmental regulatory schemes. While we have budgeted for reasonably foreseeable environmental expenditures, we cannot assure you that environmental laws will not change or become more stringent in the future. Future environmental regulations could require us to procure expensive pollution abatement or remediation equipment; to modify product designs; or to incur other expenses associated with compliance with such regulations. For example, the European Union and China recently began imposing stricter requirements regarding reduced lead content in semiconductor packaging. Therefore, we cannot assure you that our costs of complying with current and future environmental and health and safety laws, or liabilities arising from past or future releases of, or exposure to, hazardous substances, will not have a material adverse effect on our business.

Our business, worldwide operations and the operations of our suppliers could be subject to natural disasters and other business disruptions, which could harm our future net sales and financial condition and increase our costs and expenses.

Our worldwide operations and business could be subject to natural disasters and other business disruptions, such as a world health crisis, fire, earthquake, tsunami, volcano eruption, flood, hurricane, power loss, power shortage, telecommunications failure or similar events, which could harm our future net sales and financial condition and increase our costs and expenses. For example, during the first quarter of fiscal 2008, our business was adversely affected by severe weather conditions in China which caused us to experience decreased demand for our products in that region. In addition, our corporate headquarters are located near major earthquake fault lines in California, and one of our two wafer fabrication facilities, as well as our new 300-millimeter wafer fabrication facility, SP1, are located near major earthquake fault lines in Japan. Also, our assembly and test facilities located in China, Malaysia and Thailand may be affected by tsunamis. In the event of a major earthquake or tsunami, we could experience loss of life of our employees, destruction of facilities or other business interruptions. If such business disruptions result in cancellations of customer orders or contribute to a general decrease in economic activity or demand for our products, or directly impact our marketing, manufacturing, financial, and logistics functions, our results of operations and financial condition could be materially adversely affected.

Furthermore, the operations of our suppliers could be subject to natural disasters and other business disruptions, which could cause shortages and price increases in various essential materials, such as liquid hydrogen, which are required to manufacture our products or commercial memory die such as DRAMs for incorporation into our MCP products. If we are unable to procure an adequate supply of materials that are required for us to manufacture our products, or if the operations of our other suppliers of such materials are affected by an event that causes a significant business disruption, then we may have to reduce our manufacturing operations. Such a reduction could in the future have a material adverse effect on us.

We may be delayed or prevented from taking actions that require the consent of Fujitsu, whose interests may differ from or conflict with our interests or those of our other stockholders, which could decrease the value of your shares.

Our bylaws provide that for so long as Fujitsu maintains an aggregate ownership interest in us of at least 10 percent, we will not be able to amend our certificate of incorporation or bylaws or effect any resolution to wind up Spansion Inc. or any other subsidiary without their prior consent.

We cannot assure you that the interests of Fujitsu will be aligned with our interests or those of our other stockholders with respect to such decisions. As a result, we may be unable to take steps that we believe are desirable and in the best interests of our stockholders. In addition, these consent rights could make an acquisition of us more difficult, even if the acquisition may be considered beneficial by some stockholders.

Third parties may seek to hold us responsible for liabilities of AMD and Fujitsu that we did not assume in our agreements.

Under our agreements with AMD and Fujitsu, we agreed to assume liabilities related to our business after June 30, 2003, and liabilities related to our business prior to June 30, 2003 if such liabilities were reflected as accruals or reserves on the AMD and Fujitsu contributed balance sheets. Our assumed liabilities include claims made with respect to Flash memory products sold after June 30, 2003, even if such products were manufactured prior to June 30, 2003, and warranty claims with respect to products sold prior to June 30, 2003 to the extent such warranty claims were reflected as accruals or reserves on the AMD and Fujitsu contributed balance sheets. The allocation of assets and liabilities between AMD, Fujitsu and us may not reflect the allocation that would have been reached between unaffiliated parties and may be less favorable to us as a result. Third parties may seek to hold us responsible for AMD s and Fujitsu s retained liabilities. If our losses for AMD s and Fujitsu s retained liabilities were significant and we were ultimately held liable for them, we cannot assure you that we would be able to recover the full amount of our losses.

We rely on Fujitsu Microelectronics Limited to be our largest distributor in Japan.

We currently rely on Fujitsu Microelectronics Limited (FML) through its subsidiary Fujitsu Electronics Inc. (FEI) to act as the largest distributor of our products to customers in Japan, which was an important geographic market in fiscal 2006, 2007 and 2008. Under our distribution agreement with FML, FML has agreed to use its best efforts to promote the sale of our products in Japan and to other customers served by FML. In the event that we reasonably determine that FML s sales performance in Japan and to those customers served by FML is not satisfactory based on specified criteria, then we have the right to require FML to propose and implement an agreed-upon corrective action plan. If we reasonably believe that the corrective action plan is inadequate, we can take steps to remedy deficiencies ourselves through means that include appointing another distributor as a supplementary distributor to sell products in Japan and to customers served by FML. Pursuing these actions would be costly and disruptive to the sales of our products in Japan. If FML s sales performance in Japan is unsatisfactory or if we are unable to successfully maintain our distribution agreement and relationship with FML and we can not timely find a suitable supplementary distributor, we could be materially adversely affected.

On December 28, 2007, we entered into an amendment to our distribution agreement which provides, among other terms, that FML no longer has territorial exclusivity in Japan, the distribution agreement would expire on September 30, 2008, and effective April 1, 2008 we may enter into distribution agreements with FML s sub-distributors in Japan. We entered into a second amendment to our distribution agreement, effective September 30, 2008, extending the term of the agreement until we enter into a successor distribution agreement with FEI, or April 25, 2009. If FML or FEI unexpectedly terminates its distribution agreement with us, or otherwise ceases its support of our customers in Japan, we would be required to rely on a relationship with another distributor or establish our own local sales organization and support functions. We cannot be certain that we will be successful in selling our products to customers currently served by FML or new customers. If customers currently served by FML, or potential new customers, refuse to purchase our products directly from us or from another distributor, our sales in Japan may decline, and we could be materially adversely affected.

AMD and Fujitsu may continue to use all of our intellectual property and the intellectual property they have transferred to us.

In connection with our reorganization as Spansion LLC in June 2003, AMD and Fujitsu transferred approximately 400 patents and patent applications to us. In addition, AMD and Fujitsu contributed additional

Table of Contents

patents to us at the time of our initial public offering. However, both AMD and Fujitsu have retained the rights to use any patents contributed to us for an unlimited period of time. In addition, under their respective patent cross-license agreements with us, AMD and Fujitsu have also obtained licenses to our present and future patents with effective filing dates prior to the later of June 30, 2013, or such date on which they have transferred all of their shares in us, although the scope of patents under license can be impacted by a change in control of the parties or their semiconductor groups. These licenses continue until the last to expire of the patents under license expires and provide AMD and Fujitsu with licenses to all of our present and future patents in existence through such cross-license termination date. Furthermore, we entered into an Amended and Restated Intellectual Property Contribution and Ancillary Matters Agreement with AMD and Fujitsu in connection with our reorganization as Spansion Inc. in December 2005. Pursuant to that agreement, subject to our confidentiality obligations to third parties, and only for so long as AMD s and Fujitsu s ownership interests in us remain above specific minimum levels, we are obligated to identify any of our technology to each of AMD and Fujitsu, and to provide copies of and training with respect to that technology to them. In addition, pursuant to this agreement we have granted a non-exclusive, perpetual, irrevocable fully paid and royalty-free license of our rights, other than patent and trademark rights, in that technology to each of AMD and Fujitsu. Under our non-competition agreement, both AMD and Fujitsu have agreed that they will not directly or indirectly engage in a business, and have agreed to divest any acquired business, that manufactures or supplies standalone semiconductor devices (including single chip, multiple chip or system devices) containing certain Flash memory, which is the business in which we primarily compete. With respect to each of AMD and Fujitsu, this non-competition restriction will last until the earlier of (i) two years from the date such stockholder s ownership in us falls to or below five percent, or (ii) the dissolution of our company. After that time, should they ever decide to re-enter the Flash memory business, AMD or Fujitsu could use our present and future patents and technologies licensed by us to AMD and Fujitsu under the cross licenses and our Amended and Restated Intellectual Property Contribution and Ancillary Matters Agreement to compete against us. If either AMD or Fujitsu were to compete with us, we could be materially adversely affected.

We currently do not intend to pay dividends on our common stock and, consequently, our stockholders only opportunity to achieve a return on their investment is through appreciation in the price of our common stock.

We currently do not plan to pay dividends on shares of our common stock in the foreseeable future and are currently prohibited from doing so in specific circumstances under agreements governing our borrowing arrangements. In addition, because we are a holding company, our ability to pay cash dividends on shares of our common stock may be limited by restrictions on our ability to obtain sufficient funds through dividends from our subsidiaries, including the restrictions under the indenture governing the notes. Our common stock will rank junior as to payment of dividends to any series of preferred stock that we may issue in the future. Generally, unless full dividends including any cumulative dividends still owing on all outstanding shares of any preferred stock have been paid, no dividends will be declared or paid on our common stock. Consequently, your only opportunity to achieve a return on your investment in our company will be if the market price of our common stock appreciates.

Any future issuance of our preferred stock could adversely affect holders of our common stock.

Our board of directors is authorized to issue shares of preferred stock without any action on the part of our stockholders. Our board of directors also has the power, without stockholder approval, to set the terms of any such series of shares of preferred stock that may be issued, including voting rights, dividend rights and preferences over our common stock with respect to dividends or if we liquidate, dissolve or wind up our business and other terms. If we issue preferred stock in the future that has preference over our common stock with respect to the payment of dividends or upon our liquidation, dissolution or winding up of our affairs, or if we issue preferred stock with voting rights that dilute the voting power of our common stock, the rights of holders of our common stock or the market price of our common stock could be adversely affected.

Table of Contents

Provisions in our corporate governance documents as well as Delaware law may delay or prevent an acquisition of us that stockholders may consider favorable, which could decrease the value of your shares.

Our certificate of incorporation and bylaws and Delaware law contain provisions that could make it more difficult for a third party to acquire us without the consent of our board of directors. These provisions include restrictions on the ability of our stockholders to remove directors, a classified board of directors and limitations on action by our stockholders by written consent. In addition, our board of directors has the right to issue preferred stock without stockholder approval, which could be used to make an acquisition of us more difficult. Although we believe these provisions protect our stockholders from coercive or otherwise unfair takeover tactics and thereby provide for an opportunity to receive a higher bid by requiring potential acquirers to negotiate with our board of directors, these provisions apply even if the offer may be considered beneficial by some stockholders.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 2. PROPERTIES

Our principal engineering, manufacturing and administrative facilities as of December 28, 2008, comprise approximately 4.9 million square feet and are located in the United States, Italy, France, Israel, Japan, Korea, Malaysia, Thailand and China. Over 4.3 million square feet of this space is in buildings we own. The remainder of this space is leased. We lease from Fujitsu Limited (Fujitsu) approximately 1.3 million square feet of land in Aizu-Wakamatsu, Japan for our wafer fabs including the land upon which JV3 and SP1 are located and we lease office space in Aichi, Japan from a subsidiary of Fujitsu, Fujitsu VLSI. We lease approximately 635,000 square feet of land in Suzhou, China for our assembly and test facility. Our Fab 25 facility in Austin, Texas and our facility in Sunnyvale, California are encumbered by liens securing our senior secured term loan facility and our senior secured floating rate notes. See Management s Discussion and Analysis of Financial Condition and Results of Operations Contractual Obligations.

Our facility leases have terms of generally one to five years. We currently do not anticipate difficulty in either retaining occupancy of any of our facilities through lease renewals prior to expiration or through month-to-month occupancy or replacing them with equivalent facilities. Our land lease in Aizu-Wakamatsu expires in 2033.

ITEM 3. LEGAL PROCEEDINGS

Tessera, Inc. v. Spansion LLC, et al., Civil Action No. 05-04063 (CW), in the United States District Court for the Northern District of California

On October 7, 2005, Tessera, Inc. filed a complaint, Civil Action No. 05-04063, for patent infringement against Spansion LLC in the United States District Court for the Northern District of California under the patent laws of the United States of America, 35 U.S.C. section 1, *et seq.*, including 35 U.S.C. section 271. The complaint alleges that Spansion LLC s Ball Grid Array (BGA) and multichip packages infringe the following Tessera patents: United States Patent No. 5,679,977, United States Patent No. 5,852,326, United States Patent No. 6,433,419 and United States Patent No. 6,465,893. On December 16, 2005, Tessera filed a First Amended Complaint naming Spansion Inc. and Spansion Technology Inc., our wholly owned subsidiary, as defendants. On January 31, 2006, Tessera filed a Second Amended Complaint adding Advanced Semiconductor Engineering, Inc., Chipmos Technologies, Inc., Chipmos U.S.A., Inc., Silicon Precision Industries Co., Ltd., Siliconware USA, Inc., ST Microelectronics N.V., ST Microelectronics, Inc., Stats Chippac Ltd., Stats Chippac, Inc., and Stats 34 Chippac (BVI) Limited. The Second Amended Complaint alleges that Spansion LLC s BGA and multichip packages infringe the four Tessera patents identified above. The Second Amended Complaint further alleges that each of the newly named defendants is in breach of a Tessera license agreement and is infringing on a fifth

Table of Contents

Tessera patent, United States Patent No. 6,133,627. The Second Amended Complaint seeks unspecified damages and injunctive relief. On February 9, 2006, Spansion filed an answer to the Second Amended Complaint and asserted counterclaims against Tessera. On April 18, 2006, U.S. District Court Judge Claudia Wilken issued a Case Management Order that set a trial date of January 28, 2008. On March 13, 2007, Judge Wilken issued an order vacating the trial date. On April 12, 2007, Judge Wilken issued an order referring case management scheduling issues to a Special Master, and directing that the court will appoint an expert in the case to testify on the ultimate merits of the technical issues relating to infringement and patent validity. On April 26, 2007, Spansion, along with other defendants, filed a motion to stay the District Court action pending resolution of the proceeding before the International Trade Commission described below. On May 24, 2007, Judge Wilken issued an order staying the District Court action until final resolution of the ITC action.

We believe that we have meritorious defenses against Tessera s claims and we intend to defend the lawsuit vigorously.

Tessera ITC Action

On April 17, 2007, Tessera, Inc. filed a complaint under section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, in the United States International Trade Commission (ITC) against respondents ATI Technologies, Inc., Freescale Semiconductor, Inc., Motorola, Inc., Qualcomm, Inc., Spansion Inc., Spansion LLC and STMicroelectronics N.V. Tessera claims that face up and stacked-chip small format laminate Ball Grid Array (BGA) packages, including the Spansion 5185941F60 chip assembly, infringe certain specified claims of United States Patent Nos. 5,852,326 and 6,433,419 (Asserted Patents). The complaint requests that the ITC institute an investigation into the matter. The complaint seeks a permanent exclusion order pursuant to section 337(d) of the Tariff Act of 1930, as amended, excluding from entry into the United States all semiconductor chips with small format laminate BGA semiconductor packaging that infringe any of the Asserted Patents, and all products containing such infringing small format laminate BGA semiconductor packaged chips. The complaint also seeks a permanent cease and desist order pursuant to section 337(f) of the Tariff Act of 1930, as amended, directing respondents with respect to their domestic inventories to cease and desist from marketing, advertising, demonstrating, sampling, warehousing inventory for distribution, offering for sale, selling, distributing, licensing, or using any semiconductor chips with small format laminate BGA semiconductor packaging that infringe any of the Asserted Patents, and/or products containing such semiconductor chips. On May 15, 2007, the ITC instituted an investigation pursuant to 19 U.S.C. § 1337, entitled *In the Matter of Certain Semiconductor Chips with Minimized Chip Package Size and Products Containing Same*, Inv. No. 337-TA-605, identifying ATI Technologies, ULC, Freescale Semiconductor, Inc., Motorola, Inc., Spansion Inc., Spansion LLC and STMicroelectronics N.V. (Respondents) as respondents. On June 8, 2007, Respondents filed a motion to stay the ITC investigation pending reexamination of the Asserted Patents by the U.S. Patent and Trademark Office. On July 11, 2007, Administrative Law Judge Carl C. Charneski set an Initial Determination date of May 21, 2008 and a target date for completion of the ITC Investigation of August 21, 2008. On October 17, 2007, the ITC investigation was reassigned to Administrative Law Judge Theodore Essex, who set a hearing for February 25, 2008. On February 26, 2008, Judge Essex issued an Initial Determination granting respondents motion for a stay of the ITC investigation pending completion of the re-examination of the Asserted Patents by the U.S. Patent and Trademark Office. On March 4, 2008, Tessera filed, with the ITC, a Petition for Review of the Initial Determination Ordering Stay. On March 27, 2008, the ITC issued an order reversing Judge Essex s Initial Determination, and denying respondents motion for a stay of the ITC investigation pending reexamination of the Asserted Patents. On May 13, 2008, Judge Essex set an Initial Determination date of October 20, 2008, with a hearing date of July 14, 2008, and a target date for completion of the ITC investigation of February 20, 2009. On July 14, 2008, Judge Essex held an evidentiary hearing in the ITC investigation, and completed the hearing on July 18, 2008. On October 16, 2008, Judge Essex issued an order resetting the Initial Determination date to December 1, 2008, and the target date for completion of the ITC investigation to April 3, 2009. On December 1, 2008, Judge Essex issued an Initial Determination, ruling that the accused small-format BGA packages of Spansion Inc. and Spansion LLC and the other Respondents did not infringe the asserted claims of the Asserted Patents and, therefore, Spansion Inc. and Spansion LLC and the other Respondents were not in violation of section 337 of the Tariff Act of 1930. On December 15, 2008, Tessera filed with the ITC a petition to review the Initial Determination. On January 30, 2009, the ITC issued a notice to review in part Judge Essex s decision finding no violation of section 337. On February 10, 2009, the ITC issued an order resetting the target date for completion of the ITC Investigation to April 14, 2009. On March 31, 2009 the ITC issued an order requesting additional briefing on certain remedy issues and resetting the target date for completion of the ITC Investigation to May 20, 2009.

We believe that we have meritorious defenses against Tessera s claims and we intend to defend this proceeding vigorously.

LSI, Agere v. Spansion, Inc., et al.

On April 18, 2008, LSI Corporation and Agere Systems, Inc. filed a complaint, Civil Action No. 2 08 CV -165, in the United States District Court for the Eastern District of Texas, against defendants United Microelectronics Corporation, Integrated Device Technology, Inc., AMIC Technology Corporation, Elpida Memory, Inc., Freescale Semiconductor, Inc., Grace Semiconductor Manufacturing Corporation, Microchip Technology, Inc., Micromas Semiconductor Holding, AG, National Semiconductor Corporation, Nanya Technology Corporation, NXP B.V., ON Semiconductor Corporation, Powerchip Semiconductor Corporation, ProMOS Technologies, Inc., Spansion, Inc., STMicroelectronics NV and Vanguard International Semiconductor Corporation (Defendants). The complaint alleges that certain Spansion Flash products, including Spansion s 4 Mb CMOS 3.0 Volt-only Simultaneous Read/Write Flash Memory and 1 G MirrorBit NOR Flash products, infringe at least claim 1 of U.S. Patent No. 5,227, 335 (the Asserted Patent). The complaint seeks a declaration that Spansion infringes the Asserted Patent, permanent injunctive relief and unspecified reasonable royalty and other damages, a trebling of damages for alleged willful conduct and attorney s fees. On June 13, 2008 Defendants filed an Unopposed Motion to stay the Eastern District of Texas action pending resolution of an International Trade Commission investigation (ITC) that is described below. On June 13, 2008, Judge T. John Ward issued an order staying the Eastern District of Texas action until a final determination of the ITC investigation described below.

We believe that we have meritorious defenses against LSI s and Agere s claims and we intend to defend the lawsuit vigorously.

LSI, Agere ITC Investigation

On April 18, 2008, LSI Corporation and Agere Systems, Inc. (collectively Complainants) filed a complaint under section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, in the United States International Trade Commission (ITC) against respondents United Microelectronics Corporation, Integrated Device Technology, Inc., AMIC Technology Corporation, Elpida Memory, Inc., Freescale Semiconductor, Inc., Grace Semiconductor Manufacturing Corporation, Microchip Technology, Inc., Micromas Semiconductor Holding, AG, National Semiconductor Corporation, Nanya Technology Corporation, NXP B.V., ON Semiconductor Corporation, Powerchip Semiconductor Corporation, ProMOS Technologies, Inc., Spansion, Inc., STMicroelectronics NV and Vanguard International Semiconductor Corporation. The complaint alleges that certain Spansion Flash products, including Spansion s 4 Mb CMOS 3.0 Volt-only Simultaneous Read/Write Flash Memory and 1 G MirrorBit NOR Flash products, infringe at least claim 1 of U.S. Patent No. 5,227,335 (the Asserted Patent). The complaint identifies, under the heading Related Litigations, other lawsuits involving the Asserted Patent, including *Agere Systems, Inc. v Atmel Corporation*, Civil Action No. 2:02-CV-864 (E.D. Pa.) (the Atmel case). The complaint requests that the ITC institute an investigation into the matter. The complainant seeks a permanent exclusion order pursuant to section 337(d) of the Tariff Act of 1930, as amended, excluding from entry into the United States all semiconductor IC devices and products containing same, made by a method that infringes one or more claims of the Asserted Patent. The complainant also seeks a permanent cease and desist order pursuant to section 337(1) of the Tariff Act of 1930, as amended, directing respondents to cease and desist from importing, selling, offering for sale, using, demonstrating, promoting, marketing, and/or advertising in the United States, or otherwise transferring outside the United States for sale in the United States, semiconductor IC devices and products containing same made by a method that infringes one or more claims of the Asserted Patent. On May 16, 2008, the ITC instituted an investigation pursuant to 19 U.S.C. § 1337, entitled *In the Matter of Certain Semiconductor Integrated Circuits Using Tungsten Metallization and Products Containing Same* No. 337-TA-648, identifying United Microelectronics Corporation, Integrated Device Technology, Inc., AMIC Technology Corporation, Elpida Memory, Inc., Freescale Semiconductor, Inc., Grace Semiconductor Manufacturing Corporation, Microchip Technology, Inc., Micromas Semiconductor Holding, AG, National Semiconductor Corporation, Nanya Technology Corporation, NXP B.V., ON Semiconductor Corporation, Powerchip Semiconductor Corporation, ProMOS Technologies, Inc., Spansion, Inc., STMicroelectronics NV and Vanguard International Semiconductor Corporation (Respondents) as respondents. On June 5, 2008, respondents Elpida Memory, Inc., Freescale Semiconductor, Inc., Grace Semiconductor Manufacturing Corporation, Integrated Device Technology, Microchip Technology, Inc., Nanya Technology Corp., Powerchip Semiconductor Corp., Spansion Inc. and ST Microelectronics N.V. filed a joint motion for summary determination that Complainant is precluded from re-litigating an invalid patent, based upon the jury finding of invalidity and the court ruling affirming the invalidity finding of the Asserted Patent in the *Atmel* case. On June 27, 2008, Administrative Law Judge Carl L. Charneski set an Initial Determination date of May 21, 2009, with a hearing to be completed by March 13, 2009, and a target date for completion of the ITC investigation of August 21, 2009. On September 18, 2008, Judge Charneski granted Complainants motion to add five respondents, Dongbu HiTek Semiconductor Business; Jazz Semiconductor, Magnachip Semiconductor; Qimonda AG, and Tower Semiconductor, Ltd. On October 30, Judge Charneski denied Complainants request to add additional claims of infringement against Spansion, and also suspended the current procedural schedule. On November 5, 2008, Judge Charneski issued an order modifying procedural schedule, setting a hearing date of July 20, 2008 and issued a separate order setting an Initial Determination date of September 21, 2009, and a target date for completion of the ITC investigation of January 21, 2010. On December 11, 2008, Judge Charneski issued an Initial Determination denying respondents motion for summary determination that Complainant should be precluded from re-litigating an invalid patent. On February 3, 2009, the ITC issued an opinion affirming the ITC determination that Complainant is not precluded from re-litigating the validity of the patent.

We believe that we have meritorious defenses against LSI s and Agere s claims and we intend to defend this proceeding vigorously.

Fast Memory Erase LLC v. Spansion Inc., et al.

On June 9, 2008, Fast Memory Erase LLC filed a complaint in the U.S. District Court for the Northern District of Texas alleging patent infringement against Spansion Inc., Spansion LLC, Intel Corp., Numonyx B.V., Numonyx, Inc., Nokia Corp., Nokia Inc., Sony Ericsson Mobile Communications AB, Sony Ericsson Mobile Communications (USA), Inc., and Motorola, Inc. The case is styled, Fast Memory Erase, LLC v. Spansion Inc., Spansion LLC, et al., Case No. 3:08-CV-00977-M (N.D. Tex.). Fast Memory Erase s complaint alleges that Spansion s NOR Flash products using floating gate technology infringe one or more claims of U.S. Patent No. 6,236,608 (the 608 patent). Fast Memory Erase has also asserted U.S. Patent No. 6,303,959 (the 959 patent) in its complaint against the products of other defendants, namely Intel and Numonyx, but it has not asserted the 959 patent against any Spansion products. On December 22, 2008, Fast Memory Erase filed an amended complaint. In its amended complaint, Fast Memory Erase added Apple, Inc. as a defendant. Spansion has answered Fast Memory Erase s complaint and amended complaint. Spansion s answers assert that Spansion does not infringe the 608 patent and that the 608 patent is invalid. In its answers, Spansion also asserts counterclaims against Fast Memory Erase for declaratory judgments of non-infringement and invalidity. The case is currently stayed against Spansion as a result of Spansion s Chapter 11 reorganization proceedings.

Table of Contents

Spansion v. Samsung Patent Infringement Litigation

Spansion is currently a party to three patent infringement proceedings involving Samsung Electronics Co., Ltd.:

Samsung ITC Investigation

On November 17, 2008 Spansion Inc. and Spansion LLC filed a complaint under section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, in the United States International Trade Commission (ITC) against respondents Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., Samsung International, Inc., Samsung Semiconductor, Inc., and Samsung Telecommunications America, LLC and Apple, Inc., Hon Hai Precision Industry Co., Ltd., AsusTek Computer Inc., Asus Computer International, Inc., Kingston Technology Company, Inc., Kingston Technology (Shanghai) Co. Ltd., Kingston Technology Far East Co., Kingston Technology Far East (Malaysia) Sdn. Bhd., Lenovo Group Limited, Lenovo (United States) Inc., Lenovo (Beijing) Limited, Lenovo Information Products (Shenzhen) Co., Ltd., Lenovo (Huiyang) Electronic Industrial Co., Ltd., Shanghai Lenovo Electronic Co., Ltd., PNY Technologies, Inc., Research In Motion, Ltd., Research In Motion Corporation, Sony Corporation, Sony Corporation of America, Sony Ericsson Mobile Communications AB, Sony Ericsson Mobile Communications (USA), Inc., Beijing SE Putian Mobile Communication Co., Ltd., Transcend Information Inc., Transcend Information Inc. (US), Transcend Information Inc. (Shanghai Factory), Verbatim Americas LLC, and Verbatim Corporation (collectively Downstream Respondents). In the ITC Complaint, Spansion alleges that Samsung and Downstream Respondents infringe United States Patent Nos. 6,380,029, 6,080,639, 6,376,877, and 5,715,194 (the Asserted Patents), which are owned by Spansion, through the unlawful importation into the United States of certain Samsung flash memory chips. The complaint seeks a permanent general exclusion order pursuant to section 337(d) of the Tariff Act of 1930, as amended, excluding from entry into the United States the Samsung chips that infringe any of the Asserted Patents, and all products produced by Downstream Respondents that contain such chips. The complaint also seeks a permanent cease and desist order pursuant to section 337(f) of the Tariff Act of 1930, as amended, prohibiting Samsung and Downstream Respondents from importing, selling for importation, using, offering for sale, selling after importation, building inventory for distribution, distributing, licensing, or otherwise transferring within the United States, Samsung chips that the Asserted Patents, and/or products containing such chips. On December 18, 2008 the ITC instituted an investigation pursuant to 19 U.S.C. § 1337, entitled *In the Matter of Certain Flash Memory Chips and Products Containing Same*, Inv. No. 337-TA-664, identifying Samsung and Downstream Respondents (Respondents) as respondents. On December 19, 2008, Administrative Law Judge Charles E. Bullock set a target date for completion of the ITC Investigation of April 19, 2010, and set the hearing to begin July 27, 2009. Subsequently, on February 9, 2009, Judge Bullock extended the target date for the investigation to June 18, 2010, and re-set the hearing to begin on September 28, 2009. Each of the Respondents has entered an appearance and answered the complaint. On January 30, 2009, the parties submitted their respective discovery statements, which included proposed discovery schedules, to Judge Bullock. On March 12, 2009 this action was stayed pending Bankruptcy Court approval of a settlement agreement between Spansion and Samsung.

Spansion v. Samsung District Court Action

On November 17, 2008, Spansion LLC filed a complaint, Civil Action No. 08-855-SLR, in the United States District Court for District of Delaware, against defendants Samsung Electronics Co. LTD., and Samsung Electronics America, Inc., Samsung Semiconductor, Inc., Samsung Telecommunications America, LLC, and Samsung Austin Semiconductor, LLC (Samsung U.S.). The complaint alleges that certain Samsung flash memory chips infringe United States Patent Nos. 6,455,888, 6,509,232, 5,831,901, 5,991,202, 6,433,383, and 6,246,610 (the Spansion Patents). The complaint seeks a judgment that Samsung infringes the Spansion Patents, permanent injunctive relief and damages, a trebling of damages for alleged willful conduct, and attorney s fees, costs, and expenses. On January 8, 2009, Samsung U.S. answered the Complaint, and asserted a number of affirmative defenses. Samsung U.S. s answer seeks a judgment of non-infringement as well as attorney s fees, costs, and expenses in connection with defending against Spansion s claims. On January 16, 2009, Samsung answered the Complaint, asserted affirmative defenses and counterclaimed that Spansion

Table of Contents

infringes United States Patent Nos. 6,930,050, 5,748,531, 5,740,065, 5,567,987, and 5,173,442 (the Samsung Patents), owned by Samsung. Samsung s counterclaim seeks a judgment that Spansion infringes the Samsung Patents, permanent injunctive relief and damages, a trebling of damages for alleged willful conduct, and attorney s fees, costs, and expenses. On March 31, 2009 this action was stayed pending Bankruptcy Court approval of a settlement agreement between Spansion and Samsung.

Samsung v. Spansion Japan Ltd.

On January 28, 2009, Samsung filed two patent infringement actions in the Tokyo District Court in Japan against Spansion Japan Ltd. (Spansion Japan) alleging that certain flash memory chips manufactured or sold by Spansion Japan infringe certain Japanese patents allegedly owned by Samsung. The actions allege infringement of Japanese patents JP 3834189 and JP 3505324 respectively. The two actions have been consolidated for trial. The complaints seek both injunctive relief and damages. This action by Samsung against Spansion Japan was stayed pending Bankruptcy Court approval in the U.S. and Japan of a settlement agreement between Spansion and Samsung.

On April 7, 2009, Spansion announced that it has settled its patent infringement litigation with Samsung including the proceedings referenced above. As part of the settlement, Samsung will pay Spansion $70 million and both parties have exchanged rights in their patent portfolios in the form of licenses and covenants subject to a confidential settlement agreement. The settlement is subject to Bankruptcy Court approval in both the U.S. and Japan and, if approved, will end the patent disputes between the two companies.

Creditor Proceedings

Many creditors initiated proceedings against one or more of the Debtors referred to in the voluntary petitions under Chapter 11 of the U.S. Bankruptcy Code to collect amounts allegedly due those creditors. After the filing date of the petition all actions to enforce or otherwise effect payment or repayment of liabilities of any Debtor preceding the Petition Date, as well as pending litigation against any Debtor, are stayed as of the Petition Date. Absent further order of the applicable courts and subject to certain exceptions no party may take any action to recover on pre-petition claims against any Debtor.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

No matters were submitted to a vote of security holders during the fourth quarter of the fiscal year covered by this report.

Table of Contents

PART II

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

Market Price of Common Stock

Our Class A common stock was traded on the NASDAQ Global Select Market under the symbol SPSN from December 15, 2005 until May 6, 2009. The following table sets forth the high and low per share sale prices for our Class A common stock for fiscal 2008 and fiscal 2007 as reported on the NASDAQ Global Select Market.

