UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 10-K

(Mark One)

☑ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the fiscal year ended April 29, 2011

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 0-27130

NetApp, Inc.

(Exact name of registrant as specified in its charter)

Delaware	**77-0307520**
(State or other jurisdiction of incorporation or organization)	(IRS Employer Identification No.)

495 East Java Drive,
Sunnyvale, California 94089
(Address of principal executive offices, including zip code)

Registrant's telephone number, including area code:
(408) 822-6000

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

Title of Each Class	Name of Exchange on Which Registered
Common Stock, $0.001 Par Value	The NASDAQ Stock Market LLC

Securities registered pursuant to Section 12(g) of the Act:
None

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

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

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

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☑	Accelerated filer ☐
Non-accelerated filer ☐ (Do not check if a smaller reporting company)	Smaller reporting company ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☑

The aggregate market value of voting stock held by non-affiliates of the registrant, as of October 29, 2010, the last day of registrant's most recently completed second fiscal quarter, was $13,007,545,610 (based on the closing price for shares of the registrant's common stock as reported by the NASDAQ Global Select Market for the last business day prior to that date). Shares of common stock held by each executive officer, director, and holder of 5% or more of the outstanding common stock have been excluded in that such persons may be deemed to be affiliates. This determination of affiliate status is not necessarily a conclusive determination for other purposes.

On June 10, 2011, 371,112,544 shares of the registrant's common stock, $0.001 par value, were outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

The information called for by Part III of this Form 10-K is hereby incorporated by reference from the definitive Proxy Statement for our annual meeting of stockholders, which will be filed with the Securities and Exchange Commission not later than 120 days after April 29, 2011.

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PART I

Item 1. *Business*

Forward Looking Statements

This Annual Report on Form 10-K contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and is subject to the safe harbor provisions set forth in the Exchange Act. Forward-looking statements usually contain the words "estimate," "intend," "plan," "predict," "seek," "may," "will," "should," "would," "could," "anticipate," "expect," "believe," or similar expressions and variations or negatives of these words or expressions. In addition, any statements that refer to expectations, projections, or other characterizations of future events or circumstances, including any underlying assumptions, are forward-looking statements. All forward-looking statements, including but not limited to, statements about:

- our future financial and operating results;
- our business strategies;
- management's plans, beliefs and objectives for future operations, research and development;
- economic and industry trends or trend analysis;
- product introductions, development, enhancements and acceptance;
- acquisitions and joint ventures, growth opportunities, investments and legal proceedings;
- competitive positions;
- future cash flows and cash deployment strategies;
- short-term and long-term cash requirements, including anticipated capital expenditures;
- our anticipated tax rate;
- the dilutive effect of our convertible notes and associated warrants on our earnings per share;
- the conversion, maturation or repurchase of the convertible notes,
- compliance with laws, regulations and debt covenants;
- the continuation of our stock repurchase program; and
- the impact of completed acquisitions

are inherently uncertain as they are based on management's current expectations and assumptions concerning future events, and they are subject to numerous known and unknown risks and uncertainties. Therefore, our actual results may differ materially from the forward-looking statements contained herein. Factors that could cause actual results to differ materially from those described herein include, but are not limited to:

- acceptance of, and demand for, our products, including our recent new product introductions;
- our ability to increase our customer base, market share and revenue;
- the general economic environment and the growth of the storage markets;
- the amount of orders received in future periods;
- our ability to ship our products in a timely manner;
- our ability to achieve anticipated pricing, cost, and gross margins levels;
- our ability to successfully manage our backlog and increase revenue;
- our ability to successfully execute on our strategy;
- our ability to effectively integrate acquired products and technologies;

- our ability to successfully introduce new products and forecast demand for those products;
- our ability to maintain the quality of our hardware, software and services offerings;
- our ability to adapt to changes in market demand;
- demand for our services and support;
- our ability to identify and respond to significant market trends and emerging standards;
- the impact of industry consolidation;
- our ability to successfully manage our investment in people, process, and systems;
- our ability to maintain our partner, supplier and contract manufacturer relationships;
- the ability of our suppliers and contract manufacturers to meet our requirements;
- the ability of our competitors to introduce new products that compete successfully with our products;
- our ability to grow direct and indirect sales and to efficiently utilize global service and support;
- variability in our gross margins;
- our ability to sustain and/or improve our cash and overall financial position;
- our cash requirements and terms and availability of financing;
- valuation and liquidity of our investment portfolio;
- our ability to finance business acquisitions, construction projects and capital expenditures through cash from operations and/or financing;
- the results of our ongoing litigation, tax audits, government audits and inquiries; and
- those factors discussed under "Risk Factors" elsewhere in this Annual Report on Form 10-K.

Readers are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date hereof and are based upon information available to us at this time. These statements are not guarantees of future performance. We disclaim any obligation to update information in any forward-looking statement. Actual results could vary from our forward looking statements due to foregoing factors as well as other important factors, including those described in the Risk Factors included in Item 1A.

Overview

NetApp, Inc. (NetApp) is a leading provider of storage and data management solutions that help increase IT efficiency and flexibility.

Customers around the world choose us for our broad portfolio of application, virtualization, cloud, and service provider solutions that help customers streamline operations and lower the costs associated with storing and managing their data.

We believe that our innovative technologies position us well to take advantage of the market shift from traditional dedicated storage to shared storage in virtualized IT infrastructures. Wherever an organization is on the path to a shared IT infrastructure, NetApp® solutions bring immediate cost savings and help enable quick response to change. NetApp offers the optimal storage platform for delivering the sustained efficiency and flexibility customers need to enable business success.

Our products and services are designed to meet the expansive requirements and demanding service levels of large enterprises and their mission-critical business applications. In addition, we bring our affordable, enterprise-proven technology to midsize enterprises. To better meet the needs of our customers, we develop integrated solutions that optimize the performance of customers' applications and their infrastructure in partnership with key industry leaders such as Cisco Systems, IBM, Microsoft, SAP, Symantec, and VMware. We also design our products to satisfy the demands of high-performance computing and technical data center applications, offering solutions used in the design of semiconductors and automobiles, as well as graphics rendering and seismic exploration.

We were incorporated in 1992 and shipped the world's first networked storage appliance a year later. Since then, we have brought to market many innovations in storage and data management. We have grown to more than 11,000 employees, including approximately 1,000 additional employees from the recent acquisition of certain assets related to the Engenio external storage systems business (ESG) of LSI Corporation (LSI). We have operations in over 130 locations around the world.

NetApp Product Overview

NetApp offers highly available, scalable, and cost-effective storage solutions that incorporate our unified storage platform and the feature-rich functionality of our data and storage resource management software. The cost savings that can be realized from the NetApp Unified Storage Architecture and the infrastructure consolidation that can be achieved through a single storage platform are significant and can provide a strong platform for a service-oriented IT infrastructure. The NetApp Unified Storage Architecture, secure multi-tenancy capability, scalable systems, efficiency technologies, and data management software functionality provide a powerful combination for enterprises building internal private clouds and for service providers building IT-as-a-service offerings.

We believe that by providing greater efficiency and flexibility, our solutions help improve business productivity, performance, and profitability, while providing investment protection and enhanced asset utilization. Our enterprise-class storage solutions are complemented by our services expertise to enable interoperability and optimization in the context of the application and IT infrastructure within which they are deployed.

Data ONTAP Software

Our fabric-attached storage (FAS) and V-Series storage solutions are based on Data ONTAP®, a highly scalable and flexible operating system that concurrently supports any mix of storage area network (SAN) and network-attached storage (NAS) environments. This unified storage software platform is compatible with UNIX®, Linux®, and Web environments.

The Data ONTAP operating system provides the foundation to build a shared storage infrastructure and an enterprise-wide data fabric for the full breadth of business applications and data storage and protection requirements. Data ONTAP features scalability, secure multi-tenancy, and unification across protocols and disks. Data ONTAP also unifies storage efficiency, data management, and data protection. We believe customers can benefit from these capabilities as they increasingly virtualize application environments. Our deduplication for primary and secondary storage, thin provisioning, and highly efficient hardware help maximize utilization while reducing data center footprint and lowering storage-related power and cooling consumption. A few of the technology features we offer with Data ONTAP include:

- FlexShare® technology, which directs how storage system resources are used to deliver an appropriate level of service for each application;
- FlexCache® technology, which allows performance acceleration through the creation of read-only cached volumes by creating caching volumes on multiple storage controllers;
- MultiStore® software, which allows partitioning of individual physical storage systems into multiple secure and separate logical partitions; and
- RAID-DP®, a standard Data ONTAP feature that safeguards data from double disk failure. Integrated with our WAFL® (Write Anywhere File Layout) file system, RAID-DP gives customers data protection plus high performance.

Storage Efficiency

NetApp's portfolio of efficiency technologies helps our customers reduce their storage spending and get more from the storage assets they already own. Some of the efficiency technologies we offer include:

- FlexVol® technology, which provides for thin provisioning through virtual volumes, enabling storage architectures to be more efficient and achieve higher utilization using flexible volumes that do not require repartitioning of physical storage space;
- FlexClone® technology, which enables true data cloning using logical copies that do not require additional physical storage space and allows for instant replication of data volumes and datasets; and
- Deduplication technology, which provides the ability to eliminate duplicate data within primary and secondary disk storage environments, resulting in greater efficiency and higher utilization of storage capacity.

Storage Management and Application Integration Software

NetApp OnCommand® management software improves storage and service efficiency through functions that help customers control, automate, and analyze their shared storage infrastructures. Our management software family of products provides a broad range of storage and data management tools to simplify IT administration and enhance flexibility and productivity. We deliver differentiated products that support industry open standards and interfaces to deliver this value to customers. We tightly integrate our software with database and business application software from partners such as Microsoft, Oracle, SAP, and VMware in order to optimize the performance of those applications on our storage systems.

Through data center automation tools, we give customers the ability to monitor service levels, manage performance, and support change management in complex enterprise SAN environments. We help customers optimize shared infrastructures by supporting individual application performance, service level, and security needs even while the storage is shared across multiple applications.

