SOLTA MEDICAL INC
Form 10-Q
November 01, 2012
Table of Contents

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10-Q

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

For the quarterly period ended September 30, 2012

¨ **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: 001-33123

SOLTA MEDICAL, INC.

(Exact name of registrant as specified in its charter)

Delaware	**68-0373593**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**

25881 Industrial Boulevard, Hayward, California 94545

(Address of principal executive offices) (Zip Code)

(510) 782-2286

(Registrant s telephone number, including area code)

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes x No ¨

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a small reporting company. See definition of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act.

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 in Rule 12b-2 of the Exchange Act). Yes ¨ No x

As of October 31, 2012, 68,553,374 shares of the registrant s common stock were outstanding.

Table of Contents

SOLTA MEDICAL, INC.

INDEX

		Page
PART I	**FINANCIAL INFORMATION**	**3**
ITEM 1	**FINANCIAL STATEMENTS (unaudited)**	**3**
	Condensed Consolidated Balance Sheets as of September 30, 2012 and December 31, 2011	**3**
	Condensed Consolidated Statements of Operations for the three and nine months ended September 30, 2012 and 2011	**4**
	Condensed Consolidated Statements of Cash Flows for the nine months ended September 30, 2012 and 2011	**5**
	Notes to Condensed Consolidated Financial Statements	**6**
ITEM 2	**MANAGEMENT S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**	**16**
ITEM 3	**QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**	**24**
ITEM 4	**CONTROLS AND PROCEDURES**	**24**
PART II	**OTHER INFORMATION**	**25**
ITEM 1.	**LEGAL PROCEEDINGS**	**25**
ITEM 1A.	**RISK FACTORS**	**25**
ITEM 2	**UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS**	**39**
ITEM 3	**DEFAULTS UPON SENIOR SECURITIES**	**39**
ITEM 4	**MINE SAFETY DISCLOSURES**	**39**
ITEM 5	**OTHER INFORMATION**	**39**
ITEM 6.	**EXHIBITS**	**40**
	SIGNATURES	**41**

Solta Medical , Thermage , ThermaCool , NXT , Thermage CPT , Fraxel , Fraxel re:store , Fraxel re:pair , Isolaz , CLARO , Clear Liposonix are trademarks or registered trademarks of Solta Medical Inc. or its subsidiaries in the United States and other Countries. Other trademarks, trade names and service marks appearing in this document are the property of their respective owners.

Table of Contents

PART 1. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS (unaudited)

Solta Medical, Inc.

CONDENSED CONSOLIDATED BALANCE SHEETS

(in thousands of dollars, except share and per share data)

(Unaudited)

	September 30, 2012	December 31, 2011
ASSETS		
Current assets:		
Cash and cash equivalents	$ 38,547	$ 17,417
Accounts receivable	16,665	13,282
Inventories	16,446	16,524
Prepaid expenses and other current assets	7,856	8,626
Total current assets	79,514	55,849
Property and equipment, net	6,353	6,818
Purchased intangible assets, net	44,158	49,352
Goodwill	96,620	96,620
Other assets	684	659
Total assets	$ 227,329	$ 209,298
LIABILITIES AND STOCKHOLDERS EQUITY		
Liabilities:		
Accounts payable	$ 6,134	$ 5,767
Accrued liabilities	15,829	16,126
Current portion of contingent consideration liability	22,300	
Current portion of deferred revenue	3,965	4,521
Short-term borrowings	7,054	7,441
Customer deposits	849	610
Total current liabilities	56,131	34,465
Deferred revenue, net of current portion	557	824
Term loan, net of current portion	20,698	16,959
Non-current tax liabilities	3,010	2,975
Contingent consideration liability	38,100	27,800
Other liabilities	107	92
Total liabilities	118,603	83,115
Contingencies (Note 7)		
Stockholders equity:		
Preferred stock, $0.001 par value: 10,000,000 shares authorized, none issued and outstanding		
Common stock, $0.001 par value: 100,000,000 shares authorized, 68,543,122 and 61,130,740 shares issued and outstanding at September 30, 2012 and December 31, 2011, respectively.	69	61

Additional paid-in capital	219,063	198,565
Accumulated deficit	(110,406)	(72,443)
Total stockholders equity	108,726	126,183
Total liabilities and stockholders equity	$ 227,329	$ 209,298

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

Table of Contents

Solta Medical, Inc.

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS

(in thousands of dollars, except share and per share data)

(Unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2012	**2011**	**2012**	**2011**
Net revenue	$ 35,028	$ 27,411	$ 104,744	$ 82,816
Cost of revenue	13,813	9,519	39,738	28,300
Gross margin	21,215	17,892	65,006	54,516
Operating expenses				
Sales and marketing	12,403	10,784	40,022	34,517
Research and development	4,849	3,665	15,167	10,878
General and administrative	4,557	4,669	13,832	12,003
Remeasurement of contingent consideration liability	1,900	(394)	32,600	(878)
Total operating expenses	23,709	18,724	101,621	56,520
Loss from operations	(2,494)	(832)	(36,615)	(2,004)
Interest income	3	19	8	52
Interest expense	(377)	(16)	(1,078)	(90)
Other income and expense, net	46	(306)	(101)	(188)
Loss before income taxes	(2,822)	(1,135)	(37,786)	(2,230)
Income tax provision	56	10	177	146
Net loss	$ (2,878)	$ (1,145)	$ (37,963)	$ (2,376)
Net loss per share:				
Basic and diluted	$ (0.04)	$ (0.02)	$ (0.60)	$ (0.04)
Weighted average shares outstanding used in calculating net loss per common share:				
Basic and diluted	65,947,361	60,785,015	63,017,220	60,443,429

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

Table of Contents

Solta Medical, Inc.

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

(in thousands of dollars)

(Unaudited)

	Nine Months Ended September 30,	
	2012	**2011**
Cash flows from operating activities		
Net loss	$ (37,963)	$ (2,376)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:		
Depreciation and amortization	8,012	5,582
Loss on disposal of property, plant and equipment	33	61
Stock-based compensation	3,553	2,281
Contingent consideration fair value adjustment	32,600	(878)
Tax expense from stock options exercises	2	
Loan warrant discount amortization	104	
Provision for doubtful accounts	520	(57)
Write-down of excess and obsolete inventory	591	(43)
Change in assets and liabilities:		
Accounts receivable	(3,903)	(2,502)
Inventories	(845)	(4,519)
Prepaid expenses and other current assets	770	(124)
Other assets	(25)	(188)
Accounts payable	450	(755)
Accrued and other liabilities	(189)	(602)
Deferred revenue	(823)	1,139
Customer deposits	239	125
Deferred rent	(77)	(14)
Net cash provided by (used in) operating activities	3,049	(2,870)
Cash flows from investing activities		
Acquisition of property and equipment	(2,115)	(1,168)
Net cash used in investing activities	(2,115)	(1,168)
Cash flows from financing activities		
Repayment of loan agreements	(9,555)	(25,137)
Cash settlement of vested restricted stock units	(469)	
Proceeds from equity financing	16,279	
Payment of equity financing issuance costs	(171)	
Proceeds from exercise of stock options	273	1,249
Proceeds from employee stock purchase plan	339	192
Proceeds from loan agreement borrowings	13,500	24,000
Net cash provided by financing activities	20,196	304
Net increase (decrease) in cash and cash equivalents	21,130	(3,734)
Cash and cash equivalents at beginning of period	17,417	36,898

Cash and cash equivalents at end of period	$ 38,547	$ 33,164
Supplemental disclosure of cash flow information		
Cash paid for interest	$ 576	$ 87
Cash paid for taxes	51	108
Accounts payable and accrued liabilities related to property and equipment purchases	126	102
Issuance of common stock for vested restricted stock units	1,860	132
Issuance of warrants in connection with debt financing	700	
Equity investment earned in the period		150
Accrued interest for final payment on debt financings	399	

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

Table of Contents

Solta Medical, Inc.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(in thousands of dollars, except share and per share amounts)

(Unaudited)

NOTE 1 THE COMPANY AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Background

Solta Medical, Inc. (the Company) develops, manufactures, and markets aesthetic energy devices to address a range of issues, including skin resurfacing and skin rejuvenation, skin tightening and body contouring, and acne reduction. The Company was incorporated in California on January 11, 1996 as Thermage, Inc. and reincorporated in Delaware on September 10, 2001. The Company commercially launched its first products in October 2002.

Basis of Presentation

The unaudited interim condensed consolidated financial statements have been prepared on the same basis as the annual consolidated financial statements and, in the opinion of management, reflect all adjustments, which include only normal recurring adjustments, necessary to state fairly the Company s financial position as of the date of the interim balance sheet and results of operations and cash flows for the interim periods. The results for the three and nine months ended September 30, 2012 are not necessarily indicative of the results to be expected for the year ending December 31, 2012 or for any other interim period or for any future year.

These unaudited interim condensed consolidated financial statements should be read in conjunction with the consolidated financial statements and notes for the year ended December 31, 2011 included in the Company s Annual Report on Form 10-K.

Significant Accounting Policies

The Company s significant accounting policies that are disclosed in the Company s Annual Report on Form 10-K filed on March 14, 2012 have not changed since December 31, 2011.

Reclassifications

To maintain comparability among the periods presented, the Company reclassified certain prior period amounts to a separate line item that was not included in the prior period presentation. The Company made the following reclassifications to conform with the current period presentation:

Within the Consolidated Statement of Operations for the three and nine months ended September 30, 2011, the Company reclassed amounts that were recorded within general and administrative to remeasurement of contingent consideration liability. The reclassification had no impact on the total loss before income taxes in the periods presented; and

Within the operating activities section of the Consolidated Statements of Cash Flows for the nine months ended September 30, 2011, the Company reclassed amounts that were recorded within accrued and other liabilities to contingent consideration fair value adjustment. The reclassification had no impact to the total net cash used by operating activities in the period presented.

Segment Information

The Company operates in one business segment, which encompasses the developing, manufacturing and marketing of aesthetic energy devices. Management uses one measurement of profitability and does not segregate its business for internal reporting. Long-lived assets are primarily maintained in the United States. The Chief Operating Decision Maker is the Chairman, President and Chief Executive Officer of the Company.

Table of Contents

The following table summarizes net revenue by product:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2012	2011	2012	2011
Systems	$ 16,164	$ 11,103	$ 47,940	$ 30,822
Tips and other consumables	16,900	14,859	51,845	47,468
Net revenue from products	33,064	25,962	99,785	78,290
Services and other	1,964	1,449	4,959	4,526
Total net revenue	$ 35,028	$ 27,411	$ 104,744	$ 82,816

The following table summarizes net revenue by geographic region:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2012	2011	2012	2011
North America	$ 15,220	$ 11,951	$ 51,554	$ 36,218
Asia Pacific	14,560	10,199	37,426	28,327
Europe/Middle East	4,107	4,058	12,374	14,265
Rest of the world	1,141	1,203	3,390	4,006
Total net revenue	$ 35,028	$ 27,411	$ 104,744	$ 82,816

NOTE 2 NET LOSS PER COMMON SHARE

Basic net loss per share is computed by dividing the net loss for the period by the weighted average number of common shares outstanding during the period.

Diluted net loss per share attributed to common shares is computed by dividing the net loss attributable to common shares for the period by the weighted average number of common and potential common shares outstanding during the period, if the effect of each class of potential common shares is dilutive. Potential common shares include common stock subject to repurchase rights and shares of common stock issuable upon the exercise of stock options and warrants and shares of common stock issuable under the Employee Stock Purchase Plan and restricted stock units. The dilutive effect of potential common shares is reflected in diluted net loss per share by application of the treasury stock method, which includes consideration of stock-based compensation.

Diluted net loss per share is the same as basic net loss per share for all periods presented because any potential dilutive common shares were anti-dilutive. Such potentially dilutive shares are excluded from the computation of diluted net loss per share when the effect would be to reduce net loss per share. Therefore, in periods when a loss is reported, the calculation of basic and diluted loss per share results in the same value.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2012	2011	2012	2011
Historical net loss per share:				
Numerator:				
Net loss	$ (2,878)	$ (1,145)	$ (37,963)	$ (2,376)
Denominator:				

Weighted-average common shares outstanding used in calculating basic and diluted net loss per share	65,947,361	60,785,015	63,017,220	60,443,429
Basic and diluted net loss per share	$ (0.04)	$ (0.02)	$ (0.60)	$ (0.04)

Table of Contents

The following outstanding options, warrants, common stock issuable under the Employee Stock Purchase Plan and restricted stock units were excluded from the computation of diluted net loss per common share for the periods presented because including them would have had an antidilutive effect:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2012	2011	2012	2011
Options to purchase common stock	5,495,218	5,877,576	5,495,218	5,877,576
Common stock warrants	4,587,644	4,279,952	4,587,644	4,279,952
Restricted stock units	2,738,971	1,672,330	2,738,971	1,672,330
Common stock issuable under Employee Stock Purchase Plan	146,335	96,243	146,335	96,243

NOTE 3 LIPOSONIX AQUISITION

On September 12, 2011, the Company entered into a stock purchase agreement (Purchase Agreement) with Medicis Pharmaceutical Corporation (Medicis) pursuant to which the Company agreed to acquire from Medicis all the outstanding shares of Medicis Technologies Corporation (f/k/a LipoSonix, Inc.) (Liposonix), subject to the terms and conditions of the Purchase Agreement. The Company closed the transaction on November 1, 2011. In connection with the transaction, the Company has agreed to pay to Medicis additional cash payments, which obligation will expire after approximately seven years, based upon, among other things, the achievement of year-to-year increases and specified targets in the adjusted net sales and adjusted gross profits of the Liposonix products, subject to the terms and conditions of the Purchase Agreement. The fair value of the total contingent consideration recognized on the acquisition date of $26.6 million was estimated by applying a probability weighted discounted cash-flow approach.

As of September 30, 2012, the fair value of this contingent consideration liability has been increased to $60,400 to reflect the updated fair value estimate of the liability and accordingly a $1,900 and $32,600 charge was recognized as an expense in our condensed consolidated statement of operations during the three and nine months ended September 30, 2012, respectively (see note 4 regarding Level 3 unobservable inputs used at September 30, 2012 to measure the contingent consideration liability). The increase in the updated fair value of the contingent consideration is due primarily to the Company s estimate of higher achievement in specified net sales and adjusted gross profit targets over the seven-year earnout period and accretion of the liability. If the Company s actual results differ from those estimates, the contingent consideration liability will be adjusted accordingly.

As of September 30, 2012 and December 31, 2011, $22,300 and $0, respectively, of the contingent consideration liability was classified as current, and $38,100 and $27,800, respectively, was classified as non-current.

For the three and nine months ended September 30, 2012, revenue from the sales of Liposonix products was $6,951 and $23,947, respectively. Net income associated with Liposonix products and operations cannot be determined given the integration of Liposonix operations within the Company.

Pro forma financial information (unaudited)

The unaudited financial information in the table below for the nine months ended September 30, 2011 combines the historical results of the Company for that period, with the historical results of LipoSonix as a separate entity, for the nine months ended September 30, 2011. The pro forma financial information is presented for informational purposes only and is not indicative of the results of operations that would have been achieved if the LipoSonix acquisition had taken place at the beginning of the period presented.

