

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**FORM 10-Q**

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(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, 2003

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 ☐

Number of shares of common stock outstanding as of May 1, 2003 was 1,430,179,425, including 78,442,721 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.

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**PART I—FINANCIAL INFORMATION**

**Item 1. Financial Statements**

**JDS UNIPHASE CORPORATION**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**  
(in millions)

	March 31, 2003	June 30, 2002
	(unaudited)	
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 240.7	\$ 412.4
Short-term investments	1,025.0	1,038.0
Accounts receivable, less allowances of \$38.6 at March 31, 2003 and \$62.4 at June 30, 2002	102.5	134.4
Inventories	99.7	110.0
Refundable income taxes	4.0	60.4
Deferred income taxes	36.0	68.0
Other current assets	75.1	34.1
	<b>1,583.0</b>	<b>1,857.3</b>
Total current assets	1,583.0	1,857.3
Property, plant and equipment, net	289.7	491.5
Deferred income taxes	25.4	43.9
Goodwill	156.1	332.2
Other intangibles, net	93.9	177.5
Long-term investments	52.3	95.6
Other assets	8.9	6.5
	<b>2,209.3</b>	<b>3,004.5</b>
Total assets	\$ 2,209.3	\$ 3,004.5
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities:		
Accounts payable	\$ 59.7	\$ 66.2
Accrued payroll and related expenses	47.3	70.2
Income taxes payable	32.4	31.3
Deferred income taxes	—	2.2
Restructuring accrual	150.2	95.8
Warranty accrual	61.5	73.6
Other current liabilities	108.2	143.2
	<b>459.3</b>	<b>482.5</b>
Total current liabilities	459.3	482.5
Deferred income taxes	25.5	41.7
Other non-current liabilities	16.8	8.9
Commitments and contingencies		
Stockholders' equity:		
Preferred stock	—	—
Common stock and additional paid-in capital	68,551.1	68,457.9
Accumulated deficit	(66,834.9)	(65,962.7)
Accumulated other comprehensive loss	(8.5)	(23.8)
	<b>1,707.7</b>	<b>2,471.4</b>
Total stockholders' equity	1,707.7	2,471.4
	<b>2,209.3</b>	<b>3,004.5</b>
Total liabilities and stockholders' equity	\$ 2,209.3	\$ 3,004.5

See accompanying notes to condensed consolidated 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, 2003	March 31, 2002	March 31, 2003	March 31, 2002
Net sales	\$ 165.7	\$ 261.8	\$ 515.3	\$ 876.5
Cost of sales	142.9	240.1	498.9	919.0
Gross profit (loss)	22.8	21.7	16.4	(42.5)
Operating expenses:				
Research and development	36.8	57.8	121.6	191.1
Selling, general and administrative	70.0	84.0	209.0	288.7
Amortization of goodwill	—	260.4	—	924.7
Amortization of other intangibles	3.7	113.3	15.9	333.6
Acquired in-process research and development	—	—	0.4	22.1
Reduction of goodwill	—	2,871.5	225.7	4,167.8
Reduction of other long-lived assets	11.2	1,012.6	165.8	1,025.9
Restructuring charges	16.3	(10.8)	115.1	232.2
Total operating expenses	138.0	4,388.8	853.5	7,186.1
Loss from operations	(115.2)	(4,367.1)	(837.1)	(7,228.6)
Interest and other income, net	7.1	11.2	26.6	36.0
Loss on sale of subsidiaries	—	—	(0.5)	—
Gain on sale of investments	0.9	4.5	3.7	10.9
Reduction in fair value of investments	(9.8)	(7.9)	(37.7)	(114.4)
Loss on equity method investments	(1.2)	(8.5)	(7.7)	(53.6)
Loss before income taxes	(118.2)	(4,367.8)	(852.7)	(7,349.7)
Income tax expense (benefit)	18.6	(26.9)	19.5	346.1
Net loss	\$ (136.8)	\$ (4,340.9)	\$ (872.2)	\$ (7,695.8)
Net loss per share—basic and diluted	\$ (0.10)	\$ (3.19)	\$ (0.62)	\$ (5.75)
Shares used in per-share calculation—basic and diluted	1,422.6	1,359.0	1,416.9	1,337.4

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, 2003	March 31, 2002
<b>OPERATING ACTIVITIES:</b>		
Net loss	\$ (872.2)	\$ (7,695.8)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:		
Depreciation expense	49.9	244.0
Amortization expense	15.9	1,258.3
Amortization of deferred compensation	47.8	77.1
Acquired in-process research and development	0.4	22.1
Reduction of goodwill and other long-lived assets	391.5	5,193.7
Non-cash restructuring and other charges	36.8	141.3
(Gain) loss on disposal of fixed assets	(1.3)	26.4
Loss on sale of subsidiaries	0.5	—
Gain on sale of investments	(3.7)	(10.9)
Reduction in fair value of investments	37.7	114.4
Loss on equity method investments	7.7	53.6
Change in deferred income taxes, net	32.1	440.6
Tax benefit on non-qualified stock options	—	35.0
Changes in operating assets and liabilities:		
Accounts receivable	34.5	312.6
Inventories	9.4	163.9
Other assets	64.8	(44.6)
Income taxes payable	1.2	(18.5)
Accounts payable and other liabilities	(20.5)	(241.2)
Net cash provided by (used in) operating activities	(167.5)	72.0
<b>INVESTING ACTIVITIES:</b>		
(Purchases) sales of available-for-sale investments	36.2	(304.5)
Purchases of non-marketable investments	(1.5)	(36.6)
Sales of non-marketable investments	—	29.8
Acquisitions of businesses, net of cash acquired	(27.8)	(121.0)
Purchases of property, plant and equipment, net of sales	(27.1)	(113.8)
Other assets	1.8	9.3
Net cash used in investing activities	(18.4)	(536.8)
<b>FINANCING ACTIVITIES:</b>		
Repayment of debt	(0.6)	(32.6)
Proceeds from issuance of common stock	18.4	61.4
Net cash provided by financing activities	17.8	28.8
Effect of exchange rate changes on cash and cash equivalents	(3.6)	(1.3)
Decrease in cash and cash equivalents	(171.7)	(437.3)
Cash and cash equivalents at beginning of period	412.4	762.8
Cash and cash equivalents at end of period	\$ 240.7	\$ 325.5

See accompanying notes to condensed consolidated financial statements

**JDS UNIPHASE CORPORATION**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

**Note 1. Basis of Presentation**

The financial information as of March 31, 2003 and for the three and nine months ended March 31, 2003 and 2002 is unaudited, but includes all adjustments that JDS Uniphase Corporation (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, 2002.

The balance sheet at June 30, 2002 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, 2003 may not be indicative of results for the year ending June 30, 2003 or any future periods.

The third quarters of fiscal 2003 and 2002 ended on March 29, 2003 and March 30, 2002, 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.

**Reclassifications:**

The following amounts reported in prior periods have been reclassified to conform to the current-period presentation:

*Condensed Consolidated Balance Sheets:*

- Goodwill and other intangibles of \$509.7 million as of June 30, 2002 is now separated into goodwill of \$332.2 million and other intangibles of \$177.5 million.
- Current portion of capital lease obligations of \$1.3 million as of June 30, 2002 is now included in other current liabilities of \$143.2 million. In addition, long-term portion of capital lease obligations of \$5.5 million as of June 30, 2002 is now included in other non-current liabilities of \$8.9 million.

*Condensed Consolidated Statements of Operations:*

- Cost of sales of \$498.9 million for the nine months ended March 31, 2003 included a reclassification of \$8.3 million from selling, general and administrative expense in connection with a patent license agreement (see Note 19).
- Amortization of intangibles of \$373.7 million for the three months ended March 31, 2002 is now separated into amortization of goodwill of \$260.4 million and amortization of other intangibles of \$113.3 million. In addition, amortization of intangibles of \$1,258.3 million for the nine months ended March 31, 2002 is now separated into amortization of goodwill of \$924.7 million and amortization of other intangibles of \$333.6 million.
- Reductions of goodwill and other long-lived assets of \$3,884.1 million for the three months ended March 31, 2002 are now separated into reductions of goodwill of \$2,871.5 million and reductions of other long-lived assets of \$1,012.6 million. In addition, reductions of goodwill and other long-lived assets of \$5,193.7 million for the nine months ended March 31, 2002 are now

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separated into reductions of goodwill of \$4,167.8 million and reductions of other long-lived assets of \$1,025.9 million.

**Recent Accounting Pronouncements:**

*SFAS No. 141 and SFAS No. 142:*

In June 2001, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards ("SFAS") No. 141, "Business Combinations," which requires all business combinations initiated after June 30, 2001 be accounted for using the purchase method. In addition, SFAS No. 141 further clarifies the criteria to recognize purchased intangibles separately from goodwill. Specifically, SFAS No. 141 requires that an intangible asset may be separately recognized only if such an asset meets the contractual-legal criterion or the separability criterion. On July 1, 2002, in accordance with SFAS No. 141, the Company reassessed the goodwill and other purchased intangibles previously recorded in acquisitions prior to July 1, 2001 and determined that as of July 1, 2002, the Company had approximately \$10.8 million of separately recognized purchased intangibles, consisting of acquired assembled workforce, that did not meet the new recognition criteria for an intangible asset to be recognized apart from goodwill. This amount was reclassified to goodwill on July 1, 2002.

In June 2001, the FASB issued SFAS No. 142, "Goodwill and Other Intangible Assets," under which goodwill and other purchased intangibles with indefinite useful lives are no longer amortized but are reviewed for impairment annually, or more frequently if certain events or changes in circumstances indicate that the carrying value may not be recoverable. Purchased intangibles with finite useful lives continue to be amortized over their useful lives and are reviewed for impairment in accordance with SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets."

The Company adopted SFAS No. 142 on July 1, 2002. In conjunction with the implementation of SFAS No. 142, the Company completed the transitional impairment review related to the carrying value of goodwill as of July 1, 2002 and determined that there was no impairment beyond amounts previously recorded as of that date.

A reconciliation of the reported net loss and net loss per share to the amounts adjusted for the exclusion of amortization of: (i) goodwill from acquisitions; (ii) equity method goodwill related to ADVA (see Note 6); and (iii) assembled workforce, net of the related tax effect, was as follows (in millions, except per-share data):

	Three Months Ended		Nine Months Ended	
	March 31, 2003	March 31, 2002	March 31, 2003	March 31, 2002
Reported net loss	\$ (136.8)	\$ (4,340.9)	\$ (872.2)	\$ (7,695.8)
Add back:				
Amortization of:				
Goodwill from acquisitions	—	260.4	—	924.7
Equity method goodwill related to ADVA	—	—	—	0.7
Assembled workforce	—	3.3	—	10.7
Income tax effect	—	(8.5)	—	(26.3)
Adjusted net loss	\$ (136.8)	\$ (4,085.7)	\$ (872.2)	\$ (6,786.0)
Reported net loss per share—basic and diluted	\$ (0.10)	\$ (3.19)	\$ (0.62)	\$ (5.75)
Adjusted net loss per share—basic and diluted	\$ (0.10)	\$ (3.01)	\$ (0.62)	\$ (5.07)

*SFAS No. 144:*

In August 2001, the FASB issued SFAS No. 144, which supersedes SFAS No. 121, "Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to Be Disposed Of," and certain provisions of Accounting Principles Board ("APB") Opinion No. 30, "Reporting the Results of Operations—Reporting the Effects of Disposal of a Segment of a Business, and Extraordinary, Unusual and Infrequently Occurring Events and Transactions." SFAS No. 144 retains the fundamental provisions of SFAS No. 121 related to: (i) the recognition and measurement of the impairment of long-lived assets to be held and used, and (ii) the measurement of long-lived assets to be disposed by sale. It provides more guidance on estimating cash flows when performing recoverability tests, requires long-lived assets to be disposed of other than by sale to be classified as held and used until disposal, and establishes more restrictive criteria to classify long-lived assets as held for sale. In addition, SFAS No. 144 supersedes the accounting and reporting provisions of APB Opinion No. 30 for the disposal of a segment of a business. However, it retains the basic provisions of APB Opinion No. 30 to report discontinued operations separately from continuing operations and extends the reporting of a discontinued operation to a component of an entity.

The Company adopted SFAS No. 144 on July 1, 2002. Under SFAS No. 121, excluding asset write-downs associated with the Global Realignment Program, the Company recorded impairment charges of \$5,979.4 million in fiscal 2002. The adoption of SFAS No. 144 may have a material impact on the Company's consolidated financial position and results of operations if the industry and economic downturn continues to affect the Company's operations and sales forecasts, primarily because SFAS No. 144 excludes goodwill, which may result in certain long-lived assets being subject to impairment charges sooner than they would have been recorded under SFAS No. 121. During the third quarter and first nine months of fiscal 2003, the Company recorded impairment charges of \$11.2 million and \$165.8 million, respectively, under SFAS No. 144 (see Note 9).

*SFAS No. 146:*

In June 2002, the FASB issued SFAS No. 146, "Accounting for Costs Associated with Exit or Disposal Activities," which addresses financial accounting and reporting for costs associated with exit or disposal activities and supersedes Emerging Issues Task Force ("EITF") Issue No. 94-3, "Liability Recognition for Certain Employee Termination Benefits and Other Costs to Exit an Activity (including Certain Costs Incurred in a Restructuring)." SFAS No. 146 requires companies to recognize costs associated with exit or disposal activities when they are incurred rather than at the date of a commitment to an exit or disposal plan. In addition, SFAS No. 146 establishes that fair value is the objective for initial measurement of the liability. SFAS No. 146 is effective for exit or disposal activities initiated after December 31, 2002. The effect of the adoption of SFAS No. 146 is dependent on the Company's related activities. As the Company continues to restructure its business under its Global Realignment Program (see Note 10), the adoption of SFAS No. 146 is expected to have a material impact on the Company's consolidated financial position and results of operations, primarily relating to the timing of recognition of future restructuring charges.

*SFAS No. 148:*

In December 2002, the FASB issued SFAS No. 148, "Accounting for Stock-Based Compensation—Transition and Disclosure," which amends SFAS No. 123, "Accounting for Stock-Based Compensation," to provide alternative methods of transition for a voluntary change to the fair value based method of accounting for stock-based employee compensation. In addition, SFAS No. 148 expands the disclosure requirements of SFAS No. 123 to require more prominent disclosures in both annual and interim

financial statements about the method of accounting for stock-based employee compensation and the effect of the method used on reported results. The transition provisions of SFAS No. 148 are effective for fiscal years ended after December 15, 2002. The transition provisions do not currently have an impact on the Company's consolidated financial position and results of operations as the Company has not elected to adopt the fair value based method of accounting for stock-based employee compensation under SFAS No. 123. The disclosure provisions of SFAS No. 148 are effective for financial statements for interim periods beginning after December 15, 2002. The Company adopted the disclosure requirements in the third quarter of fiscal 2003.

The Company accounts for its employee stock options under the intrinsic value based method of accounting prescribed by APB Opinion No. 25, "Accounting for Stock Issued to Employees," as interpreted by FASB Interpretation No. 44, "Accounting for Certain Transactions Involving Stock Compensation." Under APB Opinion No. 25, when the exercise price of the Company's employee stock options equals the market price of the underlying stock on the date of grant, no compensation expense is recognized. The following table presents the effect on the Company's net loss and net loss per share if the Company had applied the fair value based method of accounting under SFAS No. 123 (in millions, except per-share data):

	Three Months Ended		Nine Months Ended	
	March 31, 2003	March 31, 2002	March 31, 2003	March 31, 2002
Reported net loss	\$ (136.8)	\$ (4,340.9)	\$ (872.2)	\$ (7,695.8)
Adjustment:				
Compensation expense under SFAS No. 123, net of tax	(161.7)	(199.7)	(625.4)	(598.4)
Pro forma net loss	\$ (298.5)	\$ (4,540.6)	\$ (1,497.6)	\$ (8,294.2)
Reported net loss per share—basic and diluted	\$ (0.10)	\$ (3.19)	\$ (0.62)	\$ (5.75)
Pro forma net loss per share—basic and diluted	\$ (0.21)	\$ (3.34)	\$ (1.06)	\$ (6.20)

*Interpretation No. 45:*

In November 2002, the FASB issued Interpretation No. 45, "Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others," which requires a guarantor to recognize and measure certain types of guarantees at fair value. In addition, Interpretation No. 45 requires the guarantor to make new disclosures for these guarantees and other types of guarantees that are not subject to the initial recognition and initial measurement provisions. The disclosure requirements are effective for financial statements for interim or annual periods ended after December 15, 2002, while the recognition and measurement provisions are applicable on a prospective basis to guarantees issued or modified after December 31, 2002. The Company adopted the disclosure provisions of Interpretation No. 45 during the second quarter of fiscal 2003 and the initial recognition and initial measurement provisions in the third quarter of fiscal 2003. The Company's adoption of Interpretation No. 45 did not have a material impact on its consolidated financial position and results of operations. Please refer to Note 18 for further discussion of guarantees and product warranties.

*Interpretation No. 46:*

In January 2003, the FASB issued Interpretation No. 46, "Consolidation of Variable Interest Entities, an Interpretation of ARB No. 51," which requires a company that has a controlling financial



interest in a variable interest entity to consolidate the assets, liabilities and results of activities of the entity. A variable interest entity is an entity in which the equity investors do not have a controlling interest or the equity investment at risk is insufficient to finance the entity's activities without receiving additional subordinated financial support from other parties. Interpretation No. 46 is applicable: (i) immediately for all variable interest entities created after January 31, 2003; or (ii) in the first fiscal year or interim period beginning after June 15, 2003 for those created before February 1, 2003. In accordance with Interpretation No. 46, the Company will be required to consolidate one operating lease pertaining to two separate properties, generally known as a "synthetic lease," beginning in the first quarter of fiscal 2004. Please refer to Note 7 below for further discussion of the potential impact the consolidation of the operating lease will have on the Company's consolidated financial position and results of operations. In addition, the Company is currently reviewing its investments acquired prior to February 1, 2003 to determine whether any of its investee companies are variable interest entities that would require the Company to consolidate them beginning in the first quarter of fiscal 2004.

## Note 2. Derivative Instruments and Hedging Activities

The Company's objectives and strategies for holding derivatives are to minimize the transaction and translation risks associated with non-functional currency transactions. The Company does not use derivatives for trading purposes.

The Company conducts its business and sells its products directly to customers primarily in North America, Europe and Asia-Pacific. In the normal course of business, the Company's financial position is routinely subject to market risks associated with foreign currency rate fluctuations due to balance sheet positions in other local foreign currencies. The Company's policy is to ensure that business exposures to foreign exchange risks are identified, measured and minimized using foreign currency forward contracts to reduce such risks. The foreign currency forward contracts generally expire within 40 days. The change in fair value of these foreign currency forward contracts is recorded under "Interest and other income, net" in the Company's Condensed Consolidated Statements of Operations. At March 31, 2003, the face value of these foreign currency forward contracts was approximately \$20.0 million and the change in fair value of such contracts was not material.

## Note 3. Inventories

The components of inventories consisted of the following (in millions):

	March 31, 2003	June 30, 2002
Finished goods	\$ 34.7	\$ 46.7
Work in process	34.4	36.9
Raw materials and purchased parts	30.6	26.4
Total inventories	\$ 99.7	\$ 110.0

The Company recorded write-downs of excess and obsolete inventories of \$10.1 million and \$45.5 million for the three and nine months ended March 31, 2003, respectively, and \$37.6 million and \$179.8 million for the three and nine months ended March 31, 2002, respectively. The Company recorded these write-downs primarily as a result of the significant decline in the overall levels of forecasted sales as well as changes in expected product mix.

In addition, the Company consumed previously written-down inventories of \$17.9 million and \$52.2 million for the three and nine months ended March 31, 2003, respectively, and \$28.2 million and \$57.2 million for the three and nine months ended March 31, 2002, respectively.

#### Note 4. Goodwill

The following table presents the changes in goodwill allocated to the reportable segments (in millions):

Three Months Ended March 31, 2003:	Communications Products Group	Thin Film Products Group	Total
Balance as of December 31, 2002	\$ 77.1	\$ 42.6	\$ 119.7
Acquisition (see Note 15):			
L.A. Label Co. ("LAL")	—	7.1	7.1
Purchase price adjustment related to the achievement of milestones	—	29.3	29.3
Balance as of March 31, 2003	\$ 77.1	\$ 79.0	\$ 156.1
Nine Months Ended March 31, 2003:	Communications Products Group	Thin Film Products Group	Total
Balance as of June 30, 2002	\$ 291.8	\$ 40.4	\$ 332.2
Assembled workforce reclassified as goodwill	8.6	2.2	10.8
Acquisitions (see Note 15):			
OptronX's transceiver/transponder unit	5.1	—	5.1
IBM's optical transceiver unit ("Datacom")	(2.7)	—	(2.7)
LAL	—	7.1	7.1
SFAS No. 142 impairment charges (see Note 8)	(225.7)	—	(225.7)
Purchase price adjustment related to the achievement of milestones	—	29.3	29.3
Balance as of March 31, 2003	\$ 77.1	\$ 79.0	\$ 156.1

#### Purchase price adjustment related to the achievement of milestones:

In September 2000, the Company acquired Epion Corporation ("Epion"). The purchase agreement provides for the issuance of additional shares of the Company's common stock subject to the completion of certain milestones. During the third quarter of fiscal 2003, Epion achieved a certain milestone that resulted in the Company issuing 9.7 million shares of the Company's common stock valued at \$30.0 million, of which \$27.0 million was recorded as goodwill, \$2.9 million was recorded as stock-based compensation expense, and \$0.2 million was recorded as deferred compensation related to unvested options.

In addition, during the third quarter of fiscal 2003, the Company issued a payment of \$2.3 million in connection with a certain milestone achieved by another acquired entity. The Company recorded the entire amount as goodwill.

## Note 5. Other Intangibles

The following tables present details of the Company's other intangibles (in millions):

As of March 31, 2003:	Gross Carrying Amount	Accumulated Amortization	Net
Developed technology	\$ 106.7	\$ (40.5)	\$ 66.2
Other	40.7	(13.0)	27.7
Total intangibles	\$ 147.4	\$ (53.5)	\$ 93.9

  

As of June 30, 2002:	Gross Carrying Amount	Accumulated Amortization	Net
Developed technology	\$ 182.2	\$ (52.5)	\$ 129.7
Other	278.5	(230.7)	47.8
Total intangibles	\$ 460.7	\$ (283.2)	\$ 177.5

Amortization of intangibles was \$3.7 million and \$15.9 million for the three and nine months ended March 31, 2003, respectively, and \$113.3 million and \$333.6 million for the three and nine months ended March 31, 2002, respectively.

Based on the carrying amount of the intangibles as of March 31, 2003, the estimated future amortization is as follows (in millions):

Years Ended June 30,	
2003 (April 1, 2003 to June 30, 2003)	\$ 4.0
2004	16.0
2005	15.3
2006	13.8
2007	10.8
Thereafter	34.0
Total amortization	\$ 93.9

## Note 6. Investments

### Reduction in Fair Value of Investments:

The Company periodically reviews its 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, the Company writes down the value of the investment to its fair value. The

following table summarizes the components of the reductions in fair value of available-for-sale and non-marketable equity investments (in millions):

	Three Months Ended		Nine Months Ended	
	March 31, 2003	March 31, 2002	March 31, 2003	March 31, 2002
Available-for-sale investments:				
Nortel Networks ("Nortel")	\$ —	\$ —	\$ —	\$ 84.5
Other	—	—	—	9.6
Non-marketable equity investments:				
Adept Technology ("Adept")	5.9	—	25.0	—
Other	3.9	7.9	12.7	20.3
Total reductions in fair value of investments	\$ 9.8	\$ 7.9	\$ 37.7	\$ 114.4

As of March 31, 2003, the Company held 24.7 million shares of Nortel common stock with a fair value of \$51.1 million. The Company acquired the shares as a result of the sale of its Zurich, Switzerland subsidiary to Nortel during the third quarter of fiscal 2001.

During the second quarter of fiscal 2002, the Company entered into an automation development alliance agreement with Adept (see Note 16). In connection with this alliance, the Company invested \$25.0 million in Adept's convertible preferred stock. During the third quarter and first nine months of fiscal 2003, the Company determined that the decline in fair value of its Adept investment was other-than-temporary and recorded impairment charges of \$5.9 million and \$25.0 million, respectively.

#### Equity Method Investments:

The Company accounts for investments in 50% or less owned companies over which it has the ability to exercise significant influence using the equity method of accounting. As of March 31, 2003, the Company had a commitment to provide additional funding of up to \$31.5 million to certain venture capital investment partnerships. The Company is currently reviewing its investments to determine whether any of its investee companies are variable interest entities in accordance with Interpretation No. 46 (see "Recent Accounting Pronouncements" under Note 1).

The following table summarizes the charges relating to the Company's equity method investments (in millions):

	Three Months Ended		Nine Months Ended	
	March 31, 2003	March 31, 2002	March 31, 2003	March 31, 2002
ADVA	\$ —	\$ —	\$ —	\$ 41.1
Other	1.2	8.5	7.7	12.5
Total loss on equity method investments	\$ 1.2	\$ 8.5	\$ 7.7	\$ 53.6

#### *ADVA:*

As of March 31, 2003, the Company had a 29% ownership in ADVA, a German company publicly traded in Germany that develops and manufactures fiberoptic components and products. During the three and nine months ended March 31, 2002, the Company recorded \$0 and \$0.7 million, respectively, of amortization related to the difference between the cost of the investment and the underlying equity in the net assets of ADVA.

During the three and nine months ended March 31, 2002, the Company recorded total charges of \$0 and \$13.9 million, respectively, to write down the basis of its investment in ADVA as the Company determined the decline in fair value was other-than-temporary.

During the three and nine months ended March 31, 2002, the Company recorded \$0 and \$26.5 million, respectively, as its pro rata share of ADVA's net losses under the equity method. The Company reduced the carrying amount of its investment in ADVA to \$0 during the second quarter of fiscal 2002. As the Company had no commitment to provide additional funding to ADVA, no further pro rata share of ADVA's net losses was recorded after the second quarter of fiscal 2002. Should ADVA report net income in future periods, the Company will resume applying the equity method after its pro rata share of ADVA's net income exceeds its pro rata share of ADVA's net losses not recognized during the periods the equity method was suspended.

*Other Equity Method Investments:*

During the three and nine months ended March 31, 2003, the Company recorded \$1.2 million and \$7.7 million, respectively, as its pro rata share of net losses in equity method investments other than ADVA. During the three and nine months ended March 31, 2002, these charges totaled \$8.5 million and \$12.5 million, respectively.

**Note 7. Commitments and Contingencies**

Pending Litigation:

*The Securities Class Actions:*

Beginning on March 27, 2002, the first of numerous federal securities class actions was filed against the Company and several of its current and former officers and directors. On July 26, 2002, the Northern District of California consolidated all the securities actions then filed in or transferred to that court under the title *In re JDS Uniphase Corporation Securities Litigation*, Master File No. C-02-1486 CW, and appointed the Connecticut Retirement Plans and Trust Funds as lead plaintiff.

An amended consolidated complaint was filed on October 11, 2002. It purports to be brought on behalf of a class consisting of those who acquired the Company's common stock from July 27, 1999 through July 26, 2001, as well as on behalf of subclasses consisting of those who acquired the Company's common stock pursuant to its acquisitions of Optical Coating Laboratory, Inc. ("OCLI"), E-TEK Dynamics, Inc. ("E-TEK") and SDL, Inc. ("SDL"). The complaint seeks unspecified damages and alleges various violations of the federal securities laws, specifically Sections 10(b), 14(a), 20(a) and 20A of the Securities Exchange Act of 1934 and Sections 11, 12(a)(2), and 15 of the Securities Act of 1933. In addition, it named one of the Company's stockholders as a defendant. On December 13, 2002, the Company moved to dismiss the amended consolidated complaint. On March 14, 2003, the court dismissed the complaint with leave to amend and set a schedule for the filing of an amended complaint. No trial date has been set.

On July 26, 2002, a securities class action captioned *Zelman v. JDS Uniphase Corp.*, No. 02-CV-6002, was filed in the District Court for the Southern District of New York. The complaint, brought by a stockholder purporting to represent a class of purchasers of certain GOALS debt securities issued by an investment bank during the period from March 6, 2001 through September 26, 2001, named the Company and several of its current and former officers and directors as defendants and alleged violations of the federal securities laws, specifically Sections 10(b) and 20(a) of the Securities Exchange Act of 1934, and Rule 10b-5. In addition, it named one of the Company's stockholders as a defendant. The action was transferred to the Northern District of California on

September 11, 2002, and assigned a Northern District case number, No. C-02-4656 MJJ. On October 31, 2002, the district court related the action to *In re JDS Uniphase Corporation Securities Litigation*, but did not consolidate the two actions. On January 7, 2003, the Court appointed Shirley Zelman lead plaintiff. The plaintiff has agreed that the Company need not respond to the complaint at this time. No trial date has been set.

*The Derivative Actions:*

Eleven derivative actions purporting to be brought on the Company's behalf have been filed in state and federal courts against several of its current and former officers and directors. Some of these actions also named its independent auditors, Ernst & Young LLP, as a defendant. All were based on the same factual allegations and circumstances as the purported securities class actions and alleged state law claims for breach of fiduciary duty, misappropriation of confidential information, waste of corporate assets, contribution and indemnification, insider trading, abuse of control, gross mismanagement and unjust enrichment. The actions seek unspecified damages and no trial date has been scheduled in any of them. Several of the actions have been consolidated, resulting in the following surviving actions: *In re JDS Uniphase Corporation Derivative Litigation*, Master File No. CV806911, filed April 11, 2002, in California Superior Court for the County of Santa Clara; *Corwin v. Kaplan*, No. C-02-2020 CW, filed April 24, 2002, in the District Court for the Northern District of California; and *Cromas v. Straus*, Civil Action No. 19580, filed April 25, 2002, in the Delaware Court of Chancery for New Castle County.

In the *Corwin* case, the Company moved to dismiss on December 13, 2002. On March 14, 2003, the court dismissed the complaint with leave to amend and set a schedule for the filing of an amended complaint. No trial date has been set.

In *In re JDS Uniphase Corporation Derivative Litigation*, plaintiffs filed a consolidated amended derivative complaint on March 13, 2003. That complaint asserted claims for breach of fiduciary duty, waste of corporate assets, abuse of control, gross mismanagement, unjust enrichment, and constructive fraud against the Company and certain of its current and former officers and directors. The complaint also asserted claims for violation of California Corporations Code Sections 25402 and 25502.5 against defendants who sold the Company's common stock and asserted claims for breach of contract, professional negligence, and negligent misrepresentation against the Company's independent auditors, Ernst & Young LLP. On April 22, 2003, the Company moved to stay the state court actions pending resolution of the federal securities and federal derivative actions. The motion to stay is scheduled to be heard June 3, 2003. On April 28, 2003, the Company and certain other defendants filed demurrers to the complaint. The demurrers are scheduled to be heard July 22, 2003. No trial date has been set in either the state or federal court actions.