FAS Unified Storage Systems Family

The NetApp family of modular, scalable, highly available, unified storage systems supports a full range of data for users on a variety of platforms. In the same way that server virtualization eliminates the sprawl in the application layer, NetApp's FAS unified architecture streamlines, simplifies, and consolidates the storage layer. The FAS6200, FAS3200, and FAS2000 series of fabric-attached storage systems are designed to consolidate all types of storage workloads — including primary and secondary data, as well as structured and unstructured data — across all key OS platforms and network infrastructures. Also, NetApp unifies storage access for all standard network protocols based on a single HBA technology and standard IP networks. All NetApp FAS systems are interoperable and provide common software services. NetApp provides a data-in-place upgrade path that spans from entry-level platforms for smaller organizations all the way to high-end data center environments. The NetApp FAS unified architecture supports both scale-up and scale-out growth strategies running the highly efficient Data ONTAP operating system.

Virtual Storage Tier

Customers can increase the performance of a NetApp storage controller using our virtual storage tiering, which is available with our Flash Cache modular cache expansion. Virtual storage tiering lowers response times and increases input/output operations of solid state drives without storing additional data on them. Using dynamic storage tiering, it also improves application performance for production workloads residing on any type of disk drive. Dedupe capabilities reduce the I/O load on storage controllers to provide extreme scaling, especially useful with virtual- and cloud-based working sets.

V-Series Family

Our V-Series family is a network-based virtualization solution that consolidates storage from different suppliers behind our data management interface, providing SAN and NAS access to the data stored in heterogeneous storage arrays. With the V-Series solution, customers are able to:

- Transform existing heterogeneous, multivendor storage systems into a single storage pool;
- Simplify storage provisioning and management with Data ONTAP thin provisioning; and
- Dramatically lower backup time, space, and cost with Data ONTAP Snapshot® copies.

The V-Series family is compatible with the FAS family of storage systems.

Data Protection Software Products

We offer a broad range of integrated data protection solutions for enterprise customer environments that can be tightly integrated with application offerings from partners to increase the speed and efficiency of data protection operations:

- Snapshot technology enables near-instantaneous, space-efficient online backups of large datasets without affecting system performance;
- SnapRestore® technology uses stored Snapshot backups to recover entire file systems or data volumes in seconds, regardless of capacity or number of files;
- SnapVault® and Open Systems SnapVault technologies provide network- and storage-optimized disk-to-disk backup solutions;
- MetroCluster™ uniquely combines array-based clustering with synchronous mirroring to deliver continuous availability and zero data loss; and
- SnapMirror® data replication solution provides disaster recovery protection for business-critical data matched to the recovery point objectives and recovery time objectives of customer environments.

Data Retention and Archive Products

To meet growing regulatory compliance demands faced by most enterprises, we offer a broad suite of products to help enable data permanence, accessibility, and privacy across a variety of different regulations such as the Sarbanes-Oxley Act, 21 CFR Part 11, SEC Rule 17a-4, and HIPAA. Cost-effective, resilient, and reliable storage architectures can be created utilizing NetApp SnapLock® products.

Flash Cache

NetApp Flash Cache modules optimize the performance of random read-intensive workloads such as file services and messaging. These intelligent read caches speed access to user data, reducing latency by a factor of 10 or more compared to disk drives. Faster response times can translate into higher throughput for random I/O workloads. NetApp Flash Cache gives users performance that is comparable to that of solid state disks (SSDs) without the complexity of another storage tier.

Storage Security Products

Partnering with SafeNet, Inc. enables us to provide a unified platform for data security and key management across IP SAN, NAS, and tape backup environments. The platform combines wire-speed encryption, access controls, authentication, and automated key management to provide strong security for data at rest, while still allowing the capability to search compliant data for legal discovery purposes if the need arises. We also partner with Brocade Communications Systems, Inc. to provide advanced fabric services for SANs. These high-speed, highly reliable hardware devices deliver fabric-based encryption services to secure data assets either selectively or comprehensively.

Object Storage

NetApp StorageGRID® is a proven object storage software solution designed to manage petabyte-scale, globally distributed repositories of images, video, and records for enterprises and service providers. NetApp StorageGRID provides tremendous scalability by eliminating the typical constraints of data containers in blocks and files. It supports billions of files or objects and petabytes of capacity in hybrid cloud storage architectures with a single global namespace.

NetApp StorageGRID enables intelligent data management and secure content retention. Data placement and secure content retention are optimized by aligning system and business process management metadata with a global policy engine that manages how data is stored, placed, governed, protected, and retrieved. Content is protected from tampering using technologies such as digital fingerprints and encryption.

NetApp Services

Our customers demand high availability and reliability of their storage infrastructure to ensure the successful ongoing operation of their businesses. NetApp's services are designed with this in mind. We provide professional services, global support solutions, and customer education and training to help customers most effectively manage their data. The professional services and support solutions we offer help our customers to resolve business problems, reduce costs, keep businesses up and running continuously, comply with regulations and policies, and improve overall operational results. We utilize a global, integrated model to provide consistent service delivery and global support during every phase of the customer engagement, including assessment and analysis, planning, design, installation, implementation, integration, optimization, ongoing support, and remote management and monitoring. Services and support often involve phased rollouts, technology transitions and migrations, and other long-term engagements.

Sales, Principal Markets, and Distribution Channels

We market and sell our products in numerous countries throughout the world, and we continue to make investments in our multiyear branding and awareness campaign to increase visibility of NetApp in the broader IT segment.

Our diversified customer base spans a number of customer segments and vertical markets, including energy, financial services, government, high technology, Internet, life sciences and healthcare services, major manufacturing, media, entertainment, animation and video postproduction, and telecommunications. We focus primarily on the data management and storage markets, offering an array of solutions from our high-end products designed for large enterprise customers to entry-level products designed for midsized enterprise customers.

To increase market share, we are focused on diversifying our multichannel distribution strategy. We are strengthening existing partnerships and investing in new partnerships with system integrators and cloud service providers.

As of the end of fiscal 2011, our worldwide sales and marketing function consisted of 4,808 managers, sales representatives, and technical support personnel. We have field sales offices in more than 40 countries. We employ a multichannel distribution strategy, selling products and services to end users and service providers through a direct sales force and through channel partners, including value-added resellers, system integrators, original equipment manufacturers (OEMs), and distributors. During fiscal year 2011, sales through our indirect channels represented 73% of our total net revenues. Sales to customers Arrow Electronics, Inc. and Avnet, Inc., who are distributors, accounted for approximately 18% and 12% of our net revenues, respectively, in fiscal 2011; approximately 14% and 11% of our net revenues, respectively, for fiscal 2010; and approximately 11% and 10% of our net revenues, respectively, for fiscal 2009. Information about our segment disclosures, foreign operations, and net sales attributable to our geographic regions is included in Note 16 of the accompanying consolidated financial statements.

Seasonality

We have historically experienced a decline in revenues in the first quarter of our fiscal year, as the sales organization spends time developing new business after higher close rates in the fourth quarter, and because sales to European customers are historically weaker during the summer months. During the second quarter of our fiscal year, we have historically experienced increased sales, driven by the government sector, concurrent with the end of the U.S. federal government's fiscal year in September, as well as an increase in business from European markets. We derive a majority of our revenue in any given quarter from orders booked in the same quarter. Bookings and revenues typically follow intraquarter seasonality patterns weighted toward the back end of the quarter.

Backlog

We manufacture products based on a combination of specific order requirements and forecasts of our customers' demand. Orders are generally placed by customers on an as-needed basis. A substantial portion of our products is sold on the basis of standard purchase orders that are cancellable prior to shipment without penalty. In certain circumstances, purchase orders are subject to change with respect to quantity of product or timing of delivery resulting from changes in customer requirements. Our business is characterized by seasonal and intraquarter variability in demand, as well as short lead times and product delivery schedules. Accordingly, backlog at any given time may not be a meaningful indicator of future revenue.

Manufacturing and Supply Chain

We have outsourced manufacturing operations to third parties located in Memphis, Tennessee; Olive Branch, Mississippi; Livingston, Scotland; Schiphol Airport, The Netherlands; Shanghai and Longhua, China; Singapore and Guadalajara, Mexico. These operations include materials procurement, commodity management, component engineering, test engineering, manufacturing engineering, product assembly, product assurance, quality control, final test, and global logistics. We rely on a limited number of suppliers for materials, as well as several key subcontractors for the production of certain subassemblies and finished systems. We use multiple vendors and have our products manufactured in a number of locations wherever possible to mitigate our supply chain risk. Our strategy has been to develop close relationships with our suppliers, exchanging critical information and implementing joint quality programs. We also use contract manufacturers for the production of major subassemblies to improve our manufacturing continuity of business. This manufacturing strategy minimizes capital investments and overhead expenditures while creating flexibility for rapid expansion.

We were awarded ISO 9001 certification on May 29, 1997, and continue to be ISO 9001 certified. We were awarded ISO 14001 certification on December 8, 2004, and continue to be ISO 14001 certified.

Research and Development

We conduct research and development activities in various locations throughout the world. In fiscal 2011, 2010, and 2009, research and development expenses represented 13%, 14%, and 15% of our net revenues, respectively. These costs relate primarily to personnel and related costs incurred to conduct product development activities. Although we develop many of our products internally, we may acquire technology through business combinations or through licensing from third parties when appropriate. We believe that technical leadership is essential to our success, and we expect to continue to commit substantial resources to research and development.

Competition

We compete with many companies in the markets we serve, including companies that offer a broad spectrum of IT products and services and others that offer a more limited set of storage and data management products or services. In the primary storage market, our system products and associated software portfolio mainly compete with storage system products and data management software from Dell, EMC, Hitachi Data Systems, HP, IBM, and Oracle Corporation. In the secondary storage market, which includes the disk-to-disk backup, archival and compliance, and business continuity segments, our solutions mainly compete against products from EMC, Hitachi Data Systems, HP, IBM, and Oracle Corporation. In vertical markets — such as content storage, digital media, and graphics — our top competitors include EMC, Hitachi Data Systems, and HP. In the IT infrastructure and service provider markets, we compete primarily with EMC, Hitachi Data Systems, and HP.

We compete with these companies based on market presence, breadth of product offerings, breadth of service offerings and price. Some of these companies also compete by offering storage and data management products or services together with other IT products or services, at minimal or no additional cost, in order to preserve or gain market share.

We believe that we have a number of competitive advantages over many of these companies, including product innovation, the relationships we have with our customers, the deep integration we do with technology partners, and our collaboration with sales partners. We believe the advantages of our products include functionality, scalability, performance, flexibility, quality, and operational efficiency. We believe our advantage also includes the nature of the relationships we form with our customers and sales partners worldwide. We strive to deliver an outstanding experience in every interaction we have with our customers and partners through our product, service, and support offerings, which enable us to provide our customers with a full range of expertise before, during, and after their purchase from us or from one of our sales partners.