The pro forma financial information includes the business combination accounting effect of the amortization charges from the acquired intangible assets, adjustments to certain acquired assets and liabilities and acquisition costs reflected in the Company s and LipoSonix s historical statements of operations for the periods prior to the acquisition, and the related tax effects.

	Nine months ended September 30, 2011
Net revenue	$ 83,302
Net loss	$ (33,569)

Net loss per share - basic and diluted	$	(0.56)

Table of Contents

NOTE 4 BALANCE SHEET DETAIL

Inventories, Net

Inventories, net consist of the following:

	September 30, 2012	December 31, 2011
Raw materials	$ 6,575	$ 6,344
Work-in-process	437	324
Finished goods	9,434	9,856
	$ 16,446	$ 16,524

Intangible Assets

The Company s intangible assets were acquired in connection with the acquisition of Reliant Technologies, Inc. on December 23, 2008, Aesthera Corporation on February 26, 2010, CLRS Technology Corporation on October 15, 2010 and Liposonix on November 1, 2011. The carrying amount and accumulated amortization expense of the acquired intangible assets at September 30, 2012 and December 31, 2011 were as follows:

September 30, 2012	Estimated Useful Life	Gross Carrying Value	Accumulated Amortization	Net Carrying Value
Intangible assets amortized to cost of revenue:				
Core technology	6 -12 years	$ 21,320	($ 6,955)	$ 14,365
Product technology	7 - 9 years	25,170	(6,615)	18,555
Future royalties contract	10 years	3,890	(389)	3,501
		50,380	(13,959)	36,421
Intangible assets amortized to operating expenses:				
Trade Names	6 -10 years	5,080	(1,680)	3,400
Customer relationships	4 -12 years	6,710	(2,373)	4,337
		11,790	(4,053)	7,737
Total intangible assets		$ 62,170	($ 18,012)	$ 44,158

December 31, 2011	Estimated Useful Life	Gross Carrying Value	Accumulated Amortization	Net Carrying Value
Intangible assets amortized to cost of revenue:				
Core technology	6 -12 years	$ 21,320	($ 5,441)	$ 15,879
Product technology	7 - 9 years	25,170	(4,295)	20,875
Future royalties contract	10 years	3,890	(97)	3,793
		50,380	(9,833)	40,547
Intangible assets amortized to operating expenses:				
Trade name	6 -10 years	5,080	(1,224)	3,856
Customer relationships	4 -12 years	6,710	(1,761)	4,949

	11,790	(2,985)	8,805
Total intangible assets	$ 62,170	($ 12,818)	$ 49,352

Table of Contents

The Company has included amortization of acquired intangible assets directly attributable to revenue-generating activities in cost of revenue. The Company has included amortization of acquired intangible assets not directly related to revenue-generating activities in operating expenses. During the three and nine months ended September 30, 2012, the Company recorded amortization expense in the amount of $1,374 and $4,126 to cost of revenue and $355 and $1,068 to operating expenses, respectively, and during the three and nine months ended September 30, 2011, the Company recorded amortization expense in the amount of $836 and $2,507 to cost of revenue and $284 and $797 to operating expenses, respectively.

As of September 30, 2012, the total expected future amortization related to the Company s existing intangible assets, is as follows:

	Amortization included in Cost of Revenue	Amortization included in Operating Expense	Total Amortization Expense
2012	$ 1,375	$ 356	$ 1,731
2013	5,498	1,419	6,917
2014	5,498	1,408	6,906
2015	5,469	1,136	6,605
2016 and thereafter	18,581	3,418	21,999
	$ 36,421	$ 7,737	$ 44,158

The Company tests its long-lived assets for impairment if events or changes in circumstances indicate that the assets may be impaired. No impairment indicators of intangibles and long-lived assets were identified through September 30, 2012. There can be no assurance that future long-lived asset impairments will not occur.

Goodwill

The changes in the carrying amount of goodwill are as follows:

	September 30, 2012	December 31, 2011
Balance at beginning of period	$ 96,620	$ 49,481
Addition from acquisition		47,139
Balance at end of period	$ 96,620	$ 96,620

Goodwill represents the excess of the purchase price over the fair value of the net tangible and intangible assets acquired. The Company tests goodwill for impairment at least annually or more frequently if events or changes in circumstances indicate that this asset may be impaired. The goodwill test is based on our single operating segment and reporting unit structure. No goodwill impairment was identified through September 30, 2012. There can be no assurance that future goodwill impairments will not occur.

Accrued Liabilities

Accrued liabilities consist of the following:

	September 30, 2012	December 31, 2011
Payroll and related expenses	$ 5,187	$ 6,002
Accrued claims and settlements	3,189	3,058

Standard warranty	1,516	1,647
Professional fees	759	773
Other	5,178	4,646
	$ 15,829	$ 16,126

Table of Contents

Fair Value of Financial Instruments

Fair value is a market-based measurement that is determined based on assumptions that market participants would use in pricing an asset or liability. This hierarchy requires the Company to use observable market data, when available, and to minimize the use of unobservable inputs when determining fair value. A fair value hierarchy prioritizes the inputs used in measuring fair value as follows:

Level 1- Observable inputs, such as quoted prices in active markets for identical assets and liabilities.

Level 2- Inputs other than the quoted prices in active markets that are observable either directly or indirectly at the measurement date and for the duration of the instruments anticipated life.

Level 3- Unobservable inputs in which there is little or no market data and that are significant to the fair value of the assets and liabilities and which reflect the Company s best estimate of what market participants would use in pricing the asset or liability at the measurement date.

The Company considers all highly liquid investments with an original maturity of three months or less at the time of purchase to be cash equivalents. The Company s cash equivalents are classified within Level 1 of the fair value hierarchy because they are valued using quoted market prices for identical assets that the Company has the ability to assess at the measurement date. On a recurring basis, the Company measures its cash equivalents at fair value. The Company s cash equivalents, which are money market funds and other instruments that mature in three months or less at the time of purchase, are classified as such at September 30, 2012 and December 31, 2011.

Carrying amounts of the Company s financial instruments, including accounts receivable, accounts payable and accrued liabilities, approximate their fair values due to their short maturities. The carrying amounts of other assets and liabilities approximate their fair values based upon their nature and size.

The carrying value of the Company s term loans under the credit facility and the subordinated debt facility approximates fair value as they bear interest based on prevailing variable market rates currently available.

The Company s contingent consideration liability is classified within Level 3 of the fair value hierarchy because it is valued using unobservable inputs in which the Company developed its own assumptions at September 30, 2012. At the end of each reporting period, the Company remeasures its contingent consideration liability at fair value.

The unobservable inputs at September 30, 2012 are as follows:

Level 3 Fair Value Measurement	Fair Value at September 30, 2012	Valuation Technique	Unobservable Input	Input %
Contingent consideration liability	$ 60,400	Discounted cash flow	Weighted average cost of capital	24.6%
			Long term discount rate	25.0%

The unobservable inputs at December 31, 2011 are as follows:

Level 3 Fair Value Measurement	Fair Value at December 31, 2011	Valuation Technique	Unobservable Input	Input %
Contingent consideration liability	$ 27,800	Discounted cash flow	Weighted average cost of capital	25.1%
			Long term discount rate	30.0%

The significant unobservable inputs used in the fair value measurement of the Company s contingent consideration liability are weighted average cost of capital and long term discount rate. Significant increases or decreases in any of these inputs in isolation would result in a significantly

higher or lower fair value measurement. Generally, a change in the assumption used for the weighted average cost of capital is accompanied by a directionally similar change in the assumption used for the long term discount rate.

Table of Contents

The change in the value of the contingent consideration liability is summarized below:

Fair value at December 31, 2011	$ 27,800
Change in fair value of the contingent consideration liability recorded as an expense	32,600
Fair value at September 30, 2012	$ 60,400

NOTE 5 WARRANTY AND SERVICE CONTRACTS

Standard Warranty

The Company currently accrues for the estimated cost to repair or replace or replace products under warranty at the time of sale and is recorded as a current liability in accrued liabilities. A summary of standard warranty accrual activity is shown below:

	Nine Months Ended September 30,	
	2012	2011
Balance at beginning of period	$ 1,647	$ 1,525
Accruals for warranties issued during the period	2,872	2,013
Settlements made during the period	(3,003)	(2,223)
Balance at end of period	$ 1,516	$ 1,315

Extended Warranty Service Contracts

The Company sells extended warranty service contracts to its customers. At the time of sale, the Company defers the amounts billed for such service contracts. Deferred service contract revenue, included in deferred revenue on the balance sheet, is recognized on a straight-line basis over the period of the applicable extended warranty contract. A summary of extended warranty contract activity is shown below:

	Nine Months Ended September 30,	
	2012	2011
Balance at beginning of period	$ 3,256	$ 2,805
Payments received	2,950	3,215
Revenue recognized	(3,319)	(2,981)
Balance at end of period	$ 2,887	$ 3,039

As of September 30, 2012 and December 31, 2011, $2,330 and $2,432, respectively, of the extended warranty contracts was classified as current, and $557 and $824, respectively, was classified as non-current. The Company incurred costs of $431 and $1,242 under extended warranty contracts during the three and nine months ended September 30, 2012, respectively, and costs of $301 and $995 during the three and nine months ended September 30, 2011, respectively.

NOTE 6 LOAN AND SECURITY AGREEMENTS

The Company entered into a Loan and Security Agreement (the Loan Agreement) with Silicon Valley Bank (the Lender) on March 9, 2009, with subsequent amendments through August 29, 2012. The amendments include increasing our revolving loan facility to $8,000.

On August 29, 2012, the Company entered into a Loan and Security Agreement with the Lender for a $10,000 subordinated debt facility (the Subordinated Debt Facility). This Subordinated Debt Facility is in addition to the facilities available under the Loan Agreement. Borrowings under the Subordinated Debt Facility bear interest at a 7% fixed rate and are payable in equal monthly payments of principal and interest beginning on June 1, 2013 and ending on April 1, 2015, at which the final two monthly payments are due along with a final payment fee of $1,000 and expenses of Lender. All obligations under the Subordinated Debt Facility are secured by substantially all of the personal property of the Company. The Subordinated Debt Facility does not contain any financial covenants. In connection with the Company committing to enter into the Subordinated Debt Facility, the Company issued a warrant to the Lender on July 26, 2012 for the purchase of 307,692 shares of the Company s common stock with an exercise price of $2.65 per share (see note 9).

Table of Contents

On August 31, 2012, the Company drew down $10,000 under its Subordinated Debt Facility to fund its ongoing operations and this amount remained outstanding at September 30, 2012.

At September 30, 2012, $0 was outstanding on the revolving loan facility, $18,549 was outstanding as secured term loans under the Loan Agreement, $10,000 was outstanding on the Subordinated Debt Facility and a debit of $797 was remaining as loan warrant discount. As of September 30, 2012, the Loan Agreement contains financial covenants requiring the Company to maintain a minimum liquidity, a maximum leverage ratio and a minimum fixed charge coverage ratio. The Company was in compliance with these covenants as of September 30, 2012.

NOTE 7 CONTINGENCIES

Litigation Matters

From time to time, the Company is involved in litigation relating to claims arising from the ordinary course of business. The Company routinely assesses the likelihood of judgments or outcomes related to legal matters and claims, including those involving its intellectual property protection, as well as ranges of probable losses. A determination of the amount of the reserves required, if any, for these contingencies is made after thoughtful analysis of each known issue and an analysis of historical experience. In the cases where we believe that a reasonably possible loss exists, we disclose the facts and circumstances of the litigation, including an estimated range, if possible. The Company does not believe the final disposition of these matters will have a material effect on the financial statements and future cash flows of the Company. All legal expenses, including those related to intellectual property protection, are expensed as they are incurred.

On December 21, 2009, a complaint was filed in the Santa Clara County Superior Court by three former stockholders of Reliant against Reliant and certain former officers and directors of Reliant in connection with the Company s acquisition of Reliant, which closed on December 23, 2008. The complaint purports to be brought on behalf of the former common stockholders of Reliant. As a result of the acquisition, a successor entity to Reliant, Reliant Technologies, LLC, became the Company s wholly-owned subsidiary. One member of the Company s Board of Directors and the Company s former Chief Technology Officer and former member of the Company s Board of Directors are among the defendants named in the complaint. The principal claim, among others, is that Reliant violated the California Corporations Code by failing to obtain the vote from a majority of holders of Reliant s common stock prior to the consummation of the acquisition. The complaint also purports to challenge disclosures made by Reliant in connection with its entry into the acquisition and alleges that the defendants failed to maximize the value of Reliant for the benefits of Reliant s common stockholders. On August 2, 2010, defendants filed a motion to dismiss or stay the entire action based on a mandatory forum selection clause in the merger agreement which requires that claims related to the merger be litigated in Delaware. On September 28, 2010, the Court granted the defendants motion to dismiss or stay, and stayed the action indefinitely. On January 20, 2012, the Court dismissed plaintiffs case without prejudice. Plaintiffs have appealed. To date, the plaintiffs have not filed a complaint against the defendants in Delaware. The Company believes that this suit is without merit, and the Company intends to vigorously defend it. Although the Company does not expect that the final disposition of this litigation will have a material effect on its financial results, the Company expects to devote certain personnel and resources to resolve this litigation.

On December 4, 2009, Aesthera was served with a class action complaint filed in the United States District Court for the District of Connecticut alleging that Aesthera caused unsolicited fax advertisements to be sent to the plaintiffs in violation of the Telephone Consumer Protection Act, or TCPA, and Connecticut state law. The complaint purports to be filed on behalf of a class, and it alleges that Aesthera caused unsolicited fax advertisements to be sent from August 1, 2006 through the present. Plaintiffs seek statutory damages under the TCPA and Connecticut state law, attorneys fees and costs of the action, and an injunction to prevent any future violations. In May 2010, Aesthera reached an agreement in principle to settle the matter on a class-wide basis by consenting to certification of a settlement class to receive payment out of a settlement fund. On November 5, 2010, the plaintiffs filed an unopposed motion for certification of a settlement class and for preliminary approval of the parties settlement. On April 15, 2011, the Court denied plaintiffs motion without prejudice on the grounds that the proposed means of giving notice to the class i.e., via fax was not adequate. The Court directed the plaintiffs to revise their motion to provide for notice to the class via United States mail. The Court further directed that the cost of this notice should be borne by Aesthera without reduction to the amount of the settlement fund. On August 22, 2011, the plaintiffs filed a renewed unopposed motion for certification of a settlement class and for preliminary approval of the parties settlement. This renewed motion provides for notice to the class via United States mail. Pursuant to the Class Action Fairness Act (see 28 U.S.C. § 1715), on August 30, 2011, Aesthera gave the Attorney General of the United States and each of the state attorneys general notice of the proposed settlement. On September 29, 2011, the Court entered an Order stating that it would grant plaintiffs renewed motion upon submission of a revised notice to the class providing that the claim form will be a fillable PDF that will enable perspective class members to complete and submit the form electronically. On October 12, 2011, the parties jointly submitted revised long-form and summary versions of the Notice to the Class providing that the Proof of Claim will be a fillable PDF

Table of Contents

that will enable perspective class members, if they so choose, to complete and submit the form electronically without need to print it. On October 14, 2011, the Court granted Plaintiffs renewed Motion to Certify Class for Preliminary Approval of Class Settlement. Notice was sent by the claim s administrator to potential members of the class. A fairness hearing was held on March 27, 2012 at which the Court approved the settlement subject to certain conditions, which have since been fulfilled. On May 5, 2012, the Court ordered the Plaintiffs to submit an amended settlement agreement and final approval order. Plaintiffs filed the required papers on June 15, 2012. On August 3, 2012, the Court approved the final settlement, and the claims administrator has paid out the settlement funds. The settlement did not have a material impact to the Company s financial results.