In the *Cromas* case, no proceedings have occurred to date.

*The OCLI Shareholder Action:*

On February 3, 2003, an action captioned *Pang v. Dwight*, No. 02-231989, was filed in California Superior Court for the County of Sonoma. The complaint was brought by a stockholder who purports to represent a class of former shareholders of OCLI who exchanged their OCLI common stock for the Company's common stock upon the Company's acquisition of OCLI in February 2000. The complaint named the former directors of OCLI as defendants and asserted causes of action for breach of fiduciary duty and breach of the duty of candor. The action seeks unspecified damages, and no trial date has been scheduled.

#### *The SDL Shareholder Actions:*

Three actions have been filed in California Superior Court for the County of Santa Clara by stockholders purporting to represent a class of former shareholders of SDL who exchanged their SDL common stock for the Company's common stock upon the Company's acquisition of SDL in February 2001. The complaints named the former directors of SDL as defendants and asserted causes of action for breach of fiduciary duty and breach of the duty of disclosure and seek unspecified damages. These actions included: *Cook v Scifres*, No. CV814824, filed February 18, 2003; *Anish v. Scifres*, No. CV815738, filed March 24, 2003; and *Vajdos v. Scifres*, No. CV816087, filed April 7, 2003. On April 4, 2003, the plaintiff in *Cook* moved to consolidate the actions and to appoint the law firm of Milberg Weiss as lead counsel for plaintiffs. A hearing on the motion is scheduled for June 24, 2003. No trial date has been scheduled. On May 5, 2003, the defendants in the *Cook* action petitioned the Judicial Council to coordinate the SDL actions with the OCLI action in Santa Clara County Superior Court.

The Company believes that the factual allegations and circumstances underlying these securities class actions, derivative actions, and the OCLI and SDL shareholder actions are without merit. The costs of defending these lawsuits have been and will continue to be significant. The defense of these lawsuits could also result in continued diversion of management's time and attention, which could prove to be disruptive to normal business operations. There can be no assurance that the Company will prevail or that the costs of defending these lawsuits will be covered by its insurance policies. 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 the Company's financial position, liquidity or results of operations.

#### Lease Commitments:

As of March 31, 2003, the Company had one master lease agreement with a special purpose entity (the "Lessor"), managed and administered by a trustee, for the development of manufacturing, research and development and administrative facilities in Melbourne, Florida and Raleigh, North Carolina. Under a related credit agreement, a group of financial institutions has committed to fund the Lessor a maximum of \$59.6 million to develop the projects. As of March 31, 2003, \$42.3 million has been drawn and no further withdrawal is permitted as the funding period has expired in accordance with the agreement. The lease has an initial term of five years, which began on August 4, 2000, and the Company has an option to renew the lease for two additional terms of one year each, subject to certain conditions. At any time prior to the expiration date of the lease, the Company may, at its option, purchase the properties from the Lessor for \$44.6 million (the "Termination Value"), representing the principal balance of the loan and capitalized interest. If the Company elects not to purchase the properties, it may exercise its option to sell them to a third party at market value within 180 days before the end of the lease term. Under the sale option, the Company keeps any sale proceeds in excess of the Termination Value. If the sale proceeds are below the Termination Value, the Company is obligated to pay up to approximately \$37.5 million of any shortfall.

On an annual basis or when indicators of impairment exist, the Company is required to evaluate the expected fair value of the properties at the end of the lease term. In the event the Company determines that it is probable and estimable that the expected fair value of the properties at the end of the lease term will be less than the carrying value, the Company accrues for the estimated losses. The

Company recorded the following amounts in connection with the estimated losses on the properties (in millions):

	Three Months Ended		Nine Months Ended	
	March 31, 2003	March 31, 2002	March 31, 2003	March 31, 2002
Raleigh, North Carolina properties	\$ 3.0	\$ —	\$ 6.5	\$ 11.8
Melbourne, Florida properties	0.5	—	7.9	—
<b>Total</b>	<b>\$ 3.5</b>	<b>\$ —</b>	<b>\$ 14.4</b>	<b>\$ 11.8</b>

*Raleigh, North Carolina Properties:*

In connection with its Phase 2 restructuring activities, the Company announced its plan to vacate buildings located in the Raleigh, North Carolina site (see Note 10). During the first nine months of fiscal 2002, the Company accrued losses of \$11.8 million, representing the difference between the expected fair value of the properties at the end of the lease term and their carrying value. During the third quarter and first nine months of fiscal 2003, the Company accrued additional losses of \$3.0 million and \$6.5 million, respectively. The Company recorded these charges under "Restructuring charges" in the Condensed Consolidated Statements of Operations.

*Melbourne, Florida Properties:*

During the third quarter and first nine months of fiscal 2003, the Company accrued losses of \$0.5 million and \$7.9 million, respectively, and recorded such amounts as deferred charges, which are being amortized on a straight-line basis through the end of the lease term. As of March 31, 2003, \$2.7 million was included under "Other current assets" and \$3.9 million was included under "Other assets" in the Condensed Consolidated Balance Sheet. Amortization expense totaled \$0.6 million and \$1.3 million in the third quarter and first nine months of fiscal 2003, respectively.

Neither the real estate assets nor the debt associated with the development of the projects was recorded on the Company's Condensed Consolidated Balance Sheet as of March 31, 2003. Beginning in the first quarter of fiscal 2004, the Company will be required to consolidate the real estate assets and liabilities associated with the operating lease in accordance with Interpretation No. 46 (see "Recent Accounting Pronouncements" under Note 1). If the Company were to consolidate this operating lease



on April 1, 2003, the potential impact on the Company's consolidated financial position and results of operations would be as follows:

*Condensed Consolidated Balance Sheet:*

Accounts	Explanation of Impact
Other current assets	Decrease by \$2.7 million due to the recognition of deferred impairment charges related to the Melbourne, Florida properties.
Property, plant and equipment, net	(i) Increase by \$42.2 million for the net book value of the properties in both locations; (ii) Decrease by the \$18.3 million accrued losses recorded in connection with the Raleigh, North Carolina properties; and (iii) Decrease by the \$7.9 million accrued losses recorded in connection with the Melbourne, Florida properties.
Other assets	Decrease by \$3.9 million due to the recognition of deferred impairment charges related to the Melbourne, Florida properties.
Restructuring accrual	(i) Decrease by the \$18.3 million accrued losses associated with the Raleigh, North Carolina properties; and (ii) Decrease by \$1.0 million due to the reversal of accrued lease charges associated with the Raleigh, North Carolina properties.
Other non-current liabilities	(i) Increase by \$44.6 million related to the Company's debt obligations associated with the properties in both locations; and (ii) Decrease by the \$7.9 million accrued losses associated with the Melbourne, Florida properties.
Accumulated deficit	(i) Increase by \$6.6 million for the decrease in the fair value of the Melbourne, Florida properties; and (ii) Increase by \$1.4 million due to the difference between the assets and liabilities added to the balance sheet, which is offset by the reversal of accrued lease charges associated with the Raleigh, North Carolina properties.

Accounts	Explanation of Impact
Reduction of long-lived assets	Increase by \$6.6 million for the decrease in the fair value of the Melbourne, Florida properties.
Cumulative effect of a change in accounting principle	Increase by \$1.4 million due to the difference between the assets and liabilities added to the balance sheet, which is offset by the reversal of accrued lease charges associated with the Raleigh, North Carolina properties.

As of March 31, 2003, the Company restricted \$47.3 million of its short-term investments as collateral for specified obligations of the Lessor under the lease. These investment securities are restricted as to withdrawal and are managed by third parties subject to certain limitations under the Company's investment policy. In addition, the Company must maintain a minimum consolidated tangible net worth, as defined, of \$500.0 million.

#### Note 8. Reduction of Goodwill

For the three and nine months ended March 31, 2003, the Company recorded \$0 and \$225.7 million, respectively, of impairment charges in accordance with SFAS No. 142. For the three and nine months ended March 31, 2002, the Company recorded \$2,871.5 million and \$4,167.8 million, respectively, of impairment charges in accordance with SFAS No. 121.

#### Fiscal 2003 Charges:

On July 1, 2002, the Company adopted SFAS No. 142, under which goodwill is reviewed for impairment annually, or more frequently if certain events or changes in circumstances indicate that the carrying value may not be recoverable. In addition, the Company was required to perform a transitional impairment review related to the carrying value of goodwill as of July 1, 2002. During the first quarter of fiscal 2003, the Company completed the transitional impairment review related to the carrying value of goodwill as of July 1, 2002 and determined that there was no impairment beyond amounts previously recorded as of that date.

As part of its quarterly review of financial results in the first quarter of fiscal 2003, the Company noted indicators that the carrying value of its goodwill may not be recoverable and performed an additional impairment review. The impairment review was performed because of the prolonged economic downturn affecting the Company's operations and revenue forecasts. As the Company determined that the continued decline in market conditions within the Company's industry was significant and prolonged, the Company evaluated the recoverability of its goodwill in accordance with SFAS No. 142 during the first quarter of fiscal 2003. The Company did not identify any impairment indicators during the second and third quarters of fiscal 2003.

Under the first step of the interim SFAS No. 142 analysis, the fair value of the reporting units was determined based on a combination of the income approach, which estimates the fair value based on the future discounted cash flows, and the market approach, which estimates the fair value based on comparable market prices. Under the income approach, the Company assumed a cash flow period of 5 years, long-term annual growth rates of 9% to 33%, a discount rate of 12.5% and terminal value growth rates of 5% to 7%. Based on the first step analysis, the Company determined that the carrying amount of three reporting units within the Communications Products Group was in excess of their fair value. As such, the Company was required to perform the second step analysis on the three reporting units that have failed the first step test to determine the amount of the impairment loss. As of the filing of the Quarterly Report on Form 10-Q for the first quarter of fiscal 2003, the Company had not

completed the second step analysis due to the complexities involved in determining the implied fair value of the goodwill of each reporting unit. However, the Company determined that an impairment loss was probable and could be reasonably estimated. Therefore, as permitted by SFAS No. 142, the Company recorded an estimated impairment charge of \$224.4 million to reduce the carrying value of its goodwill in the first quarter of fiscal 2003.

During the second quarter of fiscal 2003, the Company completed the second step analysis in connection with the impairment review for the first quarter of fiscal 2003 and recorded an additional impairment charge of \$1.3 million, as the actual impairment charge was determined to be higher than the estimated charge recorded in the first quarter of fiscal 2003.

The following table summarizes the impairment charges recorded during the first nine months of fiscal 2003 (in millions):

Reporting Units	
<b>Communications Products Group:</b>	
Active Components	\$ 54.6
Optical Layer	28.7
Transmission	142.4
<b>Total</b>	<b>\$ 225.7</b>

#### Fiscal 2002 Charges:

As a result of the Phase 2 restructuring activities in the first quarter of fiscal 2002 (see Note 10), the Company restructured its businesses and realigned its operations to focus on certain markets and core opportunities. In the process, the Company abandoned certain redundant products and product platforms and reduced its workforce that had been valued in previous acquisitions. In accordance with SFAS No. 121, the Company wrote down the related intangible assets to their fair value, which was deemed to be \$0, and recorded total charges of \$31.2 million related to goodwill.

As part of its quarterly reviews of financial results, the Company noted indicators in the second and third quarters of fiscal 2002 that the carrying value of its goodwill may not be recoverable and performed an impairment review. The impairment review was performed pursuant to SFAS No. 121 because of the prolonged economic downturn affecting the Company's operations and revenue forecasts. As a result of the prolonged economic downturn, the Company's projected future revenue and cash flows for certain of the Company's asset groupings were revised downward in the second and third quarters of fiscal 2002. Therefore, the Company recorded charges to reduce goodwill based on the amount by which the carrying amount exceeded the fair value. Fair value was determined based on discounted future cash flows for the operating entities that had separately identifiable cash flows.

The following table summarizes the write-downs of goodwill for the second quarter of fiscal 2002 (in millions):

Acquired Entities	Reductions of Goodwill	Long-Term Annual Growth Rate
OCLI	\$ 514.1	5%–60%
SDL	751.0	15%–60%
<b>Total</b>	<b>\$ 1,265.1</b>	

The Company assumed a cash flow period of 5 years, a discount rate of 14%, and terminal growth rates of 5% to 7%. The long-term annual growth rates are higher in the early years of the 5-year cash flow period, representing the Company's estimated growth in the period of industry recovery, and a reduced growth rate in the later years.

The following table summarizes the write-downs of goodwill for the third quarter of fiscal 2002 (in millions):

Acquired Entities	Reductions of Goodwill	Long-Term Annual Growth Rate
E-TEK	\$ 697.5	30%–35%
JDS FITEL	1,184.7	30%–42%
OCLI	20.3	4%–13%
SDL	762.5	27%–50%
Other	206.5	7%–45%
<b>Total</b>	<b>\$ 2,871.5</b>	

The Company assumed a cash flow period of 5 years, a discount rate of 14%, and terminal growth rates of 5% to 7%. The long-term annual growth rates are higher in the early years of the 5-year cash flow period, representing the Company's estimated growth in the period of industry recovery, which decreases in the later years.

#### **Note 9. Reduction of Other Long-Lived Assets**

For the three and nine months ended March 31, 2003, the Company recorded \$11.2 million and \$165.8 million, respectively, of reductions in the carrying value of its long-lived assets in accordance with SFAS No. 144. For the three and nine months ended March 31, 2002, the Company recorded \$1,012.6 million and \$1,025.9 million, respectively, of reductions in the carrying value of its long-lived assets in accordance with SFAS No. 121. These charges excluded asset write-downs associated with the Global Realignment Program (see Note 10). The following table summarizes the components of the reductions of other

long-lived assets (in millions):

	Three Months Ended		Nine Months Ended	
	March 31, 2003	March 31, 2002	March 31, 2003	March 31, 2002
Assets held and used:				
Purchased intangibles (other than goodwill)	\$ —	\$ 925.3	\$ 68.6	\$ 938.6
Property, plant and equipment	—	87.3	79.1	87.3
Assets held for sale:				
Property, plant and equipment	11.2	—	18.1	—
Total reductions of other long-lived assets	\$ 11.2	\$ 1,012.6	\$ 165.8	\$ 1,025.9

Fiscal 2003 Charges:

*Assets Held and Used:*

On July 1, 2002, the Company adopted SFAS No. 144, under which long-lived assets other than goodwill are tested for recoverability if certain events or changes in circumstances indicate that the carrying value may not be recoverable. The Company noted indicators during the first quarter of fiscal 2003 that the carrying value of its long-lived assets, including purchased intangibles recorded in

connection with its various acquisitions and property, plant and equipment, may not be recoverable and performed an impairment review. The impairment review was performed pursuant to SFAS No. 144 because of the prolonged economic downturn affecting the Company's operations and revenue forecasts. As a result of the prolonged economic downturn, the Company's projected future revenue and cash flows for certain of the Company's asset groupings were revised downward in the first quarter of fiscal 2003. Therefore, the Company evaluated the recoverability of its long-lived assets and recorded impairment charges based on the amount by which the carrying amount of these assets exceeded their fair value. For purchased intangibles, fair value was determined based on discounted future cash flows for the operating entities that had separately identifiable cash flows. For tangible fixed assets, the Company valued these assets that were subject to impairment using specific appraisals.

The following table summarizes the write-downs of purchased intangibles and property, plant and equipment for the first quarter of fiscal 2003 (in millions):

Acquired Entities	Purchased Intangibles	Property, Plant and Equipment
Datacom	\$ 39.1	\$ 15.6
Epitaxx	19.9	26.3
SDL	—	24.3
Scion	8.9	12.9
Other	0.7	—
Total	\$ 68.6	\$ 79.1

During the second and third quarters of fiscal 2003, the Company noted no impairment indicators in connection with its long-lived assets held and used, and accordingly, a test of recoverability of its long-lived assets was not required.

#### *Assets Held for Sale:*

During the third quarter of fiscal 2003, the Company classified certain property, plant and equipment as assets held for sale. In accordance with SFAS No. 144, the Company recorded a loss of \$11.2 million, representing the amount by which their carrying value exceeded the estimated fair value less cost to sell. During the first quarter of fiscal 2003, the Company classified certain property and equipment as assets held for sale in connection with the sales of its Raleigh, North Carolina and Torquay, United Kingdom subsidiaries (see Note 17) and recorded total losses of \$6.9 million.

#### Fiscal 2002 Charges:

As a result of the Phase 2 restructuring activities in the first quarter of fiscal 2002 (see Note 10), the Company restructured its businesses and realigned its operations to focus on certain markets and core opportunities. In the process, the Company abandoned certain redundant products and product platforms and reduced its workforce that had been valued in previous acquisitions. In accordance with SFAS No. 121, the Company wrote down the related intangible assets to their fair value, which was deemed to be \$0, and recorded total charges of \$10.8 million related to purchased intangibles other than goodwill.

As part of its quarterly reviews of financial results, the Company noted indicators in the second and third quarters of fiscal 2002 that the carrying value of its long-lived assets, including significant amounts of purchased intangibles recorded in connection with its various acquisitions, may not be recoverable and performed an impairment review. The impairment review was performed pursuant to

SFAS No. 121 because of the prolonged economic downturn affecting the Company's operations and revenue forecasts. As a result of the prolonged economic downturn, the Company's projected future revenue and cash flows for certain of the Company's asset groupings were revised downward in the second and third quarters of fiscal 2002. Therefore, the Company recorded charges to reduce its long-lived assets based on the amount by which the carrying amount of these assets exceeded their fair value. Fair value was determined based on discounted future cash flows for the operating entities that had separately identifiable cash flows.

The following table summarizes the write-downs of its long-lived assets, consisting of purchased intangibles, for the second quarter of fiscal 2002 (in millions):

Acquired Entity	Purchased Intangibles	Long-Term Annual Growth Rate
SDL	\$ 2.5	15%–60%

The Company assumed a cash flow period of 5 years, a discount rate of 14%, and terminal growth rates of 5% to 7%. The long-term annual growth rates are higher in the early years of the 5-year cash flow period, representing the Company's estimated growth in the period of industry recovery, and a reduced growth rate in the later years.

The following table summarizes the write-downs of its long-lived assets, consisting of purchased intangibles and property, plant and equipment, for the third quarter of fiscal 2002 (in millions):

Acquired Entities	Purchased Intangibles	Property, Plant and Equipment	Long-Term Annual Growth Rate
E-TEK	\$ 224.1	\$ 1.1	30%–35%
JDS FITEL	233.9	—	30%–42%
OCLI	210.7	67.2	4%–13%
SDL	247.6	10.4	27%–50%
Other	9.0	8.6	7%–45%
Total	\$ 925.3	\$ 87.3	

The Company assumed a cash flow period of 5 years, a discount rate of 14%, and terminal growth rates of 5% to 7%. The long-term annual growth rates are higher in the early years of the 5-year cash flow period, representing our estimated growth in the period of industry recovery, and a reduced growth rate in the later years.

#### Note 10. Global Realignment Program Charges

##### Overview:

In April 2001, the Company initiated the Global Realignment Program, under which it began restructuring its business in response to the economic downturn. Through the end of the third quarter of fiscal 2003, the Company implemented six phases of restructuring activities and recorded total restructuring charges of \$639.4 million. In addition, the Company incurred charges other than restructuring of \$460.8 million related to the Global Realignment Program. Activities initiated prior to December 31, 2002 were recorded in accordance with EITF Issue No. 94–3, and activities initiated after December 31, 2002 were recorded in accordance with SFAS No. 146 (see "Recent Accounting Pronouncements" under Note 1) and SFAS No. 112, "Employers' Accounting for Postemployment Benefits."

Under the Global Realignment Program, the Company is consolidating and reducing its manufacturing, research and development, sales and administrative facilities in North America, Europe and Asia-Pacific. The total number of sites closed or scheduled for closure is 28. Based on the decisions made through the end of the third quarter of fiscal 2003, the Company will reduce its total workforce by approximately 19,540 employees upon the completion of the Global Realignment Program. As of March 31, 2003, 18,357 employees have been terminated.

Phase 1 Restructuring Activities:

The Company implemented its Phase 1 restructuring activities during the fourth quarter of fiscal 2001. The following table summarizes the restructuring charges from inception through the end of the third quarter of fiscal 2003 (in millions):

	<b>Workforce Reduction</b>	<b>Facilities and Equipment</b>	<b>Lease Costs</b>	<b>Total</b>
Initial restructuring charges—Phase 1	\$ 79.1	\$ 122.2	\$ 63.0	\$ 264.3
Cash payments	(24.9)	—	(0.9)	(25.8)
Non-cash charges	(11.1)	(122.2)	—	(133.3)
Accrual balance as of June 30, 2001	43.1	—	62.1	105.2
Cash payments	(31.3)	—	(17.0)	(48.3)
Adjustments	(10.5)	5.1	0.7	(4.7)
Cash proceeds in excess of salvage value	—	(2.4)	—	(2.4)
Non-cash charges	—	(2.7)	—	(2.7)
Accrual balance as of June 30, 2002	1.3	—	45.8	47.1
Cash payments	(0.1)	—	(2.1)	(2.2)
Cash proceeds in excess of salvage value	—	(0.6)	—	(0.6)
Non-cash charges	—	0.6	—	0.6
Accrual balance as of September 30, 2002	1.2	—	43.7	44.9
Cash payments	—	—	(2.0)	(2.0)
Adjustments	—	4.9	(1.0)	3.9
Cash proceeds in excess of salvage value	—	(0.3)	—	(0.3)
Non-cash charges	—	(4.6)	—	(4.6)
Accrual balance as of December 31, 2002	1.2	—	40.7	41.9
Cash payments	—	—	(3.8)	(3.8)
Adjustments	—	4.3	(2.2)	2.1
Non-cash charges	—	(4.3)	—	(4.3)
Accrual balance as of March 31, 2003	\$ 1.2	\$ —	\$ 34.7	\$ 35.9

In connection with the Phase 1 restructuring activities, management with the appropriate level of authority approved and committed the Company to plans to close 9 sites, vacate buildings at the closed sites as well as at other continuing operations, and reduce its workforce by approximately 8,800 employees. These sites were located in Asheville, North Carolina; Bracknell, United Kingdom; Freehold, New Jersey; Hillend, United Kingdom; Oxford, United Kingdom; Richardson, Texas; Rochester, New York; Shunde, China; and Taipei, Taiwan.

#### Workforce Reduction:

In connection with the Phase 1 restructuring activities, the Company recorded total charges of \$79.1 million primarily related to severance and fringe benefits associated with the reduction of approximately 8,800 employees, which includes non-cash severance charges of \$11.1 million related to the modification of a former executive's stock options. During fiscal 2002, the Company recorded a decrease of \$10.5 million to the accrual balance, as the actual amounts paid for such charges were lower than originally estimated.

Approximately 8,100 employees were engaged in manufacturing, 200 in research and development, and 500 in selling, general and administrative functions. Approximately 7,100 employees were located in North America, 900 in Europe, and 800 in Asia-Pacific. The Company has substantially completed its Phase 1 workforce reduction during the fourth quarter of fiscal 2002. The remaining accrual balance reflects severance and benefit payments to one terminated employee.

#### Facilities and Equipment and Lease Costs:

In connection with the Phase 1 restructuring activities, property, plant and equipment that were disposed of or removed from operations resulted in a charge of \$122.2 million, of which \$89.3 million was related to the Communications Products Group, \$29.4 million was related to the Thin Film Products Group and \$3.5 million was related to the "All Other" category for segment reporting purposes (see Note 14). The property, plant 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. During fiscal 2002 and the first nine months of fiscal 2003, the Company recorded total adjustments of \$5.1 million and \$9.2 million, respectively, primarily due to additional declines in the fair market value of owned buildings held for disposal. In addition, during fiscal 2002 and the first nine months of fiscal 2003, the Company received \$2.4 million and \$0.9 million, respectively, of cash proceeds in excess of the estimated salvage value of certain restructured assets sold.

The Company has substantially completed the disposal of its restructured assets through auctions, donations and scrapping of the assets. The remaining assets are primarily owned buildings that could not be sold within twelve months as was previously expected. The market conditions in the cities where these buildings are located, Plymouth, United Kingdom and Taipei, Taiwan, have continued to weaken during fiscal 2003. This was exacerbated with the continued economic downturn in the communications industry. The Company currently anticipates disposing of these assets within the next 9 to 15 months.

In connection with the Phase 1 restructuring activities, the Company incurred charges of \$63.0 million for exiting and terminating leases primarily related to excess or closed facilities with planned future exit dates. 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. During fiscal 2002, the Company recorded a net increase of \$0.7 million to the accrual balance. This adjustment consisted of an increase of \$8.4 million due to changes in real estate market conditions, which resulted in changes regarding estimated vacancy duration and sublease income, offset by a decrease of \$7.7 million as a result of negotiating subleases and termination agreements. During the first nine months of fiscal 2003, the Company recorded a decrease of \$3.2 million to the accrual balance primarily due to changes in real estate market conditions, which resulted in changes regarding estimated vacancy duration and sublease income. The Company anticipates that it will take approximately 16 to 31 months to sublease the remaining various vacated properties. Amounts related to the lease expense, net of anticipated sublease proceeds, will be paid over the respective lease terms through fiscal 2013.



## Phase 2 Restructuring Activities:

The Company implemented its Phase 2 restructuring activities during the first quarter of fiscal 2002. The following table summarizes the Company's Phase 2 restructuring charges from inception through the end of the third quarter of fiscal 2003 (in millions):

	Workforce Reduction	Facilities and Equipment	Lease Costs	Total
Initial restructuring charges—Phase 2	\$ 55.8	\$ 141.3	\$ 45.9	\$ 243.0
Cash payments	(47.2)	—	(13.6)	(60.8)
Adjustments	(5.0)	(2.9)	(6.8)	(14.7)
Cash received in excess of salvage value	—	(3.2)	—	(3.2)
Non-cash charges	—	(135.2)	—	(135.2)
Accrual balance as of June 30, 2002	3.6	—	25.5	29.1
Cash payments	(1.5)	—	(1.2)	(2.7)
Adjustments	(1.9)	—	(0.6)	(2.5)
Cash received in excess of salvage value	—	(1.6)	—	(1.6)
Non-cash charges	—	1.6	—	1.6
Accrual balance as of September 30, 2002	0.2	—	23.7	23.9
Cash payments	(0.2)	—	(1.7)	(1.9)
Adjustments	—	—	9.4	9.4
Cash received in excess of salvage value	—	(0.3)	—	(0.3)
Non-cash charges	—	0.3	—	0.3
Accrual balance as of December 31, 2002	—	—	31.4	31.4
Cash payments	(0.1)	—	(1.2)	(1.3)
Adjustments	0.2	—	4.1	4.3
Accrual balance as of March 31, 2003	\$ 0.1	\$ —	\$ 34.3	\$ 34.4

In connection with the Phase 2 restructuring activities, management with the appropriate level of authority approved and committed the Company to plans to close 8 sites, vacate buildings at the closed sites as well as at other continuing operations, and reduce its workforce by approximately 5,300 employees. These sites were located in Arnhem, Netherlands; Gloucester, Massachusetts; Manteca, California; Plymouth, United Kingdom; Victoria, British Columbia; Witham, United Kingdom; and two sites in Ottawa, Ontario.

### Workforce Reduction:

In connection with the Phase 2 restructuring activities, the Company recorded total charges of \$55.8 million primarily related to severance and fringe benefits associated with the reduction of approximately 5,300 employees. During fiscal 2002 and the first nine months of fiscal 2003, the Company recorded a decrease of \$5.0 million and \$1.7 million to the accrual balance, respectively, as the actual amounts paid for such charges were lower than originally estimated.

Approximately 4,400 employees were engaged in manufacturing, 400 in research and development, and 500 in selling, general and administrative functions. Approximately 4,950 employees were located in North America, 300 in Europe, and 50 in Asia-Pacific. The Company has substantially completed its Phase 2 workforce reduction during the first quarter of fiscal 2003. The remaining accrual balance reflects severance and benefit payments to certain terminated employees.

#### Facilities and Equipment and Lease Costs:

In connection with the Phase 2 restructuring activities, property and equipment that were disposed of or removed from operations resulted in total charges of \$141.3 million, of which \$129.5 million was related to the Communications Products Group and \$11.8 million was related to the Thin Film Products Group. The property and equipment write-downs consisted primarily of leasehold improvements, computer equipment and related software, production and engineering equipment, and office equipment, furniture and fixtures. During fiscal 2002, the Company recorded total adjustments of \$2.9 million as a result of differences between the actual and estimated net book value of assets written down. In addition, during fiscal 2002, the Company received approximately \$3.2 million of cash proceeds in excess of the estimated salvage value of certain restructured assets sold. These cash proceeds totaled \$1.9 million during the first nine months of fiscal 2003. The Company has substantially completed its disposal of the restructured assets.

In connection with the Phase 2 restructuring activities, the Company accrued total charges of \$45.9 million for exiting and terminating leases primarily related to excess or closed facilities with planned future exit dates. 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. During fiscal 2002, the Company recorded a net decrease of \$6.8 million to the accrual balance. This adjustment consisted of a decrease of \$7.4 million due to changes in real estate market conditions, which resulted in changes regarding estimated vacancy duration and sublease income, offset by an increase of \$0.6 million as a result of negotiating subleases and termination agreements. During the first nine months of fiscal 2003, the Company recorded a net increase of \$12.9 million to the accrual balance. This adjustment included \$6.5 million of accrued charges, representing the difference between the expected fair value of the Company's buildings located in Raleigh, North Carolina, at the end of the lease term and their cost basis (see Note 7), and \$7.0 million of additional charges related to other properties due to changes in real estate market conditions, which resulted in changes regarding estimated vacancy duration and sublease income, offset by a decrease of \$0.6 million as a result of the Company's decision to re-occupy and put back into operations approximately half of a building that had previously been vacated under the restructuring plan. The Company anticipates that it will take approximately 14 to 16 months to sublease the remaining various vacated properties. Amounts related to the lease expense, net of anticipated sublease proceeds, will be paid over the respective lease terms through fiscal 2011.

