ENZO BIOCHEM INC
Form 10-Q
September 04, 2009

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

FORM 10-Q

Mark one

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

For the quarterly period ended April 30, 2009

or

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

For the transition period from ___________________ to ___________________

Commission File Number 001-09974

ENZO BIOCHEM, INC.

(Exact name of registrant as specified in its charter)

New York	13-2866202
(State or Other Jurisdiction of Incorporation or Organization)	(IRS. Employer Identification No.)
527 Madison Ave, New York, New York	10022
(Address of Principal Executive office)	(Zip Code)
212-583-0100	

(Registrant s telephone number, including area code)
Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant has required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes x No o

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 45 of Regulation S-T (§232.405 of that chapter) during the preceding 12 months (or such shorter period that the registrant was required to submit and post such files).

Yes o No o

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer (as defined in Rule 12b-2 of the Exchange Act).

Large accelerated filer o   Accelerated filer x   Non-accelerated filer o   Smaller reporting company o

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act.)

Yes o No x

As of September 1, 2009 the Registrant had approximately 37,854,000 shares of common stock outstanding.

ENZO BIOCHEM, INC.
FORM 10-Q
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PART I - FINANCIAL INFORMATION

Part 1 Financial Information

Item 1 Financial Statements

ENZO BIOCHEM, INC.
CONSOLIDATED BALANCE SHEETS
(in thousands, except share data)

	April 30, 2009 (unaudited)	July 31, 2008 (audited)
ASSETS		
Current assets:		
Cash and cash equivalents	$ 7,554	$ 78,322
Short term investments	47,704	
Accounts receivable, net of allowances	12,358	15,348
Inventories	10,458	9,514
Prepaid expenses	1,973	2,496
Total current assets	80,047	105,680
Property, plant, and equipment, net	11,012	9,053
Goodwill	26,253	21,321
Intangible assets, net	19,817	17,656
Other	456	812
Total assets	$ 137,585	$ 154,522
LIABILITIES AND STOCKHOLDERS EQUITY		
Current liabilities:		
Accounts payable trade	$ 2,952	$ 4,299
Accrued liabilities	9,066	7,370
Other current liabilities	3,610	1,161
Deferred taxes	233	458
Total current liabilities	15,861	13,288
Deferred revenue	154	512
Deferred taxes	1,975	2,433
Commitments and contingencies		
Stockholders equity:		
Preferred Stock, $.01 par value; authorized 25,000,000 shares; no shares issued or outstanding		
Common Stock, $.01 par value; authorized 75,000,000 shares; shares issued: 38,362,440 at April 30, 2009 and 38,007,581 at July 31, 2008	384	380
Additional paid-in capital	306,298	303,811
Less treasury stock at cost: 877,704 shares at April 30, 2009 and 777,719 shares at July 31, 2008	(12,457)	(11,331)
Accumulated deficit	(174,442)	(156,157)
Accumulated other comprehensive (loss) income	(188)	1,586
Total stockholders equity	119,595	138,289
Total liabilities and stockholders equity	$ 137,585	$ 154,522

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

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ENZO BIOCHEM, INC.
CONSOLIDATED STATEMENTS OF OPERATIONS
(UNAUDITED)
(in thousands, except per share data)