An increase in industry consolidation may result in stronger competitors that are better able to compete as sole-source vendors for customers. In addition, current and potential competitors have established or may establish cooperative relationships among themselves or with third parties, including some of our partners. It is possible that new competitors or alliances among competitors may emerge and rapidly acquire significant market share.

Proprietary Rights

We currently rely on a combination of copyright and trademark laws, trade secrets, confidentiality procedures, contractual provisions, and patents to protect our proprietary rights. We seek to protect our software, documentation, and other written materials under trade secret, copyright, and patent laws, which afford only limited protection. We have registered our NetApp name and logo, Network Appliance™ name and logo, Data ONTAP, DataFabric®, FAServer®, FlexVol, FilerView®, NearStore®, SecureShare®, SnapDrive®, SnapLock, SnapManager®, SnapMirror, SnapRestore, SnapVault, WAFL, and others as trademarks in the United States. Other U.S. trademarks and U.S. registered trademarks are registered internationally as well. We will continue to evaluate the registration of additional trademarks as appropriate. We generally enter into confidentiality agreements with our employees, resellers, customers, and suppliers. We currently have multiple U.S. and international patent applications pending and multiple U.S. patents issued.

In addition, through various licensing arrangements, we receive certain rights to intellectual property of others. We expect to maintain current licensing arrangements and to secure licensing arrangements in the future, as needed and to the extent available on reasonable terms and conditions, to support continued development and sales of our products and services. Some of these licensing arrangements require or might require royalty payments and other licensing fees. The amount of these payments and fees might depend on various factors, including but not limited to the structure of royalty payments; offsetting considerations, if any; and the degree of use of the licensed technology.

The industry in which we compete is characterized by rapidly changing technology, a large number of patents, and frequent claims and related litigation regarding patent and other intellectual property rights, and we are exposed to various risks related to legal proceedings or claims and protection of intellectual property rights. If we are unable to protect our intellectual property, we might be subject to increased competition that could materially and adversely affect our operating results.

Environmental Disclosure

NetApp is committed to minimizing environmental impact through use of NetApp products, activities, and services. The NetApp environmental management system (EMS) provides the framework for setting, implementing, and reviewing the company's environmental objectives and targets. The NetApp EMS supports:

- Commitment to complying with relevant environmental legislation, regulations, and other customer and community requirements;
- Prevention of pollution;
- Conservation of natural resources; and
- Continual improvement of our environmental management system.

The NetApp EMS makes sure that activities, products, and services conform to the ISO 14001 standard and environmental requirements.

We are voluntarily measuring, monitoring, and publicly reporting our Scope 1 and Scope 2 greenhouse gas emissions. We have established employee commuter programs and education and awareness campaigns, and we continuously seek to optimize the energy efficiency of our buildings, labs, and data centers. At both the global and regional/state levels, various laws and regulations have been implemented or are under consideration to mitigate the effects of climate change caused by greenhouse gas emissions. Environmental laws are complex, change frequently, and have tended to become more stringent over time. It is often difficult to estimate the future impact of environmental matters. Based on current information and subject to the finalization of the proposed regulations, we believe that our primary risk related to climate change is the risk of increased energy costs. However, we do not anticipate being subject to a cap and trade system or any other mitigation measures that would be material to our operations in the near future. Additionally, we have implemented many disaster recovery and business resiliency measures to mitigate the physical risks our facilities, business, and supply chain might face as a consequence of severe weather/climate-related phenomena such as earthquakes, floods, droughts, and other such natural occurrences.

We are also subject to other federal, state, and local regulations regarding workplace safety and protection of the environment. Various international, federal, state, and local provisions regulate the use and discharge of certain hazardous materials used in the manufacture of our products. Failure to comply with environmental regulations in the future could cause us to incur substantial costs or subject us to business interruptions. We believe we are substantially compliant with all applicable environmental laws. All of our products meet the requirements for REACH, WEEE, RoHS, and China RoHS compliance. We have maintained an environmental management system since December 2004 as well as ISO 14001 certification at our corporate headquarters, which represents approximately 40% of our employee population and is one of the largest components of our corporate carbon footprint. As part of ISO 14001 requirements, we set environmental performance goals around reducing energy use per square foot as well as waste generated on site (per employee). We also conduct an annual review and third-party verified audits of our operations, and we monitor environmental legislation and requirements to help make sure we are taking necessary measures to remain in compliance with applicable laws, not only in our operations but also for our products.

Working Capital Practices

Information about our working capital practices is included in Item 7 — "Management's Discussion and Analysis of Financial Condition and Results of Operation" under the heading "Liquidity and Capital Resources" and is incorporated herein by reference.

Employees

As of April 29, 2011, we had 10,212 employees, of which 4,808 were in sales and marketing, 3,146 were in research and development, 1,248 were in services and manufacturing operations, and 1,010 were in finance and administration. In addition, we added approximately 1,000 employees as a result of the recent acquisition of ESG, which was completed on May 6, 2011. We have never had a work stoppage and consider relations with our employees to be good. Competition for technical personnel in the industry in which we compete is intense. We believe that our future success depends in part on our continued ability to hire, assimilate, and retain qualified personnel. To date, we believe that we have been successful in recruiting qualified employees, but there is no assurance that we will continue to be successful in the future.

Executive Officers

Our executive officers and their ages as of May 24, 2011, are as follows:

Name	Age	Position
Thomas Georgens	51	President, Chief Executive Officer, Director
Manish Goel	46	Executive Vice President, Products
Steven J. Gomo	59	Executive Vice President, Finance and Chief Financial Officer
Matthew K. Fawcett	43	Senior Vice President, General Counsel and Corporate Secretary
Robert E. Salmon	50	Executive Vice President, Field Operations

Thomas Georgens is our president and chief executive officer. From February 2008 to August 2009, Mr. Georgens served as our president and chief operating officer and was responsible for all product operations and field operations worldwide. Mr. Georgens has also been a member of our Board of Directors since March 2008. Mr. Georgens joined NetApp in October 2005 as executive vice president and general manager of enterprise storage systems and was named executive vice president of product operations where he served in that role from January 2007 to February 2008. Before joining NetApp, Mr. Georgens spent nine years at Engenio, a former subsidiary of LSI Corporation, with the last two years as chief executive officer. He has also served in various other positions, including president of LSI Logic Storage Systems and executive vice president of LSI Corporation. Prior to LSI Corporation, Mr. Georgens spent 11 years at EMC in a variety of engineering and marketing positions. Mr. Georgens holds a BS degree and an ME degree in computer and systems engineering from Rensselaer Polytechnic Institute as well as an MBA degree from Babson College.

Manish Goel was appointed the executive vice president of product operations in June 2009, overseeing all aspects of technology strategy and product engineering across the Company’s product portfolio. Mr. Goel has held a variety of leadership roles in corporate development, sales, and business unit general management since he joined NetApp in 2002. Prior to NetApp, Mr. Goel led corporate and business development activities for Cadence Design Systems and Copper Mountain Networks. Prior to that, he spent four years as a strategy consultant for McKinsey and Co. and six years as a systems software engineer. Mr. Goel holds a BS degree in electrical engineering from IIT Chennai and an MBA degree in finance from the Wharton School of Business.

Steven J. Gomo joined NetApp in August 2002 as senior vice president of finance and chief financial officer. He was appointed executive vice president of finance and chief financial officer in October 2004. Prior to joining the Company, he served as chief financial officer for Gemplus International S.A., headquartered in Luxembourg from November 2000 to April 2002 and as chief financial officer of Silicon Graphics, Inc., from February 1998 to August 2000. Prior to February 1998, he worked at Hewlett-Packard Company for 24 years in various positions, including financial management, corporate finance, general management, and manufacturing. Mr. Gomo currently serves on the board of SanDisk Corporation and Enphase Energy. Mr. Gomo holds an MBA degree from Santa Clara University and a BS degree in business administration from Oregon State University.

Matthew K. Fawcett joined the Company in September 2010 as senior vice president, general counsel and corporate secretary. Prior to joining NetApp, from 1999 to August 2010, Mr. Fawcett served in various legal positions at JDS Uniphase Corporation, including as senior vice president, general counsel and corporate secretary. Prior to joining JDSU, Mr. Fawcett was counsel at Fujitsu and worked in private practice at Morrison & Foerster LLP. Fawcett holds a BA degree from the University of California at Berkeley and a JD degree from the University of California at Los Angeles.

Robert E. Salmon joined NetApp in January 1994 and was appointed executive vice president, field operations in December 2005. Mr. Salmon has served as the Company's executive vice president of worldwide sales since September 2004. From August 2003 to September 2004, Mr. Salmon served as the Company's senior vice president of worldwide sales, and from May 2000 to August 2003, Mr. Salmon served as the Company's vice president of North American sales. Prior to his tenure at NetApp Mr. Salmon spent nearly 10 years with Sun Microsystems and Data General Corporation. Mr. Salmon graduated from California State University, Chico with a BS degree in computer science.

Additional Information

Our Internet address is *www.netapp.com.* We make available through our Internet Web site our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and amendments to those reports filed or furnished pursuant to Section 13(a) of the Securities Exchange Act of 1934, as amended, as soon as reasonably practicable after we electronically file such material with, or furnish it to, the SEC.

The SEC maintains an Internet site (*www.sec.gov*) that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC. The public also may read and copy these filings at the SEC's Public Reference Room at 100 F Street N.E., Washington, DC 20549. Information about this Public Reference Room is available by calling (800) SEC-0330.

Item 1A. *Risk Factors*

The following risk factors and other information included in this Annual Report on Form 10-K should be carefully considered. The risks and uncertainties described below are not the only ones we face. Additional risks and uncertainties not presently known to us or that we presently deem less significant may also impair our business operations. Please see Item 1. Business — Forward Looking Statements of this Annual Report on Form 10-K for a discussion of the forward-looking statements that are qualified by these risk factors. If any of the events or circumstances described in the following risk factors actually occurs, our business, operating results, and financial condition could be materially adversely affected.

Our operating results may be adversely affected by uncertain economic and market conditions.