### Phase 3 Restructuring Activities:

The Company implemented its Phase 3 restructuring activities during the fourth quarter of fiscal 2002. The following table summarizes the Company's Phase 3 restructuring charges from inception through the end of the third quarter of fiscal 2003 (in millions):

	<b>Workforce Reduction</b>	<b>Facilities and Equipment</b>	<b>Lease Costs</b>	<b>Total</b>
Initial restructuring charges—Phase 3	\$ 26.7	\$ 10.4	\$ 4.9	\$ 42.0
Cash payments	(12.0)	—	—	(12.0)
Non-cash charges	—	(10.4)	—	(10.4)
Accrual balance as of June 30, 2002	14.7	—	4.9	19.6
Cash payments	(4.1)	—	—	(4.1)
Accrual balance as of September 30, 2002	10.6	—	4.9	15.5
Cash payments	(2.3)	—	(0.1)	(2.4)
Adjustments	(1.9)	—	(0.5)	(2.4)
Accrual balance as of December 31, 2002	6.4	—	4.3	10.7
Cash payments	(4.8)	—	(0.6)	(5.4)
Adjustments	1.3	—	0.9	2.2
Accrual balance as of March 31, 2003	\$ 2.9	\$ —	\$ 4.6	\$ 7.5

In connection with the Phase 3 restructuring activities, management with the appropriate level of authority approved and committed the Company to plans to close 7 sites, vacate buildings at the closed sites and reduce its workforce by approximately 1,600 employees. These sites were located in Columbus, Ohio; Eatontown, New Jersey; San Jose, California; Sydney, Australia; Toronto, Ontario; Torquay, United Kingdom; and Waghäusel-Kirrlach, Germany. The operations located in the San Jose, California site are related to the Company's Commercial Laser unit and are scheduled to be moved to a new location in Santa Rosa, California.

#### Workforce Reduction:

In connection with the Phase 3 restructuring activities, the Company recorded total charges of \$26.7 million primarily related to severance and fringe benefits associated with the reduction of approximately 1,600 employees. During the first nine months of fiscal 2003, the Company recorded a decrease of \$0.6 million to the accrual balance, as the actual amounts paid for such charges were lower than originally estimated.

Approximately 1,100 employees were engaged in manufacturing, 300 in research and development, and 200 in selling, general and administrative functions. Approximately 1,200 employees were located in North America, 200 in Europe and 200 in Asia-Pacific. As of March 31, 2003, 1,316 employees have been terminated. The Company expects to complete its Phase 3 workforce reduction by the end of the fourth quarter of fiscal 2003.

#### Facilities and Equipment and Lease Costs:

In connection with the Phase 3 restructuring activities, property and equipment that were disposed of or removed from operations resulted in total charges of \$10.4 million, all of which were related to the Communications Products Group. The property and equipment write-downs consisted primarily of leasehold improvements, computer equipment and related software, production and engineering

equipment, and office equipment, furniture and fixtures. The Company expects to complete the disposal of property and equipment by the end of the fourth quarter of fiscal 2003.

In connection with the Phase 3 restructuring activities, the Company accrued total charges of \$4.9 million for exiting and terminating leases primarily related to excess or closed facilities with planned future exit dates. 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. During the first nine months of fiscal 2003, the Company recorded a net increase of \$0.4 million to the accrual balance primarily due to changes in real estate market conditions, which resulted in changes regarding estimated vacancy duration and sublease income. The Company anticipates that it will take approximately 13 to 31 months to sublease the remaining various vacated properties. Amounts related to the lease expense, net of anticipated sublease proceeds, will be paid over the respective lease terms through fiscal 2013.

#### Phase 4 Restructuring Activities:

The Company implemented its Phase 4 restructuring activities during the first quarter of fiscal 2003. The following table summarizes the Company's Phase 4 restructuring charges from inception through the end of the third quarter of fiscal 2003 (in millions):

	<b>Workforce Reduction</b>	<b>Lease Costs</b>	<b>Total</b>
Initial restructuring charges—Phase 4	\$ 20.5	\$ 7.2	\$ 27.7
Cash payments	(5.8)	—	(5.8)
Accrual balance as of September 30, 2002	14.7	7.2	21.9
Cash payments	(5.3)	(0.2)	(5.5)
Adjustments	—	(0.5)	(0.5)
Accrual balance as of December 31, 2002	9.4	6.5	15.9
Cash payments	(5.3)	(0.3)	(5.6)
Adjustments	—	(0.2)	(0.2)
Accrual balance as of March 31, 2003	\$ 4.1	\$ 6.0	\$ 10.1

In connection with the Phase 4 restructuring activities, management with the appropriate level of authority approved and committed the Company to plans to close two sites, vacate buildings at the closed sites as well as at other continuing operations and reduce its workforce by approximately 1,150 employees. The closed sites were located in Raleigh, North Carolina and San Jose, California. The San Jose, California site is related to the E-TEK operations, which are to be relocated to the Company's other sites located in West Trenton, New Jersey and Shenzhen, China. The Company's San Jose headquarters will continue to occupy a portion of the E-TEK site.

#### Workforce Reduction:

In connection with the Phase 4 restructuring activities, the Company recorded total charges of \$20.5 million primarily related to severance and fringe benefits associated with the reduction of approximately 1,150 employees. Approximately 800 employees were engaged in manufacturing, 250 in research and development, and 100 in selling, general and administrative functions. All employees were located in North America. As of March 31, 2003, 1,083 employees have been terminated. The Company expects to complete its Phase 4 workforce reduction by the end of the first quarter of fiscal 2004.

#### Lease Costs:

In connection with the Phase 4 restructuring activities, the Company accrued total charges of \$7.2 million for exiting and terminating leases primarily related to excess or closed facilities with planned future exit dates. 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. During the first nine months of fiscal 2003, the Company recorded a decrease of \$0.7 million to the accrual balance primarily due to changes in real estate market conditions, which resulted in changes regarding estimated vacancy duration and sublease income. The Company anticipates that it will take approximately 12 months to sublease the remaining various vacated properties. Amounts related to the lease expense, net of anticipated sublease proceeds, will be paid over the respective lease terms through fiscal 2016.

#### Phase 5 Restructuring Activities:

The Company implemented its Phase 5 restructuring activities during the second quarter of fiscal 2003. The following table summarizes the Company's Phase 5 restructuring charges from inception through the end of the third quarter of fiscal 2003 (in millions):

	<b>Workforce Reduction</b>	<b>Facilities and Equipment</b>	<b>Lease Costs</b>	<b>Total</b>
Initial restructuring charges—Phase 5	\$ 35.5	\$ 0.5	\$ 30.0	\$ 66.0
Cash payments	(5.1)	—	—	(5.1)
Non-cash charges	—	(0.5)	—	(0.5)
Accrual balance as of December 31, 2002	30.4	—	30.0	60.4
Cash payments	(9.5)	—	(0.5)	(10.0)
Adjustments	5.2	—	1.7	6.9
Accrual balance as of March 31, 2003	\$ 26.1	\$ —	\$ 31.2	\$ 57.3

In connection with the Phase 5 restructuring activities, management with the appropriate level of authority approved and committed the Company to plans to close one site, vacate buildings at the closed site as well as at other continuing operations and reduce its workforce by approximately 1,700 employees. The site to be closed is located in Eindhoven, Netherlands.

#### Workforce Reduction:

In connection with the Phase 5 restructuring activities, the Company recorded total charges of \$35.5 million primarily related to severance and fringe benefits associated with the reduction of approximately 1,700 employees. During the third quarter of fiscal 2003, the Company recorded an increase of \$5.2 million to the accrual balance primarily due to changes in the estimates of fringe benefits.

Approximately 1,400 employees were engaged in manufacturing, 100 in research and development, and 200 in selling, general and administrative functions. Approximately 1,400 employees were located in North America and 300 employees in Europe. As of March 31, 2003, 1,098 employees have been terminated. The Company expects to complete its Phase 5 workforce reduction by the end of fiscal 2004.

#### Facilities and Equipment and Lease Costs:

In connection with the Phase 5 restructuring activities, property and equipment that were disposed of or removed from operations resulted in total charges of \$0.5 million related to the Communications Products Group. The property and equipment write-downs consisted primarily of leasehold improvements, computer equipment and related software, production and engineering equipment, and office equipment, furniture and fixtures. The Company expects to complete the disposal of property and equipment by the end of the second quarter of fiscal 2004.

In connection with the Phase 5 restructuring activities, the Company accrued total charges of \$30.0 million for exiting and terminating leases primarily related to excess or closed facilities with planned future exit dates. 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. During the third quarter of fiscal 2003, the Company recorded an increase of \$1.7 million to the accrual balance primarily due to changes in real estate market conditions, which resulted in changes regarding estimated vacancy duration and sublease income. The Company anticipates that it will take approximately 13 to 55 months to sublease the remaining various vacated properties. Amounts related to the lease expense, net of anticipated sublease proceeds, will be paid over the respective lease terms through fiscal 2021.

#### Phase 6 Restructuring Activities:

The Company implemented its Phase 6 restructuring activities during the third quarter of fiscal 2003. The following table summarizes the Company's Phase 6 restructuring charges (in millions):

		<b>Workforce Reduction</b>
Initial restructuring charges—Phase 6	\$	5.0
Cash payments		—
Accrual balance as of March 31, 2003	\$	5.0

#### Workforce Reduction:

In connection with the Phase 6 restructuring activities, management with the appropriate level of authority approved and committed the Company to plans to reduce its workforce by approximately 240 employees. The Company recorded total charges of \$5.0 million primarily related to severance and fringe benefits associated with the workforce reductions. The severance and fringe benefit accrual was accounted for under SFAS No. 112.

Approximately 180 employees were engaged in manufacturing, 50 in research and development, and 10 in selling, general and administrative functions. All employees were located in North America. As of March 31, 2003, 10 employees have been terminated. The Company expects to complete its Phase 6 workforce reduction by the end of the third quarter of fiscal 2004.

Charges Other Than Restructuring:

In addition to the charges recorded in connection with the restructuring activities, the Company incurred total other charges of \$460.8 million related to the Global Realignment Program. Details of these charges were as follows (in millions):

	FY 2003			
	Third Quarter	YTD	FY 2002	FY 2001
Property and equipment	\$ 7.8	\$ 30.7	\$ 164.7	\$ 6.4
Inventories	—	—	—	173.5
Purchase commitments and other obligations	1.7	(3.6)	(7.4)	55.6
Workforce-related charges	3.8	12.8	12.3	0.2
Lease costs	—	0.5	6.4	—
Moving and other costs	(0.6)	1.2	6.7	0.8
Total other charges	\$ 12.7	\$ 41.6	\$ 182.7	\$ 236.5

During fiscal 2002 and 2001, the Company recorded \$164.7 million and \$6.4 million, respectively, of additional depreciation from a change 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. During the first nine months of fiscal 2003, these charges totaled \$30.7 million. Total amount recorded in fiscal 2002 was net of \$3.8 million of cash proceeds in excess of the estimated salvage value of certain assets sold. These cash proceeds totaled \$2.3 million in the first nine months of fiscal 2003.

During fiscal 2001, the Company recorded charges associated with inventory write-downs, purchase commitments and other obligations of \$229.1 million resulting from product consolidations and discontinuations in connection with the Global Realignment Program. During fiscal 2002, the Company recorded a decrease of \$7.4 million to the accrual balance, as the actual amounts paid to settle certain commitments and other obligations were lower than originally estimated. These adjustments totaled \$3.6 million during the first nine months of fiscal 2003.

During fiscal 2002 and 2001, the Company recorded workforce-related charges of \$12.3 million and \$0.2 million, respectively, which included payments for severance and fringe benefits that were not associated with a formal plan of termination, retention bonuses and employee relocation costs. During the first nine months of fiscal 2003, the Company recorded workforce-related charges of \$12.8 million primarily related to retention bonuses. The severance and fringe benefits charges incurred in fiscal 2002 were as a result of the reduction of approximately 750 employees, consisting 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.

During fiscal 2002, the Company announced the closure of one site at Piscataway, New Jersey. Lease costs of \$6.4 million were primarily related to exiting and terminating building leases at this site. The Company estimated the cost of exiting and terminating the facility leases based on the contractual terms of the agreements and the real estate market conditions. The Company anticipates that it will take approximately 16 months to sublease the vacated properties. Amounts related to the lease expense, net of anticipated sublease proceeds, will be paid over the respective lease terms through fiscal 2011. During the first nine months of fiscal 2003, the Company recorded additional lease charges

of \$0.5 million due to changes in real estate market conditions, which resulted in changes regarding estimated vacancy duration and sublease income.

During fiscal 2002 and 2001, the Company incurred moving and other costs of \$6.7 million and \$0.8 million, respectively, related to the physical relocation of certain facilities and equipment from buildings that the Company has disposed of or planned to dispose of. During the first nine months of fiscal 2003, these costs totaled \$1.2 million.

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

	FY 2003			
	Third Quarter	YTD	FY 2002	FY 2001
Cost of sales	\$ 2.4	\$ 6.8	\$ 124.6	\$ 220.7
Research and development	1.0	2.3	8.2	2.9
Selling, general and administrative	9.3	32.5	49.9	12.9
Total other charges	\$ 12.7	\$ 41.6	\$ 182.7	\$ 236.5

As of March 31, 2003, the accrual balance related to these charges was \$8.7 million, consisting primarily of purchase and lease commitments. The accrual balance was included in "Other current liabilities" in the Company's Condensed Consolidated Balance Sheet.

#### Recommissioning of Assets:

Since the beginning of 2001, the Company's industry has experienced a dramatic downturn and has remained very volatile. In April 2001, the Company implemented its Global Realignment Program based on the best information available at the time. Management with the appropriate level of authority approved and committed the Company to execute the Global Realignment Program. As the Company continued to execute its restructuring plans to realign its operations and consolidate the facilities, the Company recommissioned certain property and equipment during the fourth quarter of fiscal 2002 that had previously been removed from operations and fully depreciated or written down under the Global Realignment Program. These assets were placed back into service due to the following reasons: (i) unanticipated changes in the industry and customer demand for certain product lines, (ii) impact of unforeseen warranty obligations, and (iii) changes in initial estimates. 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 Thin Film Products Group and \$1.1 million was related to the "All Other" category for segment reporting purposes (see Note 14). The recommissioned property and equipment were put back into use with a carrying value of \$0 during the fourth quarter of fiscal 2002. Based on the dates these assets were placed back into service and taking into consideration of the potential impact of impairment on these assets, the Company would have incurred additional depreciation of expense of approximately \$1.1 million and \$3.4 million in the third quarter and first nine months of fiscal 2003, respectively.



## **Note 11. Income Tax Expense (Benefit)**

The Company recorded a provision for income tax expense of \$18.6 million and \$19.5 million for the three and nine months ended March 31, 2003, respectively. Approximately \$18.0 million of the provision for income taxes recorded for the three and nine months ended March 31, 2003 related to the prior financial reporting period ended June 30, 2002 and resulted from an increase in the Company's valuation allowance for deferred tax assets. During the three months ended March 31, 2003, Canadian tax authorities completed a review of the Company's pending claims for refunds of prior-year income taxes. As a result of this review, certain matters related to carryback periods and minimum taxes were identified that caused the Company to conclude that it had recorded \$18.0 million of net deferred tax assets in excess of income taxes actually recoverable from prior years and, therefore, necessitated the recording of an additional valuation allowance for deferred tax assets. As of June 30, 2002, management concluded that due to the existing economic environment, the Company should not record net deferred tax assets in excess of recoverable income taxes. The Company does not believe that the \$18.0 million amount recorded in the three months ended March 31, 2003 was material to the period in which it should have been recorded, nor does the Company expect that the amount recorded will be material to its consolidated results of operations for the year ending June 30, 2003. However, if the amount is ultimately deemed to be material to the Company's consolidated results of operations for the year ending June 30, 2003, the Company will need to restate its consolidated financial statements for the year ended June 30, 2002 and the current three-month period. If such restatement were necessary, net loss for the year ended June 30, 2002 would be increased by \$18.0 million, and the basic and diluted net loss per share would change from \$6.50 to \$6.51. Net loss for the three months ended March 31, 2003 would be decreased by \$18.0 million, and the basic and diluted net loss per share would change from \$0.10 to \$0.08. In addition, the Company would restate the consolidated balance sheets as of September 30, 2002 and December 31, 2002 by reducing the net deferred income tax asset by \$18.0 million in each period.

Due to the continued economic uncertainty in the industry, the Company has recorded net deferred tax assets as of March 31, 2003 only to the extent of recoverable income taxes.

The Company recorded an income tax benefit of \$26.9 million and a provision for income taxes of \$346.1 million for the three and nine months ended March 31, 2002, respectively. The income tax benefit and the provision for income taxes recorded for the three and nine months ended March 31, 2002, respectively, differed from the expected income tax benefit that would be calculated by applying the federal statutory rate to the loss before income taxes primarily due to the net effect of non-deductible acquisition-related charges, write-offs of deferred tax assets recorded in prior business combinations relating to assumed employee stock options that either expired unexercised or were exercised during the quarter when the market value of the underlying stock was less than the previously recorded value at the business combination date, increases in the valuation allowance for domestic deferred tax assets recorded in prior periods due to reductions in the Company's forecasts of future domestic taxable income and the elimination of deferred tax liabilities recorded in prior business combinations.

**Note 12. Net Loss Per Share**

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, 2003	March 31, 2002	March 31, 2003	March 31, 2002
<b>Numerator:</b>				
Net loss	\$ (136.8)	\$ (4,340.9)	\$ (872.2)	\$ (7,695.8)
<b>Denominator:</b>				
Weighted-average number of common shares outstanding	1,422.6	1,359.0	1,416.9	1,337.4
<b>Net loss per share—basic and diluted</b>	<b>\$ (0.10)</b>	<b>\$ (3.19)</b>	<b>\$ (0.62)</b>	<b>\$ (5.75)</b>

As the Company incurred net losses for the three and nine months ended March 31, 2003, the effect of dilutive securities totaling 4.3 million and 3.7 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, 2002, the effect of dilutive securities totaling 23.2 million and 23.8 million equivalent shares, respectively, has been excluded from the calculation of diluted net loss per share because it was anti-dilutive.

**Note 13. Comprehensive Loss**

The Company's accumulated other comprehensive loss consists of the accumulated net unrealized gains on available-for-sale investments and foreign currency translation adjustments. At March 31, 2003 and June 30, 2002, the Company had a balance of net unrealized gains of \$18.6 million and \$3.3 million, respectively, on available-for-sale investments. Additionally, at both March 31, 2003 and June 30, 2002, the Company had \$27.1 million of foreign currency translation losses.

The components of comprehensive loss were as follows (in millions):

	Three Months Ended		Nine Months Ended	
	March 31, 2003	March 31, 2002	March 31, 2003	March 31, 2002
Net loss	\$ (136.8)	\$ (4,340.9)	\$ (872.2)	\$ (7,695.8)
Change in unrealized gains (losses) on available-for-sale investments	6.5	(47.0)	15.3	(18.4)
Change in foreign currency translation	3.1	(4.4)	—	(22.7)
<b>Comprehensive loss</b>	<b>\$ (127.2)</b>	<b>\$ (4,392.3)</b>	<b>\$ (856.9)</b>	<b>\$ (7,736.9)</b>

**Note 14. Segment Information**

The Company evaluates its reportable segments in accordance with SFAS No. 131, "Disclosures about Segments of an Enterprise and Related Information." The Company has identified Jozef Straus, Chief Executive Officer, and Syrus Madavi, President and Chief Operating Officer, as its Chief Operating Decision Makers ("CODMs") pursuant to SFAS No. 131. The CODMs allocate resources to the segments based on their business prospects, competitive factors, net sales and operating results.

The Company designs and manufactures products for fiberoptic communications, as well as for markets where its core optics technologies provide solutions for industrial, commercial and consumer

applications. As a result of the Company's continuing efforts to restructure its operations under the Global Realignment Program, the Company changed the structure of its internal organization during the first quarter of fiscal 2003 and concluded that it has two principal reportable segments. The two reportable segments are:

(i)

Communications Products Group:

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

(ii)

Thin Film Products Group:

The Thin Film Products Group consists of the Company's non-communications businesses and includes laser subsystems products and thin film products for display, security, decorative, aerospace and defense applications.

The amounts shown as "All other" consist of certain unallocated corporate-level operating expenses, as well as the Company's division which designs and manufactures automated and semi-automated systems for the manufacture of fiberoptic components and modules. In addition, the Company does not allocate income taxes, non-operating income and expenses or specifically identifiable assets to its segments. During the third quarter of fiscal 2003, the Company ceased the allocation of corporate sales, marketing, finance and administrative expenses to the reportable segments. All prior-period amounts have been restated for comparative presentation.

Information on reportable segments is as follows (in millions):

	Three Months Ended		Nine Months Ended	
	March 31, 2003	March 31, 2002	March 31, 2003	March 31, 2002
<b>Communications Products Group:</b>				
Net sales	\$ 73.7	\$ 185.6	\$ 257.4	\$ 662.7
Intersegment sales	—	—	—	—
Net sales to external customers	73.7	185.6	257.4	662.7
Operating loss	(45.8)	(98.6)	(196.5)	(556.2)
<b>Thin Film Products Group:</b>				
Net sales	93.7	78.0	262.5	220.0
Intersegment sales	(1.7)	(2.8)	(4.6)	(12.0)
Net sales to external customers	92.0	75.2	257.9	208.0
Operating income (loss)	17.6	11.3	43.0	(12.8)
Net sales by reportable segments	165.7	260.8	515.3	870.7
All other net sales	—	1.0	—	5.8
Total net sales	165.7	261.8	515.3	876.5
Operating loss by reportable segments	(28.2)	(87.3)	(153.5)	(569.0)
All other operating expense	(52.1)	3.5	(228.0)	(105.8)
<b>Additional unallocated amounts:</b>				
Acquisition-related charges and payroll taxes on stock option exercises	(23.7)	(399.2)	(64.1)	(1,360.1)
Reduction of goodwill and other long-lived assets	(11.2)	(3,884.1)	(391.5)	(5,193.7)
Interest and other income, net	7.1	11.2	26.6	36.0
Loss on sale of subsidiaries	—	—	(0.5)	—
Gain on sale of investments	0.9	4.5	3.7	10.9
Reduction in fair value of investments	(9.8)	(7.9)	(37.7)	(114.4)
Loss on equity method investments	(1.2)	(8.5)	(7.7)	(53.6)
Loss before income taxes	\$ (118.2)	\$ (4,367.8)	\$ (852.7)	\$ (7,349.7)

#### Note 15. Acquisitions

##### LAL:

On January 21, 2003, the Company acquired LAL, a supplier of pressure-sensitive labels for a variety of industrial and commercial applications. The Company believes that the acquisition will expand its capability to provide integrated optical technology solutions for product security and brand authentication markets. The consideration consisted of \$19.4 million in cash, of which \$17.4 million has been paid to the former shareholders of LAL. The Company has retained \$2.0 million of the cash consideration for any future liabilities the Company may incur resulting from any breach of general representations or warranties made by LAL. The retained amount will be paid to the former shareholders of LAL eighteen months after the acquisition date in the event no such breach of representations or warranties exists. Direct transaction costs incurred in connection with the acquisition were immaterial.

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

Net tangible assets acquired	\$ 4.5
Intangible assets acquired:	
Customer relationships	4.4
Trademark / tradename	2.9
Internal use software	0.5
Goodwill	7.1
	<hr/>
Total purchase price	\$ 19.4
	<hr/>

Intangible assets are being amortized over their estimated useful lives of five years for customers relationships, ten years for trademark / tradename, and five years for internal use software.

The purchase price allocation is preliminary and is dependent on the Company's final analysis of the property, plant and equipment, which is expected to be completed during the fourth quarter of fiscal 2003. The acquisition was accounted for as a purchase transaction under SFAS No. 141, and accordingly, the tangibles assets acquired and liabilities assumed were recorded at their fair value at the date of the acquisition. The results of operations of LAL 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.

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

Cash and cash equivalents	\$ 0.8
Accounts receivable and prepaid expenses	1.8
Inventories	0.5
Property, plant and equipment	2.2
Other assets	0.1
	<hr/>
Total assets acquired	5.4
	<hr/>
Accounts payable	(0.3)
Long-term debt	(0.2)
Other liabilities	(0.4)
	<hr/>
Total liabilities assumed	(0.9)
	<hr/>
Net tangible assets acquired	\$ 4.5
	<hr/>

Goodwill of \$7.1 million has been assigned to the Thin Film Products Group and is not expected to be deductible for tax purposes under Internal Revenue Code 197.

#### OptronX:

On September 18, 2002, the Company completed the acquisition of the transceiver/transponder business unit of OptronX. The Company believes that the acquisition will extend its transmission product line in metro and short-reach applications. The Company paid OptronX \$6.2 million in cash. Direct transaction costs incurred in connection with the acquisition were immaterial. In addition, the Company may be required to make a contingent payment of up to \$4.5 million in cash based on the financial performance of the acquired business unit in calendar year 2003. Any future payments to OptronX will be accounted for as goodwill.

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

Net tangible liabilities assumed	\$ (0.3)
Intangible assets acquired:	
Existing technology	1.0
In-process research and development	0.4
Goodwill	5.1
	<hr/>
Total purchase price	\$ 6.2
	<hr/>

Existing technology is being amortized over their estimated useful lives of three years.

The acquisition was accounted for as a purchase transaction in accordance with SFAS No. 141, and accordingly, the assets acquired and liabilities assumed were recorded at their estimated fair value at the date of the acquisition. The results of operations of the transceiver/transponder unit 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.

The following table summarizes the components of the net tangible liabilities assumed (in millions):

Accounts receivable	\$ 0.2
Inventories	0.8
Property and equipment	2.7
	<hr/>
Total assets acquired	3.7
	<hr/>
Accounts payable	(0.8)
Loan payable	(2.5)
Other	(0.7)
	<hr/>
Total liabilities assumed	(4.0)
	<hr/>
Net tangible liabilities assumed	\$ (0.3)
	<hr/>

A portion of the purchase price has been allocated to existing technology and acquired in-process research and development ("IPR&D"). They were identified and valued through analysis of data provided by OptronX concerning developmental products, their stage of development, the time and resources needed to complete them, their expected income generating ability, target markets and associated risks. The Income Approach was the primary technique used in valuing the existing technology. The discount rate used was 20%.

Those developmental projects that had not reached technological feasibility and had no future alternative uses were classified as IPR&D and expensed in the first quarter of fiscal 2003. 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 of \$5.1 million has been assigned to the Communications Products Group and is expected to be deductible for tax purposes under Internal Revenue Code 197.

Datacom:

During the second quarter of fiscal 2003, the Company completed the allocation of the purchase price of Datacom, which the Company acquired in the second quarter of fiscal 2002. The following table summarizes the allocation of the purchase price (in millions):

Tangible assets acquired:		
Inventories	\$	14.6
Property and equipment		16.1
Intangible assets acquired:		
Existing and core technology		60.5
Supply/contract manufacturing agreements		6.4
Non-competition agreement		1.7
Distribution agreements		1.7
Real estate license agreement		0.6
In-process research and development		22.1
Goodwill		212.2
Total purchase price	\$	335.9

During fiscal 2003, the Company recorded total adjustments of \$2.7 million as a result of the final valuation of the inventories acquired.

**Note 16. Related Party Transactions**

Adept:

On October 22, 2001, the Company entered into an automation development alliance agreement with Adept for optical component and module manufacturing processes. Under the agreement, Adept agreed to pay the Company up to \$5.0 million for certain research and development activities. In connection with this alliance, the Company invested \$25.0 million in Adept's convertible preferred stock and the investment was accounted for under the cost method. During the third quarter and first nine months of fiscal 2003, the Company recorded \$5.9 million and \$25.0 million, respectively, of reductions in fair value of its investment in Adept as a decline in fair value was noted and determined to be other-than-temporary (see Note 6).

During the second quarter of fiscal 2003, the Company and Adept mutually terminated the automation development alliance agreement. As a result of the termination, Adept issued the Company a promissory note of \$1.0 million to pay off its outstanding obligation of the same amount to the Company. The promissory note bears an interest rate of 7% per annum and is due and payable on September 30, 2004.

Innovance Networks:

As of March 31, 2003, the Company had a \$6.0 million investment, or approximately 3% ownership, in Innovance Networks ("Innovance"), a privately held company founded in May 2000 specializing in photonic networking solutions. Innovance was one of the Company's significant customers during a portion of fiscal 2002. However, Innovance was no longer a significant customer for the three and nine months ended March 31, 2003.

## Note 17. Sale of Subsidiaries

The following table summarizes the net loss the Company realized on the sales of two subsidiaries during the second quarter of fiscal 2003 (in millions):

Gain on sale of Raleigh, North Carolina subsidiary	\$ 0.2
Loss on sale of Torquay, United Kingdom subsidiary	(0.7)
	<hr/>
Total	\$ (0.5)
	<hr/>

During the second quarter of fiscal 2003, the Company completed the sale of the majority of the assets of its subsidiary located in Raleigh, North Carolina, to MEMSCAP, a supplier of optical micro-electro-mechanical system ("MEMS") solutions located in France. As part of the transaction, the Company received 10.5 million shares of MEMSCAP valued at \$4.1 million. In addition, the Company received warrants to purchase up to 6.5 million shares of MEMSCAP based on the future performance of the Raleigh, North Carolina subsidiary over a 30-month period following the completion of the sale. In connection with the sale, the Company and MEMSCAP entered into a long-term strategic supply relationship, under which MEMSCAP will supply the Company with MEMS products.

During the second quarter of fiscal 2003, the Company completed the sale of its subsidiary located in Torquay, United Kingdom, to SIFAM Fibre Optics Limited. As part of the transaction, the Company received approximately 31,000 preference shares of SIFAM Fibre Optics Limited valued at approximately \$0.8 million.

## 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 their employment relationship.

The terms of such obligations vary by agreements. Generally, a maximum obligation is not explicitly stated within the agreements. 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 on its balance sheets as of March 31, 2003.

### 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 Thin Film Products Group. The Company provides reserves for the estimated costs of product warranties at the time 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, 2003 (in millions):

<b>Three Months Ended March 31, 2003:</b>		<b>Nine Months Ended March 31, 2003:</b>	
Balance as of December 31, 2002	\$ 66.8	Balance as of June 30, 2002	\$ 73.6
Provision for warranty	(4.8)	Provision for warranty	1.8
Utilization of reserve	(2.0)	Utilization of reserve	(14.8)
Other	1.5	Other	0.9
<hr/>		<hr/>	
Balance as of March 31, 2003	\$ 61.5	Balance as of March 31, 2003	\$ 61.5
<hr/>		<hr/>	

#### **Note 19. Patent License**

During the three months ended December 31, 2002, the Company determined that a payment on a patent dispute was probable and estimable. As a result, the Company accrued \$8.3 million in connection with the dispute and included the amount under "Selling, general and administrative" expense.

