FORM 10−Q

JDS UNIPHASE CORP /CA/ − jdsu

Filed: May 12, 2005 (period: March 31, 2005)

Quarterly report which provides a continuing view of a company's financial position

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10−Q

(Mark One)

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

For the quarterly period ended March 31, 2005*

OR

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

For the transition period from ______ to ______

Commission file number 0−22874

JDS Uniphase Corporation
(Exact name of registrant as specified in its charter)

DELAWARE **(State or other jurisdiction of incorporation or organization)**	**94−2579683** **(I.R.S. Employer Identification No.)**
1768 Automation Parkway, San Jose, CA **(Address of principal executive offices)**	**95131** **(Zip Code)**

(408) 546−5000
(Registrant's telephone number, including area code)

(Former name, former address and former fiscal year if changed since last report)

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

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b−2 of the Exchange Act). Yes ☒ No ☐

Number of shares of common stock outstanding as of April 2, 2005 was 1,448,136,256 including 58,192,901 exchangeable shares of JDS Uniphase Canada Ltd. Each exchangeable share is exchangeable at any time into common stock on a one−for−one basis, entitles a holder to dividend and other rights economically equivalent to those of the common stock, and through a voting trust, votes at meetings of stockholders of the Registrant.

* Our quarter ended formally on April 2, 2005. For more information see Note 1 to Condensed Consolidated Financial Statements regarding Registrant's fiscal periods.

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PART I—FINANCIAL INFORMATION

Item 1. Financial Statements

JDS UNIPHASE CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(in millions, except per share data)
(unaudited)

	Three Months Ended		Nine Months Ended	
	March 31, 2005	March 31, 2004	March 31, 2005	March 31, 2004
Net revenue	$ 166.3	$ 161.4	$ 541.3	$ 461.4
Cost of goods sold	141.5	121.0	443.8	357.0
Gross profit	24.8	40.4	97.5	104.4
Operating expenses:				
Research and development	22.5	25.6	71.4	74.4
Selling, general and administrative	38.0	35.6	118.7	111.2
Amortization of intangibles	4.8	3.9	14.3	11.8
Reduction of other long−lived assets	2.6	10.5	7.1	53.8
Restructuring charges	1.5	1.7	10.6	7.5
Total operating expenses	69.4	77.3	222.1	258.7
Loss from operations	(44.6)	(36.9)	(124.6)	(154.3)
Interest and other income, net	5.4	5.1	13.4	16.4
Gain on sale of investments	2.0	19.2	4.3	39.6
Reduction in fair value of investments	(3.4)	(1.5)	(8.4)	(3.8)
Gain / (loss) on equity method investments	0.2	(0.5)	(3.5)	(6.5)
Loss before income taxes and cumulative effect of an accounting change	(40.4)	(14.6)	(118.8)	(108.6)
Income tax benefit	(1.8)	(7.3)	(3.2)	(17.7)
Loss before cumulative effect of an accounting change	(38.6)	(7.3)	(115.6)	(90.9)
Cumulative effect of an accounting change	—	—	—	(2.9)
Net loss	$ (38.6)	$ (7.3)	$ (115.6)	$ (93.8)
Loss per share − basic and diluted				
Before cumulative effect of an accounting change	$ (0.03)	$ (0.01)	$ (0.08)	$ (0.07)
Net loss	$ (0.03)	$ (0.01)	$ (0.08)	$ (0.07)
Shares used in per−share calculation—basic and diluted	1,446.7	1,438.3	1,444.4	1,436.5

See accompanying notes to condensed consolidated financial statements

JDS UNIPHASE CORPORATION
CONDENSED CONSOLIDATED BALANCE SHEETS
(in millions, except share and par value data)

	March 31, 2005	June 30, 2004
	(unaudited)	
ASSETS		
Current assets:		
Cash and cash equivalents	$ 301.3	$ 327.5
Short−term investments	1,078.9	1,221.2
Accounts receivable, net of allowances of $7.5 and $11.8 at March 31, 2005 and June 30, 2004, respectively	112.3	112.7
Inventories, net	118.6	125.0
Refundable income taxes	6.4	5.8
Other current assets	69.4	59.5
Total current assets	1,686.9	1,851.7
Property, plant and equipment, net	164.3	195.6
Deferred income taxes	2.0	12.0
Goodwill, net	213.7	204.8
Other intangibles, net	73.5	81.4
Long−term investments	40.4	42.4
Other assets	3.8	4.3
Total assets	$ 2,184.6	$ 2,392.2
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 69.7	$ 74.1
Accrued payroll and related expenses	35.8	38.4
Income taxes payable	28.2	33.5
Deferred income taxes	2.0	12.0
Restructuring accrual	50.8	84.2
Warranty accrual	12.6	25.1
Other current liabilities	70.3	80.7
Total current liabilities	269.4	348.0
Long−term debt	466.5	464.7
Other non−current liabilities	8.2	8.4
Commitments and contingencies		
Stockholders' equity:		
Preferred stock – par value $0.001, 1,000,000 authorized; one share issued and outstanding	—	—
Common stock − par value $0.001, 3,000,000,000 authorized; 1,448,136,256 and 1,440,404,236 shares issued and outstanding at March 31, 2005 and June 30, 2004, respectively	1.4	1.4
Additional paid−in capital	68,590.7	68,577.1
Accumulated deficit	(67,127.6)	(67,012.0)
Accumulated other comprehensive income (loss)	(24.0)	4.6
Total stockholders' equity	1,440.5	1,571.1
Total liabilities and stockholders' equity	$ 2,184.6	$ 2,392.2

See accompanying notes to condensed consolidated financial statements

JDS UNIPHASE CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(in millions)
(unaudited)

	Nine Months Ended	
	March 31, 2005	March 31, 2004
OPERATING ACTIVITIES:		
Net loss	$ (115.6)	$ (93.8)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation expense	31.5	30.5
Amortization expense	14.3	11.8
Amortization of deferred compensation and other stock−based compensation expense	—	2.0
Non−cash tax (benefit) / loss associated with unrealized gain on marketable securities	0.2	(19.2)
Non−cash accretion on discount of long−term debt	1.8	0.9
Non−cash restructuring charge	1.5	9.4
Reduction of goodwill and other long−lived assets	7.1	53.8
Loss on sale of investments	(0.3)	(39.4)
Reduction in fair value of investments	8.4	3.8
Loss on equity method investments	3.5	6.5
Loss on disposal of property and equipment	2.0	0.5
Cumulative effect of change in accounting principle	—	2.9
Changes in operating assets and liabilities:		
Accounts receivable	0.7	(13.7)
Inventories	0.5	(19.0)
Other current assets	(2.1)	1.7
Accounts payable	(4.5)	11.9
Income taxes payable	(6.1)	38.0
Accrued payroll and related expenses	(2.8)	(8.6)
Other liabilities	(54.9)	(82.1)
Net cash used in operating activities	(114.8)	(102.1)
INVESTING ACTIVITIES:		
Purchases of short term investments	(1,341.3)	(3,280.8)
Proceeds from sales of short term investments	1,455.0	3,285.9
Net purchases of long term investments	(11.7)	(4.7)
Acquisitions of businesses, net of cash acquired	(13.5)	(1.6)
Purchases of property, plant and equipment	(24.7)	(60.5)
Proceeds from sale of property, plant and equipment	11.0	36.0
Other assets, net	—	2.2
Net cash provided by (used in) investing activities	74.8	(23.5)
FINANCING ACTIVITIES:		
Repayment of debt	(0.5)	(0.2)
Proceeds from issuance of debt	—	462.7
Proceeds from issuance of common stock other than in initial public offering	13.6	17.6
Net cash provided by financing activities	13.1	480.1
Effect of exchange rate changes on cash and cash equivalents	0.7	(0.4)
Increase / (decrease) in cash and cash equivalents	(26.2)	354.1
Cash and cash equivalents at beginning of period	327.5	241.9
Cash and cash equivalents at end of period	$ 301.3	$ 596.0

See accompanying notes to condensed consolidated financial statements

JDS UNIPHASE CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

The accompanying unaudited condensed, consolidated financial statements and related notes should be read in conjunction with the consolidated financial statements and related notes included in the Annual Report to Stockholders of JDS Uniphase Corporation (the “Company”) for fiscal 2004.

Note 1. Basis of Presentation

The financial information as of March 31, 2005 and for the three and nine months ended March 31, 2005 and 2004 is unaudited, but includes all normal and recurring adjustments that the Company considers necessary for a fair presentation of the financial information set forth herein, in accordance with accounting principles generally accepted in the United States (“U.S. GAAP”) for interim financial information and rules and regulations of the Securities and Exchange Commission. Accordingly, such information does not include all of the information and footnotes required by U.S. GAAP for annual financial statements. For further information, please refer to the consolidated financial statements and footnotes thereto included in the Company’s Annual Report on Form 10−K for the year ended June 30, 2004.

The balance sheet at June 30, 2004 has been derived from the audited financial statements at that date but does not include all of the information and footnotes required by U.S. GAAP for complete financial statements. The results for the three and nine months ended March 31, 2005 may not be indicative of results for the year ending June 30, 2005 or any future periods.

Fiscal Years: The Company utilizes a 52−53 week fiscal year ending on the Saturday closest to June 30. The third quarters of fiscal 2005 and 2004 ended on April 2, 2005 and April 3, 2004, respectively. For comparative presentation purposes, all accompanying financial statements and footnotes thereto have been shown as ending on the last day of the calendar month.

Cumulative Effect of an Accounting Change: During the first quarter of fiscal 2004, the Company adopted Interpretation No. 46 “*Consolidation of Variable Interest Entities, an Interpretation of ARB No. 51*” (“FIN 46R”) with respect to a synthetic lease agreement pertaining to two separate properties. The arrangement was a variable interest entity as defined under FIN 46 and the Company was the primary beneficiary.

As a result, the Company recognized a non−cash adjustment of $2.9 million, reflecting cumulative depreciation on the two properties from the inception of the lease until the assets were purchased by the Company on September 16, 2003, as a cumulative effect of an accounting change in the accompanying Condensed Consolidated Statements of Operations.

Principles of Consolidation: The consolidated financial statements have been prepared in accordance with U.S. GAAP and include the Company and its wholly−owned subsidiaries. All inter−company accounts and transactions have been eliminated.

Use of Estimates: The preparation of the Company’s consolidated financial statements in conformity with U.S. GAAP, requires management to make estimates and assumptions that affect the reported amount of assets and liabilities at the date of the financial statements and the reported amount of net revenue and expenses during the period. The Company bases estimates on historical experience and on various assumptions about the future that are believed to be reasonable based on available information. Actual results could differ from those estimates.

Reclassifications: The Company has reclassified certain immaterial prior year balances to conform to the current year presentation.

Note 2. Recent Accounting Pronouncements

SFAS No. 123R

In December of 2004, the Financial Accounting Standards Board (“FASB”) issued Statement of Financial Accounting Standard No. 123, *Share−Based Payment (Revised 2004)* (“SFAS 123R”). SFAS 123R requires the Company to measure all employee stock−based compensation awards using a fair value method and record such expense in the Company’s consolidated financial statements. In addition, the adoption of SFAS 123R will require additional accounting related to the income tax effects and additional disclosure regarding the cash flow effects resulting from share−based payment arrangements. SFAS 123R is effective beginning in the Company's first quarter of fiscal 2006. The Company plans to use the modified prospective transition method to adopt this new standard and expects to have a material impact on the consolidated financial position and results of operations. For the historical impact of stock−based compensation expense, see Note 3.

SFAS No. 153

In December of 2004, the FASB issued Statement of Financial Accounting Standard No. 153, *Exchanges of Non−monetary Assets, an amendment of APB Opinion No. 29* ("SFAS 153"). SFAS 153 addresses the measurement of exchanges of non−monetary assets and redefines the scope of transactions that should be measured based on the fair value of the assets exchanged. SFAS 153 is effective for non−monetary asset exchanges beginning in our first quarter of fiscal 2006. The Company does not believe adoption of SFAS 153 will have a material effect on our consolidated financial position or results of operations.

FSP No. FAS 109−2

On December 21, 2004, the FASB issued FASB Staff Position No. FAS 109−2, *"Accounting and Disclosure Guidance for the Foreign Earnings Repatriation Provision within the American Jobs Creation Act of 2004*" ("FSP FAS 109−2"). The American Jobs Creation Act introduces a special one−time dividends received deduction on the repatriation of certain foreign earnings to a U.S. taxpayer (repatriation provision), provided certain criteria are met. The Company currently has no plans to repatriate foreign earnings.

SFAS No. 151

In November of 2004, the FASB issued Statement of Financial Accounting Standard No. 151, *Inventory Costs – An Amendment of ARB No. 43, Chapter 4* ("SFAS 151"). SFAS 151 clarifies treatment of abnormal amounts of idle facility expense, freight, handling costs and spoilage, specifying that such costs should be expensed as incurred and not included in overhead. The new statement also requires that allocation of fixed production overheads to conversion costs should be based on normal capacity of the production facilities. The provisions in SFAS 151 are effective for inventory costs incurred during fiscal years beginning after June 15, 2005. Companies must apply the standard prospectively. The Company does not believe that the impact of this new standard will have a material effect on our financial statements or results of operations.

EITF No. 04−8

In July 2004, the FASB reached the consensus in Emerging Issues Task Force Issue No. 04−8, *The Effect of Contingently Convertible Debt on Diluted Earnings Per Share* ("EITF 04−8") that contingently convertible debt instruments should be included in the diluted earnings per share computation regardless of whether the contingency has been met. The consensus reached by the Task Force is effective for reporting periods ending after December 15, 2004. Under the consensus reached by the EITF, the Company would include the 96.2 million contingently convertible shares in our calculation of diluted earnings per share if the Company had net income.

EITF No. 03−1

In March 2004, the FASB approved the consensus reached on the Emerging Issues Task Force Issue No. 03−1, *The Meaning of Other−Than−Temporary Impairment and Its Application to Certain Investments* ("EITF 03−01"). The objective of EITF 03−1 is to provide guidance for identifying impaired investments. EITF 03−1 also provides new disclosure requirements for investments that are deemed to be temporarily impaired. In October 2004, the FASB delayed the recognition and measurement provisions of EITF 03−1 until implementation guidance is issued, which is expected to be in early 2005. The disclosure requirements are effective for annual periods ending after June 15, 2004, and remain in effect. The Company has adopted EITF 03−1 disclosure requirements and does not believe the impact is material to the company's overall results of operations or financial position.

Note 3. Stock−Based Compensation

In December of 2004, the Financial Accounting Standards Board issued Statement of Financial Accounting Standard No. 123, *Share−Based Payment (Revised 2004)* ("SFAS 123R"). SFAS 123R requires the Company to measure all employee stock−based compensation awards using a fair value method and record such expense in its consolidated financial statements. Until the Company adopts SFAS 123R in fiscal 2006, it will continue to account for the stock compensation in accordance with Accounting Principles Board's Opinion No. 25, "*Accounting for Stock Issued to Employees*" ("APB 25").

In accordance with Statement of Financial Accounting Standards No. 148, "*Accounting for Stock−Based Compensation —Transition and Disclosure — an amendment of FAS 123*" ("SFAS 148"), the Company elected to continue to account for its employee stock compensation under the intrinsic value based method of accounting prescribed by APB 25 and disclose the pro forma effects of its employee stock compensation on net loss and net loss per share. Under APB 25, when the exercise price of the Company's employee stock compensation equals the market price of the underlying stock on the date of grant, no compensation expense is recognized. SFAS 148 requires the Company to provide more prominent disclosures in both annual and interim financial statements regarding the method of accounting for stock−based employee compensation and the effect of the method used in the reported results. SFAS 148 also requires the Company to disclose pro forma information regarding option grants made to its employees based on specified valuation techniques that produce estimated compensation charges. The pro forma is as follows (in millions, except per share amounts):

	Three Months Ended		Nine Months Ended	
	March 31, 2005	**March 31, 2004**	**March 31, 2005**	**March 31, 2004**
Reported net loss	$(38.6)	$ (7.3)	$(115.6)	$ (93.8)
Add: Stock−based compensation expense included in reported net loss, net of tax	0.1	0.2	—	2.0
Less: Pro forma stock−based compensation expense, net of tax	(17.6)	(69.7)	(85.6)	(218.7)
Pro forma net loss	$(56.1)	$ (76.8)	$(201.2)	$ (310.5)
Reported net loss per share—basic and diluted	$(0.03)	$ (0.01)	$ (0.08)	$ (0.07)
Pro forma net loss per share—basic and diluted	$(0.04)	$ (0.05)	$ (0.14)	$ (0.22)

The value of options granted was estimated at the date of grant using the following weighted average assumptions:

	Three Months Ended		Nine Months Ended	
	March 31, 2005	**March 31, 2004**	**March 31, 2005**	**March 31, 2004**
Expected life (in years)	4.3	5.0	4.3	5.0
Volatility	53%	75%	58%	75%
Risk−free interest rate	3.82%	3.07%	3.50%	3.10%
Dividend yield	n/a	n/a	n/a	n/a

Note 4. Other Comprehensive Income

The Company's accumulated other comprehensive income (loss) consists of foreign currency translation adjustments, accumulated net unrealized gains on available−for−sale investments, less an adjustment for net gain on investments previously included in net income and the estimated tax (benefit). The components of comprehensive loss were as follows (in millions):

	Three Months Ended		Nine Months Ended	
	March 31, 2005	**March 31, 2004**	**March 31, 2005**	**March 31, 2004**
Net loss	$(38.6)	$ (7.3)	$(115.6)	$ (93.8)
Other comprehensive income				
Change in foreign currency translation	0.5	2.2	1.2	2.8
Unrealized (losses) gains on investments	(15.8)	25.6	(29.8)	48.7
Investment losses previously included in net income	—	(10.2)	—	(12.1)
Tax provision on marketable securities	—	(7.8)	—	(19.2)
Net change in other comprehensive income	(15.3)	9.8	(28.6)	20.2
Unrealized losses on cash flow hedges	—	(1.3)	—	(1.2)
Comprehensive income (loss)	$(53.9)	$ 1.2	$(144.2)	$ (74.8)

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At March 31, 2005 and June 30, 2004, balances for unrealized (losses) gains on investments and foreign currency translation were as follows (in millions):

	March 31, 2005	June 30, 2004
Unrealized (losses) gains on investments	$ (8.8)	$ 21.0
Foreign currency translation	(15.2)	(16.4)
Accumulated other comprehensive income (loss)	$ (24.0)	$ 4.6

Note 5. Net Loss Per Share

As the Company incurred net losses for the three and nine months ended March 31, 2005, the effect of dilutive securities (in−the−money stock options) totaling 1.7 million equivalent shares and 3.5 million equivalent shares, respectively, has been excluded from the calculation of diluted net loss per share because it was anti−dilutive. As the Company incurred net losses for the three and nine months ended March 31, 2004, the effect of dilutive securities totaling 13.5 million and 6.9 million equivalent shares, respectively, has been excluded from the calculation of diluted net loss per share because it was anti−dilutive. The Company also excluded from the calculation of diluted net loss per share approximately 96.2 million shares related to the convertible debt. For additional information see Note 19.

The following table sets forth the computation of basic and diluted net loss per share (in millions, except per share data):

	Three Months Ended		Nine Months Ended	
	March 31, 2005	March 31, 2004	March 31, 2005	March 31, 2004
Loss before cumulative effect of an accounting change	$ (38.6)	$ (7.3)	$ (115.6)	$ (90.9)
Cumulative effect of an accounting change	—	—	—	(2.9)
Net loss	$ (38.6)	$ (7.3)	$ (115.6)	$ (93.8)
Loss per share − basic and diluted				
Before cumulative effect of an accounting change	$ (0.03)	$ (0.01)	$ (0.08)	$ (0.07)
Cumulative effect of an accounting change	—	—	—	—
Net loss	$ (0.03)	$ (0.01)	$ (0.08)	$ (0.07)
Shares used in per−share calculation—basic and diluted	1,446.7	1,438.3	1,444.4	1,436.5

During the three and nine months ended March 31, 2005, approximately 3.5 million and 7.7 million common shares issued from options exercised and employee stock purchase plans, respectively, were added to the number of common shares outstanding. During the three and nine months ended March 31, 2005, approximately 2.9 million and 5.7 million shares were due to the issuance of common shares under the Company’s Employee Stock Purchase Plan and the remainder was due to the exercise of stock options, respectively.

During the three and nine months ended March 31, 2004, approximately 4.8 million and 8.7 million common shares issued from options exercised and employee stock purchase plans, respectively, were added to the number of common shares outstanding. During the three and nine months ended March 31, 2004, approximately 3.2 million and 5.9 million shares were due to the issuance of common shares under the Company’s Employee Stock Purchase Plan and the remainder was due to the exercise of stock options, respectively.

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Note 6. Inventories

Inventories are stated at the lower of cost or market, and include material, labor and manufacturing overhead costs. The Company also reserves for inventories for which there is no forecasted customer demand for the next 12 months. The components of inventories (net) consisted of the following (in millions):

	March 31, 2005	June 30, 2004
Finished goods	$ 18.9	$ 23.3
Work in process	35.8	41.6
Raw materials and purchased parts	63.9	60.1
Total net inventories	$ 118.6	$ 125.0

Inventories contained components and assemblies in excess of the Company's current estimated requirements that were fully reserved at March 31, 2005 and June 30, 2004.

The Company increased excess and obsolete reserve of $9.3 million and $19.9 million for the three and nine months ended March 31, 2005, respectively. The Company increased excess and obsolete reserve of $9.5 million and $22.1 million for the three and nine months ended March 31, 2004, respectively.

The Company also consumed previously reserved inventories of $8.5 million and $27.7 million for the three and nine months ended March 31, 2005, respectively. The Company consumed previously reserved inventories of $10.7 million and $34.4 million for the three and nine months ended March 31, 2004, respectively.

Note 7. Goodwill

In May 2004, the Company purchased E2O Communications Incorporated ("E2O"). During the first nine months of fiscal 2005, net additional goodwill of $2.7 million was recorded as a result of adjustments to the original purchase price. The additional goodwill is included in the Communications Products segment. In July 2004, the Company purchased Advanced Digital Options, Inc. ("ADO"). During the first nine months of fiscal 2005, goodwill of $6.2 million was recorded as a result of the acquisition and is included in the Commercial and Consumer Products segment. See Note 16 for additional information on activities relating to these acquisitions.

Goodwill by reportable segment is as follows (in millions):

	March 31, 2005	June 30, 2004
Communications Products Group	$ 128.2	$ 125.5
Commercial and Consumer Products Group	85.5	79.3
Total	$ 213.7	$ 204.8

During the three and nine months ended March 31, 2005 and 2004, the Company recorded no impairment charges under Statement of Financial Accounting Standard No. 142 "*Goodwill and Other Intangible Assets*" ("SFAS 142").

Note 8. Balance Sheet Details

The components of property, plant and equipment were as follows (in millions):

	March 31, 2005	June 30, 2004
Land	16.9	20.4
Buildings and improvements	20.9	27.4
Machinery and equipment	211.3	213.8
Furniture, fixtures, software and office equipment	59.6	71.5
Leasehold improvements	39.7	46.3
Construction in progress	13.3	19.6
	361.7	399.0
Less: accumulated depreciation	(197.4)	(203.4)
Total property, plant and equipment, net	164.3	195.6

The components of other current liabilities were as follows (in millions):

	March 31, 2005	June 30, 2004
Deferred revenue	$ 6.2	$ 10.2
Deferred compensation	7.1	7.2
Other current liabilities	57.0	63.3
	$ 70.3	$ 80.7

Note 9. Other Intangibles

During the first nine months of fiscal 2005, identified intangible assets increased by $6.4 due to the acquisition of ADO. The following tables present detail of the Company's other intangibles (in millions):

	March 31, 2005			June 30, 2004		
	Gross Carrying Amount	Accumulated Amortization	Net	Gross Carrying Amount	Accumulated Amortization	Net
Developed technology	$120.5	$ (62.6)	$57.9	$114.0	$ (52.9)	$61.1
Other	41.2	(25.6)	$15.6	41.3	(21.0)	20.3
Total intangibles	$161.7	$ (88.2)	$73.5	$155.3	$ (73.9)	$81.4

Amortization of intangibles was $4.8 million and $14.3 million for the three and nine months ended March 31, 2005, respectively. Amortization of intangibles was $3.9 million and $11.8 million for the three and nine months ended March 31, 2004, respectively.

Based on the carrying amount of the intangibles as of March 31, 2005, the estimated future amortization is as follows (in millions):

Years Ended June 30,	
2005 (April 1, 2005 to June 30, 2005)	$ 4.9
2006	17.8
2007	14.6
2008	8.0
2009	5.5
Thereafter	22.7
Total amortization	$73.5

Note 10. Investments

Short−Term Investments:

The components of the Company's short−term investments include 1) available−for−sale which are mostly debt and marketable equity securities and 2) trading securities which represent assets of a deferred compensation plan. As of March 31, 2005, the estimated fair value of available−for−sale securities and trading securities was $1,071.8 million and $7.1 million, respectively.