In January 2008, a product design complaint was filed against the Company in Federal District Court in Maryland. The individual plaintiff sought monetary damages, attorney s fees and costs of the action. Trial commenced on September 11, 2011. On September 29, 2011 a jury reached a verdict which was in favor of the plaintiff and awarded to the plaintiff an amount of total damages that is within the Company s insurance limits. In response to the verdict, the Company filed a motion for judgment notwithstanding the verdict and alternatively, a motion for a new trial. Those motions were denied by the court on August 2, 2012. The Company has meritorious reasons to contest the judgment and is filing an appeal to the Circuit Court of Appeals.

On May 3, 2012, the Company and Reliant Technologies, which the Company acquired in December 2008, were served with a class action complaint filed in the United States District Court for the Northern District of California alleging that Reliant Technologies caused unsolicited fax advertisements to be sent to the plaintiff in 2008, in violation of the TCPA. Plaintiff, on behalf of itself and the putative class, seeks the greater of actual damages or statutory damages in the amount of $500 per violation, treble damages for any willful violations, and injunctive relief. The parties have exchanged initial disclosures and discovery has recently commenced. The Company is unable to reasonably estimate a range of loss at this time and intends to vigorously defend this action.

Indemnifications

In the normal course of business, the Company enters into contracts and agreements that contain a variety of representations and warranties and provide for general indemnifications. The Company s exposure under these agreements is unknown because it involves claims that may be made against the Company in the future, but have not yet been made. To date, the Company has not paid any claims or been required to defend any action related to its indemnification obligations. However, the Company may record charges in the future as a result of these indemnification obligations.

In accordance with its certificate of incorporation, bylaws and individual indemnification agreements, the Company has indemnification obligations to its officers and directors and certain key employees for certain events or occurrences, subject to certain limits, while they are serving at the Company s request in such a capacity. There have been no claims to date and the Company has a director and officer insurance policy that may enable it to recover a portion of any amount paid for future claims.

NOTE 8 STOCKHOLDER S EQUITY

On August 7, 2012, the Company sold an aggregate of 6,555,000 newly issued shares of its common stock in a firmly underwritten public offering. The net proceeds, after deducting offering expenses, were approximately $16,108.

Table of Contents

NOTE 9 STOCK-BASED COMPENSATION

Stock-based compensation expense is recognized using a fair-value based method for costs related to all share-based payments related to stock options granted to employees and non-employees, the Employee Stock Purchase Plan and restricted stock unit awards. The stock-based compensation expenses are allocated to cost of revenue, sales and marketing, research and development and general and administrative as follows:

	Three Months ended September 30,		Nine Months ended September 30,	
	2012	2011	2012	2011
Stock-based compensation expense:				
Employee stock-based compensation expense	$ 184	$ 306	$ 554	$ 1,080
Employee stock purchase plan	84	54	251	140
Restricted and market -based stock units	936	440	2,748	1,061
Total stock-based compensation expense	$ 1,204	$ 800	$ 3,553	$ 2,281

	Three Months ended September 30,		Nine Months ended September 30,	
	2012	2011	2012	2011
Cost of revenue	$ 127	$ 105	$ 366	$ 269
Sales and marketing	249	192	715	611
Research and development	212	87	571	229
General and administrative	616	416	1,901	1,172
Total stock-based compensation expense	$ 1,204	$ 800	$ 3,553	$ 2,281

During the nine months ended September 30, 2012, under the 2006 Equity Incentive Plan, the board of directors approved the issuance of 977,054 shares of restricted stock units and 699,000 shares of market-based stock units to certain employees. The fair value of the restricted stock awards of $2,887 was based on the closing stock market price on the date of award. These restricted stock units vest over three years. The fair value of the market-based stock units at the issuance date of $2,528 was estimated using the Monte-Carlo simulation model which is a probabilistic approach for calculating the fair value of the awards. The Monte-Carlo simulation is a statistical technique used, in this instance, to simulate future stock prices of the Company and the Russell Microcap Index by using the following assumptions: expected volatility of 76.38% and 29.57%, correlation coefficients of 1.0 and 0.3561, risk-free interest rate of 1.34%, and contractual term of 2.9 years. The market stock units will vest over three years if certain market conditions are met. The market conditions are tied to the performance of the Company s common stock relative to the Russell Microcap Index.

In connection with the Company committing to enter into the Subordinated Debt Facility (see note 6), the Company issued a warrant to the Lender on July 26, 2012 for the purchase of 307,692 shares of the Company s common stock with an exercise price of $2.65 per share. The warrant is exercisable immediately after issuance and expires in 10 years. The fair value of the warrants of $700 was calculated using the Black-Scholes option pricing model at the date of issuance using the following assumptions: dividend yield of 0%, expected volatility of 55.63%, risk free interest rate of 1.45% and a contractual life of ten years. The Company recorded the fair value of $700 to loan warrant discount as a contra liability offsetting the respective subordinated debt amount on the Balance Sheet. The Company amortized $60 and $104 from this and a previously recorded loan warrant discount to interest expense in the statement of operations during the three and nine months ended September 30, 2012, respectively.

Table of Contents

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

This Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of the federal securities laws. These statements include, but are not limited to, introduction of new procedures and associated treatment tips in the future; sales organization growth; growth in international sales and expansion into new international markets; and our belief that our cash, cash equivalents and marketable investments, along with our credit facility will satisfy our anticipated cash requirements. These statements are subject to risks and uncertainties that could cause actual results and events to differ materially from those expressed or implied by such forward-looking statements. For a detailed discussion of these risks and uncertainties, see Risk Factors section in Item 1A of this Quarterly Report on Form 10-Q. We caution the reader not to place undue reliance on these forward-looking statements, which reflect management s analysis only as of the date of this Form 10-Q. We undertake no obligation to update forward-looking statements, which reflect events or circumstances occurring after the date of this Form 10-Q. We also encourage you to read the Critical Accounting Policies in Item 7 Management s Discussion and Analysis contained in Part II of our Annual Report on Form 10-K filed on March 14, 2012.

Overview

We design, develop, manufacture and market aesthetic energy devices to address a range of issues, including skin resurfacing and skin rejuvenation, body tightening and body contouring, and acne reduction. Our products are patented and generally require Food and Drug Administration (FDA) clearance in the United States and CE Mark approval in Europe prior to marketing. The product technologies we use include radio frequency (RF) energy, to heat and shrink collagen and tighten tissue while simultaneously cooling and protecting the surface of the skin; lasers for skin resurfacing and the treatment of actinic keratosis; intense pulsed light (IPL) for the treatment of mild to moderate acne and other dermatologic conditions; and high-intensity ultrasound for the destruction of subcutaneous adipose tissue for the purpose of waist circumference reduction.

We were incorporated in 1996 and received FDA clearance for our first Thermage RF system in 2002. Through a number of acquisitions, we added the Fraxel laser systems from our acquisition of Reliant Technologies, Inc. in December 2008; the Isolaz (IPL) system from our acquisition of Aesthera Corporation in February 2010; the CLARO (IPL) personal care acne treatment device from our acquisition of CLRS Technology Corporation in October 2010, and the Liposonix system from our acquisition of Medicis Technologies Corporation in November 2011. Our latest product introduction is the Clear + Brilliant laser system, for which we received the first FDA clearance in May 2011. In addition, FDA clearance for the second generation Liposonix system which we acquired from Medicis Pharmaceutical Corporation (Medicis) was received in October 2011.

As of September 30, 2012, we had a global installed base of over 8,900 systems.

Net revenue for the nine months ended September 30, 2012 increased 27% or $21.9 million, to $104.7 million, from $82.8 million in the same period in 2011, due primarily to the sale of Liposonix products (Liposonix was acquired in November 2011) and, to a lesser extent, the sale of Clear + Brilliant products (Clear + Brilliant launched in April 2011). Our business continued to be impacted by the weakness in global economic conditions and tight credit markets, which we believe have continued to contribute to a slowdown in customer purchase decisions. The tight credit markets limited the ability of some of our customers to obtain financing for the purchase of our products. In response to the continuing difficulties in the economy, we have implemented a number of initiatives in response to the tight worldwide credit market, including working with financing companies to identify attractive leasing or borrowing options for our customers as well as offering incentives to doctors who buy more than one of our brands.

Significant Business Trends

We derive revenue primarily from the sale of systems, treatment tips and consumables. For the nine months ended September 30, 2012 and 2011, we derived 49% and 57% respectively, of our revenue from treatment tips and consumable sales, and 46% and 37% respectively, of our revenue from system sales. The balance of our revenue is derived from service, research and development and shipping.

We market our products in North America to physicians, primarily dermatologists and plastic surgeons, through a direct sales force and internationally through a network of independent distributors and our direct sales force in certain countries. In the nine months ended September 30, 2012 and 2011, we derived 49% and 44%, respectively, of our revenue from sales of our products and services within North America, and 51% and 56%, respectively, of our total sales outside of North America. We believe that a significant portion of our business will continue to come from international sales through increased penetration in countries where we currently sell our products, combined with expansion into new international markets. The percentages of our revenue by region are presented in the table below:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2012	2011	2012	2011
North America	43%	44%	49%	44%
Asia Pacific	42%	37%	36%	34%
Europe/Middle East	12%	15%	12%	17%
Rest of the world	3%	4%	3%	5%
Total net revenue	100%	100%	100%	100%

Table of Contents

Future operating results are difficult to predict accurately. We anticipate that our quarterly results of operations may fluctuate for the foreseeable future due to several factors, including prevailing economic conditions and our customers access to credit, the timing of introduction and the degree of acceptance of future product offerings, unexpected interruptions and expenses related to our manufacturing operations, and the performance of our direct sales force and international distributors.

As new or enhanced products are introduced, we must successfully manage the transition from older products in order to minimize disruption in customers ordering patterns, avoid excessive levels of older product inventories, and ensure that enough supplies of new products can be delivered to meet customer demand.

Significant Industry Factors

The success of our business is subject to the impact of economic conditions on the growth of the industry and to our ability to continue to develop new products, applications and innovative technologies, obtain and maintain regulatory clearances for our products, protect our proprietary technology, and successfully market and distribute our products. Our industry is characterized by seasonally lower demand during the third calendar quarter of the year, when both physicians and prospective patients take summer vacations. Additionally, our industry is highly competitive and our success depends on our ability to compete successfully. Our business is sensitive to a number of factors that influence the levels of consumer spending, including political and economic conditions such as recessionary environments, the level of disposable consumer income, consumer debt, interest rates and consumer confidence. Declines in consumer spending on aesthetic procedures could have an adverse effect on our operating results. A detailed discussion of these and other factors that impact our business is provided in the Risk Factors section in this Quarterly Report on Form 10-Q.

Results of Operations

Three and Nine Months Ended September 30, 2012 and 2011

Net Revenue. Revenue is derived from the sales of systems, treatment tips and other consumables, and service and other revenue. Net revenue was $35.0 million for the three months ended September 30, 2012, an increase of $7.6 million, or 28%, compared to $27.4 million for the three months ended September 30, 2011. The increase in revenue was due to an increase in new system sales including contributions from the sale of the new Liposonix products that launched in December 2011 and, to a lesser extent, from the Clear + Brilliant products that launched in April 2011, an increase in Fraxel Dual system sales, and an increase in royalty revenue received from a settlement agreement in September 2012. The increase was partially offset by a decline in system upgrades and handpiece sales. System sales for the three months ended September 30, 2012 were $16.2 million, an increase of $5.1 million, or 46%, compared to $11.1 million for the same period of 2011. Sale of treatment tips and other consumables increased by $2.0 million, or 14%, to $16.9 million for the three months ended September 30, 2012 from $14.9 million for the same period of 2011. This increase was driven primarily from the sale of Liposonix and Clear + Brilliant tips and other consumables.

Net Revenue increased $21.9 million, or 27%, to $104.7 million for the nine months ended September 30, 2012 from $82.8 million for the same period of 2011. This increase was primarily due to an increase in new system sales including contributions from the sale of Liposonix products and, to a lesser extent, from the Clear + Brilliant products which launched in April 2011, partially offset by a decrease in existing system sales and a decline in system upgrades and handpiece sales. System sales increased $17.1 million or 56%, to $47.9 million for the nine months ended September 30, 2012 from $30.8 million for the same period of 2011. Sale of treatment tips and other consumables increased by $4.4 million or 9%, to $51.8 million for the nine months ended September 30, 2012 from $47.5 million for the same period of 2011. This increase was driven primarily from the sale of Liposonix and Clear + Brilliant tips and other consumables.

Cost of Revenue. Our cost of revenue consists primarily of material, labor and manufacturing overhead expenses. Gross margin was 61% of revenue for the three months ended September 30, 2012, compared with 65% of revenue for the same period in 2011. The decrease in gross margin as a percent of revenue for the third quarter in 2012 when compared to the prior year period was primarily due to an increase of amortization expense from intangibles acquired in the Liposonix acquisition, a lower mix of tips sales, higher product excess and obsolescence costs, and increased expenses related to higher manufacturing scrap material, partially offset by a higher mix of high-margin system sales.

Table of Contents

Gross margin was 62% of revenue in the first nine months of 2012, compared with 66% of revenue in the first nine months of 2011. The decrease in gross margin as a percent of revenue for the first nine months of 2012 when compared to the prior year period was primarily due to an increase to amortization expense from intangibles acquired in the Liposonix acquisition, a lower mix of tips sales, higher warranty expense due to an increase in our warranty base for Clear + Brilliant and Liposonix products, and increased expenses related to higher manufacturing scrap material, partially offset by a higher mix of high-margin system sales.

Sales and Marketing. Sales and marketing expenses consists primarily of personnel costs and costs related to customer-attended workshops and trade shows and advertising, as well as marketing and customer service expenses. Sales and marketing expenses for the three months ended September 30, 2012 was $12.4 million, an increase of $1.6 million, or 15%, compared to $10.8 million for the same period of 2011. The increase was primarily attributable to an increase in headcount, resulting in higher employee payroll and related travel and entertainment expenses of $0.2 million, an increase of $0.8 million in discretionary marketing expenses, an increase of $0.2 million in professional outside services, an increase of $0.3 million in depreciation and allocated information technology and facility expenses, and an increase of $0.1 million in amortization of intangibles acquired in the Liposonix acquisition.

Sales and marketing expenses increased $5.5 million, or 16%, to $40.0 million in the first nine months of 2012 from $34.5 million for the same period of 2011. The increase in the first nine months of 2012 was primarily attributable to an increase of $2.2 million in employee payroll, commissions and related travel and entertainment expenses, which was mainly due to increased head count resulting from sales and marketing personnel acquired in our LipoSonix acquisition and international expansion, an increase of $1.6 million in advertising and marketing program expenses, an increase of $1.0 million in professional outside services, an increase of $0.5 million in depreciation and allocated information technology and facility expenses, and an increase of $0.2 million in amortization of intangibles acquired in the Liposonix acquisition.