During the three months ended March 31, 2003, the Company finalized a royalty-bearing patent license agreement and determined that its total liabilities were \$19.2 million as of March 31, 2003. Therefore, the Company accrued an additional \$10.9 million in connection with the patent license agreement. Of this amount, \$2.2 million was recorded as prepaid royalty expense which will be amortized to "Cost of sales" through December 2004, and \$8.7 million was recorded as royalty expense under "Cost of sales" for the three months ended March 31, 2003. In addition, for the nine months ended March 31, 2003, the Company reclassified \$8.3 million of "Selling, general and administrative" expense to royalty expense under "Cost of sales," resulting in total royalty expense of \$17.0 million recorded in connection with the patent license.

In connection with this patent license agreement, the Company will incur additional minimum royalty payments to maintain the license in future periods.

#### **Note 20. Subsequent Event**

On May 6, 2003, the Company acquired the undersea pump laser business from TriQuint Semiconductor, Inc., for \$6.6 million in cash. The Company will account for the acquisition as a purchase transaction under SFAS No. 141 in the fourth quarter of fiscal 2003.

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

### Recent Accounting Pronouncements

#### *SFAS No. 141 and SFAS No. 142:*

In June 2001, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards ("SFAS") No. 141, "Business Combinations," which requires all business combinations initiated after June 30, 2001 be accounted for using the purchase method. In addition, SFAS No. 141 further clarifies the criteria to recognize purchased intangibles separately from goodwill. Specifically, SFAS No. 141 requires that an intangible asset may be separately recognized only if such an asset meets the contractual-legal criterion or the separability criterion. On July 1, 2002, in accordance with SFAS No. 141, we reassessed the goodwill and other purchased intangibles previously recorded in acquisitions prior to July 1, 2001 and determined that as of July 1, 2002, we had approximately \$10.8 million of separately recognized purchased intangibles, consisting of acquired assembled workforce, that did not meet the new recognition criteria for an intangible asset to be recognized apart from goodwill. This amount was reclassified to goodwill on July 1, 2002.

In June 2001, the FASB issued SFAS No. 142, "Goodwill and Other Intangible Assets," under which goodwill and other purchased intangibles with indefinite useful lives are no longer amortized but are reviewed for impairment annually, or more frequently if certain events or changes in circumstances indicate that the carrying value may not be recoverable. Purchased intangibles with finite useful lives continue to be amortized over their useful lives and are reviewed for impairment in accordance with SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets."

We adopted SFAS No. 142 on July 1, 2002. In conjunction with the implementation of SFAS No. 142, we completed the transitional impairment review related to the carrying value of goodwill as of July 1, 2002 and determined that there was no impairment beyond amounts previously recorded as of that date.

A reconciliation of the reported net loss and net loss per share to the amounts adjusted for the exclusion of amortization of: (i) goodwill from acquisitions; (ii) equity method goodwill related to ADVA; and (iii) assembled workforce, net of the related tax effect, was as follows (in millions, except per-share data):

	Three Months Ended		Nine Months Ended	
	March 31, 2003	March 31, 2002	March 31, 2003	March 31, 2002
Reported net loss	\$ (136.8)	\$ (4,340.9)	\$ (872.2)	\$ (7,695.8)
Add back:				
Amortization of:				
Goodwill from acquisitions	—	260.4	—	924.7
Equity method goodwill related to ADVA	—	—	—	0.7
Assembled workforce	—	3.3	—	10.7
Income tax effect	—	(8.5)	—	(26.3)
Adjusted net loss	\$ (136.8)	\$ (4,085.7)	\$ (872.2)	\$ (6,786.0)
Reported net loss per share—basic and diluted	\$ (0.10)	\$ (3.19)	\$ (0.62)	\$ (5.75)
Adjusted net loss per share—basic and diluted	\$ (0.10)	\$ (3.01)	\$ (0.62)	\$ (5.07)

#### *SFAS No. 144:*

In August 2001, the FASB issued SFAS No. 144, which supersedes SFAS No. 121, "Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to Be Disposed Of," and certain

provisions of Accounting Principles Board ("APB") Opinion No. 30, "Reporting the Results of Operations—Reporting the Effects of Disposal of a Segment of a Business, and Extraordinary, Unusual and Infrequently Occurring Events and Transactions." SFAS No. 144 retains the fundamental provisions of SFAS No. 121 related to: (i) the recognition and measurement of the impairment of long-lived assets to be held and used, and (ii) the measurement of long-lived assets to be disposed by sale. It provides more guidance on estimating cash flows when performing recoverability tests, requires long-lived assets to be disposed of other than by sale to be classified as held and used until disposal, and establishes more restrictive criteria to classify long-lived assets as held for sale. In addition, SFAS No. 144 supersedes the accounting and reporting provisions of APB Opinion No. 30 for the disposal of a segment of a business. However, it retains the basic provisions of APB Opinion No. 30 to report discontinued operations separately from continuing operations and extends the reporting of a discontinued operation to a component of an entity.

We adopted SFAS No. 144 on July 1, 2002. Under SFAS No. 121, excluding asset write-downs associated with the Global Realignment Program, we recorded impairment charges of \$5,979.4 million in fiscal 2002. The adoption of SFAS No. 144 may have a material impact on our consolidated financial position and results of operations if the industry and economic downturn continues to affect our operations and sales forecasts, primarily because SFAS No. 144 excludes goodwill, which may result in certain long-lived assets being subject to impairment charges sooner than they would have been recorded under SFAS No. 121. During the third quarter and first nine months of fiscal 2003, we recorded impairment charges of \$11.2 million and \$165.8 million, respectively, under SFAS No. 144.

*SFAS No. 146:*

In June 2002, the FASB issued SFAS No. 146, "Accounting for Costs Associated with Exit or Disposal Activities," which addresses financial accounting and reporting for costs associated with exit or disposal activities and supersedes Emerging Issues Task Force ("EITF") Issue No. 94-3, "Liability Recognition for Certain Employee Termination Benefits and Other Costs to Exit an Activity (including Certain Costs Incurred in a Restructuring)." SFAS No. 146 requires companies to recognize costs associated with exit or disposal activities when they are incurred rather than at the date of a commitment to an exit or disposal plan. In addition, SFAS No. 146 establishes that fair value is the objective for initial measurement of the liability. SFAS No. 146 is effective for exit or disposal activities initiated after December 31, 2002. The effect of the adoption of SFAS No. 146 is dependent on our related activities. As we continue to restructure our business under the Global Realignment Program, the adoption of SFAS No. 146 is expected to have a material impact on our consolidated financial position and results of operations, primarily relating to the timing of recognition of future restructuring charges.

*SFAS No. 148:*

In December 2002, the FASB issued SFAS No. 148, "Accounting for Stock-Based Compensation—Transition and Disclosure," which amends SFAS No. 123, "Accounting for Stock-Based Compensation," to provide alternative methods of transition for a voluntary change to the fair value based method of accounting for stock-based employee compensation. In addition, SFAS No. 148 expands the disclosure requirements of SFAS No. 123 to require more prominent disclosures in both annual and interim financial statements about the method of accounting for stock-based employee compensation and the effect of the method used on reported results. The transition provisions of SFAS No. 148 are effective for fiscal years ended after December 15, 2002. The transition provisions do not currently have an impact on our consolidated financial position and results of operations as we have not elected to adopt the fair value based method of accounting for stock-based employee compensation under SFAS No. 123. The disclosure provisions of SFAS No. 148 are effective for financial statements for interim

periods beginning after December 15, 2002. We adopted the disclosure requirements in the third quarter of fiscal 2003.

We account for our employee stock options under the intrinsic value based method of accounting prescribed by APB Opinion No. 25, "Accounting for Stock Issued to Employees," as interpreted by FASB Interpretation No. 44, "Accounting for Certain Transactions Involving Stock Compensation." Under APB Opinion No. 25, when the exercise price of our employee stock options equals the market price of the underlying stock on the date of grant, no compensation expense is recognized. The following table presents the effect on our net loss and net loss per share if we had applied the fair value based method of accounting under SFAS No. 123 (in millions, except per-share data):

	Three Months Ended		Nine Months Ended	
	March 31, 2003	March 31, 2002	March 31, 2003	March 31, 2002
Reported net loss	\$ (136.8)	\$ (4,340.9)	\$ (872.2)	\$ (7,695.8)
Adjustment:				
Compensation expense under SFAS No. 123, net of tax	(161.7)	(199.7)	(625.4)	(598.4)
Pro forma net loss	\$ (298.5)	\$ (4,540.6)	\$ (1,497.6)	\$ (8,294.2)
Reported net loss per share—basic and diluted	\$ (0.10)	\$ (3.19)	\$ (0.62)	\$ (5.75)
Pro forma net loss per share—basic and diluted	\$ (0.21)	\$ (3.34)	\$ (1.06)	\$ (6.20)

*Interpretation No. 45:*

In November 2002, the FASB issued Interpretation No. 45, "Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others," which requires a guarantor to recognize and measure certain types of guarantees at fair value. In addition, Interpretation No. 45 requires the guarantor to make new disclosures for these guarantees and other types of guarantees that are not subject to the initial recognition and initial measurement provisions. The disclosure requirements are effective for financial statements for interim or annual periods ended after December 15, 2002, while the recognition and measurement provisions are applicable on a prospective basis to guarantees issued or modified after December 31, 2002. We adopted the disclosure provisions of Interpretation No. 45 during the second quarter of fiscal 2003 and the initial recognition and initial measurement provisions in the third quarter of fiscal 2003. Our adoption of Interpretation No. 45 did not have a material impact on our consolidated financial position and results of operations.

*Interpretation No. 46:*

In January 2003, the FASB issued Interpretation No. 46, "Consolidation of Variable Interest Entities, an Interpretation of ARB No. 51," which requires a company that has a controlling financial interest in a variable interest entity to consolidate the assets, liabilities and results of activities of the entity. A variable interest entity is an entity in which the equity investors do not have a controlling interest or the equity investment at risk is insufficient to finance the entity's activities without receiving additional subordinated financial support from other parties. Interpretation No. 46 is applicable: (i) immediately for all variable interest entities created after January 31, 2003; or (ii) in the first fiscal year or interim period beginning after June 15, 2003 for those created before February 1, 2003. In accordance with Interpretation No. 46, we will be required to consolidate one operating lease pertaining to two separate properties, generally known as a "synthetic lease," beginning in the first quarter of fiscal 2004. In addition, we are currently reviewing our investments acquired prior to February 1, 2003 to determine whether any of our investee companies are variable interest entities that would require us to consolidate them beginning in the first quarter of fiscal 2004.

## Results of Operations

### *Net Sales:*

Net sales of \$165.7 million in the third quarter of fiscal 2003 represented a decrease of \$96.1 million, or 37%, from net sales of \$261.8 million in the same prior-year period. Net sales of \$515.3 million in the first nine months of fiscal 2003 represented a decrease of \$361.2 million, or 41%, from net sales of \$876.5 million in the same prior-year period. The decline in sales in the current three and nine-month periods from the same prior-year periods was due primarily to lower demand for our communications products and lower average selling prices for these products, both of which were caused by the dramatic downturn in the communications industry. The downturn resulted in a decrease in network deployment and capital spending by telecommunications carriers, which in turn caused our customers to reduce their inventory levels, and hence, their need for our products. In addition, we and our competitors are experiencing increasing price pressure as we compete to supply the greatly reduced levels of demand. The decline in our communications revenue in the current three and nine-month periods was partially offset by the increase in sales of our non-communications products, primarily in display and security markets. As a result of the downturn in the communications industry, revenue from our non-communications products has become increasingly significant to our total net sales, accounting for 56% and 50% of our total net sales in the third quarter and first nine months of fiscal 2003, respectively, as compared to 29% and 24% in the third quarter and first nine months of fiscal 2002, respectively. If the downturn in the communications industry continues, we expect our non-communications revenue to continue to account for a significant portion of our total sales. Please refer to the "Operating Segment Information" section below for further discussion with respect to net sales for each of our reportable segments.

Our net sales included \$3.2 million and \$26.4 million of contract-related cancellation payments in the third quarter and first nine months of fiscal 2003, respectively, as compared to \$20.6 million and \$23.8 million in the third quarter and first nine months of fiscal 2002, respectively. We generally recognize such revenue when no future obligations exist and we have received payments from our customers. Cancellation revenue has been declining since the fourth quarter of fiscal 2002 and we expect cancellation revenue to further decline or be eliminated in future periods.

Two customers of our non-communications products, Texas Instruments and SICPA, accounted for approximately 13% and 11% of our total net sales in the third quarter of fiscal 2003. Texas Instruments accounted for approximately 13% of our total net sales in the first nine months of fiscal 2003. No customer accounted for more than 10% of our total net sales in the third quarter and first nine months of fiscal 2002. Sales to our leading customers vary significantly from period to period and we do not have the ability to predict future sales to these customers. Moreover, if the downturn in the communications industry continues, we expect telecommunications carriers to continue to have low levels of capital spending, which will further limit our customers', and in turn, our sales.

Net sales to customers outside North America represented 30% of total net sales in both the third quarter and first nine months of fiscal 2003, as compared to 22% and 26% in the third quarter and first nine months of fiscal 2002, respectively.

### *Gross Margin:*

Gross margin in the third quarter of fiscal 2003 was 14% of total net sales, as compared to 8% in the third quarter of fiscal 2002. Our gross margin improved in the current quarter as compared to the same prior-year period primarily as a result of the following: (i) \$2.4 million of charges other than restructuring associated with our Global Realignment Program in the current quarter, as compared to \$26.1 million in the same prior-year period; (ii) \$10.1 million of write-downs of excess and obsolete inventories in the current quarter, as compared to \$37.6 million in the same prior-year period; and (iii) \$7.1 million of depreciation in the current quarter, as compared to \$21.2 million in the same

prior-year period, due to the write-downs of property, plant and equipment as a result of our impairment reviews and the removal and disposal of assets under the Global Realignment Program. However, these favorable developments in the current quarter were partially offset by the following: (i) \$8.7 million of royalty expense recorded in the current quarter in connection with a patent license; (ii) contract-related cancellation payments of \$3.2 million included in total net sales in the current period, as compared to \$20.6 million in the same prior-year period; (iii) our current-quarter sales volumes and average selling prices were below those from the same prior-year period; and (iv) a lower margin product mix in the current quarter due to lower sales of high-margin communications components.

Gross margin in the first nine months of fiscal 2003 was 3% of total net sales, as compared to minus 5% in the first nine months of fiscal 2002. Our gross margin improved in the current nine-month period as compared to the same prior-year period primarily as a result of the following: (i) contract-related cancellation payments of \$26.4 million included in total net sales in the current nine-month period, as compared to \$23.8 million in the same prior-year period; (ii) \$45.5 million of write-downs of excess and obsolete inventories in the current nine-month period, as compared to \$179.8 million in the same prior-year period; (iii) \$6.8 million of charges other than restructuring associated with our Global Realignment Program in the current nine-month period, as compared to \$105.1 million in the same prior-year period; (iv) \$23.0 million of depreciation in the current nine-month period, as compared to \$70.9 million in the same prior-year period, due to the write-downs of property, plant and equipment as a result of our quarterly impairment reviews and the removal and disposal of assets under the Global Realignment Program; (v) \$1.8 million of warranty expense in the current nine-month period, as compared to \$25.8 million in the same prior-year period; and (vi) consumption of previously written-down inventories of \$52.2 million in the current nine-month period, as compared to \$57.2 million in the same prior-year period. However, these favorable developments in the current nine-month period were partially offset by the following: (i) \$17.0 million of royalty expense in connection with a patent license; (ii) our sales volumes and average selling prices in the current nine-month period were below those from the same prior-year period; and (iii) a lower margin product mix in the current nine-month period due to lower sales of high-margin communications components.

Our gross margin can generally be affected by a number of factors, including, among others, product volumes, product mix, product demand, pricing pressures, manufacturing constraints, inventory write-downs, consumption of previously written-down inventories, warranty costs, product yield, stock-based compensation expenses and acquisitions of businesses that may have different margins than ours. If actual orders do not match our forecasts, we may have excess or shortfalls of some materials and components as well as excess inventory purchase commitments. Considering these factors, gross margin fluctuations are difficult to predict and there can be no assurance that we will surpass or maintain gross margin percentages at historical or projected levels in future periods.

#### ***Research and Development:***

Research and development ("R&D") expense was \$36.8 million in the third quarter of fiscal 2003, or 22% of total net sales, as compared to \$57.8 million in the third quarter of fiscal 2002, or 22% of total net sales. The decrease in R&D spending in absolute dollar amount in the current quarter as compared to the same prior-year period was primarily due to the cost savings resulting from our Global Realignment Program, which included the elimination of certain product development programs as well as workforce reductions. In addition, the decline in R&D expense was attributable to lower depreciation due to the write-downs of property, plant and equipment as a result of our quarterly impairment reviews and the removal and disposal of assets under the Global Realignment Program.

R&D expense was \$121.6 million in the first nine months of fiscal 2003, or 24% of total net sales, as compared to \$191.1 million in the first nine months of fiscal 2002, or 22% of total net sales. The decrease in R&D spending in absolute dollar amount in the current nine-month period as compared to

the same prior-year period was primarily due to the cost savings resulting from our Global Realignment Program, which included the elimination of certain product development programs as well as workforce reductions. In addition, the decline in R&D expense was attributable to lower charges other than restructuring associated with our Global Realignment Program, lower stock-based compensation expense, and lower depreciation due to the write-downs of property, plant and equipment as a result of our quarterly impairment reviews and the removal and disposal of assets under the Global Realignment Program. As a percentage of total net sales, the increase in R&D expense was due to our total net sales declining more rapidly than our R&D spending.

We believe that investment in R&D is critical to attaining our strategic objectives. Despite our continued efforts to reduce expenses under the Global Realignment Program, there can be no assurance that our R&D expenses will continue to decline in future quarters. 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.

***Selling, General and Administrative Expense:***

Selling, general and administrative ("SG&A") expense was \$70.0 million in the third quarter of fiscal 2003, or 42% of total net sales, as compared to \$84.0 million in the third quarter of fiscal 2002, or 32% of total net sales. SG&A expense was \$209.0 million in the first nine months of fiscal 2003, or 41% of total net sales, as compared to \$288.7 million in the first nine months of fiscal 2002, or 33% of total net sales. The decrease in SG&A spending in absolute dollar amount in both the current quarter and nine-month period as compared to the same prior-year periods was primarily due to: (i) lower personnel-related expenses as a result of workforce reductions, site closures and other cost cutting measures implemented under our Global Realignment Program; (ii) lower depreciation due to the write-downs of property, plant and equipment as a result of our quarterly impairment reviews and the removal and disposal of assets under the Global Realignment Program; (iii) lower bad debt expenses primarily as a result of lower revenue and improved collections; and (iv) lower stock-based compensation expense. The decrease in SG&A spending in the current quarter was partially offset by additional insurance expense due to higher premiums, and the decrease in SG&A spending in the current nine-month period was partially offset by additional insurance expense and bonus accrual pursuant to an approved bonus plan. As a percentage of total net sales, the increase in SG&A expense was due to our total net sales declining more rapidly than our SG&A spending.

Despite our continued efforts to reduce expenses under the Global Realignment Program, there can be no assurance that our SG&A expenses will continue to decline in future quarters.

***Amortization of Goodwill:***

No amortization of goodwill was recorded during the third quarter and first nine months of fiscal 2003, as compared to \$260.4 million and \$924.7 million during the third quarter and first nine months of fiscal 2002, respectively. On July 1, 2002, we adopted SFAS No. 142, under which goodwill is no longer amortized but is reviewed for impairment annually, or more frequently if certain events or changes in circumstances indicate that the carrying value may not be recoverable. Please refer to the "Reduction of Goodwill" section below for further discussion of the impairment review on goodwill.

***Amortization of Other Intangibles:***

Amortization of purchased intangibles other than goodwill was \$3.7 million and \$15.9 million in the third quarter and first nine months of fiscal 2003, respectively, as compared to \$113.3 million and \$333.6 million in the third quarter and first nine months of fiscal 2002, respectively. The decrease in amortization was primarily due to the write-downs of the carrying amount of the purchased intangibles as a result of the impairment charges incurred in prior periods. Please refer to the "Reduction of

Other Long-Lived Assets" section below for further discussion of the impairment review related to our purchased intangibles.

Amortization of purchased intangibles will continue to add to our operating expenses. However, we expect that the impact of amortization on our results of operations will decline in the future unless we make additional acquisitions. If the current unfavorable economic downturn continues to affect our operations and sales forecasts, we may determine that our remaining purchased intangibles are impaired, thereby requiring us to write down their carrying value further.

***Acquired In-Process Research and Development:***

We incurred no acquired in-process research and development ("IPR&D") charges in the third quarters of fiscal 2003 and 2002. We incurred \$0.4 million of IPR&D charges in the first nine months of fiscal 2003 in connection with our acquisition of OptronX's transceiver/transponder unit, as compared to \$22.1 million in the first nine months of fiscal 2002 in connection with our acquisition of IBM's optical transceiver unit ("Datacom"). The amount was expensed on the acquisition date because the acquired technology had not yet reached technological feasibility and had no future alternative uses.

***Reduction of Goodwill:***

For the three and nine months ended March 31, 2003, we recorded \$0 and \$225.7 million, respectively, of impairment charges in accordance with SFAS No. 142. For the three and nine months ended March 31, 2002, we recorded \$2,871.5 million and \$4,167.8 million, respectively, of impairment charges in accordance with SFAS No. 121.

**Fiscal 2003 Charges:**

On July 1, 2002, we adopted SFAS No. 142, under which goodwill is reviewed for impairment annually, or more frequently if certain events or changes in circumstances indicate that the carrying value may not be recoverable. In addition, we were required to perform a transitional impairment review related to the carrying value of goodwill as of July 1, 2002. During the first quarter of fiscal 2003, we completed the transitional impairment review related to the carrying value of goodwill as of July 1, 2002 and determined that there was no impairment beyond amounts previously recorded as of that date.

As part of our quarterly review of financial results in the first quarter of fiscal 2003, we noted indicators that the carrying value of our goodwill may not be recoverable and performed an additional impairment review. The impairment review was performed because of the prolonged economic downturn affecting our operations and revenue forecasts. As we determined that the continued decline in market conditions within our industry was significant and prolonged, we evaluated the recoverability of our goodwill in accordance with SFAS No. 142 during the first quarter of fiscal 2003. We did not identify any impairment indicators during the second and third quarters of fiscal 2003.

Under the first step of the interim SFAS No. 142 analysis, the fair value of the reporting units was determined based on a combination of the income approach, which estimates the fair value based on the future discounted cash flows, and the market approach, which estimates the fair value based on comparable market prices. Under the income approach, we assumed a cash flow period of 5 years, long-term annual growth rates of 9% to 33%, a discount rate of 12.5% and terminal value growth rates of 5% to 7%. Based on the first step analysis, we determined that the carrying amount of three reporting units within the Communications Products Group was in excess of their fair value. As such, we were required to perform the second step analysis on the three reporting units that have failed the first step test to determine the amount of the impairment loss. As of the filing of the Quarterly Report on Form 10-Q for the first quarter of fiscal 2003, we had not completed the second step analysis due to the complexities involved in determining the implied fair value of the goodwill of each reporting unit.



However, we determined that an impairment loss was probable and could be reasonably estimated. Therefore, as permitted by SFAS No. 142, we recorded an estimated impairment charge of \$224.4 million to reduce the carrying value of our goodwill in the first quarter of fiscal 2003.

During the second quarter of fiscal 2003, we completed the second step analysis in connection with the impairment review for the first quarter of fiscal 2003 and recorded an additional impairment charge of \$1.3 million, as the actual impairment charge was determined to be higher than the estimated charge recorded in the first quarter of fiscal 2003.

The following table summarizes the impairment charges recorded during the first nine months of fiscal 2003 (in millions):

Reporting Units	
<b>Communications Products Group:</b>	
Active Components	\$ 54.6
Optical Layer	28.7
Transmission	142.4
<b>Total</b>	<b>\$ 225.7</b>

#### Fiscal 2002 Charges:

As a result of the Phase 2 restructuring activities in the first quarter of fiscal 2002, we restructured our businesses and realigned our operations to focus on certain markets and core opportunities. In the process, we abandoned certain redundant products and product platforms and reduced our workforce that had been valued in previous acquisitions. In accordance with SFAS No. 121, we wrote down the related intangible assets to their fair value, which was deemed to be \$0, and recorded total charges of \$31.2 million related to goodwill.

As part of our quarterly reviews of financial results, we noted indicators in the second and third quarters of fiscal 2002 that the carrying value of our goodwill may not be recoverable and performed an impairment review. The impairment review was performed pursuant to SFAS No. 121 because of the prolonged economic downturn affecting our operations and revenue forecasts. As a result of the prolonged economic downturn, our projected future revenue and cash flows for certain of our asset groupings were revised downward in the second and third quarters of fiscal 2002. Therefore, we recorded charges to reduce goodwill based on the amount by which the carrying amount exceeded the fair value. Fair value was determined based on discounted future cash flows for the operating entities that had separately identifiable cash flows.

The following table summarizes the write-downs of goodwill for the second quarter of fiscal 2002 (in millions):

Acquired Entities	Reductions of Goodwill	Long-Term Annual Growth Rate
OCLI	\$ 514.1	5%–60%
SDL	751.0	15%–60%
<b>Total</b>	<b>\$ 1,265.1</b>	

We assumed a cash flow period of 5 years, a discount rate of 14%, and terminal growth rates of 5% to 7%. The long-term annual growth rates are higher in the early years of the 5-year cash flow period, representing our estimated growth in the period of industry recovery, and a reduced growth rate in the later years.

The following table summarizes the write-downs of goodwill for the third quarter of fiscal 2002 (in millions):

Acquired Entities	Reductions of Goodwill	Long-Term Annual Growth Rate
E-TEK	\$ 697.5	30%–35%
JDS FITEL	1,184.7	30%–42%
OCLI	20.3	4%–13%
SDL	762.5	27%–50%
Other	206.5	7%–45%
Total	\$ 2,871.5	

We assumed a cash flow period of 5 years, a discount rate of 14%, and terminal growth rates of 5% to 7%. The long-term annual growth rates are higher in the early years of the 5-year cash flow period, representing our estimated growth in the period of industry recovery, which decreases in the later years.

***Reduction of Other Long-Lived Assets:***

For the three and nine months ended March 31, 2003, we recorded \$11.2 million and \$165.8 million, respectively, of reductions in the carrying value of our long-lived assets in accordance with SFAS No. 144. For the three and nine months ended March 31, 2002, we recorded \$1,012.6 million and \$1,025.9 million, respectively, of reductions in the carrying value of our long-lived assets in accordance with SFAS No. 121. These charges excluded asset write-downs associated with the Global Realignment Program. The following table summarizes the components of the reductions of other long-lived assets (in millions):

	Three Months Ended		Nine Months Ended	
	March 31, 2003	March 31, 2002	March 31, 2003	March 31, 2002
Assets held and used:				
Purchased intangibles (other than goodwill)	\$ —	\$ 925.3	\$ 68.6	\$ 938.6
Property, plant and equipment	—	87.3	79.1	87.3
Assets held for sale:				
Property, plant and equipment	11.2	—	18.1	—
Total reductions of other long-lived assets	\$ 11.2	\$ 1,012.6	\$ 165.8	\$ 1,025.9

**Fiscal 2003 Charges:**

***Assets Held and Used:***

On July 1, 2002, we adopted SFAS No. 144, under which long-lived assets other than goodwill are tested for recoverability if certain events or changes in circumstances indicate that the carrying value may not be recoverable. We noted indicators during the first quarter of fiscal 2003 that the carrying value of our long-lived assets, including purchased intangibles recorded in connection with our various acquisitions and property, plant and equipment, may not be recoverable and performed an impairment review. The impairment review was performed pursuant to SFAS No. 144 because of the prolonged economic downturn affecting our operations and revenue forecasts. As a result of the prolonged economic downturn, our projected future revenue and cash flows for certain of our asset groupings were revised downward in the first quarter of fiscal 2003. Therefore, we evaluated the recoverability of our long-lived assets and recorded impairment charges based on the amount by which the carrying amount of these assets exceeded their fair value. For purchased intangibles, fair value was determined

based on discounted future cash flows for the operating entities that had separately identifiable cash flows. For tangible fixed assets, we valued these assets that were subject to impairment using specific appraisals.

The following table summarizes the write-downs of purchased intangibles and property, plant and equipment for the first quarter of fiscal 2003 (in millions):

Acquired Entities	Purchased Intangibles	Property, Plant and Equipment
Datacom	\$ 39.1	\$ 15.6
Epitaxx	19.9	26.3
SDL	—	24.3
Scion	8.9	12.9
Other	0.7	—
Total	\$ 68.6	\$ 79.1

During the second and third quarters of fiscal 2003, we noted no impairment indicators in connection with our long-lived assets held and used, and accordingly, a test of recoverability of our long-lived assets was not required.

#### *Assets Held for Sale:*

During the third quarter of fiscal 2003, we classified certain property, plant and equipment as assets held for sale. In accordance with SFAS No. 144, we recorded a loss of \$11.2 million, representing the amount by which their carrying value exceeded the estimated fair value less cost to sell. During the first quarter of fiscal 2003, we classified certain property and equipment as assets held for sale in connection with the sales of our Raleigh, North Carolina and Torquay, United Kingdom subsidiaries and recorded total losses of \$6.9 million.

#### Fiscal 2002 Charges:

As a result of the Phase 2 restructuring activities in the first quarter of fiscal 2002, we restructured our businesses and realigned our operations to focus on certain markets and core opportunities. In the process, we abandoned certain redundant products and product platforms and reduced our workforce that had been valued in previous acquisitions. In accordance with SFAS No. 121, we wrote down the related intangible assets to their fair value, which was deemed to be \$0, and recorded total charges of \$10.8 million related to purchased intangibles other than goodwill.

As part of our quarterly reviews of financial results, we noted indicators in the second and third quarters of fiscal 2002 that the carrying value of our long-lived assets, including significant amounts of purchased intangibles recorded in connection with our various acquisitions, may not be recoverable and performed an impairment review. The impairment review was performed pursuant to SFAS No. 121 because of the prolonged economic downturn affecting our operations and revenue forecasts. As a result of the prolonged economic downturn, our projected future revenue and cash flows for certain of our asset groupings were revised downward in the second and third quarters of fiscal 2002. Therefore, we recorded charges to reduce our long-lived assets based on the amount by which the carrying amount of these assets exceeded their fair value. Fair value was determined based on discounted future cash flows for the operating entities that had separately identifiable cash flows.

The following table summarizes the write-downs of our long-lived assets, consisting of purchased intangibles, for the second quarter of fiscal 2002 (in millions):

Acquired Entity	Purchased Intangibles	Long-Term Annual Growth Rate
SDL	\$ 2.5	15%–60%

We assumed a cash flow period of 5 years, a discount rate of 14%, and terminal growth rates of 5% to 7%. The long-term annual growth rates are higher in the early years of the 5-year cash flow period, representing our estimated growth in the period of industry recovery, and a reduced growth rate in the later years.