Long−Term Investments:

The components of the Company's long−term investments include non−marketable cost and equity method investments. As of March 31, 2005, the Company had total long−term investments of $40.4 million.

Reduction of Fair Value of Investments:

The Company regularly evaluates the carrying value of its investments. When the carrying value of an investment exceeds the fair value and the decline in value is deemed to be other−than−temporary, the Company writes down the investment to its fair value. During the three and nine months ended March 31, 2005, the Company recorded other−than−temporary reductions in fair value of certain non−marketable investments of $3.4 million and $8.4 million, respectively. During the three and nine months ended March 31, 2004 the Company recorded other−than−temporary reductions in fair value of certain non−marketable equity investments of $1.5 million and $3.8 million, respectively.

Gain (loss) on Equity Method Investments:

During the three and nine month periods ended March 31, 2005, the Company recorded a gain of $0.2 million and a loss of $(3.5) million, respectively, as its pro rata share of net gains (losses) in its equity method investments. During the three and nine month periods ended March 31, 2004, the Company recorded losses of $(0.5) million and $(6.5) million, respectively, as its pro rata share of net losses in its equity method investments.

Variable Interest Entities

The Company has reviewed its cost and equity method investments and other variable interests with respect to revised Interpretation No. 46 "*Consolidation of Variable Interest Entities, an Interpretation of ARB No. 51*" ("FIN 46R"), which was originally issued in January 2003 to determine whether those entities are variable interest entities and, if so, whether the Company is the primary beneficiary of any of its investee companies. At March 31, 2005, the Company had 24 cost and equity method investments primarily in privately held companies and venture funds that have the potential to provide strategic technologies and relationships to the Company's businesses. The Company has determined that these investments do not require consolidation as they are either not variable interest entities or in the event that they are variable interest entities, the Company is not considered to be the primary beneficiary. The Company's maximum exposure to loss for these investments at March 31, 2005 is limited to the carrying amount of its investment of $31.6 million in such entities and its minimum funding commitments of $12.6 million.

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Note 11. Commitments and Contingencies

Pending Litigation

The Securities Class Actions:

As discussed in the Company's previous filings, litigation under the federal securities laws has been pending against the Company and certain former and current officers and directors since March 27, 2002. On February 28, 2005, Defendants in *In re JDS Uniphase Corporation Securities Litigation*, C−02−1486 (N.D. Cal.), answered the Second Amended Complaint. Both Lead Plaintiff and JDSU have propounded discovery. JDSU has served written responses and has begun document production. The parties also have served initial disclosures pursuant to Rule 26(a) (1) of the Federal Rules of Civil Procedure and have produced some documents in connection with their disclosures. A case management conference is scheduled for June 24, 2005.

In *Zelman v. JDS Uniphase Corp.*, No. C−02−4656 (N.D. Cal.), a related securities case, Defendants moved to dismiss the Amended Complaint on February 25, 2005. On April 6, 2005, Judge Wilken referred Defendants' motion to Judge William W. Schwarzer of the District Court for the Northern District of California. Judge Wilken further ordered that the hearing for Defendants' motion shall be reset by Judge Schwarzer. A case management conference before Judge Wilken is scheduled for June 24, 2005.

The Derivative Actions:

As discussed in the Company's previous filings, derivative actions purporting to be brought on the Company's behalf have been filed in state and federal courts against several of the Company's current and former officers and directors based on the same events alleged in the securities litigation. No activity has occurred in *Corwin v. Kaplan*, No. C−02−2020 (N.D. Cal.), since the last filing. On February 8, 2005, the Court lifted the stay of the California state derivative action, *In re JDS Uniphase Corporation Derivative Litigation*, Master File No. CV806911 (Santa Clara Super. Ct.). On March 11, 2005, Defendants updated their demurrer to complaint, which was pending when the action was stayed. Defendant Ernst & Young also moved to compel arbitration of Plaintiffs' claims against it. The demurrers and motion to compel arbitration are scheduled to be heard on July 26, 2005. A case management conference also is scheduled for that day. As noted in the previous filings, the plaintiff in that action has issued a shareholder inspection demand that has been disputed by the Company. The dispute remains unresolved. No activity has occurred in *Cromas v. Straus*, Civil Action No. 19580 (Del. Ch. Ct.), the Delaware derivative action, since the last filing.

The OCLI and SDL Shareholder Actions:

As discussed in the Company's previous filings, plaintiffs purporting to represent the former shareholders of OCLI and SDL have filed suit against the former directors of those companies, asserting that they breached their fiduciary duties in connection with the events alleged in the securities litigation against the Company. No activity has occurred in either the OCLI action, *Pang v. Dwight*, No. 02−231989 (Sonoma Super. Ct.), or the SDL action, *Cook v. Scifres*, Master File No. CV814824 (Santa Clara Super. Ct.), since the last filing.

The ERISA Actions:

As discussed in the Company's previous filings, a consolidated action entitled *In re JDS Uniphase Corporation ERISA Litigation*, Master File No. C−03−4743 CW, is pending in the District Court for the Northern District of California against the Company and certain of its former and current officers and directors on behalf of a purported class of participants in the Company's 401(k) Plan. On April 6, 2005, Judge Wilken referred Defendants' motion to dismiss Plaintiffs' consolidated amended complaint to Judge William W. Schwarzer. Judge Wilken further ordered that the hearing for Defendants' motion shall be reset by Judge Schwarzer. Plaintiffs opposed Defendants' motion on March 11, 2005. A case management conference before Judge Wilken is scheduled for June 24, 2005.

The Company believes that the factual allegations and circumstances underlying these securities class actions, derivative actions, the OCLI and SDL class actions, and the ERISA class actions are without merit. The expense of defending these lawsuits has been costly, will continue to be costly, and could be quite significant and may not be covered by the Company's insurance policies. The defense of these lawsuits could also result in continued diversion of the Company's management's time and attention away from business operations which could prove to be time consuming and disruptive to normal business operations. An unfavorable outcome or settlement of this litigation could have a material adverse effect on the Company's financial position, liquidity or results of operations.

The Company is a party to other litigation matters and claims, which are normal in the course of its operations. While the results of such litigation matters and claims cannot be predicted with certainty, the Company believes that their final outcome will not have a material adverse impact on its financial position, liquidity, or results of operations.

Note 12. Reduction of Other Long−Lived Assets

During the three and nine months ended March 31, 2005, the Company recorded $2.6 million and $7.1 million, respectively, reductions in the carrying value of its long−lived assets. During the three and nine months ended March 31, 2004, the Company recorded $10.5 million and $53.8 million, respectively, reductions in the carrying value of its long−lived assets. The reductions were recorded in accordance with Statement of Financial Accounting Standard No. 144, "*Accounting for the Impairment or Disposal of Long−Lived Assets*" ("SFAS 144").

Assets Held and Used:

During the three and nine months ended March 31, 2005, no assets classified as held and used were reduced in value as the Company noted no indicators of impairment during these periods related to the Company's remaining long−lived assets, including purchased intangibles. During the three months ended March 31, 2004, in accordance with SFAS No. 144, the Company reduced to estimated realizable value certain manufacturing equipment by $7.7 million, and other assets by $3.7 million. During the first nine months of fiscal 2004, specifically in the first quarter of fiscal 2004, as a result of the adoption of FIN46 with respect to two properties under a synthetic lease agreement, the Company recognized a $5.0 million deferred impairment charge related to the Melbourne, Florida properties, which was originally being amortized over the term of the lease.

Assets Held for Sale:

The Company began to market the facilities at Melbourne, Florida and Research Triangle Park, North Carolina during the second quarter of fiscal 2005 and expected to complete the sale of these facilities by December 31, 2005. During the third quarter of fiscal 2005 the facility in Research Triangle Park, North Carolina was sold for $6.6 million. In the three and nine months ended March 31, 2005, the Ottawa corporate campus, which was previously classified as held for sale in fiscal 2004, was adjusted down by $3.1 million and $7.6 million, respectively, in accordance with SFAS 144. The Company is still actively marketing the property as of March 31, 2005.

During the three and nine months ended March 31, 2004, the Company adjusted the carrying value of certain assets classified as held for sale. In accordance with SFAS 144, the Company recorded total impairment charges of $(0.9) million and $37.4 million for the three and nine month periods ended March 31, 2004, representing the amount by which the carrying value of the assets exceeded fair value less cost to sell.

Note 13. Restructuring and Global Realignment

Overview:

During the second quarter of fiscal 2004, the Company announced the completion of the Global Realignment Program (GRP), which began in April 2001. That program focused on large−scale site and employee reductions. The Company will continue to take advantage of opportunities to further reduce costs through targeted, customer−driven, restructuring events, intended to consolidate the Company and rationalize the manufacture of our products based on core competencies and cost efficiencies. Restructure activities entered into through the second quarter of 2004 are described under the GRP, while activities beginning in the third quarter of fiscal 2004 are described under Restructuring Actions.

Restructuring Actions:

During the third quarter of fiscal 2005, the Company notified for termination approximately 136 employees of which 97 were engaged in manufacturing, 25 were engaged in research and development, and 14 in selling, general and administrative functions, and recorded lease adjustments to post GRP lease charges. These charges for the third quarter of 2005 totaled $2.4 million related to severance and benefits. All the employees are located in North America. As of March 31, 2005, no employees have been terminated. The remaining severance and benefit payments resulting from the third quarter fiscal 2005 restructuring activities are scheduled to be paid through the first quarter of fiscal 2006. In addition to the expenses recorded relating to the restructuring program announced this quarter, the Company also reversed a lease accrual of $(0.7) million from the GRP which is no longer required due to early termination of a lease and $(0.2) million of severance related adjustment relating to prior programs.

During the second quarter of fiscal 2005, the Company notified for termination approximately 390 employees of which 264 were engaged in manufacturing and 26 in selling, general and administrative functions. An amount of $0.5 million relating to severance and benefits was recorded as a result of this announcement. All the employees are located in Asia. As of March 31, 2005, no employees have been terminated. The remaining severance and benefit payments resulting from the second quarter fiscal 2005 restructuring activities are scheduled to be paid through the first quarter of fiscal 2006. In addition to the expenses recorded relating to the restructuring program announced this quarter, the Company recorded adjustments for 1) $2.9 million of lease expense for the GRP due to change in estimated sublease income on restructured properties and 2) $0.2 million in severance and benefits and $0.2 million in facility leases relating to prior programs.

During the first quarter of fiscal 2005, the Company terminated or notified for termination approximately 225 employees and restructured a lease at one of its manufacturing operations. Of the total employees terminated, 221 were in North America and 4 were in Europe. All employees were engaged in the manufacturing function. This will create production efficiencies designed to eliminate costs. These actions resulted in restructuring charges of $4.8 million primarily related to severance and benefits. As of March 31, 2005, 16 employees have been terminated. The remaining severance and benefit payments resulting from the first quarter fiscal 2005 restructuring activities are scheduled to be paid through the first quarter of fiscal 2006. In addition to the expenses recorded relating to the restructuring program announced this quarter, the Company recorded adjustments for $0.5 million of lease expense for the GRP due to change in estimated sublease income on restructured properties.

The restructuring activities during the Company’s third and fourth quarters of fiscal 2004 resulted in charges of $5.6 million primarily related to severance and benefits. Employee reductions during the third quarter restructuring were approximately 30 in North America and 30 in Asia−Pacific, of which 40 were engaged in manufacturing, 15 in research and development and 5 in selling, general and administration functions. Fourth quarter of fiscal 2004 employee reductions were all in North America and totaled approximately 75, of which 55 were in manufacturing and 20 in selling, general and administrative functions. As of March 31, 2005, 60 and 73 employees have been terminated relating to the third quarter and fourth quarter restructures, respectively. The remaining severance and benefit payments resulting from these restructuring activities are scheduled to be paid through the first quarter of fiscal 2006.

Global Realignment Program:

In April 2001, the Company initiated the GRP, under which it began restructuring its business in response to the economic downturn. From April 2001, through the end of the second quarter of fiscal 2004, the Company implemented nine phases of restructuring activities under the GRP and recorded total restructuring charges of $654.2 million. In addition, the Company incurred charges other than restructuring of $491.5 million related to the GRP. Restructuring activities initiated prior to December 31, 2002 were recorded in accordance with Emerging Issues Task Force 94−3 “*Liability Recognition for Certain Employee Termination Benefits and Other Costs to Exit an Activity (including Certain Costs Incurred in a Restructuring)*” (“EITF No. 94−3”), and restructuring activities initiated after December 31, 2002 were recorded in accordance with Statement of Financial Accounting Standard No. 146 “*Accounting for Costs Associated with Exit or Disposal Activities*” (“SFAS 146”) and Statement of Financial Accounting No. 112, *“Employees’ Accounting for Postemployment Benefits”* (“SFAS 112”).

Under the GRP, the Company has consolidated and reduced its manufacturing, research and development, sales and administrative facilities in North America, Europe and Asia−Pacific. The company closed 29 sites and buildings relating to various phases of restructuring. Based on the decisions made through the end of the second quarter of fiscal 2004, the Company expected to have reduced its total workforce by approximately 19,900 employees upon the completion of the GRP in which 19,150 related to restructuring activities and 750 related to other decisions made under the GRP. As of March 31, 2005, 19,891 employees have been terminated.

Workforce Reduction:

The Company recorded initial restructure charges totaling $228.6 million primarily related to severance and benefits associated with the reduction of approximately 19,150 employees, which includes non−cash severance charges of $12.3 million, of which $11.1 million related to the modification of a former executive’s stock options and $1.2 million to disputed severance. The Company has recorded decreases of $13.4 million, to the accrual balance. The decreases are due to actual payments for such charges being lower than original estimated expenses.

Approximately 16,200 employees were engaged in manufacturing, 1,350 in research and development, and 1,600 in selling, general and administrative functions. Approximately 16,400 employees were located in North America, 1,700 in Europe, and 1,050 in Asia−Pacific. The Company has substantially completed its phase one through four and six through nine workforce reductions. The remaining accrual balance reflects severance and benefit payments scheduled to be paid, primarily under phase five, through fiscal 2005, for employees that have been notified that they will be terminated, as well as future payments for employees that have already been terminated, as required under local laws.

Facilities and Equipment and Lease Costs:

In connection with the restructuring activities, management approved and committed the Company to plans to close 29 sites, vacate buildings at the closed sites as well as at other continuing operations, and reduce its workforce by approximately 19,150 employees. These sites were located in Arnhem, Netherlands; Asheville, North Carolina; Bracknell, United Kingdom; Columbus, Ohio; Eatontown, New Jersey; Eindhoven, Netherlands; Freehold, New Jersey; Gloucester, Massachusetts; Hillend, United Kingdom; Horsham, Pennsylvania; Manteca, California; two sites in Ottawa, Canada; Oxford, United Kingdom; Piscataway, New Jersey; Plymouth, United Kingdom; Raleigh, North Carolina; Richardson, Texas; Rochester, New York; two sites in San Jose, California; Shunde, China; Sydney, Australia; Taipei, Taiwan; Toronto, Canada; Torquay, United Kingdom; Victoria, Canada; Waghaeusel−Kirrlach, Germany; and Witham, United Kingdom. One of the San Jose, California sites is related to the E−TEK operations, which were relocated to the Company's other sites located in West Trenton, New Jersey and Shenzhen, China.

Property and equipment that were disposed of or removed from operations resulted in initial charges totaling $274.4 million. The property and equipment write−downs consisted primarily of owned buildings, leasehold improvements, computer equipment and related software, production and engineering equipment, and office equipment, furniture and fixtures. From inception through the third quarter of fiscal 2005, the Company recorded total adjustments of $11.4 million, primarily due to additional declines in the fair market value of owned buildings held for disposal. In addition, the Company received $8.4 million of cash proceeds in excess of the estimated salvage value of certain restructured assets from inception through the third quarter of fiscal 2005. These assets were written down during fiscal 2001 and 2002 in accordance with Statement of Financial Accounting Standard No. 121 "*Accounting for the Impairment of Long−Lived Assets and for Long−Lived Assets to Be Disposed Of*" ("SFAS 121"). The Company adopted SFAS No. 144 at the beginning of fiscal 2003.

The Company incurred initial charges totaling $156.0 million for exiting and terminating leases based on assumptions and related estimates that it deemed appropriate for the economic environment that existed at the time these estimates were made. Initial charges were accrued for phases one though five and seven through nine. The Company estimated the cost of exiting and terminating the facility leases based on the contractual terms of the agreements and real estate market conditions. However, due to the continued deterioration of the commercial real estate market, primarily in the U.S., and the final settlement of certain lease obligations, the Company made appropriate adjustments to the initial restructuring charges recorded for all the phases. The Company's accrued lease liability for all plans of $42.3 million at March 31, 2005 was net of $18.4 million of estimated sublease income to be generated from sublease contracts not yet negotiated and estimated savings on settlement of future lease terminations.

The following table summarizes the various restructuring plans (in millions):

	Workforce Reduction	Lease Costs	Total
Accrual balance as of June 30, 2003	$ 25.4	$ 108.7	$134.1
Restructuring charges−GRP	2.5	2.3	4.8
Restructuring charges	5.6	—	5.6
Cash payments	(25.5)	(19.2)	(44.7)
Adjustments	(0.4)	(15.2)	(15.6)
Accrual balance as of June 30, 2004	7.6	76.6	84.2
Restructuring charges	7.7	—	7.7
Cash payments	(6.8)	(37.2)	(44.0)
Adjustments	—	2.9	2.9
Accrual balance as of March 31, 2005	$ 8.5	$ 42.3	$ 50.8

Charges Other Than Restructuring:

In addition to the charges recorded in connection with the restructuring activities, the Company has incurred total other charges of $491.5 million since inception. Details of these charges for the three and nine months ended March 31, 2005 and 2004 were as follows (in millions):

	Three Months Ended		Nine Months Ended	
	March 31, 2005	March 31, 2004	March 31, 2005	March 31, 2004
Property and equipment	$ 2.3	$ 0.3	$ 2.4	$ 1.9
Purchase commitments and other obligations	—	0.3	(0.3)	1.7
Workforce−related charges	1.3	0.4	2.3	1.4
Lease costs	1.4	0.5	4.4	(1.2)
Moving	—	0.3	1.0	2.0
Total other charges	$ 5.0	$ 1.8	$ 9.8	$ 5.8

From inception through the third quarter of fiscal 2005, the Company has incurred total charges related to property and equipment of $211.8 million. During the three and nine month periods ended March 31, 2005 and 2004, the Company recorded $2.3 million, $2.4 million, $0.3 million and $1.9 million, respectively, of additional depreciation from changes in the estimated useful life and the write−downs of certain property and equipment that were identified for disposal but remained in use until the date of disposal.

From inception through the third quarter of fiscal 2005, the Company has incurred total workforce−related charges of $31.2 million, which included retention bonuses, employee relocations costs and in fiscal 2002, payments for severance and benefits that were not associated with a formal plan of termination. Beginning in fiscal 2002, the Company recorded restructuring charges for approximately 750 employees. These employees consisted of approximately 600 in manufacturing, 50 in research and development, and 100 in selling, general and administrative functions. Approximately 150 employees were located in North America, 100 in Europe and 500 in Asia−Pacific. All 750 employees have been terminated and severance and benefit payments related to these employees have been paid in full.

From inception through the third quarter of fiscal 2005, the Company has incurred total lease costs of $15.5 million. During the three and nine month periods ended March 31, 2005 the Company adjusted lease expenses by $1.4 million and $4.4 million, respectively, primarily to reflect refinements of estimated net costs on building costs not required for ongoing operations. The Company estimated the cost of exiting and terminating the facility lease based on the contractual terms of the agreement and the real estate market conditions. The Company anticipates that it will take approximately 15 months to sublease the vacated property. Amounts related to the lease expense, net of anticipated sublease proceeds of $1.0 million, will be paid over the respective lease terms through fiscal 2011.

From inception through the third quarter of fiscal 2005, the Company has incurred moving, purchase and other commitment costs totaling $59.5 million. During the three and nine month periods ended March 31, 2005 and 2004, the Company incurred moving, purchase and other commitments costs of zero, $0.7 million, $0.6 million and $3.7 million, respectively.

Charges other than restructuring were recorded in the Company’s Condensed Consolidated Statements of Operations as follows (in millions):

	Three Months Ended		Nine Months Ended	
	March 31, 2005	March 31, 2004	March 31, 2005	March 31, 2004
Cost of sales	$ 2.0	$ 0.7	$3.8	$ 3.1
Research and development	(0.1)	0.2	0.3	1.1
Selling, general and administrative	3.1	0.9	5.7	1.6
Total other charges	$ 5.0	$ 1.8	$9.8	$ 5.8

As of March 31, 2005, the accrual balance related to these charges was $3.9 million, consisting primarily of purchase and lease commitments. The accrual balance is included in “Other current liabilities” in the Company’s Condensed Consolidated Balance Sheet.

Recommissioning of Assets:

As the Company continued to execute its restructuring plans to realign its operations and consolidate facilities, the Company recommissioned certain property and equipment during the fourth quarter of fiscal 2002 with a carrying value of $0 that had previously been removed from operations and fully depreciated or written down under the GRP. The total net book value of the recommissioned property and equipment at the time of the write−downs was $27.7 million, of which $15.9 million was related to the Communications Products Group, $10.7 million was related to the Commercial and Consumer Products Group and $1.1 million was related to the “All Other” category for segment reporting purposes (see “Note 15. Segment Information”). Based on the dates these assets were placed back into service and taking into consideration the potential impact of the impairment loss on these assets, the Company would have incurred additional depreciation expense of approximately $0.3 million, $1.6 million, $0.8 million and $2.7 million for the three and nine month periods ended March 31, 2005 and 2004, respectively.

Note 14. Income Tax Benefit

The Company recorded an income tax benefit of $1.8 million and $3.2 million for the three months and nine months ended March 31, 2005, respectively, as compared to an income tax benefit of $7.3 million and $17.7 million for the three months and nine months ended March 31, 2004, respectively.

The income tax benefit recorded for the three months ended March 31, 2005 relates primarily to the favorable settlement of a foreign tax audit. In addition to the favorable settlement of the foreign tax audit, the tax benefit recorded for the nine months ended March 31, 2005 includes a $2.5 million tax benefit reflecting a reduction in previously accrued tax liabilities as a result of the Company’s resolution of certain domestic tax audit issues. The Company also recorded $0.5 million and $1.6 million of income tax expense for the three months and nine months ended March 31, 2005, respectively, relating primarily to foreign income taxes.

The income tax benefit recorded for the three months and nine months ended March 31, 2005 differs from the expected tax benefit that would be calculated by applying the federal statutory rate to our loss before income taxes primarily due to the foreign tax audit settlement, the reduction of previously accrued domestic tax liabilities and increases in our valuation allowance for deferred tax assets attributable to our domestic losses from continuing operations.

The income tax benefit recorded for the three and nine months ended March 31, 2004 resulted primarily from appreciation in the carrying value of certain publicly traded securities designated as available−for−sale investments which allowed us to record a tax benefit for the domestic operating losses sustained during the three and nine months ended March 31, 2004.

Fluctuations in the value of our available−for−sale marketable public securities may create volatility in the amount of income tax expense (benefit) we record in future periods.

Due to the continued economic uncertainty in the industry, management has determined that it is more likely than not that the Company’s net deferred tax assets will not be realized and the Company has recorded deferred tax assets as of March 31, 2005 only to the extent of deferred tax liabilities.

The Company is currently subject to various federal, state and foreign audits by taxing authorities. The Company believes that adequate amounts have been provided for any adjustments that may result from these examinations.

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Note 15. Segment Information, Geographic Information, and Significant Customer

The Company evaluates its reportable segments in accordance with Statement of Financial Accounting Standard No. 131, "*Disclosures about Segments of an Enterprise and Related Information*" ("SFAS 131"). The Company has identified Kevin Kennedy, Chief Executive Officer, as its Chief Operating Decision Maker ("CODM") pursuant to SFAS No. 131. The CODM allocates resources to the segments based on their business prospects, competitive factors, net revenue and operating results.

The Company designs and manufactures products for fiber optic communications, as well as for markets where its core optics technologies provide solutions for industrial, commercial and consumer applications. The two reportable segments are:

(i) Communications Products Group:

The Communications Products Group consists of the Company's communication businesses, which provide fiber optic components, modules and subsystems for system manufacturers in the telecommunications, data communications and cable television industries.

(ii) Commercial and Consumer Products Group:

The Commercial and Consumer Products Group consists of the Company's non−communications businesses and includes laser subsystems products and products for display, security, decorative, aerospace and defense applications.