	Three Months Ended April 30, 2009	Three Months Ended April 30, 2008	Nine Months Ended April 30, 2009	Nine Months Ended April 30, 2008
Revenues:				
Product revenues	$ 10,479	$ 6,995	$ 29,952	$ 18,885
Royalty and license fee income	1,963	1,642	6,783	5,458
Clinical laboratory services	10,619	10,312	28,306	32,276
	23,061	18,949	65,041	56,619
Costs and expenses and other loss (income):				
Cost of product revenues	6,812	4,434	20,208	13,078
Cost of clinical laboratory services	6,157	5,178	17,953	15,278
Research and development expense	2,425	1,999	6,645	6,150
Selling, general, and administrative expense	10,412	8,343	30,795	25,350
Provision for uncollectible accounts receivable	715	927	3,949	3,050
Legal expense	859	782	3,356	4,458
Interest income	(17)	(712)	(569)	(3,257)
Other loss (income)	43	(62)	(108)	(188)
Foreign currency (gain) loss	(119)		837	
	27,287	20,889	83,066	63,919
Loss before income taxes	(4,226)	(1,940)	(18,025)	(7,300)
Provision for income taxes	(16)	(168)	(260)	(94)
Net loss	$ (4,242)	$ (2,108)	$ (18,285)	$ (7,394)
Net loss per common share:				
Basic	$ (0.11)	$ (0.06)	$ (0.49)	$ (0.20)
Diluted	$ (0.11)	$ (0.06)	$ (0.49)	$ (0.20)
Weighted average common shares outstanding:				
Basic	37,484	36,834	37,423	36,771
Diluted	37,484	36,834	37,423	36,771

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

ENZO BIOCHEM, INC
CONSOLIDATED STATEMENT OF STOCKHOLDERS EQUITY
AND COMPREHENSIVE LOSS
Nine months ended April 30, 2009
(UNAUDITED)
(In thousands, except share data)

	Common Stock Shares	***Treasury Stock Shares***	**Common Stock Amount**	**Additional Paid-in Capital**	**Treasury Stock Amount**	**Accumulated Deficit**	**Accumulated Other Comprehensive (Loss) Income**	**Total Stockholders Equity**	**Comprehensive Loss**
Balance at July 31, 2008	*38,007,581*	*777,719*	$ 380	$ 303,811	$ (11,331)	$ (156,157)	$ 1,586	$ 138,289	
Net loss for the period ended April 30, 2009						(18,285)		(18,285)	$ (18,285)
Purchase of treasury stock		99,985			(1,126)			(1,126)	
Exercise of stock options	*251,162*		3	1,471				1,474	
Vesting of restricted stock	*103,697*		1					1	
Stock based compensation charges				1,016				1,016	
Foreign currency translation adjustments							(1,774)	(1,774)	(1,774)
Comprehensive loss									$ (20,059)
Balance at April 30, 2009	38,362,440	*877,704*	$ 384	$ 306,298	$ (12,457)	$ (174,442)	$ (188)	$ 119,595	

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

ENZO BIOCHEM, INC
CONSOLIDATED STATEMENTS OF CASH FLOWS
(UNAUDITED)
(in thousands)

	Nine Months Ended April 30, 2009	2008
Cash flows from operating activities:		
Net loss	$ (18,285)	$ (7,394)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization of property, plant and equipment	1,533	1,025
Amortization of intangible assets	818	362
Provision for uncollectible accounts receivable	3,949	3,050
Write off and/or reserve taken for obsolete inventory	175	154
Deferred income tax benefit	(237)	(370)
Share based compensation charges	1,016	1,152
Deferred revenue recognized	(358)	(338)
Foreign currency loss on intercompany loan	813	
Accrual for 401(k) employer match	582	481
Other		3
Changes in operating assets and liabilities:		
Accounts receivable	(2)	(2,822)
Inventories	1,649	463
Prepaid expenses	721	268
Accounts payable trade	(1,836)	(344)
Accrued liabilities	883	(2,627)
Other current liabilities	(158)	(48)
Total adjustments	9,548	409
Net cash used in operating activities	(8,737)	(6,985)
Cash flows from investing activities:		
Purchases of short term investments	(273,956)	
Maturities of short term investments	226,253	
Capital expenditures	(2,156)	(1,596)
Increase in cash surrender value		(47)
Decrease (increase) in security deposits and other assets	368	(169)
Acquisition, including costs paid	(12,738)	(280)
Net cash used in investing activities	(62,229)	(2,092)
Cash flows from financing activities:		
Issuance costs from the issuance of common stock		(12)
Proceeds from the exercise of stock options	348	395
Net cash provided by financing activities	348	383
Effect of exchange rate changes on cash and cash equivalents	(150)	48
Decrease in cash and cash equivalents	(70,768)	(8,646)
Cash and cash equivalents - beginning of period	78,322	105,149