Research and Development. Research and development expenses consist primarily of personnel costs, clinical and regulatory costs, material costs and quality assurance costs not directly related to the manufacturing of our products. Research and development expenses for the three months ended September 30, 2012 was $4.8 million, an increase of $1.2 million, or 32%, compared to $3.7 million for the same period in 2011. The increase was mainly due to an increase in headcount, resulting in higher employee payroll and related expenses of $1.2 million. The increase in headcount was primarily due to the addition of research and development personnel in connection with our Liposonix acquisition. There was also an increase of $0.1 million in depreciation and allocated information technology and facility expenses, partially offset by a decrease of $0.1 million in clinical studies and other research and development projects.

Research and development expenses increased $4.3 million, or 39%, to $15.2 million in the first nine months of 2012 from $10.9 million for the same period in 2011. Compared to the first nine months of 2011, employee payroll and related expenses increased by $4.3 million, which was mainly due to increased headcount resulting from research and development personnel acquired in our Liposonix acquisition. In addition, there was an increase of $0.3 million in clinical studies and other research and development projects, an increase of $0.1 million in amortization of intangibles acquired in the Liposonix acquisition, and an increase of $0.1 million in depreciation and allocated information technology and facility expenses, partially offset by a decrease of $0.5 million in professional outside services.

General and Administrative. General and administrative expenses consist primarily of personnel costs, legal and accounting fees, human resources costs and other general operating expenses. General and administrative expenses for the three months ended September 30, 2012 were $4.6 million, a decrease of $0.1 million, or 2%, compared with $4.7 million for the same period in 2011. The decrease from the prior year was due to a $1.1 million decrease in acquisition related expenses due to the acquisition of Liposonix in 2011, and a decrease of $0.1 million in depreciation and allocated information technology and facility expenses. These decreases were partially offset by an increase of $0.5 million in accounting and legal services, an increase of $0.4 million in employee payroll and related expenses resulting from higher stock-based compensation charges during the third quarter of 2012, an increase of $0.1 million in bad debt expense, and an increase of $0.1 million in product liability claims.

General and administrative expenses in the first nine months of 2012 was $13.8 million, an increase of $1.8 million, or 15%, compared with $12.0 million in the first nine months of 2011. The increase from the prior year period was due to an increase of $1.4 million in employee payroll and related expenses resulting from higher stock-based compensation charges during the first nine months of 2012, an increase of $1.1 million in professional outside services, primarily accounting and legal services, and an increase of $0.6 million in bad debt expense, partially offset by a decrease of $1.1 in acquisition related expense due to the acquisition of Liposonix in 2011 and a decrease of $0.2 million in product liability claims.

Remeasurement of contingent consideration liability. Remeasurement of the contingent consideration liability is the quarterly fair value adjustment of the contingent consideration liability associated with certain acquisitions. Adjustments can arise due to

18

Table of Contents

accretion of the liability as the Company approaches payment or for any changes to the assumptions used to measure the liability. For the three and nine months ended September 30, 2012, the contingent consideration fair value adjustment was $1.9 million and $32.6 million, respectively, associated with the acquisition of Liposonix, and for the three and nine months ended September 30, 2011, the fair value adjustment resulted in a credit of $0.4 million and $0.9 million, respectively, due to the reversal of the contingent consideration associated with the acquisition of CLRS. The increases to the contingent consideration liability recorded in the three and nine months ended September 30, 2012 are due primarily to our estimate of higher achievement in specified net sales and adjusted gross profit targets over the seven-year earnout period. The acquisition of Liposonix closed in the fourth quarter of 2011 and the CLRS closed in the fourth quarter of 2010.

Interest Income. Interest income consists primarily of interest income generated from our cash and cash equivalents. Interest income decreased $16,000, or 84%, to $3,000 for the three months ended September 30, 2012, from $19,000 for the same period in 2011, and decreased $44,000, or 85%, to $8,000 for the nine months ended September 30, 2012 from $52,000 for the same period in 2011. The decrease is primarily due to lower average cash and cash equivalent balances in the first nine months of 2012 when compared to the comparable period of the prior year.

Interest Expense. Interest expense consists primarily of interest expense resulting from borrowings on the line of credit and term loans. Interest expense increased by $361,000 to $377,000 for three month period ended September 30, 2012, from $16,000 for the same period in 2011, and increased by $980,000 to $1,078,000 for the nine months ended September 30, 2012 from $90,000 for the same period in 2011. The increase is primarily a result of the additional term loans entered into during the fourth quarter of 2011 in connection with the Liposonix acquisition and borrowings under the new subordinated debt facility we entered into in August 2012.

Other Income and Expense, net. Net other income and expense consists primarily of activity resulting from foreign exchange gains and losses. Net other income and expense was net income of $46,000 and a net expense of $306,000 in the three month period ended September 30, 2012 and 2011, respectively, and net expense of $101,000 and $188,000 in the nine months ended September 30, 2012 and 2011, respectively. The net expense increase during 2012 when compared to the prior year is primarily due to less foreign exchange gains resulting from currency fluctuations compared to the first nine months of 2011.

Income Tax Provision. There was an income tax provision of $56,000 and $10,000 for the three month period ended September 30, 2012 and 2011, respectively, and $177,000 and $146,000 for the nine months ended September 30, 2012 and 2011, respectively. The provisions for income taxes for the periods ended September 30, 2012 and 2011, primarily represents taxes in foreign and state jurisdictions.

Stock-Based Compensation

For the three and nine months ended September 30, 2012 and 2011 employee and non-employee stock-based compensation expense has been allocated as follows (in thousands):

	Three Months ended September 30,		Nine Months ended September 30,	
	2012	2011	2012	2011
Cost of revenue	$ 127	$ 105	$ 366	$ 269
Sales and marketing	249	192	715	611
Research and development	212	87	571	229
General and administrative	616	416	1,901	1,172
Total stock-based compensation expense	$ 1,204	$ 800	$ 3,553	$ 2,281

Reconciliation of GAAP to Non-GAAP Financial Measures

The following presentation includes non-GAAP measures. Our non-GAAP measures are not meant to be considered in isolation or as a substitute for comparable GAAP measures. The Company believes that non-GAAP measures have limitations in that they do not reflect all of the amounts associated with the Company s results of operation as determined in accordance with GAAP and that these measures should only be used to evaluate the Company s results of operations in conjunction with the corresponding GAAP measures.

The non-GAAP financial measures presented are non-GAAP gross margin, non-GAAP gross margin as a percentage of sales, non-GAAP operating income, non-GAAP adjusted EBITDA, non-GAAP net income and non-GAAP net income per share. These non-GAAP financial measures, as defined by us, are adjusted to exclude one or more of the following items: in process research and development, amortization of

acquired intangibles and other non-cash acquisition-related charges, severance expense, acquisition-related expenses, loss on investments and stock-based compensation expense.

Table of Contents

We use non-GAAP financial measures as performance measures to supplement the financial information we present on a GAAP basis. We believe these non-GAAP financial measures provide useful information to investors and management for the reasons stated below.

Non-GAAP gross margin and non-GAAP gross margin as a % of sales provide useful information to investors regarding our gross margin by excluding from cost of sales non-cash items like amortization of acquisition related intangibles and stock-based compensation expenses. These costs are generally fixed at the time of acquisition or when the stock-based award is granted, are then expensed or amortized over several years and generally cannot be changed or influenced by management after acquisition or once granted. We further believe that excluding these charges can provide useful information to investors for the reasons stated in the footnotes to these respective items in the presentation that follows.

Non-GAAP operating income reflects our ongoing business in a manner that allows for meaningful period-to-period comparison and analysis of trends in our business, as it excludes expenses that may not be regarded as reflective of ongoing operating results like severance expenses and acquisition related in-process research and development expenses, as well as those discussed in non-GAAP gross margin above. We further believe that excluding the identified expenses can provide useful information to investors for the reasons stated in the footnotes to these respective items in the presentation that follows.

Non-GAAP Adjusted EBITDA enables investors to assess our compliance with financial covenants under its debt instruments. Our credit facility loans have financial covenants that use non-GAAP adjusted EBITDA as part of the measure.

Non-GAAP net income and non-GAAP net income per share, by excluding non-cash and one-time expenses like those discussed in non-GAAP gross margin and non-GAAP operating income measures above, provide useful information to investors and others in understanding and evaluating our financial results and future prospects in the same manner as management and in comparing financial results across accounting periods.

Table of Contents

For a detailed explanation of the adjustments made to comparable GAAP measures and the reasons why management uses these adjustments, see items (1) (6) below.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2012	2011	2012	2011
GAAP Gross margin	$ 21,215	$ 17,892	$ 65,006	$ 54,516
GAAP gross margin as % of sales	61%	65%	62%	66%
Non-GAAP adjustments to gross margin:				
GAAP Gross margin	$ 21,215	$ 17,892	$ 65,006	$ 54,516
Amortization and other non-cash acquisition related charges *(1)*	1,374	844	4,407	2,533
Stock-based compensation *(4)*	127	105	366	269
Non-GAAP gross margin	$ 22,716	$ 18,841	$ 69,779	$ 57,318
Non-GAAP gross margin as % of sales	65%	69%	67%	69%
GAAP loss from operations	($ 2,494)	($ 832)	($ 36,615)	($ 2,004)
Non-GAAP adjustments to net income (loss) from operations:				
Amortization and other non-cash acquisition related charges *(1)*	1,729	1,128	5,475	3,330
Remeasurement of contingent consideration liability *(6)*	1,900	(394)	32,600	(878)
Acquisition-related expenses *(3)*	16	1,115	167	1,235
Severance expenses (credits) *(2)*	(18)		1	
Stock-based compensation *(4)*	1,204	800	3,553	2,281
Non-GAAP income from operations	$ 2,337	$ 1,817	$ 5,181	$ 3,964
Depreciation expenses *(5)*	943	733	2,818	2,278
Non-GAAP Adjusted EBITDA	$ 3,280	$ 2,550	$ 7,999	$ 6,242
GAAP net loss	($ 2,878)	($ 1,145)	($ 37,963)	($ 2,376)
Non-GAAP adjustments to net loss:				
Amortization and other non-cash acquisition related charges *(1)*	1,729	1,128	5,475	3,330
Remeasurement of contingent consideration liability *(6)*	1,900	(394)	32,600	(878)
Acquisition-related expenses *(3)*	16	1,115	167	1,235
Severance expenses (credits) *(2)*	(18)		1	
Stock-based compensation *(4)*	1,204	800	3,553	2,281
Non-GAAP net income	$ 1,953	$ 1,504	$ 3,833	$ 3,592
GAAP basic net loss per share	($ 0.04)	($ 0.02)	($ 0.60)	($ 0.04)
Non-GAAP adjustments to basic loss per share:				
Amortization and other non-cash acquisition related charges	$ 0.03	$ 0.02	$ 0.09	$ 0.06
Remeasurement of contingent consideration liability	$ 0.02	($ 0.01)	$ 0.51	(0.02)
Acquisition-related expenses	$ 0.00	$ 0.02	$ 0.00	$ 0.02

Severance expenses (credits)	$ 0.00	$ 0.00	$ 0.00	$ 0.00
Stock-based compensation	$ 0.02	$ 0.01	$ 0.06	$ 0.04
Non-GAAP basic net income per share	$ 0.03	$ 0.02	$ 0.06	$ 0.06
Non-GAAP diluted net income per share	$ 0.03	$ 0.02	$ 0.06	$ 0.06
GAAP weighted average shares outstanding used in calculating basic net loss per share	65,947,361	60,785,015	63,017,220	60,443,429
GAAP weighted average shares outstanding used in calculating diluted net loss per share	65,947,361	60,785,015	63,017,220	60,443,429
Adjustments for dilutive potential common stock	5,636,830	2,389,684	5,258,069	3,669,537
Weighted average shares outstanding used in calculating non-GAAP diluted net income per share	71,584,191	63,174,699	68,275,289	64,112,966

(1) *Amortization and other non-cash acquisition-related charges* are non-cash charges, such as amortization of acquired intangibles, that can be impacted by the timing and magnitude of our acquisitions. We consider our operating results without these charges when evaluating our ongoing performance and/or predicting our earnings trends, and therefore exclude such charges when presenting non-GAAP financial measures. We believe the assessment of our operations excluding these costs is relevant to our assessment of internal operations and comparisons to the performance of other companies in our industry.

Table of Contents

(2) *Severance expenses (credits)* include acquisition related severance expenses (credits) and are disregarded by our management when evaluating and predicting earnings trends because these charges are unique to specific acquisitions, and are therefore excluded by us when presenting non-GAAP financial measures.

(3) *Acquisition-related expenses* include direct costs of the acquisition and expenses related to acquisition integration activities. Examples of costs directly related to an acquisition include transaction fees, due diligence costs and certain legal costs related to acquired litigation which are included in general and administrative expenses in our statement of operations. These expenses vary significantly in size and amount and are disregarded by our management when evaluating and predicting earnings trends because these charges are unique to specific acquisitions, and are therefore excluded by us when presenting non-GAAP financial measures.

(4) *Stock-based compensation expense* consist of expense relating to stock-based awards issued to employees, outside directors and non employees including stock options, restricted stock units, restricted stock units with performance-based vesting and our Employee Stock Purchase Plan. Because of varying available valuation methodologies, subjective assumptions and the variety of award types, we believe that the exclusion of stock-based compensation expense allows for more accurate comparisons of our operating results to our peer companies, and for a more accurate comparison of our financial results to previous periods. In addition, we believe it is useful to investors to understand the specific impact of stock-based compensation expenses on our operating results.

(5) *Depreciation expense* includes depreciation and amortization of leasehold improvements, furniture and fixtures, machinery and equipment, software and computers and equipment. Our management excludes this charge from operating income (loss) to compute non-GAAP earnings before income taxes, depreciation and amortization.

(6) *Remeasurement of contingent consideration liability* is a non-cash charge relating to the fair value adjustment, at the end of the reporting period, of the contingent consideration liability associated with certain acquisitions. We consider our operating results without these charges when evaluating our ongoing performance and/or predicting our earnings trends, and therefore exclude such charges when presenting non-GAAP financial measures. We believe the assessment of our operations excluding these costs is relevant to our assessment of internal operations and comparisons to the performance of other companies in our industry.

Liquidity and Capital Resources

On September 30, 2012, we had working capital of $23.4 million, which included $38.5 million of cash and cash equivalents. In 2011, we substantially increased our outstanding indebtedness, and reduced our available cash balances, with our acquisition of Liposonix, and we expect to be required to make substantial future cash payments in respect of that transaction.

We entered into a Loan and Security Agreement (the Loan Agreement) with Silicon Valley Bank (the Lender) on March 9, 2009, with subsequent amendments through August 29, 2012. The amendments include increasing our revolving loan facility to $8 million.

On August 7, 2012, we sold an aggregate of 6,555,000 newly issued shares of our common stock in a firmly underwritten public offering. The sale of the securities resulted in net proceeds, after deducting offering expenses, of approximately $16.1 million.