We are subject to the effects of general global economic and market conditions. Challenging economic conditions worldwide or in certain geographic regions have from time to time contributed to slowdowns in the computer, storage, and networking industries at large, as well as the information technology (IT) market, resulting in:

- Reduced demand for our products as a result of constraints on IT-related spending by our customers;
- Increased price competition for our products from competitors;
- Deferment of purchases and orders by customers due to budgetary constraints or changes in current or planned utilization of our systems;
- Risk of excess and obsolete inventories;
- Risk of supply constraints:
- Excess facilities costs;
- Higher overhead costs as a percentage of revenues;

- Negative impacts from increased financial pressures on customers, distributors and resellers;
- Negative impacts from increased financial pressures on key suppliers or contract manufacturers; and
- Potential discontinuance of product lines or businesses and related asset impairments.

Any of the above-mentioned factors could have a material and adverse effect on our business and financial performance.

Our quarterly operating results may fluctuate, which could adversely impact our common stock price.

We believe that period-to-period comparisons of our results of operations are not necessarily meaningful and should not be relied upon as indicators of future performance. Our operating results have been in the past, and will continue to be, subject to quarterly fluctuations as a result of numerous factors, some of which may contribute to more pronounced fluctuations during times of economic volatility. These factors include, but are not limited to, the following:

- Fluctuations in demand for our products and services, in part due to changes in general economic conditions and specific economic conditions in the storage and data management market;
- A shift in federal government spending patterns;
- Changes in sales and implementation cycles for our products and reduced visibility into our customers' spending plans and associated revenues;
- The level of price and product competition in our target markets;
- The impact of economic uncertainty on our customers' budgets and IT spending capacity;
- Our ability to maintain appropriate inventory levels and purchase commitments;
- Our reliance on a limited number of suppliers, and industry consolidation in our supply base, which could subject us to periodic supply-and-demand, price rigidity, and quality issues with our components;
- The timing of bookings, the cancellation of significant orders and the management of, or fluctuations in, our backlog;
- Product configuration and mix;
- The extent to which our customers renew their service and maintenance contracts with us;
- Seasonality, such as our historical seasonal decline in revenues in the first quarter of our fiscal year and seasonal increase in revenues in the second quarter of our fiscal year, with the latter due in part to the impact of the U.S. federal government's September 30 fiscal year end on the timing of its orders;
- Linearity, such as our historical intraquarter bookings and revenue pattern in which a disproportionate percentage of each quarter's total bookings and related revenue occur in the last month of the quarter;
- Announcements and introductions of, and transitions to, new products by us or our competitors;
- Deferrals of customer orders in anticipation of new products or product enhancements introduced by us or our competitors;
- Our ability to develop, introduce, and market new products and enhancements in a timely manner;
- Our ability to effectively integrate acquired products and technologies;
- Our levels of expenditure on research and development and sales and marketing programs;
- Our ability to effectively manage our operating expenses;
- Adverse movements in foreign currency exchange rates in the countries in which we do business;
- The dilutive impact of our $1.265 billion of 1.75% convertible senior notes due June 2013 (the "Notes") and related warrants on our earnings per share;

- Excess or inadequate facilities;
- Actual events, circumstances, outcomes and amounts differing from judgments, assumptions, and estimates used in determining the values of certain assets (including the amounts of valuation allowances), liabilities, and other items reflected in our consolidated financial statements;
- Disruptions resulting from new systems and processes as we continue to enhance and scale our system infrastructure;
- Disruptions resulting from reliance on third-party systems and processes during the transition period following the completion of mergers or other acquisitions; and
- Future accounting pronouncements and changes in accounting rules, such as the increased use of fair value measures, changes in accounting standards related to revenue recognition, lease accounting, and financial instruments and the potential requirement that U.S. registrants prepare financial statements in accordance with International Financial Reporting Standards (IFRS).

Due to such factors, operating results for future periods are difficult to predict, and, therefore, prior results are not necessarily indicative of results to be expected in future periods. Any of the foregoing factors, or any other factors discussed elsewhere herein, could have a material adverse effect on our business, results of operations, and financial condition. It is possible that in one or more quarters our results may fall below our forecasts and the expectations of public market analysts and investors. In such event, the trading price of our common stock would likely decrease.

Our revenues for a particular period are difficult to forecast, and a shortfall in revenues may harm our business and our operating results.

Our revenues for a particular period are difficult to forecast, especially in times of economic uncertainty. Because the storage and data management market is rapidly evolving, our sales cycle varies substantially from customer to customer, and we rely increasingly on sales through our indirect channel partners, including value-added resellers, systems integrators, distributors, OEMs and strategic business partners. New product introductions and the transition from old to new products also increase the complexities of forecasting revenues.

In addition, we derive a majority of our revenues in any given quarter from orders booked in the same quarter. Bookings typically follow intra-quarter seasonality patterns weighted toward the back end of the quarter. If we do not achieve bookings in the latter part of a quarter consistent with our quarterly targets, our financial results will be adversely impacted. Additionally, due to the complexities associated with revenue recognition, we may not accurately forecast our non-deferred and deferred revenues, which could adversely impact our results of operations.

We use a “pipeline” system, a common industry practice, to forecast bookings and trends in our business. Sales personnel monitor the status of potential business and estimate when a customer will make a purchase decision, the dollar amount of the sale and the products or services to be sold. These estimates are aggregated periodically to generate a bookings pipeline. Our pipeline estimates may prove to be unreliable either in a particular quarter or over a longer period of time, in part because the “conversion rate” of the pipeline into revenues varies from customer to customer, can be difficult to estimate, and requires management judgment, and also because customers’ purchasing decisions are subject to delay, reduction or cancellation. Small deviations from our forecasted conversion rate may result in inaccurate plans and budgets and could materially and adversely impact our business or our planned results of operations. In addition, the risks inherent in using a “pipeline” system are magnified with respect to indirect sales made through our channel partners because we have less control over, and visibility into, the sales process of our channel partners.

Economic uncertainties have caused, and may in the future again cause, consumers, businesses and governments to defer purchases in response to tighter budgets, credit, decreased cash availability and declining customer confidence. Accordingly, future demand for our products could differ from our current expectations.

We have experienced periods of alternating growth and decline in revenues and operating expenses. If we are not able to successfully manage these fluctuations, our business, financial condition and results of operations could be significantly impacted.

Changing market conditions and economic uncertainty create a challenging operating environment for our business. It is critical that we maintain appropriate alignment between our cost structure and our expected growth and revenues, while at the same time, continuing to make strategic investments for future growth.

Our expense levels are based in part on our expectations as to future revenues, and a significant percentage of our expenses are fixed. We have a limited ability to quickly or significantly reduce our fixed costs, and if revenue levels are below our expectations, operating results will be adversely impacted. During periods of uneven growth, we may incur costs before we realize the anticipated related benefits, which could harm our operating results. We have made, and will continue to make, significant investments in engineering, sales, service and support, marketing programs and other functions to support and grow our business. We are likely to recognize the costs associated with these investments earlier than some of the related anticipated benefits (revenue growth), and the return on these investments may be lower, or may develop more slowly, than we expect, which could harm our business, operating results and financial condition.

Conversely, if we are unable to effectively manage our resources and capacity during periods of increasing demand for our products, we could also experience an adverse impact on our business, operating results and financial condition and our customer relationships may be adversely impacted. If the storage and data management market fails to grow, or grows slower than we expect, our revenues will be adversely affected. Also, even if spending in the IT market increases, our revenues may not grow at the same pace.

Our gross margins have varied over time and may continue to vary, and such variation makes it more difficult to forecast our earnings.

Our total gross margins are impacted by the mix of our product, software entitlements and maintenance and services revenues.

Our product gross margins have been and may continue to be affected by a variety of factors, including:

- Demand for storage and data management products;
- Pricing actions, rebates, sales initiatives, discount levels, and price competition;
- Changes in the mix between direct versus indirect and OEM sales, particularly as a result of the recent acquisition of certain assets related to the Engenio external storage systems business (ESG) of LSI Corporation (LSI), which is based on a lower gross margin OEM business model;
- Changes in customer, geographic, or product mix, including mix of configurations within products;
- The timing and amount of revenue recognized and deferred;
- New product introductions and enhancements;
- Licensing and royalty arrangements;
- Excess inventory levels or purchase commitments as a result of changes in demand forecasts or last time buy purchases;
- Possible product and software defects as we transition our products; and
- The cost of components, contract manufacturing costs, quality, warranty, and freight.

Changes in software entitlements and maintenance gross margins may result from various factors, such as:

- The size of the installed base of products under support contracts;
- The timing of technical support service contract renewals; and
- Demand for and the timing of delivery of upgrades.

Changes in service gross margins may result from various factors, such as:

- The mix of customers;
- The size and timing of service contract renewals;
- Spares stocking requirements to support new product introductions;
- The level of spending on our customer support infrastructure;
- The volume, cost and use of outside partners to deliver support services on our behalf; and
- Product quality and serviceability issues.

Due to such factors, gross margins are subject to variation from period to period and are difficult to predict.

An increase in competition and industry consolidation could materially and adversely affect our operating results.

The storage and data management markets are intensely competitive and are characterized by rapidly changing technology. In the storage market, our primary and near-line storage system products and our associated software portfolio compete primarily with storage system products and data management software from EMC (including its recent acquisition of Isilon), Hitachi Data Systems, HP, IBM, Dell and Oracle Corporation. In the secondary storage market, which includes the disk-to-disk backup, compliance and business continuity segments, our solutions compete primarily against products from EMC and Oracle Corporation.

There has been a trend toward industry consolidation in our markets for several years. We expect this trend to continue as companies attempt to strengthen or hold their market positions in an evolving industry, as companies become unable to maintain their competitive positions or continue operations and as customers demand more flexible business models and terms. We believe that industry consolidation may result in stronger competitors that are better able to compete for customers as sole-source vendors. In addition, current and potential competitors have established or may establish strategic alliances among themselves or with third parties, including some of our partners. It is possible that new competitors or alliances among competitors may emerge and rapidly acquire significant market share. We may not be able to compete successfully against current or future competitors. Competitive pressures we face could materially and adversely affect our business and operating results.

Disruption of, or changes in, our distribution model could harm our sales.

If we fail to develop and maintain strong relationships with our channel partners, or if our channel partners fail to effectively manage the sale of our products or services on our behalf, our revenues and gross margins could be adversely affected.