Cash and cash equivalents - end of period	$ 7,554	$ 96,503

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

ENZO BIOCHEM, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

As of April 30, 2009
and for the three and nine month periods ended
April 30, 2009 and 2008
(Unaudited)

Note 1 Basis of Presentation

The accompanying consolidated financial statements include the accounts of Enzo Biochem, Inc. and its wholly-owned subsidiaries, Enzo Clinical Labs, Enzo Life Sciences, Enzo Therapeutics and Enzo Realty LLC, collectively referred to as the Company or Companies . On March 12, 2009, Enzo Life Sciences, Inc. (Enzo Life Sciences), a wholly-owned subsidiary of the Company, acquired substantially all assets and assumed certain liabilities of Assay Designs, Inc., through its wholly-owned subsidiary Enzo Life Sciences Acquisition, Inc. (see Note 3). The consolidated balance sheet as of April 30, 2009, consolidated statement of stockholders equity and comprehensive loss and consolidated statement of cash flows for the nine months ended April 30, 2009, and the consolidated statements of operations for the three and nine months ended April 30, 2009 and 2008 are unaudited. In the opinion of management, all adjustments (which include normal recurring adjustments) necessary to present fairly the financial position and operating results for the interim periods have been made. Certain information and footnote disclosure, normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States, have been condensed or omitted. The consolidated financial statements should be read in conjunction with the consolidated financial statements for the year ended July 31, 2008 and notes thereto contained in the Company s Annual Report on Form 10-K filed with the Securities and Exchange Commission. The consolidated balance sheet at July 31, 2008 has been derived from the audited financial statements at that date. The results of operations for the three and nine months ended April 30, 2009 are not necessarily indicative of the results that may be expected for the fiscal year ending July 31, 2009.

As more fully described in Item 2- Management s Discussion and Analysis of Financial Condition and Results of Operations, the Company identified certain immaterial errors which were effectively corrected in the fiscal 2009 first and second quarters which related to contractual adjustments and allowance for doubtful accounts. These errors were assessed individually and in the aggregate as being immaterial to the current and prior periods.

Recent Accounting Pronouncements

In May 2009, the FASB issued SFAS No. 165, Subsequent Events (SFAS 165). SFAS 165 is intended to establish general standards of accounting for and disclosure of events that occur after the balance sheet date but before financial statements are issued or are available to be issued. In particular, SFAS 165 sets forth the period after the balance sheet date during which management of a reporting entity should evaluate events or transactions that may occur for potential recognition or disclosure in the financial statements; the circumstances under which an entity should recognize events or transactions occurring after the balance sheet date in its financial statements; and the disclosures that an entity should make about events or transactions that occurred after the balance sheet date. SFAS 165 is effective for interim or annual financial periods ending after June 15, 2009.

In May 2008, the FASB issued SFAS No. 162, The Hierarchy of Generally Accepted Accounting Principles (SFAS 162). SFAS 162 is intended to improve financial reporting by identifying a consistent framework, or hierarchy, for selecting accounting principles to be used in preparing financial statements that are presented in conformity with generally accepted accounting principles. SFAS 162 will become effective 60 days following the SEC s approval of the Public Company Accounting Oversight Board amendments to AU Section 411, The Meaning of Present Fairly in Conformity With Generally Accepted Accounting Principles . The Company does not anticipate the adoption of SFAS 162 will have a material impact on its results of operations, cash flows or financial condition.

In April 2008, the FASB issued FSP FAS 142-3, Determination of the Useful Life of Intangible Assets (FSP FAS 142-3). FSP FAS 142-3 amends the factors that should be considered in developing renewal or extension assumptions used to determine the useful life of a recognized intangible asset under FASB Statement No.142, Goodwill and Other Intangible Assets. FSP FAS 142-3 also requires expanded disclosure related to the determination of intangible asset useful lives. FSP FAS 142-3 is effective for financial statements issued for fiscal years beginning after December 15, 2008, and interim periods within those fiscal years. Early adoption is prohibited. The Company is currently evaluating the impact that the adoption of FSP FAS 142-3 will have on its consolidated results of operations, cash flows or financial condition.