The amounts shown as "All other" consist of certain unallocated corporate−level operating expenses. In addition, the Company does not allocate restructuring charges, income taxes, non−operating income and expenses or specifically identifiable assets to its segments. Information on reportable segments is as follows (in millions):

	Three Months Ended		Nine Months Ended	
	March 31 2005	March 31 2004	March 31 2005	March 31 2004
Net revenue:				
Communications Products Group	$101.7	$ 79.5	$ 314.5	$ 231.6
Commercial and Consumer Products Group	64.6	81.9	226.8	229.8
Net external revenue	166.3	161.4	541.3	461.4
Operating loss:				
Communications Products Group	(15.8)	(11.5)	(40.6)	(31.7)
Commercial and Consumer Products Group	(0.2)	15.1	18.2	35.6
All other	(14.7)	(22.6)	(60.4)	(79.3)
Total operating loss	(30.7)	(19.0)	(82.8)	(75.4)
Unallocated amounts:				
Acquisition−related charges and amortization of intangibles	(4.8)	(3.9)	(14.3)	(11.8)
Reduction of other long−lived assets	(2.6)	(10.5)	(7.1)	(53.8)
Restructuring charges	(1.5)	(1.7)	(10.6)	(7.5)
Other realignment charges	(5.0)	(1.8)	(9.8)	(5.8)
Interest and other income, net	5.4	5.1	13.4	16.4
Gain on sale of investments	2.0	19.2	4.3	39.6
Reduction in fair value of investments	(3.4)	(1.5)	(8.4)	(3.8)
Gain (loss) on equity method investments	0.2	(0.5)	(3.5)	(6.5)
Loss before income taxes	$ (40.4)	$ (14.6)	$(118.8)	$ (108.6)

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The Company operates primarily in three geographic regions: North America, Europe and Asia. The following table presents net revenue and identifiable long−lived assets by geographic regions (in millions):

	Three Months Ended		Nine Months Ended	
	March 31, 2005	March 31, 2004	March 31, 2005	March 31, 2004
Net revenue:				
North America	$106.8	$ 99.8	$354.7	$ 299.6
Europe	32.8	34.4	100.2	88.0
Asia	26.7	27.2	86.4	73.8
Total net revenue	$166.3	$ 161.4	$541.3	$ 461.4

	March 31, 2005	June 30, 2004
Long−lived assets:		
North America	$128.7	$ 156.2
Europe	0.7	4.6
China	28.5	30.2
Other Asian countries	10.2	8.9
Total long−lived assets	$168.1	$ 199.9

Net revenue was assigned to geographic regions based on the customers' shipment locations. Identifiable long−lived assets were identified based on the operations in the corresponding geographic areas.

During third quarter of 2005, SICPA accounted for approximately 10% of net revenue. During the third quarter of fiscal 2004 Texas Instruments accounted for approximately 11% of net revenue and SICPA accounted for 10% of net revenue. During the nine months ended March 31, 2005 and 2004, no customers accounted for more than 10% of net revenue. SICPA is the Company's customer for light interference pigments products under the Commercial and Consumer Products Group.

Note 16. Mergers and Acquisitions

Advanced Digital Optics, Inc.

On July 30, 2004, the Company purchased Advanced Digital Optics, Inc. ("ADO"), a manufacturer of optical components and assemblies for communications and display markets for approximately $10.7 million in cash. The Company believes the acquisition will extend its capabilities in the design and manufacture of microdisplay light engines that deliver leading performance and image quality for the high definition television market. The acquired business has been included in our Commercial and Consumer Products Group operating segment. The acquisition was accounted for as a purchase in accordance with Statement of Financial Standard Accounting Standard No. 141 "*Business Combinations*" ("SFAS 141") and accordingly, the tangible assets acquired were recorded at their fair value at the date of acquisition.

Allocation of the initial purchase price was as follows (in millions):

Net tangible assets acquired	$ (1.8)
Existing technology	6.5
Goodwill	6.0
Total purchase price	$10.7

The following table summarizes the components of the tangible assets (liabilities) acquired (in millions):

Inventories	$ 0.2
Property and equipment	0.1
Other assets and liabilities, net	(2.1)
Net tangible assets acquired	$(1.8)

Acquired existing technology, which included products that are already technologically feasible, is primarily comprised of specialty light engines and related products. The acquired intangible assets are being amortized over their estimated useful lives of three years.

Goodwill represents the excess of the purchase price over the fair value of tangible and identified intangible assets acquired, is not being amortized but will be reviewed annually for impairment, or more frequently if impairment indicators arise, in accordance with SFAS 142. Goodwill has been assigned to the Commercial and Consumer Products Group operating segment and is not expected to be deductible for tax purposes under Internal Revenue Code 197. In the three and nine months ended March 31, 2005, a minimal amount and $0.2 million, were added to the original goodwill due to adjustments to the purchase price that related to additional acquired liabilities not included in the original purchase valuation, respectively. The results of operations of ADO have been included in the Company's financial statements subsequent to the date of acquisition. Pro forma results of operations have not been presented because the effect of the acquisition was not material.

E2O Communications:

On May 17, 2004, the Company purchased E2O Communications Incorporated ("E2O"), a manufacturer of high−performance fiber optic components and modules for the computer storage, internetworking and communication markets. The acquired business has been included in our Communications Product Group operating segment. The acquisition was accounted for as a purchase in accordance with SFAS 141 and accordingly, the tangible assets acquired were recorded at their fair value at the date of acquisition.

Under the terms of the acquisition, the Company would pay the shareholders of E2O a total of $60.2 million in cash. Of the $60.2 million purchase price, $4.4 million remains to be paid to the shareholders and is accrued within other liabilities. The $4.4 million includes $4.0 million of retained consideration for any future liabilities the Company may incur resulting from any breach of general representations or warranties made by the former shareholders of E2O and $0.4 million awaiting exchange pending the receipt of shares from various shareholders.

Allocation of the initial purchase price was as follows (in millions):

Net tangible assets acquired	$12.5
Intangible assets acquired:	
Existing technology	6.2
Customer relationships	2.3
Supply agreements	0.4
In−process research and development	2.6
Goodwill	36.2
Total purchase price	$60.2

The following table summarizes the components of the tangible assets acquired (millions):

Inventories	$ 5.4
Property and equipment	8.9
Other assets and liabilities, net	(1.8)
Net tangible assets acquired	$12.5

The acquired intangible assets are being amortized over their estimated useful lives, which are presented in the table below:

Existing technology	5 years
Customer relationships	3 years
Supply agreements	3 years

The acquired existing technology, which is comprised of products that are already technologically feasible, includes small form factor transceivers, gigabit interface converters, and the positive−intrinsic−negative (“PIN”) portion of optical receivers. The acquired existing technology represents the optical transceiver business’ trade secrets and patents developed through years of experience in design, package and manufacture of optical transceiver products for the storage area networks and local area networks.

A portion of the purchase price has been allocated to existing technology and in−process research and development (“IPR&D”). These are developmental projects that had not reached technological feasibility and had no future alternative uses were classified as IPR&D and expensed in the fourth quarter of fiscal 2004. The nature of the efforts required to develop the IPR&D into commercially viable products principally relates to the completion of all planning, designing, prototyping, verification and testing activities that are necessary to establish that the products can be produced to meet their design specifications, including functions, features and technical performance requirements.

Goodwill is not being amortized but will be reviewed annually for impairment, or more frequently if impairment indicators arise, in accordance with SFAS 142. Goodwill has been assigned to the Communications Products Group operating segment and is not expected to be deductible for tax purposes under Internal Revenue Code 197. In the three and nine months ended March 31, 2005, an amount of $(0.7) million and $2.6 million, respectively, was recorded to goodwill to adjust the purchase price related to acquired liabilities in the original purchase valuation. The results of operations of E2O have been included in the Company’s financial statements subsequent to the date of acquisition. Pro forma results of operations have not been presented because the effect of the acquisition was not material.

Ditech Communications:

On July 16, 2003, the Company completed the acquisition of certain assets of the optical communications business of Ditech Communications (“Ditech”) for $1.6 million in cash. The Company believes that the acquisition adds to its abilities to integrate optics, electronics and software in subsystems for optical equipment manufacturers.

The Company may make additional cash payments of up to $4.5 million, of which $0.5 million is based on the level of inventory purchased from Ditech that is sold by the Company and $4.0 million is contingent upon the revenue generated by the acquired business through June 30, 2005. At March 31, 2005, the Company has accrued $0.5 million for payments to be made as a result of revenue levels attained through that date. Additional payments related to inventory will be recorded to cost of sales at the time product is sold, while contingent payments based on revenue will be accounted for as goodwill. Direct transaction costs incurred in connection with the acquisition were immaterial.

The purchase price allocation was as follows (in millions):

Net tangible assets acquired	$1.5
Intangible assets acquired: Existing technology	0.1
Total purchase price	$1.6

Note 17. Related Party Transactions

BaySpec:

As of March 31, 2005, BaySpec, a privately held original equipment manufacturer (OEM) fiber−optics company in which the Company has a long−term investment, was a supplier of the Company. As of March 31, 2005, the Company’s investment in BaySpec is $1.5 million. During the three and nine months ended March 31, 2005, the Company purchased $5.4 million and $7.5 million of product, respectively, from BaySpec and the ending accounts payable balance was $0.4 million.

ADVA:

As of March 31, 2005, ADVA, a publicly held Metro Optical Networking Solutions company in which the Company has a long−term investment was a user of the Company's products. At March 31, 2005, the Company's investment in ADVA was valued at zero. During the three and nine months ended March 31, 2005, ADVA purchased $0.4 million and $0.9 million of product, respectively, from the Company and the ending accounts receivable balance was $0.2 million.

Epion:

During fiscal 2005, Epion, a privately held Gas Cluster Ion Beam Technology company in which the Company has a long−term investment, was a customer of the Company's intellectual property. As of March 31, 2005 the Company's investment in Epion is $1.4 million. During the three and nine months ended March 31, 2005, the Company recognized royalty fees of zero and $1.2 million, respectively. There was no outstanding receivable to the Company as of March 31, 2005.

Epion is also a supplier of the Company. During the three and nine months ended March 31, 2005, the Company purchased $0.1 million and $0.1 million, respectively, of product/services from Epion. The accounts payable balance was minimal at March 31, 2005.

Fabrinet:

As of March 31, 2005, the Company has a long−term investment of $2.0 million in Fabrinet. During the second quarter of fiscal 2005, the Company sold its legal entities in Singapore and Bintan, Indonesia to Fabrinet. Fabrinet will pay the Company the net asset value of the assets acquired. Fabrinet has assumed full management control of these facilities and is expected to close the sites; the Company will pay Fabrinet a service fee equal to 3% of the net revenue generated during the closure of the Bintan operation. At March 31, 2005, the Company has a receivable of $5.7 million recorded in other current assets related to this transaction.

During the three and nine months ended March 31, 2005, the Company recognized revenues of $4.0 million and $15.8 million, respectively, with respect to component sales to Fabrinet. As of March 31, 2005, the Company had an accounts receivable balance from Farbinet for $4.3 million.

In addition, during the three and nine months ended March 31, 2005, the Company purchased $14.9 million and $47.6 million of product, respectively, from Fabrinet and the ending accounts payable balance was $8.8 million.

Agility:

In the third quarter of fiscal 2005, the Company invested $3.0 million in Agility Communications, Inc., a privately held optical networking solutions company. During the three and nine months ended March 31, 2005, Agility purchased $0.3 million of the Company's product. The Company had no accounts receivable from Agility at March 31, 2005.

Note 18. Guarantees

The Company from time to time enters into certain types of contracts that contingently require the Company to indemnify parties against third−party claims. These contracts primarily relate to: (i) divestiture agreements, under which the Company may provide customary indemnifications to purchasers of the Company's businesses or assets; (ii) certain real estate leases, under which the Company may be required to indemnify property owners for environmental and other liabilities, and other claims arising from the Company's use of the applicable premises; and (iii) certain agreements with the Company's officers, directors and employees, under which the Company may be required to indemnify such persons for liabilities arising out of the course and scope of their employment and/or director relationship and only to the extent consistent with the Company's bylaws and applicable law.

The terms of such obligations vary. Generally, a maximum obligation is not explicitly stated. Because the obligated amounts of these types of agreements often are not explicitly stated, the overall maximum amount of the obligations cannot be reasonably estimated. Historically, the Company has not been obligated to make significant payments for these obligations and no liabilities have been recorded for these obligations as of March 31, 2005.

Product Warranties:

In general, the Company offers a one−year warranty for most of its products in the Communications Products Group, and a three−month to one−year warranty for most of its products in the Commercial and Consumer Products Group. The Company provides reserves for the estimated costs of product warranties during the period in which revenue is recognized. The Company estimates the costs of its warranty obligations based on its historical experience of known product failure rates, use of materials to repair or replace defective products and service delivery costs incurred in correcting product failures. In addition, from time to time, specific warranty accruals may be made if unforeseen technical problems arise with specific products. The Company periodically assesses the adequacy of its recorded warranty liabilities and adjusts the amounts as necessary.

The following table presents the changes in the Company's warranty reserve during the three and nine months ended March 31, 2005 and 2004 (in millions):

	Three Months Ended		Nine Months Ended	
	March 31, 2005	March 31, 2004	March 31, 2005	March 31, 2004
Warranty reserve at beginning of period	$18.1	$ 36.4	$ 25.1	$ 52.4
Provision for warranty	0.8	2.4	4.1	5.5
Utilization of reserve	(2.0)	(5.7)	(4.9)	(13.2)
Adjustments related to pre−existing warranties (including changes in estimates)	(4.3)	(5.5)	(11.7)	(17.1)
Warranty reserve at end of period	$12.6	$ 27.6	$ 12.6	$ 27.6

Note 19. Convertible Debt and Letters of Credit

On October 31, 2003, the Company completed the sale of $475.0 million aggregate principal amount of Zero Coupon Senior Convertible Notes due in 2010. The Notes were issued for cash consideration in a private placement to the initial purchasers, Morgan Stanley & Co. Incorporated, Goldman Sachs & Co., and CIBC World Markets Corp. The initial purchasers resold the Notes to qualified institutional investors in accordance with Rule 144A under the Securities Act of 1933, as amended. Proceeds from the notes amounted to $462.3 million after issuance costs. The Notes do not bear interest and are convertible into the Company's common stock at a conversion price of $4.94 per share. Each $1,000 principal amount is initially convertible into 202.4291 shares of the Company's common stock upon the satisfaction of certain conditions. Therefore, the Notes are convertible in the aggregate into approximately 96.2 million shares of common stock. The Company has the right to redeem the Notes beginning November 15, 2008. Holders of the Notes may require the Company to repurchase the Notes on November 15, 2008. In addition, under certain circumstances holders may require the Company to convert the Notes into shares of the Company's common stock, including if the closing sale price of our common stock exceeds 110% of the conversion price for at least 20 trading days in the 30 consecutive trading days ending on the last trading day of the preceding fiscal quarter. Conditions required to trigger this conversion right have not occurred.

The costs incurred in connection with the Convertible Notes are being amortized to interest expense over 5 years.

As of March 31, 2005 the Company had ten standby letter of credit facilities totaling $9.8 million.

Note 20. Subsequent Events

North America manufacturing facility consolidation

On April 20, 2005, the Company announced its intention to undertake the following actions:

- Consolidate and transfer the Ewing, New Jersey and Melbourne, Florida manufacturing facilities to the Shenzhen, China facility and the facilities of two contract manufacturing partners.

- Transfer the Ewing and Mountain Lakes, New Jersey manufacturing facilities to Fabrinet, a key manufacturing partner.

- Reduce manufacturing in Santa Rosa, California associated with the phasing out of certain display products.

The facility transfers to Fabrinet are expected to be completed by June 30, 2005, while the remaining actions are expected to be completed by December 31, 2005.

These actions are expected to result in the significant consolidation of the Company's North American manufacturing operations. The Company expects that by December 31, 2005, manufacturing positions will be reduced, as a result of these actions, by more than 15% (approximately 700 people plus 150 people in support positions). The Company will maintain research and development activities in nearby locations, except Mountain Lakes.

Fuzhou, China facility divestiture

On April 27, 2005, the Company announced that it plans to divest of its bulk optics manufacturing facility in Fuzhou, China to reduce complexity and enable the Company to focus on its core competencies. The divestiture of Fuzhou is expected to further reduce headcount by over 500 people.

Lightwave acquisition

On April 29, 2005, the Company completed a definitive agreement to acquire Lightwave Electronics Corporation, a leading provider of solid−state lasers for commercial markets including materials processing, semiconductor fabrication and biotech. Under the terms of the agreement, the Company is to acquire Lightwave in an all cash transaction for $65 million.

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

Forward−Looking Statements

Statements contained in this Quarterly Report on Form 10−Q which are not historical facts are forward−looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934, as amended. A forward−looking statement may contain words such as "anticipate that," "believes," "can impact," "continue to," "estimates," "expects to," "hopes," "intends," "plans," "to be," "will be," "will continue to be", "continuing", "ongoing" or similar words.

These statements include: (i) any anticipation or guidance as to future financial performance; and (ii) the likelihood and timing of cost−reduction actions or events described in this Report (including the Company's actions to consolidate facilities, reduce headcount, transfer products to contract manufacturers and other lower cost manufacturing centers, eliminate certain product and divest of products, operations and assets), as well as the level and timing of any benefits expected to be received by the Company in connection therewith. These forward−looking statements involve risks and uncertainties that could cause actual results to differ materially from those projected, including, without limitation, the following: (i) the Company's ability to predict future financial performance continues to be difficult, as among other things, visibility remains limited, we are experiencing significant quarter over quarter fluctuations in product mix, average selling prices continue to decline across our product portfolio, we continue to experience execution challenges which limit our revenue and impair our profitability, and we are experiencing declining, but variable, benefits from certain transient items, such as the release of previously accrued reserves and the use of previously written−off inventory; (ii) the Company's cost improvement efforts may not be successful in achieving their expected benefits (including, among other things, cost structure, gross margin and other profitability improvements), due to, among other things, the Company's failure to (1) successfully negotiate and complete transactions with contract manufacturers and other third parties, and (2) timely and cost−effectively complete the site consolidation, product transfer, product elimination, operations and asset divestiture, and employee reduction activities associated with its cost improvement programs; and (iii) ongoing efforts to design and introduce products that meet customers' future needs and to manufacture such products at competitive costs, and with acceptable quality and profitability, may not be successful.

Overview

Our Industries and Quarter Developments

We are a worldwide leader in optical technology. We design and manufacture products where our core optical technologies provide innovative solutions for communications, commercial and consumer applications. The Company offers products for data communications, telecommunications and cable television, display, security, medical/environmental, instrumentation, decorative, aerospace and defense applications. We separate our business into two product segments; 1) Communications Products Group and 2) Commercial and Consumer Products Group. We currently have 5,602 employees at 12 main locations, principally located in North America and the People's Republic of China.

Overall, our markets are notable for their high customer concentrations at each level of the industry, significant competition at the component and module level which we participate, as well their extremely long design cycles. One consequence of a highly concentrated customer base and multiple competing vendors is systemic pricing pressure at each level of the industry. Large capital investment requirements, long return on investment periods, uncertain business models and complex and shifting regulatory hurdles, among other things, currently combine to limit opportunities for new service providers to emerge. Thus, we expect that high customer concentration and its attendant pricing pressure and other effects on our communications markets will remain for the foreseeable future. Long design cycles mean that considerable resources must be spent to design and develop new products with limited visibility relative to the ultimate market opportunity for the products (pricing and volumes) or the timing thereof. As a leading supplier of components and modules to this industry, we feel the effects most acutely, as system designs must first be initiated at the carrier level, communicated to the systems provider and then communicated to us and our competitors. During system design periods, shifts in economic, industry, regulatory, customer or consumer conditions could and often do cause redesigns, delays or even cancellations to occur along with normal operating costs. Communications industry design cycles are often destructive for companies without the financial and infrastructural resources to sustain the long periods between project initiation and revenue realization. Our Commercial and Consumer Products Group, while more diverse, shares some of the customer concentration and design cycle attributes of our Communications Products Group markets.

Our Communications Products Segment offers a broad range of components, modules and subsystems for data communications and telecommunications. Our Communications markets consist generally of:

- Original equipment manufacturers of enterprise and storage equipment such as Cisco, Sun Microsystems, IBM and Hewlett−Packard.
- Original equipment manufacturers of telecommunications equipment such as Nortel, Lucent, Alcatel, Ciena, and Cisco who supply systems to service providers worldwide.

Our Commercial and Consumer Products Segment includes our thin film coating, optical assembly, bulk optics and laser technologies and expertise. Optical coatings are microscopic layers of materials applied to the surface of a substrate, such as glass, plastic or metal, to alter its optical properties. Optical coatings work by controlling, enhancing or modifying the behavior of light to produce specific effects such as reflection, refraction, absorption, and anti−glare. The ability to control the behavior of light using thin film coatings plays a critical role in many industries and products.

Our Commercial and Consumer markets consist generally of:

- Original equipment manufacturers such as Applied Biosystems, KLA−Tencor and Eastman Kodak who use our laser components and subsystems in biotechnology, graphic arts and imaging, semiconductor processing, material processing and other laser based applications and markets.
- Original equipment manufacturers of displays and display systems who use our optical components in televisions and other displays, as well as for a variety of other display applications.
- Original equipment manufacturers who use our high precision coated products, optical sensors, optical filters and assemblies for a variety of applications including medical / environmental instrumentation, aerospace and defense.
- Suppliers of products and documents that require authentication in order to prevent counterfeiting. We provide products designed for the protection of currency and identification documents. We also provide solutions for the protection of high value brands for a variety of applications such as pharmaceutical and consumer electronic products.
- Designers and suppliers of decorative coatings who use our products to affect optical properties to achieve a differentiated, desirable appearance for a wide range of consumer products.

Major business developments during the third quarter of fiscal 2005 include:

- Net revenues increased approximately 3% during the third quarter of fiscal 2005 compared to the third quarter of fiscal 2004. However, net revenues declined sequentially approximately 8% from the second quarter of fiscal 2005. Net revenue for the third quarter of fiscal 2005 from our Communications Products Group was approximately 61% of net revenue, and net revenue from our Commercial and Consumer Products Group was approximately 39% of net revenue. Net revenue from our Commercial and Consumer Products Group declined approximately 21% from the year earlier quarter and approximately 12% from the second quarter of fiscal 2005. This latter decline is primarily due to seasonality in our front surface mirror product line.
- One customer, SICPA represented approximately 10% or more of our net revenues during the third fiscal quarter of 2005. During the third quarter of fiscal 2004. Texas Instruments accounted for 11% of net revenue and SICPA accounted for approximately 10% of net revenue. SICPA is our customer for light interference pigments products under the Commercial and Consumer Products Group.
- Gross margins declined during the quarter, with third quarter gross margins of 15% compared to 17% for the second quarter of fiscal 2005 and 25% for the third quarter of fiscal 2004. The fiscal 2005 quarter to quarter deterioration in gross margin was due to decline in net revenue and lower net recoveries of previously reserved inventories and lower overhead absorption, as well as product mix. We expect that a major focus for the foreseeable future will be on the identification and implementation of programs designed to improve gross margins primarily through the transition of products to lower cost manufacturing locations (internally and, increasingly, to contract manufacturers), phasing out of non−core products, and divesting or eliminating non−core assets and operations.

- Our Commercial and Consumer Products Group experienced seasonality in demand and challenges with an increasingly competitive market and reduced revenues from a single display customer in the third quarter. These issues have been particularly evident with our optics and display products.

- Our SG&A and R&D expenses for the third quarter declined slightly over last year's quarter as a percentage of net revenue, from 38% to 36%.

- The Company consumed $36 million in cash and short term investment during the third quarter of fiscal 2005 including $22 million from operations, which included approximately $15 million related to the reduction of other accrued liabilities.

- Our headcount at March 31, 2005 was 5,602.

- We announced our intention to purchase Lightwave Electronics Corporation ("LEC") on March 21, 2005. LEC is a leading provider of solid−state lasers for commercial markets including materials processing, semiconductor fabrication, and biotech. This acquisition is part of our strategy to expand our product line of solid−state lasers and broaden our customer base in the growing laser market. The purchase of LEC was completed on April 29, 2005 for $65 million.

Recent Accounting Pronouncements

SFAS No. 123R

In December of 2004, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standard No. 123, *Share−Based Payment (Revised 2004)* ("SFAS 123R"). SFAS 123R requires the Company to measure all employee stock−based compensation awards using a fair value method and record such expense in the Company's consolidated financial statements. In addition, the adoption of SFAS 123R will require additional accounting related to the income tax effects and additional disclosure regarding the cash flow effects resulting from share−based payment arrangements. SFAS 123R is effective beginning in the Company's first quarter of fiscal 2006. The Company plans to use the modified prospective transition method to adopt this new standard and expects to have a material impact on the consolidated financial position and results of operations. For the historical impact of stock−based compensation expense, see Note 3.

SFAS No. 153

In December of 2004, the FASB issued Statement of Financial Accounting Standard No. 153, *Exchanges of Non−monetary Assets, an amendment of APB Opinion No. 29* ("SFAS 153"). SFAS 153 addresses the measurement of exchanges of non−monetary assets and redefines the scope of transactions that should be measured based on the fair value of the assets exchanged. SFAS 153 is effective for non−monetary asset exchanges beginning in our first quarter of fiscal 2006. We do not believe adoption of SFAS 153 will have a material effect on our consolidated financial position or results of operations.