	High	Low
Fiscal Year Ended December 28, 2008		
Fourth Quarter	$ 1.69	$ 0.19
Third Quarter	$ 3.05	$ 1.56
Second Quarter	$ 3.70	$ 2.25
First Quarter	$ 4.29	$ 2.10

	High	Low
Fiscal Year Ended December 30, 2007		
Fourth Quarter	$ 8.68	$ 3.96
Third Quarter	$ 12.64	$ 7.86
Second Quarter	$ 12.83	$ 9.49
First Quarter	$ 15.05	$ 11.32

As of May 11, 2009, there were 35 holders of record of our Class A common stock. Because many of our shares are held by brokers and other institutions on behalf of stockholders, we are unable to estimate the total number of stockholders represented by these record holders. The closing sale price of our common stock on May 11, 2009 was $0.13 per share.

We currently do not plan to pay dividends on shares of our common stock in the foreseeable future and are currently prohibited from doing so in specific circumstances under agreements governing our borrowing arrangements.

On March 4, 2009, we received notice of a determination of the NASDAQ Listing Qualifications Department to delist the our securities (trading symbol: SPSN), suspend trading in our common stock at the opening of business on March 13, 2009, in accordance with NASDAQ Marketplace Rules 4300, IM-4300 and 4450(f), and file a Form 25-NSE with the Securities and Exchange Commission removing our securities from listing and registration on The NASDAQ Stock Market. The NASDAQ Staff provided the following reasons for the delisting:

- the Chapter 11 Cases and the associated public interest concerns raised by them;
- concerns regarding the residual equity interest of the existing listed securities holders; and
- concerns about our ability to sustain compliance with all requirements for continued listing on The NASDAQ Stock Market.

On March 16, 2009, we received an additional notice of a determination by the NASDAQ Listing Qualifications Department to delist the Company s securities under Marketplace Rule 4310(c)(14) for our failure to timely file our Annual Report on Form 10-K for the fiscal year ended December 28, 2008. On April 16, 2009, we received an additional notice of a determination that our failure to pay certain fees in accordance with NASDAQ Marketplace Rule 5210(d) is an additional basis for delisting our securities from The NASDAQ Stock Market. On April 23, 2009, we attended a hearing with the NASDAQ Listing Qualifications Panel to appeal the

Table of Contents

proposed delisting. On May 5, 2009, NASDAQ denied our request for continued listing on The NASDAQ Stock Market and informed us that trading of shares of our common stock will be suspended effective at the open of business on Thursday, May 7, 2009. We do not intend to request a review of this decision, and expect NASDAQ to file an application on Form 25-NSE with the Securities and Exchange Commission to effect the delisting of our common stock.

As discussed in Item 1A, our common stock is currently traded on the Pink Sheets under the symbol SPSN.PK after being delisted from The NASDAQ Stock Market on May 7, 2009.

Furthermore, over-the-counter (OTC) transactions involve risks in addition to those associated with transactions on a stock exchange. Many OTC stocks trade less frequently and in smaller volumes than stocks listed on an exchange. Accordingly, OTC-traded shares are less liquid and are likely to be more volatile than exchange-traded stocks.

Stock Performance Graph

This performance graph shall not be deemed filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the Exchange Act), or incorporated by reference into any filing of Spansion under the Securities Act of 1933, as amended, or the Exchange Act, except as shall be expressly set forth by specific reference in such filing.

The following graph shows a comparison from December 25, 2005 (the date our Class A common stock commenced trading on the Nasdaq Global Select Market) through December 28, 2008 of the cumulative total return for our Class A common stock, The Nasdaq Market Index and the S&P 500 Semiconductors Index. Such returns are based on historical results and are not intended to suggest future performance. Data for The Nasdaq Market Index and the S&P 500 Semiconductors Index assume reinvestment of dividends. We have never paid dividends on our Class A common stock and have no present plans to do so.

Table of Contents

ITEM 6. SELECTED FINANCIAL DATA

The following summary historical financial data should be read in conjunction with Management s Discussion and Analysis of Financial Condition and Results of Operations and our consolidated financial statements and related notes included elsewhere in this Annual Report on Form 10-K.

Fiscal years in the table below included 52 weeks each, except for fiscal 2006 which included 53 weeks.

	Year Ended December 28, 2008	Year Ended December 30, 2007	Year Ended December 31, 2006	Year Ended December 25, 2005	Year Ended December 26, 2004
			(in thousands, except per share amounts)		
Statement of Operations Data:					
Net sales	$ 1,630,573	$ 1,627,253	$ 1,310,479	$	$
Net sales to related parties/members	651,230	873,560	1,268,795	2,002,805	2,262,227
Total net sales	2,281,803	2,500,813	2,579,274	2,002,805	2,262,227
Cost of sales	2,193,345	2,065,143	2,063,639	1,809,929	1,840,862
Gross profit	88,458	435,670	515,635	192,876	421,365
Research and development	431,808	436,785	342,033	292,926	280,954
Sales, general and administrative	253,878	239,317	264,358	184,833	137,159
Acquisition related in-process research and development	10,800				
Restructuring charges	11,161				
Asset impairment charges[2]	1,652,622				
Operating income (loss)	(2,271,811)	(240,432)	(90,756)	(284,883)	3,252
Interest and other income	5,200	32,595	11,681	3,173	3,198
Interest expense	(97,843)	(80,803)	(70,903)	(45,032)	(40,165)
Loss before income taxes	(2,364,454)	(288,640)	(149,978)	(326,742)	(33,715)
(Provision) benefit for income taxes[3]	(62,865)	25,144	2,215	22,626	14,013
Net loss	$ (2,427,319)	$ (263,496)	$ (147,763)	$ (304,116)	$ (19,702)
Net loss per share					
Basic and diluted[1]	$ (15.64)	$ (1.95)	$ (1.15)	$ (4.15)	$ (0.27)
Shares used in per share calculation:					
Basic and diluted[1]	155,162	134,924	128,965	73,311	72,549

	December 28, 2008	December 30, 2007	December 31, 2006	December 25, 2005	December 26, 2004
Balance Sheet Data:					
Cash, cash equivalents and marketable securities	$ 116,387	$ 415,742	$ 885,769	$ 725,816	$ 196,138
Working capital (deficit)	(1,282,578)	592,518	1,085,027	881,902	359,420
Total assets	1,775,444	3,815,645	3,549,717	3,301,965	2,919,515
Long-term debt and capital lease obligations, including current portion, and notes payable to banks under revolving loans	1,542,023	1,401,333	1,118,047	759,613	773,597
Total stockholders equity (deficit) /members capital	(548,316)	1,632,448	1,845,760	1,921,977	1,647,207

(1) Diluted net loss per share is computed using the weighted-average number of common shares and excludes potential common shares, as their effect is antidilutive. The potential common shares that were antidilutive for fiscal 2008, fiscal 2007 fiscal 2006 and fiscal 2005 were approximately 24.8 million, 18.4 million, 16.8 million and 5.5 million shares, respectively, issuable upon exercise of outstanding stock

options, upon vesting of outstanding restricted stock units and upon exchange of Spansion LLC s 2.25% Exchangeable Senior Subordinated Debentures.

(2) Includes pre-tax impairment charges related to long-lived assets held for use of $1.6 billion and pre-tax impairment charges related to goodwill and definite-lived intangibles assets of $20.8 million and $53.5 million, respectively, in fiscal 2008.

(3) The provision for income taxes in fiscal 2008 includes an increase of $462.6 million in valuation allowances against deferred tax assets in foreign jurisdictions. This increase occurred because we do not believe it is more likely than not that these deferred tax assets will be realized in these jurisdictions.

Table of Contents

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

The following discussion of our financial condition and results of operations should be read in conjunction with the consolidated financial statements and related notes as of December 28, 2008 and December 30, 2007 and for the fiscal years ended December 28, 2008, December 30, 2007 and December 31, 2006, which are elsewhere in this Annual Report on Form10-K.

Creditor Protection Proceedings

On February 10, 2009, Spansion Japan Limited, a wholly-owned subsidiary of Spansion LLC (Spansion Japan), filed a proceeding under the Corporate Reorganization Law (*Kaisha Kosei Ho*) of Japan to obtain protection from Spansion Japan s creditors (the Spansion Japan Proceeding) and successively the Spansion Japan Proceeding was formally commenced on March 3, 2009 (the Commencement Date), when the Tokyo District Court entered the commencement order and appointed the incumbent representative director of Spansion Japan as trustee. On March 1, 2009 (the Petition Date), Spansion Inc., Spansion Technology LLC, Spansion LLC, Spansion International, Inc. and Cerium Laboratories LLC (the Debtors), each filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the Chapter 11 Cases). The Chapter 11 Cases, together with the Spansion Japan Proceeding are referred to collectively as the Creditor Protection Proceedings. Non-U.S subsidiaries that are not included in the Creditor Protection Proceedings continue to operate outside these Creditor Protection Proceedings.

Chapter 11 Cases

The Debtors continue to operate their businesses as debtors-in-possession under jurisdiction of the Bankruptcy Court and in accordance with the applicable provisions of the Bankruptcy Code and orders of the Bankruptcy Court. Under the Bankruptcy Code, the Debtors may assume, assume and assign, or reject certain executory contracts including unexpired leases, subject to the approval of the Bankruptcy Court and certain other conditions. Any reference to any such agreements or instruments and termination rights or a quantification of our obligations under any such agreements or instruments is qualified by any overriding rejection, repudiation or other rights the Debtors may have as a result of or in connection with the Creditor Protection Proceedings.

As required under the U.S. Bankruptcy Code, the United States Trustee for the District of Delaware (Trustee) appointed an official committee of unsecured creditors on March 12, 2009 (U.S. Creditors Committee). In addition, a group purporting to hold substantial amounts of our publicly traded Senior Secured Floating Rate Notes due 2013 has organized (the Floating Rate Noteholders). The role of the U.S. Creditors Committee and the Floating Rate Noteholders in the Creditor Protection Proceedings may develop and change over the course of such proceedings.

The Bankruptcy Court has approved payment of certain of the Debtors pre-petition obligations, including, among other things, employee wages, salaries and benefits, and certain business related payments like claims of transport companies and certain contractors in satisfaction of liens or interests. The Debtors have retained, with Bankruptcy Court approval, legal and financial professionals to advise the Debtors on the Chapter 11 Cases and certain other ordinary course professionals. From time to time, the Debtors may seek Bankruptcy Court approval for the retention of additional professionals.

Spansion Japan Proceeding

Unlike a Chapter 11 proceeding in the United States, the Spansion Japan Proceeding conducted under the Corporate Reorganization Law is a receivership proceeding, meaning that a court-appointed trustee takes over the operation of the company. The Japanese Court accepted Spansion Japan s proposal to appoint Mr. Masao Taguchi, Spansion Japan s incumbent representative director, as the trustee.

The Corporate Reorganization Law creates protections that Spansion Japan would not have under ordinary circumstances. For example, subject to the applicable laws Spansion Japan may at its discretion assume or reject certain executory contracts in existence as of the Commencement Date, including unexpired leases, while the counterparty s termination rights on grounds that Spansion Japan has filed the reorganization proceeding are restricted. In addition, any liquidated damages arising from the rejection of such executory contracts will be treated as pre-petition obligations, so they are subject to the stay imposed pursuant to the Spansion Japan Proceeding. Thus, any reference to any such agreements, termination rights or a quantification of our obligations under any such agreements may be qualified by such overriding rejection or repudiation rights as Spansion Japan may have in connection with the Spansion Japan Proceeding.

The Japanese Court has approved payment by Spansion Japan of certain of its pre-petition obligations, including, among other things, business-related payments that fall within the scope of Spansion Japan s ordinary course of business. Spansion Japan has retained in the trustee s name, with the Japanese Court s approval, legal and financial professionals to advise the company on issues relating to the Spansion Japan Proceeding. However, Spansion Japan is subject to the general supervision of the Japanese Court and the court-appointed supervisory attorney (chosa i in) and is required to seek approvals, from time to time, from them on various issues relating to the proceeding. However, at any point during the Creditor Protection Proceedings, actions taken by either (i) Spansion Japan (at the direction of the Spansion Japan trustee or pursuant to orders of the Japanese Court or otherwise) or (ii) Spansion Inc. or Spansion LLC (pursuant to the order of the U.S Bankruptcy Court or otherwise), may adversely affect the ability of Spansion LLC and Spansion Japan to continue operating as a globally integrated unit from an operational perspective. For example, if Spansion LLC was required to transfer wafer production from the fabrication facilities owned and operated by Spansion Japan to Spansion LLC s Fab 25 or to a third party, or if sales of Spansion Products in Japan were no longer to be able to be conducted by Spansion Japan, our business would be materially adversely affected.

Circumstances Leading to the Commencement of Creditor Protection Proceedings

A variety of external economic factors have contributed to the decline in our operating performance, such as persistent oversupply in the Flash memory industry, compounded by the global economic recession, which significantly reduced demand for our products in the fourth quarter of 2008 and continues to negatively impact current demand. These two factors are further complicated by our inability to obtain the additional external financing necessary to meet capital expenditure needs and operational costs in a market characterized by swift technological advances and constantly changing manufacturing processes.

Our strategy was historically based on aggressive revenue and market share growth, leveraging superior technology, and low cost, high-volume manufacturing. In our 2006 long range planning cycle, forecasted revenue growth supported the construction of a $1.2 billion advanced wafer fabrication facility (SP1). Debt financing was arranged and construction on SP1 commenced in early 2007.

Although we continued to increase our NOR memory market segment share according to third-party industry sources, steep average selling price (ASP) declines during the first half of 2007 negatively affected revenue, profitability, and operating cash flow. At that time, we anticipated an improvement in the market environment for the second half of 2007 and aggressively continued the construction of SP1 and incurred associated capital expenditures with the ultimate goal of significant cost reductions that would enhance our competitive advantage.

During the second half of 2007, the ASP environment stabilized relative to earlier in the year. However, we faced customer qualification issues resulting in a shortfall of anticipated revenue and increased inventory levels, which contributed to our failure to meet financial performance targets in the second half of 2007. For fiscal 2007, cash flow from operations was $216.3 million, which was significantly lower than anticipated. Driven by the facilitization of SP1 and investments in our research and development facilities, our capital spending in 2007 was approximately $1.1 billion.

Table of Contents

Our 2008 operating plan included capital expenditures of approximately $535 million, of which approximately 80% were expected to occur in the first half of the year in order to complete the phase 1 facilitization of SP1. Upon completion of the first phase, SP1 was anticipated to generate approximately $300 million in revenue in 2008.

In the first quarter of 2008, we lost liquidity in our investment in $121.9 million of AAA/Aaa rated auction rate securities (ARS) because the auctions in which these ARS were traded had failed. Throughout the second and third quarters of 2008, the credit markets continued to deteriorate and we intensified our cash management process. Operationally, the ramp-up of SP1 was delayed due to slower than expected customer qualifications and a sharp decline in the Japanese wireless market. Consequently, the revenue generated by SP1 was lower than expected in the third quarter of 2008, and we engaged investment bankers and capital restructuring advisors to evaluate the situation and to accelerate plans to improve liquidity. Multiple initiatives were launched and/or accelerated, including efforts to sell production facilities, raise capital, and seek liquidity options for the ARS.

In the fourth quarter of 2008, the macroeconomic environment deteriorated significantly, causing a sharp decline in worldwide demand for consumer goods, and consequently a sharp reduction of demand for our products. Furthermore, continued tightening of credit availability and general market liquidity initiatives curtailed our ability to execute the liquidity initiatives launched in the third quarter of 2008. As these events unfolded, we intensified our strategic restructuring efforts to include, among other things, pursuing a potential sale of some or all of the Company s assets. The sharp decline in demand, coupled with our inability to execute liquidity initiatives limited our ability to generate sufficient funding for our operations and meet our debt servicing requirements, ultimately leading to the Creditor Protection Proceedings.

The Creditor Protection Proceedings allows the Debtors to continue operating our business while continuing to pursue a sale process or a standalone restructuring plan. There is no assurance that the Debtors will be successful in completing a sale or reorganization.

Developments Related to our Creditor Protection Proceedings

The Spansion Japan Proceeding and the Chapter 11 Cases constituted events of default under the instruments governing substantially all of the indebtedness issued or guaranteed by us, Spansion LLC, Spansion Technology LLC and Spansion Japan. In addition, we may not be in compliance with certain other covenants under the indentures related to certain of our debt or lease instruments.

In February 2009, we implemented a workforce reduction of approximately 2,400 employees or 28 percent of the existing employees, in an effort to further reduce costs as we continued our restructuring efforts and explored various strategic alternatives.

On March 4, 2009, we received notice of a determination of the NASDAQ Listing Qualifications Department to delist our common stock from trading on The NASDAQ Stock Market because of the Chapter 11 Cases. On March 16, 2009, we received an additional notice of a determination for our failure to timely file our Annual Report on Form 10-K for the fiscal year ended December 28, 2008. On April 16, 2009, we received an additional notice of a determination that our failure to pay certain fees in accordance with NASDAQ Marketplace Rule 5210(d) is an additional basis for delisting our securities from The NASDAQ Stock Market. On April 23, 2009, we attended a hearing to contest these delisting determinations. On May 5, 2009, NASDAQ denied our request for continued listing on The NASDAQ Stock Market and informed us that trading of shares of our common stock will be suspended effective at the open of business on Thursday, May 7, 2009. We do not intend to request a review of this decision, and expect NASDAQ to file an application on Form 25-NSE with the Securities and Exchange Commission to effect the delisting of our common stock. We expect that our common stock will be publicly traded on the Pink Sheets with ticker symbol SPSN.PK. However, because trading on the Pink Sheets requires a market maker to quote our common stock, trading on the Pink Sheets is not within our control and could be discontinued at any time if no market maker is willing to offer a quote.

Table of Contents

In connection with developing a plan of reorganization under the Creditor Protection Proceedings, we have decided to pursue a standalone strategy focused on the market for embedded applications and licensing our intellectual property portfolio. As a result, we plan to pursue strategic alternatives for our wireless business.

Basis of presentation and going concern

The accompanying audited consolidated financial statements have been prepared using the same U.S. GAAP and the rules and regulations of the U.S. Securities and Exchange Commission (SEC) as applied by us prior to the filing of the Chapter 11 Cases. The audited consolidated financial statements continue to be prepared using the going concern basis, which assumes that we will be able to realize our assets and discharge our liabilities in the normal course of business for the foreseeable future. The Creditor Protection Proceedings have provided us with a period of time to stabilize our operations and financial condition and develop a comprehensive restructuring plan, which will incorporate our standalone business strategy focused on the market for embedded applications and licensing of our intellectual property portfolio. Such restructuring plan does not currently contemplate liquidation of the Company. Accordingly, we believe that these actions make the going concern basis of presentation appropriate. However, it is not possible to predict the outcome of Creditor Protection Proceedings; therefore, the realization of assets and discharge of liabilities are each subject to significant uncertainty. Further, it is not possible to predict whether the actions taken in any restructuring will result in improvements to our financial condition sufficient to allow us to continue as a going concern. Accordingly, substantial doubt exists as to whether we will be able to continue as a going concern. If the going concern basis is not appropriate in future filings, adjustments will be necessary to the carrying amounts and/or classification of assets and liabilities in our consolidated financials statements included in such filings. Further, a comprehensive restructuring plan could materially change the carrying amounts and classifications reported in the consolidated financial statements of future filings. The accompanying audited consolidated financial statements reflect certain reclassifications of long-term debt to current portion of long-term debt as a result of conditions that arose subsequent to December 28, 2008.

For periods ending after the Petition Date, we will reflect adjustments to our financial statements in accordance with American Institute of Certified Public Accountants Statement of Position (SOP) No. 90-7, *Financial Reporting by Entities in Reorganization Under the Bankruptcy Code* (SOP 90-7), assuming that we will continue as a going concern. Accordingly, in our Quarterly Report on Form 10-Q for the quarter ended March 29, 2009, liabilities and obligations whose treatment and satisfaction is dependent on the outcome of the Creditor Protection Proceedings will be segregated and classified as Liabilities Subject to Compromise in the consolidated balance sheet. The ultimate amount of and settlement terms for our pre-petition liabilities are dependent on the outcome of the Creditor Protection Proceedings and, accordingly, are not presently determinable. Pursuant to SOP 90-7, professional fees associated with the Creditor Protection Proceedings and certain gains and losses resulting from reorganization or restructuring of our business will be reported separately as reorganization items. In addition, interest expense will be reported only to the extent that it will be paid during the Creditor Protection Proceedings or that it is probable that it will be an allowed claim under the creditor protection proceedings.

Furthermore, effective on the Commencement Date, pursuant to Financial Accounting Standards Board (FASB) Statement No. 160 (Statement 160), *Noncontrolling Interests in Consolidated Financial Statements, an Amendment of ARB No. 51,* we must deconsolidate Spansion Japan as, by virtue of the Spansion Japan Proceeding, and despite our 100% ownership interest, we are no longer deemed to control Spansion Japan. Spansion Japan will cease to be included in our consolidated operating results and financial position commencing with the presentation of our interim results for the first quarter of fiscal 2009. Transactions between us and Spansion Japan will be reflected in a manner similar to transactions with unrelated parties. We are currently assessing the impact the deconsolidation will have on our future operating results and financial position.

Our fiscal years end on the last Sunday of December. Fiscal 2008 and fiscal 2007 consisted of 52 weeks each. Fiscal 2006 consisted of 53 weeks.

Reporting Requirements

As a result of the Chapter 11 Cases, we are now periodically required to file various documents with, and provide certain information to, the United States Bankruptcy Court, including statements of financial affairs, schedules of assets and liabilities, and monthly operating reports in forms prescribed by federal bankruptcy law, as well as certain financial information on an unconsolidated basis. Such materials will be prepared according to requirements of federal bankruptcy law. While they accurately provide then-current information required under federal bankruptcy law, they are nonetheless unconsolidated, unaudited, and are prepared in a format different from that used in our consolidated financial statements filed under the securities laws and regulations. Accordingly, we believe that the substance and format do not allow meaningful comparison with our regular publicly-disclosed consolidated financial statements. Moreover, the materials filed with the Bankruptcy Court are not prepared for the purpose of providing a basis for an investment decision relating to our securities, or for comparison with other financial information filed with the SEC.

Overview

We are a semiconductor device company exclusively dedicated to designing, developing, manufacturing, licensing, marketing and selling Flash memory technology and solutions. There are two major architectures of Flash memory in the market today: NOR Flash memory, which is primarily used for code and data storage in mobile phones and automotive electronics and primarily for code storage in consumer and industrial electronics; and NAND Flash memory, which is primarily used for data storage in removable memory applications, such as Flash memory cards and USB drives, and applications such as MP3 players and high-end mobile phones.

The Flash memory market can be divided into two major categories based on application: the integrated category and the removable storage category. Within the integrated category, applications include portable, battery-powered electronics such as mobile phones, and consumer, industrial, telecommunications, computing and automotive electronics. Within the removable storage category, applications include Flash memory cards and USB drives. We focus primarily on providing NOR Flash memory solutions for the integrated category of the Flash memory market. Our Flash memory is integrated into a broad range of electronic products, including mobile phones, consumer electronics, automotive electronics, networking and telecommunications equipment, and personal computer peripherals.

We currently operate three Flash memory wafer fabrication facilities, one in the US and two in Japan. Our headquarters are located in Sunnyvale, California. In fiscal 2008, we sold products on technology nodes ranging from 320-nanometer to 65-nanometer, utilizing MirrorBit and floating gate cell technology. We serve our customers worldwide directly or through our distributors, including Fujitsu, who buy products from us and resell them to their customers, either directly or through third-party distributors. Customers for our products consist of OEMs, original design manufacturers (ODMs) and contract manufacturers.

During fiscal 2008 we heightened our focus on alignment and restructuring by undertaking a number of initiatives to improve our operating efficiencies and to reduce our operation costs. Specifically, we transferred certain general and administrative employee positions to more cost-effective regions, including China and Malaysia. We also established strategic partnerships in technology development and manufacturing, including our alliance with Semiconductor Manufacturing International Corporation. In addition, in February 2009, we carried out a workforce reduction of approximately 2,400 employees or 28 percent of our workforce in an effort to further reduce costs as we continued our restructuring efforts and explored various strategic alternatives.

We focused a significant amount of effort on the continued facilitization of SP1, the acquisition of Saifun Semiconductors Ltd., and the development of new technologies and architectures. We also developed EcoRAM, a new memory solution that is designed to extend the applicability of our technology beyond traditional Flash memory segments into higher margin markets, which we believe will enable significant cost and performance improvements in computing data centers. We also announced plans for products based on our new MirrorBit ORNAND2 architecture, which is expected to support faster read and write speed performance at a lower cost than our existing ORNAND products.

On March 18, 2008, we completed the acquisition of Saifun Semiconductor Ltd., a provider of intellectual property (IP) solutions for the non-volatile memory (NVM) market. Saifun licenses its IP to semiconductor manufacturers that use this technology to develop and manufacture a variety of stand-alone and embedded NVM products. The acquisition of Saifun provides an opportunity for us to expand our product portfolio and enter into the technology licensing business.

A variety of external economic factors have contributed to the decline in our operating performance, such as persistent oversupply in the Flash memory industry compounded by the global economic recession. The 2008 global economic downturn has caused a sharp decline in worldwide demand for consumer goods and, consequently, a sharp reduction in demand for our products, which resulted in significant declines in our manufacturing capacity utilization. In addition to these economic factors, the ramp-up of SP1 was delayed in the second half of 2008 due to slower than expected customer qualifications and the steep decline in the Japanese wireless market. These factors, among others, caused our stock price to drop significantly throughout 2008, resulting in a sustained market capitalization well below book value.

As a result, we performed an impairment analysis to determine if our long-lived assets were recoverable, using financial forecasts derived from the long-term financial outlook in light of fourth quarter market conditions and the challenging economic outlook. The impairment analysis determined that a total acquisition-related intangible asset and long-lived asset impairment charge of approximately $1.6 billion was required for the fourth quarter ended December 28, 2008, reflecting the low demand for semiconductor equipment worldwide, coupled with excess supply.

We also performed our annual goodwill impairment analysis in the fourth quarter of 2008. This analysis was based on the same forecasts and assumptions used for our long-lived assets discussed above, and determined that the implied fair value of our goodwill was zero. As a result, we recognized an impairment charge on our remaining goodwill of $20.8 million, reducing the goodwill balance to zero.

Our financial forecast used to assess recoverability and measure the impairment charges represents management s best estimate and we believe that the underlying assumptions are reasonable based primarily on current product performance and customer acceptance. However, actual performance in the near-term and longer-term could be materially different from these forecasts, which could impact future estimates of cash flows and may result in further impairment of the carrying amount of long-lived assets. Developments pursuant to our Creditor Protection Proceedings could impact strategic decisions made in response to economic and competitive conditions, or impact relationships with significant customers. Accordingly, we may incur additional impairment losses in future periods if factors influencing our estimates of the undiscounted cash flows or other key assumptions change.

For fiscal 2008, our net sales were approximately $2.3 billion and our net loss was approximately $2.4 billion. For fiscal 2007, our net sales were approximately $2.5 billion and our net loss was approximately $263.5 million. For fiscal 2006, our net sales were approximately $2.6 billion and our net loss was approximately $147.8 million. Total net sales for fiscal 2008 decreased nine percent compared to the corresponding period of fiscal 2007, primarily attributable to a six percent decline in unit shipments and a three percent decline in blended ASPs in fiscal 2008. Total net sales for fiscal 2007 decreased three percent compared to the corresponding period of fiscal 2006, primarily attributable to a 10 percent decline in blended ASPs, which was partially offset by an increase of seven percent in unit shipments in fiscal 2007.

In light of the current economic environment and resulting lack of availability of external financing alternatives, one of our key priorities is to preserve cash. Our cash and cash equivalents, which consisted of cash and investments in money market funds, totaled $116.4 million at December 28, 2008 compared to $199.1 million at December 30, 2007. This decline in our cash and cash equivalents was primarily due to our significant losses. To that end, during 2008 we undertook, and plan to continue to undertake, a number of actions to improve our cost structure. For 2008, our capital expenditures decreased to $430.8 million compared to $1.1 billion in 2007.

Our current cash management system and cash on hand to fund our operations is subject to ongoing review and approval by the United States Bankruptcy Court, and may be affected by the Creditor Protection Proceedings. For a complete discussion of the risks facing our business, including our liquidity, please see the discussion on Liquidity and Capital Resources in this section and Part II, Item 1A Risk Factors.

Critical Accounting Policies

Our discussion and analysis of our financial condition and results of operations are based upon our consolidated financial statements, which have been prepared in accordance with U.S. generally accepted accounting principles. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts in our consolidated financial statements. We evaluate our estimates on an on-going basis, including those related to our revenues, inventories, asset impairments, income taxes, stock-based compensation expenses and fair value of marketable securities. We base our estimates on experience and on 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. The actual results may differ from these estimates or our estimates may be affected by different assumptions or conditions. As a result of the Creditor Protection Proceedings, the realization of assets and liquidation of liabilities are subject to uncertainty. A plan of reorganization could materially change the amounts and classifications reported in the consolidated financial statements in future filings. However, the accompanying audited consolidated financial statements do not give effect to any adjustments to the carrying value of assets or amounts of liabilities that may occur as a consequence of confirmation of a plan of reorganization.

We believe the following critical accounting policies are the most significant to the presentation of our financial statements and require the most difficult, subjective and complex judgments.

Estimates of Sales Returns and Allowances

From time to time we may accept sales returns or provide pricing adjustments to customers who do not have contractual return or pricing adjustment rights. We record a provision for estimated sales returns and allowances on product sales in the same period that the related revenues are recorded, which primarily impacts gross margin. We base these estimates on actual historical sales returns, allowances, historical price reductions, market activity and other known or anticipated trends and factors. These estimates are subject to management s judgment, and actual provisions could be different from our estimates and current provisions, resulting in future adjustments to our revenues and operating results.

Impairment of Long-Lived Assets including Acquisition-Related Intangible Assets

We consider quarterly whether indicators of impairment of long-lived assets and intangible assets are present. These indicators may include, but are not limited to, significant decreases in the market value of an asset, significant changes in the extent or manner in which an asset is used or an adverse change in our overall business climate. If these or other indicators are present, we test for recoverability of the asset (asset group) by determining whether the estimated undiscounted cash flows attributable to the asset (asset group) in question are less than their carrying value. If less, we recognize an impairment loss based on the excess of the carrying amount of the asset (asset group) over its respective fair value. Significant judgment is involved in determining whether impairment is measured at the individual asset or at an asset group level.

Our manufacturing processes are vertical in nature and we have multiple foundry, assembly and test facilities. As a result, the cash flows of our assets and liabilities below the entity level are not largely independent of one another and we concluded impairment should be evaluated at the single entity-wide asset group (i.e., consolidated Spansion) level. Fair value is determined by discounted future cash flows, appraisals or other methods. Significant judgment is involved in estimating future cash flows and deriving the discount rate to apply to the estimated future cash flows and in evaluating the results of appraisals or other valuation methods. If the asset (asset group) determined to be impaired is to be held and used, we recognize an impairment loss through a charge to our operating results which also reduces the carrying basis of the related asset or assets in an asset group. The adjusted carrying value of the related asset (asset group) establishes a new cost basis and accumulated depreciation is reset to zero. The asset (asset group) is depreciated or amortized over the remaining estimated useful life of the asset. We also must make subjective judgments regarding the remaining useful life of the asset. If the asset (asset group) determined to be impaired is held for sale, we measure the new carrying value of the asset (asset group) at fair value less estimated cost to dispose, with the impairment loss being charged to operations.

We performed an impairment analysis in the fourth quarter of 2008 and recorded impairment charges of approximately $1.6 billion, including approximately $53.5 million related to acquisition-related intangible assets. We may incur additional impairment losses in future periods if factors influencing our estimates of the undiscounted cash flows or other key assumptions change.