In December 2007, the FASB issued Statement No. 141 (revised 2007), Business Combinations (SFAS 141R). SFAS 141R establishes principles and requirements for how the acquirer in a business combination recognizes and measures in its financial statements the identifiable assets acquired, the liabilities assumed, any controlling interest in the business and the goodwill acquired. SFAS 141R further requires that acquisition-related costs and costs associated with restructuring or exiting activities of an acquired entity will be expensed as incurred. SFAS 141R also establishes disclosure requirements that will require disclosure of the nature and financial effects of the business combination. SFAS 141R will impact business combinations for the Company that may be completed on or after August 1, 2009. While there is no expected impact to our Consolidated Financial Statements on the accounting for acquisitions completed prior to July 31, 2009, the adoption of SFAS 141R on August 1, 2009 could materially change the accounting for business combinations consummated subsequent to that date and for tax matters relating to prior acquisitions settled subsequent to July 31, 2009.

In February 2007, the FASB issued SFAS No. 159, The Fair Value Option for Financial Assets and Financial Liabilities - Including an amendment of FASB Statement No. 115. SFAS 159 permits entities to choose to measure many financial instruments and certain other items at fair value that are not currently required to be measured at fair value. The objective of SFAS 159 is to provide opportunities to mitigate volatility in reported earnings caused by measuring related assets and liabilities differently without having to apply hedge accounting provisions. SFAS 159 also establishes presentation and disclosure requirements designed to facilitate comparisons between companies that choose different measurement attributes for similar types of assets and liabilities. SFAS 159 is effective for fiscal years beginning after November 15, 2007. The adoption of SFAS 159 did not have a material impact on the Company s consolidated results of operations or financial condition as we have not elected to apply the provisions to our financial instruments or other eligible items that are not required to be measured at fair value.

Note 2 Short-term Investments

At April 30, 2009 the Company s short-term investments, whose fair value approximates cost, are in U.S. Government Treasury bills, which are purchased at discounts with remaining maturities of under ninety days.

Effective August 1, 2008, the Company adopted SFAS No. 157, Fair Value Measurements (SFAS 157), for assets and liabilities measured at fair value on a recurring basis. SFAS 157 establishes a common definition for fair value to be applied to existing GAAP that require the use of fair value measurements, establishes a framework for measuring fair value and expands disclosure about such fair value measurements. The adoption of SFAS 157 did not have an impact on the Company s financial position or operating results, but did expand certain disclosures.

SFAS 157 defines fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Additionally, SFAS 157 requires the use of valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs. These inputs are prioritized below:

Level 1: Observable inputs such as quoted market prices in active markets for identical assets or liabilities.

Level 2: Observable market-based inputs or unobservable inputs that are corroborated by market data.

Level 3: Unobservable inputs for which there is little or no market data, which require the use of the reporting entity s own assumptions.

At April 30, 2009, the Company s short-term investments are classified as Level 1 assets.

Note 3 Acquisitions

Assay Designs, Inc.

On March 12, 2009, Enzo Life Sciences, Inc. and Enzo Life Sciences Acquisition, Inc., a newly formed wholly owned subsidiary of Enzo Life Sciences, Inc. (Acquisition Sub), entered into an asset purchase agreement (Purchase Agreement) dated as of March 12, 2009 with Assay Designs, Inc. (Assay Designs). Assay Designs, a privately owned company with annual sales of approximately $11 million, was engaged in researching, developing, manufacturing, distributing, marketing and selling specialty immunological and biochemical protein detection kits, assays, reagents, antibodies, recombinant proteins and related products and providing related services for use in the biotechnology, pharmaceutical and life sciences research industries (Business). Under the terms of the Purchase Agreement, Acquisition Sub purchased from Assay Designs substantially all of its assets, including trade accounts receivable, inventory, fixed assets, and intellectual property, used in or related to the Business and assumed certain of Assay Designs liabilities, including trade accounts payable, capital lease obligations and certain other current liabilities.