We market and sell our storage data management solutions directly through our worldwide sales force and indirectly through channel partners such as value-added resellers, systems integrators, distributors, OEMs and strategic business partners, and we derive a significant portion of our revenues from these indirect channels. During fiscal 2011, revenues generated from sales through our indirect channel distribution accounted for 73% of our revenues, and we expect this percentage to continue to increase over time as we further develop these channels or acquire products distributed through indirect channels. In order for us to maintain or increase our revenues, we must effectively manage our relationships with channel partners.

Several factors could result in disruption of or changes in our indirect channel distribution model, which could materially harm our revenues and gross margins, including the following:

- Our indirect channel partners may compete directly with other channel partners or with our direct sales force. Due to these conflicts, our indirect channel partners could stop or reduce their efforts in marketing our products.
- Our indirect channel partners may demand that we absorb a greater share of the risks that their customers may ask them to bear;
- Our indirect channel partners may have insufficient financial resources and may not be able to withstand changes and challenges in business conditions; and
- Our indirect channel partners' financial condition or operations may weaken.

There is no assurance that we will be able to attract new indirect channel partners, retain these indirect channel partners or that we will be able to secure additional or replacement indirect channel partners in the future, especially in light of changes in end customer demand patterns and changes in available and competing technologies from competitors. The loss of one or more of our key indirect channel partners in a given geographic area could harm our operating results within that area, as qualifying and developing new indirect channel partners typically requires a significant investment of time and resources before acceptable levels of productivity are met. Our inability to effectively establish, train, retain and manage our indirect channel partners could harm our sales.

In addition, we depend on our indirect channel partners to comply with applicable regulatory requirements in the jurisdictions in which they operate. Their failure to do so could have a material adverse effect on our revenues and operating results.

Our OEM relationship with IBM may not continue to generate significant revenues.

In April 2005, we entered into an OEM agreement with IBM, which enables IBM to sell IBM-branded solutions based on our unified solutions, including NearStore® and V-Series systems, as well as associated software offerings. In addition, by acquiring ESG, we have assumed LSI's rights under a second OEM agreement with IBM, which enables IBM to sell certain ESG solutions. While these agreements are part of our general strategy to expand our reach to more customers and into more countries, we do not have an exclusive relationship with IBM under either OEM agreement, and there is no minimum commitment for any given period of time. Therefore, our relationship with IBM may not continue to generate significant revenues or, in the case of the OEM agreement related to ESG, may not allow us to capture certain anticipated benefits of the ESG acquisition. In addition, we have no control over the products that IBM selects to sell, or its release schedule and timing of those products; nor do we control its pricing.

In the event that sales through our OEM relationship with IBM increase, which we expect will occur as a result of the ESG transaction, we may experience distribution channel conflicts between our direct sales force and the OEM or among our channel partners. If we fail to minimize channel conflicts, or if our OEM relationship does not continue to generate significant revenues, our operating results and financial condition could be harmed.

A portion of our revenues is generated by large, recurring purchases from various customers, resellers and distributors. A loss, cancellation or delay in purchases by any of these parties has and in the future could negatively affect our revenues.

During fiscal 2011, sales to distributors Arrow Electronics, Inc. and Avnet, Inc. accounted for approximately 18% and 12%, respectively of our net revenues. We also have significant OEM agreements with IBM, which, as described above, enable IBM to sell IBM-branded solutions based on our solutions, as well as an agreement with Fujitsu Technology Solutions (Fujitsu), which enables Fujitsu to lease, sell, market and resell our products to end users and Fujitsu sales partners worldwide, to integrate our products into Fujitsu bundled offerings, and to market our support services. The loss of orders from these, or any of our more significant customers, strategic partners, distributors or resellers could cause our revenues and profitability to suffer.

We generally do not enter into binding purchase commitments with our customers for an extended period of time, and thus we may not be able to continue to receive large, recurring orders from these customers, resellers or distributors. For example, our reseller agreements generally do not require minimum purchases and our customers, resellers and distributors can stop purchasing and marketing our products at any time.

Unfavorable economic conditions may negatively impact our operations by affecting the solvency of our customers, resellers and distributors, or the ability of our customers to obtain credit to finance purchases of our products. If the uncertainty in the economy continues, or conditions deteriorate, and our sales decline, our financial condition and operating results could be adversely impacted.

Because our expenses are based on our revenue forecasts, a substantial reduction or delay in sales of our products to, or unexpected returns from customers and resellers, or the loss of any significant customer or reseller, could harm our business. We expect that our largest customers in the future could be different from our largest customers today. End users could stop purchasing and indirect channel partners could stop marketing our products at any time. The loss of one or more of our key indirect channel partners or the failure to obtain and ship a number of large orders each quarter could harm our operating results. In addition, a change in the pricing practices of one or more of our large indirect channel partners could adversely affect our revenues and gross margins.

The U.S. government has contributed to our revenue growth and has become an important customer for us. Future revenues from the U.S. government are subject to shifts in government spending patterns. A decrease in government demand for our products could materially affect our revenues. In addition, our business could be adversely affected as a result of future examinations by the U.S. government.

The U.S. government has become an important customer for the storage and data management market generally and for us in particular; however, government demand is unpredictable, and there can be no assurance that we will maintain or grow our revenues from the U.S. government. Government agencies are subject to budgetary processes and expenditure constraints that could lead to delays or decreased capital expenditures in IT spending. If the government or individual agencies within the government reduce or shift their capital spending patterns, our revenues and operating results may be harmed.

In addition, selling our products to the U.S. government, whether directly or indirectly, also subjects us to certain regulatory requirements. For example, in April 2009, we entered into a settlement agreement with the United States of America, acting through the United States Department of Justice (DOJ) and on behalf of the General Services Administration (the “GSA”) related to a dispute regarding our discount practices and compliance with the price reduction clause provisions of GSA contracts for certain specified prior years. Failure to comply with U.S. government regulatory requirements by us or our reseller partners could subject us to fines and other penalties, which could have a material adverse effect on our revenues, operating results and financial position.

If we are unable to maintain our existing relationships and develop new relationships with major strategic partners, our revenues may be impacted negatively.

An element of our strategy to increase revenues is to strategically partner with major third-party software and hardware vendors to integrate our products into their products and also co-market our products with them. We have significant partner relationships with database, business application, backup management and server virtualization companies, including Microsoft, Oracle, SAP, Symantec and VMware. In January 2010, we announced an expansion of our collaboration with Cisco and VMware, including a cooperative support arrangement, and in October 2010, we expanded our relationship with Fujitsu Technology Solutions. A number of these strategic partners are industry leaders that offer us expanded access to segments of the storage and data management market. There is intense competition for attractive strategic partners, and even if we can establish relationships with these or other partners, these partnerships may not generate significant revenues or may not continue to be in effect for any specific period of time. If these relationships are not maintained or fail to materialize as expected, we could experience lower than expected revenue growth, suffer delays in product development, or experience other operational difficulties.

In addition, some of our partners, including Oracle, Cisco and VMware, are also partnering with other storage vendors which may increase the availability of competing solutions, harm our ability to continue as the vendor of choice for those partners and harm our ability to grow our business with those partners.

We intend to continue to establish and maintain business relationships with technology companies to expand our marketing reach and accelerate the development of our storage and data management solutions. To the extent that we are unsuccessful in developing new relationships or maintaining our existing relationships, our future revenues and operating results could be negatively impacted. In addition, the loss of a strategic partner could have a material adverse effect on our revenues and operating results.

Our future financial performance depends on growth in the storage and data management markets. If the performance of these markets does not meet the expectations upon which we calculate and forecast our revenues, our operating results will be materially and adversely impacted.

All of our products address the storage and data management markets. Accordingly, our future financial performance will depend in large part on continued growth in the storage and data management markets and on our ability to adapt to emerging standards in these markets. The markets for storage and data management have been recently adversely impacted by the global economic uncertainty, and as a result of continued uncertainty, the markets may not grow as anticipated or may decline.

Additionally, emerging standards in these markets may adversely affect the UNIX®, Windows® and the World Wide Web server markets upon which we depend. For example, we provide our open access data retention solutions to customers within the financial services, healthcare, pharmaceutical and government market segments, industries that are subject to various evolving governmental regulations with respect to data access, reliability and permanence (such as Rule 17(a)(4) of the Securities Exchange Act of 1934, as amended) in the United States and in the other countries in which we operate. If our products do not meet and continue to comply with these evolving governmental regulations in this regard, customers in these market and geographical segments will not purchase our products, and we will not be able to expand our product offerings in these market and geographical segments at the rates which we have forecasted.

Supply chain issues, including financial problems of contract manufacturers or component suppliers, or a shortage of adequate component supply or manufacturing capacity that increases our costs or causes a delay in our ability to fulfill orders, could have a material adverse impact on our business and operating results, and our failure to estimate customer demand properly may result in excess or obsolete component supply, which could adversely affect our gross margins.

The fact that we do not own or operate our manufacturing facilities and supply chain exposes us to risks, including reduced control over quality assurance, production costs and product supply, which could have a material adverse impact on the supply of our products and on our business and operating results. We rely on a limited number of suppliers for components utilized in the assembly of our products, which has and could subject us to future periodic supply constraints and price rigidity. In addition, pursuant to the terms of the asset purchase agreement we entered into with LSI in connection with the acquisition of certain assets related to ESG, we have the right to place orders with contract manufacturers and suppliers through LSI and access LSI's systems in order to help us manage the ESG business for a period of time following the acquisition. Financial problems of either contract manufacturers, component suppliers or other parties in our supply chain, including LSI, and reservation of manufacturing capacity at our contract manufacturers by other companies, inside or outside of our industry, could either limit supply or increase costs of our products. Qualifying a new contract manufacturer and commencing volume production is expensive and time-consuming, and disruption or termination of manufacturing capacity with respect to any contract manufacturer could negatively impact our ability to manufacture and sell our products.

We intend to regularly introduce new products and product enhancements, which will require us to rapidly achieve volume production by coordinating with our contract manufacturers and suppliers. A reduction or interruption in supply; a significant increase in the price of one or more components; a failure to adequately procure inventory by our contract manufacturers; a failure to timely cancel, reschedule, or adjust our requirements based on our business needs; or a decrease in demand for our products could materially adversely affect our business, operating results, and financial condition and could materially damage customer relationships. Furthermore, as a result of binding price or purchase commitments with suppliers, we may be obligated to purchase components at prices that are higher than those available in the current market. In the event that we become committed to purchase components at prices in excess of the current market price when the components are actually used, our gross margins could decrease. As the demand for our products has increased, we have experienced, and may continue to experience tightening of supply of some components leading to longer lead times and component supply constraints, which has resulted in and in the future could continue to result in the delay of shipments.