The following table summarizes the write-downs of our long-lived assets, consisting of purchased intangibles and property, plant and equipment, for the third quarter of fiscal 2002 (in millions):

Acquired Entities	Purchased Intangibles	Property, Plant and Equipment	Long-Term Annual Growth Rate
E-TEK	\$ 224.1	\$ 1.1	30%–35%
JDS FITEL	233.9	—	30%–42%
OCLI	210.7	67.2	4%–13%
SDL	247.6	10.4	27%–50%
Other	9.0	8.6	7%–45%
Total	\$ 925.3	\$ 87.3	

We assumed a cash flow period of 5 years, a discount rate of 14%, and terminal growth rates of 5% to 7%. The long-term annual growth rates are higher in the early years of the 5-year cash flow period, representing our estimated growth in the period of industry recovery, and a reduced growth rate in the later years.

#### **Global Realignment Program Charges:**

In April 2001, we initiated the Global Realignment Program, under which we began restructuring our business in response to the economic downturn. Since inception, we implemented six phases of restructuring activities and recorded total restructuring charges of \$639.4 million (of which \$16.3 million and \$115.1 million were recorded in the third quarter and first nine months of fiscal 2003, respectively). In addition, we incurred charges other than restructuring of \$460.8 million related to the Global Realignment Program (of which \$12.7 million and \$41.6 million were recorded in the third quarter and first nine months of fiscal 2003, respectively). Please refer to "Note 10. Global Realignment Program Charges" of our Notes to Condensed Consolidated Financial Statements for a detailed discussion on these charges associated with our Global Realignment Program.

Under the Global Realignment Program, we are consolidating and reducing our manufacturing, research and development, sales and administrative facilities in North America, Europe and Asia-Pacific. The total number of sites closed or scheduled for closure is 28. Based on the decisions made through the end of the third quarter of fiscal 2003, we expect to reduce our total workforce by approximately 19,540 employees upon the completion of the Global Realignment Program. As of March 31, 2003, 18,357 employees have been terminated.

In response to the continued business downturn, we are planning further restructuring activities under the Global Realignment Program, including primarily further reductions of employment and additional site closures. Since inception, we have reduced our annual expenses to date by approximately \$1.1 billion. We expect that, when completed, the Global Realignment Program will generate a total annual cost reduction rate of approximately \$1.3 billion. We estimate that the total cost of the Global

Realignment Program will be approximately \$1.2 billion, of which \$1.1 billion was recorded through the end of the third quarter of fiscal 2003.

The Global Realignment Program represents our concerted efforts to respond to the current demands of our industry. However, these efforts may be insufficient. The Global Realignment Program 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.

***Interest and Other Income, Net:***

Net interest and other income was \$7.1 million in the third quarter of fiscal 2003, as compared to \$11.2 million in the third quarter of fiscal 2002. Net interest and other income was \$26.6 million in the first nine months of fiscal 2003, as compared to \$36.0 million in the first nine months of fiscal 2002. The decrease in the third quarter and first nine months of fiscal 2003 from the same prior-year periods was primarily attributable to the decline in interest income as a result of lower average daily cash and investment balances and lower interest rates.

***Loss on Sale of Subsidiaries:***

During the second quarter of fiscal 2003, we completed the sales of two of our subsidiaries located in Raleigh, North Carolina and Torquay, United Kingdom, and recognized a net loss of \$0.5 million from the transactions.

***Gain on Sale of Investments:***

We realized net gains of \$0.9 million in the third quarter of fiscal 2003, as compared to \$4.5 million in the third quarter of fiscal 2002. Net gains totaled \$3.7 million in the first nine months of fiscal 2003, as compared to \$10.9 million in the first nine months of fiscal 2002. We realized the gains primarily from sales of fixed-income securities during fiscal 2003, and from sales of both fixed-income securities and non-marketable equity securities during fiscal 2002.

***Reduction in Fair Value of Investments:***

We recorded \$9.8 million of reductions in fair value of our investments in the third quarter of fiscal 2003, as compared to \$7.9 million in the third quarter of fiscal 2002. The write-downs in both quarters resulted from an other-than-temporary decline in fair value of our non-marketable equity securities. 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.

Reductions in fair value of our investments totaled \$37.7 million in the first nine months of fiscal 2003, as compared to \$114.4 million in the first nine months of fiscal 2002. The write-downs in the current nine-month period resulted from an other-than-temporary decline in fair value of our non-marketable equity securities, whereas the write-downs in the same prior-year period resulted from an other-than-temporary decline in fair value of both non-marketable equity securities and available-for-sale securities, including our investment in Nortel Networks ("Nortel").

Should the fair value of our investments continue to decline in the future, we may be required to recorded additional charges if the decline is determined to be other-than-temporary.

***Loss on Equity Method Investments:***

We recorded \$1.2 million of charges in the third quarter of fiscal 2003, as compared to \$8.5 million in the third quarter of fiscal 2002. Charges in both periods consisted of our pro rata share of net losses on our equity method investments other than ADVA. Our investment in ADVA has been reduced to \$0 since the second quarter of fiscal 2002, and no further pro rata share of ADVA's net losses was recorded thereafter as we had no future commitment to provide additional funding to ADVA. Should ADVA report net income in future periods, we will resume applying the equity method after our pro rata share of ADVA's net income exceeds our pro rata share of ADVA's net losses not recognized during the periods the equity method was suspended.

We recorded \$7.7 million of charges in the first nine months of fiscal 2003, as compared to \$53.6 million in the first nine months of fiscal 2002. Charges in the current nine-month period consisted of our pro rata share of net losses on our equity method investments other than ADVA. Charges in the same prior-year period included: (i) \$13.9 million related to the write-down of the carrying value of our investment in ADVA due to the other-than-temporary decline in its market value; (ii) \$0.7 million of amortization expense related to the difference between the cost of the investment and the underlying equity in the net assets of ADVA; and (iii) \$26.5 million related to our pro rata share of ADVA's net losses and \$12.5 million related to our pro rata share of net losses on other equity method investments.

***Income Tax Expense (Benefit):***

We recorded a provision for income tax expense of \$18.6 million and \$19.5 million for the three and nine months ended March 31, 2003, respectively. Approximately \$18.0 million of the provision for income taxes recorded for the three and nine months ended March 31, 2003 related to the prior financial reporting period ended June 30, 2002 and resulted from an increase in our valuation allowance for deferred tax assets. During the three months ended March 31, 2003, Canadian tax authorities completed a review of our pending claims for refunds of prior-year income taxes. As a result of this review, certain matters related to carryback periods and minimum taxes were identified that caused us to conclude that we had recorded \$18.0 million of net deferred tax assets in excess of income taxes actually recoverable from prior years and, therefore, necessitated the recording of an additional valuation allowance for deferred tax assets. As of June 30, 2002, management concluded that due to the existing economic environment, we should not record net deferred tax assets in excess of recoverable income taxes. We do not believe that the \$18.0 million amount recorded in the three months ended March 31, 2003 was material to the period in which it should have been recorded, nor do we expect that the amount recorded will be material to our consolidated results of operations for the year ending June 30, 2003. However, if the amount is ultimately deemed to be material to our consolidated results of operations for the year ending June 30, 2003, we will need to restate our consolidated financial statements for the year ended June 30, 2002 and the current three-month period. If such restatement were necessary, net loss for the year ended June 30, 2002 would be increased by \$18.0 million, and the basic and diluted net loss per share would change from \$6.50 to \$6.51. Net loss for the three months ended March 31, 2003 would be decreased by \$18.0 million, and the basic and diluted net loss per share would change from \$0.10 to \$0.08. In addition, we would restate our

consolidated balance sheets as of September 30, 2002 and December 31, 2002 by reducing the net deferred income tax asset by \$18.0 million in each period.

Due to the continued economic uncertainty in the industry, we have recorded net deferred tax assets as of March 31, 2003 only to the extent of recoverable income taxes.

We recorded an income tax benefit of \$26.9 million and a provision for income taxes of \$346.1 million for the three and nine months ended March 31, 2002, respectively. The income tax benefit and the provision for income taxes recorded for the three and nine months ended March 31, 2002, respectively, differed from the expected income tax benefit that would be calculated by applying the federal statutory rate to the loss before income taxes primarily due to the net effect of non-deductible acquisition-related charges, write-offs of deferred tax assets recorded in prior business combinations relating to assumed employee stock options that either expired unexercised or were exercised during the quarter when the market value of the underlying stock was less than the previously recorded value at the business combination date, increases in the valuation allowance for domestic deferred tax assets recorded in prior periods due to reductions in our forecasts of future domestic taxable income and the elimination of deferred tax liabilities recorded in prior business combinations.

#### ***Operating Segment Information:***

*Communications Products Group.* Net sales of \$73.7 million in the third quarter of fiscal 2003 represented a decrease of \$111.9 million, or 60%, from net sales of \$185.6 million in the third quarter of fiscal 2002. Net sales of \$257.4 million in the first nine months of fiscal 2003 represented a decrease of \$405.3 million, or 61%, from net sales of \$662.7 million in the first nine months of fiscal 2002. The decline in our sales was primarily due to lower demand for our communications products and lower average selling prices caused by the dramatic downturn in our industry, which resulted in a decrease in network deployment and capital spending by telecommunications carriers. This in turn caused our customers to reduce their inventory levels. We expect revenue from the Communications Products Group will remain stable in the fourth quarter of fiscal 2003. Operating loss as a percentage of net sales was 62% during the current quarter, as compared to an operating loss of 53% of net sales for the same prior-year period. Operating loss as a percentage of net sales was 76% during the current nine-month period, as compared to an operating loss of 84% for the same prior-year period.

*Thin Film Products Group.* Net sales of \$92.0 million in the third quarter of fiscal 2003 represented an increase of \$16.8 million, or 22%, from net sales of \$75.2 million in the third quarter of fiscal 2002. Net sales of \$257.9 million in the first nine months of fiscal 2003 represented an increase of \$49.9 million, or 24%, from net sales of \$208.0 million in the first nine months of fiscal 2002. The increase in our sales was primarily attributable to higher demand for our thin film products for display and security markets. We expect revenue from the Thin Film Products Group will decline slightly in the fourth quarter of fiscal 2003. Operating income as a percentage of net sales was 19% during the current quarter, as compared to an operating income of 15% of net sales for the same prior-year period. Operating income as a percentage of net sales was 17% during the current nine-month period, as compared to an operation loss of 6% for the same prior-year period.

#### **Liquidity and Capital Resources**

As of March 31, 2003, we had a combined balance of cash, cash equivalents and short-term investments of \$1,265.7 million, a decrease of \$184.7 million from June 30, 2002. Our total debt outstanding, including capital lease obligations, was \$8.4 million as of March 31, 2003.

Operating activities used \$167.5 million in cash during the nine months ended March 31, 2003, primarily resulting from our net loss adjusted for: (i) depreciation and amortization, stock-based compensation expense, reductions of goodwill and other long-lived assets, non-cash charges associated with our Global Realignment Program, and gains and losses on our investments; (ii) a decrease in

accounts receivable, inventories and deferred income taxes; and (iii) a decrease in accrued payroll and related expenses. Our operating cash flows were favorably affected by approximately \$74.1 million in tax refunds received in the first nine months of fiscal 2003.

Accounts receivable were lower during the nine months ended March 31, 2003 primarily due to a decline in sales. Days sales outstanding in accounts receivable was 56 days at March 31, 2003, as compared to 55 days at June 30, 2002. Inventory levels were lower at March 31, 2003 primarily due to lower production volumes coupled with the write-downs of excess and obsolete inventories.

Cash used by investing activities was \$18.4 million during the nine months ended March 31, 2003, primarily resulting from acquisitions of OptronX's transceiver/transponder unit and LA Label and additional capital expenditures, offset by proceeds from sales of investments and property, plant and equipment.

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 A1/P1, MIG-1, AA-/Aa3 or better. No securities may have an initial maturity that exceeds 36 months, and the average duration of our investment portfolio may not exceed 18 months. At any time, no more than 25% of the investment portfolio may be concentrated in a single issuer other than the U.S. government.

Our financing activities for the nine months ended March 31, 2003 provided cash of \$17.8 million, resulting primarily from the exercise of stock options and the sale of common stock through our employee stock purchase plans.

We expect to use approximately \$250 to \$300 million in cash in fiscal 2003, exclusive of amounts required relating to our acquisition and investment activities during the fiscal year. 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. However, possible investments in or acquisitions of complementary businesses, products or technologies may require the use of additional cash or financing prior to such time. Moreover, due to the industry downturn and the implementation of our Global Realignment Program, we have in recent periods consumed, and we expect to continue to consume, portions of our cash reserves to fund our operations. The amounts consumed to date, together with the amounts currently anticipated to be spent, are not expected to materially impair our financial condition. However, if the current economic downturn remains protracted, we may need to expend additional, currently unanticipated, cash reserves to fund our operations. Our liquidity could be negatively affected by a continued decline in demand for our products, which are subject to rapid technological changes, or a reduction of capital expenditures by telecommunications carriers as a result of the economic downturn or other factors. There can be no assurance that additional debt or equity financing would be available if so required or, if available, could be secured on terms satisfactory to us.

#### Financial Commitments:

Our investment portfolio includes minority investments in certain privately held companies. As of March 31, 2003, we had a commitment to provide additional funding of up to \$31.5 million to certain venture capital investment partnerships.

#### Lease Commitments:

As of March 31, 2003, we had one master lease agreement with a special purpose entity (the "Lessor"), managed and administered by a trustee, for the development of manufacturing, research and development and administrative facilities in Melbourne, Florida and Raleigh, North Carolina. Under a related credit agreement, a group of financial institutions has committed to fund the Lessor a maximum of \$59.6 million to develop the projects. As of March 31, 2003, \$42.3 million has been drawn



and no further withdrawal is permitted as the funding period has expired in accordance with the lease agreement. The lease has an initial term of five years, which began on August 4, 2000, and we have an option to renew the lease for two additional terms of one year each, subject to certain conditions. At any time prior to the expiration date of the lease, we may, at our option, purchase the properties from the Lessor for \$44.6 million (the "Termination Value"), representing the principal balance of the loan and capitalized interest. If we elect not to purchase the properties, we may exercise our option to sell them to a third party at market value within 180 days before the end of the lease term. Under the sale option, we keep any sale proceeds in excess of the Termination Value. If the sale proceeds are below the Termination Value, we are obligated to pay up to approximately \$37.5 million of any shortfall.

On an annual basis or when indicators of impairment exist, we are required to evaluate the expected fair value of the properties at the end of the lease term. In the event we determine that it is probable and estimable that the expected fair value of the properties at the end of the lease term will be less than the carrying value, we accrue for the estimated losses. We recorded the following amounts in connection with the estimated losses on the properties (in millions):

	Three Months Ended		Nine Months Ended	
	March 31, 2003	March 31, 2002	March 31, 2003	March 31, 2002
Raleigh, North Carolina properties	\$ 3.0	\$ —	\$ 6.5	\$ 11.8
Melbourne, Florida properties	0.5	—	7.9	—
<b>Total</b>	<b>\$ 3.5</b>	<b>\$ —</b>	<b>\$ 14.4</b>	<b>\$ 11.8</b>

*Raleigh, North Carolina Properties:*

In connection with our Phase 2 restructuring activities, we announced our plan to vacate buildings located in the Raleigh, North Carolina site. During the nine months ended fiscal 2002, we accrued losses of \$11.8 million, representing the difference between the expected fair value of the properties at the end of the lease term and their carrying value. During the third quarter and first nine months of fiscal 2003, we accrued additional losses of \$3.0 million and \$6.5 million, respectively. We recorded these charges under "Restructuring charges" in the Condensed Consolidated Statements of Operations.

*Melbourne, Florida Properties:*

During the third quarter and first nine months of fiscal 2003, we accrued losses of \$0.5 million and \$7.9 million, respectively, and recorded such amounts as deferred charges, which are being amortized on a straight-line basis through the end of the lease term. As of March 31, 2003, \$2.7 million was included under "Other current assets" and \$3.9 million was included under "Other assets" in the Condensed Consolidated Balance Sheet. Amortization expense totaled \$0.6 million and \$1.3 million in the third quarter and first nine months of fiscal 2003, respectively.

Neither the real estate assets nor the debt associated with the development of the projects was recorded on our Condensed Consolidated Balance Sheet as of March 31, 2003. Beginning in the first quarter of fiscal 2004, we will be required to consolidate the real estate assets and liabilities associated with the operating lease in accordance with Interpretation No. 46. If we were to consolidate this

operating lease on April 1, 2003, the potential impact on our consolidated financial position and results of operations would be as follows:

*Condensed Consolidated Balance Sheet:*

Accounts	Explanation of Impact
Other current assets	Decrease by \$2.7 million due to the recognition of deferred impairment charges related to the Melbourne, Florida properties.
Property, plant and equipment, net	(i) Increase by \$42.2 million for the net book value of the properties in both locations; (ii) Decrease by the \$18.3 million accrued losses recorded in connection with the Raleigh, North Carolina properties; and (iii) Decrease by the \$7.9 million accrued losses recorded in connection with the Melbourne, Florida properties.
Other assets	Decrease by \$3.9 million due to the recognition of deferred impairment charges related to the Melbourne, Florida properties.
Restructuring accrual	(i) Decrease by the \$18.3 million accrued losses associated with the Raleigh, North Carolina properties; and (ii) Decrease by \$1.0 million due to the reversal of accrued lease charges associated with the Raleigh, North Carolina properties.
Other non-current liabilities	(i) Increase by \$44.6 million related to the Company's debt obligations associated with the properties in both locations; and (ii) Decrease by the \$7.9 million accrued losses associated with the Melbourne, Florida properties.
Accumulated deficit	(i) Increase by \$6.6 million for the decrease in the fair value of the Melbourne, Florida properties; and (ii) Increase by \$1.4 million due to the difference between the assets and liabilities added to the balance sheet, which is offset by the reversal of accrued lease charges associated with the Raleigh, North Carolina properties.

*Condensed Consolidated Statement of Operations:*

Accounts	Explanation of Impact
Reduction of long-lived assets	Increase by \$6.6 million for the decrease in the fair value of the Melbourne, Florida properties.
Cumulative effect of a change in accounting principle	Increase by \$1.4 million due to the difference between the assets and liabilities added to the balance sheet, which is offset by the reversal of accrued lease charges associated with the Raleigh, North Carolina properties.

As of March 31, 2003, we restricted \$47.3 million of our short-term investments as collateral for specified obligations of the Lessor under the lease. These investment securities are restricted as to

withdrawal and are managed by third parties subject to certain limitations under our investment policy. In addition, we must maintain a minimum consolidated tangible net worth, as defined, of \$500.0 million.

## Employee Stock Options

### Stock Option Program Description:

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. As of March 31, 2003, we have available for issuance 79.4 million shares of common stock underlying options for grant primarily under the Amended and Restated 1993 Flexible Stock Incentive Plan and the 1996 Non-Qualified Stock Option 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.

### Distribution and Dilutive Effect of Stock Options:

The following table presents certain information regarding stock options granted to employees, including officers:

	FY 2003 YTD	FY 2002	FY 2001
Grants(1) to employees, including officers, as % of outstanding shares	1.8%	3.4%	3.5%
Grants to Senior Executive Officers(2) as % of total options granted	13.2	6.6	1.3
Grants to Senior Executive Officers as % of outstanding shares	0.2	0.2	0.1
Outstanding options held by Senior Executive Officers as % of total outstanding options	11.0	11.4	8.4

(1) Grants exclude options assumed in connection with acquisitions.

(2) Senior Executive Officers include Chief Executive Officer, Chief Operating Officer and Chief Financial Officer.

### General Stock Option Information:

The following table presents our option activities through the end of the third quarter of fiscal 2003 (in thousands, except weighted-average exercise price):

	Options Available for Grant	Options Outstanding	
		Number of Options	Weighted- Average Exercise Price
June 30, 2001	24,147	171,559	\$ 33.02
Increase in authorized shares	50,326	—	—
Granted	(46,025)	46,025	6.14
Canceled	30,551	(40,531)	35.65
Exercised	—	(11,928)	3.08
Expired	8,607	(12,551)	38.17
June 30, 2002	67,606	152,574	26.11
Increase in authorized shares	7,226	—	—
Granted	(25,323)	25,323	2.61
Canceled	19,692	(24,044)	23.72
Exercised	—	(2,527)	1.02
Expired	10,211	(16,620)	35.78
March 31, 2003	79,412	134,706	21.40

The following table summarizes certain information regarding outstanding options as of March 31, 2003 (in thousands, except years and weighted-average exercise price):

Range of Exercise Prices (150% Increments)	Options Outstanding			Options Exercisable		
	Number of Options Outstanding	Weighted-Average Remaining Contractual Life (in years)	Weighted-Average Exercise Price	Number of Options Exercisable	Weighted-Average Exercise Price	
\$0.00–\$0.01	1,069	6.7	\$ 0.01	960	\$ 0.01	
0.04–0.04	129	7.6	0.04	123	0.04	

0.24–0.35	109	1.5	0.32	109	0.32
0.39–0.39	6	1.6	0.39	6	0.39
0.60–0.86	2,030	3.3	0.78	2,030	0.78
0.95–1.39	1,502	3.7	1.18	1,502	1.18
1.45–2.14	3,616	5.4	1.87	1,899	1.64
2.18–3.27	20,881	7.5	2.74	509	2.88
3.29–4.82	20,367	6.3	3.88	4,469	4.08
4.98–7.37	8,269	3.9	6.52	7,333	6.51
7.50–11.19	14,641	6.1	8.93	6,162	9.07
11.29–16.93	16,239	4.9	14.92	9,566	15.20
16.94–24.63	18,860	4.3	20.64	15,188	20.73
25.63–36.41	5,106	5.8	29.50	4,434	29.12
38.50–57.31	5,140	5.5	50.84	3,653	51.10
58.56–87.63	8,949	6.1	70.21	6,131	70.19
88.00–131.81	7,624	4.9	112.53	5,595	112.97
132.31–146.53	169	4.8	138.33	126	138.33
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
	134,706			69,795	
	<hr/>			<hr/>	

### Senior Executive Options:

The following table summarizes stock options granted to the Senior Executive Officers during the first nine months of fiscal 2003:

	Individual Grants				Potential Realizable Value at Assumed Annual Rates of Stock Price Appreciation for Option Term(3)	
	Number of Securities Underlying Options Granted	% of Total Options Granted to Employees (1)	Exercise Price Per Share (2)	Expiration Date	5%	10%
Jozef Straus, Ph.D. Chairman and Chief Executive Officer	750,000	3.0%	\$ 3.31	11/24/2010	\$ 1,185,283	\$ 2,838,959
Syrus P. Madavi President and Chief Operating Officer	1,600,000	6.2	2.14	07/25/2010	1,682,086	3,984,243
Ronald C. Foster Executive Vice President and Chief Financial Officer	500,000	2.0	3.31	11/24/2010	790,189	1,892,639
	500,000	2.0	2.81	02/16/2011	670,825	1,606,742

- (1) Based on a total of 25.3 million options granted to our employees, including the Senior Executive Officers, during the first nine months of fiscal 2003.
- (2) The exercise price per share of options granted represents the fair market value of the underlying shares of common stock on the date the options were granted.
- (3) Stock price appreciation of 5% and 10% from the date of grant over a period of ten years is assumed pursuant to the rules promulgated by the Securities and Exchange Commission and does not represent our prediction of the future stock price performance.

The following table presents certain information regarding option exercises and outstanding options for the Senior Executive Officers during the first nine months of fiscal 2003:

	Shares Acquired on Exercise	Value Realized	Number of Securities Underlying Unexercised Options as of March 31, 2003		Values of Unexercised "In-the-Money" Options as of March 31, 2003(1)	
			Exercisable	Unexercisable	Exercisable	Unexercisable
Jozef Straus, Ph.D.	—	\$ —	8,784,619	3,413,333	\$ —	\$ —
Syrus P. Madavi	—	—	—	2,100,000	—	1,296,000
Ronald C. Foster	—	—	—	500,000	—	70,000

- (1) The value of "in-the-money" stock options represents the positive spread between the exercise price of stock options and the fair market value of the shares subject to such options as of the end of the third quarter of fiscal 2003.

### 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 during fiscal 2003, 2002 and 2001 is as follows:

***Scion:***

The products under development at the time of acquisition were comprised of advanced integrated waveguide devices. We have incurred post-acquisition costs of \$1.2 million to date and estimate that an additional investment of approximately \$1.2 million in research and development over the next 9 months will be required to complete the IPR&D projects. 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.

***Datacom:***

The products under development at the time of acquisition included: (i) 10 gigabit 1310nm xenpak transceivers; (ii) small form factor fiber channel with digital optical monitoring and optical carrier; (iii) 10 gigabit 1310nm xenpak transceivers with digital optical monitoring / fiber channel; (iv) 10 gigabit 850nm xenpak transceivers; and (v) 10 gigabit 850nm XGP. Due to the uncertainty of market conditions, the 10 gigabit 1310nm xenpak transceivers with digital optical monitoring / fiber channel, the 10 gigabit 850nm xenpak transceivers and the 10 gigabit 850nm XGP projects were terminated. We have completed all remaining projects in the second quarter of fiscal 2003 and have incurred total post-acquisition costs of \$9.1 million. The differences between the actual outcome noted above and the assumptions used in the original valuation of the technology did not have a significant impact on our results of operations and financial position.

***SDL:***

The products under development at the time of acquisition included: (i) pump laser chips; (ii) pump laser modules; (iii) Raman chips and amplifiers; (iv) external modulators and drivers; and (v) industrial laser products. The pump laser chips, industrial laser and Raman amplifier products have been completed at a cost consistent with our expectations. The external modulators and driver projects have been terminated at SDL and transferred to another division within the Company. The pump laser modules and Raman pumps are expected to be completed by the first quarter of fiscal 2004. We have incurred post-acquisition costs of \$37.6 million through the end of the third quarter of fiscal 2003 with estimated costs to complete of \$0.3 million. 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.

***Epion:***

The products under development at the time of acquisition included Gas Cluster Ion Beam technology used for atomic scale surface smoothing and cleaning where surface or film quality is of great importance. We have incurred post-acquisition costs of \$5.4 million to date and estimate that a total investment of approximately \$0.9 million in research and development over the next five months will be required to complete the IPR&D projects. 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

### The current economic downturn has significantly harmed and may continue to significantly harm our industry

*Our overall sales are declining, we are not currently profitable, and we have difficulty predicting future operating results*

As a result of current unfavorable economic and market conditions, particularly in the communications sector, our overall sales have declined significantly, we are not currently profitable, and we are unable to predict future overall sales accurately or to provide long-term guidance for future financial performance. The conditions contributing to this difficulty include:

- uncertainty regarding the capital spending plans of the major telecommunications carriers, upon whom our telecommunications systems manufacturing customers, and ultimately we, depend for a substantial amount of our sales;
- the weakened financial condition of many major telecommunications carriers and their current limited access to the capital required for expansion;
- our telecommunications systems manufacturing customers continuing to reduce their inventory levels;
- limited visibility regarding the long-term demand for high content, high speed, broadband telecommunications networks;
- excess fiber and channel capacity, particularly in the long-haul market, which historically has been responsible for a major portion of our sales and profits; and
- general market and economic uncertainty.

Based on these and other factors, many of our major telecommunications systems manufacturing customers have reduced, modified, cancelled or rescheduled orders for our products and have expressed uncertainty as to their future requirements. As a result, our net sales in the future may decline further and we anticipate that we will continue to be unprofitable in the near future periods. In addition, due to our current limited ability to provide long-term guidance for our operating results, our ability to meet financial expectations for future periods may be harmed.

*Our customers' businesses have been harmed by the economic downturn*

Our communications business is largely dependent upon product sales to telecommunications systems manufacturers who in turn are dependent for their business upon sales of fiberoptic systems to telecommunications carriers. All of our systems manufacturing customers and their carrier customers have experienced severe business declines during the current downturn. Many of these companies are currently operating at losses and are unable to make meaningful long-term predictions for their recovery, and hence their forecasted requirements for optical telecommunications systems. This continuing uncertainty means that, as a supplier of the components and modules for these systems, our ability to predict our financial results or business prospects for future periods is severely limited.

*Our Global Realignment Program may not be successful in aligning our operations to current market conditions*

In response to the current economic slowdown and as part of our continuing integration efforts, we commenced a Global Realignment Program in April 2001, under which we are, among other things:

- eliminating some product development programs and consolidating or curtailing others in order to focus our research and development investments on the most promising projects;
- 
- consolidating our manufacturing facilities from multiple sites into single locations, as well as consolidating sales and administrative functions; and
  - aligning our sales organization to offer customers a single point of contact for all of their product requirements, and creating regional and technical centers to streamline customer interaction with product line managers.

Implementation of the Global Realignment Program involves major reductions in our workforce and facilities and, in certain instances, the relocation of products, technologies and personnel. We have incurred and will continue to incur significant expenses to implement the Global Realignment Program and we expect to realize significant future cost savings as a result. The Global Realignment Program 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 Global Realignment Program is successful and meets our current cost reduction goals, our sales must increase substantially in the future for us to be profitable.

*We have incurred, and may in the future incur, inventory-related charges, the amounts of which are difficult to predict accurately*

As a result of the business downturn and declining demand for our products, we have written down a substantial portion of our inventory as our sales forecasts continued to decline. As discussed above, our ability to forecast our customers' needs for our products in the current economic environment is very

limited. We have incurred, and may in the future incur, charges to write down our inventory. We use a rolling six-month forecast based on anticipated product orders, product order history, forecasts and backlog to assess our inventory requirements. We recorded charges of \$10.1 million and \$45.5 million related to excess and obsolete inventory for the three and nine months ended March 31, 2003, respectively, as compared to \$37.6 million and \$179.8 million for the three and nine months ended March 31, 2002, respectively. We may incur such inventory write-downs in future periods. Moreover, because of our current difficulty in forecasting overall sales, we may in the future revise our previous forecasts, which could lead to further inventory write-downs. While we believe, based on current information, that the amount recorded for inventory is properly reflected on our balance sheet at March 31, 2003, if market conditions are less favorable than our forecasts, our future sales mix differs from our forecasted sales mix, or actual demand from our customers is lower than our estimates, we may be required to record additional inventory write-downs.