The execution of the Purchase Agreement and the closing of the transaction occurred simultaneously on March 12, 2009. The purchase price consisted of $12,228,000 in cash, exclusive of acquisition costs of approximately $540,000, and is subject to an upward or downward post-closing purchase price adjustment based on Assay Designs working capital as of the closing date, $100,000 of which will be held in escrow for approximately 60-90 days to secure the payment of any downward post-closing purchase price adjustment and $750,000 of which will be held in escrow for 12 months to secure the payment of any indemnification obligations of Assay Designs under the Purchase Agreement. Subsequent to the acquisition date, the Company paid $270,000 in additional purchase price in connection with the working capital adjustment and released the $100,000 escrow amount. The Company expects the cost of the acquisition to be increased when the integration plan to consolidate a facility and the involuntary termination of certain employees is finalized and the cost is determinable. The Assay Design Acquisition strengthens the Company s position as a global provider of life sciences reagents by broadening our product offerings and manufacturing capabilities.

The acquisition was funded with the Company s cash. Effective March 12, 2009, Assay Designs became a wholly-owned subsidiary of Enzo Life Sciences. The consolidated financial statements include the results of operations for Assay Designs from the date of acquisition.

The following table presents the preliminary estimated fair values of the assets acquired and liabilities assumed (in thousands) as of April 30, 2009:

Current assets	$ 4,572
Property and equipment	1,437
Other assets	12
Intangible assets	3,917
Goodwill	3,587
Total assets acquired	13,525
Less:	
Current liabilities	787
Total liabilities assumed	787
Net assets acquired	$ 12,738

The preliminary purchase price allocation is based on management s estimate of acquired tangible and intangible assets and will be adjusted based on the final valuation to be completed within one year from the acquisition date. The excess of the total purchase price over the fair value of the net assets acquired, including the estimated fair value of the identifiable intangible assets, has been allocated to goodwill.

Biomol International, L.P.

On May 8, 2008, Enzo Life Sciences, Inc. acquired substantially all of the U.S. based assets and certain liabilities of Biomol International, LP (Biomol LP) through a newly formed US subsidiary Biomol International, Inc. and all of the stock of Biomol s wholly-owned United Kingdom subsidiary, Affinity Limited, through Axxora UK, a wholly-owned subsidiary of Enzo Life Sciences, collectively referred to as Biomol for approximately $18.1 million in cash and stock, subject to adjustment, exclusive of acquisition costs of approximately $800,000 and two contingent earn-out payments accounted for as additional purchase consideration if and when the contingencies are resolved beyond a reasonable doubt. At closing, the purchase price was satisfied as follows: $12.9 million in cash was paid to Biomol LP, issuance of 352,000 shares of Enzo common stock, at fair market value, to Biomol LP, $1.5 million in cash was paid to an escrow agent for the one-year period following the closing to satisfy any indemnification obligations of the sellers under the Agreement and $550,000 was paid to an escrow agent, for the 60 day period following the closing to satisfy any specified purchase price adjustments. The $550,000 was released by the escrow agent in August 2008. The earn-outs of $2.5 million on each of the next two anniversaries of the acquisition date will be based on attaining certain revenue and EBITDA targets, as defined. The Agreement provides for the delivery of the earn-out statement within 75 days of the respective anniversary dates. Biomol was a privately owned, closely held global manufacturer and marketer of specialty life sciences research products. Effective May 8, 2008, Biomol became a wholly-owned subsidiary of Enzo Life Sciences. The acquisition was financed with the Company s cash and cash equivalents and Enzo common stock. The consolidated financial statements include the results of operations for Biomol from the date of acquisition. Effective February 2, 2009, the names of Biomol International, Inc. and Affinity Limited were changed to Enzo Life Sciences International, Inc. and Enzo Life Sciences (UK) Ltd., respectively.

As of April 30, 2009, the conditions for the first annual earn-out of $2.5 million were met. The Company recorded $2.5 million of additional goodwill and other current liabilities in the accompanying balance sheet. Subsequent to April 30, 2009, the Company issued 202,196 shares of Enzo common stock at fair value and paid $1.5 million in cash to satisfy the $2.5 million earn-out liability.