Our business operations are subject to business interruptions and other events beyond our control. Such events could make it difficult or impossible for us to receive components from our suppliers and create delays and inefficiencies in our supply chain.

Our acquisitions may disrupt our existing business and harm our results of operations.

As part of our strategy, we are continuously evaluating opportunities to buy other businesses or technologies that would complement our current products, expand the breadth of our markets, or enhance our technical capabilities. In fiscal year 2011, we completed acquisitions of two technology companies, and on May 6, 2011, we completed the acquisition of certain assets related to ESG. The acquisition and ongoing integration of new businesses into our business may adversely affect our operations or profitability. We may not achieve the anticipated cost savings and synergies or realize our estimated revenue, gross margin, profit or other financial projections or business objectives in a timely manner or at all due to a number of factors, including the following:

- The inability to successfully integrate the operations, technologies, products, personnel and business systems of the acquired companies;
- In the case of an asset purchase, the failure to acquire all of the assets necessary to operate the acquired business;
- The diversion of management’s attention from normal daily operations of the existing business;
- The loss of key employees of the acquired business could adversely impact our ability to manage the business and our ability to realize our financial forecasts;
- The inability to retain the customers and partners of acquired businesses following the acquisition;
- Substantial transaction costs and accounting charges; and
- Exposure to litigation related to acquisitions.

Acquisitions may also result in risks to our existing business, including:

- Deterioration of our internal control over financial reporting as a result of inconsistencies between our standards, procedures and policies and those of the acquired business;
- Reliance on the selling party’s processes, data, supply chain management and reporting during the transition period following the completion of an acquisition;

- Dilution of our current stockholders' percentage ownership to the extent we issue new equity;
- Assumption of additional liabilities;
- Incurrence of additional debt or a decline in available cash;
- Adverse effects to our financial statements, such as the need to incur restructuring charges;
- Liability for intellectual property infringement and other litigation claims, which we may or may not be aware of at the time of acquisition; and
- Creation of goodwill or other intangible assets that could result in significant future amortization expense or impairment charges.

The failure to achieve the anticipated benefits of an acquisition may also result in impairment charges for goodwill and purchased intangible assets. For example, we have in the past discontinued certain products which were originally acquired through business acquisitions. Additional or realized risks of this nature could have a material adverse effect on our business, financial condition and results of operations.

We are exposed to the credit and non-payment risk of our customers, resellers, and distributors, especially during times of economic uncertainty and tight credit markets, which could result in material losses.

Most of our sales to customers are on an open credit basis, with typical payment terms of 30 days. While we monitor individual customer payment capability in granting such open credit arrangements, and seek to limit such open credit to amounts we believe are reasonable, we may experience losses due to a customer's inability to pay.

Beyond our open credit arrangements, we also have recourse and nonrecourse customer financing leasing arrangements using third-party leasing companies. Under the terms of recourse leases, which are treated as off-balance sheet arrangements, we remain liable for the aggregate unpaid remaining lease payments to the third-party leasing company in the event of end-user customer default.

We also offer financing arrangements whereby the end-user customer pays a fixed monthly amount plus a variable amount based on actual storage capacity used. These arrangements subject us to additional risk with respect to revenue recognition and profitability due to the uncertainties associated with the variable portion of the arrangements. In addition, from time to time we provide guarantees for a portion of other financing arrangements under which we could be called upon to make payments to our funding parties in the event of nonpayment by end-user customers.

We expect demand for customer financing to continue. During periods of economic uncertainty, our exposure to credit risks from our customers increases. In addition, our exposure to credit risks of our customers may increase further if our customers and their customers or their lease financing sources are adversely affected by global economic conditions.

In the past, there have been bankruptcies by our customers to whom we had extended open credit or provided lease financing arrangements, causing us to incur bad debt charges, and, in the case of financing arrangements, a loss of revenues. We may be subject to similar losses in future periods. Any future losses could harm our business and have a material adverse effect on our operating results and financial condition. Additionally, to the extent that the recent turmoil in the credit markets makes it more difficult for customers to obtain open credit or lease financing, those customers' ability to purchase our products could be adversely impacted, which in turn could have a material adverse impact on our financial condition and operating results.

The market price for our common stock has fluctuated significantly in the past and will likely continue to do so in the future.

The market price for our common stock has experienced substantial volatility in the past, and several factors could cause substantial fluctuation in the future. These factors include but are not limited to:

- Fluctuations in our operating results compared to prior periods and forecasts;
- Variations between our operating results and either the guidance we have furnished to the public or the published expectations of securities analysts;
- Industry consolidation and the resulting perception of increased competition;
- Economic developments in the storage and data management market as a whole;
- Fluctuations in the valuation of companies perceived by investors to be comparable to us;
- Changes in analysts' recommendations or projections;
- Changes in our relationships with our suppliers, customers, channel and strategic partners;
- Announcements of the completion or dissolution of strategic alliances within the industry;
- Dilutive impacts of our convertible Notes and related warrants;
- International conflicts and acts of terrorism;
- Announcements of new products, applications, or product enhancements by us or our competitors;
- Announcements related to planned or completed mergers or other acquisitions by us or our competitors;
- Inquiries by the SEC, NASDAQ, law enforcement, or other regulatory bodies; and
- General market conditions, including recent global or regional economic uncertainties.

In addition, the stock market has experienced volatility that has particularly affected the market prices of the equity securities of many technology companies. Certain macroeconomic factors such as changes in interest rates, the market climate for the technology sector, and levels of corporate spending on IT, could continue to have an impact on the trading price of our stock, and the market price of our common stock may fluctuate significantly in the future.

Changes in market conditions have led, and in the future could lead, to charges related to the discontinuance of certain of our products and asset impairments.

In response to changes in economic conditions and market demands, we may decide to strategically realign our resources and consider cost containment measures including restructuring, disposing of, or otherwise discontinuing certain products. Any decision to limit investment in, dispose of, or otherwise exit products may result in the recording of charges to earnings, including inventory and technology-related or other intangible asset write-offs, workforce reduction costs, charges relating to consolidation of excess facilities, cancellation penalties or claims from third parties who were resellers or users of discontinued products, which would harm our operating results. Our estimates with respect to the useful life or ultimate recoverability of our carrying basis of assets, including purchased intangible assets, could change as a result of such assessments and decisions. Additionally, we are required to perform goodwill impairment tests on an annual basis, and between annual tests in certain circumstances when impairment indicators exist or if certain events or changes in circumstances have occurred. Future goodwill impairment tests may result in charges to earnings, which could materially harm our operating results.

If we are unable to develop and introduce new products and respond to technological change, if our new products do not achieve market acceptance, if we fail to manage the interoperability and transition between our new and old products, or if we cannot provide the expected level of service and support for our new products, our operating results could be materially and adversely affected.

Our future growth depends upon the successful development and introduction of new hardware and software products. Due to the complexity of storage subsystems and storage security appliances and the difficulty in gauging the engineering effort required to produce new products, such products are subject to significant technical risks. In addition, our new products must respond to technological changes and evolving industry standards. If we are unable, for technological or other reasons, to develop and introduce new products in a timely manner in response to changing market conditions or customer requirements, or if such products do not achieve market acceptance, our operating results could be materially and adversely affected. New or additional product introductions increase the complexities of forecasting revenues, and subject us to additional financial and operational risks. If they are not managed effectively, we could experience material risks to our operations, financial condition and business model.

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

As we enter new or emerging markets, we will likely increase demands on our service and support operations and may be exposed to additional competition. We may not be able to provide products, service and support to effectively compete for these market opportunities.

Due to the global nature of our business, risks inherent in our international operations could have a material adverse effect on our business.

Although a substantial portion of our business is located and conducted in the United States, a significant portion of our operations are located, and a significant portion of our revenues are derived, outside of the United States. During fiscal 2011, our international revenues accounted for 49% of our total revenues. A substantial portion of our products are manufactured outside of the U.S., and we have research and development and service centers overseas. Accordingly, our business and our future operating results could be adversely affected by a variety of factors affecting our international operations, some of which are beyond our control, including regulatory, political, or economic conditions in a specific country or region, trade protection measures and other regulatory requirements, government spending patterns, and acts of terrorism and international conflicts. In addition, we may not be able to maintain or increase international market demand for our products.

We face exposure to adverse movements in foreign currency exchange rates as a result of our international operations. These exposures may change over time as business practices evolve, and they could have a material adverse impact on our financial results and cash flows. Our international sales are denominated in U.S. dollars and in foreign currencies. An increase in the value of the U.S. dollar relative to foreign currencies could make our products more expensive and therefore potentially less competitive in foreign markets. Conversely, lowering our price in local currency may result in lower U.S.-based revenues. A decrease in the value of the U.S. dollar relative to foreign currencies could increase operating expenses in foreign markets. Additionally, we have exposures to emerging market currencies, which can experience extreme volatility. We utilize forward and option contracts to hedge our foreign currency exposure associated with certain assets and liabilities as well as anticipated foreign currency cash flows on a short-term basis. All balance sheet hedges are marked to market through earnings every quarter. The time-value component of our cash flow hedges is recorded in earnings while all other gains and losses are marked to market through other comprehensive income until forecasted transactions occur, at which time such realized gains and losses are recognized in earnings. These hedges attempt to reduce, but do not always entirely eliminate, the impact of currency exchange movements. Factors that could have a negative impact on the effectiveness of our hedging program include inaccuracies in forecasting, widening interest rate differentials, and volatility in the foreign exchange market. Our hedging strategies may not be successful and currency exchange rate fluctuations could have a material adverse effect on our operating results.

Additional risks inherent in our international business activities generally include, among others, longer accounts receivable payment cycles and difficulties in managing international operations.