FSP No. FAS 109−2

On December 21, 2004, the FASB issued FASB Staff Position No. FAS 109−2, *Accounting and Disclosure Guidance for the Foreign Earnings Repatriation Provision within the American Jobs Creation Act of 2004* ("FSP FAS 109−2"). The American Jobs Creation Act introduces a special one−time dividends received deduction on the repatriation of certain foreign earnings to a U.S. taxpayer (repatriation provision), provided certain criteria are met. The Company currently has no plans to repatriate foreign earnings.

SFAS No. 151

In November of 2004, the FASB issued Statement of Financial Accounting Standard No. 151, *Inventory Costs – An Amendment of ARB No. 43, Chapter 4* ("SFAS 151"). SFAS 151 clarifies treatment of abnormal amounts of idle facility expense, freight, handling costs and spoilage, specifying that such costs should be expensed as incurred and not included in overhead. The new statement also requires that allocation of fixed production overheads to conversion costs should be based on normal capacity of the production facilities. The provisions in SFAS 151 are effective for inventory costs incurred during fiscal years beginning after June 15, 2005. Companies must apply the standard prospectively. The Company does not believe that the impact of this new standard will have a material effect on our financial statements or results of operations.

EITF No. 04−8

In July 2004, the FASB reached the consensus in Emerging Issues Task Force Issue No. 04−8, *The Effect of Contingently Convertible Debt on Diluted Earnings Per Share* (“EITF 04−8”) that contingently convertible debt instruments should be included in the diluted earnings per share computation regardless of whether the contingency has been met. The consensus reached by the Task Force is effective for reporting periods ending after December 15, 2004. Under the consensus reached by the EITF, the Company would include the 96.2 million contingently convertible shares in our calculation of diluted earnings per share if the Company had net income.

EITF No. 03−1

In March 2004, the FASB approved the consensus reached on the Emerging Issues Task Force Issue No. 03−1, *The Meaning of Other−Than−Temporary Impairment and Its Application to Certain Investments* (“EITF 03−01”). The objective of EITF 03−1 is to provide guidance for identifying impaired investments. EITF 03−1 also provides new disclosure requirements for investments that are deemed to be temporarily impaired. In October 2004, the FASB delayed the recognition and measurement provisions of EITF 03−1 until implementation guidance is issued, which is expected to be in early 2005. The disclosure requirements are effective for annual periods ending after June 15, 2004, and remain in effect. The Company has adopted EITF 03−1 disclosure requirements and does not believe the impact is material to the company’s overall results of operations or financial position.

Critical Accounting Policies

The preparation of our consolidated financial statements in conformity with accounting principles generally accepted in the United States requires us to make estimates and judgments that affect the reported amounts of assets and liabilities, net revenue and expenses, and the related disclosures. We base our estimates on historical experience, our knowledge of economic and market factors and various other assumptions that we believe to be reasonable under the circumstances. Estimates and judgments used in the preparation of our financial statements are, by their nature, uncertain and unpredictable, and depend upon, among other things, many factors outside of our control, such as demand for our products and economic conditions. This uncertainty and unpredictability are heightened during periods of economic uncertainty, such as the present. Accordingly, our estimates and judgments may prove to be incorrect and actual results may differ, perhaps significantly, from these estimates under different estimates, assumptions or conditions. We believe the following critical accounting policies are affected by significant estimates, assumptions and judgments used in the preparation of our consolidated financial statements.

Revenue Recognition: We recognize revenue when persuasive evidence of a final agreement exists, delivery has occurred, the selling price is fixed or determinable and collectibility is reasonably assured. Revenue recognition on the shipment of evaluation units is deferred until customer acceptance. Revenue from sales to distributors with rights of return, price protection or stock rotation is not recognized until the products are sold through to end customers. Generally, revenue associated with contract cancellation payments from customers is not recognized until we receive payment for such charges.

We record provisions against our gross revenue for estimated product returns and allowances in the period when the related revenue is recorded. These estimates are based on factors that include, but are not limited to, historical sales returns, analyses of credit activities, current economic trends and changes in our customers’ demand. Should our actual product returns and allowances exceed our estimates, additional provisions against our revenue would result.

Allowances for Doubtful Accounts: We perform credit evaluations of our customers’ financial condition. We maintain allowances for doubtful accounts for estimated losses resulting from the inability or unwillingness of our customers to make required payments. We record our bad debt expenses as selling, general and administrative expenses. When we become aware that a specific customer is unable to meet its financial obligations to us, for example, as a result of bankruptcy or deterioration in the customer’s operating results or financial position, we record a specific allowance to reflect the level of credit risk in the customer’s outstanding receivable balance. In addition, we record additional allowances based on certain percentages of our aged receivable balances. These percentages are determined by a variety of factors including, but not limited to, current economic trends, historical payment and bad debt write−off experience. We are not able to predict changes in the financial condition of our customers, and if circumstances related to our customers deteriorate, our estimates of the recoverability of our trade receivables could be materially affected and we may be required to record additional allowances. Alternatively, if we provide more allowances than we need, we may reverse a portion of such provisions in future periods based on our actual collection experience.

Investments: We hold equity interests in both publicly traded and privately held companies. When the carrying value of an investment exceeds its fair value and the decline in value is deemed to be other−than−temporary, we write down the value of the investment and establish a new cost basis. Fair values for investments in public companies are determined using quoted market prices. Fair values for investments in privately held companies are estimated based upon one or more of the following but not limited to: assessment of the investees' historical and forecasted financial condition, operating results and cash flows, the values of recent rounds of financing, or quoted market prices of comparable public companies. We regularly evaluate our investments based on criteria that include, but not limited to, the duration and extent to which the fair value has been less than the carrying value, the current economic environment and the duration of any market decline, and the financial health and business outlook of the investees. We generally believe an other−than−temporary decline occurs when the fair value of an investment is below the carrying value for six consecutive months. Future adverse changes in these or other factors could result in an other−than−temporary decline in the value of our investments, thereby requiring us to write down such investments. Our ability to liquidate our investment positions in privately held companies will be affected to a significant degree by the lack of an actively traded market, and we may not be able to dispose of these investments in a timely manner.

Inventory Valuation: We regularly assess the valuation of our inventories and write down those inventories which are obsolete or in excess of our forecasted usage to their estimated realizable value. Our estimates of realizable value are based upon our analyses and assumptions including, but not limited to, forecasted sales levels by product, expected product lifecycle, product development plans and future demand requirements. We typically use a six to twelve month rolling forecast based on factors including, but not limited to, our production cycle, anticipated product orders, marketing forecasts, backlog, shipment activities and inventories held at our customers. If market conditions are less favorable than our forecasts or actual demand from our customers is lower than our estimates, we may be required to record additional inventory write−downs. If demand is higher than expected, we may sell our inventories that had previously been written down.

Goodwill Valuation: We test goodwill for possible impairment on an annual basis and at any other time if events occur or circumstances indicate that the carrying amount of goodwill may not be recoverable. Circumstances that could trigger an impairment test include but are not limited to: a significant adverse change in the business climate or legal factors; an adverse action or assessment by a regulator; unanticipated competition; loss of key personnel; the likelihood that a reporting unit or significant portion of a reporting unit will be sold or otherwise disposed; results of testing for recoverability of a significant asset group within a reporting unit; and recognition of a goodwill impairment loss in the financial statements of a subsidiary that is a component of a reporting unit.

The determination as to whether a write down of goodwill is necessary involves significant judgment based on the short−term and long−term projections of the future performance of the reporting unit to which the goodwill is attributed. The assumptions supporting the estimated future cash flows of the reporting unit, including the discount rate used and estimated terminal value reflect our best estimates.

Long−lived asset valuation (property, plant and equipment and intangible assets):

Long−lived assets held and used

We test long−lived assets or asset groups for recoverability when events or changes in circumstances indicate that their carrying amounts may not be recoverable. Circumstances which could trigger a review include, but are not limited to: significant decreases in the market price of the asset; significant adverse changes in the business climate or legal factors; accumulation of costs significantly in excess of the amount originally expected for the acquisition or construction of the asset; current period cash flow or operating losses combined with a history of losses or a forecast of continuing losses associated with the use of the asset; and current expectation that the asset will more likely than not be sold or disposed of significantly before the end of its estimated useful life.

Recoverability is assessed based on the carrying amounts of the asset and its fair value which is generally determined based on the sum of the undiscounted cash flows expected to result from the use and the eventual disposal of the asset, as well as specific appraisals in certain instances. An impairment loss is recognized when the carrying amount is not recoverable and exceeds fair value.

Long−lived assets held for sale

We classify long−lived assets as held for sale when certain criteria are met, which include: management commitment to a plan to sell the assets; the availability of the assets for immediate sale in their present condition; whether an active program to locate buyers and other actions to sell the assets has been initiated; whether the sale of the assets is probable and their transfer is expected to qualify for recognition as a completed sale within one year; whether the assets are being marketed at reasonable prices in relation to their fair value; and how unlikely it is that significant changes will be made to the plan to sell the assets. Long−lived assets held for sale are included in other current assets.

We measure long−lived assets to be disposed of by sale at the lower of carrying amounts or fair value less cost to sell. Fair value is determined using quoted market prices or the anticipated cash flows discounted at a rate commensurate with the risk involved.

Deferred Taxes: We regularly assess the likelihood that our deferred tax assets will be realized from recoverable income taxes or recovered from future taxable income, and we record a valuation allowance to reduce our deferred tax assets to the amount that we believe to be more likely than not realizable. Due to the uncertain economic conditions in our industry, we determined in fiscal year 2002 that we should increase our valuation allowance for deferred tax assets to reduce our net deferred tax assets to an amount representing income taxes recoverable from prior years. All recoverable income taxes are recorded as refundable income taxes, and we record deferred tax assets only to the extent of deferred tax liabilities.

Warranty Accrual: We provide reserves for the estimated costs of product warranties at the time revenue is recognized. We estimate the costs of our warranty obligations based on our historical experience of known product failure rates, use of materials to repair or replace defective products and service delivery costs incurred in correcting product failures. In addition, from time to time, specific warranty accruals may be made if unforeseen technical problems arise. Should our actual experience relative to these factors differ from our estimates, we may be required to record additional warranty reserves. Alternatively, if we provide more reserves than we need, we may reverse a portion of such provisions in future periods.

Restructuring Accrual: Since April 2001, we began to implement formalized restructuring programs based on the Company’s business strategies and economic outlook and recorded significant charges in connection with our Global Realignment Program. In connection with these plans, we have recorded estimated expenses for severance and outplacement costs, lease cancellations, asset write−offs and other restructuring costs. In accordance with SFAS 146, generally costs associated with restructuring activities initiated after December 31, 2002 have been recognized when they are incurred rather than at the date of a commitment to an exit or disposal plan. However, in the case of leases, the expense is estimated and accrued when the property is vacated. Given the significance of, and the timing of the execution of such activities, this process is complex and involves periodic reassessments of estimates made at the time the original decisions were made, including evaluating real estate market conditions for expected vacancy periods and sub−lease rents. We continually evaluate the adequacy of the remaining liabilities under our restructuring initiatives. Although we believe that these estimates accurately reflect the costs of our restructuring plans, actual results may differ, thereby requiring us to record additional provisions or reverse a portion of such provisions.

Results of Operations

Net Revenue:

	Three Months Ended March 31,				Nine Months Ended March 31,			
	2005	2004	Change	Percentage Change	2005	2004	Change	Percentage Change
Communications Products Group	$ 101.7	$ 79.5	22.2	28%	$ 314.5	$ 231.6	82.9	36%
Commercial & Consumer Products Group	64.6	81.9	(17.3)	−21%	226.8	229.8	(3.0)	−1%
Total net revenue	$ 166.3	$ 161.4	4.9	3%	$ 541.3	$ 461.4	79.9	17%

During the third months end March 31, 2005, our net revenue of $166.3 million was approximately 3% higher than our net revenues for the comparable period in fiscal 2004, but represented a decline of 8% sequentially from the second quarter of fiscal 2005. During the nine months ended March 31, 2005, our net revenue of $541.3 million was approximately 17.3% higher than our net revenues for the comparable period in fiscal 2004.

The increased revenue for the three and nine months period were attributable primarily to improved market conditions and growth in our circuit pack and high power laser businesses. The increase was offset by declines in our Commercial and

Consumer Products Group for optics and display products. We believe the overall business climate continues to have limited visibility. We also believe that the mix of revenues in any quarter continues to be driven by changes in demand from a small number of customers whose demands vary quarter from quarter, particularly for our communications customers. We continue to encounter multiple and systemic execution challenges principally related to new product introductions, and more recently, in connection with our end of life programs. These challenges include product delivery uncertainty, yield and quality problems, systems strain and related customer dissatisfaction. Improving our overall execution will be a major priority for the foreseeable future. If we do not improve our execution and product quality, our operating results could be significantly impacted.

The Company operates primarily in three geographic regions: North America, Europe and Asia. The following table presents net revenue by geographic regions (in millions):

	Three Months Ended		Nine Months Ended	
	March 31, 2005	March 31, 2004	March 31, 2005	March 31, 2004
Net revenue:				
North America	$106.8	$ 99.8	$354.7	$ 299.6
Europe	32.8	34.4	100.2	88.0
Asia and other	26.7	27.2	86.4	73.8
Total net revenue	$166.3	$ 161.4	$541.3	$ 461.4

Net revenue from customers outside North America represented 36%, 35%, 38%, and 36% of net revenue for the three and nine month periods ended March 31, 2005 and 2004. We expect revenue from international customers to continue to be an important part of our overall revenue and an increasing focus for revenue growth.

Gross Profit:

	Three Months Ended			Nine Months Ended		
	March 31, 2005	March 31, 2004	Change	March 31, 2005	March 31, 2004	Change
Total gross profit	$24.8	$ 40.4	$(15.6)	$97.5	$ 104.4	$ (6.9)
Percentage of net revenue	15%	25%		18%	23%	

For the three months ended March 31, 2005, gross margin of 15% was down from 25% for the same period a year ago. Factors that contributed to the decline in gross profit are:

- Declining average selling price

- Higher overhead absorption variances due to lower revenue levels in the Commercial and Consumer Products Group and product transition activities

- Products mix shift to the lower margin Communications Products Group from the higher margin Commercial and Consumer Products group

On a year to date basis, gross margin of 18% is down from 23% for the same period a year ago. The decline reflects a shift in product mix as the lower margin Communications Products Group revenues increased by 36% year over year and increased as a percentage of net revenue to 58% from 50% in the prior year. Furthermore, the gross margin benefits from reductions in reserves, such as the reserve for excess inventories have declined.

In addition, introduction of new products, such as Reconfigurable Optical Add / Drop Multiplexer (ROADM), optical switches, high speed transponders, solid state lasers and display components, which due to the untested nature of the products and the potential for complexity have incurred and are expected to continue to incur relatively higher startup costs and increased yield and product quality risk. These issues have negatively impacted and could continue to negatively impact our gross profit. We expect gross profit pressures to remain for the foreseeable future and in particular expect product mix, under−utilization, factory transitions, and new product issues to create variability in our gross margins, and we cannot predict the timing or extent of any gross margin improvement. In the foreseeable future, actions designed to improve our gross margins (through product mix improvements, cost reductions associated with product transfers and product rationalization, and yield and quality improvements, among other things) will be a principal focus for us.

Research and Development (R&D) and Selling, General and Administrative (SG&A)Expenses:

	Three Months Ended			Nine Months Ended		
	March 31, 2005	March 31, 2004	Change	March 31, 2005	March 31, 2004	Change
Research and development	$22.5	$ 25.6	$ (3.1)	$ 71.4	$ 74.4	$ (3.0)
Percentage of net revenue	14%	16%		13%	16%	
Selling, general and administrative	$38.0	$ 35.6	$ 2.4	$118.7	$ 111.2	$ 7.5
Percentage of net revenue	23%	22%		22%	24%	

We believe that investment in R&D is critical to attaining our strategic objectives. Historically, we have devoted significant engineering resources to assist with production, quality and delivery challenges which has had some negative impact on our new product development activities. Despite our continued efforts to reduce expenses, there can be no assurance that our R&D expenses will continue to remain at the current level. In addition, there can be no assurance that such expenditures will be successful or that improved processes or commercial products, at acceptable volumes and pricing, will result from our investment in R&D. During the three and nine months ended March 31, 2005, R&D expenses decreased compared to the same periods a year ago mainly due to reduced purchases of $2.1 million for both periods for R&D materials and tools from project realignments.

We intend to continue to aggressively address our SG&A expenses and reduce these expenses as and when opportunities arise. We caution, however, that we have in the recent past experienced, and expect to continue to experience in the future, certain non−core expenses, such as litigation and dispute related settlements and accruals, which could increase our SG&A expenses, and impair our profitability expectations, in any particular quarter. None of these non−core expenses, however, is expected to have a material adverse impact on our financial condition. Also, we expect to incur additional SG&A expenses as we fully implement the requirements of the Sarbanes−Oxley Act of 2002, in particular, Section 404 thereof, and continue to invest in personnel strategic to our business. There can be no assurance that our SG&A expense will decline in the future or that, more importantly, we will develop a cost structure (including our SG&A expense), which will lead to profitability under current and expected revenue levels. During the three months ended March 31, 2005, SG&A expenses increased compared to the same periods a year ago mainly due to increased outside services of $1.9 million. During the nine months ended March 31, 2005, SG&A expenses increased compared to the same periods a year ago mainly due to legal settlements of $6.4 million in fiscal 2005 relating to legacy legal issues.

Amortization of Purchased Intangibles:

During the three and nine months ended March 31, 2005, amortization of purchased intangibles increased by $0.9 million and $2.5 million, respectively, compared to the same periods a year ago, mainly due to the increase in our intangible assets subject to amortization as a result of recent acquisition activities.

Reduction of Other Long−Lived Assets:

During the three and nine month periods ended March 31, 2005 and 2004, the Company recorded $2.6 million, $7.1 million, $10.5 million and $53.8 million, respectively, net reductions in the carrying value of its long−lived assets and assets held for sale.

Assets Held and Used:

During the three and nine months ended March 31, 2005, no assets classified as held and used were reduced in value as the Company noted no indicators of impairment during these periods related to the Company’s remaining long−lived assets, including purchased intangibles. During the three months ended March 31, 2004, in accordance with SFAS No. 144, the Company reduced to estimated realizable value of certain manufacturing equipment by $7.7 million, and other assets by $3.7 million. During the first nine months of fiscal 2004, specifically in the first quarter for fiscal 2004, as a result of the adoption of FIN46 with respect to two properties under a synthetic lease agreement, the Company recognized a $5.0 million deferred impairment charge related to the Melbourne, Florida properties, which was originally being amortized over the term of the lease.

Assets Held for Sale:

The Company began to market the facilities at Melbourne, Florida and Research Triangle Park, North Carolina during the second quarter of fiscal 2005 and expected to complete the sale of these facilities by December 31, 2005. During the third quarter of fiscal 2005 the facility in Research Triangle Park, North Carolina was sold for $6.6 million. In the three and nine months ended

March 31, 2005, the Ottawa corporate campus, which was previously classified as held for sale in fiscal 2004, was adjusted down by $3.1 million and $7.6 million, respectively, in accordance with SFAS 144. The Company is still actively marketing the property as of March 31, 2005.

During the three and nine months ended March 31, 2004, the Company adjusted the carrying value of certain assets classified as held for sale. In accordance with SFAS 144, the Company recorded total impairment of $(0.9) million and $37.4 million for the three and nine month periods ended March 31, 2004, representing the amount by which the carrying value of the assets exceeded fair value less cost to sell.

Restructuring and Other Related Charges:

In April 2001, we initiated the Global Realignment Program, under which we began restructuring our business in response to the economic downturn and focused on large−scale site and employee reductions. The implementation was completed in the second quarter of fiscal 2004. The Company will continue to take advantage of opportunities to further reduce costs through targeted, customer−driven, restructuring events, intended to reduce the Company’s footprint and rationalize the manufacture of our products based on core competencies and cost efficiencies. Restructure activities entered into through the second quarter of 2004 are described under the GRP, while activities beginning in the third quarter of fiscal 2004 are described under Restructuring Actions.

During the three and nine month periods ended March 31, 2005, the Company developed plans to consolidate a portion of its North American and Asian manufacturing operations to China or transfer the production to third party manufacturers. These actions created restructuring charges of approximately $2.4 and $7.7 million, respectively, and were primarily related to severance and benefits associated with employee terminations or notification of termination. During the nine months ended March 31, 2005, terminations accounted for approximately 357 employees in North America, 4 employees in Europe, and 390 employees in Asia. For the three and nine months ended March 31, 2005, the Company also recorded adjustments to Global Realignment Program lease charges of approximately $(0.7) million and $2.7 million due change in estimated sublease income expected on restructured properties, respectively.

In April 2001, we initiated the Global Realignment Program, under which we began restructuring our business in response to the economic downturn. Through December 31, 2003, we implemented 9 phases of restructuring activities and recorded total restructuring charges of $654.2 million. In addition, we incurred charges other than restructuring of $491.5 million related to the Global Realignment Program (of which $5.0 million and $9.8 million were recorded during the third quarters ended March 31, 2005 and 2004, respectively). The Company has initiated restructuring actions since December 31, 2003, resulting in restructuring charges of $12.6 million through March 31, 2005.

The Company’s ability to generate sublease income, as well as its ability to terminate lease obligations at the amounts estimated, is highly dependent upon the economic conditions, particularly commercial real estate market conditions in certain geographies, at the time we negotiate the lease termination and sublease arrangements with third parties as well as the performances by such third parties of their respective obligations. While the amount the Company has accrued represents the best estimate of the remaining obligations it expects to incur in connection with these plans, estimates are subject to change. Routine adjustments are required and may be required in the future as conditions and facts change through the implementation period. The Company’s restructuring obligations are net of sublease income or lease settlement estimates of approximately $18.4 million. If adverse macroeconomic conditions continue, particularly as they pertain to the commercial real estate market, or if, for any reason, tenants under subleases fail to perform their obligations, the Company may be required to reduce estimated future sublease income and adjust the estimated amounts of future settlement agreements, and accordingly, increase estimated cost to exit certain facilities. Amounts related to the lease expense, net of anticipated sublease proceeds, will be paid over the respective lease terms through fiscal 2011.

The actions under the Global Realignment Program and other restructuring actions may not be successful in achieving the expected cost reductions or other benefits may be insufficient to align our operations with customer demand and the changes affecting our industry, or may be more costly or extensive than currently anticipated. Even if the restructuring activities are successful and meet our current cost reduction goals, our revenue must continue to increase substantially in the future for us to be profitable.

Interest and Other Income, Net:

During the three months ended March 31, 2005, interest and other income increased by $0.3 million compared to the same period a year ago. The increase was mainly due to higher interest income of $2.3 million earned on invested cash balances, offset by loss on foreign exchange of $1.0 million and asset disposal of $0.2 million. During the nine months ended March 31, 2005, the decrease of $3.0 million in interest and other income, compared to the same period a year ago, related to lower proceeds from sale of assets of $2.9 million in the comparable prior period.

Gain on Sale of Investments:

Gains on sales of investments are primarily the result of the sale of marketable public securities. There were very few sales during fiscal 2005. The fair value of our marketable securities at March 31, 2005 is approximately $42.5 million.

Reduction in Fair Value of Investments:

We periodically review our investments for impairment. In the event the carrying value of an investment exceeds its fair value and the decline in fair value is determined to be other−than−temporary, we write down the value of the investment to its fair value. The Company recorded $3.4 million, $8.4 million, $1.5 million, $3.8 million of reductions in fair value of certain non−marketable investments in the third quarters and first nine months of fiscal 2005 and 2004, respectively.

Gain (loss) on Equity Method Investments:

We recorded losses on our equity method investments representing our pro−rata share of net losses. Our equity investments include 5 venture capital funds and 4 direct investments. The Company recorded $0.2 million, $(3.5) million, $(0.5) million, $(6.5) million of gain (loss) on equity method investments in the third quarters and first nine months of fiscal 2005 and 2004, respectively.

Income Tax Benefit:

The Company recorded income tax benefits of $1.8 million and $3.2 million for the three and nine months ended March 31, 2005, respectively, as compared to an income tax benefits of $7.3 million and $17.7 million for the three and nine months ended March 31, 2004, respectively.

The income tax benefit recorded for the three months ended March 31, 2005 relates primarily to the favorable settlement of a foreign tax audit. In addition to the favorable settlement of the foreign tax audit, the tax benefit recorded for the nine months ended March 31, 2005 includes a $2.5 million tax benefit reflecting a reduction in previously accrued tax liabilities as a result of the Company’s resolution of certain domestic tax audit issues. The Company also recorded $0.5 million and $1.6 million of income tax expense for the three months and nine months ended March 31, 2005, respectively, relating primarily to foreign income taxes.

The income tax benefit recorded for the three months and nine months ended March 31, 2005 differs from the expected tax benefit that would be calculated by applying the federal statutory rate to our loss before income taxes primarily due to the foreign tax audit settlement, the reduction of previously accrued domestic tax liabilities and increases in our valuation allowance for deferred tax assets attributable to our domestic losses from continuing operations.