On August 29, 2012, we entered into a Loan and Security Agreement with the Lender for a $10 million subordinated debt facility (the Subordinated Debt Facility). This Subordinated Debt Facility is in addition to the facilities available under the Loan Agreement. Borrowings under the Subordinated Debt Facility bear interest at a 7% fixed rate and is payable in equal monthly payments of principal and interest beginning on June 1, 2013 and ending on April 1, 2015, when the final two payments are due along with a final payment fee of $1 million and expenses of Lender. All obligations under the Subordinated Debt Facility are secured by substantially all of our personal property. The Subordinated Debt Facility does not contain any financial covenants. In connection with us committing to enter into the Subordinated Debt Facility, the Company issued a warrant to the Lender on July 26, 2012 for the purchase of 307,692 shares of the Company s common stock with an exercise price of $2.65 per share.

Table of Contents

On August 31, 2012, we drew down $10 million under the Subordinated Debt Facility to fund our ongoing operations and this amount remained outstanding at September 30, 2012.

At September 30, 2012, $0 was outstanding on the revolving loan facility and $28.5 million was outstanding as secured term loans under the credit facility and the Subordinated Debt Facility. As of September 30, 2012, the Loan Agreement contains financial covenants requiring us to maintain a minimum liquidity, a maximum leverage ratio and a minimum fixed charge coverage ratio. We were in compliance with these covenants as of September 30, 2012.

Our future capital requirements depend on a number of factors, including the rate of market acceptance of our current and future products, the resources we devote to developing new products and supporting existing products, the required ramp-up of inventory for new products, including in 2012, the Liposonix system, and contingent payments owed to Medicis from the Liposonix acquisition based on achievement against specified revenue and profit targets.

We expect to increase capital expenditures consistent with our anticipated growth in manufacturing, infrastructure and personnel. We also may increase our capital expenditures as we expand our product lines or invest to address new markets.

We believe that our current cash and cash equivalent balances and cash generated from operations, along with our existing revolving loan facility will meet our anticipated cash needs for working capital and capital expenditures for at least the next 12 months. Our future liquidity requirements may increase beyond currently expected levels if we fail to maintain compliance with covenants in our bank loan agreements or if unanticipated expenses or other uses of our cash arise. In addition, we achieved higher sales of the Liposonix products in the three and nine months ended September 30, 2012 than we had anticipated, and as a result, the fair value of our expected 2013 contingent payment obligation to Medicis is approximately $22.3 million. If sales of Liposonix products are higher than expected for the remainder of 2012 and during the remainder of the seven-year earn-out period, our contingent payment obligation to Medicis and our working capital requirements will grow beyond our current expectations. In such event we may need to secure additional financing beyond any cash generated from operations and cash available under our current credit facilities. Further, we have consummated acquisitions of other businesses in the past and continue to evaluate potential strategic acquisitions of complementary businesses, products or technologies. If we elect to complete additional acquisitions in the future our cash needs are likely to exceed the amount of cash we currently expect to have to fund our operations. In order to meet our future liquidity needs or to fund acquisitions, we may seek additional equity and/or debt financing. Additional financing may not be available on a timely basis on terms acceptable to us, or at all. Any future equity financing would result in dilution to our stockholders and future debt financing may subject us to restrictions on the operation of our business and on our ability to pursue business development opportunities. The availability of financing or merger opportunities will depend, in part, on market conditions, and the outlook for our company.

Net Cash provided by (Used in) Operating Activities. Net cash provided by operating activities was $3.0 million for the nine months ended September 30, 2012, compared to $2.9 million used in the nine months ended September 30, 2011. During the first nine months of 2012, cash was provided by a $0.8 million decrease in prepaid and other current assets, a $0.5 million increase in accounts payable, a $0.2 million increase in customer deposits, and $7.5 million in net cash provided from net loss after adjusting for non-cash items. These were partially offset by an increase of $3.9 million in accounts receivable, a $0.8 million increase in inventory attributable to the ramp-up of inventory for our new Clear + Brilliant and Liposonix products, a $0.8 million decrease in deferred revenue, and a $0.2 million decrease in accrued liabilities. During the first nine months of 2011, cash was used for a $4.5 million increase in inventory, a $2.5 million in increase in accounts receivable, a $0.6 million decrease in accrued liabilities, and a $0.8 million decrease in accounts payable. These were partially offset by $4.6 million in net cash provided from net loss after adjusting for non-cash items and an increase in deferred revenue of $1.1 million.

Net Cash Used in Investing Activities. Net cash used in investing activities was $2.1 million for the first nine months of 2012 compared with $1.2 million cash used in investing activities during the same period in 2011. During the first nine months of 2012 and 2011, net cash of $2.1 million and $1.2 million, respectively, was used for payments to acquire property and equipment.

Net Cash Provided by Financing Activities. Net cash provided by financing activities was $20.2 million for the first nine months of 2012 compared with $0.3 million of net cash provided by financing activities in the same period in 2011. During the first nine months of 2012, we completed a public offering of our common stock which resulted in net proceeds of $16.1 million in cash. We also drew down $10 million on our subordinated debt facility and received $0.6 million in proceeds from exercise of stock options and purchases under the employee stock purchase plan. These were offset partially by net payments of $6.1 million on our term and revolving loans and $0.5 million to settle tax obligations on behalf of our employees for the issuance of restricted stock units. During the first nine months of 2011, we received $1.4 million in proceeds from exercise of stock options and the employee stock purchase plan, and made net payments of $1.1 million on our term loans.

Table of Contents

We do not have any relationships with unconsolidated entities or financial partnerships, such as entities often referred to as structured finance or special purpose entities, which would have been established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes. In addition, we do not have any undisclosed borrowings or debt, and we have not entered into any synthetic leases. We are, therefore, not materially exposed to any financing, liquidity, market or credit risk that could arise if we engaged in such relationships.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Foreign Currency Risk

Currently, most of our sales and purchases are denominated in U.S. dollars, although, future fluctuations in the value of the U.S. dollar may affect the price competitiveness of our products. We do not believe, however, that we currently have significant direct foreign currency exchange rate risk and have not hedged exposures denominated in foreign currencies.

Interest Rate Risk

Changes in interest rates will impact our interest sensitive credit agreement and accordingly may impact interest expense. We have determined that if interest rates were to instantaneously increase (decrease) by 100 basis points, there would be no material impact to interest expense over a year period.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures. Our management evaluated, with the participation of our Chief Executive Officer and our Chief Financial Officer, the effectiveness of our disclosure controls and procedures (as defined in Rule 13a-15(e) of the Exchange Act of 1934, as amended) as of the end of the period covered by this Quarterly Report on Form 10-Q. Based on this evaluation, our Chief Executive Officer and our Chief Financial Officer have concluded that our disclosure controls and procedures are effective to ensure that information we are required to disclose in reports that we file or submit under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported within the time periods specified in Securities and Exchange Commission rules and forms, and that such information is accumulated and communicated to management including our Chief Executive Officer and our Chief Financial Officer as appropriate to allow for timely decisions regarding required disclosure.

Changes in Internal Control Over Financial Reporting. There was no change in our internal control over financial reporting (as defined in Rule 13a-15(f) of the Exchange Act) that occurred during the period covered by this Quarterly Report on Form 10-Q that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Table of Contents

PART II OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

The Company is involved in litigation as discussed in Note 7 of the Notes to the Financial Statements disclosed in this Company s Quarterly Report on Form 10-Q.

In addition, from time to time, we are subject to legal proceedings and claims with respect to such matters as patents, intellectual property rights, product liability claims and contractual disputes with distributors, suppliers and others, arising out of the normal course of business. Litigating claims of these types, whether or not ultimately determined in our favor or settled by us, is costly and diverts the efforts of management and other personnel from normal business operations. The results of legal proceedings cannot be predicted with certainty. The Company does not believe the final disposition of these matters will have a material effect on the financial statements and future cash flows of the Company.

ITEM 1A. RISK FACTORS

Item 1A. ***Risk Factors***

Risks Related to Our Business

Economic uncertainty has reduced and may continue to reduce patient demand for our products; if there is not sufficient patient demand for the procedures for which our products are used, practitioner demand for these systems could drop, resulting in unfavorable operating results.

The aesthetic industry in which we operate is particularly vulnerable to economic trends. The decision to undergo a procedure from one our systems is driven by consumer demand. Most procedures performed using our systems are elective procedures, the cost of which must be borne by the patient, and are not reimbursable through government or private health insurance. In times of economic uncertainty or recession, individuals often reduce the amount of money that they spend on discretionary items, including aesthetic procedures. The general economic difficulties being experienced by our customers and the lack of availability of consumer credit for some of our customers are adversely affecting the market in which we operate.

If the economic hardships our customers face continue or worsen, our business would be negatively impacted and our financial performance would be materially harmed in the event that any of the above factors discourage patients from seeking the procedures for which our products are used.

We are totally dependent upon the success of our systems, which have a limited commercial history. If our products fail to achieve sufficient market acceptance, our business will suffer.

We expect that sales of our systems, including our treatment tips, will account for substantially all of our revenue for the foreseeable future. We expect to continue to expand our line of systems and treatment tips. This may not occur when expected, or at all, which would negatively affect our anticipated revenue. Our systems may not significantly penetrate current or new markets. If demand for our systems does not increase as we anticipate, or declines, our business, financial condition and results of operations will be harmed.

Our financial results may fluctuate unpredictably, making it difficult to forecast future performance.

Our limited operating history makes it difficult for us to predict future performance. Historically, the demand for our systems has varied from quarter to quarter. A number of factors, over which we have limited or no control, may contribute to fluctuations in our financial results, such as:

- delays in receipt of anticipated purchase orders;

seasonal variations in patient demand for aesthetic procedures;

the impact of general economic conditions on the demand for aesthetic procedures;

performance of our independent distributors;

the lack of credit available to physicians to finance capital equipment purchases;

positive or negative media coverage of our products or products of our competitors or our industry;

our ability to obtain further regulatory clearances or approvals;

delays in, or failure of, product and component deliveries by our subcontractors and suppliers;

changes in the length of the sales process;

the costs of litigation claims or adverse outcomes from legal proceedings;

customer response to the introduction of new product offerings;

fluctuations in foreign currency; and

excess or obsolete inventory charges.

Our success depends on growing physician adoption of our systems and continued use of our treatment tips.

Our target physician customers typically already own one or more aesthetic device products. Our ability to grow our business and convince physicians to purchase our systems and products depends on the success of our clinical and sales and marketing efforts. Our business model involves both a capital equipment purchase of our systems and continued purchases by our customers of our treatment tips. This may be a novel business model for many potential customers who may be used to competing products that are either exclusively capital equipment, such as many laser-based systems, or that are exclusively single-use products, such as Botox or dermal fillers. In addition, the lack of credit available to physicians to finance the purchase of systems may also impact the adoption of these systems. We must be able to demonstrate that the cost of our systems and the revenue that the physician can derive from performing procedures using our products are compelling when compared to the cost and revenue associated with alternative products. When marketing to plastic surgeons, we must also, in some cases, overcome a bias against non-invasive or minimally invasive aesthetic procedures. If we are unable to increase physician adoption of our systems and use of our treatment tips, our financial performance will be adversely affected.

Table of Contents

We may not be able to achieve or sustain profitability even if we are able to generate significant revenue.

We incurred a loss of $1.3 million and $38.0 million for the year ended December 31, 2011 and the nine months ended September 30, 2012, respectively. In the past, we have expanded our business and increased our expenses in order to grow revenue. We will have to increase our revenue while effectively managing our expenses in order to achieve sustained profitability. Our failure to achieve or sustain profitability could negatively impact the market price of our common stock.

We are subject to fluctuations in the exchange rate of the U.S. dollar and foreign currencies.

As a result of recent fluctuations in currency markets, our products priced in U.S. dollars may be more expensive relative to products of our foreign competitors, which could result in lower revenue and profit margins. We do not actively hedge our exposure to currency rate fluctuations. While we transact business primarily in U.S. dollars, and a significant proportion of our revenue is denominated in U.S. dollars, a growing proportion of our revenue and costs is denominated in other currencies, such as the Australian Dollar, Euro, Japanese Yen, and British Pound Sterling. In addition, the functional currency of the Company s foreign subsidiaries is the U.S. dollar. As a result, our financial performance could be adversely affected by changes in the exchange rates of these currencies to the U.S. Dollar.

We may not be successful in selling and marketing our new products.

The commercial success of the products and technologies we develop will depend upon the acceptance of these products by physicians and their patients. It is difficult for us to predict how successful recently introduced products and procedures or products we are currently developing, will be over the long term. If the products we develop do not gain market acceptance, our revenues and operating results will suffer. In addition, we expect to face significant competition, in some cases from companies that are more established, market more widely known products and have greater resources than we do. We may not be able to differentiate our new products sufficiently from our competitors products to achieve significant market penetration. As a result of these factors, we may incur significant sales and marketing expenses for our new products without achieving commercial success, which could harm our business and our competitive position.

In addition, as new or enhanced products are introduced, we must successfully manage the transition from older products in order to minimize disruption in customers ordering patterns, avoid excessive levels of older product inventories, and ensure that enough supplies of new products can be delivered to meet customer demand.

The failure of our systems to meet patient expectations or the occurrence of unpleasant side effects from the procedures for which our products are used could impair our financial performance.

Our future success depends upon patients having a positive experience with the procedures for which our products are used in order to increase physician demand for our products, as a result of both individual patients repeat business and as a result of word-of-mouth referrals. We believe that patients may be dissatisfied with these procedures if they find them to be too painful. Furthermore, patients may experience temporary swelling or reddening of the skin as a procedural side effect. In rare instances, patients may receive burns, blisters, skin discoloration or skin depressions. Experiencing excessive pain or any of these side effects or adverse events could discourage a patient from having one of the procedures for which our products are used or discourage a patient from having additional procedures or referring these procedures to others. In order to generate repeat and referral business, we also believe that patients must be satisfied with the effectiveness of the procedures. Results obtained from the procedures for which our products are used are subjective and may be subtle. A product treatment may produce results that may not meet patients expectations. If patients are not satisfied with the procedure or feel that it is too expensive for the results obtained, our reputation and future sales will suffer.

The conditions of our secured term loan contain certain financial covenants with respect to our performance and other covenants that restrict our activities. If we are unable to comply with these covenants, we would have to negotiate an amendment to the loan agreement or the lender could accelerate the repayment of our indebtedness.

Our secured term loan contains certain financial covenants which require us to maintain a certain liquidity ratios and specified levels of EBITDA (as defined in the loan agreement) each fiscal quarter. We are also subject to restrictive covenants, including among others covenants that restrict our ability to incur additional indebtedness, to dispose of assets, to effect certain corporate transactions, including specified mergers or acquisitions, and to pay dividends. The loan agreement generally provides for customary events of default, including among others non-payment defaults, covenant defaults, and a default in the event a material adverse change occurs. There is no assurance that we will be able to comply with our financial covenants. Upon the occurrence of an event of default under the term loan, the lender will be entitled to acceleration of all obligations under the loan agreement and an obligation to repay all obligations in full and such event of default could result in an increase to the applicable interest rate of 5.00%. Any acceleration in the repayment of our indebtedness could adversely affect our business and financial

condition.