In addition, due to the global nature of our business, we are subject to complex legal and regulatory requirements in the United States and the foreign jurisdictions in which we operate and sell our products, including antitrust and anti-competition laws, rules and regulations, general import/export restrictions, and regulations related to data privacy. For example, United States Government export restrictions impede our ability to sell our products to certain end users. The United States, through the Bureau of Industry Security, places restrictions on the export of certain encryption technology. These restrictions may include: the requirement to have a license to export the technology; the requirement to have software licenses approved before export is allowed; and outright bans on the licensing of certain encryption technology to particular end users or to all end users in a particular country. Our products are subject to various levels of export restrictions. These export restrictions could negatively impact our business. We are also subject to the potential loss of proprietary information due to piracy, misappropriation or laws that may be less protective of our intellectual property rights than U.S. laws. Such factors could have an adverse impact on our business, operating results and financial position.

Moreover, in many foreign countries, particularly in those with developing economies, it is common to engage in business practices that are prohibited by our internal policies and procedures, or U.S. laws and regulations applicable to us, such as the Foreign Corrupt Practices Act. There can be no assurance that all of our employees, contractors and agents, as well as those companies to which we outsource certain of our business operations, will comply with these policies, procedures, laws and/or regulations. Any such violation could subject us to fines and other penalties, which could have a material adverse effect on our business, financial condition or results of operations.

Changes in our effective tax rate or adverse outcomes resulting from examination of our income tax returns could adversely affect our results.

Our effective tax rate could be adversely affected by several factors, many of which are outside of our control, including:

- Earnings being lower than anticipated in countries where we are taxed at lower rates as compared to the U.S. statutory tax rate;
- Material differences between forecasted and actual tax rates as a result of a shift in the mix of pretax profits and losses by tax jurisdiction, our ability to use tax credits, or effective tax rates by tax jurisdiction that differ from our estimates;
- Changing tax laws or related interpretations, accounting standards, regulations, and interpretations in multiple tax jurisdictions in which we operate, as well as the requirements of certain tax rulings;
- An increase in expenses not deductible for tax purposes, including certain stock-based compensation expense, write-offs of acquired in-process research and development, and impairment of goodwill;
- The tax effects of purchase accounting for acquisitions and restructuring charges that may cause fluctuations between reporting periods;
- Changes related to our ability to ultimately realize future benefits attributed to our deferred tax assets, including those related to other-than-temporary impairments;
- Tax assessments resulting from income tax audits or any related tax interest or penalties could significantly affect our income tax provision for the period in which the settlements take place; and
- A change in our decision to indefinitely reinvest foreign earnings.

We receive significant tax benefits from sales to our non-U.S. customers. These benefits are contingent upon existing tax laws and regulations in the United States and in the countries in which our international operations are located. Future changes in domestic or international tax laws and regulations could adversely affect our ability to continue to realize these tax benefits. We have not provided for United States federal and state income taxes or foreign withholding taxes that may result from future remittances of undistributed earnings of foreign subsidiaries. The Obama administration and Congress have announced several proposals to reform United States tax rules, including proposals that may result in a reduction or elimination of the deferral of United States income tax on our future unrepatriated earnings. Should such anti-deferral provisions be enacted, our effective tax rate could be adversely affected.

We are currently undergoing federal income tax audits in the United States and several foreign tax jurisdictions. The rights to some of our intellectual property (IP) are owned by certain of our foreign subsidiaries, and payments are made between U.S. and foreign tax jurisdictions relating to the use of this IP in a qualified cost sharing arrangement. In recent years, several other U.S. companies have had their foreign IP arrangements challenged as part of IRS examinations, which has resulted in material proposed assessments and/or litigation with respect to those companies.

During fiscal year 2009, we received Notices of Proposed Adjustments from the IRS in connection with a federal income tax audit of our fiscal 2003 and 2004 tax returns. We filed a protest with the IRS in response to the Notices of Proposed Adjustments and subsequently received a rebuttal from the IRS examination team in response to our protest. In April 2011, we executed a closing agreement with the IRS Appeals Office to close this examination. The Notices of Proposed Adjustments in this audit focused primarily on issues relating to the timing and the amount of income recognized, deductions taken and on the level of cost allocations made to foreign operations during the audit years. The settlement of our 2003-2004 IRS examination resulted in additional liability of $10.8 million, which is almost entirely offset by net operating loss carryforwards. As a result of the examination settlement, we have reduced our reserve for uncertain tax positions and recognized a net benefit of $21.1 million.

During fiscal year 2010, the IRS commenced the examination of our fiscal 2005 through 2007 federal income tax returns, and in addition, the California Franchise Tax Board began the examination of our fiscal 2007 and 2008 California income tax returns. These audits are currently in progress.

On September 17, 2010, the Danish tax authorities issued a decision concluding that distributions declared in 2005 and 2006 from the Company’s Danish subsidiary, for which the Company has not paid or accrued any taxes, are subject to Danish at-source dividend withholding tax. The Company has appealed this assessment decision with the Danish National Tax Tribunal.

If the ultimate determination of income taxes or at-source withholding taxes assessed under the current IRS audits or under audits being conducted in any of the other tax jurisdictions in which we operate results in an amount in excess of the tax provision we have recorded or reserved for, our operating results, cash flows and financial condition could be adversely affected.

Our international operations currently benefit from a tax ruling concluded in the Netherlands which expires on April 30, 2015 and results in a lower level of earnings subject to tax in the Netherlands. If we are unable to negotiate a similar tax ruling upon expiration of the current ruling, our effective tax rate could increase and our operating results could be adversely affected. Our effective tax rate could also be adversely affected by different and evolving interpretations of existing law or regulations, which in turn would negatively impact our operating and financial results as a whole. Our effective tax rate could also be adversely affected if there is a change in international operations and how the operations are managed and structured. The price of our common stock could decline to the extent that our financial results are materially affected by an adverse change in our effective tax rate.

Our leverage and debt service obligations and note conversion may adversely affect our financial condition, results of operations and earnings per share.

As a result of the sale of our Notes, we have a greater amount of debt than we have maintained in the past. In addition, we have various synthetic lease arrangements related to some of our facilities at our corporate headquarters in Sunnyvale, California, and, subject to the restrictions in our existing and any future financing agreements, we may incur additional debt. Our maintenance of higher levels of indebtedness could have adverse consequences including:

- Impacting our ability to satisfy our obligations;
- Increasing the portion of our cash flows from operations that may have to be dedicated to interest and principal payments and may not be available for operations, working capital, capital expenditures, expansion, acquisitions or general corporate or other purposes;
- Impairing our ability to obtain additional financing in the future;
- Limiting our flexibility in planning for, or reacting to, changes in our business and industry; and
- Making us more vulnerable to downturns in our business, our industry or the economy in general.

Our ability to meet our expenses and debt obligations will depend on our future performance, which will be affected by financial, business, economic, regulatory and other factors. We will not be able to control many of these factors, such as economic conditions and governmental regulations. Furthermore, our operations may not generate sufficient cash flows to enable us to meet our expenses and service our debt. As a result, we may be required to repatriate funds from our foreign subsidiaries which could result in a significant tax liability to us. If we are unable to generate sufficient cash flows from operations, or if we are unable to repatriate sufficient or any funds from our foreign subsidiaries, in order to meet our expenses and debt service obligations, we may need to enter into new financing arrangements to obtain the necessary funds, or we may be required to raise additional funds through other means. If we determine it is necessary to seek additional funding for any reason, we may not be able to obtain such funding or, if funding is available, obtain it on acceptable terms. If we fail to make a payment on our debt, we could be in default on such debt, and this default could cause us to be in default on our other outstanding indebtedness.

Any conversion of our Notes may cause dilution to our shareholders and to our earnings per share. If the price of our common stock exceeds the conversion price, initially $31.85 per share, the Notes will cause an increase in diluted share count and result in lower reported earnings per share. For at least 20 trading days during the 30 consecutive trading days ended March 31, 2011, our common stock price exceeded the conversion threshold price of $41.41 per share set forth for these Notes. Accordingly, the Notes are convertible at the holder’s option through June 30, 2011. Based on the trading price of our common stock on April 29, 2011, we had approximately 16 million shares of common stock potentially issuable on conversion of our Notes. Upon conversion of any Notes, we will deliver cash up to the principal amount of the Notes and, with respect to any excess conversion value greater than the principal amount of the Notes, shares of our common stock, which would result in dilution to our shareholders.

The Note hedges and warrant transactions that we entered into in connection with the sale of the Notes may affect the trading price of our common stock.

In connection with the issuance of the Notes, we entered into privately negotiated convertible Note hedge transactions with certain option counterparties (the Counterparties), which are expected to offset the potential dilution to our common stock upon any conversion of the Notes. At the same time, we also entered into warrant transactions with the Counterparties pursuant to which we may issue shares of our common stock above a certain strike price. In connection with these hedging transactions, the Counterparties may have entered into various over-the-counter derivative transactions with respect to our common stock or purchased shares of our common stock in secondary market transactions at or following the pricing of the Notes. Such activities may have had the effect of increasing the price of our common stock. The Counterparties are likely to modify their hedge positions from time to time prior to conversion or maturity of the Notes by purchasing and selling shares of our common stock or entering into other derivative transactions. Additionally, these transactions may expose us to counterparty credit risk for nonperformance. The effect, if any, of any of these transactions and activities on the market price of our common stock or the Notes will depend, in part, on market conditions and cannot be ascertained at this time, but any of these activities could adversely affect the value of our common stock. In addition, if our stock price exceeds the strike price for the warrants, there could be additional dilution to our shareholders, which could adversely affect the value of our common stock.

In April 2010, we terminated our Note hedge transaction with Lehman Brothers OTC Derivatives, Inc. (Lehman OTC), which was a counterparty to 20% of our Note hedges, as a result of the bankruptcy filing by Lehman OTC, which constituted an event of default under the Note hedge. Because we have decided not to replace this Note hedge, we are subject to potential dilution on the unhedged portion of our Notes upon conversion if on the date of conversion the per-share market price of our common stock exceeds the conversion price of $31.85. The terms of the Notes, the rights of the holders of the Notes and other counterparties to Note hedges and warrants were not affected by the termination of this Note hedge.

The price of our common stock could also be affected by sales of our common stock by investors who view the Notes as a more attractive means of equity participation in our company and by hedging or arbitrage trading activity that we expect to develop involving our common stock by holders of the Notes. The hedging or arbitrage could, in turn, affect the trading price of the Notes and warrants.

Future issuances of common stock related to our Notes, warrants, stock options, restricted stock units, and our Employee Stock Purchase Plan may adversely affect the trading price of our common stock and the Notes.