Impairment of Goodwill

Goodwill represents the excess of the purchase price over the fair value of net tangible and identifiable intangible assets acquired. We recorded goodwill in the first quarter of fiscal 2008 in connection with our acquisition of Saifun. In accordance with the provisions of FASB Statement No. 142, *Goodwill and Other Intangible Assets* (SFAS 142), goodwill amounts are not amortized, but rather are tested for impairment at the reporting unit level at least annually, or more frequently if there are indicators of impairment present. We have determined that we have a single reporting unit and we perform the annual goodwill impairment analysis as of the last day of the fourth quarter of each fiscal year. Testing for goodwill impairment under SFAS 142 requires a two step approach. Under step one we evaluate whether fair value of the reporting unit is less than the carrying value, including goodwill. The fair value of the reporting unit is determined by generally accepted valuation techniques and may consider both the income and market approach, adjusted by an estimated control premium. The income approach requires estimates of future operating results and cash flows of Spansion discounted using estimated discount rates. The market approach involves estimating enterprise value using guideline public company multiples. If step one of the analysis demonstrates that the fair value of our reporting unit is below the carrying value we will proceed to step two. Under step two we estimate the fair values of all identifiable assets and liabilities of the reporting unit using the income, market or replacement cost approaches as appropriate. The excess of the fair value of the reporting unit over the fair values of the identified assets and liabilities is the implied fair value of goodwill. If the implied fair value of goodwill is lower than the carrying value of the goodwill, an impairment charge is recorded to reduce the carrying value to fair value. As a result of this analysis, we recorded a $20.8 million goodwill impairment charge in the fourth quarter of 2008.

The key assumptions used to measure the amount of impairment included projected Spansion cash flows and discount rates based on our weighted average cost of capital, adjusted for the risks associated with the operations. A variance in the discount rate could have had a significant impact on the amount of the goodwill impairment charge recorded. In the market approach, ten public companies operating in the same or similar line of business and with the same or similar operating characteristics and business description were used as guideline companies. A financial analysis comparing the operational metrics and marketplace activities relative to the selected companies was performed and results thereof were calculated and then compared, contrasted and assessed against our financial performance.

Income Taxes

Prior to our reorganization into Spansion Inc. we operated as a Delaware limited liability company that had elected to be treated as a partnership for U.S. federal tax reporting purposes and therefore, we were not a U.S. taxable entity. We now operate as Spansion Inc., which is a taxable entity for U.S. federal tax reporting purposes. Our foreign subsidiaries are wholly owned and are taxable as corporations in their respective foreign countries of formation. In determining taxable income for financial statement reporting purposes, we must make estimates and judgments. These estimates and judgments are applied in the calculation of specific tax liabilities and in the

Table of Contents

determination of the recoverability of deferred tax assets, which arise from temporary differences between the recognition of assets and liabilities for tax and financial statement reporting purposes. The recognition and measurement of current and deferred income tax assets and liabilities impact our tax provision.

We must assess the likelihood that we will be able to recover our deferred tax assets. Unless recovery of these deferred tax assets is considered more likely than not, we must increase our provision for taxes by recording a charge to income tax expense, in the form of a valuation allowance against those deferred tax assets for which we believe it is not more likely than not they will be realized. We consider past performance, future expected taxable income and prudent and feasible tax planning strategies in determining the need for a valuation allowance.

In addition, the calculation of our tax liabilities involves dealing with uncertainties in the application of complex tax rules and the potential for future adjustment by the relevant tax jurisdiction. If our estimates of these taxes are greater or less than actual results, an additional tax benefit or charge will result

Stock-Based Compensation Expenses

We estimated the fair value of our stock-based awards to employees using the Black-Scholes-Merton option pricing model, which requires the use of input assumptions, including expected volatility, expected life, expected dividend rate, and expected risk-free rate of return. The assumptions for expected volatility and expected life are the two assumptions that significantly affect the grant date fair value. Stock-based compensation expense recognized during a period is based on the higher of the grant-date fair value of the portion of share-based payment awards that is ultimately expected to vest, or actually vest, during the period. Compensation expense for all share-based payment awards was recognized using the straight-line attribution method reduced for estimated forfeitures.

We estimate volatility based on our recent historical volatility and the volatilities of our competitors who are in the same industry sector with similar characteristics (guideline companies) because of the lack of historical realized volatility data on our business. We have used the simplified calculation of expected life since our initial public offering on December 21, 2005 and continue to use this method upon the adoption of SAB 110, which is effective January 1, 2008, as we do not have sufficient historical exercise data to provide a reasonable basis upon which to estimate the expected term of share options since our initial public offering. If we determined that another method used to estimate expected volatility or expected life was more reasonable than our current methods, or if another method for calculating these input assumptions was prescribed by authoritative guidance, the fair value calculated for share-based awards could change significantly. Higher volatility and longer expected lives result in an increase to share-based compensation determined at the date of grant. In addition, we are required to develop an estimate of the number of share-based awards that will be forfeited due to employee turnover. Prior to the fourth quarter of fiscal 2007, we did not have sufficient historical forfeiture experience related to our own stock-based awards and therefore, estimated our forfeitures based on the average of our own fiscal 2006 forfeiture rate and historical forfeiture rates for Advanced Micro Devices, Inc. (AMD), as we believed these forfeiture rates to be the most indicative of our own expected forfeiture rate. Beginning the fourth quarter of fiscal 2007, we estimated forfeitures based on the weighted average of our own fiscal 2008, fiscal 2007 and fiscal 2006 forfeiture rates. These estimates will be revised, if necessary, in subsequent periods if actual forfeitures differ from those estimates.

Inventory Valuation

At each balance sheet date, we evaluate our ending inventories for excess quantities and obsolescence. This evaluation includes analysis of sales levels by product and projections of future demand. These projections assist us in determining the carrying value of our inventory and are also used for near-term factory production planning. Historically, we have generally used a six-month demand forecast in assessing the salability of inventory on hand and did not value inventory in excess of six months of estimated demand. Beginning in the second quarter of fiscal 2008, as part of a strategy to efficiently manage our new production capacity and to maintain strategic inventory levels of certain products, we have built and valued certain product inventory to meet estimated demand as much as twelve months into the future. We write off inventories that we consider obsolete and adjust remaining specific inventory balances to approximate the lower of our standard manufacturing cost or market value. Among other factors, management considers forecasted demand in relation to the inventory on hand, competitiveness of product offerings, market conditions and product life cycles when determining obsolescence and net realizable value. If we anticipate future demand or market conditions to be less favorable than our previous projections, additional inventory write-downs may be required and would be reflected in cost of sales in the period the write-down is made. This would have a negative impact on our gross margin in that period. We recorded an inventory write down of approximately $253.2 million in the fourth quarter of fiscal 2008 as a result of a weak economic outlook and an associated reduction in demand from previous forecasts. This contributed to an 11 percent decrease in gross margin. A continued weak economy could lead to additional write downs of inventory. If in any period we are able to sell inventories that were not valued or that had been written down in a previous period, related revenues would be recorded without any offsetting charge to cost of sales, resulting in a net benefit to our gross margin in that period.

Deferred Revenue

We sell to distributors and provide such distributors certain rights of return, stock rotation and price protection as discussed below. We defer the recognition of revenue and related product costs on these sales as deferred income on shipments until the merchandise is resold by our distributors. We also sell some of our products to certain distributors under sales arrangements with terms that do not allow for rights of returns or price protection on unsold products held by them. In these instances, we recognize revenue when we ship the product directly to the distributors.

Rights of return are granted whereby we are obligated to repurchase inventory from a distributor upon termination of the distributor s sales agreement with us. However, we are not required to repurchase the distributor s inventory under certain circumstances, such as the failure to return the inventory in saleable condition or we may only be required to repurchase a portion of distributor s inventory, for example when distributor has terminated the agreement for its convenience.

Stock rotation rights are provided to distributors when we have given written notice to the distributor that a product is being removed from our published price list. The distributor has a limited period of time to return the product. All returns are for credit only; the distributor must order a quantity of products, the dollar value of which equals or exceeds the dollar value of the products being returned. Some distributors are also offered quarterly stock rotation. Such stock rotation is limited to a certain percentage of the previous three months net shipments.

A general price protection is granted to a distributor if we publicly announce a generally applicable price reduction relating specifically to certain products, whereby the distributor is entitled to a credit equal to the difference between the price paid by the distributor and the newly announced price.

Price protection adjustments are provided to distributors solely for those products that: 1) are shipped by us to the distributor during the period preceding the price reduction announcement by us, 2) are part of the distributor s inventory at the time of the announcement, and 3) are located at geographic territories previously authorized by us.

In addition, if in our sole judgment, a distributor demonstrates that it needs a price lower than the current published price list in order to secure an order from the distributor s customers, we may, but we have no obligation to, grant the distributor a credit to our current published price. The distributor must submit the request for a reduction in price prior to the sale of products to its customer. If the request is approved and the sale occurs, the distributor must make a claim with the proof of resale to end customers for a credit within a specified time period.

Table of Contents

Gross deferred revenue and gross deferred cost of sales on shipments to distributors as of December 28, 2008 and December 30, 2007 are as follows:

	December 28, 2008	December 30, 2007
	(in thousands)	
Deferred revenue	$ 62,183	$ 75,010
Less: deferred costs of sales	(31,845)	(35,053)
Deferred income on shipments(1)	$ 30,338	$ 39,957

(1) The deferred income on shipments of $35,285 thousand on the consolidated balance sheet as of December 28, 2008 included $4,947 thousand of defered revenue related to our licensing revenue that was excluded in the table above.

Our distributors provide us with periodic data regarding the product, price, quantity, and end customer when products are resold as well as the quantities of our products they still have in stock. We use estimates and apply judgments to reconcile distributors reported inventories to their activities. Error in our judgment could lead to inaccurate reporting of our revenues, deferred income and allowances on sales to distributors.

Prior to December 2008, Spansion Japan recognized revenue on all its shipments to Fujitsu upon billing based on terms of the Spansion Fujitsu 2003 distribution agreement. In December 2008, Spansion Japan initiated a distribution agreement with a new distributor instead of selling directly through Fujitsu. Spansion Japan is employing a deferred revenue model for this distributor accounting for $0.9 million of the gross deferred revenue at December 28, 2008.

Fair Value of Marketable Securities and Put Option

Our marketable securities at December 28, 2008 consist of approximately $94.0 million of ARS, valued at fair value ($121.9 million at par), which are backed by student loans and substantially all of which are guaranteed by the U.S. government Federal Family Education Loan Program (FFELP). These securities have credit ratings of AAA and Aaa. Prior to February 2008, these securities were publicly quoted and traded in the auctions relating to such investments.

Historically, the fair value of our ARS investments has approximated face value due to the frequent auction periods, generally every seven to 28 days, which provided liquidity to these investments. However, subsequent to February 2008, all auctions involving these securities have failed. The result of a failed auction is that these ARS will continue to pay interest in accordance with their terms at each respective auction date; however, liquidity of the securities will be limited until there is a successful auction, the issuer redeems the securities, the securities mature or until such time as other markets for these ARS investments develop. We cannot be certain regarding the amount of time it will take for an auction market or other markets to develop. Accordingly, we have concluded that the estimated fair value of the ARS no longer approximates the face value primarily due to the lack of liquidity.

At December 28, 2008, there was insufficient observable ARS market information available to determine the fair value of our ARS investments. Therefore, we estimated the fair values of our ARS investments at December 28, 2008 using a discounted cash flow (DCF) methodology. Significant assumptions considered in the DCF models were the credit quality of the instruments, the percentage and the types of guarantees (such as FFELP), the probability of the auction succeeding or the security being called prior to final maturity, and an illiquidity discount factor. The key assumptions used in the discounted cash flow analysis to determine the fair values as of December 28, 2008 were the discount factor to be applied and the period over which the cash flows would be expected to occur. The discount factor used was based on the three-month LIBOR (1.47 percent as of December 28, 2008) adjusted by 125 basis points (bps) to reflect the then current market conditions for instruments with similar credit quality at the date of the valuation. In addition, the discount factor was

Table of Contents

incrementally adjusted for a liquidity discount of 125 bps to reflect the risk in the marketplace for these investments that has arisen due to the lack of an active market for these instruments. We applied this discount factor over the expected life of the estimated cash flows of our ARS with projected interest income of 2.69 percent per annum. The projected interest income is based on a trailing 12-month average 91-day T-bill rate at 1.49 percent as of December 28, 2008 plus 120 bps, which is the average annual yield of our ARS assuming auctions continue to fail.

The impairment in value, or $27.9 million out of a face value of approximately $121.9 million, was considered to be other than temporary and, accordingly, was recorded as an impairment charge in the consolidated statement of operations for the year ended December 28, 2008.

Our ARS have been classified as Level 3 assets in accordance with FASB Statement No. 157, *Fair Value Measurements*, as their valuation requires substantial judgment and estimation of factors that are not currently observable in the market due to the lack of trading in the securities. If different assumptions were used for the various inputs to the valuation approach including, but not limited to, assumptions involving the estimated lives of the ARS investments, the estimated cash flows over those estimated lives, and the estimated discount rates, especially the liquidity discount rate, applied to those cash flows, the estimated fair value of these investments could be significantly higher or lower than the fair value we determined as of December 28, 2008.

In November 2008, we accepted an offer to participate in an ARS settlement from UBS Bank USA (UBS), our broker, providing us the right, but not the obligation, to sell to UBS up to 100 percent of our ARS at par, commencing June 30, 2010. Our right to sell the ARS to UBS commencing June 30, 2010 through July 2, 2012 represents a put option for a payment equal to the par value of the ARS. Upon acceptance of the offer from UBS, we elected to measure the put option under the fair value option of FASB Statement 159 and recorded $27.5 million as the fair value of the put option asset as of December 28, 2008, with a corresponding credit to other income in the consolidated statement of operations for the year ended December 28, 2008. We also reclassified our ARS investments from available-for-sale to trading. Following these elections both the ARS and the put will be marked to market through earnings and the amounts of such adjustments should substantially offset each other.

Please see Part II, Item 1A Risk Factors and Note 17 of Notes to Consolidated Financial Statements for more information on our ARS and put option.

Results of Operations

Total Net Sales for Fiscal 2008, Fiscal 2007 and Fiscal 2006

The following is a summary of our total net sales for fiscal 2008, fiscal 2007 and fiscal 2006.

	Year Ended		
	December 28, 2008	**December 30, 2007**	**December 31, 2006**
		(in thousands)	
Total net sales	2,281,803	$ 2,500,813	$ 2,579,274

Total Net Sales Comparison for Fiscal 2008 and Fiscal 2007

Total net sales of approximately $2,281.8 million in fiscal 2008 decreased nine percent compared to total net sales in fiscal 2007. The decrease in total net sales was primarily attributable to an approximately six percent decrease in unit shipments and an approximately three percent decrease in blended ASPs. The decrease in unit shipments was primarily due to a sharp decline in the Japanese wireless market and a significant deterioration in the macroeconomic environment in the fourth quarter of 2008. This caused a decline in the worldwide demand for consumer goods, and consequently a reduction in demand for our products. The decrease in blended ASPs was primarily the result of price declines in the overall Flash memory market during fiscal 2008. Sales of MirrorBit products increased from approximately 71 percent of total net sales in fiscal 2007 to approximately 79 percent of total net sales in fiscal 2008.

Table of Contents

Total Net Sales Comparison for Fiscal 2007 and Fiscal 2006

Total net sales of approximately $2,500.8 million in fiscal 2007 decreased three percent compared to total net sales in fiscal 2006. The decrease in total net sales was primarily attributable to an approximately 10 percent decrease in blended ASPs, which was partially offset by an approximately seven percent increase in unit shipments. The decrease in blended ASPs was primarily the result of sharp price declines in the overall semiconductor memory industry during the first half of 2007. During the second half of 2007, ASPs stabilized relative to the first half of 2007. We believe our increase in unit shipments resulted in large part from our increased share in the NOR segment of the Flash memory market.

Net Sales Comparison WSD and CSID for Fiscal 2008 and Fiscal 2007

	Year Ended			
	December 28, 2008	December 30, 2007	Variance in Dollars	Variance in Percent
	(in thousands)			
Wireless Solutions Division (WSD)	$ 1,133,181	$ 1,362,508	$ (229,327)	-17%
Consumer, Set Top Box and Industrial Division (CSID)	1,134,466	1,130,265	4,201	0%
Other	14,156	8,040	6,116	76%
Total net sales	$ 2,281,803	$ 2,500,813	$ (219,010)	-9%

Net sales in our WSD decreased approximately 17 percent in fiscal 2008 as compared to fiscal 2007. The decrease was primarily attributable to an approximately 11 percent decline in blended ASPs and an approximately seven percent decline in our unit shipments. The decline in blended ASPs was primarily the result of price declines in the overall Flash memory market and lower than expected net sales from SP1, which generates higher ASPs than our other facilities.

Net sales in our CSID increased slightly in fiscal 2008 as compared to fiscal 2007. An approximately seven percent increase in blended ASPs, primarily as a result of increased sales of our high density MirrorBit products, was partially offset by an approximately six percent decrease in our unit shipments.

For fiscal 2008, our WSD and CSID each accounted for approximately 50 percent of our total net sales, as compared to 54 percent and 45 percent, respectively, for fiscal 2007. The change in percentage of net sales attributable to our two main divisions was primarily the result of the decline in blended ASPs for our WSD resulting in decreased net sales year-over-year and a slight increase in net sales for our CSID due to an increase in high density MirrorBit product sales.

Net Sales Comparison WSD and CSID for Fiscal 2007 and Fiscal 2006

	Year Ended			
	December 30, 2007	December 31, 2006	Variance in Dollars	Variance in Percent
	(in thousands)			
Wireless Solutions Division (WSD)	$ 1,362,508	$ 1,549,155	$ (186,647)	-12%
Consumer, Set Top Box and Industrial Division (CSID)	1,130,265	1,025,229	105,036	10%
Other	8,040	4,890	3,150	64%
Total net sales	$ 2,500,813	$ 2,579,274	$ (78,461)	-3%

Net sales in our WSD decreased approximately 12 percent in fiscal 2007 as compared to fiscal 2006. The overall decline in blended ASPs in fiscal 2007 had a greater impact on the more competitive wireless market, resulting in our WSD net sales decline.

Table of Contents

Net sales in our CSID increased 10 percent in fiscal 2007 as compared to fiscal 2006. The ASP decline was less severe in this business unit and the increase in CSID net sales was due to a higher acceptance of our high density MirrorBit products by our customers in the CSID business, which was a significant change from our historical trend of net sales of mid- and lower-density products. In addition, CSID was successful in fiscal 2007 in expanding in the serial peripheral interface market with our MirrorBit technology.

For fiscal 2007, our WSD accounted for approximately 54 percent of our total net sales, and our CSID accounted for approximately 45 percent of our total net sales, as compared to 60 percent and 40 percent, respectively, for fiscal 2006. We believe a combination of business conditions in the overall Flash memory market and our efforts to sell our products containing MirrorBit technology led to the large percentage shift between our two primary business divisions.

Gross Margin; Operating Expenses; Interest and Other Income, Net; Interest Expense and Income Tax (Provision) Benefit

The following is a summary of gross margin; operating expenses; interest and other income, net; interest expense and income tax (provision) benefit for fiscal 2008, fiscal 2007 and fiscal 2006.

	Year Ended		
	December 28, 2008	December 30, 2007 (in thousands)	December 31, 2006
Net sales	$ 2,281,803	$ 2,500,813	$ 2,579,274
Cost of sales	2,193,345	2,065,143	2,063,639
Gross margin	4%	17%	20%
Research and development	431,808	436,785	342,033
Sales, general and administrative	253,878	239,317	264,358
Acquisition related in-process research and development	10,800		
Restructuring charges	11,161		
Asset impairment charges	1,652,622		
Operating loss	(2,271,811)	(240,432)	(90,756)
Interest and other income, net	5,200	32,595	11,681
Interest expense	(97,843)	(80,803)	(70,903)
Income tax (provision) benefit	(62,865)	25,144	2,215

Gross margin

The decrease in gross margin in fiscal 2008 was primarily due to a $253.2 million inventory write-down as a result of a weak economic outlook and an associated reduction in customer demand from previous forecasts during the fourth quarter of fiscal 2008, the impact of our exit of 90-nanometer content delivery business resulting in $13 million charges to gross margin, an increase in our manufacturing costs related to SP1, and an approximately three percent decline in our blended ASP during the fourth quarter of fiscal 2008. This $253.2 million inventory write-down negatively impacted gross margin in fiscal 2008 by 11 percent. The overall decrease in gross margin was partially offset by our cost reduction efforts, improvement of cumulative product yields, reduction of test time and better pricing from suppliers. The gross margin for fiscal 2008 and fiscal 2007 included a portion of the gain recognized from the sale of JV1 and JV2, our two wafer fabrication facilities in Aizu-Wakamatsu, Japan (the JV1/JV2 Transaction). See Note 8 of Notes to Consolidated Financial Statements.

The decrease in gross margin in fiscal 2007 was primarily due to price declines in the Flash memory industry, which was partially offset by our cost reduction efforts and increased productivity and output of internal wafer fabrication facilities in fiscal 2007 as compared to fiscal 2006.

Research and development

Research and development expenses of approximately $431.8 million in fiscal 2008 reflected a decrease of one percent compared to approximately $436.8 million in fiscal 2007. The decrease in research and development expense in fiscal 2008 was primarily due to a decrease of approximately $22.6 million in development costs related to SP1 and Fab 25 and a decrease of approximately $4.7 million in outside services. The decrease was partially offset by an increase of approximately $15.6 million of research and development expenses related to Saifun and an increase of approximately $7.6 million of labor costs primarily related to the development of our next generation MirrorBit technology.

Research and development expenses of approximately $436.8 million in fiscal 2007 reflected an increase of 28 percent compared to approximately $342.0 million in fiscal 2006. The increase in research and development expense in fiscal 2007 was primarily due to an increase in 300-millimeter development costs at SP1 and the Submicron Development Center (SDC), which together represented approximately $62.7 million of the increase for fiscal 2007. During fiscal 2007, development costs from SP1 were included in research and development expenses, which in part caused the increase from fiscal 2006 research and development expenses. Also, approximately $19.2 million of the increase was due to higher labor costs during fiscal 2007, primarily related to increased headcount during the period, and approximately $11.5 million of the increase was due to a gain on the sale of our 200-millimeter equipment in fiscal 2006 with no comparable gain in fiscal 2007.

Sales, general and administrative

Sales, general and administrative expenses of approximately $253.9 million in fiscal 2008 increased five percent compared to approximately $239.3 million in fiscal 2007. The increase in sales, general and administrative expenses in fiscal 2008 was primarily due to higher legal fees and expenses, primarily related to litigation, and the inclusion of sales, general and administrative expenses related to the operations of Saifun. The higher legal fees and expenses represented approximately 71 percent of the increase in our total sales, general and administrative expenses in fiscal 2008.

Sales, general and administrative expenses of approximately $239.3 million in fiscal 2007 decreased 9 percent compared to approximately $264.4 million in fiscal 2006. Approximately 60 percent of the decrease was due to lower information technology and other administrative expenses as a result of the reduction in services provided by AMD. Since fiscal 2006, we have expanded our administrative functions and significantly reduced our reliance on administrative services provided by AMD. Also, approximately 24 percent of the decrease was due to outside consulting charges that were primarily related to operational efficiency initiatives incurred in fiscal 2006 which were not incurred in fiscal 2007.

Acquisition-related in-process research and development

In the first quarter of fiscal 2008, we expensed $10.8 million of Saifun acquisition-related IPR&D charges in connection with the acquisition of Saifun. Projects that qualify as IPR&D are those that have not reached technological feasibility and have no alternative future use at the time of the acquisition. We did not have a similar charge in prior years.

Restructuring charges

In the second quarter of fiscal 2008, we eliminated approximately 500 regular and contract positions, including positions which were unfilled at the time of elimination, and shut down a research center in Japan. In fiscal 2008, we incurred approximately $11.2 million of restructuring charges, of which approximately $4.6 million was related to manufacturing. We did not have similar charges in prior years.

Asset impairment charges

A variety of external economic factors have contributed to the decline in our operating performance, such as persistent oversupply in the Flash memory industry compounded by the global economic recession. The 2008 global economic downturn has caused a sharp decline in worldwide demand for consumer goods and, consequently, a sharp reduction in demand for our products, which resulted in significant declines in our manufacturing capacity utilization. In addition to these economic factors, the ramp-up of SP1 was delayed during the second half of 2008 due to slower than expected customer qualifications and the steep decline in the Japanese wireless market. These factors, among others, caused our stock price to drop significantly throughout 2008, resulting in a sustained market capitalization well below book value.

As a result, we believed our long-lived assets, including our acquisition-related intangible assets, may not be recoverable at December 28, 2008. Because of the vertical nature of our manufacturing operations and our multiple foundry, assembly and test facilities, we evaluated recoverability using a single entity-wide asset group that included all of our long-lived assets and related operating assets and liabilities. We prepared an undiscounted cash flow analysis and determined that the carrying value of the asset group exceeded the undiscounted cash flows expected from the use and eventual disposition of the asset group and, therefore, the asset group was not recoverable. Accordingly, we estimated the fair value of the asset group based on our cash flow forecast, discounted based on our weighted-average cost of capital. We measured the impairment as the difference between the fair value of the asset group and its carrying value.

As a result of this impairment analysis, we recorded a total long-lived asset impairment charge of approximately $1.6 billion for the fourth quarter ended December 28, 2008, reflecting the low demand for semiconductor equipment worldwide, coupled with excess supply. This charge is comprised of the following:

	In millions
Property, plant and equipment	$ 1,578.4
Acquisition-related intangible assets	53.5
Total	$ 1,631.9

We also performed our annual goodwill impairment analysis in the fourth quarter of 2008. This analysis was based on the same forecasts and assumptions used for our long-lived asset impairment analysis discussed above, and we determined that the implied fair value of our goodwill was zero. As a result, we recognized an impairment charge on our remaining goodwill of $20.8 million, reducing the goodwill balance to zero.

Interest and other income, net

Interest and other income, net, decreased by $27.4 million in fiscal 2008 compared to fiscal 2007, primarily due to the combined effect of decreases in our invested cash, cash equivalents and marketable securities balances, and a decrease in our average investment portfolio yield of approximately 2.7 percent. In addition, we recorded a charge of approximately $3.3 million due to other than temporary impairment of our marketable securities. The decrease in interest and other income, net, in fiscal 2008 as compared to fiscal 2007 was also due to the recognition of approximately $7.5 million of gain from the sale of land in Asia in the second quarter of fiscal 2007, which was partially offset by approximately $3.4 million of loss from an early extinguishment of debt in the same period.

Interest and other income, net, increased by $20.9 million in fiscal 2007 compared to fiscal 2006, primarily due to a $13.9 million decrease in loss on early extinguishment of debt and a $6.3 million increase in interest income for fiscal 2007 due to the combined effect of increases in our invested cash, cash equivalents and marketable securities balances, and an increase in our average investment portfolio yield of approximately 0.4 percent. The increase in interest and other income, net, for fiscal 2007 was also partially due to a $7.5 million gain realized on the sale of land in Asia in the second quarter of fiscal 2007 as compared to a $6.9 million gain on the sale of marketable securities in the second quarter of fiscal 2006.

Interest expense

Interest expense increased by approximately $17.0 million in fiscal 2008 as compared to fiscal 2007, primarily due to approximately $16.9 million of interest capitalized related to the build out of SP1 in 2007, compared with approximately $6.5 million in 2008 and an approximately $8.2 million reduction in interest expense related to an adjustment to a capital lease obligation during fiscal 2007. The increase in interest expense incurred was partially offset by lower average interest rates on our debt portfolio in fiscal 2008. The average interest rates on our debt portfolio were 6.14 percent for fiscal 2008 as compared to 7.58 percent for fiscal 2007.

Interest expense increased by approximately $9.9 million in fiscal 2007 as compared to fiscal 2006, primarily due to the increase in average debt balances. The increase in the debt balance was primarily attributable to a borrowing of $500.0 million under the Senior Secured Term Loan Facility during the fourth quarter of fiscal 2006, subsequently replaced by the $625.0 million Senior Secured Floating Rate Notes during the second quarter of fiscal 2007, and a borrowing of $256.5 million under our Spansion Japan 2007 Credit Facility in 2007. The increase in interest expense incurred was partially offset by approximately $16.9 million of interest capitalized related to the build out of SP1, an approximately $8.2 million reduction in interest expense related to an adjustment to a capital lease obligation during fiscal 2007, and a lower average interest rate on our debt portfolio. The average interest rates for fiscal 2007 were 7.58 percent as compared to 7.85 percent for fiscal 2006.

Income tax

We recorded income tax expense of approximately $62.9 million in fiscal 2008, as compared to approximately $25.1 million of income tax benefit in fiscal 2007, and approximately $2.2 million of income tax benefit in fiscal 2006.

The income tax expense recorded for fiscal 2008 differs from the benefit for income taxes that would be derived by applying a U.S. statutory 35 percent rate to the loss before income taxes primarily because we can not benefit from U.S. operating losses due to lack of a history of earnings, an increase of $64.5 million in the valuation allowance associated with deferred tax assets of our Japanese subsidiary, and income that was incurred and tax effected in foreign jurisdictions with different tax rates.

The increase of $64.5 million in the valuation allowance associated with deferred tax assets of our Japanese subsidiary was recorded due to our change in judgment about the realizability of our Japanese deferred tax assets and the filing of the Spansion Japan Proceeding. We believe it is not more likely than not that these deferred tax assets will be realized in these jurisdictions.

The benefit for income taxes recorded for fiscal 2007 differs from the benefit for income taxes that would be derived by applying a U.S. statutory 35 percent rate to the loss before income taxes primarily due to our inability to benefit from U.S. operating losses due to lack of a history of earnings, a decrease of $21.0 million in the valuation allowance associated with deferred tax assets of our Japanese subsidiary and income that was incurred and tax effected in foreign jurisdictions with different tax rates.

The benefit for income taxes recorded for fiscal 2006 differs from the benefit for income taxes that would be derived by applying a U.S. statutory 35 percent rate to the loss before income taxes primarily due to our inability to benefit U.S. operating losses due to lack of a history of earnings, and income that was incurred and tax effected in foreign jurisdictions with different tax rates.

As of December 28, 2008, we recorded a valuation allowance of approximately $537.8 million against our U.S. deferred tax assets, net of deferred tax liabilities. This valuation allowance offsets all of our net U.S. deferred tax assets. As of December 28, 2008 we have also recorded valuation allowances of approximately $534.0 million against various foreign deferred tax assets for which we believe it is not more likely than not that they will be realized.

Table of Contents

Other Items

In the second quarter of fiscal 2006, we began selling our products directly to AMD s former customers and customers not served solely by Fujitsu. In the fourth quarter of fiscal 2008, we began selling our products directly to the customers and distributors previously served by Fujitsu. The following table summarizes net sales by geographic areas for the periods presented:

	December 28, 2008	Year ended December 30, 2007 (in thousands)	December 31, 2006
Geographical sales(1):			
Net sales to end customers(2):			
United States of America	$ 307,039	$ 295,632	$ 174,930
China	669,231	658,205	479,040
Korea	238,370	260,854	282,596
EMEA	351,052	333,430	312,114
Others	63,972	79,132	61,799
Net sales to related parties:			
United States *(net sales to AMD)(3)*			336,172
Japan (*net sales to Fujitsu*)	652,139	873,560	932,623
Total	$ 2,281,803	$ 2,500,813	$ 2,579,274

(1) Geographical sales are based on the customer s bill-to location.
(2) Net sales to end customers represent sales since the end of the first quarter of fiscal 2006 to AMD s former customers and customers not served solely by Fujitsu.
(3) For fiscal 2006, these represent sales during the first quarter.

The impact on our operating results from changes in foreign currency exchange rates has not been material, principally because our expenses denominated in yen are generally comparable to our sales denominated in yen, and we have entered into foreign currency exchange contracts to mitigate our exposure when yen denominated expenses and sales are not comparable.

Contractual Obligations

The following table summarizes our contractual obligations at December 28, 2008, as impacted by the Creditor Protection Proceedings. Amounts due under our revolving facilities, the terms of which are described below, are not included in the table. The table is supplemented by the discussion following the table.