*Any failure of our major telecommunications systems manufacturing customers, or their telecommunications carrier customers, to service their debt would materially harm our business*

During the rapid growth in the telecommunications sector in the mid-to-late 1990s, telecommunications systems manufacturers and their telecommunications carrier customers incurred large amounts of debt in order to finance the expansion that was then forecasted. In the rapid downturn that followed, both capital spending and revenue declined, but debt remained and in some instances increased. As a result, several of the telecommunications carriers and, in turn their suppliers, our telecommunications systems manufacturing customers, continue to have significant amounts of outstanding debt. The servicing of this debt may, among other things, limit the carriers' ability to buy new capital equipment and, thus, the demand for telecommunications systems. In fact, several carriers (WorldCom and Global Crossing, among others) have declared bankruptcy over the past two years, or are otherwise in financial distress. We anticipate that some or all of these companies will need to repay or restructure significant portions of their debt in the future. Any failure in this task could materially harm their businesses, and consequently ours. As long as these companies are focused on debt concerns, they are less likely to acquire telecommunications systems.



*We face risks associated with our customers' failure to meet their financial obligations to us*

Although we perform ongoing credit evaluations of our customers and manage and monitor balances owed us, we are not able to predict changes in their financial condition, particularly during the current economic downturn. Based on our estimates as to the quality of our accounts receivable, we maintain allowances for doubtful accounts for estimated losses resulting from the inability or unwillingness of our customers to make required payments. However, if our customers are unable to meet their financial obligations to us as a result of bankruptcy or deterioration in their operating results or financial condition, our trade receivables may not be recoverable and, in addition to not receiving the amounts owed, we may be required to record additional bad debt expenses, which could materially affect our financial condition and operating results.

Moreover, the current economic slowdown has exacerbated our vulnerability to demand fluctuations for our communications products. Specifically, we have experienced and remain vulnerable to material order cancellations, modifications and reschedulings, all of which, among other things, reduce our sales and impair our ability to achieve financial targets and predict financial results for future periods.

**We depend on recovery and long-term growth in our markets for our success**

*If the Internet does not continue to grow as expected, our 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 growth of the Internet as a global communications system. As part of that growth, we are relying on increasing demand for high-content voice, text and other data delivered over high-speed connections (i.e., high bandwidth communications). As Internet usage and bandwidth demand increase, so does the need for advanced optical networks to provide the required bandwidth. Without Internet 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 generally increasing demand for Internet access is apparent, less evident is the demand for widespread high bandwidth service. Moreover, multiple service providers compete to supply the existing demand. Also, currently, fiberoptic networks have significant excess capacity. The combination of a large number of service providers and excess network capacity has resulted in severely depressed prices for bandwidth. Until pricing recovers, service providers have less incentive to install equipment and, thus, little need for many of our communications products. Ultimately, should long-term expectations for Internet growth and bandwidth demand not be realized, our business would be significantly harmed.

*We depend on stability or growth in the markets for our products outside communications for growth in the sales of this group of products*

The growth of our display products, light interference pigment and other optical technology businesses, as well as our commercial laser products, depends significantly on the continued stability or growth and success of these markets. Among other things, advances in the technology used in computer monitors, televisions, conference room projectors and other display devices have led to increased demand for flat panel displays and projection displays. We cannot be certain that growth in these markets or our other optical technology markets will continue. In recent periods sales of these products in the aggregate have grown, although certain products have shown stable sales or declines that were considerably less than we experienced in our communications products. Moreover, we cannot predict the impact of technological or other changes in these industries on our business. In addition, each of these industries is subject to pricing pressure, consolidation and realignment as industry participants react to shifting customer requirements and overall demand. There is a risk that any consolidation or realignment could adversely affect our business, and pricing pressure can adversely affect our operating results.

## **Our business and financial condition could be harmed by our long-term growth strategy**

*If we fail to manage or anticipate our long-term growth, our business will suffer*

Notwithstanding the recent decline, the optical networking and thin film coating businesses have historically grown, at times rapidly, and we have grown accordingly. We have made and, although we remain in an industry downturn, 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. If we fail to manage or anticipate our future growth effectively, particularly during periods of industry decline, our business will suffer.

*Difficulties associated with integrating our acquired businesses could harm our overall business operations*

Our strategy includes acquisition of other companies, technologies and product lines to complement our internally developed products. In fact, we are the product of several significant mergers and acquisitions, including, among others, the combination of Uniphase Corporation and JDS FTEL to form JDS Uniphase Corporation on June 30, 1999, and the subsequent acquisitions of OCLI on February 4, 2000, E-TEK on June 30, 2000, SDL on February 13, 2001 and Datacom on December 28, 2001. We expect to continue this strategy. Critical to the success of this strategy and, ultimately, our business as a whole, is the orderly, efficient and effective integration of acquired businesses into our organization. If our integration efforts are unsuccessful, our businesses will suffer. Successful integration depends upon, among other things:

- our ability to integrate the manufacture, sale and marketing of the products of the acquired businesses with our existing products;
- our ability to complete product development programs and consolidate research and development efforts;
- our ability to retain key personnel of the acquired businesses and effectively integrate their personnel with our own;
- our ability to realize any expected cost savings and other expected benefits resulting from acquisitions;
- our ability to consolidate and reorganize operations with those of the acquired businesses; and
- our ability to expand our information technology systems (including accounting and financial systems, management controls and procedures).

Our ongoing integration efforts may not be successful and may result in unanticipated operational problems, expenses and liabilities, as well as the diversion of management attention.

*Our acquisitions are costly*

Our acquisitions are costly. For example, we incurred direct costs of \$12.0 million associated with the combination of Uniphase Corporation and JDS FTEL, \$8.2 million associated with the acquisition of OCLI, \$32.3 million associated with the acquisition of E-TEK, \$44.6 million associated with the acquisition of SDL and \$6.3 million associated with the acquisition of Datacom. In addition, we paid certain SDL executives \$300.9 million in consideration of their agreement to amend their change of control agreements and enter into non-compete agreements with us. We may incur additional material charges in subsequent quarters to reflect additional costs associated with these or other mergers and acquisitions. Moreover, to the extent an acquired business does not perform as expected, we have and may continue to incur substantial additional unforeseen costs to develop, restructure or dispose of such business. Nonperforming or underperforming acquired businesses may also divert management attention, lower the value of our common stock and weaken our financial condition.

*If we fail to commercialize new product lines, our business will suffer*

We intend to continue to develop new product lines and improve existing ones to meet our customers' diverse and changing needs. New product development activities are expensive, with no guarantee of success. Risks associated with our development of new products and improvements to existing products include the risk that:

- we may fail to complete the development of a new or improved product;
- our customers may not purchase the new or improved product because, among other things, the product is too expensive, is defective in design, manufacture or performance, is uncompetitive, or because the product has been superseded by another product or technology; or
- we may fail to anticipate or respond to new technologies that could have a disruptive impact on our business.

Nonetheless, if we fail to successfully develop and introduce new products and improve existing ones, our business will suffer.

Furthermore, new products require increased sales and marketing, customer support and administrative effort to support anticipated increased levels of operations. We may not be successful in creating this infrastructure, or we may not realize increased sales sufficient to offset the additional expenses resulting from this increased infrastructure. In connection with our recent acquisitions, we have incurred expenses in anticipation of developing and selling new products. Our operations may not achieve levels sufficient to justify the increased expense levels associated with these new businesses.

#### **Accounting treatment of our acquisitions has impacted our operating results**

*Our operating results are adversely impacted by purchase accounting treatment, primarily due to the impact of amortization of and other reductions in the carrying value of goodwill and other intangible assets*

Under GAAP, we accounted for most of our acquisitions using the purchase method of accounting. Under purchase accounting, we recorded: (i) the market value of our common shares and the exchangeable shares of our subsidiary, JDS Uniphase Canada Ltd., issued in connection with acquisitions, (ii) the fair value of the stock options assumed, if any, and (iii) the amount of direct transaction costs as the cost of the acquisitions. The total purchase cost was allocated to the individual assets acquired and liabilities assumed, including various identifiable intangible assets such as in-process research and development, acquired technology, acquired trademarks and trade names and acquired workforce, based on their respective fair values. We allocated the excess of the purchase cost over the fair value of the net identifiable assets to goodwill. We were carrying a large amount of goodwill on our balance sheets because of our significant acquisitions as accounting rules require that goodwill be recorded based on stock prices at the time merger agreements are executed and announced, and our merger agreements were negotiated and announced at times when market valuations were considerably higher than at present.

The impact of purchase accounting on our operating results is significant. We recorded \$3.7 million and \$15.9 million of amortization of purchased intangibles other than goodwill during the third quarter and first nine months of fiscal 2003, respectively, and \$113.3 million and \$333.6 million during the third quarter and first nine months of fiscal 2002, respectively. During the third quarter and first nine months of fiscal 2002, we recorded \$260.4 million and \$924.7 million of amortization of goodwill, respectively (goodwill is no longer amortized beginning July 1, 2002 in accordance with SFAS No. 142, as discussed further below).

Beginning in the second half of fiscal 2001 and through the end of the third quarter of fiscal 2003, we evaluated the carrying value of our long-lived assets, including our goodwill and other intangible assets. The assessment was performed because of the significant negative industry and economic trends

affecting our operations and expected future sales. As we determined that the continued decline in market conditions within our industry was significant and prolonged, we recorded \$0 and \$225.7 million of reductions in goodwill in the third quarter and first nine months of fiscal 2003, respectively, and \$2,871.5 million and \$4,167.8 million in the third quarter and first nine months of fiscal 2002, respectively. In addition, we recorded \$11.2 million and \$165.8 million of reductions in other long-lived assets in the third quarter and first nine months of fiscal 2003, and \$1,012.6 million and \$1,025.9 million in the third quarter and first nine months of fiscal 2002, respectively (please refer to "Note 8. Reduction of Goodwill" and "Note 9. Reduction of Other Long-Lived Assets" of Notes to Condensed Consolidated Financial Statements for further discussion). If the economic downturn continues for longer than expected, it is possible that our operating results would be adversely affected by additional write-downs of our goodwill and other intangible assets if impairment indicators exist.

**Changes in accounting rules have had and may continue to have a material effect on our financial results**

*Implementation of SFAS No. 141 and SFAS No. 142 could affect our operating results*

In June 2001, the FASB issued SFAS No. 141, "Business Combinations," and SFAS No. 142, "Goodwill and Other Intangible Assets." Upon adoption of SFAS No. 141 on July 1, 2002, we reclassified \$10.8 million of separately recognized intangible assets, consisting of acquired assembled workforce, to goodwill because they did not meet the criteria for an intangible asset under SFAS No. 141. Upon adoption of SFAS No. 142 on July 1, 2002, amortization of goodwill ceased. Instead, goodwill is reviewed for impairment under a two-step process annually, or more frequently if certain events or changes in circumstances indicate that the carrying value of the goodwill may not be recoverable. As part of our review of financial results, we noted indicators that the carrying value of our goodwill may not be recoverable and performed an impairment review of our goodwill. The assessments were performed because of the prolonged economic downturn affecting our operations and revenue forecasts. As we determined that the continued decline in market conditions within our industry was significant and prolonged, we evaluated our goodwill in accordance with SFAS No. 142 and recorded impairment charges \$225.7 million during the first nine months of fiscal 2003 (please refer to "Note 8. Reduction of Goodwill" of Notes to Condensed Consolidated Financial Statements for further discussion). If economic conditions in our industry continue to deteriorate and adversely affect our business and revenue forecasts, we could be required to record additional impairment charges related to goodwill if impairment indicators exist, which could have a material adverse effect on our results of operations.

In August 2001, the FASB issued SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets." SFAS No. 144 requires us to perform impairment analysis on our long-lived assets to be held and used (other than goodwill) whenever events or changes in circumstances indicate the carrying amount may not be recoverable. An impairment loss will be recognized if the carrying amount of a long-lived asset exceeds its fair value. SFAS No. 144 retains the fundamental provisions of SFAS No. 121 related to (i) the recognition and measurement of the impairment of long-lived assets to be held and used, and (ii) the measurement of long-lived assets to be disposed of by sale. As SFAS No. 144 excludes goodwill, certain long-lived assets may be subject to impairment charges sooner than they would have been recorded under SFAS No. 121. During the third quarter and first nine months of fiscal 2003, we recorded impairment charges of \$11.2 million and \$165.8 million, respectively, related to our long-lived assets as a result of our SFAS No. 144 analysis. If economic conditions in our industry continue to deteriorate and adversely affect our business, we could be required to record additional impairment charges related to our long-lived assets if impairment indicators exist, which could have a material adverse effect on our results of operations and financial condition.

*Implementation of SFAS No. 146 could affect our financial results as we continue our Global Realignment Program*

In June 2002, the FASB issued SFAS No. 146, "Accounting for Costs Associated with Exit or Disposal Activities," which addresses financial accounting and reporting for costs associated with exit or disposal activities and supersedes Emerging Issues Task Force ("EITF") Issue No. 94-3, "Liability Recognition for Certain Employee Termination Benefits and Other Costs to Exit an Activity (including Certain Costs Incurred in a Restructuring)." SFAS No. 146 requires companies to recognize costs associated with exit or disposal activities when they are incurred rather than at the date of a commitment to an exit or disposal plan. In addition, SFAS No. 146 establishes that fair value is the objective for initial measurement of the liability. We adopted SFAS No. 146 on January 1, 2003. We have incurred total charges of \$1.1 billion in connection with our Global Realignment Program from inception through the end of the third quarter of fiscal 2003. As we continue our efforts to further restructure our businesses under our Global Realignment Program, we expect to incur additional charges under SFAS No. 146, which could have a material adverse effect on our results of operations and financial condition.

*Our financial results could be affected by potential changes in the accounting rules governing the recognition of stock-based compensation expense*

We measure compensation expense for our employee stock compensation plans under the intrinsic value method of accounting prescribed by APB Opinion No. 25, "Accounting for Stock Issued to Employees." In addition, in accordance with SFAS No. 123, "Accounting for Stock-Based Compensation," we provide disclosures of our operating results as if the fair value method of accounting had been applied in our Annual Report on Form 10-K. Beginning in the third quarter of fiscal 2003, we provide such disclosures in our Quarterly Reports on Form 10-Q in accordance with SFAS No. 148, "Accounting for Stock-Based Compensation—Transition and Disclosure." Had we accounted for our compensation expense under the fair value method of accounting prescribed by SFAS No. 123, the charges would have been significant, totaling \$625.4 million during the first nine months of fiscal 2003 and \$564.0 million during fiscal 2002. Currently, the FASB is considering changes to accounting rules concerning the recognition of stock option compensation expense. If these proposals are implemented, we and other companies may be required to measure compensation expense using the fair value method, which would adversely affect our results of operations by increasing our losses by an amount equal to such stock option charges.

### **Our total net sales are dependent upon a few key customers**

A few large customers account for most of our total net sales. During the third quarter of fiscal 2003, Texas Instruments and SICPA accounted for 13% and 11% of our total net sales, respectively. During the first nine months of fiscal 2003, Texas Instruments accounted for 13% of our total net sales. During the third quarter and first nine months of fiscal 2002, no customer accounted for more than 10% of our total net sales. We expect that, for the foreseeable future, sales to a limited number of customers, such as Texas Instruments and SICPA, will continue to account, alone or in the aggregate, for a high percentage of our total net sales. Many of our customers are currently experiencing significant revenue declines and, in recent periods, have significantly reduced their orders from us. If such reductions continue, our business will continue to be harmed.

### **Any failure to remain competitive would harm our operating results**

*If we are not competitive, our operating results could suffer*

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 competitors and the threat of future competition from new and emerging companies in all aspects of our business. Among our current competitors are our customers, who are vertically integrated and either manufacture and/or are capable of manufacturing some or all of the products we sell to them. In addition to our current competitors, we expect that new competitors providing niche, and potentially broad, product solutions will increase in the future. While the current economic downturn has reduced the overall level of business in our industry, the competition remains fierce. To remain competitive in both the current and future business climates, we believe we must maintain a substantial commitment to research and development, improve the efficiency of our manufacturing operations, and streamline our marketing and sales efforts, as well as customer service and support. Under our Global Realignment Program, we have ongoing initiatives in each of these areas. However, our efforts to remain competitive as we continue to implement our Global Realignment Program may be unsuccessful. Among other things, we may not have sufficient resources to continue to make the investments necessary to remain competitive, or we may not make the technological advances necessary to remain competitive. In addition, notwithstanding our efforts, technological changes, manufacturing efficiencies or development efforts by our competitors may render our products or technologies obsolete or uncompetitive.

In the telecommunications industry, our telecommunications systems manufacturing customers evaluate our products and competitive products for deployment in their telecommunications systems. Similarly, telecommunications carrier customers evaluate our customers' system products and competitive products for system installation. Any failure of us to be selected by our customers, or our customers to be selected by their customers, can significantly harm our business.

Our other optical technology businesses are also susceptible to changing technologies and competition. Growth in the demand for our products within these markets will depend upon our ability to compete with providers of lower cost, higher performance products by developing more cost-effective processes and improving our products. In the security market, we face competition from alternative anti-counterfeiting devices such as holograms, embedded threads and watermarks.

*The telecommunications industry is consolidating*

The telecommunications industry is consolidating and we believe it will continue to consolidate in the future as companies attempt to strengthen or hold their market positions in an evolving industry. We anticipate that consolidation will accelerate as a result of the current industry downturn. In addition, industry consolidation may result in stronger competitors who are able to compete better as

sole-source vendors for customers. This could harm our business as we compete to be a single-vendor solution.

We also expect consolidation to occur among our telecommunications systems manufacturing customers and their telecommunications carrier customers. Consolidation at either level could result in, among other things, greater negotiating power for the consolidated companies with their suppliers in response to reduced competition, and reduced overall demand for telecommunications systems as the number of companies installing systems or providing services declines. Any of these results could reduce demand for our telecommunications products and increase pressure to reduce our prices and provide other concessions.

*Fiberoptic component average selling prices are declining*

Prices for telecommunications fiberoptic products generally decline over time as new and more efficient components and modules with increased functionality are developed, manufacturing processes improve and competition increases. The current economic downturn has exacerbated the general trend, as declining sales have forced telecommunications carriers and their suppliers to reduce costs, leading to increasing pricing pressure on our competitors and us. Weakened demand for optical components and modules has created an oversupply of these products, which has increased pressure on us to reduce our prices. To the extent this oversupply is not resolved in future periods, we anticipate continuing pricing pressure. Moreover, currently, fiberoptic networks have significant excess capacity. Industry participants disagree as to the amount of this excess capacity. However, to the extent that there is significant overcapacity and this capacity is not profitably utilized in future periods, we expect to face additional pressure to reduce our prices. Also, numerous telecommunications carriers (WorldCom and Global Crossing, among others) have declared bankruptcy over the past two years or are otherwise in financial distress. As carriers are eliminated from the marketplace, through bankruptcy or consolidation, system vendors lose customers, while remaining carriers are able to increase price pressures on system vendors since vendors have fewer customer alternatives. System vendors in turn will apply those pressures on us.

In response to pricing pressure, we must continue to: (i) timely develop and introduce new products that incorporate features that enable such products to be less price sensitive, (ii) increase the efficiency of our manufacturing operations, and (iii) generally reduce costs. Failure to do so could cause our sales and profit margins to decline, which would harm our business.

*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. In addition, our research and development efforts depend on hiring and retaining qualified engineers and other technical people. Competition for highly skilled technical people is extremely intense, and, the current economic downturn notwithstanding, we continue to face difficulty identifying and hiring qualified engineers in many areas of our business. 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 officers 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.

As a consequence of the current economic downturn and as part of our Global Realignment Program, we have reduced our global workforce to approximately 6,400 employees as of March 31, 2003. To date, we have not lost the services of any personnel through the announced reductions that have had, or which we expect will have, a material adverse effect on our business or financial condition. However, we cannot predict the impact our recent workforce reductions and any other reductions we

are compelled to make in the future will have on our ability to attract and retain key personnel in the future.

### **We have concerns regarding the manufacturing, quality and distribution of our products**

*If we do not achieve acceptable manufacturing volumes, yields and costs, our business will suffer*

Our success depends upon our ability to timely deliver products to our customers at acceptable volume and cost levels. The manufacture of our products involves highly complex and precise processes, requiring production in highly controlled and clean environments. Changes in our manufacturing processes or those of our suppliers, or inadvertent use of defective or contaminated materials by our suppliers or us, could significantly hurt our ability to meet our customers' product volume and quality needs. Moreover, in some cases, existing manufacturing techniques, which involve substantial manual labor, may not achieve the volume or cost targets necessary to be competitive. In these cases, we will need to develop new manufacturing processes and techniques, which are anticipated to involve higher levels of automation, to achieve these targets, and we will need to undertake other efforts to reduce manufacturing costs. Currently, we are devoting significant funds and other resources to: (i) develop advanced manufacturing techniques to improve product volumes and yields and reduce costs, and (ii) realign some of our product manufacturing facilities to locations offering optimal labor costs. These efforts may not be successful. If we fail to achieve acceptable manufacturing yields, volumes and costs, our business will be harmed.

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

Customers will not purchase any of our products, other than limited numbers of evaluation units, prior to qualification of the manufacturing lines for the products. Each new manufacturing line must go through rigorous qualification 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. Moreover, under our Global Realignment Program, we are consolidating our worldwide manufacturing operations into centralized locations, such as our facilities in Shenzhen, China. Among other things, we are moving the manufacturing of some of our products to other facilities. The manufacturing lines for these products at the consolidated facilities must undergo qualification before commercial shipment of these products can recommence. The qualification process, whether for new products or in connection with the relocation of manufacturing of current products, determines whether the manufacturing line achieves the customers' quality, performance and reliability standards. Delays in qualification can cause a product to be dropped from a long-term supply program and result in significant lost sales opportunities. We may experience delays in obtaining qualification of our manufacturing lines and, as a consequence, our operating results and customer relationships would be harmed.

*If our products fail to perform, our business will suffer*

Our business depends on manufacturing excellent products of consistently high quality. To this end, our products are rigorously tested for quality both by our customers and us. Nevertheless, our products are highly complex and our 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. 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 products in our Communications Products Group. Any significant product failure could result in lost future sales of the affected product and other products, as well as customer relations' problems, litigation and damage to our reputation.

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

The commercialization of certain of our non-telecommunications products may be delayed or made more costly due to required government and industry approval processes. 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 may not be able to enter into necessary strategic alliances to effectively commercialize our products*

We often rely on strategic alliances with other companies to commercialize some of our products in a timely or effective manner, primarily in our non-telecommunication businesses. Our current strategic alliance partners provide us with assistance in the marketing, sales and distribution of a diverse line of products. We may be unable to find appropriate strategic alliances in markets in which we have little experience, which could prevent us from bringing our products to market in a timely manner, or at all. For instance, we have a strategic alliance with SICPA, one of our major customers in the Thin Film Products Group, for the marketing and sale of our light interference pigments used to provide security features in currency, stamps, credit cards, passports and other specified value documents. Under a license and supply agreement, we rely exclusively on SICPA to market and sell to these markets worldwide. SICPA has the right to terminate the agreement if we breach it. If SICPA terminates our agreement or if it is unable to market and sell our light interference pigments successfully for the applications covered by the agreement, our business may be harmed and we may be unable to find a substitute marketing and sales partner or develop these capabilities ourselves. Also, if SICPA fails to meet its minimum purchase requirements under the agreement for any reason, our operating results would be adversely affected.

#### **Interruptions affecting our key suppliers could disrupt production, compromise our product quality and adversely affect our sales**

We obtain various components included in the manufacture of our products from single or limited source suppliers. A disruption or loss of supplies from these companies or price increases for these components would materially harm our results of operations, product quality and customer relationships. For example, we currently utilize a sole source for the crystal semiconductor chip sets incorporated in our solid-state microlaser products. We obtain lithium niobate wafers, gallium arsenide wafers, specialized fiber components and some lasers used in our telecommunications products primarily from limited source suppliers. These materials are important components of certain of our products and we currently do not have alternative sources for such materials. Also, we do not have long-term or volume purchase agreements with any of these suppliers, and these components may not in the future be available at reasonable prices in the quantities required by us, if at all, in which case our business could be materially harmed.

## **We face risks related to our international operations and sales**

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 in Europe and 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;
- 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
- potentially adverse tax consequences.

Net sales to customers outside North America accounted for 30% of our total net sales for both the third quarter and first nine months of fiscal 2003, and 22% and 26% of our total net sales for the third quarter and first nine months of fiscal 2002, respectively. We expect that sales to customers outside North America will continue to account for a significant portion of our total net sales. 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 have increasing manufacturing operations in China, which expose us to risks inherent in doing business in China**

As a result of our Global Realignment Program, 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 Global Realignment Program, 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.

Currently, we expect to export the majority of the products manufactured at our facilities in China. Accordingly, upon application to and approval by the relevant government authorities, we will not be subject to certain of China's taxes and are exempt from customs duties on imported components or materials and exported products. We are required to pay income taxes in China, subject to certain tax relief. We may become subject to other taxes in China or may be required to pay customs duties in the future. In the event that we are required to pay other taxes or customs duties in China, our results of operations could be materially and adversely affected.

**Our operations could be adversely affected by the continued global spread of severe acute respiratory syndrome ("SARS")**

The current outbreak of SARS has infected thousands of people worldwide and disrupted businesses, primarily in Asia. As a result of this outbreak, the World Health Organization has recently issued travel warnings to certain regions of China, including Beijing and the province of Guangdong. We currently have manufacturing, research and development and administrative functions in Beijing, Fuzhou and Shenzhen (which is located in the province of Guangdong). So far, we have not experienced significant disruptions to our operations in China as a result of SARS. However, if the outbreak of SARS continues to affect China or other countries in which we, our customers or suppliers have significant operations, our businesses could be adversely affected.

**Our business could be adversely affected by certain unexpected catastrophic events**

*We may encounter natural disasters, which could harm our financial condition and results of operations*

Our U.S. headquarters, including some of our research and development and manufacturing facilities, are located in California near major earthquake faults. Any damage to our facilities in California or other locations as a result of an earthquake, fire or any other natural disasters could disrupt our operations and have a material adverse impact on our business, operating results and financial condition.

*Our business is subject to the risks of terrorist acts and acts of war*

Terrorist acts or acts of war may disrupt our operations, as well as our customers' operations. The terrorist attacks on September 11, 2001 created many economic and political uncertainties, and intensified the global economic downturn that we are currently facing. The current Middle East conflict or any future terrorist activities could further weaken the global economy and create additional uncertainties, forcing our customers to further reduce their capital spending or cancel orders from us, which could have a material adverse impact on our business, operating results and financial condition.

*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, such as our Oracle 11i upgrade, and expect to incur significant costs and divert significant management and other resources relating to our upgrade efforts. Among other things, we recently unified most of our manufacturing, accounting, sales and human resource data systems using an Oracle platform, and 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. As the downturn in the communications industries deepened and continued over the past two years, many companies have turned to their intellectual property portfolios as an alternative revenue source. 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 are invalid. However, as the downturn continues, the level of patent infringement disputes in which we are engaged

and expect to be engaged for the foreseeable future has increased. While in the past the settlement and disposition of these disputes has not had a material adverse impact on our business or financial condition, 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, including securities 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.

**We may have difficulty obtaining director and officer liability insurance in acceptable amounts for acceptable rates**

Like most other public companies, we carry insurance protecting our officers and directors against claims relating to the conduct of our business. This insurance covers, among other things, the costs incurred by companies and their management to defend against and resolve claims relating to management conduct and results of operations, such as securities class action claims. These claims typically are extremely expensive to defend against and resolve. Hence, as is customary, we purchase and maintain insurance to cover some of these costs. We pay significant premiums to acquire and

maintain this insurance, which is provided by third-party insurers, and we agree to underwrite a portion of such exposures under the terms of the insurance coverage. Over the last several years, the premiums we have paid for this insurance have increased substantially. One consequence of the current economic downturn and decline in stock prices has been a substantial increase in the number of securities class actions and similar claims brought against public corporations and their management, including our company and certain of our current and former officers and directors. Many, if not all, of these actions and claims are, and will likely continue to be, at least partially insured by third-party insurers. Consequently, insurers providing director and officer liability insurance have in recent periods sharply increased the premiums they charge for this insurance, raised retentions (that is, the amount of liability that a company is required to pay to defend and resolve a claim before any applicable insurance is provided), and limited the amount of insurance they will provide. Moreover, insurers typically provide only one-year policies. The insurance policies that may cover the current securities lawsuits against us have a \$10.0 million retention. As a result, the costs we incur in defending the current securities lawsuits against us may not be reimbursed until they exceed \$10.0 million. The policies that would cover any future lawsuits may not provide any coverage to us and may cover the directors and officers only in the event we are unwilling or unable to cover their costs in defending against and resolving any future claims. As a result, our costs in defending any future lawsuits could increase significantly. Each year we negotiate with insurers to renew our director and officer insurance. Particularly in the current economic environment, we cannot assure you that in the future we will be able to obtain sufficient director and officer liability insurance coverage at acceptable rates and with acceptable deductibles and other limitations. Failure to obtain such insurance could materially harm our financial condition in the event that we are required to defend against and resolve any future or existing securities class actions or other claims made against us or our management arising from the conduct of our operations. Further, the inability to obtain such insurance in adequate amounts may impair our future ability to retain and recruit qualified officers and directors.

**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 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 sales, 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 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, Adept and ADVA, and have limited funds invested in private venture funds. All three companies have experienced severe stock price declines during the 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. During the first nine months of fiscal 2003, we have written down the value of our Adept investment to \$0 and recorded impairment charges of \$25.0 million. During the first nine months of fiscal 2002, we recorded impairment charges of \$84.5 million related to Nortel and \$13.9 million related to ADVA. In addition to our investments in

public companies, we have in the past and expect to continue to make investments in privately held companies for strategic and commercial purposes. For example, we had a commitment to provide additional funding of up to \$31.5 million to certain venture capital investment partnerships as of March 31, 2003. In recent months several 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 write down the value of the investments, which could materially harm our results of operations or financial condition.

**If we fail to obtain additional capital at the times, in the amounts and upon the terms required, our business could suffer**

We have devoted substantial resources for new facilities and equipment in our business operations. Currently we are incurring substantial costs associated with restructuring our business and operations under our Global Realignment Program. Although we believe our existing cash balances and available lines of credit will be sufficient to meet our capital requirements at least for the next 12 months, we may be required to seek additional equity or debt financing to compete effectively in our markets. We cannot precisely determine the timing and amount of such capital requirements, which will depend on several factors, including, among others, our acquisitions, the success of our Global Realignment Program and the demand for our products and products under development. Such additional financing may not be available when needed, or if available, may not be on terms satisfactory to us or may be dilutive to our stockholders.

**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.

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.