The following table presents the estimated fair values of the assets acquired and liabilities assumed (in thousands) as of April 30, 2009:

Current assets	$ 5,167
Property and equipment	694
Other assets	18
Intangible assets	8,035
Goodwill	9,159
Total assets acquired	23,073
Less:	
Current liabilities	1,100
Deferred tax liabilities	609
Total liabilities assumed	1,709
Net assets acquired	$ 21,364

The preliminary purchase price allocation is based on a valuation of acquired tangible and intangible assets and will be adjusted based on the final valuation to be completed within one year from the acquisition date. The Company determined the estimated fair value of the identifiable intangible assets based on various factors including: cost, discounted cash flow and relief from royalty approaches in determining the purchase price allocation. The excess of the total purchase price over the fair value of the net assets acquired, including the estimated fair value of the identifiable intangible assets, has been allocated to goodwill.

For financial reporting purposes, useful lives for the intangibles acquired in the Biomol and other acquisitions have been assigned as follows:

Customer relationships	8-15 years
Trademarks	Indefinite
Other intangibles	4-5 years

The following unaudited pro forma financial information presents the combined results of operations of the Company and acquisitions completed in fiscal 2009 and 2008. The pro forma information for fiscal 2008 is as if the acquisitions had occurred as of August 1, 2007. Pro forma information for the fiscal 2009 acquisition represents results of operations for the comparable periods included in fiscal 2009. The pro forma financial information reflects appropriate adjustments primarily for amortization of intangible assets and interest expense. The pro forma financial information presented is not necessarily indicative of either the actual consolidated operating results had the acquisitions been completed at the beginning of each period or future operating results of the consolidated entities.

	Three months ended April 30,		**Nine months ended April 30,**	
In thousands (except per share amounts)	**2009**	**2008**	**2009**	**2008**
Net revenues	$ 24,444	$ 25,158	$ 73,079	$ 73,758
Net loss	(4,258)	(1,886)	(18,752)	(6,839)
Net loss per common share basic and diluted	$ (0.11)	$ (0.05)	$ (0.50)	$ (0.19)

Note 4 Net loss per share

The Company applies SFAS No. 128, Earnings per Share (SFAS 128). SFAS 128 establishes standards for computing and presenting earnings per share. Basic net income (loss) per share represents net income (loss) divided by the weighted average number of common shares outstanding during the period. The dilutive effect of potential common shares, consisting of outstanding stock options and unvested restricted stock, is determined using the treasury stock method in accordance with SFAS 128. Diluted weighted average shares outstanding for the three and nine months ended April 30, 2009 and 2008 do not include the potential common shares from stock options and unvested restricted stock because to do so would have been antidilutive. Accordingly, basic and diluted net loss per share is the same during these periods.

The following table summarizes the potential number of shares issued from exercise of in the money stock options, net of shares repurchased with the option exercise proceeds and potential shares from restricted stock awards, which are excluded from the computation of diluted net loss per share.

	Three months ended April 30,		**Nine months ended April 30,**	
(In thousands)	**2009**	**2008**	**2009**	**2008**
Potential net shares, issued from exercise of in the money employee and director stock options and restricted stock awards, excluded from diluted net loss per share calculation		142	39	259

The following table summarizes the number of out of the money options excluded from the computation of diluted net loss per share because the effect of their potential exercise is anti-dilutive.

	Three months ended April 30,		**Nine months ended April 30,**	
(In thousands)	**2009**	**2008**	**2009**	**2008**
Out of the money employee and director stock options	1,785	1,485	1,743	1,739

Note 5 Share-based compensation

The Company records compensation expense associated with stock options and restricted stock in accordance with SFAS No. 123(R), Share-Based Payment. The Company adopted the modified prospective application method provided for under SFAS 123(R) and consequently did not retroactively adjust results from prior periods. Under this transition method, compensation cost associated with stock options and awards recognized during the three and nine months ended April 30, 2009 and 2008 includes: (a) compensation cost of all stock-based payments granted prior to, but not yet vested as of July 31, 2005 (based on grant-date fair value), and (b) compensation cost for all stock-based payments granted on or after August 1, 2005 (based on the grant-date fair value).