	Total	2009	2010	2011 (in thousands)	2012	2013	2014 and Beyond
Senior Secured Floating Rate Notes	$ 625,000	$ 625,000	$	$	$	$	$
Spansion Japan 2007 Credit Facility	287,963	121,247	166,715				
Senior Notes	250,000	250,000					
Exchangeable Senior Subordinated Debentures	207,000	207,000					
Capital lease obligations	96,134	47,440	29,412	19,282			
Other Credit Facility Subsidiaries	138	138					
Other long term liabilities	19,979	8,109	8,109	3,109	652		
Operating leases(1)	25,568	15,521	5,651	2,458	962	401	575
Unconditional purchase commitments(2), (3)&(4)	284,872	129,861	87,784	44,566	20,246	2,415	

Total contractual obligations	$ 1,796,654	$ 1,404,316	$ 297,671	$ 69,415	$ 21,860	$ 2,816	$ 575

(1) Effective March 31, 2009, one operating lease was cancelled and as a result, future payments of $1.7 million due on this lease through 2011 are no longer payable.
(2) Unconditional purchase commitments (UPC) include agreements to purchase goods or services that are enforceable and legally binding on us and that specify all significant terms, including fixed or minimum quantities to be purchased; fixed, minimum or variable price provisions; and the approximate timing of the transaction. These agreements are related principally to inventory and other items. UPCs exclude agreements that are cancelable without penalty.
(3) Effective February 19, 2009, a UPC contract was terminated by one of our vendors due to our default on payments. As a result, the vendor has made a claim to the entire future UPC of approximately $210.9 million, payable through 2013. This claim has been stayed by the U.S. Bankruptcy Court.
(4) Effective March 1, 2009, a UPC contract was renegotiated, resulting in lowering our commitment by approximately $8.0 million through 2010.

Senior Secured Floating Rate Notes

In May 2007, Spansion LLC, our wholly owned operating company subsidiary, issued $625.0 million aggregate principal amount of the Senior Secured Floating Rate Notes due 2013 (the Notes). Interest on the Notes accrues at a rate per annum, reset quarterly, equal to the 3-month LIBOR plus 3.125 percent. Interest is payable on March 1, June 1, September 1 and December 1 of each year beginning September 1, 2007 until the maturity date of June 1, 2013. As of December 28, 2008, the Notes bear interest at approximately 5.33 percent.

In connection with the issuance of the Notes, we, Spansion LLC and Spansion Technology Inc. executed a pledge and security agreement pursuant to which and subject to exceptions specified therein, the Notes are secured by a first priority lien on all of Spansion LLC s inventory (excluding returned inventory), equipment and real property and proceeds thereof (excluding receivables or proceeds arising from sales of inventory in the ordinary course of business), presently owned or acquired in the future by Spansion LLC and by each of the current and any future guarantors. The Notes are also secured by a second-priority lien that is junior to the liens securing Spansion LLC s Senior Secured Revolving Credit Facility agreement, as amended, on substantially all other real and personal property and proceeds thereof, including receivables or proceeds arising from sales of inventory in the ordinary course of business presently owned or acquired in the future by us and by each of the current and any future guarantors. The Notes are further secured by certain deeds of trust related to real property owned by Spansion LLC in California and Texas. As of December 28, 2008, the Notes are collateralized by a first priority lien on our inventory and property, plant and equipment with a total net book value of approximately $632.6 million, and by a second priority lien on our accounts receivables with a net book value of approximately $145 million.

Upon the occurrence of a change of control of Spansion LLC, holders of the Notes may require Spansion LLC to repurchase the Notes for cash equal to 101 percent of the aggregate principal amount to be repurchased plus accrued and unpaid interest. Beginning June 1, 2008, Spansion LLC may redeem all or any portion of the Notes, at any time or from time to time at redemption prices specified therein.

Certain events are considered Events of Default, which may result in the accelerated maturity of the Notes, including:

Spansion LLC s failure to pay when due the principal or premium amount on any of the Notes at maturity, upon acceleration, redemption, optional redemption, required repurchase or otherwise;

Spansion LLC s failure to pay interest on any of the Notes for 30 days after the date when due;

Spansion LLC s or the guarantors failure to comply with certain restrictions on Spansion LLC s or Guarantors ability to merge, consolidate or sell substantially all of its assets;

Spansion LLC s failure to perform or observe any other covenant or agreement in the Notes or in the Indenture for a period of 45 days after receiving notice of such failure;

A default by Spansion LLC or any restricted subsidiary (as defined in the Indenture) under any indebtedness that results in acceleration of such indebtedness, or the failure to pay any such indebtedness at maturity, in an aggregate principal amount in excess of $50.0 million (or its foreign equivalent at the time);

If any judgment or judgments for the payment of money in an aggregate amount in excess of $50.0 million (or its foreign equivalent at the time) is rendered against Spansion LLC, the guarantors or any significant subsidiary and is not waived, satisfied or discharged for any period of 60 consecutive days during which a stay of enforcement is not in effect;

Certain events of bankruptcy, insolvency or reorganization with respect to Spansion LLC or any significant subsidiary;

If any note guaranty ceases to be in full force and effect, other than in accordance with the terms of the Indenture, or a guarantor denies or disaffirms its obligations under its note guaranty, other than in accordance with the terms of the Indenture; or

Any lien securing the collateral underlying the Notes at any time ceases to be in full force and effect, and does not constitute a valid and perfected lien on any material portion of the collateral intended to be covered thereby, if such default continues for 30 days after notice.

The Spansion Japan Proceedings constituted an event of default, causing acceleration of the outstanding obligations under the Notes. Subsequent to the filing for the Creditor Protection Proceedings, a group purporting to hold substantial amounts of our publicly traded Senior Secured Floating Rate Notes due 2013 has organized (the Floating Rate Noteholders). The role of the Floating Rate Noteholders in the Creditor Protection Proceedings may develop and change over the course of such proceedings.

Spansion Japan 2007 Credit Facility

On March 30, 2007, Spansion Japan entered into a committed senior facility agreement with certain Japanese financial institutions that provides Spansion Japan with a 48.4 billion yen senior secured term loan facility (approximately $533.8 million as of December 28, 2008).

Spansion Japan could pursuant to the terms of this facility, borrow amounts in increments of 1.0 billion yen (approximately $11.0 million as of December 28, 2008). Amounts borrowed under this facility bear interest at a rate equal to the three-month Tokyo Interbank Offered Rate (TIBOR), at the time of the drawdown, which resets quarterly, plus a margin of two percent per annum. Borrowing availability was based on capital deliveries for Spansion Japan s SP1 facility. The drawdown period expired on March 31, 2008.

Pursuant to the terms of Spansion Japan 2007 Credit Facility, Spansion Japan is not permitted, among other things, to create any security interests or liens on any of its pledged assets and to sell or dispose of any of its pledged assets, subject to certain exceptions. This facility may be terminated in the event of default in accordance with the terms of this facility. Events of default under the facility include, among other things, the following: a default in performance of payment; if any of debt obligations of Spansion LLC exceeding $25.0 million, or of Spansion Japan exceeding 1.0 billion yen, are not paid when due; or if any debt obligations of Spansion Japan or Spansion LLC are accelerated or otherwise become due and payable, in each case if not cured within applicable time periods set forth in the Spansion Japan 2007 Credit Facility.

In March 2008, we borrowed an additional amount of 5.6 billion yen (approximately $61.8 million as of December 28, 2008) under this facility. We began to make quarterly principal installments in the second quarter of fiscal 2008. The facility bears interest at approximately 2.9 percent and is scheduled to be repaid in quarterly principal installments through the fourth quarter of fiscal 2010. This facility is collateralized by the assets of Spansion Japan with a net book value of 42.0 billion yen (approximately $463.1 million as of December 28, 2008).

As of December 28, 2008 and December 30, 2007, the outstanding balance under this facility was 26.1 billion yen (approximately $288.0 million) and 28.8 billion yen (approximately $256.5 million).

The Spansion Japan Proceedings constituted an event of default, causing acceleration of the outstanding obligations under the Spansion Japan 2007 Credit Facility. As the acceleration of the outstanding obligations was caused by the Spansion Japan Proceedings, which accord Spansion Japan protection from its creditors while it continues its restructuring efforts, payments under the Spansion Japan 2007 Credit Facility have been stayed and this facility continues to be classified under its contractual payment terms as of December 28, 2008.

Senior Notes

On December 21, 2005, we completed an offering of $250 million aggregate principal amount of 11.25% Senior Notes due 2016. The Senior Notes were issued at 90.302 percent of face value, resulting in net proceeds of approximately $218.1 million after deducting the initial purchasers discount and estimated offering expenses. The Senior Notes are general unsecured senior obligations of Spansion LLC and will rank equal in right of payment with any of our existing and future senior debt. Interest is payable on January 15 and July 15 of each year beginning July 15, 2006 until the maturity date of January 15, 2016.

Certain events may result in the accelerated maturity of the Senior Notes, including a default in any interest, principal or premium amount payment; a merger, consolidation or sale of all or substantially all of our property; a breach of covenants in the senior notes or the respective indenture; a default in certain debts; or if a court enters certain orders or decrees under any bankruptcy law. Upon occurrence of one of these events, the principal of and accrued interest on all of the senior notes, as the case may be, may become immediately due and payable. If we incur any judgment for the payment of money in an aggregate amount in excess of $50 million or take certain voluntary actions in connection to insolvency, all amounts on the Senior Notes shall become due and payable immediately.

On January 16, 2009, we delayed making the interest payment on our outstanding 11.25% Senior Notes due 2016, which was due January 15, 2009. Under the indenture governing the 11.25% Senior Notes (the Senior Notes Indenture), a failure to make an interest payment is subject to a 30-day cure period. We did not make this interest payment within the 30-day cure period, which expired on February 14, 2009. The failure to make the interest payment within the cure period is an event of default under the Senior Notes Indenture, which resulted in all obligations under the Senior Notes Indenture (approximately $266 million as of the date of the event of default) automatically becoming due and payable.

Exchangeable Senior Subordinated Debentures

In June 2006, Spansion LLC, our wholly owned operating subsidiary, issued $207.0 million of aggregate principal amount of 2.25% Exchangeable Senior Subordinated Debentures due 2016. The Debentures are general unsecured senior subordinated obligations and rank subordinate in right of payment to all of our senior indebtedness, including the Senior Notes, and senior in right of payment to all of our subordinated indebtedness. The Debentures bear interest at 2.25 percent per annum. Interest is payable on June 15 and December 15 of each year beginning December 15, 2006 until the maturity date of June 15, 2016.

The Debentures were not exchangeable prior to January 6, 2007. On January 6, 2007, the Debentures became exchangeable for shares of our Class A common stock, cash or a combination of cash and shares of such Class A common stock, at our option. Full conversion of the Debentures into shares would result in an initial exchange rate of 56.7621 shares of Class A common stock per debenture representing an initial exchange price of approximately $17.6174 per share of Spansion Inc. Class A common stock. The debentures have not been exchanged for Class A common stock as of December 28, 2008.

Table of Contents

We, at any time prior to maturity may make an irrevocable election to satisfy the exchange obligation in cash up to 100 percent of the principal amount of the debentures exchanged, with any remaining amount to be satisfied in shares of Class A common stock or a combination of cash and shares of Class A common stock at the above exchange ratio. In the event that we make this irrevocable election, debenture holders may exchange their debentures only under the following circumstances:

- during any fiscal quarter after our fiscal quarter ending April 1, 2007 (and only during such fiscal quarter) if the sale price of Spansion Inc. Class A common stock, for at least 20 trading days during the period of 30 consecutive trading days ending on the last trading day of the previous fiscal quarter, is greater than or equal to 120 percent of the conversion price per share of the Spansion Inc. Class A common stock;

- subject to certain exceptions, during the five business day period following any five consecutive trading day period in which the trading price of the debentures for each day of such period was less than 98 percent of the product of the sale price of the Spansion Inc. Class A common stock and the number of shares issuable upon exchange of $1,000 principal amount of the debentures; or

- Upon the occurrence of specified corporate events that constitute a fundamental change of the Company under certain circumstances. The holders of the Debentures will have the ability to require the Company to repurchase the Debentures in whole or in part for cash in the event of a fundamental change of the Company. In such case, the repurchase price would be 100 percent of the principal amount of the Debentures plus any accrued and unpaid interest.

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). The FSP requires convertible debt which may be settled in cash upon conversion, including partial cash conversion, to be separated into debt and equity components at issuance with a value to be assigned to each component in a manner that will reflect the entity s non convertible debt borrowing rate. The difference between the cash proceeds from debt issuance and the fair value assigned to the debt will be recorded as a debt discount and amortized to interest expense over the life of the debt. The effective date of this FSP is for financial statements issued for fiscal years beginning after December 15, 2008 and interim periods within those fiscal years and it does not permit earlier application. However, the transition guidance requires retroactive application to all periods presented. The FSP APB 14-1 will impact our accounting for our Exchangeable Senior Subordinated Debentures. The equity component would be included in the paid-in capital portion of stockholders equity on the balance sheet and the value of the equity component would be treated as an original issue discount for purposes of accounting for the debt component. Although FSB APB 14-1 will have no impact on our actual past or future cash flows, it will require us to record additional non-cash interest expense as the debt discount is amortized which will adversely impact earnings per share. Higher interest expense will result by recognizing accretion of the discounted carrying value of the 2.25% Exchangeable Senior Subordinated Debentures to their face amount as interest expense over the term of the debt. Interest expense associated with the 2.25% Exchangeable Debt for prior periods will also be higher than previously reported due to the retrospective application of FSP APB 14-1. Based on the preliminary analysis performed by us, the interest expense associated with our 2.25% Exchangeable Debt will be approximately $7.5 million, $6.5 million and $3.2 million higher for fiscal years 2008, 2007 and 2006, respectively, as a result of adopting this FSP.

The Spansion Japan Proceedings constituted an event of default, causing acceleration of the outstanding obligations under the Debentures.

Spansion Japan 2007 Revolving Credit Facility

On December 28, 2007, Spansion Japan entered into the Spansion Japan 2007 Revolving Credit Facility agreement with the several financial institutions that provides for a revolving credit facility in the aggregate principal amount of up to 14.0 billion yen (approximately $154.4 million as of December 28, 2008).

Table of Contents

Available amounts for borrowing under this credit facility are limited to the amount of trade receivables held by Spansion Japan. If at anytime the aggregate amount of borrowings under this credit facility exceeds the amount of the trade receivables, Spansion Japan is obligated to prepay an amount such that the borrowings outstanding after such prepayment are below the level of the trade receivables. Borrowings may be for a term of one week or more, but not more than three months, as determined by Spansion Japan. Amounts borrowed under this credit facility bear interest at a rate equal to TIBOR, at the specified date preceding or at the time of the borrowing in accordance with the terms of this credit facility, plus a margin of 0.50 percent per annum.

Pursuant to the terms of this credit facility, Spansion Japan is not permitted, among other things, to create any security interests or liens on the trade receivables; change its primary business; subordinate the payment of its debt under this credit facility to the payment of any unsecured debts; and enter into any merger, company partition, exchange or transfer of shares, assign all or a part of its business or assets to a third party, or otherwise transfer all or a material part of its assets to a third party, subject to certain exceptions.

As of December 28, 2008, the outstanding balance under this facility is 6.5 billion yen (approximately $71.7 million). This amount bears interest at approximately 1.0 percent as of December 28, 2008. This facility will expire on December 28, 2009 and is extendable at each anniversary with an extension fee of 0.2 percent of the commitment amount.

The Spansion Japan Proceedings constituted an event of default, causing acceleration of the outstanding obligations under the Spansion Japan 2007 Revolving Credit Facility.

Senior Secured Revolving Credit Facility

On May 9, 2007, Spansion LLC, the agent and the other lenders party to the Senior Secured Revolving Credit Facility amended the credit agreement and the security agreement in connection therewith, and the Company, STI and Spansion International entered into certain new security agreements. Pursuant to the amendment to the revolving facility credit agreement, lenders consented to the incurrence of the Senior Secured Floating Rate Notes and the grant of related liens. This resulted in the revolving credit facility lenders and the Senior Secured Floating Rate Notes holders holding substantially similar security. The relative priorities of the classes of lenders in various types of collateral is set forth in an intercreditor agreement between the agent for the revolving credit facility lenders and the trustee and collateral agent for the Senior Secured Floating Rate Notes holders.

On December 23, 2008, Spansion LLC, the agent and other financial institutions entered into another amendment (the Amendment), which amended the Credit Agreement (as amended, the Agreement) and the Security Agreement. The Amendment, among other things, provides the following changes to the Agreement:

Amounts available for borrowing under the Agreement have been reduced from up to an aggregate of $175 million to up to an aggregate of $45 million.

Minimum cash flow requirements have been added to provide that on the last day of each of the following measurement periods Spansion is required, on a consolidated basis, to have cash flow of at least (or no more negative than):

Measurement Period	Cash Flow
The fiscal quarter ending on December 28, 2008	$ (90,000,000)
The two consecutive fiscal quarters ending on March 29, 2009	$ (100,000,000)
The three consecutive fiscal quarters ending on June 28, 2009	$ (70,000,000)
The four consecutive fiscal quarters ending on September 27, 2009	$ (85,000,000)
The five consecutive fiscal quarters ending on December 27, 2009	$ (120,000,000)

Table of Contents

The minimum EBITDA requirements have been revised to provide that on the last day of each of the following fiscal quarters Spansion is required to maintain EBITDA, on a consolidated basis, as follows:

Period Ending	EBITDA
December 28, 2008	$ 220,000,000
March 29, 2009	$ 240,000,000
June 28, 2009	$ 270,000,000
September 27, 2009	$ 280,000,000
December 27, 2009	$ 310,000,000

The Amendment also (i) imposes an availability block at all times in the amount of $25 million, (ii) permits certain indebtedness to be incurred by us from UBS Bank USA (UBS) and the incurrence of liens on certain auction rate securities created in favor of UBS to secure such indebtedness, and (iii) waives any existing EBITDA covenant default.

As of December 28, 2008, the total outstanding balance under this credit facility was $34 million. This amount bears interest at approximately 5.7 percent as of December 28, 2008. On February 20, 2009, we repaid the balance outstanding under this credit facility in full.

The Spansion Japan Proceedings constituted an event of default, causing acceleration of the outstanding obligations under the Senior Secured Revolving Credit Facility.

Spansion Penang Loan

On January 29, 2004, Spansion Penang entered into a financial arrangement with AMD. Under the terms of the arrangement, Spansion Penang borrowed approximately 29.0 million Malaysian ringgit (approximately $8.0 million based on the exchange rate as of January 29, 2004) from AMD to fund the purchase of manufacturing equipment. In January 2006, this loan was transferred from AMD to a third-party financial institution. The loan bears a fixed annual interest rate of 5.9 percent and is payable in equal, consecutive, monthly principal and interest installments through February 2009.

As of December 28, 2008 and December 30, 2007, the amount outstanding under this loan facility was approximately 0.48 million Malaysian ringgit (approximately $0.1 million) and 6.7 million Malaysian ringgit (approximately $2.0 million), respectively.

On February 5, 2009, we repaid the balance outstanding under this loan in full.

Spansion China 2008 Revolving Credit Facility

In June 2008, Spansion China entered into a revolving credit facility agreement with a local financial institution, effective as of June 27, 2008, in the aggregate principal amount of up to 80 million Yuan RMB (approximately $11.7 million as of December 28, 2008). The borrowings must be used for working capital purposes. The interest rate for each drawdown denominated in RMB is a floating rate that is benchmarked to the rate published by the People s Bank of China for RMB loans with the same term and may, thereafter, be adjusted every month. The interest rate for each drawdown denominated in U.S. dollars is six-month LIBOR plus four percent and may, thereafter, be adjusted every six months. The last drawdown against this credit facility can be made on or before May 27, 2009.

As of December 28, 2008, we had no amounts outstanding under this credit facility and the Creditor Protection Proceedings did not have an impact on availability under this credit facility.

Table of Contents

Obligations under Capital Leases

On March 26, 2008, we entered into an equipment lease agreement with a third-party financial institution. Under the lease agreement, we leased certain equipment for a period of 36 months, in the amount of approximately $52.1 million, beginning on March 27, 2008. We accounted for the lease transaction as a capital lease.

As of December 28, 2008 and December 30, 2007, we had aggregate outstanding capital lease obligations, net of imputed interest, of approximately $82.6 million and $74.0 million, respectively. The aggregate weighted average interest rate for the capital lease obligations was 11.6 percent as of December 28, 2008. Obligations under these lease agreements are collateralized by the assets leased and are payable through 2011. Leased assets consist principally of machinery and equipment.

As of December 28, 2008, the gross amount of assets recorded under capital leases and accumulated amortization thereon was approximately $180 million and $78 million, respectively. In addition, we recognized an impairment loss of approximately $61.9 million on the leased assets in the fourth quarter of fiscal 2008 as a result of the impairment review of long-lived assets As of December 30, 2007, the gross amount of assets recorded under capital leases and accumulated amortization thereon was approximately $169 million and $86, respectively. These leased assets are included in the related property, plant and equipment category. Amortization of assets recorded under capital leases is included in depreciation expense.

On March 28, 2009, we submitted a motion to the U.S. Bankruptcy Court for rejection of capital leases with future principal and interest payments of approximately $43.8 million through 2011. This motion, if approved, would allow for the rejection of these leases.

Other Financial Matters

In November 2008, we accepted an offer to participate in an auction rate securities settlement from UBS, our broker, providing us the right, but not the obligation, to sell to UBS up to 100 percent of our ARS at par, commencing June 30, 2010. Our right to sell the ARS to UBS commencing June 30, 2010 through July 2, 2012 represents a put option for a payment equal to the par value of the ARS. Therefore, upon acceptance of the offer from UBS, we elected to measure the put option under the fair value option of FASB Statement 159 and recorded $27.5 million as the fair value of the put option asset as of December 28, 2008, with a corresponding credit to other income in the consolidated statement of operations for the year ended December 28, 2008. Please see Note 17 of Notes to Consolidated Financial Statements for further disclosure regarding the accounting for the UBS put option.

Liquidity

Overview

Our cash and cash equivalents at December 28, 2008 totaled $116.4 million and consisted of cash and investments in money market funds.

The majority of our consolidated cash is held in the United States ($80.4 million) and Japan ($31.7 million). Historically, we concentrated much of our cash balances in the U.S. to maximize efficiency and investment returns, and deployed our cash throughout the Company and our subsidiaries through a variety of intercompany borrowing and transfer pricing arrangements. In addition, we were able to freely transfer funds to, from and amongst subsidiaries, as needed.

As a result of the Creditor Protection Proceedings, cash in the various consolidated entities is generally available to fund operations in their respective jurisdictions, but generally is not available to be freely transferred

Table of Contents

to or amongst subsidiaries other than for normal course intercompany trade and pursuant to specific court- approved agreements as highlighted below. This has placed greater reliance on individual subsidiary cash balances, as our ability to fund specific needs in excess of our current intercompany cash flow arrangements becomes more restricted.

Since the Petition Date, we have generally maintained use of our cash management system, and consequently, have minimized disruption to our operations, pursuant to various court approvals obtained in connection with the Creditor Protection Proceedings. We continue to operate our business under the jurisdictions and orders of the applicable courts and in accordance with applicable legislation. We have received approval from the U.S.Bankruptcy Court for a number of motions enabling us to continue to operate our businesses in the ordinary course and transition into the creditor protection process while minimizing the disruption to our business. Among other things, we received approval to continue paying employee wages and certain benefits in the ordinary course, to pay certain of our pre-petition obligations, including business related payments like claims of transport companies and certain contractors in satisfaction of liens or interests, to continue our cash management system, and to continue honoring customer program obligations.

We have commenced several initiatives to generate cost reductions and decrease the rate of cash outflow during the Creditor Protection Proceedings. In February 2009, we implemented a workforce reduction of approximately 2,400 employees or 28 percent of our existing employees. We also conducted reviews of our real estate and other property leases, equipment leases and agreements, supplier and customer contracts and general discretionary spending.

However, the matters described herein, to the extent that they relate to future events or expectations, may be significantly affected by our Creditor Protection Proceedings. Those proceedings will involve, or may result in, various restrictions on our activities, limitations on financing, the need to obtain Bankruptcy Court approval for various matters and uncertainty as to relationships with vendors, suppliers, customers and others with whom we may conduct or seek to conduct business. In addition, there is no assurance that (i) we will be able to maintain our current cash management system, (ii) we will generate sufficient cash to fund our operations during this process, or (iii) that we will be able to access any alternative financing on acceptable terms or at all. For a complete discussion of the risks facing our business, including our liquidity, please see Part II, Item 1A Risk Factors.

Financial Condition (Sources and Uses of Cash)

Our cash and cash equivalents at December 28, 2008 totaled $116.4 million and consisted of cash and investments in money market funds. We are subject to certain restrictions on our distribution of cash contained in our third-party loan agreements described under the Contractual Obligations section above.

Our cash flows for fiscal 2008, fiscal 2007 and fiscal 2006 are summarized as follows:

	Year Ended		
	December 28, 2008	**December 30, 2007**	**December 31, 2006**
		(in thousands)	
Net cash provided by operating activities	$ 262,552	$ 216,339	$ 451,617
Net cash used in investing activities	(331,746)	(1,015,741)	(603,547)
Net cash provided by financing activities	8,752	250,377	396,969
Effect of exchange rate changes on cash	(22,263)	(11,677)	8,316
Net increase (decrease) in cash and cash equivalents	$ (82,705)	$ (560,702)	$ 253,355

Net Cash Provided by Operating Activities

Net cash provided by operating activities was approximately $262.6 million in fiscal 2008. Non-cash items included in the net loss consisted primarily of approximately $633.7 million of depreciation and amortization,

Table of Contents

approximately $1.7 billion of asset impairment charges, approximately $21.6 million in stock compensation costs, and approximately $10.8 million of acquisition related in-process research and development. The net changes in operating assets and liabilities in fiscal 2008 consisted primarily of a decrease in accounts receivables of approximately $141.2 million due to a decline in net sales as a result of the adverse market conditions and a decrease in inventory of approximately $204.7 million.

Net cash provided by operating activities was approximately $216.3 million in fiscal 2007. Non-cash items included in the net loss consisted primarily of approximately $517.3 million of depreciation and amortization and approximately $16.1 million in compensation cost recognized under stock plans and an increase of approximately $41.4 million in benefit for deferred income taxes. The net changes in operating assets and liabilities in fiscal 2007 were primarily attributable to a build of our inventory of approximately $128.5 million in order to meet the demand for our higher density products in the first quarter of fiscal 2008; an increase in accounts payable and accrued liabilities of approximately $137.0 million primarily due to our continued focus on cash management in fiscal 2007; and an increase in income taxes payable of approximately $9.4 million primarily due to the gain from the JV1/JV2 Transaction consummated in the second quarter of fiscal 2007.

Net Cash Used in Investing Activities

Net cash used in investing activities in fiscal 2008 was approximately $331.7 million, which consisted of approximately $430.8 million of capital expenditures used to purchase property, plant and equipment, principally related to our investment in 300-millimeter equipment at SP1 and in our Submicron Development Center (the SDC), offset by a cash inflow of approximately $133.7 million from the maturities and sale of marketable securities.

Net cash used in investing activities in fiscal 2007 was approximately $1,015.7 million, which consisted of approximately $1,115.6 million of capital expenditures used to purchase property, plant and equipment, principally related to our investment in 300-millimeter equipment at SP1 and the SDC, and approximately $90.7 million used in the purchase of marketable securities, and which was offset in part by cash proceeds of approximately $190.5 million from the sale of property, plant and equipment, primarily from the JV1/JV2 Transaction.

Net Cash Provided by Financing Activities

Net cash provided by financing activities was approximately $8.8 million in fiscal 2008. This amount included approximately $250.6 million of borrowing proceeds primarily from our Spansion Japan 2007 Revolving Credit Facility, Spansion Japan 2007 Credit Facility and Senior Secured Revolving Credit Facility, offset by approximately $241.8 million in repayments on debt (primarily under the Spansion Japan 2007 Revolving Credit Facility and Spansion Japan 2007 Credit Facility) and capital lease obligations.

Net cash provided by financing activities was approximately $250.4 million in fiscal 2007, primarily as a result of approximately $854.1 million of proceeds from the issuance of Senior Secured Floating Rate Notes, net of issuance costs, and borrowing under our Spansion Japan 2007 Credit Facility, offset by approximately $603.8 million in payments on debt and capital lease obligations, $500 million of which constituted repayment and early extinguishment of the Senior Secured Term Loan Facility.

On December 29, 2008, subsequent to our fiscal year end, we entered into the UBS Credit Line with UBS that provides up to an aggregate amount of up to $85 million in the form of an uncommitted revolving line of credit, which is secured by the ARS we currently hold. We borrowed approximately $74.8 million under the UBS Credit Line on December 29, 2008. This UBS Credit Line bears interest at a variable rate equal to the lesser of: (a) LIBOR, plus a percentage rate between 1.250 percent to 2.750 percent, and (b) the then applicable weighted average rate of interest or dividend rate paid to us by the issuer of the ARS. The Spansion Japan Proceedings constituted an event of default, causing acceleration of the outstanding obligations under this credit line.

Table of Contents

Off-Balance-Sheet Arrangements

During the normal course of business, we make certain indemnities and commitments under which we may be required to make payments in relation to certain transactions. These indemnities include non-infringement of patents and intellectual property indemnities to our customers in connection with the delivery, design, manufacture and sale of our products, indemnities to various lessors in connection with facility leases for certain claims arising from such facility or lease, and indemnities to other parties to certain acquisition agreements. The duration of these indemnities and commitments varies, and in certain cases, is indefinite. We believe that substantially all of our indemnities and commitments provide for limitations on the maximum potential future payments we could be obligated to make. However, we are unable to estimate the maximum amount of liability related to our indemnities and commitments because such liabilities are contingent upon the occurrence of events which are not reasonably determinable. Management believes that any liability for these indemnities and commitments would not be material to our accompanying consolidated financial statements.

Recently Issued Accounting Pronouncements

In February 2007, the FASB issued Statement No. 159 (Statement 159), *The Fair Value Option for Financial Assets and Financial Liabilities Including an amendment of FASB Statement No. 115*. Under Statement 159, a company may choose, at specified election dates, to measure eligible financial instrument and certain other items at fair value that are not otherwise required to be so measured. If a company elects the fair value option for an eligible item, changes in that item s fair value in subsequent reporting periods must be recognized in current earnings. Statement 159 is effective as of the beginning of the fiscal years beginning after November 15, 2007. Upon initial adoption, this statement provides entities with a one-time chance to elect the fair value option for the eligible items. The effect of the first measurement to fair value should be reported as a cumulative-effect adjustment to the opening balance of retained earnings in the year the statement is adopted. We adopted Statement 159 at the beginning of our fiscal year 2008 and did not make any elections for fair value accounting. Therefore, we did not record a cumulative-effect adjustment to our opening retained earnings balance. However, we did elect the fair value option in accounting for the UBS put option asset as a result of management s intent to exercise our put option during the period June 30, 2010 to July 3, 2012. For a complete discussion of the accounting for the UBS put option asset, please see Note16 of Notes to Consolidated Financial Statements.

In December 2007, the FASB issued Statement No. 160, *Noncontrolling Interests in Consolidated Financial Statements an Amendment of ARB No. 51.* Statement 160 will require that noncontrolling interests in subsidiaries be reported as a component of stockholders equity in the consolidated balance sheet. Statement 160 also requires that earnings or losses attributed to the noncontrolling interests be reported as part of consolidated earnings and not as a separate component of income or expense, as well as requires disclosure of the attribution of consolidated earnings to the controlling and noncontrolling interests on the face of the consolidated statement of operations. Statement 160 is effective for fiscal years beginning after December 15, 2008 and must be applied on a prospective basis. As disclosed in Note 3 of Notes to Consolidated Financial Statements, we must, pursuant to Statement 160, deconsolidate Spansion Japan effective with the Commencement Date. We are currently assessing the impact this pronouncement will have on our future operating results and financial position.

In February 2008, the FASB issued FASB Staff Position (FSP) FAS 157-2, Effective Date of FASB Statement No. 157, which provides a one year deferral of the effective date of Statement 157 for non-financial assets and non-financial liabilities, except those that are recognized or disclosed in the financial statements at fair value at least annually. We adopted the provisions of Statement 157 with respect to our financial assets and liabilities only, and we will therefore adopt Statement 157 for non-financial assets and non-financial liabilities that are not measured at fair value on a recurring basis as of the beginning of the first quarter of fiscal 2009. This adoption is not expected to have a significant impact on our consolidated financial statements.