The income tax benefit for the three and nine months ended March 31, 2004 resulted primarily from appreciation in the carrying value of certain publicly traded securities designated as available−for−sale investments which allowed us to record a tax benefit for the domestic operating losses sustained during the three and nine months ended March 31, 2004.

Fluctuations in the value of our available−for−sale marketable public securities may create volatility in the amount of income tax expense (benefit) we record in future periods.

Due to the continued economic uncertainty in the industry, management has determined that it is more likely than not that the Company’s net deferred tax assets will not be realized and the Company has recorded deferred tax assets as of March 31, 2005 only to the extent of deferred tax liabilities.

The Company is currently subject to various federal, state and foreign audits by taxing authorities. The Company believes that adequate amounts have been provided for any adjustments that may result from these examinations.

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On December 21, 2004, the FASB issued FASB Staff Position No. FAS 109−2, *“Accounting and Disclosure Guidance for the Foreign Earnings Repatriation Provision within the American Jobs Creation Act of 2004”* (“FSP FAS 109−2”). The American Jobs Creation Act introduces a special one−time dividends received deduction on the repatriation of certain foreign earnings to a U.S. taxpayer (repatriation provision), provided certain criteria are met. The Company currently has no plans to avail itself of these provisions.

Operating Segments and Geographic Information:

	Three Months Ended March 31,				Nine Months Ended March 31,			
	2005	2004	Change	Percentage Change	2005	2004	Change	Percentage Change
Communications Products Group								
Revenue	$ 101.7	$ 79.5	22.2	28%	$314.5	$231.6	82.9	36%
Operating loss	(15.8)	(11.5)	(4.3)	37%	(40.6)	(31.7)	(8.9)	28%
Commercial & Consumer Products Group								
Revenue	64.6	81.9	(17.3)	−21%	226.8	229.8	(3.0)	−1%
Operating income (loss)	(0.2)	15.1	(15.3)	−101%	18.2	35.6	(17.4)	−49%

The increase in operating loss for the Communication Product Group during for three and nine months periods reflects continued erosion in average selling price (ASP), increased net inventory related charges resulting from reduced consumption of previously reserved inventory and manufacturing transition costs.

The decrease in operating income for our Commercial and Consumer Products Group during for three and nine months periods were attributable to decreased orders from a customer in the optics and display business and increased inventory reserve and vendor cancellation charges.

Liquidity and Capital Resources

As of March 31, 2005, we had a combined balance of cash, cash equivalents and short−term investments of $1,380.2 million, a decrease of $168.5 million from June 30, 2004 primarily due to cash consumed in operations of $114.8 million, purchase of property, plant and equipment of $24.7 million and acquisition activities of $13.5 million. Our total debt outstanding was $466.5 and capital lease obligations were $4.4 million at March 31, 2005.

Operating activities used $114.8 million during the nine months ended March 31, 2005, primarily due to our net loss of $115.6 million adjusted for non−cash items including depreciation of $31.5 million and amortization of $14.3 million. Other liabilities decreased by $54.9 million, primarily due to payments for previously accrued restructuring obligations for leases and severance of $44.0 million. Income taxes payable decreased by $6.1 million as the result of payments and audit settlements.

Cash provided by investing activities was approximately $74.8 million during the nine months ended March 31, 2005, primarily due to sales and net maturities of available for sale investments of $113.7 million, reduced by cash used for acquisitions and purchases of property, plant and equipment of $38.2 million.

Our investments of surplus cash are made in accordance with an investment policy approved by our Board of Directors. In general, our investment policy requires that securities purchased and held be rated SP−1/MIG−1, A/A2 or better. No securities may have an effective maturity that exceeds 36 months, and the average duration of our investment portfolio may not exceed 18 months. At any time, no more than 10% of the investment portfolio may be concentrated in a single issuer other than the U.S. or Canadian government.

Our financing activities for the nine months ended March 31, 2005 provided cash of $13.1 million, resulting primarily from issuance of Company stock under the Employee Stock Purchase Plan.

During the quarter ended March 31, 2005, our consumption of cash and short term investments improved sequentially over the previous quarter from approximately $46.9 million to $36.2 million primarily reflecting improved working capital management.

We believe that our existing cash balances and investments will be sufficient to meet our liquidity and capital spending requirements at least through the next 12 months.

Off−Balance Sheet Arrangements:

We do not have any off−balance sheet arrangements, as such term is defined in rules promulgated by the Securities and Exchange Commission, that have or are reasonably likely to have a current or future effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources that are material to investors.

Employee Stock Options

Employee Equity Incentive Plans:

Our stock option program is a broad−based, long−term retention program that is intended to attract and retain employees and align stockholder and employee interests.

Pursuant to Section 3(a) of the Company's 2003 Equity Incentive Plan (the "2003 Plan"), and in accordance with the registration requirements of the Securities Act of 1933, as amended, the Company registered 140 million shares which are reserved for issuance under the 2003 Plan. Further, as a result of receiving stockholder approval of the 2003 Plan, (i) the Company's right to issue options under the Company's 1993 Amended and Restated Flexible Stock Incentive Plan (the "1993 Plan") immediately ceased effective November 6, 2003, and (ii) all shares of the Company's common stock associated with such options ceased to be available for issuance effective as of such date. The stockholders' action did not affect any of the options currently outstanding under the 1993 Plan, all of which remain outstanding in accordance with their terms.

As of March 31, 2005, we have available for issuance 112.4 million shares of common stock underlying options for grant only under the JDS Uniphase Corporation 2003 Equity Incentive Plan. The exercise price is generally equal to the fair value of the underlying stock at the date of grant. Options generally become exercisable over a four−year period and, if not exercised, expire from five to ten years. Substantially all of our employees participate in our stock option program.

In December of 2004, the Financial Accounting Standards Board issued SFAS 123R which requires the Company to measure all employee stock−based compensation awards using a fair value method and record such expense in the Company consolidated financial statements. In addition, the adoption of SFAS 123R will require additional accounting related to the income tax effects and additional disclosure regarding the cash flow effects resulting from share−based payment arrangements. SFAS 123R is effective beginning in the Company's first quarter of fiscal 2006 and the adoption is expected to have a material impact on the consolidated financial position and results of operations. The Company plans to use the modified prospective transition method to adopt this new standard. For the historical impact of stock−based compensation expense, see Note 3.

Status of Acquired In−Process Research and Development Projects

We periodically review the stage of completion and likelihood of success of each of the IPR&D projects. The nature of the efforts required to develop the IPR&D projects into commercially viable products principally relates to the completion of all planning, designing, prototyping, verification and testing activities that are necessary to establish that the products can be produced to meet their design specifications, including functions, features and technical performance requirements. The current status of the IPR&D projects for our significant acquisitions is as follows:

E20:

E2O was in the process of developing a vertical−cavity surface emitting laser (VSCEL) as of the date of acquisition. We have incurred post−acquisition costs of $1.8 million to date and estimate that an additional investment of approximately $0.2 million in research and development during fiscal 2005 will be required to complete the IPR&D project. The differences between the actual outcome noted above and the assumptions used in the original valuation of the technology are not expected to have a significant impact on our results of operations and financial position.

Scion:

The products under development at the time of acquisition were comprised of advanced integrated waveguide devices. We have incurred post−acquisition costs of $3.9 million to date and this project has been redirected to the new ROADM project. The differences between the actual outcome noted above and the assumptions used in the original valuation of the technology are not expected to have a significant impact on our results of operations and financial position.

Risk Factors

We cannot predict a return to profitability.

Although we have made progress in reducing elements of our expense structure, a confluence of factors may reduce the impact of these improvements, as well as our ability to predict the timing of our return to long−term profitability. These factors include, among others:

- Adverse changes to our product mix, both fundamentally (resulting from new product transitions, the declining profitability of certain of our legacy products and the termination of certain formerly higher margin products, among other things) and due to quarterly demand fluctuations within our product portfolio, which has a wide gross margin range, resulting in inventory−related charges and other expenses related to under−absorption;

- The declining, but variable impact of transient financial benefits (including warranty reversals, cancellation revenues and the use of previously−written off inventory) accumulated during the economic downturn and associated restructuring activities;

- Adverse charges associated with underutilization of our manufacturing capacities;

- Pricing pressures across our product lines (due to competitive forces, increasingly from Asia, and a highly concentrated customer base), which continue to offset many of the cost improvements we are realizing quarter over quarter;

- Increasing commoditization of previously customized, differentiated products, principally in our communications markets, and the concomitant negative effect on pricing and profit margins;

- Continuing execution challenges which limit revenue opportunities, harm profitability, market share and customer relations;

- Restructuring charges, employee severance expenses and other costs associated with asset divestitures, facility consolidations, product transfers, product terminations and other actions associated with our continuing restructuring activities;

- Continuing redundant costs related to transitioning manufacturing to low cost locations; and

- Continuing high levels of SG&A expenses.

Taken together, these factors limit our ability to predict and achieve profitability. While some of these factors may diminish over time as we improve our cost structure and focus on enhancing our product mix, several, such as increasing Asia−based competition, increasing commoditization of previously−differentiated products and a highly concentrated customer base are likely to remain endemic to our industries. If we fail to achieve our stockholders' profitability expectations, our stock price, as well as our business and financial condition, will suffer.

If optical information networks do not continue to expand as expected, our communications business will suffer.

Our future success as a manufacturer of optical components, modules and subsystems ultimately depends on the continued growth of the communications industry and, in particular, the continued expansion of global information networks, particularly those directly or indirectly dependent upon a fiber optics infrastructure. As part of that growth, we are relying on increasing demand for high−content voice, video, text and other data delivered over high−speed connections (i.e., high bandwidth communications). As network usage and bandwidth demand increase, so do the need for advanced optical networks to provide the required bandwidth. Without network and bandwidth growth, the need for our advanced communications products, and hence our future growth as a manufacturer of these products, is jeopardized. Currently, while increasing demand for network services and for broadband access, in particular, is apparent, growth is limited by several factors, including, among others, an uncertain regulatory environment, reluctance from content providers to supply video and audio content over the communications infrastructure, and uncertainty regarding long term sustainable business models as multiple industries (cable, traditional telecommunications, wireless, satellite, etc.) offer non−complimentary and competing content delivery solutions. Ultimately, should long−term expectations for network growth and bandwidth demand not be realized or support a sustainable business model, our business would be significantly harmed.

Without stability and growth in our non−communications businesses our margins and profitability may suffer.

Our Consumer Products Group represents a material, although varying, portion of our total revenue. Also gross margins associated with products in this segment often exceed those from products in our Communications Products Group, with the consequence that revenue declines associated with Commercial and Consumer Products Group have had, and may in the future have, a disproportionate impact on profitability measures in any quarter. Accordingly, our strategy emphasizes the growth opportunities in both reported segments, as we seek to expand our markets and customer base, improve the profitability of our product portfolio and improve time to revenue. Therefore, we are engaged in or exploring new investment and product opportunities in our Commercial and Consumer Products Group, particularly in our coating technologies and laser businesses, as well as in our pigments business. Failures in these markets or in our execution of programs related to the same will significantly harm our business. Recent declines in our optical and display business have highlighted this concern, as gross margins in our Commercial and Consumer Products Group are generally higher than those in our Communications Products Group, and thus such declines have a disproportionate impact on our overall profitability.

Our optics and display business has suffered significant recent setbacks and is subject to major transitions.

In recent periods, our optics and display revenues have declined substantially from historic levels, due to, among other things, market seasonality, increased competition, pricing pressures, and uncertain demand levels. In response, we have elected to phase out certain products, outsource the manufacture of one product and consolidate the manufacturing resources related to the remainder of the business. While we are not currently anticipating additional material negative financial impacts associated with these businesses (other than expenses associated with restructuring, consolidation, divestiture and product exit activities, as well as expenses associated with our new product investments), we may in fact incur additional costs or suffer additional adverse financial and operational impacts related to declines in the performance of our optics and display business. Also, while we are currently investing in a new platform for optics and display components, we are in the early stages of this program and cannot yet predict the revenue or profitability levels, if any, that this investment will achieve.

Actions to improve our cost structure are costly and risky and the timing and extent of expected benefits is uncertain.

In response to our profitability concerns we are working vigorously to reduce our cost structure. We have taken, and expect to continue to take, significant actions (including site closures, product transfers, asset divestitures and product terminations) in furtherance of this goal. In this regard, we recently announced several major cost reduction initiatives including the transfer of manufacturing of certain of our products to contract manufacturing partners and our Shenzhen, China, facility, site consolidations and divestitures, product line and operations divestitures, end of life programs and significant headcount reductions. We expect to continue to take additional, similar actions for the foreseeable future opportunistically. We cannot be certain that these programs will be successful or completed as and when. These programs are costly, as we have incurred, and will continue to incur. In addition, these programs are risky, as they are time−consuming and disruptive to our operations, employees customers (most significantly, our end of life programs) and suppliers, with no guarantee that the expected results (particularly cost savings and profitability expectations) will be achieved as and when projected, or that the costs to complete these program will not increase above expected levels. Apart from ensuring the timely, cost−effective, execution of the actions planned, it is imperative that we conduct these programs with minimal adverse customer impact.

If our contract manufacturers fail to perform their obligations our business will suffer.

We are increasing our use of contract manufacturers as an alternative to internal manufacturing. Among other things, we recently transferred, or have agreed to transfer, several of our facilities, assets and manufacturing operations to our contract manufacturer, Fabrinet, and have also agreed to transfer the manufacture of certain other products to an additional contract manufacturer. Accordingly, our reliance on these and other contract manufacturers as primary manufacturing resources is growing significantly. Consequently, we are increasingly exposed to the general risks associated with the businesses, operations and financial condition of our contract manufacturers, including, among other things, the risks of bankruptcy, insolvency, management changes, adverse change of control, natural disasters and local political or economic volatility or instability (contract manufacturing facilities are concentrated in low−cost Asian locations). Nevertheless, if our contract manufacturers do not fulfill their obligations to us on a timely basis, for any reason, or if we do not properly manage these relationships and the transition of assets, operations and product manufacturing to these contract manufacturers, our business and customer relationships will suffer. In addition, by undertaking these activities, we run the risk that the reputation and competitiveness of our products and services may deteriorate as a result of the reduction of our control over quality and delivery schedules. We also may experience supply interruptions, cost escalations and competitive disadvantages if our contract manufacturers fail to develop, implement or maintain manufacturing methods appropriate for our products and customers. In this regard, we have experienced, and continue to periodically experience, difficulties (such as delays, interruptions and quality problems) associated with products we have transferred to contract manufacturers. These may continue, resulting in, among other things, lost revenue opportunities, customer dissatisfaction and additional costs.

We have continuing concerns regarding the manufacture, quality and distribution of our products. These concerns are heightened as new product offerings increase.

Our success depends upon our ability to deliver high quality products on time to our customers at acceptable cost. As a technology company, we constantly encounter quality, volume and cost concerns. Currently, a combination of factors is exacerbating our concerns:

- Our continuing cost reduction programs, which include site consolidations, asset divestitures, product transfers (internally and to contract manufacturers) and employee reductions, require the re−establishment and re−qualification of complex manufacturing lines, as well as modifications to systems, planning and operational infrastructure. During this process, we have experienced, and continue to experience: additional costs, and delays in re−establishing volume production levels; supply chain interruptions; planning difficulties; inventory issues; factory absorption concerns; and systems integration problems.

- Periodic, variable increases in demand for certain of our products, in the midst of our cost reduction programs, have from time to time strained our execution abilities as well as those of our suppliers, as we are experiencing periodic and varying capacity, workforce and materials constraints, enhanced by the impact of our ongoing product and operational transfers.

- Recently, we have commenced a series of new product programs and introductions, particularly in our circuit pack, communications modules and display components businesses, which due to the untested and untried nature of the relevant products and their manufacture and their increased complexity, exposes us to product quality risk, internally and with our materials suppliers.

These factors have caused considerable strain on our execution capabilities and customer relations. Currently, we are (a) having periodic difficulty responding to customer delivery expectations for some of our products, (b) experiencing yield and quality problems, particularly with some of our new products and higher volume products, and (c) expending additional funds and other resources to respond to these execution challenges. We are currently losing revenue opportunities due to these concerns. We are also, in the short−term, diverting resources from new product research and development and other functions to assist with resolving these matters. If we do not improve our performance in all of these areas, our operating results will be harmed, the commercial viability of new products may be challenged and our customers may choose to reduce their purchases of our products and purchase additional products from our competitors.

If our customers do not qualify our manufacturing lines for volume shipments, our operating results could suffer.

Customers will not purchase certain of our products, other than limited numbers of evaluation units, prior to qualification of the manufacturing lines for the products. This concern is particularly relevant to us as we continue to take advantage of opportunities to further reduce costs through targeted, customer−driven, restructuring events, which will involve the relocation of certain of our manufacturing internally and to external manufacturers. Each new (including relocated) manufacturing line must undergo rigorous qualification testing with our customers. The qualification process can be lengthy and is expensive, with no guarantee that any particular product qualification process will lead to profitable product sales. The qualification process determines whether the manufacturing line achieves the customers' quality, performance and reliability standards. Our expectations as to the time periods required to qualify a product line and ship products in volumes to customers may be erroneous. Delays in qualification can cause a long−term supply program to be cancelled. These delays will also impair the expected timing, and may impair the expected amount, of sales of the affected products. Nevertheless, we may, in fact, experience delays in obtaining qualification of our manufacturing lines and, as a consequence, our operating results and customer relationships would be harmed.

We could incur significant costs to correct defective products.

Our products are rigorously tested for quality both by our customers and us. Nevertheless, our products do, and may continue to, fail to meet customer expectations from time−to−time. Also, not all defects are immediately detectible. Customers' testing procedures are limited to evaluating our products under likely and foreseeable failure scenarios. For various reasons (including, among others, the occurrence of performance problems that are unforeseeable in testing or that are detected only when products are fully deployed and operated under peak stress conditions), our products may fail to perform as expected long after customer acceptance. Failures could result from faulty design or problems in manufacturing. In either case, we could incur significant costs to repair and/or replace defective products under warranty, particularly when such failures occur in installed systems. We have experienced such failures in the past and remain exposed to such failures, as our products are widely deployed throughout the world in multiple demanding environments and applications. In some cases, product redesigns or additional capital equipment may be required to correct a defect. We have in the past increased our warranty reserves and have incurred significant expenses relating to certain communications products. Any significant product failure could result in lost future sales of the affected product and other products, as well as severe customer relations problems, litigation and damage to our reputation.

If we cannot develop new product offerings or if our new product offerings fail in the market, our business will suffer.

We are a technology company. Our success or failure depends, in large part, upon our ability to continuously and successfully introduce and market new products and technologies meeting or exceeding our customers' expectations. Accordingly, we intend to continue to develop new product lines and improve the business for existing ones. However, we have considerably reduced our research and development spending from historic levels and some of our competitors now spend considerably higher percentages of their revenues on research and development than do we. If we fail to develop and sustain a robust, commercially viable product pipeline our business will suffer.

In recent periods, we have increased our focus on new products, particularly in our circuit pack, communications modules and optics and display businesses. Our current growth strategy emphasizes all of our businesses lines. Nevertheless, several of the key relevant products are untried and untested and have not yet demonstrated long−term commercial viability. Occasionally problems occur causing us to cancel or adjust new product programs. In this regard, we recently adjusted our light engine program to move from the mass production of integrated light engines for the broad consumer market to a focus on creating "best in class" components, integration techniques and systems integration for early market innovators. Current challenges across our new product efforts include establishing sustainable pricing and cost models, predictable and acceptable quality and yields, and adequate and reliable supply chains, as well as demonstrating our (and our suppliers') ability to scale and provide adequate facilities, personnel and other resources. Nonetheless, if we fail to successfully develop and commercialize some or all of these new products, our business could suffer.

Signs of market stability are not necessarily indicative of long−term growth.

Among other things, while our direct telecommunications customer base has remained largely intact, their customer base, the service providers, has been significantly reduced due to industry consolidations and the reduction of the competitive local exchange carriers. Notwithstanding signs of market stability, visibility into our markets, and particularly the telecommunications market remains limited, average selling prices continue to decline and revenue and profitability targets and projections are subject to uncertainty and variability. While we are generally encouraged by long−term growth prospects, our visibility remains limited and we remain cautious and cannot predict the timing or magnitude of growth for our industries or our business, at this time.

Stability concerns affecting many of our key suppliers could impair the quality, cost or availability of many of our important products, harming our revenue, profitability and customer relations.

We have numerous materials suppliers for our products and, frequently, many of our important products rely on single−source suppliers for critical materials. These products include several of our advanced components, modules and subsystem products across our businesses. Many of our important suppliers are small companies facing financial stability, quality, yield, scale or delivery concerns. Some of these companies may be acquired, undergo material reorganizations or become insolvent. Others are larger companies with limited dependency upon our business, resulting in unfavorable pricing, quantity or delivery terms. The recent signs of market stability in our business have exacerbated these concerns as we increase our purchasing to meet our customers' demands. We are currently undertaking programs to ensure the long−term strength of our supply chain. Nevertheless, we are experiencing, and expect for the foreseeable future to continue to experience, strain on our supply chain and periodic supplier problems. We have incurred, and expect for the foreseeable future to continue to incur, costs to address these problems. In addition, these problems have impacted, and we expect for the foreseeable future will continue to impact, our ability to meet customer expectations. If we do not identify and implement long−term solutions to our supply chain concerns, our customer relationships and business will materially suffer.

The communications equipment industry has extremely long product development cycles requiring us to incur product development costs without assurances of an acceptable investment return.

The telecommunications industry is a capital−intensive industry similar, in many respects, to any other infrastructure development industry. Large volumes of equipment and support structures are installed over vast areas, with considerable expenditures of funds and other resources, with long investment return period expectations. Moreover, reliability requirements are intense. Consequently, there is significant resistance to network redesigns and upgrades. Consequently, redesigns and upgrades of installed systems are undertaken only as required in response to user demand and competitive pressures and generally only after the applicable carrier has received sufficient return on its considerable investment. At the component supplier level this reality creates considerable, typically multi−year, gaps between the commencement of new product development and volume purchases. Accordingly, we and our competitors often incur significant research and development and sales and marketing costs for products that, at a minimum, will be purchased by our customers long after much of the cost is incurred (very long “time to cash”) and, at a maximum, may never be purchased due to changes in industry or customer requirements in the interim.

Our business and financial condition could be harmed by our long−term growth strategy.

Notwithstanding the recent decline, our businesses have historically grown, at times rapidly, and we have grown accordingly. We have made, and expect in the future to make, significant investments to enable our future growth through, among other things, internal expansion programs, product development, acquisitions and other strategic relationships. We may grow our business through business combinations or other acquisitions of businesses, products or technologies. We continually evaluate and explore strategic opportunities as they arise, including business combinations, strategic partnerships, capital investments and the purchase, licensing or sale of assets. Acquisitions may require significant capital infusions, typically entail many risks and could result in difficulties in assimilating and integrating the operations, personnel, technologies, products and information systems of acquired companies. If we fail to manage or anticipate our future growth effectively, particularly during periods of industry uncertainty, our business will suffer. Through our cost reductions measures we are balancing the need to consolidate our operations with the need to preserve our ability to grow and scale our operations as our markets stabilize and recover. If we fail to achieve this balance, our business will suffer to the extent our resources and operations are insufficient to respond to a return to growth.

Our sales are dependent upon a few key customers.

A few large customers account for most of our net revenue. During the third quarter of fiscal 2005, one customer, SICPA, accounted for 10% of our net revenue. For the third quarter of fiscal 2004, SICPA and Texas Instruments, each accounted for more than 10% of our net revenue. We expect that, for the foreseeable future, sales to a limited number of customers will continue to account, alone or in the aggregate, for a high percentage of our net revenues. Dependence on a limited number of customers exposes us to the risk that order reductions from any one customer can have a material adverse effect on periodic revenue.

One of our products is dependent upon a single customer for a majority of sales.

We have a strategic alliance with SICPA, our principal customer for our light interference pigments which are used to, among other things, provide security features in currency. Under a license and supply agreement, we rely exclusively on SICPA to market and sell to this market worldwide. The agreement requires SICPA to purchase minimum quantities of these pigments over the term of the agreement. If SICPA fails to purchase these quantities, as and when required by the agreement, for any reason, our business and operating results (including, among other things, our revenue and gross margin) will be harmed, at least in the short−term. In the long−term, we may be unable to find a substitute marketing and sales partner or develop these capabilities ourselves.

We depend on a limited number of vendors.

The Company depends on a limited number of contract manufacturers, and subcontractors, and suppliers for raw materials, packages and standard components. The Company generally purchases these single or limited source products through standard purchase orders or one−year supply agreements and has no long−term guaranteed supply agreements with such suppliers. While the Company seeks to maintain a sufficient safety stock of such products and also endeavors to maintain ongoing communications with its suppliers to guard against interruptions or cessation of supply, the Company’s business and results of operations could be adversely affected by a stoppage or delay of supply, substitution of more expensive or less reliable products, receipt of defective parts or contaminated materials, an increase in the price of such supplies, or the Company’s inability to obtain reduced pricing from its suppliers in response to competitive pressures.