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The following table sets forth the amount of expense related to share-based payment arrangements included in specific line items in the accompanying statements of operations:

In thousands	Three months ended April 30, 2009	Three months ended April 30, 2008	Nine months ended April 30, 2009	Nine months ended April 30, 2008
Cost of product revenues	$	$ 7	$ 3	$ 13
Research and development	2	35	30	76
Selling, general and administrative	299	367	983	1,063
	$ 301	$ 409	$ 1,016	$ 1,152

No excess tax benefits were recognized during the three or nine month periods ended April 30, 2009 and 2008.

Stock option plans

A summary of the activity relating to the Company s stock option plans for the nine month period ended April 30, 2009 is as follows:

	Options	Weighted Average Exercise Price	Aggregate Intrinsic Value
Outstanding at August 1, 2008	2,275,415	$ 13.13	$ 5,700,000
Exercised	(251,162)	$ 5.87	
Cancelled	(238,401)	$ 18.57	
Outstanding and exercisable at end of period	1,785,852	$ 13.51	$

As of April 30, 2009, there was no unrecognized compensation cost related to unvested stock option-based compensation.

During the nine months ended April 30, 2009 and 2008, the Company received cash proceeds of approximately $348,000 and $395,000, respectively, from the exercise of 44,586 and 35,639 stock options, respectively. The aggregate intrinsic value of stock options exercised during the nine months ended April 30, 2009 and 2008, including the non-cash transactions (Note 6) was approximately $1.4 million and $0.7 million, respectively.

Restricted Stock Awards

A summary of the activity pursuant to the Company s restricted stock awards for the nine months ended April 30, 2009 is as follows:

	Awards	Weighted Average Award Price
Unvested at August 1, 2008	220,240	$ 12.34
Awarded	283,801	$ 4.04
Vested	(103,697)	$ 12.41
Forfeited	(5,575)	$ 10.13
Unvested at end of period	394,769	$ 6.39

The fair value of a restricted stock award is determined based on the closing stock price on the award date. As of April 30, 2009, there was approximately $2.1 million of total unrecognized compensation cost related to unvested restricted stock-based compensation to be recognized over a weighted average remaining period of two and a half years.

The total number of shares available for grant as stock options or award as restricted stock is approximately 548,000 as of April 30, 2009.

Note 6 Supplemental disclosure for statement of cash flows

Supplemental information with respect to the Company s consolidated statements of cash flows is as follows (In thousands):

	Nine months ended April 30, 2009	Nine months ended April 30, 2008
Taxes paid net	$ 181	$ 204

During the nine months ended April 30, 2009, certain officers of the Company exercised 206,576 stock options in a non-cash transaction. The officers surrendered 99,985 shares of previously acquired common stock to exercise the stock options. The Company recorded approximately $1.1 million, the market value of the surrendered shares, as treasury stock.

During the nine months ended April 30, 2008, certain officers and a director of the Company exercised 220,158 stock options in non-cash transactions. The individuals surrendered 181,263 shares of previously acquired common stock to exercise the stock options. The Company recorded approximately $2.4 million, the market value of the surrendered shares, as treasury stock.

Note 7 Comprehensive loss

During the three months ended April 30, 2009 and 2008, total comprehensive loss was approximately $4.0 million and $1.9 million, respectively. During the nine months ended April 30, 2009 and 2008, total comprehensive loss was approximately $20.1 million and $6.9 million, respectively.

At April 30, 2009 and July 31, 2008, the accumulated other comprehensive (loss) income relates to foreign currency translation adjustments.

Note 8- Inventories

At April 30, 2009 and July 31, 2008 inventories, net of reserves of $804,000 and $637,000, respectively, consist of:

In 000 s	April 30, 2009	July 31, 2008
Raw materials		