In March 2008, the FASB issued Statement No. 161 (Statement 161), *Disclosures about Derivative Instruments and Hedging Activities an amendment of FASB Statement No. 133* (Statement 133). Statement 161

Table of Contents

changes the disclosure requirements for derivative instruments and hedging activities. Entities are required to provide enhanced disclosures about (a) how and why an entity uses derivative instruments, (b) how derivative instruments and related hedged items are accounted for under Statement 133 and its related interpretations, and (c) how derivative instruments and related hedged items affect an entity s financial position, financial performance and cash flows. Statement 161 does not change the accounting for derivative instruments. The guidance in Statement 161 is effective for us beginning in the first quarter of fiscal 2009.

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). The FSP requires convertible debt which may be settled in cash upon conversion, including partial cash conversion, to be separated into debt and equity components at issuance with a value to be assigned to each component in a manner that will reflect the entity s non convertible debt borrowing rate. The difference between the cash proceeds from debt issuance and the fair value assigned to the debt will be recorded as a debt discount and amortized to interest expense over the life of the debt. The effective date of this FSP is for financial statements issued for fiscal years beginning after December 15, 2008 and interim periods within those fiscal years and it does not permit earlier application. However, the transition guidance requires retroactive application to all periods presented. The FSP APB 14-1 will impact our accounting for our Exchangeable Senior Subordinated Debentures. The equity component would be included in the paid-in capital portion of stockholders equity on the balance sheet and the value of the equity component would be treated as an original issue discount for purposes of accounting for the debt component. Although FSB APB 14-1 will have no impact on the our actual past or future cash flows, it will require us to record additional non-cash interest expense as the debt discount is amortized which will adversely impact earnings per share. Higher interest expense will result by recognizing accretion of the discounted carrying value of the 2.25% Exchangeable Senior Subordinated Debentures to their face amount as interest expense over the term of the debt. Interest expense associated with the 2.25% Exchangeable Debt for prior periods will also be higher than previously reported due to the retrospective application of FSP APB 14-1. Based on the preliminary analysis performed by us, the interest expense associated with our 2.25% Exchangeable Debt will be approximately $3.2 million, $6.5 million and $7.5 million higher for fiscal years 2006, 2007 and 2008, respectively, as a result of adopting this FSP.

In October 2008, the FASB issued FSP FAS 157-3, Determining the Fair Value of a Financial Asset in a Market That Is Not Active which clarifies the application of Statement 157 when the market for a financial asset is inactive. Specifically, FSP FAS 157-3 clarifies how (1) management s internal assumptions should be considered in measuring fair value when observable data are not present, (2) observable market information from an inactive market should be taken into account, and (3) the use of broker quotes or pricing services should be considered in assessing the relevance of observable and unobservable data to measure fair value. The guidance in FSP FAS 157-3 was effective immediately and we adopted its provisions with respect to our financial assets as of September 28, 2008.

In December 2008, the FASB issued FSP FAS 132(R)-1, Employer s Disclosures about Postretirement Benefit Plan Assets which amends FASB Statement No. 132 (Revised 2003), *Employers Disclosures about Pensions and Other Postretirement Benefits*, to provide guidance on an employer s disclosures about plan assets of a defined benefit pension or other postretirement plan. The disclosures about plan assets required by this FSP shall be provided for fiscal years ending after December 15, 2009. Upon initial application, the provisions of this FSP are not required for earlier periods that are presented for comparative purposes. This FSP does not affect the accounting treatment for postretirement benefit plans. We will adopt this FSP for the fiscal year ending December 27, 2009.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURE ABOUT MARKET RISK

Interest Rate Risk

Our exposure to market risk for changes in interest rates relates primarily to our investment portfolio and debt. We usually invest our cash in investments with short term maturities or with frequent interest reset terms.

Accordingly, our interest income fluctuates with short-term market conditions. As of December 28, 2008, our investment portfolio consisted of money market funds and ARS. With the exception of our ARS, these were highly liquid investments. Due to the short-term nature of our investment portfolio, excluding ARS, our exposure to interest rate risk is minimal.

As of December 28, 2008, approximately 30 percent of the principal amounts outstanding under our unrelated third party debt obligations were fixed rate. Approximately 70 percent of our total debt obligations were variable rate. Changes in interest rates associated with the variable rate portion of our debt could result in a change to our interest expense. For example, a one percent aggregate change in interest rates would increase/decrease our interest expense by approximately $10 million annually. We continually monitor market conditions and may enter into hedges if deemed appropriate. We do not currently have any hedges of interest rate risk in place. We do not use derivative financial instruments for speculative or trading purposes.

Default Risk

We mitigate default risk in our investment portfolio by investing in only the highest credit quality securities and by constantly re-positioning our portfolio to respond appropriately to a significant reduction in the credit rating of any investment issuer or guarantor. The portfolio includes marketable securities with active markets to ensure portfolio liquidity.

There has been significant deterioration and instability in the financial markets during 2008. This period of extraordinary disruption and readjustment in the financial markets exposes us to additional investment risk. The value and liquidity of the securities in which we invest could deteriorate rapidly and the issuers of such securities could be subject to credit rating downgrades. In light of the current market conditions and these additional risks, we actively monitor market conditions and developments specific to the securities and security classes in which we invest. We believe that we take a conservative approach to investing our funds in that we invest only in highly-rated securities with relatively short maturities and do not invest in securities we believe involve a higher degree of risk. As of December 28, 2008, substantially all of our investments other than ARS are AAA/Aaa rated by at least one of the rating agencies. While we believe we take prudent measures to mitigate investment related risks, such risks cannot be fully eliminated, as there are circumstances beyond our control.

In November 2008, we accepted an offer to participate in an auction rate securities settlement from UBS, providing us the right, but not the obligation, to sell to UBS up to 100 percent of our ARS at par, commencing June 30, 2010. Our right to sell the ARS to UBS commencing June 30, 2010 through July 2, 2012 represents a put option for a payment equal to the par value of the ARS. Upon acceptance of the offer with UBS, we had approximately $94.0 million investments in ARS after recording an other-than-temporary impairment charge of $27.9 million as of December 28, 2008. Although we have recorded an impairment charge marking down the carrying value of these marketable securities at December 28, 2008, we cannot assure you that additional impairment charges will not be required in the future and UBS will ultimately have the ability to repurchase our ARS at par, or at any other price during the put period described above. During 2008, the market conditions for these ARS deteriorated due to the uncertainties in the credit markets. As a result, we were not able to sell our ARS as scheduled in the auction market. See Part II, Item 7 Management s Discussion and Analysis of Financial Condition and Results of Operations in this report for further information.

Table of Contents

The following table presents the cost basis, fair value and related weighted-average interest rates by year of maturity for our investment portfolio and debt obligations as of December 28, 2008 and comparable fair values as of December 30, 2007:

	2009	2010	2011	2012	2013	Thereafter	Total	2008 Fair value	2007 Fair value
	(in thousands , except for percentages)								
Investment Portfolio									
Cash equivalents:									
Fixed rate amounts	$	$	$	$	$	$	$	$	$ 29,869
Weighted-average rate									
Variable rate amounts	$ 74,100	$	$	$	$	$	$ 74,100	$ 74,100	$ 66,500
Weighted-average rate	0.92%						0.92%		
Marketable Securities:									
Variable rate amounts	$	$	$	$	$	$	$	$	$ 216,650
Weighted-average rate									
Total Investment Portfolio	$ 74,100	$	$	$	$	$	$ 74,100	$ 74,100	$ 313,019
Debt Obligations									
Debt fixed rate amounts	$ 457,138	$	$	$	$	$	$ 457,138	$ 18,580	$ 327,799
Weighted-average rate	7.17%						7.17%		
Debt variable rate amounts	$ 851,934	$ 166,715		$	$	$	$ 1,018,649	$ 396,250	$ 824,408
Weighted-average rate	4.91%	4.84%					4.90%		
Total Debt Obligations	$ 1,309,072	$ 166,715	$	$	$	$	$ 1,475,787	$ 414,830	$ 1,152,207

Foreign Exchange Risk

As a result of our foreign operations, we have sales, expenses, assets and liabilities that are denominated in Japanese yen and other foreign currencies. For example,

- some of our manufacturing costs are denominated in Japanese yen, Chinese renminbi, and other foreign currencies such as the Thai baht and Malaysian ringgit;

- sales of our products to Fujitsu are denominated in both US dollars and Japanese yen; and

- some fixed asset purchases are denominated in Japanese yen and European Union euros.

Consequently, movements in exchange rates could cause our net sales and our expenses to fluctuate, affecting our profitability and cash flows. Moreover, we determine our total foreign currency exchange exposure using projections of long-term expenditures for items such as equipment and materials used in manufacturing. Failure to eliminate this exposure could have an adverse effect on our business, financial condition and results of operations.

As of December 28, 2008, we did not have any foreign currency forward contracts.

The following table provides information about our foreign currency forward contracts as of December 28, 2008 and December 30, 2007.

	As of December 28, 2008	As of December 30, 2007

	Notional Amount	Average Contract Rate	Estimated Fair Value	Notional Amount	Average Contract Rate	Estimated Fair Value
			(in thousands, except contract rates)			
Foreign currency forward contracts:						
Japanese yen	$	¥	$	$ 120,500	¥ 112.85	$ -604

Table of Contents

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Consolidated Statements of Operations

(in thousands, except per share amounts)

	Year Ended December 28, 2008	Year Ended December 30, 2007	Year Ended December 31, 2006
Net sales	$ 1,630,573	$ 1,627,253	$ 1,310,479
Net sales to related parties/members	651,230	873,560	1,268,795
Total net sales	2,281,803	2,500,813	2,579,274
Cost of sales *(Note 8)*	2,193,345	2,065,143	2,063,639
Research and development (*Note 8*)	431,808	436,785	342,033
Sales, general and administrative (*Note 8*)	253,878	239,317	264,358
Acquisition related in-process research and development	10,800		
Restructuring charges *(Note 18)*	11,161		
Asset impairment charges	1,652,622		
Operating loss	(2,271,811)	(240,432)	(90,756)
Interest and other income, net	5,200	32,595	11,681
Interest expense	(97,843)	(80,803)	(70,903)
Other income (expense), net	(92,643)	(48,208)	(59,222)
Loss before income taxes	(2,364,454)	(288,640)	(149,978)
(Provision) benefit for income taxes	(62,865)	25,144	2,215
Net loss	$ (2,427,319)	$ (263,496)	$ (147,763)
Net loss per share:			
Basic and diluted	$ (15.64)	$ (1.95)	$ (1.15)
Shares used in per share calculation:			
Basic and diluted	155,162	134,924	128,965

See accompanying notes

83

Table of Contents

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Consolidated Balance Sheets

(in thousands, except par value and share amounts)

	December 28, 2008	December 30, 2007
Assets		
Current assets:		
Cash and cash equivalents	$ 116,387	$ 199,092
Marketable securities		216,650
Trade accounts receivable	132,099	184,873
Trade accounts receivable from related parties (*Note 8*)	111,448	189,372
Allowance for doubtful accounts	(8,106)	(6,156)
Trade accounts receivable, net	235,441	368,089
Other receivables	7,789	
Other receivables from related parties *(Note 8)*	6,127	11,873
Inventories:		
Raw materials	16,305	31,877
Work-in-process	264,393	421,765
Finished goods	98,459	130,227
Total inventories	379,157	583,869
Deferred income taxes	3,213	26,607
Prepaid expenses and other current assets	35,225	46,452
Total current assets	783,339	1,452,632
Property, plant and equipment:		
Land	37,355	27,662
Buildings and leasehold improvements	181,843	1,122,480
Equipment	551,567	4,411,666
Construction in progress	24,265	768,918
Total property, plant and equipment	795,030	6,330,726
Accumulated depreciation and amortization		(4,058,762)
Property, plant and equipment, net	795,030	2,271,964
Deferred income taxes		29,957
Acquisition related intangible assets, net	1,646	
Auction rate securities	94,014	
Put option	27,465	
Other assets	73,950	61,092
Total assets	$ 1,775,444	$ 3,815,645
Liabilities and Stockholders Equity (Deficit)		

Current liabilities:		
Notes payable to banks under revolving loans	$ 105,687	$
Accounts payable	465,844	489,163
Accounts payable to related parties (*Note 8*)	74,592	56,929
Accrued compensation and benefits	60,412	60,778
Accrued liabilities to related parties (*Note 8*)	5,092	9,666
Other accrued liabilities	88,943	88,006
Income taxes payable	3,972	13,818
Deferred income on shipments to a related party	364	582
Deferred income on shipments	34,921	39,375
Current portion of long-term debt	1,187,027	68,705
Current portion of long-term obligations under capital leases	39,063	33,092
Total current liabilities	2,065,917	860,114

Table of Contents

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Consolidated Balance Sheets (Continued)

(in thousands, except par value and share amounts)

	December 28, 2008	December 30, 2007
Deferred income taxes	3,267	186
Long-term debt, less current portion	166,716	1,258,616
Long-term obligations under capital leases, less current portion	43,530	40,920
Other long-term liabilities	44,330	23,361
Commitments and contingencies		
Stockholders equity (deficit):		
Capital stock:		
Preferred stock, $0.001 par value, 50,000,000 shares authorized, 0 shares issued outstanding		
Class A common stock, $0.001 par value, 714,999,998 shares authorized, 161,102,495 and 135,371,515 shares issued and outstanding as of December 28, 2008 and December 30, 2007 *(Note 20)*	161	135
Class B common stock, $0.001 par value, 1 share authorized, 0 share issued and outstanding as of December 28, 2008 and December 30, 2007 *(Note 20)*		
Class C common stock, $0.001 par value, 1 share authorized, 0 and 1 share issued and outstanding as of December 28, 2008 and December 30, 2007 *(Note 20)*		
Additional paid-in capital	2,356,629	2,221,175
Accumulated deficit	(2,979,985)	(552,667)
Accumulated other comprehensive income (loss)	74,879	(36,195)
Total stockholders equity (deficit)	(548,316)	1,632,448
Total liabilities and stockholders equity (deficit)	$ 1,775,444	$ 3,815,645

See accompanying notes

85

Table of Contents

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Consolidated Statements of Cash Flows

(in thousands)

	Year Ended December 28, 2008	Year Ended December 30, 2007	Year Ended December 31, 2006
Cash Flows from Operating Activities:			
Net loss	$ (2,427,319)	$ (263,496)	$ (147,763)
Adjustments to reconcile net loss to net cash provided by operating activities:			
Depreciation and amortization	633,692	517,281	536,993
Asset impairment charges	1,652,622		
Write-off of in-process research and development	10,800		
Loss on pension curtailment		2,010	
Loss on early extinguishment of debt		3,435	17,310
Provision for doubtful accounts	1,799	1,559	2,383
Provision (benefit) for deferred income taxes	49,887	(41,401)	(2,528)
Net gain on sale and disposal of property, plant, and equipment	(28,238)	(30,172)	(14,582)
Other than temporary impairment on marketable securities	3,270		
Other than temporary impairment on investments	2,648		
Gain on sale of marketable securities	(621)		(6,884)
Compensation recognized under employee stock plans	21,578	16,138	17,424
Amortization of premium on floating rate notes and discount of senior subordinated and senior notes, net	2,257	2,309	3,158
Changes in operating assets and liabilities:			
Decrease (increase) in trade accounts receivable from related parties	72,222	6,444	210,973
(Increase) decrease in other receivables from related parties	(742)	(9,548)	11,742
Decrease (increase) in trade account receivables	69,722	17,486	(202,359)
Decrease (increase) in inventories	204,713	(128,489)	4,304
Decrease (increase) in prepaid expenses and other current assets	14,799	(11,606)	(2,374)
(Increase) decrease in other assets	(1,183)	(15,769)	3,700
Increase (decrease) in accounts payable and accrued liabilities to related parties	18,262	40,763	(111,776)
(Decrease) increase in accounts payable and accrued liabilities	(14,099)	96,267	153,429
(Decrease) increase in accrued compensation and benefits	(8,883)	(3,767)	(13,403)
Increase (decrease) in income taxes payable	(9,846)	9,435	(8,725)
Increase (decrease) in deferred income on shipments to a related party	(218)	353	(31,672)
Increase (decrease) in deferred income on shipments	(4,570)	7,107	32,267
Net cash provided by operating activities	262,552	216,339	451,617
Cash Flows from Investing Activities:			
Proceeds from sale of property, plant and equipment	6,743	190,532	20,075
Purchases of property, plant and equipment	(430,831)	(1,115,598)	(716,618)
Business acquisitions, net of cash acquired	733		
Proceeds from maturity and sale of marketable securities	133,695	891,250	372,583
Purchases of marketable securities	(36,950)	(981,925)	(279,587)
Loan made to an investee	(5,136)		
Net cash used in investing activities	(331,746)	(1,015,741)	(603,547)

Table of Contents

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Consolidated Statements of Cash Flows (Continued)

	Year Ended December 28, 2008	Year Ended December 30, 2007 (in thousands)	Year Ended December 31, 2006
Cash Flows from Financing Activities:			
Cash distributions to related parties for stock-based compensation (*Note 8*)			(8,485)
Proceeds from sale-leaseback transactions			48,236
Proceeds from borrowings, net of issuance costs	250,558	854,120	889,735
Payments on loans from related parties			(197,619)
Payments on debt and capital lease obligations	(241,806)	(603,819)	(402,711)
Proceeds from issuance of common stock, net of offering costs		76	67,813
Net cash provided by financing activities	8,752	250,377	396,969
Effect of exchange rate changes on cash and cash equivalents	(22,263)	(11,677)	8,316
Net (decrease) increase in cash and cash equivalents	(82,705)	(560,702)	253,355
Cash and cash equivalents at the beginning of period	199,092	759,794	506,439
Cash and cash equivalents at end of period	$ 116,387	$ 199,092	$ 759,794
Supplemental Cash Flows Disclosures:			
Interest paid (including $0, $0, $11,306 of interest related to obligations to related parties)	$ 94,593	$ 95,392	$ 48,457
Income taxes paid (refunded)	$ (15,155)	$ 9,650	$ 6,229
Non-cash investing and financing activities:			
Equipment sales-leaseback transactions	$	$	$ 45,956
Equipment capital leases	$ 56,611	$	$
Accrued capital distributions to (contribution from) related party for stock-based compensation *(Note 7)*	$	$	$ (9,157)
Issuance of common stock and stock options to acquire Saifun	$ 108,898	$	$

See accompanying notes

87

Table of Contents

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Consolidated Statements of Stockholders Equity (Deficit)

(in thousands)

	Shares	Amount	Additional Paid-In Capital	Accumulated Deficit	Accumulated Other Comprehensive Income (Loss)	Total Stockholders Equity (Deficit)
Balance at December 25, 2005	128,146	$ 128	$ 2,110,540	$ (131,418)	$ (57,273)	$ 1,921,977
Comprehensive loss:						
Net loss				(147,763)		(147,763)
Other comprehensive income:						
Net unrealized gains on investment, net of taxes of $0					(407)	(407)
Net change in minimum pension liability, net of taxes of $0					7,412	7,412
Net change in cumulative translation adjustment					(11,801)	(11,801)
Reclassification adjustment for realized gain on sale of marketable securities included in net loss					(6,884)	(6,884)
Total other comprehensive loss						(11,680)
Total comprehensive loss						(159,443)
Adjustment to initially apply FASB Statement No. 158, net of tax					(10,753)	(10,753)
Stock-based compensation activity with related party, net			(415)			(415)
Discharge of stock-based compensation payable to AMD (Note 4)			9,157			9,157
Issuance of shares:						
Vesting of RSUs	826	1	(1)			
Issuance of common stock in secondary offering, net of issuance costs of $2,133	5,247	5	67,808			67,813
Compensation recognized under employee stock plans			17,424			17,424
Balance at December 31, 2006	134,219	134	2,204,513	(279,181)	(79,706)	1,845,760
Comprehensive loss:						
Net loss				(263,496)		(263,496)
Other comprehensive income:						
Change in pension plan, net of taxes of $0					2,269	2,269
Net change in cumulative translation adjustment					41,242	41,242
Total other comprehensive income						43,511
Total comprehensive loss						(219,985)
Adjustment to initially apply Issue 06-2				(10,150)		(10,150)
Adjustment to initially apply FIN 48				160		160
Adjustment to common stock issuance costs			466			466
Issuance of shares:						
Vesting of RSUs	1,148	1	(1)			
Exercise of options	5		60			60
Compensation recognized under employee stock plans			16,137			16,137
Balance at December 30, 2007	135,372	135	2,221,175	(552,667)	(36,195)	1,632,448

Table of Contents

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Consolidated Statements of Stockholders Equity (Deficit) (Continued)

(in thousands)

	Shares	Amount	Additional Paid-In Capital	Accumulated Deficit	Accumulated Other Comprehensive Income (Loss)	Total Stockholders Equity (Deficit)
Comprehensive loss:						
Net loss				(2,427,318)		(2,427,318)
Other comprehensive income:						
Net unrealized gain on investment					662	662
Change in pension plan, net of taxes of $0					(34,985)	(34,985)
Net change in cumulative translation adjustment					145,397	145,397
Total other comprehensive income						111,074
Total comprehensive loss						(2,316,244)
Issuance of shares:						
Vesting of RSUs	1,368	1	(1)			
Exercise of options	26		1			1
Issuance of common stock to acquire Saifun	22,729	23	108,876			108,899
Issuance of common stock to purchase asset	1,608	2	4,998			5,000
Compensation recognized under employee stock plans			21,580			21,580
Balance at December 28, 2008	161,103	$ 161	$ 2,356,629	$ (2,979,985)	$ 74,879	$ (548,316)

See accompanying notes

89

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements

1. Nature of Operations

The Company

Spansion Inc. (the Company) is a semiconductor device company headquartered in Sunnyvale, California, with research and development, manufacturing and assembly operations in the United States, Middle East, Europe and Asia. The Company designs, develops, manufactures, markets, licenses and sells Flash memory technology and solutions.

The Company s Flash memory devices primarily address the integrated category of the Flash memory market and are incorporated into a broad range of electronic products, including mobile phones, consumer electronics, automotive electronics, networking and telecommunications equipment, personal computers and PC peripheral applications. The Company licenses its Flash memory technology to semiconductor manufacturers who use this technology to develop and manufacture a variety of semiconductor solutions.

History of the Company

In 1993, Advanced Micro Devices, Inc. (AMD) and Fujitsu Limited (Fujitsu) formed a manufacturing venture, Fujitsu AMD Semiconductor Limited (FASL).

FASL produced wafers containing Flash memory circuits. These wafers were then sold to AMD and Fujitsu, who separated the circuits on each wafer into individual die, processed the die into finished goods and sold the finished Flash memory devices to their customers. AMD and Fujitsu performed all research and development activities for the design and development of Flash memory devices and developed the manufacturing processes that were to be used in the operation of the fabs to manufacture Flash memory devices. Through June 30, 2003, FASL contracted with AMD and Fujitsu for the receipt of certain support and administrative services.

As of June 30, 2003, in order to expand their existing manufacturing venture, AMD and Fujitsu formed a limited liability company called FASL LLC and later renamed Spansion LLC. In addition to its 49.992 percent ownership in FASL, AMD contributed to Spansion LLC its Flash memory inventory, its wafer manufacturing facility located in Austin Texas, its Flash memory research and development facility (the Submicron Development Center (SDC)) located in Sunnyvale, California, and its Flash memory assembly and test facilities located in Thailand, Malaysia and China. Fujitsu contributed to Spansion LLC its 50.008 percent ownership interest in FASL, its Flash memory inventory and its Flash memory assembly and test facilities located in Malaysia. Both AMD and Fujitsu transferred employees to Spansion LLC to perform various research and development, marketing and administration functions. AMD and Fujitsu also provided working capital to Spansion LLC in the form of cash contributions and loans. As a result, Spansion LLC began manufacturing finished Flash memory devices which through the first fiscal quarter of fiscal 2006 were exclusively sold to AMD and Fujitsu. In the second quarter of fiscal 2006, the Company began selling its products directly to customers previously served by AMD (see Note 8).

On December 21, 2005, Spansion LLC was reorganized into Spansion Inc. and completed its underwritten initial public offering (IPO) of its Class A common stock. The Company s shares of Class A common stock trade on the Nasdaq Global Select Market under the symbol SPSN, although the Company is currently subject to delisting proceedings as a result of the Creditor Protection Proceedings (see Note 2).

On March 18, 2008, the Company completed the acquisition of all of the outstanding shares of Saifun Semiconductor Ltd. (Saifun), a provider of intellectual property (IP) solutions for the non volatile memory (NVM) market. Saifun licenses its IP to semiconductor manufacturers that use this technology to develop and manufacture a variety of stand alone and embedded NVM products.

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

2. Creditor Protection Proceedings

On February 10, 2009, Spansion Japan Limited, an indirect wholly owned subsidiary of Spansion Inc, filed a proceeding under the Corporate Reorganization Law (Kaisha Kosei Ho) of Japan to obtain protection from Spansion Japan s creditors (the Spansion Japan Proceeding), and successively the Spansion Japan Proceeding was formally commenced on March 3, 2009 (the Commencement Date), when the Tokyo District Court entered the commencement order and appointed the incumbent representative director of Spansion Japan as trustee. On March 1, 2009, Spansion Inc, Spansion LLC, Spansion Technology LLC, Spansion International, Inc., and Cerium Laboratories LLC (collectively, the Debtors) each filed a voluntary petition for relief under Chapter 11 of the bankruptcy code in the Bankruptcy Court for the District of Delaware. The Chapter 11 Cases, together with the Spansion Japan Proceeding are referred to collectively as the Creditor Protection Proceedings. The Chapter 11 Cases are being jointly administered under Case No: 09-10690 (KJC).

The Debtors continue to operate their businesses as debtors-in-possession under jurisdiction of the Bankruptcy Court and in accordance with the applicable provisions of the Bankruptcy Code and orders of the Bankruptcy Court. Under the Bankruptcy Code, the Debtors may assume, assume and assign, or reject certain executory contracts including unexpired leases, subject to the approval of the Bankruptcy Court and certain other conditions. Any reference to any such agreements or instruments and termination rights or a quantification of the Debtors obligations under any such agreements or instruments is qualified by any overriding rejection, repudiation or other rights the Debtors may have as a result of or in connection with the Creditor Protection Proceedings.

As required under the U.S. Bankruptcy Code, the United States Trustee for the District of Delaware (Trustee) appointed an official committee of unsecured creditors on March 12, 2009 (U.S. Creditors Committee). In addition, a group purporting to hold substantial amounts of the Company s publicly traded Senior Secured Floating Rate Notes has organized (the Floating Rate Noteholders). The role of the U.S. Creditors Committee and the Floating Rate Noteholders in the Creditor Protection Proceedings may develop and change over the course of such proceedings.

The Bankruptcy Court has approved payment of certain of the Debtors pre-petition obligations, including, among other things, employee wages, salaries and benefits, and certain business related payments like claims of transport companies and certain contractors in satisfaction of liens or interests. The Debtors have retained, with Bankruptcy Court approval, legal and financial professionals to advise the Debtors on the Chapter 11 Cases and certain other ordinary course professionals. From time to time, the Debtors may seek Bankruptcy Court approval for the retention of additional professionals.

Non-U.S subsidiaries that are not included in the Creditor Protection Proceedings continue to operate without the supervision of the Bankruptcy Court.

The Creditor Protection Proceedings allow the Debtors to continue operating their business while continuing to pursue a sale or standalone reorganization process. There is no assurance that the Debtors will be successful in completing a sale or reorganization.

Developments Related to the Company s Creditor Protection Proceedings

The Spansion Japan Proceeding and the Chapter 11 Cases constituted events of default under the instruments governing substantially all of the indebtedness issued or guaranteed by the Company, Spansion LLC, Spansion Technology LLC and Spansion Japan. In addition, the Company may not be in

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

compliance with certain other covenants under the indentures related to certain of its debt or lease instruments.

In February 2009, the Company implemented a workforce reduction of approximately 2,400 employees or 28 percent of the Company s existing employees, in an effort to further reduce costs as the Company continued its restructuring efforts and explored various strategic alternatives.

On March 4, 2009, the Company received notice of a determination of the NASDAQ Listing Qualifications Department to delist its common stock from trading on The NASDAQ Stock Market because of the Chapter 11 Cases. On March 16, 2009, the Company received an additional notice of a determination for its failure to timely file its Annual Report on Form 10-K for the fiscal year ended December 28, 2008. On April 16, 2009, the Company received an additional notice of a determination that its failure to pay certain fees in accordance with NASDAQ Marketplace Rule 5210(d) is an additional basis for delisting its securities from The NASDAQ Stock Market. On April 23, 2009, the Company attended a hearing to contest these delisting determinations. On May 5, 2009, NASDAQ denied the Company s request for continued listing on The NASDAQ Stock Market and informed the Company that trading of shares of its common stock has been suspended effective at the open of business on Thursday, May 7, 2009. The Company does not intend to request a review of this decision, and expects NASDAQ to file an application on Form 25-NSE with the Securities and Exchange Commission to effect the delisting of our common stock. We expect that our common stock will be publicly traded on the Pink Sheets with a ticker symbol SPSN.PK. However, because trading on the Pink Sheets requires a market maker to quote our common stock, trading on the Pink Sheets is not within our control and could be discontinued at any time if no market maker is willing to offer a quote.

In connection with developing a plan of reorganization under the Creditor Protection Proceedings, the Company has decided to pursue a standalone business strategy focused on the market for embedded applications and licensing its intellectual property portfolio. As a result, the Company plans to pursue strategic alternatives for its wireless business.

Business Operations

The businesses of the Debtors continue to operate under the jurisdictions and orders of the applicable courts and in accordance with applicable legislation. The Debtors received approval from the Bankruptcy Court for a number of motions enabling them to continue to operate their businesses generally in the ordinary course and transition into the creditor protection process while minimizing disruption to their business. Among other things, the Debtors received approval to continue paying employee wages and certain benefits in the ordinary course; to pay critical trade vendor claims; to generally continue their cash management system; and to continue honoring customer program obligations.

Under the U.S. Bankruptcy Code, the U.S. Debtors may assume, assume and assign, or reject certain executory contracts including unexpired leases, subject to the approval of the U.S. Court and certain other conditions.

3. Basis of Presentation

Basis of Presentation and Going Concern

The commencement of the Creditor Protection Proceedings raises substantial doubt as to whether Spansion will be able to continue as a going concern. The audited consolidated financial statements have been prepared using the same U.S. GAAP and the rules and regulations of the U.S. Securities and Exchange Commission (SEC) as applied by the Company prior to the Creditor Protection Proceedings. The audited consolidated financial

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

statements continue to be prepared using the going concern basis, which assumes that the Company will be able to realize its assets and discharge its liabilities in the normal course of business for the foreseeable future. The Creditor Protection Proceedings provide the Company with a period of time to stabilize its operations and financial condition and develop a comprehensive restructuring plan, which will incorporate the Company s standalone business strategy focused on the market for embedded applications and licensing of its intellectual property portfolio. However, it is not possible to predict the outcome of these proceedings and, as such, the realization of assets and discharge of liabilities are each subject to significant uncertainty. Further, it is not possible to predict whether the actions taken in any restructuring will result in improvements to the Company s financial condition sufficient to allow it to continue as a going concern. If the going concern basis is not appropriate in future filings, adjustments will be necessary to the carrying amounts and/or classification of the Company s assets and liabilities in its consolidated financial statements included in those filings. Further, a comprehensive restructuring plan could materially change the carrying amounts and classifications reported in the audited consolidated financial statements in future filings.

The audited consolidated financial statements do not purport to reflect or provide for the consequences of the Creditor Protection Proceedings. In particular, such consolidated financial statements do not purport to show: (a) as to assets, their realizable value on a liquidation basis or their availability to satisfy liabilities; (b) as to pre-petition liabilities, the amounts that may be allowed for claims or contingencies, or the status and priority thereof; (c) as to shareholders accounts, the effect of any changes that may be made in the Company s capitalization; or (d) as to operations, the effect of any changes that may be made in the Company s business.