The Company generally uses a rolling six or twelve month forecast based on anticipated product orders, customer forecasts, product order history and backlog to determine its material requirements. Lead times for the parts and components that the Company orders vary significantly and depend on factors such as the specific supplier, contract terms and demand for a component at a given time. If actual orders do not match our forecasts, the Company may have excess or shortfalls of some materials and components as well as excess inventory purchase commitments. The Company could experience reduced or delayed product shipments or incur additional inventory write−downs and cancellation charges or penalties, which would increase costs and could have a material adverse impact on the Company's results of operations.

Any failure to remain competitive would harm our operating results.

The markets in which we sell our products are highly competitive and characterized by rapidly changing and converging technologies. We face intense competition from established domestic and international competitors and the threat of future competition from new and emerging companies in all aspects of our business. Much of our current competition comes from large, diversified Asian corporations, and emerging, largely Chinese optical companies. These competitors have considerable optical expertise, and often very low cost structures. The competitive threat is exacerbated by the overall trend towards increased commoditization of traditionally highly differentiated products, particularly in our Communications Products Group. We expect Asian, and particularly Chinese, competition to increase. To remain competitive in both the current and future business climates, we believe we must maintain a substantial commitment to research and development, and significantly improve our cost structure. Our efforts to remain competitive may be unsuccessful.

Risks in Acquisitions.

Our growth is dependent upon market growth, our ability to enhance our existing products and the introduction of new products on a timely basis. We have and will continue to address the need to develop new products through acquisitions of other companies and technologies. Acquisitions involve numerous risks, including the following:

- Difficulties in integrating the operations, technologies, products and personnel of the acquired companies;
- Diversion of management's attention from normal daily operations of the business;
- Potential difficulties in completing projects associated with in−process research and development;
- Difficulties in entering markets in which we have no or limited direct prior experience and where competitors in such markets have stronger market positions;
- Insufficient revenues to offset increased expenses associated with acquisitions; and
- Potential loss of key employees of the acquired companies.

Acquisitions may also cause us to:

- Issue common stock that would dilute our current shareholders' percentage ownership;
- Assume liabilities;
- Record goodwill and non−amortizable intangible assets that will be subject to impairment testing and potential periodic impairment charges;
- Incur amortization expenses related to certain intangible assets;
- Incur large and immediate write−offs of in−process research and development costs; or
- Become subject to litigation.

Mergers and acquisitions of high−technology companies are inherently risky, and no assurance can be given that our previous or future acquisitions will be successful or will not adversely affect our business, operating results, or financial condition. Failure to manage and successfully integrate acquisitions we make could harm our business and operating results in a material way. Even when an acquired company has already developed and marketed products, there can be no assurance that product enhancements will be made in a timely fashion or that all pre−acquisition due diligence will have identified all possible issues that might arise with respect to such products.

Expenses relating to in−process research and development expenses are charged in an individual quarter. These charges may occur in future acquisitions in any particular quarter resulting in variability in our quarterly earnings.

If we fail to attract and retain key personnel, our business could suffer.

Our future depends, in part, on our ability to attract and retain key personnel. We may not be able to hire and retain such personnel at compensation levels consistent with our existing compensation and salary structure. Our future also depends on the continued contributions of our executive management team and other key management and technical personnel, each of whom would be difficult to replace. The loss of services of these or other executive officers or key personnel or the inability to continue to attract qualified personnel could have a material adverse effect on our business. Retention of key talent is an increasing concern as we continue to implement cost improvement programs, including product transfers and site reductions, and as we continue to address our profitability concerns.

We recently experienced a significant amount of turnover within our corporate accounting and finance department, including the loss of our Chief Financial Officer, Vice−President and Corporate Controller, Corporate Accounting Manager and Corporate Reporting Manager. We have hired new corporate accounting and finance personnel and are actively recruiting to fill additional vacancies, while at the same time strengthen the technical capabilities of existing accounting and finance personnel. Should we be unable to recruit the personnel needed in the corporate accounting and finance function, our internal controls over financial reporting could suffer and could result in a material weakness in a future period.

Similar to other technology companies, particularly those located in Silicon Valley, we rely upon our ability to use stock options and other forms of equity−based compensation as key components of our executive and employee compensation structure. Historically, these components have been critical to our ability to retain important personnel and offer competitive compensation packages. Without these components, we would be required to significantly increase cash compensation levels (or develop alternative compensation structures) in order to retain our key employees, particularly as and when an industry recovery returns. Recent proposals to modify accounting rules relating to the expensing of equity compensation may cause us to substantially reduce, or even eliminate, all or portions of our equity compensation programs.

Certain of our non−telecommunications products are subject to governmental and industry regulations, certifications and approvals.

The commercialization of certain of the products we design, manufacture and distribute through our Commercial and Consumer Products Group may be more costly due to required government approval and industry acceptance processes. We have experienced delays in the commercialization of our light engine product in this segment. Development of applications for our light interference pigment products may require significant testing that could delay our sales. For example, certain uses in cosmetics may be regulated by the Food and Drug Administration, which has extensive and lengthy approval processes. Durability testing by the automobile industry of our pigments used with automotive paints can take up to three years. If we change a product for any reason including technological changes or changes in the manufacturing process, prior approvals or certifications may be invalid and we may need to go through the approval process again. If we are unable to obtain these or other government or industry certifications in a timely manner, or at all, our operating results could be adversely affected.

We face risks related to our international operations and revenue.

Our customers are located throughout the world. In addition, we have significant offshore operations, including manufacturing, sales and customer support operations. Our operations outside North America include facilities primarily in Asia−Pacific.

Our international presence exposes us to certain risks, including the following:

- our ability to comply with the customs, import/export and other trade compliance regulations of the countries in which we do business, together with any unexpected changes in such regulations;
- difficulties in establishing and enforcing our intellectual property rights;
- tariffs and other trade barriers;
- political, legal and economic instability in foreign markets, particularly in those markets in which we maintain manufacturing and research facilities;
- difficulties in staffing and management;
- language and cultural barriers;
- seasonal reductions in business activities in the countries where our international customers are located;
- integration of foreign operations;
- longer payment cycles;

- greater difficulty in accounts receivable collection;
- currency fluctuations; and
- potential adverse tax consequences.

Net revenue from customers outside North America accounted for 36% of our net revenue in the third fiscal quarter of 2005, and 36%, 30% and 26% of our total net revenue in fiscal 2004, 2003 and 2002, respectively. We expect that revenue from customers outside North America will continue to account for a significant portion of our total net revenue. Lower sales levels that typically occur during the summer months in Europe and some other overseas markets may materially and adversely affect our business. In addition, sales of many of our customers depend on international sales and consequently further expose us to the risks associated with such international sales.

The international dimensions of our operations and sales subject us to a myriad of domestic and foreign trade regulatory requirements. As part of our ongoing integration program, we are evaluating our current trade compliance practices and implementing improvements, where necessary. Among other things, we are auditing our product export classification and customs procedures and are installing trade information and compliance systems using our global enterprise software platforms. We do not currently expect the costs of such evaluation or the implementation of any resulting improvements to have a material adverse effect on our operating results or business. However, our evaluation and related implementation are not yet complete and, accordingly, the costs could be greater than expected and such costs and the legal consequences of any failure to comply with applicable regulations could affect our business and operating results.

We are increasing manufacturing operations in China, which expose us to risks inherent in doing business in China.

As a result of our efforts to reduce costs, we have increased our manufacturing operations in China and those operations are subject to greater political, legal and economic risks than those faced by our other operations. In particular, the political, legal and economic climate in China (both at national and regional levels) is extremely fluid and unpredictable. Among other things, the legal system in China (both at the national and regional levels) remains highly underdeveloped and subject to change, with little or no prior notice, for political or other reasons. Our ability to operate in China may be adversely affected by changes in Chinese laws and regulations, such as those relating to taxation, import and export tariffs, environmental regulations, land use rights, intellectual property and other matters. Moreover, the enforceability of applicable existing Chinese laws and regulations is uncertain. These concerns are exacerbated for foreign businesses, such as ours, operating in China. Our business could be materially harmed by any changes to the political, legal or economic climate in China or the inability to enforce applicable Chinese laws and regulations.

Currently, we operate manufacturing facilities located in Shenzhen, Fuzhou and Beijing, China. As part of our efforts to reduce costs, we continue to increase the scope and extent of our manufacturing operations in our Shenzhen facilities. Accordingly, we expect that our ability to operate successfully in China will become increasingly important to our overall success. As we continue to consolidate our manufacturing operations, we will incur additional costs to transfer product lines to the facilities located in China, which could have a material adverse impact on our operating results and financial condition.

We intend to export the majority of the products manufactured at our facilities in China. Accordingly, upon application to and approval by the relevant governmental authorities, we will not be subject to certain Chinese taxes and are exempt from customs duty assessment on imported components or materials when the finished products are exported from China. We are however required to pay income taxes in China, subject to certain tax relief. As the Chinese trade regulations are in a state of flux, we may become subject to other forms of taxation and duty assessments in China or may be required to pay for export license fees in the future. In the event that we become subject to any new Chinese forms of taxation, our results of operations could be materially and adversely affected.

Managing our inventory is complex and may include write−downs of excess or obsolete inventory.

Managing the Company’s inventory of components and finished products is a complex task. A number of factors, including, but not limited to, the need to maintain a significant inventory of certain components that are in short supply or that must be purchased in bulk to obtain favorable pricing or require long lead times, the general unpredictability of demand for specific products, may result in the Company maintaining large amounts of inventory. Inventory which is not used or expected to be used as and when planned may become excess or obsolete. Any excess or obsolete inventory could also result in sales price reductions and/or inventory write−downs, which we expect to continue, and historically have adversely affected the Company’s business and results of operations.

We may incur unanticipated costs and liabilities, including costs under environmental laws and regulations.

Our operations use certain substances and generate certain wastes that are regulated or may be deemed hazardous under environmental laws. Some of these laws impose liability for cleanup costs and damages relating to releases of hazardous substances into the environment. Such laws may become more stringent in the future. In the past, costs and liabilities arising under such laws have not been material; however, we are not certain that such matters will not be material to us in the future.

Our business and operations would suffer in the event of a failure of our information technology infrastructure.

We rely upon the capacity, reliability and security of our information technology hardware and software infrastructure and our ability to expand and update this infrastructure in response to our changing needs. We are constantly updating our information technology infrastructure. Among other things, we have entered into an agreement with Oracle to provide and maintain our global ERP infrastructure on an outsourced basis. Any failure to manage, expand and update our information technology infrastructure or any failure in the operation of this infrastructure could harm our business.

Despite our implementation of security measures, our systems are vulnerable to damages from computer viruses, natural disasters, unauthorized access and other similar disruptions. Any system failure, accident or security breach could result in disruptions to our operations. To the extent that any disruptions or security breach results in a loss or damage to our data, or inappropriate disclosure of confidential information, it could harm our business. In addition, we may be required to spend additional costs and other resources to protect us against damages caused by these disruptions or security breaches in the future.

If we have insufficient proprietary rights or if we fail to protect those we have, our business would be materially harmed.

We may not obtain the intellectual property rights we require.

Others, including academic institutions, our competitors and other large technology−based companies, hold numerous patents in the industries in which we operate. Some of these patents may purport to cover our products. In response, we may seek to acquire license rights to these or other patents or other intellectual property to the extent necessary to ensure we possess sufficient intellectual property rights for the conduct of our business. Unless we are able to obtain such licenses on commercially reasonable terms, patents or other intellectual property held by others could inhibit our development of new products, impede the sale of some of our current products, or substantially increase the cost to provide these products to our customers. While in the past, licenses generally have been available to us where third−party technology was necessary or useful for the development or production of our products, in the future licenses to third−party technology may not be available on commercially reasonable terms, if at all. Generally, a license, if granted, includes payments by us of up−front fees, ongoing royalties or a combination of both. Such royalty or other terms could have a significant adverse impact on our operating results. We are a licensee of a number of third−party technologies and intellectual property rights and are required to pay royalties to these third−party licensors on some of our telecommunications products and laser subsystems.

Our products may be subject to claims that they infringe the intellectual property rights of others.

The industry in which we operate experiences periodic claims of patent infringement or other intellectual property rights. We have received in the past and, from time to time, may in the future receive notices from third parties claiming that our products infringe upon third−party proprietary rights. One consequence of the recent economic downturn is that many companies have turned to their intellectual property portfolios as an alternative revenue source. This is particularly true of companies which no longer compete with us. Many of these companies have larger, more established intellectual property portfolios than ours. Typical for a growth−oriented technology company, at any one time we generally have various pending claims from third parties that one or more of our products or operations infringe or misappropriate their intellectual property rights or that one or more of our patents is invalid. For example, we have pending litigation with Litton Systems, Inc., and the Board of Trustees of the Leland Stanford, Jr. University involving claims for damages in connection with the alleged past infringement by our optical amplifiers of a now expired U.S. patent. We will continue to respond to other claims in the course of our business operations. In the past, the settlement and disposition of these disputes has not had a material adverse impact on our business or financial condition, however this may not be the case in the future. Further, the litigation or settlement of these matters, regardless of the merit of the claims, could result in significant expense to us and divert the efforts of our technical and management personnel, whether or not we are successful. If we are unsuccessful, we could be required to expend significant resources to develop non−infringing technology or to obtain licenses to the technology that is the subject of the litigation. We may not be successful in such development or such licenses may not be available on terms acceptable to us, if at all. Without such a license, we could be enjoined from future sales of the infringing product or products.

Our intellectual property rights may not be adequately protected.

Our future depends in part upon our intellectual property, including trade secrets, know−how and continuing technological innovation. We currently hold numerous U.S. patents on products or processes and corresponding foreign patents and have applications for some patents currently pending. The steps taken by us to protect our intellectual property may not adequately prevent misappropriation or ensure that others will not develop competitive technologies or products. Other companies may be investigating or developing other technologies that are similar to our own. It is possible that patents may not be issued from any application pending or filed by us and, if patents do issue, the claims allowed may not be sufficiently broad to deter or prohibit others from marketing similar products. Any patents issued to us may be challenged, invalidated or circumvented. Further, the rights under our patents may not provide a competitive advantage to us. In addition, the laws of some territories in which our products are or may be developed, manufactured or sold, including Europe, Asia−Pacific or Latin America, may not protect our products and intellectual property rights to the same extent as the laws of the United States.

We face certain litigation risks that could harm our business.

We have had numerous lawsuits filed against us asserting various claims as noted in Part II of this filing, including securities and ERISA class actions and stockholder derivative actions. The results of complex legal proceedings are difficult to predict. Moreover, many of the complaints filed against us do not specify the amount of damages that plaintiffs seek and we therefore are unable to estimate the possible range of damages that might be incurred should these lawsuits be resolved against us. While we are unable to estimate the potential damages arising from such lawsuits, certain of them assert types of claims that, if resolved against us, could give rise to substantial damages. Thus, an unfavorable outcome or settlement of one or more of these lawsuits could have a material adverse effect on our financial position, liquidity and results of operations. Even if these lawsuits are not resolved against us, the uncertainty and expense associated with unresolved lawsuits could seriously harm our business, financial condition and reputation. Litigation can be costly, time−consuming and disruptive to normal business operations. The costs of defending these lawsuits, particularly the securities class actions and stockholder derivative actions, have been significant, will continue to be costly and may not be covered by our insurance policies. The defense of these lawsuits could also result in continued diversion of our management’s time and attention away from business operations, which could harm our business.

Recently enacted and proposed regulatory changes will cause us to incur increased costs.

Recently enacted and proposed changes in the laws and regulations affecting public companies, including the provisions of the Sarbanes−Oxley Act of 2002, have and will continue to increase our expenses as we evaluate the implications of new rules and devote resources to respond to the new requirements. In particular, we expect to incur additional SG&A expense as we implement Section 404 of the Sarbanes−Oxley Act, which requires management to report on, and our Independent Registered Public Accounting Firm to attest to, our internal controls. The compliance with these new rules could also result in continued diversion of management’s time and attention, which could prove to be disruptive to normal business operations. Further, the impact of these events could also make it more difficult for us to attract and retain qualified persons to serve on our board of directors or as executive officers, which could harm our business.

We are currently performing testing of the system and process controls required to ensure compliance as of June 30, 2005 with the management certification and auditor attestation requirements of Section 404 of the Sarbanes Oxley Act. While we currently anticipate that we will timely complete all such actions, we cannot at this time provide absolute assurance that all such actions will timely be completed. Possible consequences of failure include sanction or investigation by regulatory authorities, such as the Securities Exchange Commission or the Nasdaq National Market, and inability to timely file our Annual Report on Form 10−K for fiscal 2005. Any such action could harm our stock price.

If we fail to manage our exposure to worldwide financial and securities markets successfully, our operating results could suffer.

We are exposed to financial market risks, including changes in interest rates, foreign currency exchange rates and marketable equity security prices. We often utilize derivative financial instruments to mitigate these risks. We do not use derivative financial instruments for speculative or trading purposes. The primary objective of most of our investment activities is to preserve principal while at the same time maximizing yields without significantly increasing risk. To achieve this objective, a majority of our marketable investments are floating rate and municipal bonds, auction instruments and money market instruments denominated in U.S. dollars. When we acquire assets denominated in foreign currencies, we usually mitigate currency risks associated with these exposures with forward currency contracts. A substantial portion of our net revenue, expense and capital purchasing activities are transacted in U.S. dollars. However, some of these activities are conducted in other currencies, primarily Canadian and European currencies. To protect against reductions in value and the volatility of future cash flows caused by changes in foreign exchange rates, we may enter into foreign currency forward contracts. The contracts reduce, but do not always entirely eliminate, the impact of foreign currency exchange rate movements. Actual results on our financial position may differ materially.

We also hold investments in other public and private companies, including, among others, Nortel Networks, Adept and ADVA, and have limited funds invested in private venture funds. All three companies have experienced severe stock price declines during the recent economic downturn, which have greatly reduced the value of our investments, and we have written down the value of these investments as the decline in fair value was deemed to be other−than−temporary. In addition to our investments in public companies, we have in the past and expect to continue to make investments in privately held companies as well as venture capital investments for strategic and commercial purposes. For example, we had a commitment to provide additional funding of up to $12.6 million to certain venture capital investment partnerships as of March 31, 2005. In recent months some of the private companies in which we held investments have ceased doing business and have either liquidated or are in bankruptcy proceedings. If the carrying value of our investments exceeds the fair value and the decline in fair value is deemed to be other−than−temporary, we will be required to further write down the value of our investments, which could materially harm our results of operations or financial condition.

We sold $475.0 million of senior convertible notes, which significantly increased cash to debt ratio, and may cause our reported earnings per share to be more volatile because of the conversion contingency features of these notes.

On October 31, 2003, we issued $475.0 million of indebtedness in the form of senior convertible notes. The issuance of these notes substantially increased our principal payment obligations and we may not have enough cash to repay the notes when due. By incurring new indebtedness, the related risks that we now face could intensify. The degree to which we are leveraged could materially and adversely affect our ability to successfully obtain financing for working capital, acquisitions or other purposes and could make us more vulnerable to industry downturns and competitive pressures.

In addition, the holders of those notes are entitled to convert those notes into shares of our common stock under certain circumstances which would cause dilution to our existing stockholders and lower our reported per share earnings.

Our rights plan and our ability to issue additional preferred stock could harm the rights of our common stockholders.

In February 2003, we amended and restated our Stockholder Rights Agreement and currently each share of our outstanding common stock is associated with one right. Each right entitles stockholders to purchase 1/100,000 share of our Series B Preferred Stock at an exercise price of $21.0.

The rights only become exercisable in certain limited circumstances following the tenth day after a person or group announces acquisition of or tender offers for 15% or more of our common stock. For a limited period of time following the announcement of any such acquisition or offer, the rights are redeemable by us at a price of $0.01 per right. If the rights are not redeemed, each right will then entitle the holder to purchase common stock having the value of twice the then−current exercise price. For a limited period of time after the exercisability of the rights, each right, at the discretion of our Board of Directors, may be exchanged for either 1/100,000 share of Series B Preferred Stock or one share of common stock per right. The rights expire on June 22, 2013.

Our Board of Directors has the authority to issue up to 499,999 shares of undesignated preferred stock and to determine the powers, preferences and rights and the qualifications, limitations or restrictions granted to or imposed upon any wholly unissued shares of undesignated preferred stock and to fix the number of shares constituting any series and the designation of such series, without the consent of our stockholders. The preferred stock could be issued with voting, liquidation, dividend and other rights superior to those of the holders of common stock.

The issuance of Series B Preferred Stock or any preferred stock subsequently issued by our Board of Directors, under some circumstances, could have the effect of delaying, deferring or preventing a change in control.

Some provisions contained in the rights plan, and in the equivalent rights plan that our subsidiary, JDS Uniphase Canada Ltd., has adopted with respect to our exchangeable shares, may have the effect of discouraging a third party from making an acquisition proposal for us and may thereby inhibit a change in control. For example, such provisions may deter tender offers for shares of common stock or exchangeable shares, which offers may be attractive to stockholders, or deter purchases of large blocks of common stock or exchangeable shares, thereby limiting the opportunity for stockholders to receive a premium for their shares of common stock or exchangeable shares over the then−prevailing market prices.

Some anti−takeover provisions contained in our charter and under Delaware laws could hinder a takeover attempt.

We are subject to the provisions of Section 203 of the Delaware General Corporation Law prohibiting, under some circumstances, publicly−held Delaware corporations from engaging in business combinations with some stockholders for a specified period of time without the approval of the holders of substantially all of our outstanding voting stock. Such provisions could delay or impede the removal of incumbent directors and could make more difficult a merger, tender offer or proxy contest involving us, even if such events could be beneficial, in the short−term, to the interests of the stockholders. In addition, such provisions could limit the price that some investors might be willing to pay in the future for shares of our common stock. Our certificate of incorporation and bylaws contain provisions relating to the limitations of liability and indemnification of our directors and officers, dividing our board of directors into three classes of directors serving three−year terms and providing that our stockholders can take action only at a duly called annual or special meeting of stockholders. These provisions also may have the effect of deterring hostile takeovers or delaying changes in control or management of us.

Item 3. Quantitative and Qualitative Disclosure About Market Risks

Foreign Exchange Forward Contracts:

Our international business is subject to normal international business risks including, but not limited to, differing economic conditions, changes in political climate, differing tax structures, other regulations and restrictions, and foreign exchange rate volatility. Accordingly, our future results could be materially adversely affected by changes in these or other factors.

We generate a portion of our net revenue from sales to customers located outside the United States and from sales by our foreign subsidiaries to U.S. customers. International sales are typically denominated in either U.S dollars or the local currency of each country. Our foreign subsidiaries incur most of their expenses in the local currency, and therefore, they use the local currency as their functional currency.

From time to time we enter into foreign exchange forward contracts on behalf of our Canadian, European and Asian subsidiaries. These forward contracts offset the impact of U.S. dollar currency fluctuations on certain monetary assets and liabilities.

The foreign exchange forward contracts we enter into generally have original maturities less than 40 days. We do not enter into foreign exchange forward contracts for trading purposes. We do not expect gains or losses on these contracts to have a material impact on our financial results.

Investments:

We maintain an investment portfolio in a variety of financial instruments, including fixed− and floating−rate bonds, municipal bonds, auction instruments, money market instruments, corporate bonds and Treasury and Agency securities. Part of our investment portfolio also includes minority equity investments in several publicly traded companies, the values of which are subject to market price volatility. These investments are generally classified as available−for−sale and, consequently, are recorded on our balance sheets at fair value with unrealized gains or losses reported as a separate component of stockholders' equity.

Investments in both fixed−rate and floating−rate interest earning instruments carry a degree of interest rate risk. The fair market values of our fixed−rate securities decline if interest rates rise, while floating−rate securities may produce less income than expected if interest rates fall. Due in part to these factors, our future investment income may be less than expectations because of changes in interest rates or we may suffer losses in principal if forced to sell securities that have experienced a decline in market value because of changes in interest rates.

Item 4. Controls and Procedures

(a) Evaluation of disclosure controls and procedures.

As of the end of the period covered by this report, we carried out an evaluation, under the supervision and with the participation of our Chief Executive Officer and interim Chief Financial Officer of the effectiveness of the design and operation of our disclosure controls and procedures. While our disclosure controls and procedures are designed to provide reasonable assurance of achieving their objectives, the design of any system of controls is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions regardless of how remote. However, based on the evaluation of the effectiveness of the design and operation of our disclosure controls and procedures, our Chief Executive Officer and interim Chief Financial Officer concluded that our disclosure controls and procedures were effective and timely, alerting them to material information required to be included in our periodic SEC filings at the reasonable assurance level.

(b) Changes in internal control over financial reporting.