Table of Contents

We may face problems with our acquisition of Liposonix.

On November 1, 2011, we completed our acquisition of Liposonix, a developer, manufacturer and marketer of an ultrasound-based fat removal system, from Medicis.

We cannot be certain that this acquisition will be successful or that we will realize the anticipated benefits of the acquisition. In particular, we may not be able to realize the strategic and operational benefits and objectives we had anticipated, including greater revenue and market opportunities, maintaining industry leadership and consistent profitability. In addition, the demand for our combined product offerings may fluctuate and we may face increased competition in the markets for our products. Our agreement with Medicis requires us to make potentially significant future cash payments to Medicis over the next seven years, based on certain operating results of Liposonix. During the nine months ended September 30, 2012, we substantially increased our estimate of the future cash payments due to Medicis. Any of the following factors, as well as the inability to realize the long-term anticipated efficiencies and synergies of the acquisition of Liposonix, may have a material adverse effect on our business, operating results and financial condition. These factors may include:

- the potential disruption of the combined company s ongoing business and diversion of management resources;
- the difficulty of incorporating acquired products, technology and rights into the combined company s products and services;
- the inability to scale up the manufacturing of recently introduced products rapidly enough to satisfy initial demand;
- unanticipated expenses related to integration of operations;
- the possibility that we are unsuccessful in marketing directly to consumers, which is the market targeted by Liposonix;
- the impairment of relationships with customers as a result of any integration of new personnel;
- potential unknown liabilities associated with the acquired business and technology;
- potential periodic impairment of goodwill and intangible assets acquired;
- potential inability to retain, integrate and motivate key personnel; and
- delays in cash collections associated with the Liposonix business that impact our ability to pay Medicis the contingent payments that are based on the results of the Liposonix business in the future.

We have grown, and may continue to grow, through acquisitions, which gives rise to risks and challenges that could adversely affect our future financial results.

We have in the past acquired, and we expect to acquire in the future, other businesses, business units, and technologies. Acquisitions can involve a number of special risks and challenges, including:

complexity, time, and costs associated with the integration of acquired business operations, workforce, products, and technologies;

diversion of management time and attention;

loss or termination of employees, including costs associated with the termination or replacement of those employees;

assumption of liabilities of the acquired business, including litigation related to the acquired business;

addition of acquisition-related debt as well as increased expenses and working capital requirements;

dilution of stock ownership of existing stockholders; and

substantial accounting charges for restructuring and related expenses, write-off of in-process research and development, amortization of intangible assets, and stock-based compensation expense.

Table of Contents

If integration of our acquired businesses is not successful, we may not realize the potential benefits of an acquisition or may suffer other adverse effects. To integrate acquired businesses, we must implement our technology systems in the acquired operations and integrate and manage the personnel of the acquired operations. We also must effectively integrate the different cultures of acquired business organizations into our own in a way that aligns various interests, and may need to enter new markets in which we have no or limited experience and where competitors in such markets have stronger market positions.

We have substantial amounts of goodwill and purchased intangible assets from prior acquisitions. We test goodwill for impairment at least annually and more frequently if events or changes in circumstances indicate that this asset may be impaired and we review purchased intangible assets for impairment whenever events or changes in business circumstances indicate that the carrying amount of the assets may not be fully recoverable. We may be required to record impairment charges in the future with respect to these assets recorded from past or future acquisitions.

Any of the foregoing, and other factors, could harm our ability to achieve anticipated levels of profitability from acquired businesses or to realize other anticipated benefits of acquisitions.

We may incur goodwill impairment charges that would adversely affect our operating results.

We review goodwill for impairment annually and more frequently if events and circumstances indicate that impairment possibly exists. Factors we would consider important that could trigger an impairment review include, but are not limited to, a significant decline in our stock price for a sustained period and decreases in our market capitalization below the recorded amount of our net assets for a sustained period. Our stock price is highly volatile and has experienced significant declines in the past. We performed our annual review of goodwill as of December 31, 2011 and we determined that an impairment charge was not required. If we have indicators of impairment and assess that the fair value of the company is below the carrying value, an impairment of goodwill may result. The balance of goodwill was $96.6 million as of September 30, 2012, and there can be no assurance that future goodwill impairments will not occur.

We may fail to effectively build and manage our sales force or to market and distribute our products.

We rely on a direct sales force to sell our products in the United States and in certain international regions. As the Company grows, we expect to grow or realign our sales organization to meet our anticipated sales objectives. There are significant risks involved in building and managing our sales organization, including risks related to our ability to:

- hire qualified individuals as needed;
- provide adequate training for the effective sale of our products; and
- retain and motivate our sales employees.

In addition, sales to non-traditional practitioners of aesthetic procedures are a key element of our growth strategy. However, our sales force historically has sold primarily to dermatologists and plastic surgeons. Also, our systems compete with products that are well-established in the market. Accordingly, it is difficult for us to predict how well our sales force will perform. Our failure to adequately address these risks could have a material adverse effect on our ability to sell our products, causing our revenue to be lower than expected and harming our results of operations.

We may be required to raise additional capital and/or debt financing on unfavorable terms.

We substantially increased our outstanding indebtedness, and reduced our available cash balances, with our acquisition of Liposonix, and we expect to make substantial future cash payments in respect of that transaction. During the nine months ended September 30, 2012, we substantially increased our estimate of the future cash payments due to Medicis. In addition, we borrowed $10 million under a new subordinated debt facility in August 2012 and must commence the repayment of this facility and related fees over a period from June 1, 2013 to April 1, 2015. Further, if we fail to achieve sustained profitability and positive cash flow or if unanticipated expenses or other uses of cash arise, our liquidity needs may exceed our cash and cash equivalents and available credit facilities and Subordinated Debt Facility we entered into in August 2012. In order to meet our liquidity needs, we may be required to seek additional equity and/or debt financing such as the sale of our common stock in

the public offering that we completed in August 2012. Additional financing may not be available on a timely basis on terms acceptable to us, or at all, particularly in the short-term due to the current credit and equity market funding environments. The availability of financing will depend, in part, on market conditions, and the outlook for our company. Any future equity financing would result in substantial dilution to our stockholders. If we raise additional funds by issuing debt, we may not be able to obtain such debt with favorable terms, and we may be subject to limitations on our operations, through debt covenants or other restrictions. If adequate funds are not available with favorable terms, we may have to delay development of new products or reduce marketing, customer support or other resources devoted to our products. In addition, if we are unable to obtain financing as needed, we may come into breach of our outstanding loan covenants. Any of these factors could harm our business and financial condition.

Table of Contents

We may be involved in intellectual property litigation, which could be costly and time consuming, and may impact our future business and financial performance.

Litigation related to infringement and other intellectual property claims, with or without merit, is unpredictable, can be expensive and time-consuming and could divert management s attention from our core business. If we lose this kind of litigation, a court could require us to pay substantial damages, and prohibit us from using technologies essential to our products, any of which would have a material adverse effect on our business, results of operations and financial condition. We do not know whether necessary licenses would be available to us on satisfactory terms, or whether we could redesign our products or processes to avoid infringement.

Our industry has been characterized by frequent intellectual property litigation. Our competitors or other patent holders may assert that our products and the methods we employ are covered by their patents, and we have, from time to time, received notices of potential infringement by us of other parties patents. If our products or methods are found to infringe, we could be prevented from marketing them. In addition, we do not know whether our competitors or potential competitors have applied for, or will apply for or obtain, patents that will prevent, limit or interfere with our ability to make, use, sell, import or export our products. Competing products may also appear in other countries in which our patent coverage might not exist or be as strong. If we lose a foreign patent lawsuit, we could be prevented from marketing our products in one or more countries.

In addition, we may hereafter become involved in litigation to protect our trademark rights associated with our company name or the names used with our products. Names used with our products and procedures may be claimed to infringe names held by others or to be ineligible for proprietary protection. If we have to change the name of our company or products, we may experience a loss in goodwill associated with our brand name, customer confusion and a loss of sales.

We are involved in litigation relating to our acquisition of Reliant Technologies, Inc., which could be costly and time consuming.

On December 21, 2009, a complaint was filed in the Santa Clara County Superior Court by three former stockholders of Reliant Technologies, Inc. against Reliant and certain former officers and directors of Reliant in connection with our acquisition of Reliant, which closed on December 23, 2008. The complaint purports to be brought on behalf of the former common stockholders of Reliant. As a result of the acquisition, a successor entity to Reliant, Reliant Technologies, LLC, became our wholly-owned subsidiary. One member of the Company s Board of Directors and the Company s former Chief Technology Officer and former member of the Company s Board of Directors are among the defendants named in the complaint. The principal claim, among others, is that Reliant violated the California Corporations Code by failing to obtain the vote from a majority of holders of Reliant s common stock prior to the consummation of the acquisition. The complaint also purports to challenge disclosures made by Reliant in connection with its entry into the acquisition and that the defendants failed to maximize the value of Reliant for the benefits of Reliant s common stockholders. On August 2, 2010, defendants filed a motion to dismiss or stay the entire action based on a mandatory forum selection clause in the merger agreement which requires that claims related to the merger be litigated in Delaware. On September 28, 2010, the Court granted the defendants motion to dismiss or stay, and stayed the action indefinitely. On January 20, 2012, the Court dismissed plaintiffs case without prejudice. Plaintiffs have appealed. To date, the plaintiffs have not filed a complaint against the defendants in Delaware. We believe that this suit is without merit, and we intend to vigorously defend it. Although we do not expect that the final disposition of this litigation will have a material effect on our financial results, we may have to devote certain personnel and resources to resolve this litigation.

From time to time we are a party to lawsuits, which often require significant management time and attention and result in significant legal expenses, and which could, if not determined favorably, negatively impact our business, financial condition, results of operations, and cash flows.

From time to time, including at the present time, we are a party to litigation with respect to the conduct of our business, including the conduct of business by companies we have acquired. The expense of defending such litigation may be costly and divert management s attention from the day-to-day operations of our business, which could adversely affect our business, results of operations, and cash flows. In addition, an unfavorable outcome in such litigation could result in significant monetary damages or injunctive relief that could negatively impact our ability to conduct our business, results of operations, and cash flows.

Intellectual property rights may not provide adequate protection for our products, which may permit third parties to compete against us more effectively.

We rely on a combination of patent, copyright, trademark and trade secret laws and confidentiality and invention assignment agreements to protect our intellectual property rights. As of September 30, 2012, we had 122 issued U.S. patents, 82 pending U.S. patent applications, 88 issued foreign patents and 148 pending foreign patent applications, some of which foreign applications preserve an opportunity to pursue patent

rights in multiple countries. Some of our system components are not, and in the future may not be, protected by patents. Additionally, our patent applications may not issue as patents or, if issued, may not issue in a

Table of Contents

form that will be advantageous to us. Any patents we obtain may be challenged, invalidated or legally circumvented by third parties. Consequently, competitors could market products and use manufacturing processes that are substantially similar to, or superior to, ours. We may not be able to prevent the unauthorized disclosure or use of our technical knowledge or other trade secrets by consultants, vendors, former employees or current employees, despite the existence generally of confidentiality agreements and other contractual restrictions. Monitoring unauthorized uses and disclosures of our intellectual property is difficult, and we do not know whether the steps we have taken to protect our intellectual property will be effective. Moreover, we do not have patent rights in all foreign countries in which a market may exist, and where we have applied for foreign patent rights, the laws of many foreign countries will not protect our intellectual property rights to the same extent as the laws of the United States.

In addition, competitors could purchase our systems and attempt to replicate some or all of the competitive advantages we derive from our development efforts, willfully infringe our intellectual property rights, design around our protected technology or develop their own competitive technologies that fall outside of our intellectual property rights. If our intellectual property is not adequately protected so as to protect our market against competitors products and methods, our competitive position could be adversely affected, as could our business.

Performing clinical studies on, and collecting data from the procedures for which our products are used is inherently subjective, and we have limited data regarding the efficacy of our systems. If future data is not positive or consistent with our prior experience, rates of physician adoption will likely be harmed.

We believe that in order to significantly grow our business, we will need to conduct future clinical studies of the effectiveness of our systems. Clinical studies of aesthetic treatments are subject to a number of limitations. First, these studies do not involve well-established objective standards for measuring the effectiveness of treatment. Subjective, before and after, evaluation of the extent of change in the patient s appearance, performed by a medical professional or by the patient, is the most common method of evaluating effectiveness. A clinical study may conclude that a treatment is effective even if the change in appearance is subtle and not long-lasting. Second, as with other non-invasive or minimally invasive energy-based devices, the effects of the procedures for which our products are used vary from patient to patient and can be influenced by a number of factors, including the area of the body being treated, the age and skin laxity of the patient and operator technique.

We have not conducted any head-to-head clinical studies that compare results from treatment with our systems to surgery or treatment with other aesthetic devices. Without head-to-head studies against competing alternative treatments, potential customers may not find clinical studies of our technology sufficiently compelling to purchase our systems. If we decide to pursue additional studies in the future, they could be expensive and time consuming, and the data collected may not produce favorable or compelling results. If the results of such studies do not meet physicians expectations, our systems may not become widely adopted, physicians may recommend alternative treatments for their patients, and our business may be harmed.

To successfully market and sell our systems internationally, we must address many issues with which we have limited experience.

Sales outside of North America accounted for 55%, 55% and 53% of our revenue for the years ended December 31, 2011, 2010 and 2009. We believe that a significant portion of our business will continue to come from international sales through increased penetration in countries where we currently sell our products, combined with expansion into new international markets. However, international sales are subject to a number of risks, including:

- difficulties in staffing and managing our international operations;
- difficulties in penetrating markets in which our competitors products are more established;
- reduced or no protection for intellectual property rights in some countries;
- export restrictions, trade regulations and foreign tax laws;

regulation of the sale of the hydroflurocarbon used with our Thermage and Isolaz systems;

fluctuating foreign currency exchange rates;

foreign certification and regulatory clearance or approval requirements;

difficulties in developing effective marketing campaigns for unfamiliar, foreign countries;

dependence on third-party distributors in some territories;

Table of Contents

customs clearance and shipping delays;

political and economic instability;

natural disasters (such as earthquakes, hurricanes, tsunamis, floods or storms);

preference for locally produced products;

business interruption resulting from transitioning to direct sales from international distributors in certain international regions; and

difficulties in getting distributors to relinquish regulatory documentation.

If one or more of these risks were realized, it could require us to dedicate significant resources to remedy the situation, and if we are unable to find a solution, our revenue may decline.

The earthquake, tsunami and subsequent problems affecting nuclear power plants in Japan could have a negative impact on our international sales, our supply chain, our ability to deliver products, the cost of our products, and the demand for our products. As a result of these events, we may, in the future, encounter reduced demand from our Japanese customers and distributors. In addition, even if supply is not interrupted or delayed, or demand from Japanese customers and distributors is not reduced, shortages of key items in Japan may result in price increases, which our suppliers in Japan may seek to pass on to us. In addition, our suppliers outside of Japan may be unable to produce finished components as a result of Japanese related supply chain disruptions. Any such occurrences could have a material adverse effect on our business, our results of operations and our financial condition.

To market and sell our products internationally, we depend on distributors, and they may not be successful.