American Institute of Certified Public Accountants Statement of Position 90-7, Financial Reporting by Entities in Reorganization under the Bankruptcy Code (SOP 90-7), which is applicable to companies in Chapter 11 of the Bankruptcy Code, generally does not change the manner in which financial statements are prepared. However, among other disclosures, it does require that the financial statements for periods subsequent to the filing of the Chapter 11 petition distinguish transactions and events that are directly associated with the reorganization from the ongoing operations of the business. Revenues, expenses, realized gains and losses, and provisions for losses that can be directly associated with the reorganization and restructuring of the business must be reported separately as reorganization items in the statements of operations. The balance sheet must distinguish prepetition liabilities subject to compromise from both those prepetition liabilities that are not subject to compromise and from post-petition liabilities. Liabilities that may be affected by a plan of reorganization must be reported at the amounts expected to be allowed, even if they may be settled for lesser amounts. In addition, reorganization items must be disclosed separately in the statement of cash flows. Spansion adopted SOP 90-7 effective March 1, 2009 and will segregate those items as outlined above for all reporting periods subsequent to such date.

Furthermore, effective on the Commencement Date, pursuant to FASB Statement No. 160 (Statement 160), *Noncontrolling Interests in Consolidated Financial Statements, an Amendment of ARB No. 51*, the Company must deconsolidate Spansion Japan as, by virtue of the Spansion Japan Proceeding, and despite its 100% ownership interest, the Company is no longer deemed to control Spansion Japan. Spansion Japan will cease to be included in the Company s consolidated operating results and financial position commencing with the presentation of its interim results for the first quarter of fiscal 2009. Transactions between the Company and Spansion Japan will be reflected in a manner similar to transactions with unrelated parties. The Company is currently assessing the impact the deconsolidation will have on its future operating results and financial position.

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

Fiscal Year

The Company operates on a 52- to 53-week fiscal year ending on the last Sunday in December. The year ended December 28, 2008 and December 30, 2007 consisted of 52 weeks each. December 31, 2006 consisted of 53 weeks.

4. Summary of Significant Accounting Policies

Principles of Consolidation

The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries after elimination of intercompany accounts and transactions.

Use of Estimates

The preparation of consolidated financial statements and disclosures in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of commitments and contingencies and the reported amounts of revenues and expenses during the reporting periods. Estimates are used to account for the fair value of certain marketable securities, revenue, the allowance for doubtful accounts, inventory valuation, valuation of acquired intangible assets, impairment of long-lived assets, income taxes, stock-based compensation expenses, product warranties and pension and postretirement benefits. Actual results may differ from those estimates, and such differences may be material to the financial statements.

Cash Equivalents

Cash equivalents consist of financial instruments that are readily convertible into cash and have original maturities of three months or less at the time of purchase.

Marketable Securities

The Company s investments in marketable securities consist of auction rate securities (ARS), for which the underlying assets are student loans. As of December 30, 2007 and through October 2008, the investments in ARS were designated as available-for-sale and reported at fair value with the related unrealized gains and losses included in accumulated other comprehensive income (loss), net of tax, a component of stockholders equity. In November 2008, the Company reclassified its investments in ARS as trading securities and the investments are now adjusted to market through earnings each reporting period. The Company recognizes an impairment charge on available-for-sale marketable securities in earnings when the declines in the fair values of its investments below the cost basis are judged to be other-than-temporary. The Company considers various factors in determining whether to recognize a decline in value, including the length of time and extent to which the fair value has been less than the Company s cost basis, the financial condition and near-term prospects of the issuer or investee, and the Company s intent and ability to hold the investment for a period of time sufficient to allow for any anticipated recovery in market value. During fiscal 2008, and prior to their being reclassified to trading securities, the Company determined that the fair value its ARS was less than the carrying value and as a result, the Company recorded other than temporary impairment charges of $27.9 million for its ARS investments. The cost of securities sold is based on the specific identification method. The Company generally classifies investments in marketable securities as current when, at the date of acquisition, their remaining time to maturity is less than or equal to 12 months or, if the time to maturity is greater than 12 months, when they represent investments of cash that are intended to be used in current operations. Historically, given the liquidity created by

Table of Contents

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

the auctions, ARS were presented as current assets. However, given the recently failed auctions, and based on the Company executing its put option agreement with UBS in November 2008 (see Note 17), the Company classified its investment in ARS as long-term on the accompanying consolidated balance sheet as of December 28, 2008.

Allowance for Doubtful Accounts

The Company maintains an allowance for doubtful accounts based on a variety of factors, including the length of time the receivable is past due, historical experience and the financial condition of customers.

The following describes activity in the accounts receivable allowance for doubtful accounts for the years ended December 28, 2008, December 30, 2007 and December 31, 2006.

Year	Balance at Beginning of Period	Additions Charged to Costs and Expenses	Deductions	Balance at End of Period
		(in thousands)		
2008	$ 6,156	$ 2,276	$ (326)	$ 8,106
2007	$ 4,597	$ 1,559	$	$ 6,156
2006	$ 2,214	$ 2,383	$	$ 4,597

Inventories

Inventories are stated at standard cost adjusted to approximate the lower of actual cost (first-in, first-out method) or market. The Company records a provision for excess and obsolete inventory based on its estimated forecast of product demand. Demand for the Company s products can fluctuate significantly from period to period. Historically, inventories in excess of forecasted customer demand over the next six months were not valued. However, beginning in the second quarter of fiscal 2008, as part of a strategy to efficiently manage its new production capacity and to maintain strategic inventory levels of certain products, the Company has built and valued certain inventory to meet estimated demand as much as twelve months into the future. Obsolete inventories are written off.

Revenue Recognition

Prior to the second quarter of fiscal 2006, the Company generally recognized revenue when AMD and Fujitsu, the Company s sole distributors, sold its products to their OEM customers. In the second quarter of fiscal 2006, the Company began selling its products directly to the customers previously served by AMD. Since such time, the Company generally recognizes revenue when it has sold its products to its OEM customers and title and risk of loss for the products have transferred to the OEM. Estimates of product returns and sales allowances, related to reasons other than product quality, are based on actual historical experience and are recorded as a reduction in revenue at the time revenue is recognized.

Beginning in the second quarter of fiscal 2006, the Company also began selling directly to distributors to whom it provided similar rights of return, stock rotation and price protection previously offered by AMD. The Company defers the recognition of revenue and related product costs on these sales as deferred income until the merchandise is resold by its distributors. The Company also sells some of its products to certain distributors under sales arrangements with terms that do not allow for rights of returns or price protection on unsold products held by them. In these instances, the Company recognizes revenue when it ships the product directly to the distributors.

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

Fujitsu also sells the Company s products to its distributors. The Company s distribution agreement with Fujitsu grants limited stock rotation rights to Fujitsu and allows Fujitsu to provide similar limited rights to some of its distributors. However, to date, Fujitsu has not extended these rights to its distributors. Accordingly, the Company recognizes revenue for sale of products sold to Fujitsu when Fujitsu sells the Company s products to its distributors.

The Company recognizes revenue net of sales taxes, use taxes and value-added taxes directly imposed by governmental authorities on the Company s revenue producing transactions with its customers. The Company includes shipping costs related to products shipped to customers in cost of sales.

Property, Plant and Equipment

Property, plant and equipment are stated at cost. Depreciation and amortization are provided on a straight-line basis over the estimated useful lives of the assets. Estimated useful lives of property, plant and equipment for financial reporting purposes are as follows: machinery and equipment, two to seven years; buildings and building improvements, from five to twenty-six years; and leasehold improvements, the shorter of the remaining terms of the leases or the estimated economic useful lives of the improvements (see Note 5).

The Company capitalized interest costs of $6.5 million and $16.9 million during fiscal 2008 and fiscal 2007, respectively, in connection with its SP1construction activities in Japan.

Impairment of Long-Lived Assets including Acquisition-Related Intangible Assets

The Company accounts for the impairment of long-lived assets using Financial Accounting Standards Board (FASB) Statement No. 144 (Statement 144), *Accounting for the Impairment or Disposal of Long-lived Assets*. For long-lived assets other than goodwill, the Company evaluates whether an impairment loss has occurred for an asset (asset group) to be held and used when events and circumstances indicate that the carrying amount of an asset (asset group) might not be recoverable. For purposes of assessing recoverability and impairment of an asset (asset group) held and used, the Company groups assets at the lowest level for which there are identifiable independent cash flows. The Company assesses recoverability by determining whether the undiscounted cash flows estimated to be generated by an asset (asset group) are less than the carrying amount of the asset (asset group). If fair value of the asset (asset group) is less than the carrying value, the impairment loss is based on the excess of the carrying amount of the asset (asset group) over its fair value. The adjusted carrying value of the related asset (asset group) establishes the new cost basis and accumulated depreciation and amortization are reset to zero. For an asset (disposal group) held for sale, impairment losses are measured at the lower of the carrying amount of the asset (disposal group) or the fair value of the asset (disposal group). For an asset (asset group) to be disposed of other than by sale, impairment losses are measured based on the excess of the carrying amount of the asset (asset group) over its respective fair value. Fair value for purposes of measuring impairments is determined by discounted future cash flows, appraisals or other methods.

As a result of an impairment analysis performed during the fourth quarter of fiscal 2008, the Company recorded a total long-lived asset impairment charge of approximately $1.6 billion for the fourth quarter of fiscal 2008 (see Note 5).

Goodwill

Goodwill represents the excess of the purchase price over the fair value of net tangible and identifiable intangible assets acquired. The Company recorded goodwill in the first quarter of fiscal 2008 in connection with

Table of Contents

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

its acquisition of Saifun (see Note 6). In accordance with the provisions of Financial Accounting Standards Board (FASB) Statement No. 142 (Statement 142), *Goodwill and Other Intangible Assets*, goodwill amounts are not amortized, but rather are tested for impairment at least annually, or more frequently if there are indicators of impairment present, at a level within the Company referred to as the reporting unit. The Company performs its annual goodwill impairment analysis as of the last day of the fourth quarter of each fiscal year. Testing for goodwill impairment under Statement 142 requires a two step approach. Under step one the Company evaluates whether fair value of reporting unit is less than the carrying value, including goodwill. The fair value of the reporting unit is determined by generally accepted valuation techniques and may consider both the income and market approach, adjusted by an estimated control premium. The income approach requires estimates of future operating results and cash flows of Spansion discounted using estimated discount rates. The market approach involves estimating enterprise value using guideline public company multiples. If step one of the analysis demonstrates that the fair value of the reporting unit is below the carrying value the Company will proceed to step two. Under step two the Company estimates the fair values of all identifiable assets and liabilities of the reporting unit using the income, market or replacement cost approaches as appropriate. The excess of the fair value of the reporting unit over the fair values of the identified assets and liabilities is the implied fair value of goodwill. If the implied fair value of goodwill is lower than the carrying value of the goodwill, an impairment charge is recorded to reduce the carrying value to fair value.

As a result of the Company s annual review the Company recognized an impairment charge on its remaining goodwill of $20.8 million in the fourth quarter of fiscal 2008, reducing its goodwill balance to zero (see Note 6).

Product Warranties

The Company offers a one-year limited warranty for Spansion Flash memory devices (see Note 11). At the time revenue is recognized, the Company provides for estimated costs that may be incurred under product warranty, with the corresponding expense recognized in cost of sales. Estimates of warranty expense are based on the Company s historical experience. Warranty accruals are evaluated periodically and are adjusted for changes in experience.

Foreign Currency Translation/Transactions

The functional currency of the Company and its foreign subsidiaries, except for its wholly owned subsidiary in Japan (Spansion Japan), is the U.S. dollar. Adjustments resulting from remeasuring the foreign currency denominated transactions and balances of these subsidiaries, other than Spansion Japan, into U.S. dollar are included in operations. Adjustments resulting from translating the foreign currency financial statements of Spansion Japan, for which the functional currency is the Japanese yen, into U.S. dollar denominations are included as a separate component of accumulated other comprehensive income (loss). Gains or losses resulting from transactions denominated in currencies other than the functional currencies of the Company and its subsidiaries are recorded in cost of sales. The aggregate exchange gain (loss) included in determining net loss was $1.6 million, $6.2 million and $(0.9) million for the years ended December 28, 2008, December 30, 2007 and December 31, 2006 respectively.

Derivative Financial Instruments

The Company has sales, expenses, assets and liabilities denominated in Japanese yen and other foreign currencies. Therefore, movements in exchange rates could cause net sales and expenses to fluctuate, affecting the Company s profitability and cash flows. The Company has in the past used foreign currency forward contracts to

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

reduce its exposure to foreign currency exchange rate fluctuations. Realized and unrealized gains and losses associated with these foreign currency contracts are reflected in the Company s balance sheet and recorded in other current assets or accrued liabilities. Changes in fair value and premiums paid for foreign currency contracts are recorded directly in cost of sales. The objective of these contracts is to reduce the impact of foreign currency exchange rate movements on the Company s operating results. The Company does not use derivatives for speculative or trading purposes, nor does the Company designate its derivative instruments as hedging instruments, as defined by FASB Statement No. 133, *Accounting for Derivative Instruments and Hedging Activities.*

Research and Development Expenses

The Company expenses research and development costs in the period in which such costs are incurred.

Advertising Expenses

Advertising costs are expensed as incurred. Advertising expenses for the years ended December 28, 2008, December 30, 2007 and December 31, 2006 were approximately $3.4 million, $7.4 million and $8.1 million, respectively.

Net Loss per Share

Basic and diluted net loss per share is computed based on the weighted-average number of common shares outstanding during the period.

For the years ended December 28, 2008, December 30, 2007 and December 31, 2006 respectively, the Company excluded from its diluted per share computation approximately 24.8 million, 18.4 million and 16.8 million potential shares issuable upon exercise of outstanding stock options, upon vesting of outstanding restricted stock units and upon conversion of Spansion LLC s 2.25% Exchangeable Senior Subordinated Debentures because they had an antidilutive effect due to net losses recorded in each of those periods.

Income Taxes

In determining taxable income for financial statement reporting purposes, the Company must make estimates and judgments. These estimates and judgments are applied in the calculation of specific tax liabilities and in the determination of the recoverability of deferred tax assets, which arise from temporary differences between the recognition of assets and liabilities for tax and financial statement reporting purposes.

The Company must assess the likelihood that it will be able to recover its deferred tax assets. Unless recovery of these deferred tax assets is considered more likely than not, the Company must increase its provision for taxes by recording a charge to income tax expense, in the form of a valuation allowance against those deferred tax assets for which it believes it is more likely than not they will be realized. The Company considers past performance, future expected taxable income and prudent and feasible tax planning strategies in determining the need for a valuation allowance.

In addition, the calculation of the Company s tax liabilities involves the application of complex tax rules and the potential for future adjustment by the relevant tax jurisdiction. If the Company s estimates of these taxes are greater or less than actual results, an additional tax benefit or charge will result.

In July 2006, the FASB issued Financial Interpretation No. 48 (FIN 48), *Accounting for Uncertainty in Income Taxes*, which clarifies the accounting for uncertainty in income taxes recognized in a company s financial

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

statements in accordance with FASB Statement 109, *Accounting for Income Taxes*. The interpretation prescribes a recognition threshold and measurement attribute criteria for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. The interpretation also provides guidance on derecognition, classification, interest and penalties, accounting in interim periods, disclosure and transition. Adoption on January 1, 2007 did not have a material effect on the Company s consolidated financial statements. As of the date of adoption, the Company s total gross unrecognized tax benefits were $2.7 million, of which $0.2 million, if recognized, would affect the Company s effective tax rate. The recognition of the remaining unrecognized tax benefits would be offset by a change in valuation allowance.

Accumulated Other Comprehensive Income (Loss)

The following are the components of accumulated other comprehensive income (loss):

	December 28, 2008	December 30, 2007
	(in thousands)	
Unrecognized pension (expense) gain, net of tax benefits of ($6,337) in 2008 and ($5,429) in 2007	$ (33,012)	$ 1,972
Cumulative translation adjustment	107,891	(38,166)
Total accumulated other comprehensive income (loss)	$ 74,879	$ (36,196)

Stock-Based Compensation

Spansion Stock-Based Incentive Compensation Plans

The Company accounts for its stock-based incentive compensation plans in accordance with FASB Statement No, 123 (revised 2004) (Statement 123(R), *Share-Based Payment*. The Company estimates the fair value of its stock-based awards to employees using Black-Scholes-Merton option pricing model. Stock-based compensation expense recognized during a period is based on the higher of the grant-date fair value of the portion of share-based payment awards that is ultimately expected to vest, or actually vests, during the period. Compensation expense for all share-based payment awards is recognized using the straight-line attribution method reduced for estimated forfeitures. Prior to the fourth quarter of 2007, the Company did not have sufficient historical forfeiture experience related to its own stock-based awards and therefore, estimated its forfeitures based on the average of its own fiscal 2006 forfeiture rate and AMD s historical forfeiture rates, as the Company believed these forfeiture rates to be the most indicative of its own expected forfeiture rate. Beginning the fourth quarter of fiscal 2007, the Company estimated forfeitures based on the weighted average of its own fiscal 2007 and 2006 forfeiture rates. Statement 123(R) requires forfeitures to be estimated at the time of grant and revised, if necessary, in subsequent periods if actual forfeitures differ from those estimates.

Pension and Post-Retirement Benefits

The Company provides a pension plan for certain employees of Spansion Japan, and as a result, the Company has significant pension benefit costs and credits that are computed and recorded in its financial statements based on actuarial valuations. The actuarial valuations require assumptions and methods which must be used to develop the best estimate of the benefit costs. These valuation assumptions include salary growth, long-term return on plan assets, discount rates and other factors. The salary growth assumptions reflect the Company s future and near-term outlook for salary growth within the industry. Long-term return on plan assets is determined based on historical results in the debt and equity markets and management s expectation of the

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

current economic environment and the allocation target and expected future yields of each asset class. The discount rate assumption is based on current investment yields on Japanese government long-term bonds, as no deep corporate market exists for high quality corporate debt instruments. Actual results that differ from these assumptions are accumulated and amortized over the future life of the plan participants. While the Company believes that the assumptions used are appropriate, significant differences in actual experience or significant changes in assumptions would affect the pension costs and obligations.

Fair Value

The Company adopted FASB Statement No. 157 (Statement 157), *Fair Value Measurements,* effective January 1, 2008. Statement 157 defines fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Statement 157 establishes a hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that the most observable inputs be used when available. Observable inputs are inputs that market participants would use in pricing the asset or liability developed based on market data obtained from sources independent of the Company. Unobservable inputs are inputs that reflect the Company s assumptions about the assumptions market participants would use in pricing the asset or liability developed based on the best information available in the circumstances. The hierarchy is broken down into three levels based on the reliability of inputs as follows:

Level 1 Inputs are unadjusted, quoted prices in active markets for identical assets or liabilities at the measurement date. Examples of the assets carried at Level 1 fair value generally are equities listed in active markets and investments in publicly traded mutual funds with quoted market prices.

Level 2 Inputs (other than quoted prices included in Level 1) are either directly or indirectly observable for the asset or liability through correlation with market data at the measurement date and for the duration of the asset/liability s anticipated life.

Level 3 Inputs reflect management s best estimate of what market participants would use in pricing the asset or liability at the measurement date. Consideration is given to the risk inherent in the valuation technique and the risk inherent in the inputs to the model.

The availability of observable inputs can vary and is affected by a wide variety of factors, including, for example, the type of a security, whether the security is new and not yet established in the marketplace, and other characteristics particular to a transaction. To the extent that valuation is based on models or inputs that are less observable or unobservable in the market, the determination of fair value requires more judgment. Accordingly, the degree of judgment exercised by the Company in determining fair value is greatest for instruments categorized in Level 3. When observable prices are not available, the Company either uses implied pricing from similar instruments or valuation models based on net present value of estimated future cash flows, adjusted as appropriate for liquidity, credit, market and/or other risk factors. Fair value is a market-based measure considered from the perspective of a market participant rather than an entity-specific measure. Therefore, even when market assumptions are not readily available, the Company s own assumptions are set to reflect those it believes market participants would use in pricing the asset or liability at the measurement date. See Note 17 for fair value disclosure related to the Company s marketable securities.

New Accounting Pronouncements

In February 2007, the FASB issued Statement No. 159 (Statement 159), *The Fair Value Option for Financial Assets and Financial Liabilities Including an amendment of FASB Statement No. 115.* Under

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

Statement 159, a company may choose, at specified election dates, to measure eligible financial instrument and certain other items at fair value that are not otherwise required to be so measured. If a company elects the fair value option for an eligible item, changes in that item s fair value in subsequent reporting periods must be recognized in current earnings. Statement 159 is effective as of the beginning of the fiscal years beginning after November 15, 2007. Upon initial adoption, this statement provides entities with a one-time chance to elect the fair value option for the eligible items. The effect of the first measurement to fair value should be reported as a cumulative-effect adjustment to the opening balance of retained earnings in the year the statement is adopted. The Company adopted Statement 159 at the beginning of its fiscal year 2008 and did not make any elections for fair value accounting. Therefore, the Company did not record a cumulative-effect adjustment to its opening retained earnings balance. However, the Company did elect the fair value option in accounting for the UBS put option asset as a result of management s intent to exercise its put option during the period June 30, 2010 to July 3, 2012. See Note 17 for further disclosure regarding the accounting for the UBS put option.

In December 2007, the FASB issued Statement No. 160, *Noncontrolling Interests in Consolidated Financial Statements an Amendment of ARB No. 51*. Statement 160 will require that noncontrolling interests in subsidiaries be reported as a component of stockholders equity in the consolidated balance sheet. Statement 160 also requires that earnings or losses attributed to the noncontrolling interests be reported as part of consolidated earnings and not as a separate component of income or expense, as well as requires disclosure of the attribution of consolidated earnings to the controlling and noncontrolling interests on the face of the consolidated statement of operations. Statement 160 is effective for fiscal years beginning after December 15, 2008 and must be applied on a prospective basis. As disclosed in Note 3, the Company must, pursuant to Statement 160, deconsolidate Spansion Japan effective with the Commencement Date. The Company is currently assessing the impact this pronouncement will have on its future operating results and financial position.

In February 2008, the FASB issued FASB Staff Position (FSP) FAS 157-2, *Effective Date of FASB Statement No. 157,* which provides a one year deferral of the effective date of Statement 157 for non-financial assets and non-financial liabilities, except those that are recognized or disclosed in the financial statements at fair value at least annually. The Company has adopted the provisions of Statement 157 with respect to its financial assets and liabilities only and it will therefore adopt Statement 157 for non-financial assets and non-financial liabilities that are not measured at fair value on a recurring basis as of the beginning of the first quarter of fiscal 2009. This adoption is not expected to have a significant impact on the Company s consolidated financial statements.

In March 2008, the FASB issued Statement No. 161 (Statement 161), *Disclosures about Derivative Instruments and Hedging Activities an amendment of FASB Statement No. 133* (Statement 133). Statement 161 changes the disclosure requirements for derivative instruments and hedging activities. Entities are required to provide enhanced disclosures about (a) how and why an entity uses derivative instruments, (b) how derivative instruments and related hedged items are accounted for under Statement 133 and its related interpretations, and (c) how derivative instruments and related hedged items affect an entity s financial position, financial performance and cash flows. Statement 161 does not change the accounting for derivative instruments. The guidance in Statement 161 is effective for the Company beginning in the first quarter of fiscal 2009.

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). The FSP requires convertible debt which may be settled in cash upon conversion, including partial cash conversion, to be separated into debt and equity components at issuance with a value to be assigned to each component in a manner that will reflect the entity s non convertible debt borrowing rate. The difference between the cash proceeds from debt issuance and the fair value assigned to the debt will be recorded as a debt discount and amortized to interest

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

expense over the life of the debt. The effective date of this FSP is for financial statements issued for fiscal years beginning after December 15, 2008 and interim periods within those fiscal years and it does not permit earlier application. However, the transition guidance requires retroactive application to all periods presented. The FSP APB 14-1 will impact the Company s accounting for its Exchangeable Senior Subordinated Debentures. The equity component would be included in the paid-in capital portion of stockholders equity on the balance sheet and the value of the equity component would be treated as an original issue discount for purposes of accounting for the debt component. Although FSB APB 14-1 will have no impact on the Company s actual past or future cash flows, it will require the Company to record additional non-cash interest expense as the debt discount is amortized which will adversely impact earnings per share. Higher interest expense will result by recognizing accretion of the discounted carrying value of the 2.25% Exchangeable Senior Subordinated Debentures to their face amount as interest expense over the term of the debt. Interest expense associated with the 2.25% Exchangeable Debt for prior periods will also be higher than previously reported due to the retrospective application of FSP APB 14-1. Based on the preliminary analysis performed by the Company, the interest expense associated with its 2.25% Exchangeable Debt will be approximately $3.2 million, $6.5 million and $7.5 million higher for fiscal years 2006, 2007 and 2008, respectively, as a result of adopting this FSP.

In October 2008, the FASB issued FSP FAS 157-3, *Determining the Fair Value of a Financial Asset in a Market That Is Not Active,* which clarifies the application of Statement 157 when the market for a financial asset is inactive. Specifically, FSP FAS 157-3 clarifies how (1) management s internal assumptions should be considered in measuring fair value when observable data are not present, (2) observable market information from an inactive market should be taken into account, and (3) the use of broker quotes or pricing services should be considered in assessing the relevance of observable and unobservable data to measure fair value. The guidance in FSP FAS 157-3 was effective upon issuance and the Company has adopted its provisions with respect to its financial assets as of September 28, 2008.

In December 2008, the FASB issued FSP FAS 132(R)-1, *Employer s Disclosures about Postretirement Benefit Plan Assets,* which amends FASB Statement No. 132 (Revised 2003), *Employers Disclosures about Pensions and Other Postretirement Benefits*, to provide guidance on an employer s disclosures about plan assets of a defined benefit pension or other postretirement plan. The disclosures about plan assets required by this FSP shall be provided for fiscal years ending after December 15, 2009. Upon initial application, the provisions of this FSP are not required for earlier periods that are presented for comparative purposes. This FSP does not affect the accounting treatment for postretirement benefit plans. The Company will adopt this FSP for the fiscal year ending December 27, 2009.

5. Impairment of Long-Lived Assets including Acquisition-Related Intangible Assets

A variety of external economic factors have contributed to the decline in the Company s operating performance, such as persistent oversupply in the Flash memory industry compounded by the global economic recession. The 2008 global economic downturn has caused a sharp decline in worldwide demand for consumer goods and, consequently, a sharp reduction in demand for the Company s products, which resulted in significant declines in the Company s manufacturing capacity utilization as the Company reduced production. In addition to these economic factors, the ramp-up of SP1 was delayed during the second and third quarters of 2008 due to slower than expected customer qualifications and the steep decline in the Japanese wireless market. These factors, among others, caused the Company s stock price to drop significantly throughout 2008, resulting in a sustained market capitalization well below book value.

Given these indicators of impairment, the Company believed its long-lived assets including its acquisition-related intangible assets, may not be recoverable at December 28, 2008. Because of the vertical nature of the Company s manufacturing operations and its multiple foundry, assembly and test facilities, the cash flows of the

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

Company s assets and liabilities below the entity level are not largely independent of one another and, therefore, the Company evaluated recoverability using a single, entity-wide asset group that included all of the Company s long-lived assets and related operating assets and liabilities. The Company prepared an undiscounted cash flow analysis and determined that the carrying value of the asset group exceeded the undiscounted cash flows expected from the use and eventual disposition of the asset group and, therefore, the asset group was not recoverable. Accordingly, the Company estimated the fair value of the asset group based on a probability weighted cash flow forecast, discounted based on the Company s weighted-average cost of capital. The total carrying value of the asset group exceeded management s estimated fair value indicating an impairment loss. The excess carrying value of the asset group over its fair value was allocated on a pro rata basis to the individual assets in the asset group to adjust and reduce their carrying values. In this process, the adjusted carrying value of an individual asset was not reduced to below its individual fair value, if determinable. The adjusted carrying values of the assets established a new cost basis for the assets and depreciation and amortization was reset to zero.

As a result of this impairment analysis, the Company recorded a total long-lived asset impairment charge of approximately $1.6 billion for the fourth quarter ended December 28, 2008, reflecting the low demand for semiconductor equipment worldwide, coupled with excess supply. This charge is comprised of the following:

	in millions
Property, plant and equipment	$ 1,578.4
Acquisition-related intangible assets	53.5
Total	$ 1,631.9

6. Acquisition of Saifun Semiconductors Ltd. (Saifun)

On March 18, 2008, the Company completed the acquisition of all of the outstanding shares of Saifun Semiconductor Ltd., a publicly held company headquartered in Netanya, Israel (the Acquisition). The Company has included the results of operations of Saifun beginning March 18, 2008 in its consolidated statements of operations for the year ended December 28, 2008.

Saifun is a provider of intellectual property (IP) solutions for the non-volatile memory (NVM) market and licenses its IP to semiconductor manufacturers that use this technology to develop and manufacture a variety of non-volatile Flash memory based products including products that integrate Flash memory with logic as well as dedicated standalone Flash memory devices. The Company believes that the acquisition of Saifun provides the Company an opportunity to expand its product portfolio and enter into the technology licensing business.

The Company paid a consideration of approximately 22.7 million shares of the Company s Class A common stock for all outstanding Saifun common shares. In addition, the Company also assumed all of the outstanding Saifun stock options which were converted into options to purchase approximately 4.3 million shares of the Company s Class A common stock. The total purchase price for Saifun was $119.3 million and is comprised of:

	in millions
22.7 million shares of Class A common stock	$ 98.4
Fair value of vested options and restricted stock units issued	10.5
Acquisition related transaction costs	10.4
Total purchase price	$ 119.3

Table of Contents

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

The fair value of the Company s common stock issued was determined in accordance with EITF Issue No. 99-12, *Determination of the Measurement Date for the Market Price of Acquirer Securities Issued in a Purchase Business Combination,* which reflected the average of the closing prices of the Company s common stock on the NASDAQ for the two trading days prior to and following December 13, 2007, the date that the number of issuable shares became fixed. The fair value of the Company s options and restricted stock units was determined under FASB Statement 123R. The vested portion of these options and restricted stock units was valued at approximately $10.5 million. The unvested portion was valued at approximately $6.3 million and will be amortized ratably over the future remaining service periods.

In accordance with EITF Issue No. 04-1, *Accounting for Pre-existing Relationships between the Parties to a Business Combination,* the Company reviewed its existing contracts with Saifun as of the date of the acquisition to determine if such contracts included terms that were favorable or unfavorable when compared to pricing for current market transactions for the same or similar terms which will result in a settlement gain or loss as of this date. A settlement gain or loss is measured as the lesser of (a) the amount by which the agreements were favorable or unfavorable to market terms or (b) the stated settlement provisions of the agreements available to the Company. The Company concluded that the terms in the pre-existing relationship were neither favorable nor unfavorable and, accordingly, the Company recognized no gain or loss relating to its existing contracts with Saifun as of the acquisition date.

Purchase Price Allocation

The total purchase price was allocated to Saifun s tangible and identifiable intangible assets and liabilities based on their estimated fair values as of March 18, 2008, as set forth below:

	in millions
Net tangible assets acquired	$ 24.2
Existing technology	42.8
In process research and development	10.8
Non-competition agreement	1.3
Customer relationships	18.0
Trade name	1.4
Goodwill	20.8
Total purchase price	$ 119.3

Management performed an analysis to determine the fair value of each tangible and identifiable intangible asset, including the portion of the purchase price attributable to acquired in-process research and development projects.

In-Process Research and Development

Of the total purchase price, approximately $10.8 million was allocated to in-process research and development (IPR&D) and was expensed in the first quarter of fiscal 2008. Projects that qualify as IPR&D represent those that have not reached technological feasibility and have no alternative future use at the time of the acquisition. These projects included development of top injection technology and Nitride-Read-Only-Memory (NROM) design projects.

The value assigned to IPR&D was determined using a discounted cash flow methodology, specifically an excess earnings approach, which estimates value based upon the discounted value of future cash flows expected

104

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

to be generated by the in-process projects, net of all contributory asset returns. The approach includes consideration of the importance of each project to the overall development plan, estimating costs to develop the purchased IPR&D into commercially viable products.