There has been no change in our internal control over financial reporting that occurred during our most recent fiscal quarter that has materially affected or is reasonably likely to materially affect our internal control over financial reporting. However, recently, we experienced a significant amount of turnover within our corporate accounting and finance department, including the loss of our Chief Financial Officer, Vice−President and Corporate Controller, Corporate Accounting Manager and Corporate Reporting Manager. We have hired new corporate finance personnel and are actively recruiting to fill additional vacancies, while at the same time strengthen the technical capabilities of existing accounting and finance personnel.

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PART II—OTHER INFORMATION

Item 1. Legal Proceedings

Pending Litigation

The Securities Class Actions:

As discussed in our previous filings, litigation under the federal securities laws has been pending against the Company and certain former and current officers and directors since March 27, 2002. On February 28, 2005, Defendants in *In re JDS Uniphase Corporation Securities Litigation*, C−02−1486 (N.D. Cal.), answered the Second Amended Complaint. Both Lead Plaintiff and JDSU have propounded discovery. JDSU has served written responses and has begun document production. The parties also have served initial disclosures pursuant to Rule 26(a) (1) of the Federal Rules of Civil Procedure and have produced some documents in connection with their disclosures. A case management conference is scheduled for June 24, 2005.

In *Zelmanv. JDS Uniphase Corp.*, No. C−02−4656 (N.D. Cal.), a related securities case, Defendants moved to dismiss the Amended Complaint on February 25, 2005. On April 6, 2005, Judge Wilken referred Defendants' motion to Judge William W. Schwarzer of the District Court for the Northern District of California. Judge Wilken further ordered that the hearing for Defendants' motion shall be reset by Judge Schwarzer. A case management conference before Judge Wilken is scheduled for June 24, 2005.

The Derivative Actions:

As discussed in our previous filings, derivative actions purporting to be brought on the Company's behalf have been filed in state and federal courts against several of our current and former officers and directors based on the same events alleged in the securities litigation. No activity has occurred in *Corwin v. Kaplan*, No. C−02−2020 (N.D. Cal.), since our last filing. On February 8, 2005, the Court lifted the stay of the California state derivative action, *In re JDS Uniphase Corporation Derivative Litigation*, Master File No. CV806911 (Santa Clara Super. Ct.). On March 11, 2005, Defendants updated their demurrer to complaint, which was pending when the action was stayed. Defendant Ernst & Young also moved to compel arbitration of Plaintiffs' claims against it. The demurrers and motion to compel arbitration are scheduled to be heard on May 17, 2005. A case management conference also is scheduled for that day. As noted in our previous filings, the plaintiff in that action has issued a shareholder inspection demand that has been disputed by the Company. The dispute remains unresolved. No activity has occurred in *Cromas v. Straus,* Civil Action No. 19580 (Del. Ch. Ct.), the Delaware derivative action, since our last filing.

The OCLI and SDL Shareholder Actions:

As discussed in our previous filings, plaintiffs purporting to represent the former shareholders of OCLI and SDL have filed suit against the former directors of those companies, asserting that they breached their fiduciary duties in connection with the events alleged in the securities litigation against the Company. No activity has occurred in either the OCLI action, *Pang v. Dwight*, No. 02−231989 (Sonoma Super. Ct.), or the SDL action, *Cook v. Scifres*, Master File No. CV814824 (Santa Clara Super. Ct.), since our last filing.

The ERISA Actions:

As discussed in our previous filings, a consolidated action entitled *In re JDS Uniphase Corporation ERISA Litigation*, Master File No. C−03−4743 CW, is pending in the District Court for the Northern District of California against the Company and certain of its former and current officers and directors on behalf of a purported class of participants in the Company's 401(k) Plan. On April 6, 2005, Judge Wilken referred Defendants' motion to dismiss Plaintiffs' consolidated amended complaint to Judge William W. Schwarzer. Judge Wilken further ordered that the hearing for Defendants' motion shall be reset by Judge Schwarzer. Plaintiffs opposed Defendants' motion on March 11, 2005. A case management conference before Judge Wilken is scheduled for June 24, 2005.

The Company believes that the factual allegations and circumstances underlying these securities class actions, derivative actions, the OCLI and SDL class actions, and the ERISA class actions are without merit. The expense of defending these lawsuits has been costly, will continue to be costly, and could be quite significant and may not be covered by our insurance policies. The defense of these lawsuits could also result in continued diversion of our management's time and attention away from business operations which could prove to be time consuming and disruptive to normal business operations. An unfavorable outcome or settlement of this litigation could have a material adverse effect on the Company's financial position, liquidity or results of operations.

The Company is a party to other litigation matters and claims, which are normal in the course of its operations. While the results of such litigation matters and claims cannot be predicted with certainty, the Company believes that their final outcome will not have a material adverse impact on its financial position, liquidity, or results of operations.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

None.

Item 3. Defaults upon Senior Securities

None.

Item 4. Submission of Matters to a Vote of Security Holders

None.

Item 5. Other Information

As of March 31, 2005, the following executive officers and members of the Company's Board of Directors maintained "plans" under Rule 10b5−1 of the Securities Exchange Act of 1934, as amended, for trading in shares of the Company's common stock and/or exchangeable shares:

Christopher S. Dewees
Robert E. Enos
Martin A. Kaplan
Stan Lumish
Casimir Skrzypczak
Mark S. Sobey
Thomas Znotins

Item 6. Exhibits

(a) Exhibits:

Exhibit No.	Exhibit Description
3.1	Amended and Restated Bylaws of JDS Uniphase Corporation.
31.1	Certification of the Chief Executive Officer pursuant to Section 302 of the Sarbanes−Oxley Act of 2002.
31.2	Certification of the interim Chief Financial Officer pursuant to Section 302 of the Sarbanes−Oxley Act of 2002.
32.1	Certification of the Chief Executive Officer pursuant to Section 906 of the Sarbanes−Oxley Act of 2002.
32.2	Certification of the interim Chief Financial Officer pursuant to Section 906 of the Sarbanes−Oxley Act of 2002.

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SIGNATURES

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

JDS Uniphase Corporation
(Registrant)

Date: May 11, 2005

/s/ David Vellequette

By: David Vellequette
Vice President and interim Chief Financial Officer
(Principal Financial and Accounting Officer)

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Exhibit 3.1

AMENDED AND RESTATED BYLAWS

OF

JDS UNIPHASE CORPORATION

a Delaware corporation

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AMENDED AND RESTATED BYLAWS
OF
JDS UNIPHASE CORPORATION
(formerly Uniphase Corporation)
a Delaware corporation
as of February 16, 2005

ARTICLE I

Offices

Section 1. Registered Office.

The registered office of the corporation in the State of Delaware shall be in the City of Dover, County of Kent.

Section 2. Other Offices.

The corporation shall also have and maintain an office or principal place of business at 1768 Automation Parkway, San Jose, California 95131, and may also have offices at such other places, both within and without the State of Delaware as the Board of Directors may from time to time determine or the business of the corporation may require.

ARTICLE II

Stockholders' Meetings

Section 1. Place of Meetings.

(a) Meetings of stockholders may be held at such place, either within or without this State, as may be designated by or in the manner provided in these Bylaws or, if not so designated, as determined by the Board of Directors. The Board of Directors may, in its sole discretion, determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication as authorized by paragraph (b) of this Section 1.

(b) If authorized by the Board of Directors in its sole discretion, and subject to such guidelines and procedures as the Board of Directors may adopt, stockholders and proxyholders not physically present at a meeting of stockholders may, by means of remote communication:

(1) Participate in a meeting of stockholders; and

(2) Be deemed present in person and vote at a meeting of stockholders whether such meeting is to be held at a designated place or solely by means of remote communication, provided that (A) the corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote

communication is a stockholder or proxyholder, (B) the corporation shall implement reasonable measures to provide such stockholders and proxyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the stockholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings, and (C) if any stockholder or proxyholder votes or takes other action at the meeting by means of remote communication, a record of such vote or other action shall be maintained by the corporation.

(c) For purposes of this Section 1, “remote communication” shall mean electronic mail or other forms of written or visual electronic communication satisfying the requirements of Section 11(b).

Section 2. Annual Meetings.

The annual meetings of the stockholders of the corporation, commencing with the year 1994, for the purpose of election of directors and for such other business as may lawfully come before it, shall be held on such date and at such time as may be designated from time to time by the Board of Directors.

Section 3. Special Meetings.

Special Meetings of the stockholders of the corporation may be called, for any purpose or purposes, by the Chairman of the Board or the Chief Executive Officer or the Board of Directors at any time, subject to the rights of the holders of any stock having a preference over the common stock as to dividends or liquidation. Stockholders are not permitted to call a special meeting or to require the Board of Directors to call a special meeting of stockholders.

Section 4. Notice of Meetings.

(a) Except as otherwise provided by law or the Certificate of Incorporation, written notice of each meeting of stockholders, specifying the place, if any, date and hour and purpose or purposes of the meeting, and the means of remote communication, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting, shall be given not less than ten nor more than sixty days before the date of the meeting to each stockholder entitled to vote thereat, directed to his address as it appears upon the books of the corporation; except that where the matter to be acted on is a merger or consolidation of the Corporation or a sale, lease or exchange of all or substantially all of its assets, such notice shall be given not less than twenty nor more than sixty days prior to such meeting.

(b) If at any meeting action is proposed to be taken which, if taken, would entitle stockholders fulfilling the requirements of Section 262(d) of the Delaware General Corporation Law to an appraisal of the fair value of their shares, the notice of such meeting shall contain a statement of that purpose and to that effect and shall be accompanied by a copy of that statutory section.

(c) When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time, place, if any, thereof, and the means of remote communication, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting, are announced at the meeting at which the adjournment is taken unless the adjournment is for more than thirty days, or unless after the adjournment a new record date is fixed for the adjourned meeting, in which event a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

(d) Notice of the time, place and purpose of any meeting of stockholders may be waived in writing, either before or after such meeting, and, to the extent permitted by law, will be waived by any stockholder by his attendance thereat, in person or by proxy. Any stockholder so waiving notice of such meeting shall be bound by the proceedings of any such meeting in all respects as if due notice thereof had been given.

(e) Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the corporation under any provision of this chapter, the Certificate of Incorporation, or these Bylaws shall be effective if given by a form of electronic transmission consented to by the stockholder to whom the notice is given. Any such consent shall be revocable by the stockholder by written notice to the corporation. Any such consent shall be deemed revoked if (i) the corporation is unable to deliver by electronic transmission two consecutive notices given by the corporation in accordance with such consent, and (ii) such inability becomes known to the secretary or an assistant secretary of the corporation or to the transfer agent or other person responsible for the giving of notice; provided, however, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action. Notice given pursuant to this subparagraph (e) shall be deemed given: (1) if by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice; (2) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice; (3) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of (A) such posting and (B) the giving of such separate notice; and (4) if by any other form of electronic transmission, when directed to the stockholder. An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the corporation that the notice has been given by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein. For purposes of these Bylaws, “electronic transmission” means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

Section 5. Quorum and Voting.

(a) At all meetings of stockholders, except where otherwise provided by law, the Certificate of Incorporation, or these Bylaws, the presence, in person or by proxy duly authorized, of the holders of a majority of the outstanding shares of stock entitled to vote shall constitute a quorum for the transaction of business. Shares, the voting of which at said meeting have been enjoined, or which for any reason cannot be lawfully voted at such meeting, shall not be counted to determine a quorum at said meeting. In the absence of a quorum, any meeting of stockholders may be adjourned, from time to time, by vote of the holders of a majority of the shares represented thereat, but no other business shall be transacted at such meeting. At such adjourned meeting at which a quorum is present or represented any business may be transacted which might have been transacted at the original meeting. The stockholders present at a duly called or convened meeting, at which a quorum is present, may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

(b) Except as otherwise provided by law, the Certificate of Incorporation or these Bylaws, all action taken by the holders of a majority of the voting power represented at any meeting at which a quorum is present shall be valid and binding upon the corporation.

Section 6. Voting Rights.

(a) Except as otherwise provided by law, only persons in whose names shares entitled to vote stand on the stock records of the corporation on the record date for determining the stockholders entitled to vote at said meeting shall be entitled to vote at such meeting. Shares standing in the names of two or more persons shall be voted or represented in accordance with the determination of the majority of such persons, or, if only one of such persons is present in person or represented by proxy, such person shall have the right to vote such shares and such shares shall be deemed to be represented for the purpose of determining a quorum.

(b) Every person entitled to vote or to execute consents shall have the right to do so either in person or by an agent or agents authorized by a written proxy executed by such person or his duly authorized agent, which proxy shall be filed with the Secretary of the corporation at or before the meeting at which it is to be used. Said proxy so appointed need not be a stockholder. No proxy shall be voted on after three (3) years from its date unless the proxy provides for a longer period. Unless and until voted, every proxy shall be revocable at the pleasure of the person who executed it or of his legal representatives or assigns, except in those cases where an irrevocable proxy permitted by statute has been given.

(c) Without limiting the manner in which a stockholder may authorize another person or persons to act for him as proxy pursuant to subsection (b) of this section, the following shall constitute a valid means by which a stockholder may grant such authority:

(1) A stockholder may execute a writing authorizing another person or persons to act for him as proxy. Execution may be accomplished by the stockholder or his authorized officer, director, employee or agent signing such writing or causing his or her signature to be affixed to such writing by any reasonable means including, but not limited to, by facsimile signature.

(2) A stockholder may authorize another person or persons to act for him as proxy by transmitting or authorizing the transmission of a telephone, telegram, cablegram or other means of electronic transmission to the person who will be the holder of the proxy or to a proxy solicitation firm, proxy support service organization or like agent duly authorized by the person who will be the holder of the proxy to receive such transmission, provided that any such telephone transmission, telegram, cablegram or other means of electronic transmission must either set forth or be submitted with information from which it can be determined that the

telephone transmission, telegram, cablegram or other electronic transmission was authorized by the stockholder. Such authorization can be established by the signature of the stockholder on the proxy, either in writing or by a signature stamp or facsimile signature, or by a number or symbol from which the identity of the stockholder can be determined, or by any other procedure deemed appropriate by the inspectors or other persons making the determination as to due authorization. If it is determined that such telephone transmissions, telegrams, cablegrams or other electronic transmissions are valid, the inspectors or, if there are no inspectors, such other persons making that determination shall specify the information upon which they relied.

(d) Any copy, facsimile telecommunication or other reliable reproduction of the writing or transmission created pursuant to subsection (c) of this Section may be substituted or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used, provided that such copy, facsimile telecommunication or other reproduction shall be a complete reproduction of the entire original writing or transmission.

Section 7. Voting Procedures and Inspectors of Elections.

(a) The corporation shall, in advance of any meeting of stockholders, appoint one or more inspectors to act at the meeting and make a written report thereof. The corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his ability.

(b) The inspectors shall (i) ascertain the number of shares outstanding and the voting power of each, (ii) determine the shares represented at a meeting and the validity of proxies and ballots, (iii) count all votes and ballots, (iv) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors, and (v) certify their determination of the number of shares represented at the meeting, and their count of all votes and ballots. The inspectors may appoint or retain other persons or entities to assist the inspectors in the performance of the duties of the inspectors.

(c) The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting. No ballot, proxies or votes, nor any revocations thereof or changes thereto, shall be accepted by the Inspectors after the closing of the polls unless the Court of Chancery upon application by a stockholder shall determine otherwise.

(d) In determining the validity and counting of proxies and ballots, the inspectors shall be limited to an examination of the proxies, any envelopes submitted with those proxies, any information provided in accordance with Section 212(c)(2) of the Delaware General Corporation Law, ballots and the regular books and records of the corporation, except that the inspectors may consider other reliable information for the limited purpose of reconciling proxies and ballots submitted by or on behalf of banks, brokers, their nominees or similar persons which represent more votes than the holder of a proxy is authorized by the record owner to cast or more votes than the stockholder holds of record. If the inspectors consider other reliable information for the limited purpose permitted herein, the inspectors at the time they make their certification pursuant to subsection (b)(v) of this section shall specify the precise information considered by them including the person or persons from whom they obtained the information, when the information was obtained, the means by which the information was obtained and the basis for the inspectors' belief that such information is accurate and reliable.

Section 8. List of Stockholders.

The officer who has charge of the stock ledger of the corporation shall prepare and make, at least ten days before every meeting of stockholders, a complete list of the stockholders entitled to vote at said meeting, arranged in alphabetical order, showing the address of and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten days prior to the meeting, either at a place within the city where the meeting is to be held and which place shall be specified in the notice of the meeting, or, if not specified, at the place where said meeting is to be held, and the list shall be produced and kept at the time and place of meeting during the whole time thereof, and may be inspected by any stockholder who is present.

Section 9. Stockholder Proposals at Annual Meetings.

At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, otherwise properly brought before the meeting by or at the direction of the Board of Directors, or otherwise properly brought before the meeting by a stockholder. In addition to any other applicable requirements for business to be properly brought before an annual meeting by a stockholder, the stockholder must have given timely notice thereof in writing to the Secretary of the corporation. To be timely a stockholder's notice must be delivered to or mailed and received at the principal executive offices of the corporation not less than 30 days nor more than 60 days prior to the meeting; provided, however, that in the event that less than 40 days' notice or prior public disclosure of the date of the meeting is given or made to stockholders, notice by the stockholder to be timely must be so received not later than the close of business on the 10th day following the day on which such notice of the date of the annual meeting was mailed or such public disclosure was made. A stockholder's notice to the Secretary shall set forth as to each matter the stockholder proposes to bring before the annual meeting (i) a brief description of the business desired to be brought before the annual meeting and the reasons for conducting such business at the annual meeting, (ii) the name and record address of the stockholder proposing such business, (iii) the class and number of shares of the corporation which are beneficially owned by the stockholder, and (iv) any material interest of the stockholder in such business.

Notwithstanding anything in the Bylaws to the contrary, no business shall be conducted at the annual meeting except in accordance with the procedures set forth in Section 1 and this Section 9, provided, however, that nothing in this Section 9 shall be deemed to preclude discussion by any stockholder of any business properly brought before the annual meeting in accordance with said procedure.

The Chairman of an annual meeting shall, if the facts warrant, determine and declare to the meeting that business was not properly brought before the meeting in accordance with the provisions of Section 1 and this Section 9, and if he should so determine he shall so declare to the meeting, and any such business not properly brought before the meeting shall not be transacted.

Section 10. Nominations of Persons for Election to the Board of Directors.

In addition to any other applicable requirements, only persons who are nominated in accordance with the following procedures shall be eligible for election as directors. Nominations of persons for election to the Board of Directors of the corporation may be made at a meeting of stockholders by or at the direction of the Board of Directors, by any nominating committee or person appointed by the Board of Directors or by any stockholder of the corporation entitled to vote for the election of directors at the meeting who complies with the notice procedures set forth in this Section 10. Such nominations, other than those made by or at the direction of the Board of Directors, shall be made pursuant to timely notice in writing to the Secretary of the corporation. To be timely, a stockholder's notice shall be delivered to or mailed and received at the principal executive offices of the corporation not less than 30 days nor more than 60 days prior to the meeting; provided, however, that in the event that less than 40 days notice or prior public disclosure of the date of the meeting is given or made to stockholders, notice by the stockholder to be timely must be so received not later than the close of business on the 10th day following the day on which such notice of the date of the meeting was mailed or such public disclosure was made. Such stockholder's notice shall set forth (a) as to each person whom the stockholder proposes to nominate for election or re−election as a director, (i) the name, age, business address and residence address of the person, (ii) the principal occupation or employment of the person, (iii) the class and number of shares of the corporation which are beneficially owned by the person, and (iv) any other information relating to the person that is required to be disclosed in solicitations for proxies for election of directors pursuant to Rule 14a under the Securities Exchange Act of 1934; and (b) as to the stockholder giving the notice, (i) the name and record address of the stockholder, and (ii) the class and number of shares of the corporation which are beneficially owned by the stockholder. The corporation may require any proposed nominee to furnish such other information as may reasonably be required by the corporation to determine the eligibility of such proposed nominee to serve as a director of the corporation. No person shall be eligible for election as a director of the corporation unless nominated in accordance with the procedures set forth herein. These provisions shall not apply to nomination of any persons entitled to be separately elected by holders of preferred stock.

The Chairman of the meeting shall, if the facts warrant, determine and declare to the meeting that a nomination was not made in accordance with the foregoing procedure, and if he should so determine, he shall so declare to the meeting and the defective nomination shall be disregarded.

Section 11. Action Without Meeting.

(a) Unless otherwise provided in the Certificate of Incorporation, any action required by statute to be taken at any annual or special meeting of stockholders of the corporation, or any action which may be taken at any annual or special meeting of such stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing setting forth the action so taken are signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. To be effective, a written consent must be delivered to the corporation by delivery to its registered office in Delaware, its principal place of business, or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a corporation’s registered office shall be by hand or by certified or registered mail, return receipt requested. Every written consent shall bear the date of signature of each stockholder who signs the consent, and no written consent shall be effective to take the corporate action referred to therein unless, within sixty days of the earliest dated consent delivered in the manner required by this Section to the corporation, written consents signed by a sufficient number of holders to take action are delivered to the corporation in accordance with this Section. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing.

(b) A telegram, cablegram or other electronic transmission consent to an action to be taken and transmitted by a stockholder or proxyholder, or by a person or persons authorized to act for a stockholder or proxyholder, shall be deemed to be written, signed and dated for the purposes of this Section, provided that any such telegram, cablegram or other electronic transmission sets forth or is delivered with information from which the corporation can determine (i) that the telegram, cablegram or other electronic transmission was transmitted by the stockholder or proxyholder or by a person or persons authorized to act for the stockholder or proxyholder, and (ii) the date on which such stockholder or proxyholder or authorized person or persons transmitted such telegram, cablegram or electronic transmission. The date on which such telegram, cablegram or electronic transmission is transmitted shall be deemed to be the date on which such consent was signed. No consent given by telegram, cablegram or other electronic transmission shall be deemed to have been delivered until such consent is reproduced in paper form and until such paper form shall be delivered to the corporation by delivery to its registered office in this State, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a corporation’s registered office shall be made by hand or by certified or registered mail, return receipt requested. Notwithstanding the foregoing limitations on delivery, consents given by telegram, cablegram or other electronic transmission may be otherwise delivered to the principal place of business of the corporation or to an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded if to the extent and in the manner provided by resolution of the Board of Directors of the corporation.

(c) Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used, provided that such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing.

ARTICLE III

Directors

Section 1. Number and Term of Office.

The number of directors which shall constitute the whole of the Board of Directors shall be eight (8). With the exception of the first Board of Directors, which shall be elected by the incorporators, and except as provided in Section 3 of this Article III, the directors shall be elected by a plurality vote of the shares represented in person or by proxy, at the stockholders annual meeting in each year and entitled to vote on the election of directors. Elected directors shall hold office until their successors shall be duly elected and qualified. Directors need not be stockholders. If, for any cause, the Board of Directors shall not have been elected at an annual meeting, they may be elected as soon thereafter as convenient at a special meeting of the stockholders called for that purpose in the manner provided in these Bylaws.

Section 2. Powers.

The powers of the corporation shall be exercised, its business conducted and its property controlled by or under the direction of the Board of Directors.

Section 3. Vacancies.

Vacancies and newly created directorships resulting from any increase in the authorized number of directors may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director, and each director so elected shall hold office for the unexpired portion of the term of the director whose place shall be vacant, and until his successor shall have been duly elected and qualified. A vacancy in the Board of Directors shall be deemed to exist under this section in the case of the death, removal or resignation of any director, or if the stockholders fail at any meeting of stockholders at which directors are to be elected (including any meeting referred to in Section 4 below) to elect the number of directors then constituting the whole Board.

Section 4. Resignations and Removals.

(a) Any director may resign at any time by delivering his written resignation to the Secretary, such resignation to specify whether it will be effective at a particular time, upon receipt by the Secretary or at the pleasure of the Board of Directors. If no such specification is made it shall be deemed effective at the pleasure of the Board of Directors. When one or more directors shall resign from the Board, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each director so chosen shall hold office for the unexpired portion of the term of the director whose place shall be vacated and until his successor shall have been duly elected and qualified.

(b) At a special meeting of stockholders called for the purpose in the manner hereinabove provided, the Board of Directors, or any individual director, may be removed from office, with or without cause, and a new director or directors elected by a vote of stockholders holding a majority of the outstanding shares entitled to vote at an election of directors.

Section 5. Meetings.

(a) The annual meeting of the Board of Directors shall be held immediately after the annual stockholders' meeting and at the place where such meeting is held or at the place announced by the Chairman at such meeting. No notice of an annual meeting of the Board of Directors shall be necessary and such meeting shall be held for the purpose of electing officers and transacting such other business as may lawfully come before it.

(b) Except as hereinafter otherwise provided, regular meetings of the Board of Directors shall be held in the office of the corporation required to be maintained pursuant to Section 2 of Article I hereof. Regular meetings of the Board of Directors may also be held at any place within or without the State of Delaware which has been designated by resolutions of the Board of Directors or the written consent of all directors.