#### **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 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" or similar words. These forward-looking statements include any statements we make, or implications suggested by statements we make, and include, but are not limited to:

- the impact on our results of operations, business or financial condition of new accounting pronouncements—SFAS No. 144, SFAS No. 146, SFAS No. 148, Interpretation No. 45 and Interpretation No. 46;
- our beliefs and expectations regarding the materiality of the \$18.0 million overstatement of deferred tax assets;
- our beliefs regarding the benefits to the Company from the acquisitions of OptronX's transceiver/transponder unit and LA Label;
- our expectations regarding the significance of our non-communications sales to our overall revenue;
- our expectations regarding our future levels of cancellation revenue;
- our expectations regarding the levels of telecommunications carriers' capital spending;
- our expectations and beliefs regarding future levels of gross margin, R&D and SG&A expenses;
- estimates and assumptions we make in support of our accounting policies, including, without limitations, the reductions of goodwill and other long-lived assets;
- the amount of and our ability to realize our deferred tax assets and the effect of deferred tax assets recorded for assumed employee stock options on our tax provision or benefit for income taxes recorded in future periods;
- the value of our tax provision for income taxes;

- our beliefs regarding the merits and outcome of litigation, including, without limitation, the pending securities class actions and related litigation;
- our foreign exchange contracts and any potential gains or losses;
- our current and projected inventory-related charges;
- the future prospects for and growth of us and our industry, including, without limitation: (i) the extent and duration of the current economic downturn and its impact on our results of operations, business and financial condition; (ii) the timing and extent of any recovery from such downturn; (iii) the viability, development and growth of new fiberoptic telecommunications markets, including the metro and fiber to the curb markets; and (iv) the benefits and opportunities for us and others in our industry provided by such new markets;
- the implementation of the Global Realignment Program, the timing and level of cost reductions and other benefits we expect to receive as a result of the Global Realignment Program, and the expected cost to complete the Global Realignment Program, including, without limitation: (i) the level and timing of the expected workforce reductions and site closures; (ii) the timing to complete the disposition of assets and facilities, including, among other things, the timing to exit lease commitments; (iii) the benefits we expect to receive from the



elimination and consolidation of research and development programs and manufacturing facilities; and (iv) the benefits we expect to receive from integrating our sales force and restructuring our customer service programs;

- our expectations regarding the cash we will use in fiscal 2003, as well as the sufficiency of our existing cash balances and investments, together with available lines of credit, to meet our liquidity and capital spending requirements for future periods;
- the cost to complete our acquired in-process research and development; and
- the expected level of patent infringement cases.

Management cautions that forward-looking statements are subject to risks and uncertainties that could cause our actual results to differ materially from those projected in such forward-looking statements. These risks and uncertainties include, among other things, the risks that: (i) the current economic downturn may be more severe and prolonged than we can anticipate and, notwithstanding our projections, beliefs and expectations for our business, may cause our business and financial condition to suffer; (ii) due to the current economic slowdown in general, and setbacks in our customers' businesses in particular, predicting our financial performance and our success for future periods is far more difficult than in previous periods; (iii) our ongoing integration and restructuring efforts, including, among other things, the Global Realignment Program, may not be successful in achieving their expected 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; (iv) increasing pricing pressure, as the result of the economic downturn and competitive factors, may harm our revenue and profit margins; (v) our research and development programs may be insufficient or too costly or may not produce new products with performance, quality, quantity and price levels satisfactory to our customers; and (vi) our ongoing efforts to reduce product costs to our customers through, among other things, automation, improved manufacturing processes and product rationalization may be unsuccessful. Further, our future business, financial condition and results of operations could differ materially from those anticipated by such forward-looking statements and are subject to risks and uncertainties including the risks set forth above. Moreover, neither we nor any other person assumes responsibility for the accuracy and completeness of the forward-looking statements. We are under no duty to update any of the forward-looking statements after the date of this Quarterly Report on Form 10-Q to conform such statements to actual results or to changes in our expectations.

### **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 sales 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.

We enter into foreign exchange forward contracts on behalf of our Australian, Canadian and European subsidiaries. These forward contracts offset the impact of U.S. dollar currency fluctuations on certain assets and liabilities.

The foreign exchange forward contracts we enter into 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 agency bonds. 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**

#### **Evaluation of Disclosure Controls and Procedures:**

As of March 31, 2003, an evaluation was performed under the supervision and with the participation of our management, including Jozef Straus, Chief Executive Officer, and Ronald C. Foster, Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures. Based on that evaluation, our management, including the Chief Executive Officer and Chief Financial Officer, concluded that our disclosure controls and procedures were effective as of March 31, 2003.

#### **Changes in Internal Controls:**

There have been no significant changes in our internal controls or in other factors that could significantly affect internal controls subsequent to the date of their evaluation.

## PART II—OTHER INFORMATION

### Item 1. Legal Proceedings

#### The Securities Class Actions:

Beginning on March 27, 2002, the first of numerous federal securities class actions was filed against the Company and several of its current and former officers and directors. On July 26, 2002, the Northern District of California consolidated all the securities actions then filed in or transferred to that court under the title *In re JDS Uniphase Corporation Securities Litigation*, Master File No. C-02-1486 CW, and appointed the Connecticut Retirement Plans and Trust Funds as lead plaintiff.

An amended consolidated complaint was filed on October 11, 2002. It purports to be brought on behalf of a class consisting of those who acquired the Company's common stock from July 27, 1999 through July 26, 2001, as well as on behalf of subclasses consisting of those who acquired the Company's common stock pursuant to its acquisitions of OCLI, E-TEK and SDL. The complaint seeks unspecified damages and alleges various violations of the federal securities laws, specifically Sections 10(b), 14(a), 20(a) and 20A of the Securities Exchange Act of 1934 and Sections 11, 12(a)(2), and 15 of the Securities Act of 1933. In addition, it named one of the Company's stockholders as a defendant. On December 13, 2002, the Company moved to dismiss the amended consolidated complaint. On March 14, 2003, the court dismissed the complaint with leave to amend and set a schedule for the filing of an amended complaint. No trial date has been set.

On July 26, 2002, a securities class action captioned *Zelman v. JDS Uniphase Corp.*, No. 02-CV-6002, was filed in the District Court for the Southern District of New York. The complaint, brought by a stockholder purporting to represent a class of purchasers of certain GOALS debt securities issued by an investment bank during the period from March 6, 2001 through September 26, 2001, named the Company and several of its current and former officers and directors as defendants and alleged violations of the federal securities laws, specifically Sections 10(b) and 20(a) of the Securities Exchange Act of 1934, and Rule 10b-5. In addition, it named one of the Company's stockholders as a defendant. The action was transferred to the Northern District of California on September 11, 2002, and assigned a Northern District case number, No. C-02-4656 MJJ. On October 31, 2002, the district court related the action to *In re JDS Uniphase Corporation Securities Litigation*, but did not consolidate the two actions. On January 7, 2003, the Court appointed Shirley Zelman lead plaintiff. The plaintiff has agreed that the Company need not respond to the complaint at this time. No trial date has been set.

#### The Derivative Actions:

Eleven derivative actions purporting to be brought on the Company's behalf have been filed in state and federal courts against several of its current and former officers and directors. Some of these actions also named its independent auditors, Ernst & Young LLP, as a defendant. All were based on the same factual allegations and circumstances as the purported securities class actions and alleged state law claims for breach of fiduciary duty, misappropriation of confidential information, waste of corporate assets, contribution and indemnification, insider trading, abuse of control, gross mismanagement and unjust enrichment. The actions seek unspecified damages and no trial date has been scheduled in any of them. Several of the actions have been consolidated, resulting in the following surviving actions: *In re JDS Uniphase Corporation Derivative Litigation*, Master File No. CV806911, filed April 11, 2002, in California Superior Court for the County of Santa Clara; *Corwin v. Kaplan*, No. C-02-2020 CW, filed April 24, 2002, in the District Court for the Northern District of California; and *Cromas v. Straus*, Civil Action No. 19580, filed April 25, 2002, in the Delaware Court of Chancery for New Castle County.

In the *Corwin* case, the Company moved to dismiss on December 13, 2002. On March 14, 2003, the court dismissed the complaint with leave to amend and set a schedule for the filing of an amended complaint. No trial date has been set.

In *In re JDS Uniphase Corporation Derivative Litigation*, plaintiffs filed a consolidated amended derivative complaint on March 13, 2003. That complaint asserted claims for breach of fiduciary duty, waste of corporate assets, abuse of control, gross mismanagement, unjust enrichment, and constructive fraud against the Company and certain of its current and former officers and directors. The complaint also asserted claims for violation of California Corporations Code Sections 25402 and 25502.5 against defendants who sold the Company's common stock and asserted claims for breach of contract, professional negligence, and negligent misrepresentation against the Company's independent auditors, Ernst & Young LLP. On April 22, 2003, the Company moved to stay the state court actions pending resolution of the federal securities and federal derivative actions. The motion to stay is scheduled to be heard June 3, 2003. On April 28, 2003, the Company and certain other defendants filed demurrers to the complaint. The demurrers are scheduled to be heard July 22, 2003. No trial date has been set in either the state or federal court actions.

In the *Cromas* case, no proceedings have occurred to date.

#### The OCLI Shareholder Action:

On February 3, 2003, an action captioned *Pang v. Dwight*, No. 02-231989, was filed in California Superior Court for the County of Sonoma. The complaint was brought by a stockholder who purports to represent a class of former shareholders of OCLI who exchanged their OCLI common stock for the Company's common stock upon the Company's acquisition of OCLI in February 2000. The complaint named the former directors of OCLI as defendants and asserted causes of action for breach of fiduciary duty and breach of the duty of candor. The action seeks unspecified damages, and no trial date has been scheduled.

#### The SDL Shareholder Actions:

Three actions have been filed in California Superior Court for the County of Santa Clara by stockholders purporting to represent a class of former shareholders of SDL who exchanged their SDL common stock for the Company's common stock upon the Company's acquisition of SDL in February 2001. The complaints named the former directors of SDL as defendants and asserted causes of action for breach of fiduciary duty and breach of the duty of disclosure and seek unspecified damages. These actions included: *Cook v. Scifres*, No. CV814824, filed February 18, 2003; *Anish v. Scifres*, No. CV815738, filed March 24, 2003; and *Vajdos v. Scifres*, No. CV816087, filed April 7, 2003. On April 4, 2003, the plaintiff in *Cook* moved to consolidate the actions and to appoint the law firm of Milberg Weiss as lead counsel for plaintiffs. A hearing on the motion is scheduled for June 24, 2003. No trial date has been scheduled. On May 5, 2003, the defendants in the *Cook* action petitioned the Judicial Council to coordinate the SDL actions with the OCLI action in Santa Clara County Superior Court.

The Company believes that the factual allegations and circumstances underlying these securities class actions, derivative actions, and the OCLI and SDL shareholder actions are without merit. The costs of defending these lawsuits have been and will continue to be significant. The defense of these lawsuits could also result in continued diversion of management's time and attention, which could prove to be disruptive to normal business operations. There can be no assurance that the Company will prevail or that the costs of defending these lawsuits will be covered by its insurance policies. 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 the Company's financial position, liquidity or results of operations.

## Item 2. Changes in Securities and Use of Proceeds

During the third quarter of fiscal 2003, the Company issued 9.7 million shares of its common stock in connection with the acquisition of Epion Corporation. These shares were issued as a result of certain milestones achieved as part of the initial purchase agreement. The issuance of the common stock was exempt from registration pursuant to Section 3(a)(10) of the Securities Act of 1933, as amended.

## 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, 2003, 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:

- (1) Christopher S. Dewees
- (2) Frederick Leonberger
- (3) Jozef Straus

## Item 6. Exhibits and Reports on Form 8-K

- (a) Exhibits:

Exhibit No.	Exhibit Description
3.1	Certificate of Amendment of Certificate of Designation of the Series A Preferred Stock.
3.2	Certificate of Amendment of Certificate of Designation of the Series B Preferred Stock.
10.1	Employment Agreement—Ronald C. Foster.
10.2	Retirement Agreement—Donald R. Scifres.
10.3	Retirement Agreement—Frederick Leonberger.
99.1	Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002—Jozef Straus.
99.2	Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002—Ronald C. Foster.

(b)

Reports on Form 8-K:

The Company filed two Current Reports on Form 8-K during the three months ended March 31, 2003. Information regarding the items reported on is as follows:

Date of Report	Item Reported on
February 5, 2003	Regulation FD disclosure in connection with an investor presentation delivered by the officers of the Company on February 5, 2003 that included written communication comprised of slides.
January 23, 2003	Regulation FD disclosure in connection with a conference call delivered by the officers of the Company on January 23, 2003 that included information contained in a script.

## 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

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(Registrant)

Date: May 13, 2003

/s/ Ronald C. Foster

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By: Ronald C. Foster  
Executive Vice President and Chief Financial Officer  
(Principal Financial and Accounting Officer)

**CERTIFICATION PURSUANT TO SECTION 302  
OF THE SARBANES–OXLEY ACT OF 2002**

I, Jozef Straus, Co–Chairman and Chief Executive Officer, certify that:

1. I have reviewed the periodic report of JDS Uniphase Corporation (the "Company") on Form 10–Q for the period ended March 31, 2003 as filed with the Securities and Exchange Commission (the "Report");
2. Based on my knowledge, the 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 the 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 Company as of, and for, the periods presented in the Report;
4. The Company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a–14 and 15d–14) for the Company and have:
  - a) designed such disclosure controls and procedures to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the Report is being prepared;
  - b) evaluated the effectiveness of the Company's disclosure controls and procedures as of a date within 90 days prior to the filing date of the Report (the "Evaluation Date"); and
  - c) presented in the Report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;
5. The Company's other certifying officer and I have disclosed, based on our most recent evaluation, to the Company's auditors and the audit committee of Company's Board of Directors (or persons performing the equivalent functions):
  - a) all significant deficiencies in the design or operation of internal controls which could adversely affect the Company's ability to record, process, summarize and report financial data and have identified for the Company's auditors any material weaknesses in internal controls; and
  - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls; and
6. The Company's other certifying officer and I have indicated in the Report whether there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

May 13, 2003

/s/ Jozef Straus

Date

By: Jozef Straus  
Co–Chairman and Chief Executive Officer



**CERTIFICATION PURSUANT TO SECTION 302  
OF THE SARBANES–OXLEY ACT OF 2002**

I, Ronald C. Foster, Executive Vice President and Chief Financial Officer (Principal Financial and Accounting Officer), certify that:

1. I have reviewed the periodic report of JDS Uniphase Corporation (the "Company") on Form 10–Q for the period ended March 31, 2003 as filed with the Securities and Exchange Commission (the "Report");
2. Based on my knowledge, the 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 the 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 Company as of, and for, the periods presented in the Report;
4. The Company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a–14 and 15d–14) for the Company and have:
  - a) designed such disclosure controls and procedures to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the Report is being prepared;
  - b) evaluated the effectiveness of the Company's disclosure controls and procedures as of a date within 90 days prior to the filing date of the Report (the "Evaluation Date"); and
  - c) presented in the Report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;
5. The Company's other certifying officer and I have disclosed, based on our most recent evaluation, to the Company's auditors and the audit committee of Company's Board of Directors (or persons performing the equivalent functions):
  - a) all significant deficiencies in the design or operation of internal controls which could adversely affect the Company's ability to record, process, summarize and report financial data and have identified for the Company's auditors any material weaknesses in internal controls; and
  - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls; and
6. The Company's other certifying officer and I have indicated in the Report whether there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

May 13, 2003

/s/ Ronald C. Foster

Date

By: Ronald C. Foster  
Executive Vice President and Chief Financial Officer  
(Principal Financial and Accounting Officer)

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## QuickLinks

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JDS UNIPHASE CORPORATION CONDENSED CONSOLIDATED BALANCE SHEETS (in millions)

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

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

JDS UNIPHASE CORPORATION NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

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

#### Item 3. Quantitative and Qualitative Disclosure About Market Risks

#### Item 4. Controls and Procedures

### PART II—OTHER INFORMATION

#### Item 1. Legal Proceedings

#### Item 2. Changes in Securities and Use of Proceeds

#### Item 3. Defaults upon Senior Securities

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

#### Item 5. Other Information

#### Item 6. Exhibits and Reports on Form 8-K

### SIGNATURES

CERTIFICATION PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

CERTIFICATION PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

EXHIBIT INDEX

JDS UNIPHASE CORPORATION  
(formerly Uniphase Corporation)  
CERTIFICATE OF AMENDMENT  
OF  
CERTIFICATE OF DESIGNATION  
OF THE  
SERIES A PREFERRED STOCK

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Pursuant to Section 151 of the General Corporation Law of the State of Delaware

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The undersigned officers of JDS Uniphase Corporation, a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), in accordance with the provisions of Section 103 thereof, DO HEREBY CERTIFY:

FIRST: That, no shares of the Series A Preferred Stock are outstanding and none will be issued.

SECOND: That, pursuant to the authority conferred upon the Board of Directors of the Corporation by its Restated Certificate of Incorporation (the "Certificate"), the said Board of Directors, at a duly called meeting held on February 6, 2003, at which a quorum was present and acted throughout, adopted the following resolutions, which resolutions remain in full force and effect on the date hereof setting forth an amendment of the Certificate of Designation of the Series A Preferred Stock of the Corporation:

RESOLVED, that pursuant to the authority vested in the Board of Directors in accordance with the provisions of the Certificate, the Board of Directors does hereby amend the Certificate of Designation of the Series A Preferred Stock ("Certificate of Designation") to decrease to 0 shares the number of Series A Preferred Stock from 100,000 shares of Series A Preferred Stock, having a par value of \$.001 per share and having the voting powers, designation, relative, participating, optional and other special rights, preferences and qualifications, limitations and restrictions that were set forth in the Certificate of Designation so that (i) such 100,000 shares shall resume the status which they had prior to the adoption of the Certificate of Designation and the resolutions contained therein, (ii) deemed undesignated authorized preferred stock, and (iii) the previously designated Series A Preferred Stock be eliminated.

THIRD: That said amendment was duly adopted in accordance with the provisions of Section 151 of the General Corporation Law of the State of Delaware.

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IN WITNESS WHEREOF, JDS Uniphase Corporation has caused this Certificate to be signed by its Co–Chairman and Chief Executive Officer and its Secretary this 6<sup>th</sup> day of February 2003.

JDS UNIPHASE CORPORATION

By: /s/ Jozef Straus, Ph.D  
Jozef Straus, Ph.D.  
Co–Chairman and Chief Executive Officer

By: /s/ Anthony R. Muller  
Anthony R. Muller  
Executive Vice President,  
Chief Financial Officer and Secretary  
(Principal Financing and Accounting Officer)

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JDS UNIPHASE CORPORATION  
(formerly Uniphase Corporation)  
CERTIFICATE OF AMENDMENT  
OF  
CERTIFICATE OF DESIGNATION  
OF THE VOTING POWERS, DESIGNATION,  
PREFERENCES AND RELATIVE, PARTICIPATING,  
OPTIONAL OR OTHER SPECIAL RIGHTS AND QUALIFICATIONS,  
LIMITATIONS AND RESTRICTIONS OF THE  
SERIES B PREFERRED STOCK

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Pursuant to Section 151 of the General Corporation Law of the State of Delaware

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The undersigned officers of JDS Uniphase Corporation, a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), in accordance with the provisions of Section 103 thereof, DO HEREBY CERTIFY:

FIRST: That, no shares of the Series B Preferred Stock have been issued.

SECOND: That, pursuant to the authority conferred upon the Board of Directors of the Corporation by its Restated Certificate of Incorporation (the "Certificate"), the said Board of Directors, at a duly called meeting held on February 6, 2003, at which a quorum was present and acted throughout, adopted the following resolutions, which resolutions remain in full force and effect on the date hereof setting forth an amendment of the Certificate of Designation of the Voting Powers, Designation, Preferences and Relative, Participating, Optional or Other Special Rights and Qualifications, Limitations and Restrictions of the Series B Preferred Stock of the Corporation:

RESOLVED, that pursuant to the authority vested in the Board of Directors in accordance with the provisions of the Certificate, the Board of Directors does hereby create, authorize and provide for an additional 400,000 shares out of its authorized class of 1,000,000 shares of preferred stock having a par value of \$.001 per share to be designated and issued as the Series B Preferred Stock, for an aggregate total of 500,000 shares of Series B Preferred Stock, having the voting powers, designation, relative, participating, optional and other special rights, preferences and qualifications, limitations and restrictions that are set forth in the Certificate of Amendment of Certificate of Designation of the Voting Powers, Designation, Preferences and Relative, Participating, Optional or Other Special Rights and Qualifications, Limitations and Restrictions of the Series B Preferred Stock; and

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RESOLVED, that pursuant to the authority vested in the Board of Directors in accordance with the provisions of the Certificate, the Board of Directors does hereby amend Section 1(A) of the Certificate of Designation of the Voting Powers, Designation, Preferences and Relative, Participating, Optional or Other Special Rights and Qualifications, Limitations and Restrictions of the Series B Preferred Stock to read in its entirety as follows:

**“1. Dividends and Distributions. (A) Subject to the prior and superior rights of the holders of any shares of any other Series of Preferred Stock or any other shares of stock of the Corporation ranking prior and superior to the shares of Series B Preferred Stock with respect to dividends, each holder of one one-hundred thousandth (1/100,000) of a share (a “Unit”) of Series B Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors out of funds legally available for that purpose, (i) quarterly dividends payable in cash on the last day of February, May, August and November in each year (each such date being a “Quarterly Dividend Payment Date”), commencing on the first Quarterly Dividend Payment Date after the first issuance of such Unit of Series B Preferred Stock, in an amount per Unit (rounded to the nearest cent) equal to the greater of (a) \$.01 or (b) subject to the provision for adjustment hereinafter set forth, the aggregate per share amount of all cash dividends declared on shares of the Common Stock since the immediately preceding Quarterly Dividend Payment Date, or, with respect to the first Quarterly Dividend Payment Date, since the first issuance of a Unit of Series B Preferred Stock, and (ii) subject to the provision for adjustment hereinafter set forth, quarterly distributions (payable in kind) on each Quarterly Dividend Payment Date in an amount per Unit equal to the aggregate per share amount of all non-cash dividends or other distributions (other than a dividend payable in shares of Common Stock or a subdivision of the outstanding shares of Common Stock, by reclassification or otherwise) declared on shares of Common Stock since the immediately preceding Quarterly Dividend Payment Date, or with respect to the first Quarterly Dividend Payment Date, since the first issuance of a Unit of Series B Preferred Stock. In the event that the Corporation shall at any time after June 22, 1998 (the “Rights Declaration Date”) (i) declare any dividend on outstanding shares of Common Stock payable in shares of Common Stock, (ii) subdivide outstanding shares of Common Stock or (iii) combine outstanding shares of Common Stock into a smaller number of shares, then in each such case the amount to which the holder of a Unit of Series B Preferred Stock was entitled immediately prior to such event under clause (b) of the preceding sentence shall be adjusted by multiplying such amount by a fraction the numerator of which shall be the number of shares of Common Stock that are outstanding immediately after such event and the denominator of which shall be the number of shares of Common Stock that were outstanding immediately prior to such event.”**

THIRD: That said amendment was duly adopted in accordance with the provisions of Section 151 of the General Corporation Law of the State of Delaware.

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IN WITNESS WHEREOF, JDS Uniphase Corporation has caused this Certificate to be signed by its Co–Chairman and Chief Executive Officer and its Secretary this 6<sup>th</sup> day of February 2003.

JDS UNIPHASE CORPORATION

By: /s/ Jozef Straus, Ph.D  
Jozef Straus, Ph.D.  
Co–Chairman and Chief Executive Officer

By: /s/ Anthony R. Muller  
Anthony R. Muller  
Executive Vice President,  
Chief Financial Officer and Secretary  
(Principal Financing and Accounting Officer)

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## EMPLOYMENT AGREEMENT

This Agreement, dated January 30, 2003 is between JDS Uniphase Corporation (the "Company") and Ronald C. Foster ("Employee").

### PREMISES

WHEREFORE,

1. Employee has been offered and desires to accept employment by Company; and
2. Company and Employee wish to memorialize the terms of Employee's employment relationship with a written Employment Agreement intended to supersede all other written and oral representations regarding Employee's employment with Company;

### AGREEMENT

NOW, THEREFORE, based on the foregoing premises and in consideration of the commitments set forth below, Employee and Company agree as follows:

#### 1. Definitions.

As used herein, the following terms are defined as follows:

##### a. "Cause" means:

- (i) willful malfeasance by Employee, which has a material adverse effect on the Company;
- (ii) substantial and continuing willful refusal by Employee to perform duties ordinarily performed by an employee in the same position and having similar duties as Employee;
- (iii) conviction of Employee for a felony or misdemeanor which would have a material adverse effect on the Company's goodwill if Employee is retained as an employee of the Company;
- (i) willful failure by Employee to comply with material policies and procedures of the Company including but not limited to the JDS Uniphase Corporation Ethics Policy and Policy Regarding Inside Information and Securities Transactions.

b. "Good Reason" means the occurrence of any of the events or conditions described in subsections (i) through (iv) below, provided however, that Employee provides the Company with thirty (30) days notice of termination for "Good Reason" pursuant to the provisions of Section 7 below, during which time the Company shall have an opportunity to cure

the occurrence or condition claimed to constitute "Good Reason"; and provided further, that such notice of resignation is submitted by Employee no later than sixty (60) days after the occurrence of the event or condition that Employee claims as the basis for termination for "Good Reason":

- (i) a material reduction in Employee's base salary without Employee's prior written consent; or
- (ii) a material adverse change in Employee's position, duties or responsibilities without Employee's prior written consent (for purposes of this subsection, a change in Employee's reporting structure or of the organizational structure of the finance functions of the Company shall not, in and of itself, constitute a material adverse change in Employee's position, duties or responsibilities); or
- (iii) an actual change in Employee's principal work location by more than 50 kilometers without Employee's prior written consent;
- (iv) a resignation by Employee occurring any time within 6 months of a Change of Control; or
- (v) failure by the Company to obtain from any successor company the assumption of the Company's obligations under this Agreement.

##### c. "Change of Control" means:

- (i) the acquisition by any person (or related group of persons), whether by tender or exchange offer made directly to the Company's stockholders, open market purchases or any other transaction or series of transactions, of Common Stock possessing sufficient voting power in the aggregate to elect an absolute majority of the members of the Company's Board of Directors;
- (ii) a merger or consolidation in which the Company is not the surviving entity, except for a transaction in which securities representing more than fifty percent (50%) of the total combined voting power of the surviving entity are held by persons who held Common Stock immediately prior to such merger or consolidation and those members of the Existing Board immediately prior to such merger or consolidation constitute a majority of the Board of Directors immediately after such merger or consolidation;

- (iii) any reverse merger in which the Company is the surviving entity but in which either securities representing more than fifty percent (50%) of the total combined voting power of the Company's outstanding securities are transferred to holders different from those who held such securities immediately prior to such merger or those members of the Existing Board immediately prior to such merger or consolidation do not constitute a majority of the Board of Directors immediately after such merger; or
- (iv) the sale, transfer or other disposition of all or substantially all of the assets of the Company (whether such assets are owned directly by the Company or indirectly through one or more operating subsidiaries).

**d. "Disabled" means a mental or physical disability, illness or injury, evidence by medical reports from a duly qualified medical practitioner, which renders the Employee unable to perform the essential duties of his or her position, and "Disability" has a corresponding meaning.**

**e. "Effective Date" means:**

- (i) in the event the Company terminates the employment of Employee, the date designated by the Company as the last day of Employee's employment;
- (ii) in the event the Employee resigns his or her employment with the Company, the date designated by the Company as the effective date of resignation;
- (iii) in the event the Employee dies, the date of death;
- (iv) in the event the Employee becomes Disabled, the date designated by the Company as the last day of Employee's employment.

**f. "New Hire Options" means those certain option rights to purchase an aggregate of 500,000 shares of the Company's Common Stock to be issued by the Company to Employee pursuant to Section 3 below.**

## **2. Position, Duties, Responsibilities**

**a. Position: Employee is employed by Company to render services to Company in the position of Executive Vice President and Chief Financial Officer, subject to the provisions of paragraph 3 below and commencing upon the date first written above. Employee shall perform such duties as are customarily required by such position and other such duties and responsibilities as may be assigned by the Chief Executive Officer from time to time.**

**b. Other Activities: Except upon the prior written consent of the Company, Employee will not (i) accept any other employment, or (ii) engage, directly or indirectly, in any other business activity (whether or not pursued for pecuniary advantage) that is or may be in conflict with, or that might place Employee in a conflicting position to that of, the Company.**

## **3. Compensation**

In consideration of the services to be rendered under this Agreement, and subject to the approval of the Compensation Committee of the Company's Board of Directors at its February 6, 2003 meeting:

**a. Company shall pay Employee a base annual salary of \$350,000, payable in accordance with the Company's payroll practices. Employee's salary will be reviewed from time to time in accordance with Company's established procedures for adjusting salaries for similarly situated employees.**

**b. Employee shall be entitled to participate in the Company's established incentive plan(s) for senior executives with a target bonus of 60% of Employee's base salary and a maximum bonus of up to 200% of Employee's target bonus. Employee shall be eligible to participate in Company's benefit plans and to receive prerequisites of employment as established by Company, and as may be amended from time to time in Company's sole discretion.**

**c. The Company shall issue to Employee the New Hire Options pursuant to the terms and conditions of the Company's 1993 Amended and Restated Flexible Stock Incentive Plan (the "Plan") with a grant date as of the date of commencement of employment specified in Section 2(a) above and priced at the closing price of JDS Uniphase on NASDAQ on the date of the grant. The rights and obligations of the Company and Employee with respect to the New Hire Options shall be governed by**

the terms of the Plan and the Grant Agreement for the New Hire Options, and shall vest 25% on the first anniversary of the grant and in equal quarterly installments thereafter such that the entire New Hire Option grant shall be fully vested in four years, subject to the possible acceleration of the exercisability of such options as provided in Sections 5.a., 5.e. and 5.g. below.

d. The Company shall pay Employee a one-time new hire bonus of \$30,000 (gross), which bonus shall be earned and payable with Employee's first paycheck following commencement of employment.

#### **4. Term**

The term (the "Term") of this Agreement shall commence on February 17, 2003 and shall expire on July 31, 2007 unless sooner terminated as provided herein (the date of termination of this Agreement, the "Expiration Date"). Notwithstanding the foregoing, on July 31 2007, and on the anniversary date of each one year period thereafter (a "Renewal Date") the Term will be automatically extended for an additional one-year period unless, not later than 180 days prior to such a Renewal Date, the Company provides written notice to Employee that it has elected not to extend the Term of this Agreement.