We currently depend primarily on third-party distributors to sell and service our products internationally and to train our international customers, and if these distributors terminate their relationships with us or under-perform we may be unable to maintain or increase our level of international revenue. We will also need to engage additional international distributors to grow our business and expand the territories in which we sell our systems. Distributors may not commit the necessary resources to market, sell and service our products to the level of our expectations. If current or future distributors do not perform adequately, or if we are unable to engage distributors in particular geographic areas, our revenue from international operations will be adversely affected. In addition, from time to time, legal disputes arise when we wish to discontinue a distributor relationship in a given territory or otherwise feel a distributor is not performing adequately. Such disputes have led to legal proceedings that are costly to litigate and that could result in outcomes that are not favorable to us.

We face significant uncertainty in the industry due to government healthcare reform.

Political, economic and regulatory influences are subjecting the healthcare industry to fundamental changes. The Patient Protection and Affordable Care Act (the Healthcare Act) signed into law in March 2010 enacted sweeping reforms to the U.S. healthcare industry, including mandatory health insurance, reforms to Medicare and Medicaid, the creation of large insurance purchasing groups, new taxes on medical equipment manufacturers and other significant modifications to the healthcare delivery system. Due to uncertainties regarding the ultimate features of the new federal legislation and its implementation, we cannot predict what impact the Healthcare Act may have on us, our customers or our industry. A material amount of our sales could be subject to the medical device excise tax included in the Healthcare Act, which is a 2.3% tax to be levied on the total domestic sales of medical devices, irrespective of a company s profitability. The excise tax provisions are scheduled to go into effect January 1, 2013.

We compete against companies that have more established products, longer operating histories and greater resources, which may prevent us from achieving significant market penetration or increased operating results.

The aesthetics market is highly competitive and dynamic, and is marked by rapid and substantial technological development and product innovations. Demand for our products could be diminished by equivalent or superior products and technologies offered by competitors. Specifically, our products compete against a variety of offerings in the aesthetics market, including laser and other light-based medical devices,

pharmaceutical products such as Botox, filler injections, chemical peels, microdermabrasion, liposuction, cosmetic surgical procedures and less invasive surgical solutions such as implanted sutures. We compete against products and procedures using laser, light-based, RF, ultrasound, and other aesthetic energy modalities for skin resurfacing and rejuvenation, skin tightening, body contouring, and acne treatment from companies such as Alma Laser, Cutera, Cynosure, Erchonia, Lumenis, Lutronic, Palomar, MedixSysteme, Real Aesthetics, Sciton, Sybaritic, Syneron, Ulthera, Ultrashape, and Zeltiq. Our consumer device competes against companies that offer laser, LED and other aesthetic energy devices for skin rejuvenation and acne treatment such as Clarisonic, Palomar, PhotoMedex, Syneron, Tria Beauty and Zeno.

Table of Contents

Competition in the aesthetics market could result in price-cutting, reduced profit margins and loss of market share, any of which would harm our business, financial condition and results of operations. Our ability to compete effectively depends upon our ability to distinguish our company and our products from our competitors and their products, and on such factors as:

- safety and effectiveness;
- product pricing;
- success of our marketing initiatives;
- compelling clinical data;
- intellectual property protection;
- quality of customer support; and
- development of successful distribution channels, both domestically and internationally.

Some of our competitors have more established products and customer relationships than we do, which could inhibit our market penetration efforts. For example, we have encountered, and expect to continue to encounter, situations where, due to pre-existing relationships, potential customers decided to purchase additional products from our competitors. Potential customers also may need to recoup the cost of expensive products that they have already purchased from our competitors and thus may decide not to purchase our products, or to delay such purchase. If we are unable to achieve continued market penetration, we will be unable to compete effectively and our business will be harmed.

In addition, some of our current and potential competitors have significantly greater financial, research and development, manufacturing, and sales and marketing resources than we have. Our competitors could utilize their greater financial resources to acquire other companies to gain enhanced name recognition and market share, as well as new technologies or products that could effectively compete with our existing product lines. Given the relatively few competitors currently in the market, any business combination could exacerbate any existing competitive pressures, which could harm our business.

Competition among providers of devices for the aesthetics market is characterized by rapid innovation, and we must continuously develop new products or our revenue may decline.

While we attempt to protect our products through patents and other intellectual property rights, there are few barriers to entry that would prevent new entrants or existing competitors from developing products that compete directly with ours. If we continue to create market demand for non-surgical, non-invasive or minimally invasive treatments, competitors will enter the market with other products making similar or superior claims. We expect that any competitive advantage we may enjoy from our current and future innovations may diminish over time, as companies successfully respond to our, or create their own, innovations. Consequently, we believe that we will have to continuously innovate and improve our products and technology to compete successfully. If we are unable to innovate successfully, our systems could become obsolete and our revenue will decline as our customers purchase competing products.

Our products may have undetected and unforeseen design flaws, and may experience failures particularly when first introduced, or at any time during their lifecycle. Any product recall as a result of flaws or failures could result in the loss of or delays in market acceptance of our products and adversely affect our business and reputation. Correcting defects can be time consuming. Any significant returns or warranty claims could result in significant additional costs to us and could adversely affect our results of operations.

Negative publicity regarding our current or future products and procedures could harm demand, which would adversely affect sales and our financial performance.

We have in the past experienced, and expect that in the future we will experience, negative media exposure. Such publicity may present negative individual physician or patient experience regarding the safety or effectiveness of our procedures. Competitors could attempt to use such publicity to harm our reputation and disrupt current or potential future customer relationships. While, to date, we have not observed a material impact on our quarterly financial results of operations from negative publicity, future results could be negatively impacted. Additionally, while we believe that obtaining positive publicity is important to our success, and it is an important component of our marketing efforts, we have also not observed a material impact on our quarterly financial results of operations from positive publicity.

Table of Contents

Our reputation and competitive position may be harmed not only by negative media exposure, but also by other publicly-available information suggesting that our procedures are not safe. For example, we file reports with the FDA that are publicly available on the FDA s website if our products may have caused or contributed to a serious injury or malfunctioned in a way that would likely cause or contribute to a serious injury if it were to recur. Competitors may attempt to harm our reputation by pointing to isolated injuries that have been reported or publicized, or by claiming that their product is superior because they have not filed as many reports with the FDA. Such negative publicity and competitor behavior could harm our reputation and our future sales.

Our manufacturing operations and those of our key manufacturing subcontractors are dependent upon third-party suppliers, making us vulnerable to supply shortages and price fluctuations, which could harm our business.

Several components and materials that comprise our products are currently manufactured by a single supplier or a limited number of suppliers. In many of these cases, we have not yet qualified alternate suppliers and rely upon purchase orders, rather than long-term supply agreements. A supply interruption or an increase in demand beyond our current suppliers capabilities could harm our ability to manufacture our products until new sources of supply are identified and qualified. Our reliance on these suppliers subjects us to a number of risks that could harm our business, including:

- interruption of supply resulting from modifications to or discontinuation of a supplier s operations;
- delays in product shipments resulting from uncorrected defects, reliability issues or a supplier s variation in a component;
- a lack of long-term supply arrangements for key components with our suppliers;
- inability to obtain adequate supply in a timely manner, or to obtain adequate supply on commercially reasonable terms;
- difficulty locating and qualifying alternative suppliers for our components in a timely manner;
- production delays related to the evaluation and testing of products from alternative suppliers, and corresponding regulatory qualifications;
- delay in delivery due to our suppliers prioritizing other customer orders over ours;
- damage to our brand reputation caused by defective components produced by our suppliers;
- interruption or delay of supply due to a natural disaster affecting supplier s operations;
- increased cost of our warranty program due to product repair or replacement based upon defects in components produced by our suppliers; and
- fluctuation in delivery by our suppliers due to changes in demand from us or their other customers.

Any interruption in the supply of components or materials, or our inability to obtain substitute components or materials from alternate sources at acceptable prices in a timely manner, could impair our ability to meet the demand of our customers, which would have an adverse effect on our

business.

If, in the future, we decide to perform additional manufacturing functions internally that we currently outsource, our business could be harmed by our limited manufacturing experience and related capabilities.

We currently perform certain value-added and proprietary manufacturing processes internally at our principal facility, and we outsource the manufacture of components, subassemblies and certain finished products to a limited number of third parties. For financial or operational purposes, we may elect to perform additional component or system manufacturing functions internally. In that event, we may face a number of challenges beyond those that we currently address in our internal assembly, inspection, testing and certification activities. Implementing complex or specialized manufacturing processes could lead to difficulties in producing sufficient quantities of manufactured items that meet our quality standards and that comply with applicable regulatory requirements in a timely and cost-effective manner. In addition, if we experience these types of internal manufacturing difficulties, it may be expensive and time consuming to engage a new or previous subcontractor or supplier to fulfill our replacement manufacturing needs. The occurrence of any of these events could harm our business.

Problems in our manufacturing processes, or those of our manufacturing subcontractors, that lead to an actual or possible malfunction in our products, may require us to recall products from customers and could disrupt our operations. Our results of operations, our reputation and market acceptance of our products could be harmed if we encounter difficulties in manufacturing that result in a recall or patient injury, and delays in our ability to fill customer orders.

Table of Contents

We outsource the repair of key elements of some products to sole-source service subcontractors.

We outsource the repair of certain key elements of our systems to sole source contract service providers. If the operations of those service subcontractors are interrupted, we may be limited in our ability to repair equipment. Our service subcontractors are dependent on trained technical labor to effectively repair our products. In addition, our service subcontractors may be operating as medical device manufacturers and as such are required to demonstrate and maintain compliance with the Quality System Review (QSR). If our service subcontractors fail to comply with the QSR, repair operations could be affected and our ability to repair certain systems may be impaired.

We may not be able to develop an alternative cooling system that will be in compliance with changing environmental regulations in a timely or cost-effective manner.

The cooling capability of our Thermage and Isolaz systems relies upon a hydroflurocarbon, or HFC, called R134a, to protect the outer layer of the skin from over-heating while our device delivers RF energy to the subcutaneous tissue. New environmental regulations phasing out certain HFCs over the next decade have been adopted or are under consideration in a number of countries, and recent European Union directives require the phase-out of certain HFCs. We have also put in place a solution for the European Union import restrictions. If we are unable to develop an alternative cooling system for our device which is not dependent on R134a in a timely or cost-effective manner, our Thermage and Isolaz systems may not be in compliance with environmental regulations, which could result in fines, civil penalties and the inability to sell our products in certain major international markets.

We forecast sales to determine requirements for components and materials used in our systems, and if our forecasts are incorrect, we may experience delays in shipments or increased inventory costs.

We keep limited materials, components and finished product on hand. To manage our manufacturing operations with our suppliers, we forecast anticipated product orders and material requirements to predict our inventory needs up to six months in advance and enter into purchase orders on the basis of these requirements. Our limited historical experience may not provide us with enough data to accurately predict future demand. If our business expands, our demand for components and materials would increase and our suppliers may be unable to meet our demand. If we overestimate our component and material requirements, we will have excess inventory, which would increase our expenses. If we underestimate our component and material requirements, we may have inadequate inventory, which could interrupt, delay or prevent delivery of systems to our customers. Any of these occurrences would negatively affect our financial performance and the level of satisfaction our customers have with our business.

Even though we require training for users of our professional systems, there exists a potential for misuse, which could harm our reputation and our business.

U.S. federal regulations allow us to sell our professional systems to licensed practitioners. The definition of licensed practitioners varies from state to state. As a result, our professional systems may be operated by licensed practitioners with varying levels of training, and in many states by non-physicians, including physician assistants, registered nurses and nurse practitioners. Thus, in some states, the definition of licensed practitioner may result in the legal use of our professional products by non-physicians. Outside the United States, our independent distributors sell in many jurisdictions that do not require specific qualifications or training for purchasers or operators of products. We do not supervise the procedures performed with our professional systems, nor can we be assured that direct physician supervision of our equipment occurs according to our recommendations. We, and our distributors, require purchasers of our professional products to undergo an initial training session as a condition of purchase, but do not require ongoing training. In addition, we prohibit the sale of our professional systems to companies that rent our systems to third parties without our approval, but cannot prevent an otherwise qualified physician from contracting with a rental company in violation of their purchase agreement with us. The use of our professional systems by non-physicians, as well as noncompliance with the operating guidelines set forth in our training programs, may result in product misuse and adverse treatment outcomes, which could harm our reputation and expose us to costly product liability litigation.

Product liability suits could be brought against us due to defective design, labeling, material or workmanship, or misuse of our products, and could result in expensive and time-consuming litigation, payment of substantial damages and an increase in our insurance rates.

If our products are defectively designed, manufactured or labeled, contain defective components or are misused, we may become subject to substantial and costly litigation by our customers or their patients. For example, as described under Legal Proceedings, one such litigation matter is currently pending. Misusing our products or failing to adhere to operating guidelines could cause significant skin damage and underlying tissue damage. In addition, if our operating guidelines or product design are found to be inadequate, we may be subject to liability. We have been, continue to be and may, in the future, be involved in litigation related to the use of our products. Product liability claims could divert

management s attention from our core business, be expensive to defend and result in sizable damage awards against us. We may not have sufficient insurance coverage for all future claims. We may not be able to obtain insurance in amounts or scope sufficient to provide us with adequate coverage against all potential liabilities. Any product

Table of Contents

liability claim brought against us, with or without merit, could increase our product liability insurance rates or prevent us from securing continuing coverage, could harm our reputation in the industry and reduce product sales. Product liability claims in excess of our insurance coverage would be paid out of cash reserves, harming our financial condition and reducing our operating results.

After-market modifications to our treatment tips by third parties and the development of counterfeit treatment tips could reduce our sales, expose us to product liability litigation and dilute our brand quality.

Third parties have introduced adulterated after-market modifications to our treatment tips which have enabled re-use of our treatment tips in multiple procedures. Because our treatment tips are designed to withstand a finite number of firings, modifications intended to increase the number of firings could result in patient injuries caused by the use of worn-out or damaged treatment tips. In addition, third parties may seek to develop counterfeit treatment tips that are compatible with our systems and available to practitioners at lower prices than our own. If security features incorporated into the design of our systems are unable to prevent after-market modifications to our treatment tips or the introduction of counterfeit treatment tips, we could be subject to reduced treatment tip sales, product liability lawsuits resulting from the use of damaged or defective goods and damage to our reputation for providing a quality product.

We depend on skilled and experienced personnel to operate our business effectively. If we are unable to recruit, hire and retain these employees, our ability to manage and expand our business will be harmed, which would impair our future revenue and profitability.

Our success largely depends on the skills, experience and efforts of our officers and other key employees. Many of our officers and key employees do not have employment contracts with us and can terminate their employment at any time. The loss of any of our senior management team members could weaken our management expertise and harm our business.

Our ability to retain our skilled labor force and our success in attracting and hiring new skilled employees will be a critical factor in determining whether we will be successful in the future. We may not be able to meet our future hiring needs or retain existing personnel. We will face particularly significant challenges and risks in hiring, training, managing and retaining engineering and sales and marketing employees, as well as independent distributors, most of whom are geographically dispersed and must be trained in the use and benefits of our products. Failure to attract and retain personnel, particularly technical and sales and marketing personnel, would materially harm our ability to compete effectively and grow our business.