The discount rates applied to individual projects were selected after consideration of the overall estimated weighted average cost of capital and the discount rates applied to the valuation of the other assets acquired. Such weighted average cost of capital was adjusted to reflect the difficulties and uncertainties in completing each project and thereby achieving technological feasibility, the percentage of completion of each project, anticipated market acceptance and penetration, market growth rates and risks related to the impact of potential changes in future target markets. In developing the estimated fair values, the Company used a discount rate of 20.8 percent.

Other Acquisition Related Intangible Assets

The Company determined the fair value of other acquisition related intangible assets using income approaches and based the rates on the most current financial forecast available as of March 18, 2008. The discount rates used to discount net cash flows to their present values was 17.8 percent. The Company determined these discount rates after consideration of the Company s estimated weighted average cost of capital. The Company recorded the excess of the purchase price over the net tangible and identifiable intangible assets as goodwill.

The estimated useful lives for the acquired intangible assets were based upon Saifun s historical experience with technology life cycles, product roadmaps and Spansion s intended future use of the intangible assets. The Company amortized acquisition related intangible assets using the straight-line method over their then estimated useful lives.

Existing technology represents Saifun s core technology, Nitride-Read-Only-Memory (NROM) intellectual property. NROM technology doubles the storage of a Flash memory cell by creating two distinct and independent charges in a single cell. This technology asset was estimated to have a useful life of six years. As a result of the impairment review during the fourth quarter of 2008 (see Note 5), the Company recorded an impairment of $35.6 million, reducing the carrying value of NROM intellectual property to $1.6 million.

Customer relationships represent Saifun s existing contractual relationships as of March 18, 2008, which were estimated to have an average useful life of seven years. As a result of the impairment review during the fourth quarter of 2008 (see Note 5), the Company recorded an impairment of $16.0 million, reducing the carrying value of Saifun customer relationships to $0.

Trade names were estimated to have an average useful life of four years. As a result of the impairment review during the fourth quarter of 2008 (see Note 5), the Company recorded an impairment of $1.1 million, reducing the carrying value of trade names to $0.

Non-competition agreements represent agreements with four key employees and were estimated to have a useful life of two years. As a result of the impairment review during the fourth quarter of 2008 (see Note 5), the Company recorded an impairment of $0.8 million, reducing the carrying value of the non-competition agreements to $0.

Table of Contents

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

The changes in the carrying amount of acquisition-related intangible assets for 2008 were as follows:

(in millions)	Gross Cost	Accumulated Amortization	Impairment	Net Carrying Amount	Weighted Average Amortization in Months
Existing technology	$ 42.8	$ (5.6)	$ (35.6)	$ 1.6	72
Customer relationships	18.0	(2.0)	(16.0)		84
Trademarks and trade names	1.4	(0.3)	(1.1)		48
Non competition agreement	1.3	(0.5)	(0.8)		24
Total	$ 63.5	$ (8.4)	$ (53.5)	$ 1.6	

Estimated future amortization expense related to existing technology is $0.3 million per year through 2013 and $0.1 million in 2014.

In the fourth quarter of 2008, pursuant to its accounting policy, the Company performed its annual analysis of goodwill. To perform step 1 of the analysis, the Company used a combination of the income approach and the guideline public company market approach, equally weighted. The income approach utilized the same forecast and other assumptions used to assess recoverability and measure impairment of its long-lived assets other than goodwill. The step 1 analysis indicated the fair value of its single reporting unit to be significantly below its carrying value and the step 2 analysis indicated the implied fair value of its goodwill was zero. As a result, the Company recognized an impairment charge on its remaining goodwill of $20.8 million, reducing its goodwill balance to zero.

Income Taxes

Deferred tax liabilities of $8.6 million were recorded when the acquisition occurred. At the end of fiscal 2008, the remaining deferred tax liabilities of $6.6 million were recorded as an income tax benefit because most of the acquisition related intangible assets were impaired.

Pro Forma Information

The following unaudited pro forma consolidated financial information gives effect to the Saifun acquisition as if it had occurred at the beginning of the fiscal periods presented. The pro forma consolidated financial information is presented for informational purposes only and is not indicative of the results of operations that would have been achieved if the acquisition had taken place at the beginning of each of the periods presented nor is it indicative of future financial performance.

	Year Ended December 28, 2008	Year Ended December 30, 2007
	(in thousands, except per share amounts)	
Total net sales	$ 2,284,333	$ 2,518,756
Net loss	$ (2,432,868)	$ (294,158)
Basic and diluted net loss per share	$ (15.21)	$ (1.87)

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

7. Stock-Based Compensation

AMD Stock Options

Through December 25, 2005, AMD granted stock options to the Company s employees with an aggregate grant-date value of approximately $19.4 million. The Company paid AMD approximately $8.5 million for stock options during the year ended December 31, 2006. On November 21, 2006, the Company closed a public offering of its Class A common stock held by AMD and Fujitsu. As a result of the offering, AMD s ownership interest in the Company dropped below 30 percent and, by their terms all unvested AMD stock options and AMD RSU awards held by the Company s employees were forfeited and cancelled. The Company wrote off its remaining liability to AMD of approximately $9.2 million against additional paid-in capital, a component of stockholders equity, because the original agreed upon value of these awards to be paid to AMD was recorded as a reduction of contributed capital, a component of stockholders equity. In addition, upon cancellation of the options in the fourth quarter of fiscal 2006, the Company reversed against additional paid-in capital approximately $6 million of previously recorded compensation expense associated with these forfeited and cancelled awards, which had been recorded using variable fair value accounting.

Spansion Stock-Based Incentive Compensation Plans

Plan Descriptions

2005 Equity Incentive Plan

In fiscal 2005, the Company s stockholders approved the Spansion Inc. 2005 Equity Incentive Plan (the 2005 Plan) under which 9,500,000 shares of Class A common stock had been reserved and made available for issuance in the form of equity awards, including incentive and nonqualified stock options and RSU awards. On May 29, 2007, the Company s stockholders approved the Spansion Inc. 2007 Equity Incentive Plan (the 2007 Plan) (see below); at that time, the Company discontinued granting awards under the 2005 Plan.

The 2005 Plan was administered by the Compensation Committee of the Company s Board of Directors, and with respect to that plan, the Committee had the authority to, among other things, grant awards, delegate certain of its powers, accelerate or extend the vesting or exercisability of awards and determine the date of grant of an award. Shares that are subject to or underlie awards that expired or for any reason were cancelled, terminated or forfeited, or failed to vest after implementation of the 2007 Plan are again available for grant under the 2007 Plan. The maximum term of any stock option granted under the 2005 Plan is 10 years from the date of grant and the exercise price of each option is determined under the applicable terms and conditions as approved by the Compensation Committee.

The 2005 Plan provided for awards that may be granted to an officer or employee, a consultant or advisor, or a non-employee director of the Company or its subsidiaries; provided that, the incentive stock options granted under the 2005 Plan could be granted only to employees of the Company or its subsidiaries. The exercise price of each incentive stock option was required to be not less than 100 percent of the fair market value of the Company s Class A common stock on the date of grant (not less than 110 percent if such stock option is granted to a person who has more than 10 percent of the total voting power of all classes of the Company s stock).

The 2005 Plan provided for payment of the exercise price of options in the form of, among other things, cash, services rendered, notice and third party payments as authorized by the Compensation Committee, delivery of shares of common stock and cashless exercise with a third party who provides financing for the purposes of the purchase or exercise of the award.

Table of Contents

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

The Compensation Committee could, in its discretion, accelerate vesting of awards under the plan under certain circumstances, including:

- the acquisition by a person other than AMD or its affiliates of more than 33 percent of either the then outstanding shares of the Company s common stock or the combined voting power entitled to vote in the election of directors, except for any such acquisition by Fujitsu or its affiliates so long as such level of ownership is (1) less than AMD s level of ownership in such securities and (2) not more than 40 percent of the Company s outstanding shares of the Company s common stock or the combined power entitled to vote in the election of directors;

- a change in the Board such that individuals who comprised the Board at the effective date of the 2005 Equity Incentive Plan cease to constitute at least a majority of the Board; and

- the consummation of a reorganization, share exchange, merger, consolidation, or a sale or other dispositions of all or substantially all of the Company s assets.

Although grants are no longer awarded under the 2005 Plan, outstanding grants that were awarded under that plan continue to be administered by the Compensation Committee.

2007 Equity Incentive Plan

On May 29, 2007, the Company s stockholders approved the Spansion Inc. 2007 Equity Incentive Plan (the 2007 Plan). The 2007 Plan is administered by the Compensation Committee of the Company s Board of Directors, and with respect to this plan, the Committee has the authority to, among other things, grant awards, delegate certain of its powers, accelerate or extend the vesting or exercisability of awards and determine the date of grant of an award subject to certain restrictions. The 2007 Plan provides that grants may be awarded to an officer or employee, a consultant or advisor, or a non-employee director of the Company or its subsidiaries. Stock options and RSU awards issued under the 2007 Plan generally vest 25 percent after one year, and the balance vest ratably on a quarterly basis over the following three years and expire if not exercised by the seventh anniversary of the grant date. RSU awards have no exercise price or expiration date.

The maximum number of shares of the Company s Class A Common Stock that may be issued or transferred pursuant to awards under the 2007 Plan equals the sum of: (1) 6,675,000 shares, plus (2) the number of shares that were available for award grant purposes under the 2005 Plan as of May 29, 2007, plus (3) the number of any shares subject to stock options and restricted stock or RSU awards granted under the 2005 Plan and outstanding as of May 29, 2007 which expire, or for any reason are cancelled or terminated, after that date without being exercised or paid. As of May 29, 2007, approximately 920,523 shares were available for award grant purposes under the 2005 Plan, and approximately 7,091,852 shares were subject to options and restricted stock or RSU awards then outstanding under the 2005 Plan.

The Compensation Committee may, in its discretion, accelerate vesting of awards under the plan under certain circumstances, including:

- the acquisition by a person of more than 33 percent of either the then outstanding shares of the Company s common stock or the combined voting power entitled to vote in the election of directors.

a change in the Board such that individuals who comprised the Board at the effective date of the 2005 Equity Incentive Plan cease to constitute at least a majority of the Board; and

the consummation of a reorganization, share exchange, merger, consolidation, or a sale or other dispositions of all or substantially all of the Company s assets.

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

Saifun Semiconductors Ltd. Employee Share Option Plans (Saifun Option Plans)

The Company assumed all outstanding option shares under the Saifun 1997, 2001 and 2003 plans (Saifun Option Plans), which were converted into options to purchase shares of the Company s Class A common stock. Each option share assumed continues to have, and be subject to, the same terms and conditions of such options immediately prior to the acquisition date.

When Saifun implemented the Saifun Semiconductors Ltd. 2003 Share Option Plan (Saifun 2003 Plan), all Saifun shares that were then available for grant under the earlier Saifun share option plans were acquired by the Saifun 2003 Plan. At that time, Saifun stopped granting awards under the prior plans, and granted all subsequent awards under the Saifun 2003 Plan. The Saifun 2003 Plan provides that awards may be granted to employees, contractors, directors, and consultants of Saifun and Saifun subsidiaries, although certain option awards that are governed by specific Israeli tax rules may be granted to eligible employees and directors only.

For options granted under the Saifun Option Plans, the exercise period may not exceed 10 years from the date of grant. Options are granted with an exercise price equal to the market price of the stock at the date of grant or at a lower price as may be determined by the compensation committee of the board of directors at the date of grant. Prior to the Acquisition, option awards vested over a period of up to five years; restricted stock unit and option awards granted after the Acquisition will vest over a period of up to four years. Awards granted under any of the Saifun Option Plans from the inception of the Saifun 2003 Plan through the Acquisition that are forfeited or cancelled revert to the Saifun 2003 Plan reserve. Future awards granted under the Saifun 2003 Plan that are forfeited or cancelled will also revert to that plan s reserve.

Shares Available to Grant

The numbers of shares of Class A common stock available for grant under the 2007 Plan and the Saifun 2003 Plan are as follows:

Number of shares available for grant:	
Amount reserved for grant(1)	12,126,424
Shares available under the 2005 Plan(2)	602,480
Stock options granted through December 28, 2008, net of cancelled stock options	(6,648,801)
RSU awards granted through December 28, 2008, net of cancelled RSU awards	(1,994,130)
Shares available for grant under the 2007 Plan and Saifun 2003 Plan	4,085,973

(1) The 12,126,424 shares reserved for grant under the 2007 Plan consisted of 6,675,000 shares approved for grant under the 2007 Plan and 920,523 shares transferred from the 2005 Plan and 4,530,901 shares from Saifun Option Plans.

(2) The shares available under the 2005 Plan were related to stock options or RSU awards, which were cancelled subsequent to the adoption of the 2007 Plan and thus available for grant under the 2007 Plan.

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

Valuation and Expense Information

The following table sets forth the total recorded stock-based compensation expense for the Spansion Stock-Based Incentive Compensation Plans (Spansion Plans and Saifun Option Plans) by financial statement caption, resulting from the Company s stock options and RSU awards for the years ended December 28, 2008, December 30, 2007 and December 31, 2006:

	Year Ended December 28, 2008	Year Ended December 30, 2007	Year Ended December 31, 2006
		(in thousands)	
Cost of sales	$ 5,340	$ 4,539	$ 5,650
Research and development	6,424	4,335	4,667
Sales, general and administrative	9,816	7,263	6,988
Stock-based compensation expense before income taxes(1)	$ 21,580	$ 16,137	$ 17,305

(1) There is no income tax benefit relating to stock option expenses because all of the Company s U.S. deferred tax assets, net of U.S. deferred tax liabilities, continue to be subjected to a full valuation allowance.

The weighted average fair value of the Company s stock options granted in the years ended December 28, 2008 and December 30, 2007 under Spansion Plans and Saifun Option Plans was $1.89 and $4.81 per share, respectively. The fair value of each stock option was estimated at the date of grant using a Black-Scholes-Merton option pricing model, with the following assumptions for grants:

	Weighted Average for the Year Ended December 28, 2008	Weighted Average for the Year Ended December 30, 2007	Weighted Average for the Year Ended December 31, 2006
Expected volatility	48.66%	48.50%	58.00%
Risk-free interest rate	2.67%	4.73%	4.82%
Expected term (in years)	5.05	4.61	4.60
Dividend yield	0%	0%	0%

The Company s dividend yield is zero because the Company has never paid dividends and does not have plans to do so over the expected life of the stock options. The expected volatility is based on the Company s historical volatility since its initial public offering in December 2005 and the volatilities of the Company s competitors who are in the same industry sector with similar characteristics (guideline companies) given the limited historical realized volatility data of the Company. The risk-free interest rate is based on the yield from U.S. Treasury zero-coupon bond with a remaining term equal to the expected stock option life. The expected term is based on the simplified method provided in Staff Accounting Bulletin Topic 14, *Share-Based Payment*, for developing the estimate of the expected life of a plain vanilla stock option except for options granted to Saifun on the date of acquisition for which expected term was based on historical option exercise activity. Under this approach, the expected term is presumed to be the mid-point between the average vesting date and the end of the contractual term. The Company estimated forfeitures based on its historical forfeiture rates. Statement 123(R) requires forfeitures to be estimated at the time of grant and revised, if necessary, in subsequent periods if actual forfeitures differ from those estimates in order to derive the Company s best estimate of awards ultimately expected to vest.

Table of Contents

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

As of December 28, 2008, the total unrecognized compensation cost related to unvested stock options and RSU awards was approximately $38.5 million after reduction for estimated forfeitures, and such stock options and RSU awards will generally vest ratably through 2012.

Stock Option and Restricted Stock Unit Activity

The following table summarizes stock option activities and related information under Spansion Plans and Saifun Option Plans for the period presented:

	Number of Shares	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Life (in years)	Aggregate Intrinsic Value (in thousands)
Options:				
Outstanding as of December 31, 2006	2,134,906	$ 12.63		
Granted	1,770,062	$ 10.39		
Cancelled	(363,000)	$ 12.45		
Exercised	(5,000)	$ 12.00		
Outstanding as of December 30, 2007	3,536,968	$ 11.53	5.66	$
Granted[(1)]	6,806,119	$ 1.48		
Cancelled	(537,156)	$ 6.32		
Exercised	(26,534)	$ 0.08		
Outstanding as of December 28 2008	9,779,397	$ 4.85	6.42	$ 675
Exercisable as of December 28, 2008	2,704,484	$ 8.39	4.67	$ 102

(1) The number of options granted in the year ended December 28, 2008 includes 4,364,829 shares of options granted in March 2008 under Saifun Option Plans in accordance with the provisions of the Acquisition Agreement.

The aggregate intrinsic value in the preceding table represents the total pretax intrinsic value, based on the Company s closing stock price of $0.22 as of December 26, 2008, which was the last trading day prior to December 28, 2008, which would have been received by the stock option holders had all stock option holders exercised their stock options as of that date.

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

The following table summarizes RSU award activities and related information for the period presented:

	Number of Shares	Weighted-Average Grant-date Fair Value
Restricted Stock Units:		
Unvested as of December 31, 2006	2,923,615	$ 12.33
Granted	1,680,532	$ 10.35
Cancelled	(303,430)	$ 11.95
Vested	(1,147,291)	$ 12.27
Unvested as of December 30, 2007	3,153,426	$ 11.33
Granted	1,916,180	$ 2.93
Cancelled	(400,909)	$ 8.74
Vested	(1,368,132)	$ 11.51
Unvested as of December 28, 2008	3,300,565	$ 6.69

Employee Stock Purchase Plan

The 2005 Employee Stock Purchase Plan was approved by the Company s Board of Directors but has not been implemented. This plan is intended to qualify as an employee stock purchase plan under Section 423 of the Internal Revenue Code with the purpose of providing eligible employees (including officers) and eligible employees of participating subsidiaries with an opportunity to purchase Class A common stock through payroll deductions. The 2005 Employee Stock Purchase Plan would allow eligible and participating employees to purchase, through payroll deductions, shares of Class A common stock at a discount, not to exceed 15 percent, applied to either (1) the fair market value per share of Class A common stock on the first business date of an offering period, or (2) the fair market value per share of Class A common stock on the last business date of that offering period. The Company has reserved 2,250,000 shares of Class A common stock available for issuance under this plan. As of December 28, 2008, no shares have been issued under this plan and the Company has not determined whether it will issue shares under this plan in the future.

8. Related Party Transactions

Prior to the second quarter of fiscal 2006, the Company relied on AMD and Fujitsu as sole distributors of its products. The Company also receives some administrative services from AMD. Upon the issuance of the Company s Class A common stock to complete the acquisition of Saifun on March 18, 2008, AMD s voting interest in the Company declined below 10 percent. Thereafter AMD is no longer deemed to be a related party of the Company as its percentage of voting interest in the Company fell below 10 percent and it has no representation on the Company s board of directors.

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

The transactions with AMD for the period from December 31, 2007 to March 18, 2008, the closing date of the Saifun acquisition were not material. The following tables present the related party transactions and account balances between the Company and AMD:

	Year Ended December 30, 2007	Year Ended December 31, 2006
	(in thousands)	
Net sales to AMD[1]	$	$ 336,172
Cost of sales:		
Royalties to AMD	$ 3,184	$ 6,228
Service fees to AMD[2]:		
Cost of sales	$ (1,395)	$ 3,276
Research and development	205	11,591
Sales, general and administrative	476	19,981
Total service fees to AMD	$ (714)	$ 34,848

(1) In the second quarter of fiscal 2006, the Company began selling its products directly to the customers previously served by AMD.

(2) Service fees to AMD are net of reimbursements from AMD, primarily for facility related charges.

	December 30, 2007
	(in thousands)
Trade accounts receivable from AMD, net of allowance for doubtful accounts	$ 2,976
Other receivables from AMD	$ 6,488
Accounts payable to AMD	$ 3,597
Royalties payable to AMD	$ 1,629

Prior to the fourth quarter of fiscal 2008, the Company relied on Fujitsu as a sole distributor of its products. In the fourth quarter of fiscal 2008, in addition to selling through Fujitsu, the Company began selling its products directly to the customers previously served by Fujitsu. The Company receives certain administrative services from Fujitsu, a holder of 10 percent or more of the Company s voting securities. The charges for these services are negotiated annually between the Company and Fujitsu based on the Company s expected requirements and the estimated future costs of the services to be provided. Fujitsu provides test and assembly services to the Company on a contract basis and also provides foundry and sort services to the Company since consummation of the JV1/JV2 transaction (the sale of the Company s two wafer fabrication facilities located in Aizu-Wakamatsu, Japan) which occurred in the second quarter of fiscal 2007. The Company also purchases commercial die from Fujitsu, which is packaged together with the Company s Flash memory devices. Fujitsu seconded certain employees to the Company until the second quarter of fiscal 2006. The company paid these employees directly.

The Company licenses certain intellectual property from Fujitsu in exchange for the payment of royalties to Fujitsu. These royalty expenses are recognized in cost of sales. The Company was required to pay Fujitsu semi- annual royalties based on net sales (minus the costs of commercial die). The royalty as a percentage of sales declined to zero in November 2008.

The Company entered into a five-year License Settlement Agreement with Fujitsu on September 11, 2008 resulting in the payment of quarterly royalties based on certain percentage thresholds of actual sales of the Company s Flash memory products (minus sales by Fujitsu to Spansion under its existing foundry agreement for wafers which are incorporated into Spansion s Flash memory products and to be sold by Spansion to Fujitsu

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

under the existing Distribution Agreement), subject to a maximum amount of $10 million over the five-year term. These royalty payments are recognized in cost of sales in the Company s Income Statement.

Effective September 29, 2008, Fujitsu transferred to the Company and the Company retired the one share of Class C common stock. As a result of the transfer, Fujitsu no longer has a right to appoint any directors to the Company s Board of Directors.

The following tables present the significant related party transactions and account balances between the Company and Fujitsu:

	Year Ended December 28, 2008	Year Ended December 30, 2007 (in thousands)	Year Ended December 31, 2006
Net sales to Fujitsu	$ 651,230	$ 873,560	$ 932,623
Cost of sales:			
Royalties to Fujitsu	$ 3,184	$ 3,184	$ 6,228
Other purchases of goods and services from Fujitsu and rental expense to Fujitsu	79,138	75,515	117,999
Subcontract manufacturing and commercial die purchases from Fujitsu	8,771	22,110	66,095
Wafer purchases, processing and sort services from Fujitsu(1)	244,317	188,133	
Net gain recognized on sale of assets to Fujitsu on April 2, 2007(1)	(34,543)	(30,191)	
Reimbursement on costs of employees seconded to Fujitsu(1)	(29,057)	(21,040)	
Pension curtailment loss(1)		2,010	
Equipment rental income from Fujitsu(1)	(3,692)	(5,848)	
Administrative services income from Fujitsu(1)	(1,311)	(1,138)	
	$ 266,807	$ 232,735	$ 190,322
Service fees to Fujitsu:			
Cost of sales	$ 28	$ 739	$ 2,269
Research and development	10	950	2,453
Sales, general and administrative	610	1,079	4,220
Service fees to Fujitsu	$ 648	$ 2,768	$ 8,942
Cost of employees seconded from Fujitsu:			
Cost of sales	$	$	$ 27
Research and development			61
Sales, general and administrative			95
Cost of employees seconded from Fujitsu	$	$	$ 183

(1) These amounts relate to the JV1/JV2 Transaction which was consummated on April 2, 2007.

Table of Contents

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

	December 28, 2008	December 30, 2007
	(in thousands)	
Trade accounts receivable from Fujitsu	$ 111,448	$ 183,670
Other receivables from Fujitsu	$ 6,127	$ 5,385
Accounts payable to Fujitsu	$ 74,592	$ 53,332
Royalties payable to Fujitsu	$ 1,617	$ 1,629
Accrued liabilities to Fujitsu	$ 3,475	$ 6,461

9. Concentration of Credit Risk

Financial instruments that potentially subject the Company to concentrations of credit risk consist primarily of cash equivalents, marketable securities, trade receivables and foreign currency forward contracts. The Company places its investments in cash equivalents and marketable securities with high quality credit financial institutions and, by policy, limits the amount of credit exposure with any one financial institution.

Concentration of credit risk with respect to trade receivables exists because the Company sells a significant portion of its products directly to Fujitsu. Trade accounts receivable from Fujitsu comprised approximately 47 percent and 50 percent of the total consolidated trade accounts receivable balance as of December 28, 2008 and December 30, 2007, respectively. However, the Company does not believe the receivable balances from Fujitsu subject the Company to significant credit risk as historical losses have not been significant and Fujitsu s own customer base represents a large number of geographically diverse companies. Fujitsu is required to pay its trade receivables regardless of whether it can collect from its customers. The Company does not require collateral or other security from Fujitsu or other customers.

The counterparties relating to the Company s financial activities, including investing, borrowing and foreign exchange hedging, consist of large international financial institutions. The Company does not believe that there is significant risk of nonperformance by these counterparties because the Company monitors their credit ratings and limits the financial exposure and the notional amount of agreements entered into with any one financial institution. While the notional amounts of derivative financial instruments are often used to express the volume of these transactions, the potential accounting loss on these transactions if all counterparties failed to perform is limited to the amounts, if any, by which the counterparties obligations under the contracts exceed the Company s obligations to the counterparties. As of December 28, 2008 and December 30, 2007, the Company had a total notional amount of approximately $0 million and $120.5 million in outstanding foreign currency forward exchange contracts, respectively. As of December 30, 2007, the fair values of the Company s foreign currency forward contracts were not significant.

Table of Contents

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

10. Financial Instruments

Available-for-sale securities held by the Company as of December 28, 2008 and December 30, 2007 are as follows:

	Amortized Cost	Gross Unrealized Gains (in thousands)	Fair Value
2008			
Cash equivalents:			
Money market funds	$ 74,118	$	$ 74,118
2007			
Cash equivalents:			
Money market funds	$ 66,500	$	$ 66,500
Commercial paper	29,869		29,869
Total cash equivalents	$ 96,369	$	$ 96,369
Marketable securities:			
Auction rate securities	$ 216,650	$	$ 216,650

As of December 28, 2008, the Company had approximately $94.0 million of marketable securities classified as trading securities and, accordingly, not included in the table above. These securities consist solely of ARS, substantially all of which are backed by pools of student loans guaranteed by the FFELP, and all were rated AAA/Aaa. Due to the failures in the auction markets subsequent to February 2008, the Company recorded approximately $27.9 million of other than temporary impairment on such securities as of December 28, 2008 and classified them as long-term (see Note 17).

As of December 28, 2008 and December 30, 2007, the Company s amortized cost of the cash equivalents approximated the fair values of the securities and the unrealized gains and losses on these securities were not significant. The money market funds are available on demand. As of December 30, 2007, the Company s amortized cost of marketable securities approximated the fair values of the securities and the unrealized gains and losses on these securities were not significant. All the commercial paper instruments had contractual maturities of less than one year for fiscal 2007. The ARS had underlying assets of municipal bonds and student loans with varying maturity dates.

Fair Value of Other Financial Instruments

Substantially all of the Company s long-term debt is traded in the market and the fair value in the table below is based on the quoted market price as of the balance sheet date. The fair value of the Company s long-term debt that is not traded in the market is estimated by considering the Company s credit rating, the interest rates and the terms of the debt. The carrying amounts and estimated fair values of the Company s debt instruments are as follows:

	December 28, 2008	December 30, 2007

	Carrying Amount	Estimated Fair Value	Carrying Amount	Estimated Fair Value
		(in thousands)		
Total debt obligations	$ 1,459,429	$ 414,830	$ 1,327,321	$ 1,152,207

Table of Contents

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

The fair value of the Company s accounts receivable and accounts payable approximate their carrying value based on existing payment terms.

11. Warranties and Indemnities

The Company generally offers a one-year limited warranty for its Flash memory products.

Changes in the Company s liability for product warranty during the years ended December 28, 2008, December 30, 2007, and December 31, 2006 are as follows:

	December 28, 2008	December 30, 2007	December 31, 2006
		(in thousands)	
Balance, beginning of fiscal year	$ 1,305	$ 1,350	$ 1,000
Provision for warranties issued	12,552	4,593	4,529
Settlements	(12,258)	(2,065)	(5,562)
Changes in liability for pre-existing warranties during the period, including expirations	(110)	(2,573)	1,383
Balance, end of fiscal year	$ 1,489	$ 1,305	$ 1,350

In addition to product warranties, the Company, from time to time in its normal course of business, indemnifies other parties with whom it enters into contractual relationships, including customers, directors, lessors and parties to other transactions with the Company, with respect to certain matters. The Company agrees to hold the other party harmless against specified losses, such as those arising from a breach of representations or covenants, third-party infringement claims or other claims made against certain parties. It is not possible to determine the maximum potential amount of liability under these indemnification obligations due to the limited history of indemnification claims and the unique facts and circumstances that are likely to be involved in each particular claim and indemnification provision.

12. Debt and Capital Lease Obligations

The following table discloses the company s debt and capital lease obligations as of:

	December 28, 2008	December 30, 2007
	(in thousands)	
Debt obligations:		
Spansion China Bank Enterprise Cooperation Loan Facility	$	$ 5,405
Senior Notes	233,025	230,628
Spansion Penang Loan	138	2,028
Exchangeable Senior Subordinated Debentures	207,000	207,000
Spansion Japan 2007 Credit Facility	287,963	256,503
Senior Secured Floating Rate Notes	625,617	625,757
Senior Secured Revolving Credit Facility	34,000	
Spansion Japan 2007 Revolving Credit Facility	71,687	

Obligations under capital leases	82,593	74,012
Total debt and capital lease obligations	1,542,023	1,401,333
Less current portion	1,331,777	101,797
Long-term debt and capital lease obligations, less current portion	$ 210,246	$ 1,299,536

Table of Contents

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

Spansion China Bank Enterprise Cooperation Loan Facility

On December 1, 2005, Spansion China entered into a bank enterprise cooperation agreement with a local financial institution, effective as of October 24, 2005. Under the terms of the agreement, Spansion China may draw under two credit facilities, equal to $26 million and RMB 176 million (approximately $22 million as of October 24, 2005), respectively. Borrowings must be used for working capital purposes. The interest rate for each loan denominated in RMB is a floating rate per annum and is set at the time each loan agreement is entered into. The interest rate may thereafter be adjusted every 12 months at a rate equal to the benchmark rate published by the People s Bank of China for RMB loans of the same term less a ten percent discount. The interest rate for each loan denominated in US dollars is a floating rate per annum and is initially set at the time each revolving loan agreement is entered into. The interest rate is thereafter adjusted every six months at a rate equal to the six-month London Interbank Offered Rate (LIBOR) plus one percent. The US dollar denominated loan agreements are unsecured. Under the terms of the agreements, Spansion China is prohibited from encumbering any of its assets.

As of December 30, 2007, the amount outstanding under the US dollar denominated loan agreement was approximately $5.4 million. There was no amount outstanding under the RMB credit facility. The two credit facilities terminated on June 22, 2008 and Spansion China repaid the remaining principal balance of approximately $5.4 million and accrued interest thereon.

Senior Notes

On December 21, 2005, the Company completed an offering of $250 million aggregate principal amount of 11.25% Senior Notes due 2016. The Senior Notes were issued at 90.302 percent of face value, resulting in net proceeds to the Company of approximately $218.1 million after deducting the initial purchasers discount and estimated offering expenses. The Senior Notes are general unsecured senior obligations of Spansion LLC and will rank equal in right of payment with any of the Company s existing and future senior debt. Interest is payable on January 15 and July 15 of each year beginning July 15, 2006 until the maturity date of January 15, 2016.

Certain events may result in the accelerated maturity of the Senior Notes, including a default in any interest, principal or premium amount payment; a merger, consolidation or sale of all or substantially all of the Company s property; a breach of covenants in the Senior Notes or the Senior Note indenture; a default in certain debts; or if a court enters certain orders or decrees under any bankruptcy law. Upon occurrence of one of these events, the principal of and accrued interest on all of the Senior Notes, as the case may be, may become immediately due and payable. If the Company incurs any judgment for the payment of money in an aggregate amount in excess of $50 million or takes certain voluntary actions in connection to insolvency, all amounts on the Senior Notes shall become due and payable immediately.

On January 16, 2009, the Company delayed making the interest payment on its Senior Notes due 2016, which was due January 15, 2009. Under the Senior Notes indenture, a failure to make an interest payment is subject to a 30-day cure period. The Company did not make this interest payment within the 30-day cure period, which expired on February 14, 2009. The failure to make the interest payment within the cure period is an event of default under the Senior Notes Indenture, which resulted in all obligations under the Senior Notes Indenture (approximately $266 million as of the date of the event of default) automatically becoming due and payable.