#### **5. Termination.**

a. **Termination Benefits Under Certain Circumstances.** If the Employee's employment is terminated, prior to the expiration of the Term, by the Company (other than for Cause) other than by the Company following a Change of Control, as the result of the Death or Disability of the Employee, or by the Employee for Good Reason other than Good Reason as that term is defined in Section 1(b)(iv) above, conditioned upon the Employee's executing and delivering to the Company a release of claims, reasonably acceptable to the Company, Employee will be entitled to the following benefits in full satisfaction of any statutory, contractual or common law entitlements which Employee has or could have as a result of the termination of the Term:

(i) the Company shall pay to the Employee, in one lump sum, an amount equal to (A) any accrued but unpaid wages, (B) two years' salary, at the Employee's annual salary in effect on the Effective Date, plus (C) two years' bonus (calculated based on the

average of the bonus awarded to Employee in each of the previous two years of employment by the Company or, if termination occurs prior to the completion of two years of employment, each such "missing" year calculated as 60% of Employee's base salary), minus any amounts to which Employee is otherwise entitled under any statutory or Company long or short term disability plan and minus any required withholdings or deductions;

(ii) Employee's right, title and entitlement to any unvested options or any other securities or similar incentives which have been granted or issued to Employee as of the Effective Date, which would have vested in the two year period immediately following the Effective Date, shall immediately vest, free from any restrictions (other than those imposed by applicable state and federal securities laws), provided that all such securities shall continue to be exercisable (if applicable) for 90 days from the Effective Date or until the term such securities would have otherwise expired (if applicable), whichever is earlier. Such payments and other consideration payable by the Company pursuant to this Section 5(a) shall be accepted by Employee, or his heirs as the case may be, in exchange for a full and complete release by Employee of all causes of action, claims or other rights that he may have against the Company arising in connection with his employment or pursuant to this Agreement. The Company shall have no obligations under this paragraph with respect to any termination of the Term for any reason other than as specified in the first sentence of this paragraph; and

(iii) should Employee elect COBRA benefits continuation following termination of employment the Company shall pay the full cost to Employee for the full 18 month COBRA period and the Company shall thereafter provide Employee, in one lump sum, an amount equal to the cost of reasonably comparable health insurance benefits for Employee and Employee dependents for a period of six (6) months. All amounts payable pursuant to this Section 5(a)(iii) shall be grossed- up to the extent such amounts are determined to be a taxable benefit.

b. **Termination For Cause:** This Agreement shall terminate immediately upon the termination of Employee for Cause. Thereafter, all obligations of Company under this Agreement shall cease.

c. **By Death:** Employee's employment shall terminate automatically upon the death of Employee. Company shall pay to Employee's beneficiaries or estate, as appropriate, the compensation set forth in Section 5.a. Thereafter, all obligations of Company under this Agreement shall cease. Nothing in this Section shall affect any entitlement of Employee's heirs to the benefits of any life insurance plan or other applicable benefits.

d. **By Disability:** If Employee suffers from a Disability, then, to the extent permitted by law, Company may terminate Employee's employment. Company shall pay to Employee the compensation set forth in Section 5.a. Thereafter, all of Company's obligations under this Agreement shall cease. Nothing in this Section shall affect Employee's rights under any disability plan in which he is a participant.

e. **Benefits in the Event of Employee's Termination following a Change of Control.** If the Employee's employment is terminated, prior to the expiration of the Term, by the

Company following a Change of Control, or by Employee for Good Reason as that term is defined in Section 1(b)(iv) above (i.e., Employee's resignation within six (6) months of a Change of Control), conditioned upon the Employee's executing and delivering to the Company a release of claims, reasonably acceptable to the Company, Employee will be entitled to the following benefits in full satisfaction of any statutory, contractual or common law entitlements which Employee has or could have as a result of the termination of the Term:

(i) the Company shall pay to the Employee, in one lump sum, an amount equal to (A) any accrued but unpaid wages, (B) three years' salary, at the Employee's annual salary in effect on the Effective Date, plus (C) three years' bonus (calculated based on the average of the bonus awarded to Employee in each of the previous two years of employment by the Company or, if termination occurs prior to the completion of three years of employment, each such "missing" year calculated as 60% of Employee's base salary), minus any amounts to which Employee is otherwise entitled under any statutory or Company long or short term disability plan and minus any required withholdings or deductions;

(ii) Employee's right, title and entitlement to any unvested options or any other securities or similar incentives which have been granted or issued to Employee as of the Effective Date, which would have vested in the three year period immediately following the Effective Date, shall immediately vest, free from any restrictions (other than those imposed by applicable state and federal securities laws), provided that all such securities shall continue to be exercisable (if applicable) for 90 days from the Effective Date or until the term such securities would have otherwise expired (if applicable), whichever is earlier. Such payments and other consideration payable by the Company pursuant to this Section 5(e) shall be accepted by Employee, or his heirs as the case may be, in exchange for a full and complete release by Employee of all causes of action, claims or other rights that he may have against the Company arising in connection with his employment or pursuant to this Agreement. The Company shall have no obligations under this paragraph with respect to any termination of the Term for any reason other than as specified in the first sentence of this paragraph; and

(iii) should Employee elect COBRA benefits continuation following termination of employment the Company shall pay the full cost to Employee for the full 18 month COBRA period and the Company shall thereafter provide Employee, in one lump sum, an amount equal to the cost of reasonably comparable health insurance benefits for Employee and Employee dependents for a period of six (6) months. All amounts payable pursuant to this Section 5.a.(iii) shall be grossed-up to the extent such amounts are determined to be a taxable benefit.

**f. Certain Additional Payments by Company:** Notwithstanding anything in this Agreement to the contrary, in the event that Employee becomes entitled to any of the payments or benefits provided under this Section 5 as a result of Employee's resignation for Good Reason pursuant to Section 1(b)(iv) hereinabove or Employee's termination without cause following a Change of Control and such payments or benefits result in Employee being subject to the golden parachute excise tax imposed by Section 4999 of the Internal Revenue Code, the Company shall make such additional payment as will make executive whole for such tax obligation, as set forth in Appendix A, which is incorporated herein by reference.

**g. Benefits in the Event of Nonrenewal of the Term:** In the event that the Company provides notice in accordance with the provisions of Section 4 above of its intent not to renew the Term for an additional one year period, and conditioned upon the Employee's executing and delivering to the Company a release of claims, reasonably acceptable to the Company, Employee will be entitled to the following benefits as of the Effective Date, together with such other amounts as the Compensation Committee may determine, in full satisfaction of any statutory, contractual or common law entitlements which Employee has or could have as a result of the termination of the Term:

(i) the Company shall pay to the Employee, in one lump sum, an amount equal to (A) one year's salary, at the Employee's annual salary in effect on the Effective Date, plus (B) one year's bonus (calculated based on the average of the actual bonus awarded to Employee in each of the previous three years of employment by the Company) minus any required withholdings or deductions;

(ii) Employee's right, title and entitlement to any unvested options or any other securities or similar incentives which have been granted or issued to Employee as of the Effective Date and which would otherwise have vested according to their terms within 12 months of the Effective Date shall immediately vest, free from any restrictions (other than those imposed by applicable state and federal securities laws), and all such securities shall continue to be exercisable (if applicable) until the earlier of (1) as provided in the applicable plan or grant agreements (but in no event less than 90 days) following the Effective Date; or (2) until such term of such options or other such securities would have otherwise expired (if applicable). ; and

(iii) should Employee elect COBRA benefits continuation following termination of employment the Company shall pay the full cost to Employee for the full 18 month COBRA period and the Company shall thereafter provide Employee, in one lump sum, an amount equal to the cost of reasonably comparable health insurance benefits for Employee and Employee dependents for a period of six (6) months. All amounts payable pursuant to this Section 5(g)(iii) shall be grossed-up to the extent such amounts are determined to be a taxable benefit.

## **6. Termination Obligations**

a. **Return of Company's Property:** Employee hereby acknowledges and agrees that all personal property, including, without limitation, all books, manuals, records, reports, notes, contracts, lists, blueprints, and other documents, or materials, or copies thereof, and equipment furnished to or prepared by Employee in the course of or incident to Employee's employment, belong to Company and shall be promptly returned to Company upon termination of Employee's employment.

b. **Cooperation in Pending Work:** Following any termination of Employee's employment, Employee shall fully cooperate with Company in all matters relating to the winding up of pending work on behalf of Company and the orderly transfer of work to other employees of Company. Employee shall also cooperate in the defense of any action brought by any third party

against Company that relates in any way to Employee's acts or omissions while employed by Company.

## **7. Notices**

All notices or other communications required or permitted hereunder shall be made in writing and shall be deemed to have been duly given if delivered by hand or mailed, postage prepaid, by certified or registered mail, return receipt requested, and addressed to Company:

JDS Uniphase Corporation  
1768 Automation Parkway  
San Jose, California 94131  
Attention: Office of the General Counsel

and to Employee at:

Mr. Ronald Foster  
(Home address deleted)

Employee and the Company shall provide written notice to the other (which, notwithstanding any other provision within this section, may be provided by hand delivery, first class mail or electronic mail) of any changes to the addresses above.

## **8. Entire Agreement**

Subject to the last sentence of this paragraph, the terms of this Agreement are intended by the parties to be the final and exclusive expression of their agreement with respect to the employment of Employee by Company and may not be contradicted by evidence of any prior or contemporaneous statements or agreements. Subject to the last sentence of this paragraph, the parties further intend that this Agreement shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever may be introduced in any judicial, administrative, or other legal proceeding involving this Agreement. To the extent that the practices, policies, or procedures of Company, now or in the future, apply to Employee and are inconsistent with the terms of this Agreement, the provisions of this Agreement shall control. Notwithstanding the foregoing, nothing in this agreement shall limit or modify, in any manner, any existing or future agreement between the Employee and the Company relating to proprietary information, inventions, treatment of confidential information, non-competition or employee benefits or incentive plans.

## **9. Amendments, Waivers**

This Agreement may not be modified, amended, or terminated except by an instrument in writing, signed by Employee and by a duly authorized representative of Company other than Employee. No failure to exercise and no delay in exercising any right, remedy, or power under this Agreement shall operate as a waiver thereof, nor shall any single or partial



exercise of any right, remedy, or power under this Agreement preclude any other or further exercise thereof, or the exercise of any other right, remedy, or power provided herein.

Employee and the Company each specifically agree and acknowledge that they each waive recourse to any remedies in tort, and further agree and acknowledge their intent that all rights and liabilities pertaining to the cessation of the employment relationship between them, where such cessation occurs on or before the Expiration Date, be as set out in this Agreement (or in any subsequent modification of this Agreement, provided that the modification is in writing and signed by both parties).

**10. Assignment; Successors and Assigns**

Employee agrees that Employee will not assign, sell, transfer, delegate or otherwise dispose of, whether voluntarily or involuntarily, or by operation of law, any rights or obligations under this Agreement, nor shall Employee's rights be subject to encumbrance or the claims of creditors. Any purported assignment, transfer, or delegation shall be null and void. Nothing in this Agreement shall prevent the consolidation of the Company with, or its merger into, any other corporation, or the sale by the Company of all or substantially all of its properties or assets, or the assignment by the Company of this Agreement and the performance of its obligations hereunder to any successor in interest. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective heirs, legal representatives, successors, and permitted assigns, and shall not benefit any person or entity other than those enumerated above.

**11. Severability; Enforcement**

If any provision of this Agreement, or the application thereof to any person, place, or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of this Agreement and such provisions as applied to other persons, places, and circumstances shall remain in full force and effect.

**12. Governing Law**

The validity, interpretation, enforceability, and performance of this Agreement, other than Section 4, shall be governed by and construed in accordance with the law of the State of California.

**13. Employee Acknowledgment**

The parties acknowledge (a) that they have consulted with or have had the opportunity to consult with independent counsel of their own choice concerning this Agreement, and (b) that they have read and understand the Agreement, are fully aware of its legal effect, and have entered into it freely based on their own judgment and not on any representations or promises other than those contained in this Agreement.

**14. Date of Agreement**

The parties have duly executed this Agreement as of the date first written above.

JDS UNIPHASE CORPORATION

By: /s/ JOZEF STRAUS  
Name: Jozef Straus, Ph.D.  
Its: Chief Executive Officer

/s/ RONALD C. FOSTER  
Name: Ronald C. Foster

## APPENDIX A

### A. Certain Additional Payments by the Company

(a) Subject to and as provided by Section 5(f) of this Agreement, in the event it shall be determined that any payment, award, benefit or distribution (or any acceleration of any payment, award, benefit or distribution) by the Company (or any of its affiliated entities) or any entity which effectuates a Change of Control (or any of its affiliated entities) to or for the benefit of Employee (whether pursuant to the terms of this Agreement or otherwise, but determined without regard to any additional payments required under this Appendix A) (the "Payments") would be subject to the excise tax imposed by Section 4999 of the Internal Revenue Code of 1986, as amended (the "Code"), or any interest or penalties are incurred by Employee with respect to such excise tax (such excise tax, together with any such interest and penalties, are hereinafter collectively referred to as the "Excise Tax"), then the Company shall pay to Employee an additional payment (a "Gross-Up Payment") in an amount such that after payment by Employee of all taxes (including any Excise Tax) imposed upon the Gross-Up Payment, Employee retains an amount of the Gross-Up Payment equal to the sum of (x) the Excise Tax imposed upon the Payments and (y) the product of any deductions disallowed because of the inclusion of the Gross-Up Payment in Employee's adjusted gross income and the highest applicable marginal rate of federal income taxation for the calendar year in which the Gross-Up Payment is to be made. For purposes of determining the amount of the Gross-Up Payment, the Employee shall be deemed to (i) pay federal income taxes at the highest marginal rates of federal income taxation for the calendar year in which the Gross-Up Payment is to be made, (ii) pay applicable state and local income taxes at the highest marginal rate of taxation for the calendar year in which the Gross-Up Payment is to be made, net of the maximum reduction in federal income taxes which could be obtained from deduction of such state and local taxes and (iii) have otherwise allowable deductions for federal income tax purposes at least equal to those which could be disallowed because of the inclusion of the Gross-Up Payment in the Employee's adjusted gross income. The reduction of the amounts payable hereunder, if applicable, shall be made by reducing any cash payments, unless an alternative method of reduction is elected by Employee. For purposes of reducing the Payments to the Safe Harbor Cap, only amounts payable under this Agreement (and no other Payments) shall be reduced. If the reduction of the amounts payable hereunder would not result in a reduction of the Payments to the Safe Harbor Cap, no amounts payable under this Agreement shall be reduced pursuant to this provision.

(b) Subject to the provisions of this Appendix A (a), all determinations required to be made under this Appendix A, including whether and when a Gross-Up Payment is required, the amount of such Gross-Up Payment, the reduction of the Payments to the Safe Harbor Cap and the assumptions to be utilized in arriving at such determinations, shall be made by the public accounting firm that is retained by the Company as of the date immediately prior to the Change of Control (the "Accounting Firm") which shall provide detailed supporting calculations both to the Company and Employee within thirty (30) days of the receipt of notice from the Company or the Employee that there has been a Payment, or such earlier time as is requested by the Company (collectively, the "Determination"). In the event that the Accounting Firm is serving as accountant or auditor for the individual, entity or group effecting the Change of Control, Employee may appoint another nationally recognized public accounting firm to make the

determinations required hereunder (which accounting firm shall then be referred to as the Accounting Firm hereunder). All fees and expenses of the Accounting Firm shall be borne solely by the Company and the Company shall enter into any reasonable agreement requested by the Accounting Firm in connection with the performance of the services hereunder. The Gross-Up Payment under this Appendix A with respect to any Payments shall be made no later than sixty (60) days following such Payment. If the Accounting Firm determines that no Excise Tax is payable by Employee, it shall furnish Employee with a written opinion to such effect, and to the effect that failure to report the Excise Tax, if any, on Employee's applicable federal income tax return will not result in the imposition of a negligence or similar penalty. In the event the Accounting Firm determines that the Payments shall be reduced to the Safe Harbor Cap, it shall furnish Employee with a written opinion to such effect. The Determination by the Accounting Firm shall be binding upon the Company and Employee. As a result of the uncertainty in the application of Section 4999 of the Code at the time of the Determination, it is possible that Gross-Up Payments which will not have been made by the Company should have been made ("Underpayment") or Gross-Up Payments are made by the Company which should not have been made ("Overpayment"), consistent with the calculations required to be made hereunder. In the event that the Employee thereafter is required to make payment of any Excise Tax or additional Excise Tax, the Accounting Firm shall determine the amount of the Underpayment that has occurred and any such Underpayment (together with interest, to the extent not already within the Excise Tax, at the rate provided in Section 1274(b)(2)(B) of the Code) shall be promptly paid by the Company to or for the benefit of Employee. In the event the amount of the Gross-Up Payment exceeds the amount necessary to reimburse the Employee for his Excise Tax, the Accounting Firm shall determine the amount of the Overpayment that has been made and any such Overpayment (together with interest at the rate provided in Section

1274(b)(2) of the Code) shall be promptly paid by Employee (to the extent he has received a refund if the applicable Excise Tax has been paid to the Internal Revenue Service) to or for the benefit of the Company. Employee shall cooperate, with any reasonable requests by the Company in connection with any contests or disputes with the Internal Revenue Service in connection with the Excise Tax.

January 8, 2003

Re: Retirement from JDS Uniphase Corporation – Donald R. Scifres, Ph.D.

Dear Don:

This letter agreement (“Agreement”) shall confirm the terms of your retirement from your employment with JDS Uniphase Corporation and its subsidiaries and affiliated entities (“the Company” or “JDSU”) effective February 1, 2003 (the “Retirement Date”). The Effective Date of this Agreement shall be the 8<sup>th</sup> day following your signature below.

Between now and the Retirement Date, you will continue to perform your regular job duties and responsibilities, though it is acknowledged that during this period you will be transitioning your responsibilities to others in the organization and using a significant portion of your accrued vacation time.

On the Retirement Date, you will receive the following payments:

1. All accrued but unpaid base salary as of the Retirement Date;
2. All accrued but unused vacation pay; and
3. All accrued but unused ESPP contributions.

The Company and you are parties to several agreements pertaining to the terms of your employment and the termination thereof, including an Employment Agreement dated July 17, 1992, as amended (the “Employment Agreement”), a Change of Control Agreement dated February 10, 2002 (the “Change of Control Agreement”), and a Transition Agreement dated July 9, 2002 (the “Transition Agreement”), collectively referred to hereinafter as the “Employment Agreements.” Your retirement from employment at JDS Uniphase is agreed to be as a result of your retirement on or after age 55 under Section 6(d) of the Transition Agreement, though you and the Company acknowledge that you have raised for discussion the effect of certain management changes that have occurred during the preceding 12–18 months relative to the provisions of the Employment Agreements.

Pursuant to the terms of the Employment Agreements, upon the occurrence of certain events described therein, you are entitled to certain payments and benefits upon termination of your employment. In full satisfaction of any and all obligations of the Company under the Employment Agreements, other than (i) any obligations from the Company to you specified herein, (ii) any obligations due or that become due to you under Section 8(b) of the Transition Agreement (which Section 8(b) shall remain in full force and effect), and (iii) any obligations due to you under the Company’s 401(k) and non-qualified deferred compensation plans (together, the foregoing clauses (i)–(iii) are referred to herein as the “Protected Benefits”), on the Retirement Date the Company shall

take the following actions and provide the following benefits (collectively the "Retirement Benefits"); (a) cause all stock options previously granted to you by SDL, Inc., and JDS Uniphase to be fully accelerated, vested and exercisable for the full remaining original terms of each such stock option grant (i.e., 10 years or 8 years from the date of grant, as applicable) notwithstanding any provision in any stock option grant agreement or plan to the contrary; (b) should you elect COBRA benefits continuation following the termination of your employment, the Company will pay the premiums for such coverage for a period of eighteen (18) months (i.e., through August 31, 2004); and (c) for six months following your Retirement Date the Company will continue to provide you with office space at a Company facility in San Jose, and computer, administrative and related IT support.

For clarity only, you and the Company agree that you shall forego any cash severance payments to which you may otherwise be entitled under certain circumstances as a result of termination of your employment. You also agree that you shall be solely responsible for any employee-side tax obligations that may arise as a result of the Retirement Benefits; provided, however, that the Company shall remain liable for any obligations arising under section 8(b) of the Transition Agreement. The Company agrees that it shall discharge its obligations to you with respect to the Protected Benefits.

You shall continue to be indemnified for your activities as an officer or director of the Company or any of its subsidiaries prior to the Retirement Date to the full extent provided in the Articles of Incorporation and By-Laws of the Company (or its successor) against all expense liability and loss (including attorneys' fees and settlement payments) arising from or relating to your service as an officer or director of the Company or any of its subsidiaries.

To the extent required, this Agreement shall constitute Notice of Termination under the Employment Agreements and you and the Company agree that, notwithstanding any provision of the Employment Agreements to the contrary, no further specification of the reasons or facts supporting the termination of employment pursuant to Section 3(a)(ii) of the Change of Control Agreement is required.

You agree that you will remain subject to all the provisions of the Company's Policy Regarding Inside Information and Securities Transactions until the opening of the trading window following release of the Company's Q3 FY2003 earnings at the end of April, 2003. Further, you will continue to observe all provisions of this Policy other than the trading window between the opening of the window at the end of April 2003 and the cessation of your use of office space at the Company's headquarters in San Jose. You will also observe the provisions of the Company's Ethics Policy through the Retirement Date.

Upon the Retirement Date, you will be deemed to have reassigned all positions you hold within JDS Uniphase Corporation and its subsidiaries, though you agree to execute such other documents as may be required to effectuate your departure from such position(s). You will also resign from the Company's Board of Directors effective upon your Retirement Date.

You agree that for a period of one (1) year from your Retirement Date you will not, for yourself or any third party, directly or indirectly, solicit for employment, recommend for employment, or employ (except to the extent, if any, that this employment restriction is prohibited by applicable law) any person who was employed by the Company as of the Retirement Date without the Company's prior written consent, which consent shall not be unreasonably withheld. Further, the Company hereby consents to your solicitation and hire of your administrative assistant, Viola daSilva.

Your obligation to maintain the confidentiality of all Company proprietary and confidential information, and any written agreements between you and the Company pertaining thereto, shall survive the termination of your employment. Except with respect to the Company's obligations arising from the Protected Benefits, any further rights under the Employment Agreements shall be terminated as of the Effective Date of this Agreement, including without limitation, any right to severance benefits, payments, profit sharing, bonuses, stock options, or other benefits. This Agreement shall represent the entire understanding between you and the Company regarding the terms of your employment and termination of your employment, will supersede any previous discussions and understanding and may not be modified except in writing signed by you and the Company.

In consideration of the terms of this Agreement, you agree to release the Company, its subsidiaries and affiliated corporations and its past and present officers, directors, employees and assigns from any claims you may now have, whether known or unknown, including but not limited to, claims arising from your employment, the Employment Agreements or other claims for compensation (including profit sharing, bonus and severance payments), stock options, claims arising out of contract or tort and any claims arising under the Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act (ADEA), the Americans with Disabilities Act, the California Fair Employment and Housing Act, and any other claims for violation of any federal, state, or local law; provided, however, that this release shall not apply to claims arising from the Protected Benefits.

You agree that this release specifically covers known and unknown claims and you waive any rights you may have under Section 1542 of the California Civil Code or under any comparable law of any other jurisdiction. Section 1542 states: "*A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.*"

You agree that you have been advised that you have twenty-one (21) days to consider the terms of this Agreement (but may sign it any time beforehand if you so desire), and that you can consult an attorney in doing so. You also understand that you can revoke your acceptance of the terms of this Agreement within seven (7) days of signing it by sending a certified letter to that effect to the undersigned. Notwithstanding the foregoing, you agree that the portion of this Agreement that pertains to the release of claims under the ADEA shall not become effective or enforceable until the seven (7) day revocation period has expired, but that all other terms of this Agreement will become effective upon your signature below.

Please confirm your acceptance of the foregoing by signing below.

Don, on behalf of all of us at JDS Uniphase, I want to thank you for your contributions to the Company, not to mention your many critical contributions to our industry. We wish you the best in your well-earned retirement, but hope that we may continue to count on your advice and counsel in the future.

Very truly yours,

/s/ Jozef Straus, Ph.D.  
Jozef Straus, Ph.D.  
Chief Executive Officer

Agreed and Accepted:

/s/ Donald R. Scifres, Ph.D.  
Donald R. Scifres, Ph.D.

Date: January 9, 2003





March 12, 2003

Re: Retirement from JDS Uniphase – Frederick Leonberger, Ph.D.

Dear Fred:

This letter agreement (“Agreement”) shall confirm the terms of your retirement from your employment with JDS Uniphase Corporation and its subsidiaries and affiliated entities (“the Company” or “JDSU”) effective April 30, 2003 (the “Retirement Date”). The Effective Date of this Agreement shall be the 8<sup>th</sup> day following your signature below.

Between now and the Retirement Date you will continue to perform your regular job duties and responsibilities as well as the transition of those duties and responsibilities to employees designated by the Company.

On the Retirement Date you will receive the following payments:

1. All accrued but unpaid base salary as of the Retirement Date;
2. All accrued but unused vacation pay;
3. All accrued but unused ESPP contributions.

The Company and you are parties to an Employment Agreement pertaining to the terms of your employment and the termination thereof, dated July 6, 1999 (the “Employment Agreement”), which expires on July 6, 2004. Pursuant to the terms of the Employment Agreement, upon the occurrence of certain events described therein you are entitled to certain payments and benefits upon termination of your employment. In full satisfaction of any and all obligations of the Company under the Employment Agreement and any other agreement between you and the Company, on the Retirement Date the Company shall take the following actions and provide the following benefits (collectively the “Retirement Benefits”): (a) cause all stock options previously granted to you by the Company which would otherwise vest between your Retirement Date and July 6, 2004 to be fully accelerated and vested and which, together with all other vested stock options, and notwithstanding any provision in any stock option grant agreement or plan to the contrary, shall remain exercisable for the full remaining term of each such stock option grant (for clarity only, any provision in any grant agreement purporting to limit the post-termination exercise period to other than the full term of such grant shall not apply); and (b) should you elect COBRA benefits continuation following the termination of your employment the Company will pay the premiums for such coverage for a period of eighteen (18) months (i.e., through October 30, 2004).

Further, in the event of your (a) Disability (as defined in the Employment Agreement), or (b) death, in either case occurring after the Effective Date but prior to the Retirement Date, the Retirement Date as defined above shall instead, for all purposes

under this Agreement, be considered to be the last date of your continuous active service with the Company.

You agree that you will remain subject to all provisions of the Company's Policy Regarding Inside Information and Securities Transactions until the opening of the trading window following release of the Company's Q3 FY2003 earnings at the end of April 2003. You will also observe the provisions of the Company's Ethics Policy through the end of the March fiscal quarter.

Upon the Retirement Date you will be deemed to have resigned all positions you hold within JDS Uniphase and its subsidiaries, though you agree to execute such other documents as may be required to effectuate your departure from such positions. The Company hereby reaffirms its continuing obligations to you pursuant to the Company's Articles, Bylaws, Delaware law and previously executed indemnification agreements, to defend and indemnify you against claims, actions and causes of action arising out of your employment and service to the Company.

You agree that for a period of one (1) year from your Retirement Date you will not, for yourself or any third party, directly or indirectly, or employ (in the case where you are an officer of the hiring company) any person who was employed by the Company as of the Retirement Date without the Company's prior written consent. This paragraph shall not apply to those employees of the Company whose employment with JDSU was involuntarily terminated by the Company.

Your obligation to maintain the confidentiality of all Company proprietary and confidential information, and any written agreements between you and the Company pertaining thereto, shall survive the termination of your employment. Except as expressly stated in this Agreement, any further rights under the Employment Agreements shall be terminated as of the Effective Date of this Agreement, including without limitation any right to severance benefits, payments, profit sharing, bonuses, stock options, or other benefits. This Agreement shall represent the entire understanding between you and the Company regarding the terms of your employment and termination of your employment, will supersede any previous discussions and understandings and may not be modified except in a writing signed by you and the Company.

In consideration of the terms of this Agreement, you agree to release the Company, its subsidiaries and affiliated corporations and its past and present officers, directors, employees and assigns from any claims you may now have, whether known or unknown, including but not limited to, claims arising from your employment, the Employment Agreement or other claims for compensation (including profit sharing, bonus and severance payments), stock options, claims arising out of contract or tort and any claims arising under the Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act (ADEA), the Americans with Disabilities Act, the Connecticut Fair Employment Practices Act, the Connecticut Family Medical Leave Act,

the California Fair Employment and Housing Act, the and any other claims for violation of any federal, state, or local law.

Notwithstanding the provisions of the preceding paragraph, nothing in this Agreement shall be interpreted to release any claims arising under or concerning your participation in the Company's 401K Plan or Deferred Compensation Plan.

You agree that this release specifically covers known and unknown claims and you waive any rights you may have under Section 1542 of the California Civil Code or under any comparable law of any other jurisdiction. Section 1542 states: "*A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor*".

You agree that you have been advised that you have twenty-one (21) days to consider the terms of this Agreement (but may sign it at any time beforehand if you so desire), and that you can consult an attorney in doing so. You also understand that you can revoke your acceptance of the terms of this Agreement within seven (7) days of signing it by sending a certified letter to that effect to the Company's General Counsel. Notwithstanding the foregoing, you agree that the portion of this Agreement that pertains to the release of claims under the ADEA shall not become effective or enforceable until the seven (7) day revocation period has expired, but that all other terms of this Agreement will become effective upon your signature below.

Please confirm your acceptance of the foregoing by signing below.

Fred, on behalf of all of us at JDS Uniphase I want to thank you for your many contributions to the Company. We wish you the best in your retirement, but hope that we may continue to count on your advice and counsel in the future.

Very Truly Yours,

/s/ Ronald C. Foster  
Ronald C. Foster  
Executive Vice President and  
Chief Financial Officer

Agreed and Accepted:

Date:

/s/ Frederick Leonberger, Ph.D.  
Frederick Leonberger, Ph.D.

March 12, 2003



**CERTIFICATION PURSUANT TO SECTION 906  
OF THE SARBANES–OXLEY ACT OF 2002**

In connection with the periodic report of JDS Uniphase Corporation (the “Company”) on Form 10–Q for the period ended March 31, 2003 as filed with the Securities and Exchange Commission (the “Report”), I, **Jozef Straus**, Co–Chairman and Chief 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.

May 13, 2003

Date:

/s/ Jozef Straus

By: **Jozef Straus**

Co–Chairman and Chief Executive Officer

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

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**CERTIFICATION PURSUANT TO SECTION 906  
OF THE SARBANES–OXLEY ACT OF 2002**

In connection with the periodic report of JDS Uniphase Corporation (the “Company”) on Form 10–Q for the period ended March 31, 2003 as filed with the Securities and Exchange Commission (the “Report”), I, Ronald C. Foster, Executive Vice President and 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.

May 13, 2003  
Date:

/s/ Ronald C. Foster  
By: Ronald C. Foster  
Executive Vice President and  
Chief Financial Officer  
(Principal Financial and Accounting Officer)

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

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