Risks Related to Regulatory Matters

If we fail to obtain and maintain necessary FDA clearances for our systems and indications, if clearances for future products and indications are delayed, not issued or rescinded or if there are federal or state level regulatory changes, our commercial operations would be harmed.

Our systems are medical devices that are subject to extensive regulation in the United States by the FDA for manufacturing, labeling, sale, promotion, distribution and shipping. Before a new medical device, or a new use of or claim for an existing product, can be marketed in the United States, it must first receive either 510(k) clearance or premarket approval from the FDA, unless an exemption applies. Either process can be expensive and lengthy. The FDA s 510(k) clearance process usually takes from three to six months from the time the application is filed with the FDA, but it can take significantly longer. The process of obtaining premarket approval is much more costly and uncertain than the 510(k) clearance process, and it generally takes from one to three years, or even longer, from the time the application is filed with the FDA.

Medical devices may be marketed only for the indications for which they are approved or cleared. We have obtained 510(k) clearance for various indications for our Thermage and Fraxel systems. In addition, 510(k) clearance has been obtained for various indications of our recently acquired Isolaz systems, CLARO products and Liposonix systems. However, our clearances can be revoked if safety or effectiveness problems develop. We are also subject to Medical Device Reporting regulations, which require us to report to the FDA if our product causes or contributes to a death or serious injury, or malfunctions in a way that would likely cause or contribute to a death or serious injury if the malfunction were to recur. Our products are also subject to state regulations which are, in many instances, in flux. Changes in state regulations may impede sales. For example, federal regulations allow our systems to be sold to, or on the order of, licensed practitioners, as determined on a state-by-state basis. As a result, in some states, non-physicians may legally purchase and operate our systems. However, a state could change its regulations at any time, disallowing sales to particular types of end users. We cannot predict the impact or effect of future legislation or regulations at the federal or state levels.

The FDA and state authorities have broad enforcement powers. Our failure to comply with applicable regulatory requirements could result in enforcement action by the FDA or state agencies, which may include any of the following sanctions:

warning letters, fines, injunctions, consent decrees and civil penalties;

repair, replacement, refunds, recall or seizure of our products;

Table of Contents

operating restrictions or partial suspension or total shutdown of production;

refusing our requests for 510(k) clearance or premarket approval of new products, new intended uses or modifications to our existing products;

withdrawing 510(k) clearance or premarket approvals that have already been granted; and

criminal prosecution.

If any of these events were to occur, our business could be harmed.

If we modify our FDA-cleared devices, we may need to seek and obtain new clearances, which, if not granted, would prevent us from selling our modified product or require us to redesign our product.

Any modification to an FDA-cleared device that would significantly affect its safety or effectiveness or that would constitute a change in its intended use would require a new 510(k) clearance or possibly a premarket approval. We may not be able to obtain additional 510(k) clearances or premarket approvals for new products or for modifications to, or additional indications for, our existing products in a timely fashion, or at all. Delays in obtaining future clearances would adversely affect our ability to introduce new or enhanced products in a timely manner, which in turn would harm our revenue and potential future profitability. We have made modifications to our devices in the past and may make additional modifications in the future that we believe do not or will not require additional clearances or approvals. If the FDA disagrees, and requires new clearances or approvals for the modifications, we may be required to recall and to stop marketing the modified devices, which could harm our operating results and require us to redesign our products.

If we or our suppliers and subcontractors fail to comply with the QSR, our business would suffer.

We and our suppliers and subcontractors are required to demonstrate and maintain compliance with the QSR. The QSR is a complex regulatory scheme that covers the methods and documentation of the design, testing, control, manufacturing, labeling, quality assurance, packaging, storage and shipping of our products. The FDA enforces the QSR through periodic inspections. We and our suppliers have been, and we anticipate that we and our suppliers will in the future be, subject to such inspections. In addition, certain of our suppliers have, from time to time, received warning letters from the FDA regarding potential non-compliance. Our failure, or the failure of our suppliers and subcontractors, to take satisfactory corrective action in response to an adverse QSR inspection could result in enforcement actions, including a public warning letter, a shutdown of our manufacturing operations, a recall of our products, civil or criminal penalties or other sanctions, which would cause our sales and business to suffer.

We may be unable to obtain or maintain international regulatory certifications or approvals for our current or future products and indications, which could harm our business.

To support the marketing of our products outside the United States, we must comply with and be certified to the ISO 13485: 2003 Quality Management System Standard. Failure to adequately maintain our ISO 13485: 2003 certifications may adversely impact or prevent the marketing of our products internationally. In markets where we sell through distributors, we primarily rely upon distributors to obtain all regulatory licenses, registrations and approvals required in countries outside of the United States, and these distributors may be unable to obtain or maintain such licenses, registrations and approvals. Our distributors may also incur significant costs in attempting to obtain and in maintaining regulatory licenses, registrations and approvals, which could increase the difficulty of attracting and retaining qualified distributors. If our distributors experience delays in receiving necessary licenses, registrations or approvals to market our products outside the United States, or if they fail to receive those licenses, registrations or approvals, we may be unable to market our products or product enhancements in international markets effectively, or at all.

Risks Related to Our Internal Control over Financial Reporting

While we believe we currently have adequate internal control over financial reporting, we are required to assess our internal control over financial reporting on an annual basis and any future adverse results from such assessment could result in a loss of investor confidence in our financial reports and have an adverse effect on our stock.

Pursuant to the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated by the SEC, we are required to maintain disclosure controls and procedures and adequate internal control over financial reporting. Under such requirements we must furnish in our Form 10-K a report by our management regarding the effectiveness of our internal control over financial reporting. The report includes, among other things, an assessment of the effectiveness of our internal control over financial reporting as of the end of our fiscal year, including a statement as to whether or not our internal control over financial reporting is effective. This assessment must include disclosure of any material weaknesses in our internal control over financial reporting identified by management. While

Table of Contents

we currently believe our internal control over financial reporting is effective, the effectiveness of our internal controls in future periods is subject to the risk that our controls may become inadequate because of changes in conditions. The effectiveness of our controls and procedures may in the future be limited by a variety of factors, including:

- faulty human judgment and simple errors, omissions or mistakes;
- fraudulent action of an individual or collusion of two or more people;
- inappropriate management override of procedures; and
- the possibility that any enhancements to controls and procedures may still not be adequate to assure timely and accurate financial information.

If we are unable to assert that our internal control over financial reporting is effective in any future period, or if and when applicable, our auditors are unable to express an opinion on the effectiveness of our internal controls, or conclude that our internal controls are ineffective, or if we fail to maintain adequate and effective internal control over financial reporting, we could lose investor confidence in the accuracy and completeness of our financial reports, which could have an adverse effect on our stock price.

Risks Related to Our Common Stock

We expect that the price of our common stock will fluctuate substantially.

The market price of our common stock has historically been, and is likely to continue to be, highly volatile and may fluctuate substantially due to many factors, including:

- fluctuations in our operating results and the operating results of our competitors;
- changes in earnings estimates or recommendations regarding us or our competitors by securities analysts;
- volume and timing of sales of our products;
- conditions and trends in our industry and the markets we serve;
- the introduction and market acceptance of new products or product enhancements by us or our competitors;
- our ability to develop, obtain regulatory clearance or approval for and market new and enhanced products on a timely basis;
- changes in our pricing policies or the pricing policies of our competitors;

announcements of significant new contracts, acquisitions or strategic alliances by us or our competitors;

our ability to successfully integrate acquired companies or technologies;

disputes or other developments with respect to our intellectual property rights or the intellectual property rights of others;

product liability claims or other litigation;

changes in accounting principles or changes in interpretations of existing principles, which could affect our financial results;

sales of large blocks of our common stock, including sales by our executive officers and directors;

media exposure of our products or products of our competitors;

changes in legislation and governmental regulations or in the status of our regulatory approvals or applications; and

general market conditions and other factors, including factors unrelated to our operating performance or the operating performance of our competitors.

These and other factors may make the price of our stock volatile and subject to unexpected fluctuation.

Table of Contents

A sale of a substantial number of shares of our common stock may cause the price of our common stock to decline.

As of September 30, 2012, we had 68,543,122 shares of our common stock outstanding. If our stockholders sell substantial amounts of our common stock in the public market, for example, liquidation of shares held by our principal stockholders, including shares issued upon the exercise of outstanding options, the market price of our common stock could decline. These sales also might make it more difficult for us to sell equity or equity-related securities in the future at a time and price that we deem reasonable or appropriate.

Our directors, officers and principal stockholders have significant voting power and may take actions that may not be in the best interests of our other stockholders.

Our officers, directors and principal stockholders, some holding more than 5% of our common stock, collectively control approximately 39% of our outstanding common stock. As a result, these stockholders, if they act together, will be able to significantly influence the management and affairs of our company and most matters requiring stockholder approval, including the election of directors and approval of significant corporate transactions. This concentration of ownership may have the effect of delaying or preventing a change in control and might adversely affect the market price of our common stock. This concentration of ownership may not be in the best interests of our other stockholders.

Anti-takeover provisions in our Amended and Restated Certificate of Incorporation and Bylaws, and Delaware law, contain provisions that could discourage a takeover.

Our certificate of incorporation and bylaws, and Delaware law, contain provisions that might enable our management to resist a takeover, and might make it more difficult for an investor to acquire a substantial block of our common stock. These provisions include:

- a classified board of directors;
- advance notice requirements to stockholders for matters to be brought at stockholder meetings;
- a supermajority stockholder vote requirement for amending certain provisions of our Amended and Restated Certificate of Incorporation and Bylaws;
- limitations on stockholder actions by written consent; and
- the right to issue preferred stock without stockholder approval, which could be used to dilute the stock ownership of a potential hostile acquirer.

These provisions might discourage, delay or prevent a change in control of our company or a change in our management. The existence of these provisions could adversely affect the voting power of holders of common stock and limit the price that investors might be willing to pay in the future for shares of our common stock.

We have a large number of authorized but unissued shares of stock, which could negatively impact a potential investor if they purchased our common stock.

Our certificate of incorporation provides for 100,000,000 shares of authorized common stock, of which more than one-third of the shares are available for future issuance, and 10,000,000 shares of authorized preferred stock, all of which are available for future issuance. The issuance of additional shares of common stock may have a dilutive effect on earnings per share and relative voting power. We could use the shares of common stock that are available for future issuance in dilutive equity financing transactions, or to oppose a hostile takeover attempt or delay or prevent changes in control or changes in or removal of management, including transactions that are favored by a majority of the stockholders or in which the stockholders might otherwise receive a premium for their shares over then-current market prices or benefit in some other manner.

Our board of directors will be authorized, without further stockholder approval, to issue up to 10,000,000 shares of preferred stock with such rights, preferences and privileges as our board may determine. These rights, preferences and privileges may include dividend rights, conversion rights, voting rights and liquidation rights that may be greater than the rights of our common stock. As a result, the rights of holders of our common stock will be subject to, and could be adversely affected by, the rights of holders of any preferred stock that may be issued in the future.

Table of Contents

We have not paid dividends in the past and do not expect to pay dividends in the future, and any return on investment may be limited to the value of our stock.

We have never paid cash dividends on our common stock and do not anticipate paying cash dividends on our common stock in the foreseeable future. The payment of dividends on our common stock will depend on our earnings, financial condition and other business and economic factors affecting us at such time as our board of directors may consider relevant. If we do not pay dividends, our stock may be less valuable because a return on your investment will only occur if our stock price appreciates.

If our public guidance or our future operating performance does not meet investor expectations, our stock price could decline.

We provide guidance to the investing community regarding our anticipated future operating performance. Our business typically has a short sales cycle, so that we do not have significant backlog of orders at the start of a quarter, and our ability to sell our products successfully is subject to many uncertainties, including those discussed in the foregoing risk factors. In light of these factors, and the uncertainty as a result of the general economic situation, it is difficult for us to estimate with accuracy our future results. Our expectations regarding these results will be subject to numerous risks and uncertainties that could make actual results differ materially from those anticipated. If our actual results do not meet our public guidance or our guidance or actual results do not meet the expectations of third-party financial analysts, our stock price could decline significantly.

If equity research analysts do not publish research or reports about our business or if they issue unfavorable commentary or downgrade our common stock, the price of our common stock could decline.

The trading market for our common stock relies in part on the research and reports that equity research analysts publish about us and our business. We do not control these analysts. The price of our common stock could decline if one or more equity analysts downgrade our common stock or if analysts issue other unfavorable commentary or cease publishing reports about us or our business.

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

None.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. MINE SAFETY DISCLOSURE

None.

ITEM 5. OTHER INFORMATION

None.

Table of Contents

ITEM 6. EXHIBITS

Exhibit Number	Description	Incorporated by Reference				Filed Herewith
		Form	File No.	Exhibit	Date Filed	
3.1	Amended and Restated Certificate of Incorporation	S-1/A	333-13650	3.3	November 9, 2006	
3.2	Amended and Restated Bylaws	8-K	001-33123	3.1	April 12, 2012	
10.1	Amendment to Stock Purchase Agreement between Solta Medical, Inc. and Medicis Pharmaceutical Corporation dated August 21, 2012	8-K	001-33123	10.1	August 27, 2012	
10.2	Loan and Security Agreement dated as of August 29, 2012 by and between Solta Medical, Inc. and Silicon Valley Bank	8-K	001-33123	10.1	September 4, 2012	
10.3	Eighth Amendment to Loan and Security Agreement dated as of August 29, 2012 by and between Solta Medical, Inc. and Silicon Valley Bank	8-K	001-33123	10.2	September 4, 2012	
31.1	Certification of Chief Executive Officer under Securities Exchange Act Rule 13a-14(a).					X
31.2	Certification of Chief Financial Officer under Securities Exchange Act Rule 13a-14(a).					X
32.1	Certifications of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. 1350 and Securities Exchange Act Rule 13a-14(b).					X
101.INS**	XBRL Instance Document.					X
101.SCH**	XBRL Taxonomy Extension Schema Document.					X
101.CAL**	XBRL Taxonomy Extension Calculation Linkbase Document.					X
101.DEF**	XBRL Taxonomy Extension Definition Linkbase Document.					X
101.LAB**	XBRL Taxonomy Extension Labels Linkbase Document.					X
101.PRE**	XBRL Taxonomy Extension Presentation Linkbase Document.					X

** Pursuant to applicable securities laws and regulations, the Registrant is deemed to have complied with the reporting obligation relating to the submission of interactive data files in such exhibits and is not subject to liability under any anti-fraud provisions of the federal securities laws as long as the Registrant has made a good faith attempt to comply with the submission requirements and promptly amends the interactive data files after becoming aware that the interactive data files fails to comply with the submission requirements. These interactive data files are deemed not filed or part of a registration statement or prospectus for purposes of sections 11 or 12 of the Securities Act, are deemed not filed for purposes of section 18 of the Exchange Act and otherwise are not subject to liability under these sections.

Table of Contents

SIGNATURES

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

SOLTA MEDICAL, INC.

Date: November 1, 2012

/s/ Stephen J. Fanning
Stephen J. Fanning
President and Chief Executive Officer
(Principal Executive Officer)

Date: November 1, 2012

/s/ John F. Glenn
John F. Glenn
Chief Financial Officer
(Principal Financial and Accounting Officer)

Table of Contents

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