(c) Special meetings of the Board of Directors may be held at any time and place within or without the State of Delaware whenever called by the Chairman of the Board or, if there is no Chairman of the Board, by the President, or by any of the directors.

(d) Written notice of the time and place of all regular and special meetings of the Board of Directors shall be delivered personally to each director or sent by telegram or facsimile transmission at least 48 hours before the start of the meeting, or sent by first class mail at least 120 hours before the start of the meeting. Notice of any meeting may be waived in writing at any time before or after the meeting and will be waived by any director by attendance thereat.

Section 6. Quorum and Voting.

(a) A quorum of the Board of Directors shall consist of a majority of the exact number of directors fixed from time to time in accordance with Section I of Article III of these Bylaws, but not less than one; provided, however, at any meeting whether a quorum be present or otherwise, a majority of the directors present may adjourn from time to time until the time fixed for the next regular meeting of the Board of Directors, without notice other than by announcement at the meeting.

(b) At each meeting of the Board at which a quorum is present all questions and business shall be determined by a vote of a majority of the directors present, unless a different vote be required by law, the Certificate of Incorporation, or these Bylaws.

(c) Any member of the Board of Directors, or of any committee thereof, may participate in a meeting by means of conference telephone or similar communication equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting by such means shall constitute presence in person at such meeting.

(d) The transactions of any meeting of the Board of Directors, or any committee thereof, however called or noticed, or wherever held, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum be present and if, either before or after the meeting, each of the directors not present shall sign a written waiver of notice, or a consent to holding such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 7. Action Without Meeting.

Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all members of the Board or of such committee, as the case may be, consent thereto in writing, and such writing or writings are filed with the minutes of proceedings of the Board or committee.

Section 8. Fees and Compensation.

Directors and members of committees may receive such compensation, if any, for their services, and such reimbursement for expenses, as may be fixed or determined by resolution of the Board of Directors.

Section 9. Committees.

(a) Executive Committee: The Board of Directors may, by resolution passed by a majority of the whole Board, appoint an Executive Committee of not less than one member, each of whom shall be a director. The Executive Committee, to the extent permitted by law, shall have and may exercise when the Board of Directors is not in session all powers of the Board in the management of the business and affairs of the corporation, including, without limitation, the power and authority to declare a dividend or to authorize the issuance of stock, except such committee shall not have the power or authority to amend the Certificate of Incorporation, to adopt an agreement or merger or consolidation, to recommend to the stockholders the sale, lease or exchange of all or substantially all of the corporation’s property and assets, to recommend to the stockholders of the Corporation a dissolution of the Corporation or a revocation of a dissolution, or to amend these Bylaws.

(b) Other Committees: The Board of Directors may, by resolution passed by a majority of the whole Board, from time to time appoint such other committees as may be permitted by law. Such other committees appointed by the Board of Directors shall have such powers and perform such duties as may be prescribed by the resolution or resolutions creating such committee, but in no event shall any such committee have the powers denied to the Executive Committee in these Bylaws.

(c) Term: The members of all committees of the Board of Directors shall serve a term coexistent with that of the Board of Directors which shall have appointed such committee. The

Board, subject to the provisions of subsections (a) or (b) of this Section 9, may at any time increase or decrease the number of members of a committee or terminate the existence of a committee; provided, that no committee shall consist of less than one member. The membership of a committee member shall terminate on the date of his death or voluntary resignation, but the Board may at any time for any reason remove any individual committee member and the Board may fill any committee vacancy created by death, resignation, removal or increase in the number of members of the committee. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee, and, in addition, in the absence or disqualification of any member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member.

(d) Meetings: Unless the Board of Directors shall otherwise provide, regular meetings of the Executive Committee or any other committee appointed pursuant to this Section 9 shall be held at such times and places as are determined by the Board of Directors, or by any such committee, and when notice thereof has been given to each member of such committee, no further notice of such regular meetings need be given thereafter; special meetings of any such committee may be held at the principal office of the corporation required to be maintained pursuant to Section 2 of Article I hereof; or at any place which has been designated from time to time by resolution of such committee or by written consent of all members thereof, and may be called by any director who is a member of such committee, upon written notice to the members of such committee of the time and place of such special meeting given in the manner provided for the giving of written notice to members of the Board of Directors of the time and place of special meetings of the Board of Directors. Notice of any special meeting of any committee may be waived in writing at any time after the meeting and will be waived by any director by attendance thereat. A majority of the authorized number of members of any such committee shall constitute a quorum for the transaction of business, and the act of a majority of those present at any meeting at which a quorum is present shall be the act of such committee.

ARTICLE IV

Officers

Section 1. Officers Designated.

The officers of the corporation shall be a Chairman of the Board of Directors and a President, each of whom shall be a member of the Board of Directors, and one or more Vice−Presidents, a Secretary, and a Treasurer. The order of the seniority of the Vice Presidents shall be in the order of their nomination, unless otherwise determined by the Board of Directors. The Board of Directors or the Chairman of the Board or the President may also appoint one or more assistant secretaries, assistant treasurers, and such other officers and agents with such powers and duties as it or he shall deem necessary. The Board of Directors may assign such additional titles to one or more of the officers as they shall deem appropriate. Any one person may hold any number of offices of the corporation at any one time unless specifically prohibited therefrom by law. The salaries and other compensation of the officers of the corporation shall be fixed by or in the manner designated by the Board of Directors.

Section 2. Tenure and Duties of Officers.

(a) General: All officers shall hold office at the pleasure of the Board of Directors and until their successors shall have been duly elected and qualified, unless sooner removed. Any officer elected or appointed by the Board of Directors may be removed at any time by the Board of Directors. If the office of any officer becomes vacant for any reason, the vacancy may be filled by the Board of Directors. Nothing in these Bylaws shall be construed as creating any kind of contractual right to employment with the corporation.

(b) Duties of the Chairman of the Board of Directors: The Chairman of the Board of Directors (if there be such an officer appointed) shall preside at all meetings of the shareholders and the Board of Directors. The Chairman of the Board of Directors shall perform such other duties and have such other powers as the Board of Directors shall designate from time to time.

(c) Duties of President: The President shall be the chief executive officer of the corporation (unless the Board of Directors shall designate otherwise) and shall preside at all meetings of the shareholders and at all meetings of the Board of Directors, unless the Chairman of the Board of Directors has been appointed and is present. The President shall perform such other duties and have such other powers as the Board of Directors shall designate from time to time.

(d) Duties of Vice−Presidents: The Vice−Presidents, in the order of their seniority, may assume and perform the duties of the President in the absence or disability of the President or whenever the office of the President is vacant. The Vice−President shall perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time.

(e) Duties of Secretary: The Secretary shall attend all meetings of the shareholders and of the Board of Directors and any committee thereof, and shall record all acts and proceedings thereof in the minute book of the corporation. The Secretary shall give notice, in conformity with these Bylaws, of all meetings of the shareholders, and of all meetings of the Board of Directors and any Committee thereof requiring notice. The Secretary shall perform such other duties and have such other powers as the Board of Directors shall designate from time to time. The President may direct any Assistant Secretary to assume and perform the duties of the Secretary in the absence or disability of the Secretary, and each Assistant Secretary shall perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time.

(f) Duties of Treasurer: The Treasurer shall keep or cause to be kept the books of account of the corporation in a thorough and proper manner, and shall render statements of the financial affairs of the corporation in such form and as often as required by the Board of Directors or the President. The Treasurer, subject to the order of the Board of Directors, shall have the custody of all funds and securities of the corporation. The Treasurer shall perform all other duties commonly incident to his office and shall perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time. The President may direct any Assistant Treasurer to assume and perform the duties of the Treasurer in the absence or disability of the Treasurer, and each Assistant Treasurer shall perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time. At the election of the Board of Directors, the duties of Treasurer shall be performed by a Vice President designated by the Board of Directors to perform financial functions.

ARTICLE V

Execution of Corporate Instruments, and Voting of Securities Owned by the Corporation

Section 1. Execution of Corporate Instruments.

(a) The Board of Directors may, in its discretion, determine the method and designate the signatory officer or officers, or other person or persons, to execute any corporate instrument or document, or to sign the corporate name without limitation, except where otherwise provided by law, and such execution or signature shall be binding upon the corporation.

(b) Unless otherwise specifically determined by the Board of Directors or otherwise required by law, formal contracts of the corporation, promissory notes, deeds of trust, mortgages and other evidences of indebtedness of the corporation, and other corporate instruments or documents requiring the corporate seal, and certificates of shares of stock owned by the corporation, shall be executed, signed or endorsed by the Chairman of the Board (if there be such an officer appointed) or by the President; such documents may also be executed by any Vice−President and by the Secretary or Treasurer or any Assistant Secretary or Assistant Treasurer. All other instruments and documents requiring the corporate signature, but not requiring the corporate seal, may be executed as aforesaid or in such other manner as may be directed by the Board of Directors.

(c) All checks and drafts drawn on banks or other depositaries on funds to the credit of the corporation, or in special accounts of the corporation, shall be signed by such person or persons as the Board of Directors shall authorize so to do.

Section 2. Voting of Securities Owned by Corporation.

All stock and other securities of other corporations owned or held by the corporation for itself, or for other parties in any capacity, shall be voted, and all proxies with respect thereto shall be executed, by the person authorized so to do by resolution of the Board of Directors or, in the absence of such authorization, by the Chairman of the Board (if there be such an officer appointed), or by the President, or by any Vice−President.

ARTICLE VI

Shares of Stock

Section 1. Form and Execution of Certificates.

Certificates for the shares of stock of the corporation shall be in such form as is consistent with the Certificate of Incorporation and applicable law. Every holder of stock in the corporation shall be entitled to have a certificate signed by, or in the name of the corporation by, the Chairman of the Board (if there be such an officer appointed), or by the President or any Vice−President and by the Treasurer or Assistant Treasurer or the Secretary or Assistant Secretary, certifying the number of shares owned by him in the corporation. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent, or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent, or registrar before such certificate is issued, it may be issued with the same effect as if he were such officer, transfer agent, or registrar at the date of issue. If the corporation shall be authorized to issue more than one class of stock or more than one series of any class, the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate which the corporation shall issue to represent such class or series of stock, provided that, except as otherwise provided in section 202 of the Delaware General Corporation Law, in lieu of the foregoing requirements, there may be set forth on the face or back of the certificate which the corporation shall issue to represent such class or series of stock, a statement that the corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

Section 2. Lost Certificates.

The Board of Directors may direct a new certificate or certificates to be issued in place of any certificate or certificates theretofore issued by the corporation alleged to have been lost or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost or destroyed. When authorizing such issue of a new certificate or certificates, the Board of Directors may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost or destroyed certificate or certificates, or his legal representative, to indemnify the corporation in such manner as it shall require and/or to give the corporation a surety bond in such form and amount as it may direct as indemnity against any claim that may be made against the corporation with respect to the certificate alleged to have been lost or destroyed.

Section 3. Transfers.

Transfers of record of shares of stock of the corporation shall be made only upon its books by the holders thereof, in person or by attorney duly authorized, and upon the surrender of a certificate or certificates for a like number of shares, properly endorsed.

Section 4. Fixing Record Dates.

(a) In order that the corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more than sixty nor less than ten days before the date of such meeting. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the date on which the meeting is held. A determination of stockholders of record entitled notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

(b) In order that the corporation may determine the stockholders entitled to consent to corporate action in writing without a meeting, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which date shall not be more than ten days after the date upon which the resolution fixing the record date is adopted by the Board of Directors. If no record date has been fixed by the Board of Directors, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is required by the Delaware General Corporation Law, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the corporation by delivery to its registered office in Delaware, its principal place of business, or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. If no record date has been fixed by the Board of Directors and prior action by the Board of Directors is required by law, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

(c) In order that the corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than sixty days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

Section 5. Registered Stockholders.

The corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

ARTICLE VII

Other Securities of the Corporation

All bonds, debentures and other corporate securities of the corporation, other than stock certificates, may be signed by the Chairman of the Board (if there be such an officer appointed), or the President or any Vice− President or such other person as may be authorized by the Board of Directors and the corporate seal impressed thereon or a facsimile of such seal imprinted thereon and attested by the signature of the Secretary or an Assistant Secretary, or the Treasurer or an Assistant Treasurer; provided, however, that where any such bond, debenture or other corporate security shall be authenticated by the manual signature of a trustee under an indenture pursuant to which such bond, debenture or other corporate security shall be issued, the signature of the persons signing and attesting the corporate seal on such bond, debenture or other corporate security may be the imprinted facsimile of the signatures of such persons. Interest coupons appertaining to any such bond, debenture or other corporate security, authenticated by a trustee as aforesaid, shall be signed by the Treasurer or an Assistant Treasurer of the corporation, or such other person as may be authorized by the Board of Directors, or bear imprinted thereon the facsimile signature of such person. In case any officer who shall have signed or attested any bond, debenture or other corporate security, or whose facsimile signature shall appear thereon or before the bond, debenture or other corporate security so signed or attested shall have been delivered, such bond, debenture or other corporate security nevertheless may be adopted by the corporation and issued and delivered as though the person who signed the same or whose facsimile signature shall have been used thereon had not ceased to be such officer of the corporation.

ARTICLE VIII

Corporate Seal

The corporate seal shall consist of a die bearing the name of the corporation and the state and date of its incorporation. Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

ARTICLE IX

Indemnification of
Officers, Directors, Employees and Agents

Section 1. Right to Indemnification.

Each person who was or is a party or is threatened to be made a party to or is involved (as a party, witness, or otherwise), in any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (hereinafter a "Proceeding"), by reason of the fact that he, or a person of whom he is the legal representative, is or was a director, officer, employee, or agent of the corporation or is or was serving at the request of the corporation as a director, officer, employee, or agent of another corporation or of a partnership, joint venture, trust, or other enterprise, including service with respect to employee benefit plans, whether the basis of the Proceeding is alleged action in an official capacity as a director, officer, employee, or agent or in any other capacity while serving as a director, officer, employee, or agent (hereafter an "Agent"), shall be indemnified and held harmless by the corporation to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended or interpreted (but, in the case of any such amendment or interpretation, only to the extent that such amendment or interpretation permits the corporation to provide broader indemnification rights than were permitted prior thereto) against all expenses, liability, and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties, and amounts paid or to be paid in settlement, and any interest, assessments, or other charges imposed thereon, and any federal, state, local, or foreign taxes imposed on any Agent as a result of the actual or deemed receipt of any payments under this Article) reasonably incurred or suffered by such person in connection with investigating, defending, being a witness in, or participating in (including on appeal), or preparing for any of the foregoing in, any Proceeding (hereinafter "Expenses"); provided, however, that except as to actions to enforce indemnification rights pursuant to Section 3 of this Article, the corporation shall indemnify any Agent seeking indemnification in connection with a Proceeding (or part thereof) initiated by such person only if the Proceeding (or part thereof) was authorized by the Board of Directors of the corporation. The right to indemnification conferred in this Article shall be a contract right.

Section 2. Authority to Advance Expenses.

Expenses incurred by an officer or director (acting in his capacity as such) in defending a Proceeding shall be paid by the corporation in advance of the final disposition of such Proceeding, provided, however, that if required by the Delaware General Corporation Law, as amended, such Expenses shall be advanced only upon delivery to the corporation of an undertaking by or on behalf of such director or officer to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the corporation as authorized in this Article or otherwise. Expenses incurred by other Agents of the corporation (or by the directors or officers not acting in their capacity as such, including service with respect to employee benefit plans) may be advanced upon such terms and conditions as the Board of Directors deems appropriate. Any obligation to reimburse the corporation for Expense advances shall be unsecured and no interest shall be charged thereon.

Section 3. Right of Claimant to Bring Suit.

If a claim under Section 1 or 2 of this Article is not paid in full by the corporation within 120 days after a written claim has been received by the corporation, the claimant may at any time thereafter bring suit against the corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense (including attorneys' fees) of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending a Proceeding in advance of its final disposition where the required undertaking has been tendered to the corporation) that the claimant has not met the standards of conduct that make it permissible under the Delaware General Corporation Law for the corporation to indemnify the claimant for the amount claimed. Neither the failure of the corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper under the circumstances because he has met the applicable standard of conduct set forth in the Delaware General Corporation Law, nor an actual determination by the corporation (including its Board of Directors, independent legal counsel, or its stockholders) that the claimant had not met such applicable standard of conduct, shall be a defense to the action or create a presumption that claimant has not met the applicable standard of conduct.

Section 4. Provisions Nonexclusive.

The rights conferred on any person by this Article shall not be exclusive of any other rights that such person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, agreement, vote of stockholders or disinterested directors, or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office. To the extent that any provision of the Certificate, agreement, or vote of the stockholders or disinterested directors is inconsistent with these bylaws, the provision, agreement, or vote shall take precedence.

Section 5. Authority to Insure.

The corporation may purchase and maintain insurance to protect itself and any Agent against any Expense, whether or not the corporation would have the power to indemnify the Agent against such Expense under applicable law or the provisions of this Article.

Section 6. Survival of Rights.

The rights provided by this Article shall continue as to a person who has ceased to be an Agent and shall inure to the benefit of the heirs, executors, and administrators of such a person.

Section 7. Settlement of Claims.

The corporation shall not be liable to indemnify any Agent under this Article (a) for any amounts paid in settlement of any action or claim effected without the corporation's written consent, which consent shall not be unreasonably withheld; or (b) for any judicial award if the corporation was not given a reasonable and timely opportunity, at its expense, to participate in the defense of such action.

Section 8. Effect of Amendment.

Any amendment, repeal, or modification of this Article shall not adversely affect any right or protection of any Agent existing at the time of such amendment, repeal, or modification.

Section 9. Subrogation.

In the event of payment under this Article, the corporation shall be subrogated to the extent of such payment to all of the rights of recovery of the Agent, who shall execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the corporation effectively to bring suit to enforce such rights.

Section 10. No Duplication of Payments.

The corporation shall not be liable under this Article to make any payment in connection with any claim made against the Agent to the extent the Agent has otherwise actually received payment (under any insurance policy, agreement, vote, or otherwise) of the amounts otherwise indemnifiable hereunder.

ARTICLE X

Notices

Whenever, under any provisions of these Bylaws, notice is required to be given to any stockholder, the same shall be given either (1) in writing, timely and duly deposited in the United States Mail, postage prepaid, and addressed to his last known post office address as shown by the stock record of the corporation or its transfer agent, or (2) by a means of electronic transmission that satisfies the requirements of Section 4(e) of Article II of these Bylaws, and has been consented to by the stockholder to whom the notice is given. Any notice required to be given to any director may be given by the method hereinabove stated, or by telegram or other means of electronic transmission, except that such notice other than one which is delivered personally, shall be sent to such address or (in the case of facsimile telecommunication) facsimile telephone number as such director shall have filed in writing with the Secretary of the corporation, or, in the absence of such filing, to the last known post office address of such director. If no address of a stockholder or director be known, such notice may be sent to the office of the corporation required to be maintained pursuant to Section 2 of Article I hereof. An affidavit of mailing, executed by a duly authorized and competent employee of the corporation or its transfer agent appointed with respect to the class of stock affected, specifying the name and address or the names and addresses of the stockholder or stockholders, director or directors, to whom any such notice or notices was or were given, and the time and method of giving the same, shall be conclusive evidence of the statements therein contained. All notices given by mail, as above provided, shall be deemed to have been given as at the time of mailing and all notices given by telegram or other means of electronic transmission shall be deemed to have been given as at the sending time recorded by the telegraph company or other electronic transmission equipment operator transmitting the same. It shall not be necessary that the same method of giving be employed in respect of all directors, but one permissible method may be employed in respect of any one or more, and any other permissible method or methods may be employed in respect of any other or others. The period or limitation of time within which any stockholder may exercise any option or right, or enjoy any privilege or benefit, or be required to act, or within which any director may exercise any power or right, or enjoy any privilege, pursuant to any notice sent him in the manner above provided, shall not be affected or extended in any manner by the failure of such a stockholder or such director to receive such notice. Whenever any notice is required to be given under the provisions of the statutes or of the Certificate of Incorporation, or of these Bylaws, a waiver thereof in writing signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent thereto. Whenever notice is required to be given, under any provision of law or of the Certificate of Incorporation or Bylaws of the corporation, to any person with whom communication is unlawful, the giving of such notice to such person shall not be required and there shall be no duty to apply to any governmental authority or agency for a license or permit to give such notice to such person. Any action or meeting which shall be taken or held without notice to any such person with whom communication is unlawful shall have the same force and effect as if such notice had been duly given. In the event that the action taken by the corporation is such as to require the filing of a certificate under any provision of the Delaware General Corporation Law, the certificate shall state, if such is the fact and if notice is required, that notice was given to all persons entitled to receive notice except such persons with whom communication is unlawful.

ARTICLE XI

Amendments

These Bylaws may be repealed, altered or amended or new Bylaws adopted by written consent of stockholders in the manner authorized by Section 8 of Article II, or at any meeting of the stockholders, either annual or special, by the affirmative vote of a majority of the stock entitled to vote at such meeting. The Board of Directors shall also have the authority to repeal, alter or amend these Bylaws or adopt new Bylaws (including, without limitation, the amendment of any Bylaws setting forth the number of directors who shall constitute the whole Board of Directors) by unanimous written consent or at any annual, regular, or special meeting by the affirmative vote of a majority of the whole number of directors, subject to the power of the stockholders to change or repeal such Bylaws and provided that the Board of Directors shall not make or alter any Bylaws fixing the qualifications, classifications, or term of office of directors.

EXHIBIT 31.1

JDS UNIPHASE CORPORATION
CERTIFICATION PURSUANT TO SECTION 302
OF THE SARBANES−OXLEY ACT OF 2002

I, Kevin J. Kennedy, Chief Executive Officer (Principal Executive Officer), certify that:

1. I have reviewed this Quarterly Report on Form 10−Q of JDS Uniphase Corporation;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant’s other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a−15(e) and 15d−15(e)) for the registrant and have:

   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) Evaluated the effectiveness of the registrant’s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   c) Disclosed in this report any change in the registrant’s internal control over financial reporting that occurred during the registrant’s most recent fiscal quarter (the registrant’s fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant’s internal control over financial reporting; and

5. The registrant’s other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant’s auditors and the audit committee of the registrant’s board of directors (or persons performing the equivalent functions):

   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant’s ability to record, process, summarize and report financial information; and

   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant’s internal control over financial reporting.

Dated: May 11, 2005

/s/ Kevin J. Kennedy

Kevin J. Kennedy
Chief Executive Officer
(Principal Executive Officer)

EXHIBIT 31.2

JDS UNIPHASE CORPORATION
CERTIFICATION PURSUANT TO SECTION 302
OF THE SARBANES−OXLEY ACT OF 2002

I, David Vellequette, Vice President and interim Chief Financial Officer (Principal Financial and Accounting Officer), certify that:

1. I have reviewed this Quarterly Report on Form 10−Q of JDS Uniphase Corporation;

2. Based on my knowledge, this report on Form 10−Q does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a−15(e) and 15d−15(e)) for the registrant and have:

   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   c) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: May 11, 2005

/s/ David Vellequette

David Vellequette
Vice President and interim Chief Financial Officer
(Principal Financial and Accounting Officer)

EXHIBIT 32.1

JDS UNIPHASE CORPORATION
CERTIFICATION PURSUANT TO SECTION 906
OF THE SARBANES−OXLEY ACT OF 2002

In connection with the Quarterly Report on Form 10−Q of JDS Uniphase Corporation (the "Company") for the period ended March 31, 2005 as filed with the Securities and Exchange Commission (the "Report"), I, Kevin J. Kennedy, Chief Executive Officer (Principal Executive Officer) of the Company, hereby certify as of the date hereof, solely for purposes of Title 18, Chapter 63, Section 1350 of the United States Code, that to the best of my knowledge:

1. The Report fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company at the dates and for the periods indicated.

This Certification has not been, and shall not be deemed, "filed" with the Securities and Exchange Commission.

Dated: May 11, 2005

/s/ Kevin J. Kennedy

Kevin J. Kennedy
Chief Executive Officer
(Principal Executive Officer)

EXHIBIT 32.2

JDS UNIPHASE CORPORATION
CERTIFICATION PURSUANT TO SECTION 906
OF THE SARBANES−OXLEY ACT OF 2002

In connection with the Quarterly Report on Form 10−Q of JDS Uniphase Corporation (the “Company”) for the period ended March 31, 2005 as filed with the Securities and Exchange Commission (the “Report”), I, David Vellequette, Vice President and interim Chief Financial Officer (Principal Financial and Accounting Officer) of the Company, hereby certify as of the date hereof, solely for purposes of Title 18, Chapter 63, Section 1350 of the United States Code, that to the best of my knowledge:

1. The Report fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company at the dates and for the periods indicated.

This Certification has not been, and shall not be deemed, “filed” with the Securities and Exchange Commission.

Dated: May 11, 2005

/s/ David Vellequette

David Vellequette
Vice President and interim Chief Financial Officer
(Principal Financial and Accounting Officer)