Spansion Penang Loan

On January 29, 2004, Spansion Penang entered into a financial arrangement with AMD. Under the terms of the arrangement, Spansion Penang borrowed approximately 29.0 million Malaysian ringgit (approximately $8.0

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

million based on the exchange rate as of January 29, 2004) from AMD to fund the purchase of manufacturing equipment. In January 2006, this loan was transferred from AMD to a third-party financial institution. The loan bears a fixed annual interest rate of 5.9 percent and is payable in equal, consecutive, monthly principal and interest installments through February 2009.

As of December 28, 2008 and December 30, 2007, the amount outstanding under this loan facility was approximately 0.48 million Malaysian ringgit (approximately $0.1 million) and 6.7 million Malaysian ringgit (approximately $2.0 million), respectively.

On February 5, 2009, Spansion Penang repaid the balance outstanding under this loan in full.

Exchangeable Senior Subordinated Debentures

In June 2006, Spansion LLC, the wholly owned operating subsidiary of the Company, issued $207.0 million of aggregate principal amount of 2.25% Exchangeable Senior Subordinated Debentures due 2016. The Debentures are general unsecured senior subordinated obligations and rank subordinate in right of payment to all of the Company s senior indebtedness, including the Senior Notes, and senior in right of payment to all of the Company s subordinated indebtedness. The Debentures bear interest at 2.25 percent per annum. Interest is payable on June 15 and December 15 of each year beginning December 15, 2006 until the maturity date of June 15, 2016.

The Debentures were not exchangeable prior to January 6, 2007. On January 6, 2007, the Debentures became exchangeable for shares of the Company s Class A common stock, cash or a combination of cash and shares of such Class A common stock, at the Company s option. Full conversion of the Debentures into shares would result in an initial exchange rate of 56.7621 shares of Class A common stock per debenture representing an initial exchange price of approximately $17.6174 per share of Spansion Inc. Class A common stock. The debentures have not been exchanged for Class A common stock as of December 28, 2008.

The Company, at any time prior to maturity may make an irrevocable election to satisfy the exchange obligation in cash up to 100 percent of the principal amount of the debentures exchanged, with any remaining amount to be satisfied in shares of Class A common stock or a combination of cash and shares of Class A common stock at the above exchange ratio. In the event that the Company makes this irrevocable election, debenture holders may exchange their debentures only under the following circumstances:

- during any fiscal quarter after the Company s fiscal quarter ending April 1, 2007 (and only during such fiscal quarter) if the sale price of Spansion Inc. Class A common stock, for at least 20 trading days during the period of 30 consecutive trading days ending on the last trading day of the previous fiscal quarter, is greater than or equal to 120 percent of the conversion price per share of the Spansion Inc. Class A common stock;

- subject to certain exceptions, during the five business day period following any five consecutive trading day period in which the trading price of the debentures for each day of such period was less than 98 percent of the product of the sale price of the Spansion Inc. Class A common stock and the number of shares issuable upon exchange of $1,000 principal amount of the debentures; or

- Upon the occurrence of specified corporate events that constitute a fundamental change of the Company under certain circumstances. The holders of the Debentures will have the ability to require the Company to repurchase the Debentures in whole or in part for cash in the event of a fundamental change of the Company. In such case, the repurchase price would be 100 percent of the principal amount of the Debentures plus any accrued and unpaid interest.

119

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

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). The FSP requires convertible debt which may be settled in cash upon conversion, including partial cash conversion, to be separated into debt and equity components at issuance with a value to be assigned to each component in a manner that will reflect the entity s non convertible debt borrowing rate. The difference between the cash proceeds from debt issuance and the fair value assigned to the debt will be recorded as a debt discount and amortized to interest expense over the life of the debt. The effective date of this FSP is for financial statements issued for fiscal years beginning after December 15, 2008 and interim periods within those fiscal years and it does not permit earlier application. However, the transition guidance requires retroactive application to all periods presented. The FSP APB 14-1 will impact the Company s accounting for the Company s Debentures. The equity component would be included in the paid-in capital portion of stockholders equity on the balance sheet and the value of the equity component would be treated as an original issue discount for purposes of accounting for the debt component. Although FSB APB 14-1 will have no impact on the Company s actual past or future cash flows, it will require the Company to record additional non-cash interest expense as the debt discount is amortized which will adversely impact earnings per share. Higher interest expense will result by recognizing accretion of the discounted carrying value of the Debentures to their face amount as interest expense over the term of the debt. Interest expense associated with the Debentures for prior periods will also be higher than previously reported due to the retrospective application of FSP APB 14-1. Based on the preliminary analysis performed by the Company, the interest expense associated with the Debentures will be approximately $7.5 million, $6.5 million and $3.2 million higher for fiscal years 2008, 2007 and 2006, respectively, as a result of adopting this FSP.

The Spansion Japan Proceedings constituted an event of default, causing acceleration of the outstanding obligations under the Debentures.

Spansion Japan 2007 Credit Facility

On March 30, 2007, Spansion Japan entered into a committed senior facility agreement with certain Japanese financial institutions that provides Spansion Japan with a 48.4 billion yen senior secured term loan facility (approximately $533.8 million as of December 28, 2008).

Spansion Japan could, pursuant to the terms of this facility, borrow amounts in increments of 1.0 billion yen (approximately $11.0 million as of December 28, 2008). Amounts borrowed under this facility bear interest at a rate equal to the three-month Tokyo Interbank Offered Rate (TIBOR), at the time of the drawdown, which resets quarterly, plus a margin of two percent per annum. Borrowing availability was based on capital deliveries for Spansion Japan s SP1 facility. The drawdown period expired on March 31, 2008.

Pursuant to the terms of Spansion Japan 2007 Credit Facility, Spansion Japan is not permitted, among other things, to create any security interests or liens on any of its pledged assets and to sell or dispose of any of its pledged assets, subject to certain exceptions. This facility may be terminated in the event of default in accordance with the terms of this facility. Events of default under the facility include, among other things, the following: a default in performance of payment; if any of debt obligations of Spansion LLC exceeding $25.0 million, or of Spansion Japan exceeding 1.0 billion yen, are not paid when due; or if any debt obligations of Spansion Japan or Spansion LLC are accelerated or otherwise become due and payable, in each case if not cured within applicable time periods set forth in the Spansion Japan 2007 Credit Facility.

In March 2008, Spansion Japan borrowed an additional amount of 5.6 billion yen (approximately $61.8 million as of December 28, 2008) under this facility. The Company began to make quarterly principal

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

installments in the second quarter of fiscal 2008. The facility bears interest at approximately 2.9 percent and is scheduled to be repaid in quarterly principal installments through the fourth quarter of fiscal 2010. This facility is collateralized by the assets of Spansion Japan with a net book value of 42.0 billion yen (approximately $463.1 million as of December 28, 2008).

As of December 28, 2008 and December 30, 2007, the outstanding balance under this facility was 26.1 billion yen (approximately $288.0 million) and 28.8 billion yen (approximately $256.5 million).

The Spansion Japan Proceedings constituted an event of default, causing acceleration of the outstanding obligations under the Spansion Japan 2007 Credit Facility. As the acceleration of the outstanding obligations was caused by the Spansion Japan Proceedings, which accord Spansion Japan protection from its creditors while it continues its restructuring efforts, payments under the Spansion Japan 2007 Credit Facility have been stayed and this facility continues to be classified under its contractual payment terms as of December 28, 2008.

Senior Secured Floating Rate Notes

In May 2007, Spansion LLC, the wholly owned operating company subsidiary of the Company, issued $625.0 million aggregate principal amount of the Senior Secured Floating Rate Notes due 2013 (the Notes). Interest on the Notes accrues at a rate per annum, reset quarterly, equal to the 3-month LIBOR plus 3.125 percent. Interest is payable on March 1, June 1, September 1 and December 1 of each year beginning September 1, 2007 until the maturity date of June 1, 2013. As of December 28, 2008, the Notes bear interest at approximately 5.33 percent.

In connection with the issuance of the Notes, the Company, Spansion LLC and Spansion Technology Inc. executed a pledge and security agreement pursuant to which and subject to exceptions specified therein, the Notes are secured by a first priority lien on all of Spansion LLC s inventory (excluding returned inventory), equipment and real property and proceeds thereof (excluding receivables or proceeds arising from sales of inventory in the ordinary course of business), presently owned or acquired in the future by Spansion LLC and by each of the current and any future guarantors. The Notes are also secured by a second-priority lien that is junior to the liens securing Spansion LLC s Senior Secured Revolving Credit Facility agreement, as amended, on substantially all other real and personal property and proceeds thereof, including receivables or proceeds arising from sales of inventory in the ordinary course of business presently owned or acquired in the future by the Company and by each of the current and any future guarantors. The Notes are further secured by certain deeds of trust related to real property owned by Spansion LLC in California and Texas. As of December 28, 2008, the Notes are collateralized by a first priority lien on the Company s inventory and property, plant and equipment with a total net book value of approximately $632.6 million, and by a second priority lien on the Company s accounts receivables with a net book value of approximately $145.4 million

Upon the occurrence of a change of control of Spansion LLC, holders of the Notes may require Spansion LLC to repurchase the Notes for cash equal to 101 percent of the aggregate principal amount to be repurchased plus accrued and unpaid interest. Beginning June 1, 2008, Spansion LLC may redeem all or any portion of the Notes, at any time or from time to time at redemption prices specified therein.

Certain events are considered Events of Default, which may result in the accelerated maturity of the Notes, including:

- Spansion LLC s failure to pay when due the principal or premium amount on any of the Notes at maturity, upon acceleration, redemption, optional redemption, required repurchase or otherwise;

Table of Contents

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

Spansion LLC s failure to pay interest on any of the Notes for 30 days after the date when due;

Spansion LLC s or the guarantors failure to comply with certain restrictions on Spansion LLC s or Guarantors ability to merge, consolidate or sell substantially all of its assets;

Spansion LLC s failure to perform or observe any other covenant or agreement in the Notes or in the Indenture for a period of 45 days after receiving notice of such failure;

A default by Spansion LLC or any restricted subsidiary (as defined in the Indenture) under any indebtedness that results in acceleration of such indebtedness, or the failure to pay any such indebtedness at maturity, in an aggregate principal amount in excess of $50.0 million (or its foreign equivalent at the time);

If any judgment or judgments for the payment of money in an aggregate amount in excess of $50.0 million (or its foreign equivalent at the time) is rendered against Spansion LLC, the guarantors or any significant subsidiary and is not waived, satisfied or discharged for any period of 60 consecutive days during which a stay of enforcement is not in effect;

Certain events of bankruptcy, insolvency or reorganization with respect to Spansion LLC or any significant subsidiary;

If any note guaranty ceases to be in full force and effect, other than in accordance with the terms of the Indenture, or a guarantor denies or disaffirms its obligations under its note guaranty, other than in accordance with the terms of the Indenture; or

Any lien securing the collateral underlying the Notes at any time ceases to be in full force and effect, and does not constitute a valid and perfected lien on any material portion of the collateral intended to be covered thereby, if such default continues for 30 days after notice.

The Spansion Japan Proceedings constituted an event of default, causing acceleration of the outstanding obligations under the Notes. Subsequent to the filing for the Creditor Protection Proceedings, a group purporting to hold substantial amounts of the Company s publicly traded Senior Secured Floating Rate Notes due 2013 has organized (the Floating Rate Noteholders). The role of the Floating Rate Noteholders in the Creditor Protection Proceedings may develop and change over the course of such proceedings.

Senior Secured Revolving Credit Facility

On May 9, 2007, Spansion LLC, the agent and the other lenders party to the Senior Secured Revolving Credit Facility amended the credit agreement and the security agreement in connection therewith, and the Company, STI and Spansion International entered into certain new security agreements. Pursuant to the amendment to the revolving facility credit agreement, lenders consented to the incurrence of the Senior Secured Floating Rate Notes and the grant of related liens. This resulted in the revolving credit facility lenders and the Senior Secured Floating Rate Notes holders holding substantially similar security. The relative priorities of the classes of lenders in various types of collateral is set forth in an intercreditor agreement between the agent for the revolving credit facility lenders and the trustee and collateral agent for the Senior Secured Floating Rate Notes holders.

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

On December 23, 2008, Spansion LLC, the agent and other financial institutions entered into another amendment (the Amendment), which amended the Credit Agreement (as amended, the Agreement) and the Security Agreement. The Amendment, among other things, provides the following changes to the Agreement:

Amounts available for borrowing under the Agreement have been reduced from up to an aggregate of $175 million to up to an aggregate of $45 million.

Minimum cash flow requirements have been added to provide that on the last day of each of the following measurement periods Spansion is required, on a consolidated basis, to have cash flow of at least (or no more negative than):

Measurement Period:	Cash Flow
The fiscal quarter ending on December 28, 2008	$ (90,000,000)
The two consecutive fiscal quarters ending on March 29, 2009	$ (100,000,000)
The three consecutive fiscal quarters ending on June 28, 2009	$ (70,000,000)
The four consecutive fiscal quarters ending on September 27, 2009	$ (85,000,000)
The five consecutive fiscal quarters ending on December 27, 2009	$ (120,000,000)

The minimum EBITDA requirements have been revised to provide that on the last day of each of the following fiscal quarters Spansion is required to maintain EBITDA, on a consolidated basis, as follows:

Three-Month Period Ending:	EBITDA
December 28, 2008	$ 220,000,000
March 29, 2009	$ 240,000,000
June 28, 2009	$ 270,000,000
September 27, 2009	$ 280,000,000
December 27, 2009	$ 310,000,000

The Amendment also (i) imposes an availability block at all times in the amount of $25 million, (ii) permits certain indebtedness to be incurred by the Company from UBS Bank USA (UBS) and the incurrence of liens on certain auction rate securities created in favor of UBS to secure such indebtedness, and (iii) waives any existing EBITDA covenant default.

As of December 28, 2008, the total outstanding balance under this credit facility was $34 million. This amount bears interest at approximately 5.7 percent as of December 28, 2008. On February 20, 2009, the Company repaid the balance outstanding under this credit facility in full.

The Spansion Japan Proceedings constituted an event of default, causing acceleration of the outstanding obligations under the Senior Secured Revolving Credit Facility.

Spansion Japan 2007 Revolving Credit Facility

On December 28, 2007, Spansion Japan entered into the Spansion Japan 2007 Revolving Credit Facility agreement with the several financial institutions that provides for a revolving credit facility in the aggregate principal amount of up to 14.0 billion yen (approximately $154.4 million as of December 28, 2008).

Available amounts for borrowing under this credit facility are limited to the amount of trade receivables held by Spansion Japan arising from the sale of the Company s products to Fujitsu. If at anytime the aggregate amount of borrowings under this credit facility exceeds the amount of the trade receivables, Spansion Japan is obligated to prepay an amount such that the borrowings outstanding after such prepayment are below the level of

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

the trade receivables. Borrowings may be for a term of one week or more, but not more than three months, as determined by Spansion Japan. Amounts borrowed under this credit facility bear interest at a rate equal to TIBOR, at the specified date preceding or at the time of the borrowing in accordance with the terms of this credit facility, plus a margin of 0.50 percent per annum.

Pursuant to the terms of this credit facility, Spansion Japan is not permitted, among other things, to create any security interests or liens on the trade receivables; change its primary business; subordinate the payment of its debt under this credit facility to the payment of any unsecured debts; and enter into any merger, company partition, exchange or transfer of shares, assign all or a part of its business or assets to a third party, or otherwise transfer all or a material part of its assets to a third party, subject to certain exceptions.

As of December 28, 2008, the outstanding balance under this facility is 6.5 billion yen (approximately $71.7 million). This amount bears interest at approximately 1.0 percent as of December 28, 2008. This facility will expire on December 28, 2009 and is extendable at each anniversary with an extension fee of 0.2 percent of the commitment amount.

The Spansion Japan Proceedings constituted an event of default, causing acceleration of the outstanding obligations under the Spansion Japan 2007 Revolving Credit Facility.

Spansion China 2008 Revolving Credit Facility

In June 2008, Spansion China entered into a revolving credit facility agreement with a local financial institution, effective as of June 27, 2008, in the aggregate principal amount of up to 80 million Yuan RMB (approximately $11.7 million as of December 28, 2008). The borrowings must be used for working capital purposes. The interest rate for each drawdown denominated in RMB is a floating rate that is benchmarked to the rate published by the People s Bank of China for RMB loans with the same term and may, thereafter, be adjusted every month. The interest rate for each drawdown denominated in U.S. dollars is six-month LIBOR plus four percent and may, thereafter, be adjusted every six months. The last drawdown against this credit facility can be made on or before May 27, 2009.

As of December 28, 2008, the Company had no amounts outstanding under this credit facility and the Creditor Protection Proceedings did not have an impact on availability under this credit facility.

Obligations under Capital Leases

On March 26, 2008, the Company entered into an equipment lease agreement with a third-party financial institution. Under the lease agreement, the company leased certain equipment for a period of 36 months, in the amount of approximately $52.1 million, beginning on March 27, 2008. The Company accounted for the lease transaction as a capital lease.

As of December 28, 2008 and December 30, 2007, the Company had aggregate outstanding capital lease obligations, net of imputed interest, of approximately $82.6 million and $74.0 million, respectively. The aggregate weighted average interest rate for the capital lease obligations was 11.6 percent as of December 28, 2008. Obligations under these lease agreements are collateralized by the assets leased and are payable through 2011. Leased assets consist principally of machinery and equipment.

As of December 28, 2008, the gross amount of assets recorded under capital leases and accumulated amortization thereon was approximately $180 million and $78 million, respectively. In addition, the Company

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

recognized an impairment loss of approximately $61.9 million on the leased assets in the fourth quarter of fiscal 2008 as a result of the impairment review of long-lived assets. As of December 30, 2007, the gross amount of assets recorded under capital leases and accumulated amortization thereon was approximately $169 million and $86 million, respectively. These leased assets are included in the related property, plant and equipment category. Amortization of assets recorded under capital leases is included in depreciation expense.

On March 28, 2009, the Company submitted a motion to the Bankruptcy Court for rejection of capital leases with future principal and interest payments of approximately $43.8 million through 2011. This motion, if approved, would allow for the rejection of these leases.

Scheduled Maturities of Debt and Future Minimum Capital Lease Payments

For each of the next five years and beyond, the Company s debt and capital lease obligations outstanding as of December 28, 2008, as impacted by the Creditor Protection Proceedings, are as follows:

	Other Debt	Capital Leases
	(in thousands)	
Fiscal 2009	$ 1,309,072	$ 47,440
Fiscal 2010	166,715	29,412
Fiscal 2011		19,282
Fiscal 2012		
Fiscal 2013		
2014 and beyond		
	$ 1,475,787	$ 96,134
Less amount representing interest		(13,541)
Less amount representing discount, net of premium	(16,359)	
Total	$ 1,459,428	$ 82,593

13. Commitments

Certain equipment and facilities are leased under various operating leases expiring at various dates through the year 2017. Certain of these leases contain renewal options. Rental expense was approximately $23.8 million, $33.3 million, and $28.9 million for the years ended December 28, 2008, December 30, 2007 and December 31, 2006, respectively.

Future minimum lease payments under operating leases and unconditional commitments to purchase manufacturing supplies and services (UPCs) as of December 28, 2008 are as follows:

	Operating Leases	UPCs
	(in thousands)	
Fiscal 2009	$ 15,521	$ 129,861
Fiscal 2010	5,651	87,784
Fiscal 2011	2,458	44,566
Fiscal 2012	962	20,246

Fiscal 2013	401	2,415
2014 & beyond	575	0
	$ 25,568	$ 284,872

Table of Contents

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

UPCs include agreements to purchase goods or services that are enforceable and legally binding on the Company and that specify all significant terms, including fixed or minimum quantities to be purchased; fixed, minimum or variable price provisions; and the approximate timing of the transaction. These agreements are related principally to inventory and other items. UPCs exclude agreements that are cancelable without penalty.

Effective February 19, 2009, a UPC contract was terminated by one of the Company s vendors due to the Company s default on payments. As a result, the vendor has made a claim to the entire future UPC of approximately $210.9 million, payable through 2013. This claim has been stayed by the U.S. Bankruptcy Court.

Effective March 1, 2009, a UPC contract was renegotiated, resulting in lowering the Company s commitment by $8.0 million through September 2010.

Effective March 31, 2009, one operating lease was cancelled and as a result, future payments of $1.7 million due on this lease through 2011 are no longer payable.

The Company has made available a ten-year $12.5 million loan commitment facility to an investee of which $4.1 million was drawn down during 2008. Additional $5.3 million was drawn down in January 2009 resulting in a remaining available loan commitment facility of $3.1 million. Draw-downs on this facility are subject to the completion of pre-determined milestones. In light of the Creditor Protection Proceedings, further draw downs under the loan agreement will be subject to approval by the US Bankruptcy Court

14. Interest Income and Other Income, Net

	Year Ended December 28, 2008	Year Ended December 30, 2007 (in thousands)	Year Ended December 31, 2006
Gain on sale of marketable securities	$	$	$ 6,884
Other than temporary impairment on marketable securities, net of gain on put	(3,270)		
Loss on early extinguishment of debt		(3,435)	(17,310)
Interest income	8,162	28,410	21,738
Gain (loss) on sale of land		7,477	
Other income, net	308	143	369
	$ 5,200	$ 32,595	$ 11,681

Table of Contents

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

15. Income Taxes

The provision (benefit) for income taxes consists of:

	Year Ended December 28, 2008	Year Ended December 30, 2007 (in thousands)	Year Ended December 31, 2006
Current:			
U.S. federal	$ (350)	$	$ (2,065)
U.S. state and local	57	237	24
Foreign national and local	6,992	(3,179)	2,373
	$ 6,699	$ (2,942)	$ 332
Deferred:			
U.S. federal			2,253
U.S. state and local			
Foreign national and local	56,166	(22,202)	(4,800)
	56,166	(22,202)	(2,547)
Provision/(benefit) for income taxes	$ 62,865	$ (25,144)	$ (2,215)

Pre-tax profit (loss) from foreign operations was ($1.2) billion, $27 million, and $10 million for the fiscal years ended December 28, 2008, December 30, 2007, and December 31, 2006, respectively.

Deferred income taxes reflect the net tax effects of tax carryovers and temporary differences between the carrying amounts of assets and liabilities for financial reporting and the balances for income tax purposes. Significant components of the Company s deferred tax assets and liabilities as of December 28, 2008 and December 30, 2007 are as follows:

	December 28, 2008	December 30, 2007
	(in thousands)	
Deferred tax assets:		
Net operating loss carryovers	$ 241,648	$ 213,145
Deferred distributor income	9,260	9,747
Inventory valuation	143,668	37,145
Accrued expenses not currently deductible	8,118	11,772
Pension benefits	16,721	5,691
Property, plant and equipment	685,882	88,846
Capital leases	10,875	

Federal and state tax credit carryovers	11,736	17,539
Stock-based compensation	4,579	3,495
Intangible	607	
Other	1,082	1,519
Total deferred tax assets	1,134,176	388,899
Less: valuation allowance	(1,071,790)	(273,713)
	62,386	115,186

127

Table of Contents

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

	December 28, 2008	December 30, 2007
	(in thousands)	
Deferred tax liabilities:		
Inventory valuation	(7,538)	(9,290)
Property, plant and equipment	(34,654)	(38,444)
Deduction not charged against book	(3,086)	
Capitalized interest	(14,205)	(11,382)
Unrealized gain on investments	(2,901)	(398)
Unrealized gain on balance sheet translation		16
Other	(2)	(493)
Total deferred tax liabilities	(62,386)	(59,991)
Net deferred tax assets	$	$ 55,195

For 2008, the net deferred tax assets balance consists of $15.2 million of current deferred tax assets, $47.2 million of noncurrent tax assets, fully offset by $12.0 million current deferred tax liabilities, and $50.4 million of noncurrent deferred tax liabilities. For 2007, the net deferred tax assets of $55.2 million consist of $26.6 million of current deferred tax assets and $30.0 million of noncurrent tax assets and current deferred tax liabilities of $1.4 million.

In 2008, the net valuation allowance increased by $798.1 million over that of 2007 primarily due to losses and tax credits of $299.6 million generated in the U.S. and an increase of $457.9 million in the valuation allowance associated with the deferred tax assets of the Company s Japanese subsidiary. The $457.9 million increase was due to the Company s change in judgment about the realizability of the Company s Japanese deferred tax assets. In 2007, the net valuation allowance increased by $116 million over that of 2006 primarily due to losses and tax credits generated in the U.S. There was also a decrease of $21.0 million in the valuation allowance associated with the deferred tax assets of the Company s Japanese subsidiary due to the Company s change in judgment about the realizability of the Company s Japanese deferred tax assets. In 2006, the net valuation allowance increased by $94 million primarily due to losses and tax credits generated in the U.S. and the net reversal of certain deferred tax liabilities from the prior year. In all periods discussed above, management concluded that valuation allowances were necessary in certain jurisdictions due to the Company s historic net operating losses in those jurisdictions.

As of December 28, 2008, the Company had U.S. federal and state net operating loss carryforwards of approximately $657.0 million and $92.8 million respectively. These net operating losses, if not utilized, expire from 2016 to 2028. The Company also had U.S. federal and state tax credit carryovers of $18.6 million which expire from 2018 to 2028. Included in this amount are California state tax credits of $12.8 million which can be carried forward indefinitely.

If the Company conducts an offering of its common stock, it may experience an ownership change as defined in the Internal Revenue Code such that its ability to utilize its federal net operating loss carryforwards of approximately $657.0 million as of December 28, 2008 may be limited under certain provisions of the Internal Revenue Code. As a result, the Company may incur greater tax liabilities than it would in the absence of such a limitation and any incurred liabilities could materially adversely affect it.

Table of Contents

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

The table below displays the reconciliation between statutory federal income taxes and the total provision (benefit) for income taxes.

	Tax	Rate
	(in thousands, except for percentages)	
Year ended December 28, 2008		
Statutory federal income tax expense	$ (827,559)	35.0%
State taxes	(292)	0.1%
Foreign income at other than U.S. rates	(8,879)	0.4%
Valuation allowance	899,595	(38.1)%
Provision for income taxes	$ 62,865	(2.7)%
Year ended December 30, 2007		
Statutory federal income tax expense	$ (101,024)	35.0%
State taxes	237	(0.1)%
Foreign income at other than U.S. rates	(13,594)	4.7%
Valuation allowance	89,237	(30.9)%
Benefit for income taxes	$ (25,144)	8.7%
Year ended December 31, 2006		
Statutory federal income tax expense	$ (52,493)	35.0%
State taxes	24	0.0%
Foreign income at other than U.S. rates	(7,677)	5.1%
Reserve release	(6,399)	4.3%
Valuation allowance	64,330	(42.9)%
Benefit for income taxes	$ (2,215)	1.5%

The Company s operations in China and Malaysia currently operate under tax holidays, which will expire in whole or in part at various dates through 2013. Certain of the tax holidays may be extended if specific conditions are met. The net impact of these tax holidays was to decrease the Company s net loss by approximately $7.3 million in fiscal year 2008 (less then $0.05 per share diluted) $4.1 million in fiscal year 2007 (less than $0.03 per share, diluted), and $2.3 million in fiscal year 2006 (less than $0.02 per share, diluted).

The Company has made no provision for U.S. income taxes on approximately $456 million of cumulative undistributed earnings of certain foreign subsidiaries at December 28, 2008 because it is the Company s intention to reinvest such earnings permanently. If such earnings were distributed, the Company would incur additional income taxes of approximately $28 million (subject to an adjustment for foreign tax credits and after utilizing NOL tax attributes). These additional income taxes may not result in income tax expense or a cash payment to the Internal Revenue Service, but may result in the utilization of deferred tax assets that are currently subject to a valuation allowance.

Table of Contents

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

The Company adopted the provisions of FASB Financial Interpretation No. 48 (FIN 48), *Accounting for Uncertainty in Income Taxes*, on January 1, 2007. A reconciliation of the beginning and ending amount of unrecognized tax benefits is as follows:

	Gross Unrecognized Tax Benefit (in thousands)	
Balance at January 1, 2007	$	2,688
Additions based on tax positions related to the current year		566
Additions for tax positions of prior years		122
Reductions for tax positions of prior years		(617)
Settlements		(185)
Balance at December 30, 2007	$	2,574
Additions based on tax positions related to the current year	$	1,132
Additions for tax positions of prior years		19
Reductions for tax positions of prior years		(763)
Settlements		(149)
Balance at December 28, 2008	$	2,813

The Company recognizes interest and penalties related to unrecognized tax benefits in income tax expenses and such amounts were immaterial in fiscal 2008.

The Company is subject to taxation in the United States and various states and foreign jurisdictions. The Company s tax years 2004 through 2008 are subject to examination by the tax authorities. With few exceptions, the Company is not subject to U.S. federal, state, local or foreign examinations by tax authorities for years before 2004.

The Company does not believe that it is reasonably possible that the total amounts of unrecognized tax benefits will significantly increase or decrease within the next twelve months.

16. Employee Benefit Plans

Spansion Japan Pension Plan

Through August 2005, certain employees of Spansion Japan were enrolled in a defined benefit pension plan and/or a lump-sum retirement benefit plan sponsored by Fujitsu (Fujitsu Group Employee Pension Fund or EPF). The Company, by agreement with Fujitsu, is required to fund those proportional benefit obligations attributable to the Company s employees enrolled in these plans. Until September 1, 2005, the Company accounted for its participation in these plans as multiemployer plans wherein the expense recorded for the plans was equal to its annual cash contributions.

On September 1, 2005, the Company adopted a new pension plan (Spansion Japan Pension Plan) and changed the formula to a cash balance formula. On September 9, 2005, the plan was approved by the Japanese government. The Spansion Japan Pension Plan has two components. The first component provides a lump-sum payment, or twenty-year certain annuity or twenty-year guaranteed life annuity. The second component consists of a lump-sum payment or an optional period certain annuity. Participants have the option to choose a cash payment in lieu of participation in the second component. The assets and obligations were transferred from the EPF to the newly adopted Spansion Japan pension plan.

As part of the transfer of benefits from the EPF, the Spansion Japan Pension Plan also received approximately $48.7 million in pension assets directly from the EPF trust.

Table of Contents

Spansion Inc.

(Debtor-in-Possession as of March 1, 2009)

Notes to Consolidated Financial Statements (Continued)

As a result of the adoption of the Spansion Japan Pension Plan and amendment to a cash balance formula, a prior service cost base was established for approximately $12.5 million an unrecognized net loss base was established for approximately $7.7 million and an additional minimum liability was recognized for $20.3 million.

The below tables summarizes the funded status of the plan and the related amounts recognized in the statement of financial position as of:

	December 28, 2008	December 30, 2007
	(in thousands)	
Change in Projected Benefit Obligation		
Projected benefit obligation, beginning of year	$ (88,047)	$ (80,056)
Service cost	(5,365)	(4,548)
Interest cost	(1,905)	(1,625)
Fujitsu contributions	(1,170)	(855)
Actuarial gain	1,181	466
Benefits paid	4,747	3,451
Curtailments		96
Foreign currency exchange rate changes	(21,391)	(4,976)
Benefit obligation, end of year	$ (111,950)	$ (88,047)

	December 28, 2008	December 30, 2007
	(in thousands)	
Change in Fair Value of Plan Assets		
Fair value of plan assets, beginning of year	$ 90,073	$ 77,264
Actual return on plan assets	(31,422)	2,945
Employer contribution	8,517	7,410
Fujitsu contributions	1,170	855
Benefits paid	(4,747)	(3,451)
Foreign currency exchange rate changes	22,663	5,050
Fair value of plan assets at end of year	$ 86,254	$ 90,073

	December 28, 2008	December 30, 2007
	(in thousands)	
Funded status		
Fair value of plan assets	$ 86,254	$ 90,073
Projected benefit obligation	(111,950)	(88,047)
Funded status of plan	$ (25,696)	$ 2,026

Amount recognized in the statement of financial position consist of:		
Noncurrent asset	$	$ 2,026
Noncurrent liability	25,696	
	$ 25,696	$ 2,026
Amount recognized in accumulated other comprehensive income consist of:		
Net actuarial loss	$ 35,003	