The conversion of some or all of our outstanding Notes will dilute the ownership interest of existing stockholders to the extent we deliver common stock upon conversion of the Notes. For at least 20 trading days during the 30 consecutive trading days ended March 30, 2011, our common stock price exceeded the conversion threshold price of $41.41 per share set forth for these Notes. Accordingly, the Notes are convertible at the holder's option through June 30, 2011. Upon conversion of any Notes, we will satisfy our obligation by delivering cash for the principal amount of the Notes and shares of common stock, if any, to the extent the conversion value exceeds the principal amount. Any new issuance of equity securities, including the issuance of shares upon conversion of the Notes or the exercise of related warrants which are not offset by our Note hedges, could dilute the interests of our then-existing stockholders, including holders who receive shares upon conversion of their Notes, and could substantially decrease the trading price of our common stock and the Notes. In addition, any sales in the public market of any common stock issuable upon such conversion or the exercise of warrants could adversely affect prevailing market prices of our common stock.

As of April 29, 2011, eligible individuals under our stock option and restricted stock unit plans held options to purchase approximately 25 million shares of our common stock and a total of approximately 10 million restricted stock units, respectively. If all the outstanding options were exercised, the proceeds to the Company would average approximately $27 per share. We also had 14 million shares of our common stock reserved for issuance under our stock plans with respect to equity awards that have not been granted. The exercise of all of the outstanding options and/or the vesting of all outstanding restricted shares and restricted stock units would dilute the interests of our then-existing stockholders, and any sales in the public market of the common stock issuable upon such exercise could adversely affect the trading price of our common stock.

In addition, we have an Employee Stock Purchase Plan (ESPP) under which employees are entitled to purchase shares of our common stock at 85% of the fair market value at certain specified dates over a two-year period. As of April 29, 2011, we had approximately 4 million shares of our common stock available for issuance under the ESPP. The issuance of shares under the ESPP would dilute the interests of our then-existing stockholders, and any sales in the public market of the common stock issuable upon such exercise could adversely affect the trading price of our common stock.

We may issue equity securities in the future for a number of reasons, including to finance our operations related to business strategy (including in connection with acquisitions, strategic alliances or other transactions), to increase our capital, to adjust our ratio of debt to equity, to satisfy our obligations upon the exercise of outstanding warrants or options upon conversion of the Notes, or for other reasons.

We are exposed to fluctuations in the market values of our portfolio investments and in interest rates; impairment of our investments could harm our financial results.

At April 29, 2011, we had $5.2 billion in cash, cash equivalents, available-for-sale securities and restricted cash and investments. We invest our cash in a variety of financial instruments, consisting principally of investments in U.S. Treasury securities, commercial paper, U.S. government agency bonds, corporate bonds, certificates of deposit, and money market funds. These investments are subject to general credit, liquidity, market and interest rate risks, which have been exacerbated by unusual events such as the financial and credit crisis, and bankruptcy filings in the United States which have affected various sectors of the financial markets and led to global credit and liquidity issues. These securities are generally classified as “available-for-sale” and, consequently, are recorded on our consolidated balance sheets at fair value with unrealized gains or losses reported as a component of accumulated other comprehensive income (loss), net of tax.

Investments in both fixed rate and floating rate interest earning instruments carry a degree of interest rate risk. Fixed rate debt securities may have their market value adversely impacted due to a rise in interest rates, 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 fall short of expectations due to changes in interest rates. Currently, we do not use derivative financial instruments in our investment portfolio. We may suffer losses if forced to sell securities that have experienced a decline in market value because of changes in interest rates. Currently, we do not use financial derivatives to hedge our interest rate exposure.

The fair value of our investments may change significantly due to events and conditions in the credit and capital markets. Any investment securities that we hold or the issues comprising such securities could be subject to review for possible downgrade. Any downgrade in these credit ratings may result in an additional decline in the estimated fair value of our investments. Changes in the various assumptions used to value these securities and any increase in the markets’ perceived risk associated with such investments may also result in a decline in estimated fair value.

On occasion, we make strategic investments in other companies, including private equity funds, which may decline in value and/or not meet desired objectives. The success of these investments depends on various factors over which we may have limited or no control. As of April 29, 2011, we had an investment with the carrying value of $1.3 million in a private equity fund.

In the event of adverse conditions in the credit and capital markets, our investment portfolio may be impacted and we could determine that some or all of our investments have experienced an other-than-temporary decline in fair value, requiring impairment, which could adversely impact our financial position and operating results.

A significant portion of our cash and cash equivalents balances are held overseas. If we are not able to generate sufficient cash domestically in order to fund our U.S. operations and strategic opportunities, and to service our debt, we may incur a significant tax liability in order to repatriate the overseas cash balances, or we may need to raise additional capital in the future.

A portion of our earnings which is generated from our international operations is held and invested by certain of our foreign subsidiaries. These amounts are not freely available for dividend repatriation to the United States without triggering significant adverse tax consequences. As a result, if the cash generated by our domestic operations is not sufficient to fund our domestic operations, our broader corporate initiatives such as stock repurchases, acquisitions, and other strategic opportunities, and to service our outstanding indebtedness, we may need to raise additional funds through public or private debt or equity financings, or we may need to obtain new credit facilities to the extent we choose not to repatriate our overseas cash. Such additional financing may not be available on terms favorable to us, or at all, and any new equity financings or offerings would dilute our current stockholders' ownership. Furthermore, lenders, particularly in light of the current challenges in the credit markets, may not agree to extend us new, additional or continuing credit. If adequate funds are not available, or are not available on acceptable terms, we may be forced to repatriate our foreign cash and incur a significant tax expense or we may not be able to take advantage of strategic opportunities, develop new products, respond to competitive pressures or repay our outstanding indebtedness. In any such case, our business, operating results or financial condition could be adversely impacted.

Our synthetic leases are off-balance sheet arrangements that could negatively affect our financial condition and operating results. We have invested substantial resources in new facilities and physical infrastructure, which will increase our fixed costs. Our operating results could be harmed if our business does not grow proportionately to our increase in fixed costs.

We have various synthetic lease arrangements with BNP Paribas Leasing Corporation as lessor (BNPPLC) for our headquarters office buildings and land in Sunnyvale, California. These synthetic leases qualify for operating lease accounting treatment under the accounting guidance for leases and are not considered variable interest entities under applicable accounting guidance. Therefore, we do not include the properties or the associated debt on our consolidated balance sheets.

Our future minimum lease payments under these synthetic leases limit our flexibility in planning for, or reacting to, changes in our business by restricting the funds available for use in addressing such changes. If we are unable to grow our business and revenues proportionately to our increase in fixed costs, our operating results will be harmed. If we elect not to purchase the properties at the end of the lease term, we have guaranteed a minimum residual value to BNPPLC. If the fair value of the properties declines below that guaranteed minimum residual value, our residual value guarantee would require us to pay the difference to BNPPLC. As of April 29, 2011, the estimated fair value of the properties was approximately $35.8 million below the guaranteed minimum residual value, which we are accruing over the remaining term of the respective leases. Any further decline in the fair value of the properties could adversely impact our cash flows, financial condition and operating results.

As a result of excess capacity in our Sunnyvale facilities, certain of our facilities subject to synthetic lease arrangements have been subleased or are vacant. These subleases will expire at various times through 2015 and some are at terms that do not generate sufficient sublease income to cover the carrying costs of these facilities. In addition, we may experience changes in our operations in the future that could result in additional excess capacity and vacant facilities. We will continue to be responsible for all carrying costs of these facilities under operating leases until such time as we can sublease these facilities or terminate the applicable leases based on the contractual terms of the operating lease agreements, and these costs may have an adverse effect on our business, operating results and financial condition.

We are subject to restrictive and financial covenants in our synthetic lease arrangements. The restrictive covenants may restrict our ability to operate our business.

Our ongoing extension of credit under our synthetic lease arrangements are subject to continued compliance with financial covenants. If we do not comply with these restrictive and financial covenants or otherwise default under the arrangements, we may be required to repay any outstanding amounts or repurchase the properties which are subject to the synthetic lease arrangements. If we lose access to the synthetic lease arrangements, we may not be able to obtain alternative financing on acceptable terms, which could limit our operating flexibility.

The agreements governing our synthetic lease arrangements contain restrictive covenants that limit our ability to operate our business, including restrictions on our ability to:

- Incur indebtedness;

- Incur indebtedness at the subsidiary level;
- Grant liens;
- Sell all or substantially all our assets:
- Enter into certain mergers;
- Change our business;
- Enter into swap agreements;
- Enter into transactions with our affiliates; and
- Enter into certain restrictive agreements.

As a result of these restrictive covenants, our ability to respond to changes in business and economic conditions and to obtain additional financing, if needed, may be restricted. We may also be prevented from engaging in transactions that might otherwise be beneficial to us, such as strategic acquisitions or joint ventures.

Our failure to comply with the restrictive and financial covenants could result in a default under our synthetic lease arrangements, which would give the counterparties thereto the ability to exercise certain rights, including the right to accelerate the amounts owed thereunder and to terminate the arrangements. In addition, our failure to comply with these covenants and the acceleration of amounts owed under synthetic lease arrangements could result in a default under the Notes, which could permit the holders to accelerate the Notes. If all of our debt is accelerated, we may not have sufficient funds available to repay such debt.

We have credit exposure to our hedging counterparties.

In order to minimize volatility in earnings associated with fluctuations in the value of foreign currency relative to the U.S. Dollar, we utilize forward and option contracts to hedge our exposure to foreign currencies. As a result of entering into these hedging contracts with major financial institutions, we may be subject to counterparty nonperformance risk. Should there be a counterparty default, we could be exposed to the net losses on the hedged arrangements or be unable to recover anticipated net gains from the transactions.

Funds associated with certain of our auction rate securities may not be accessible for more than 12 months and our auction rate securities may experience further other-than-temporary declines in value, which would adversely affect our earnings.

Auction rate securities (ARSs) held by us are securities with long-term nominal maturities, which, in accordance with investment policy guidelines, had credit ratings of AAA and Aaa at time of purchase. Interest rates for ARS are reset through a “Dutch auction” each month, which prior to February 2008 had provided a liquid market for these securities.

All of our ARSs are backed by pools of student loans guaranteed by the U.S. Department of Education, and we believe the credit quality of these securities is high, based on this guarantee. However, liquidity issues in the global credit markets resulted in the failure of auctions for certain of our ARS investments, with a par value of $71.3 million. For each failed auction, the interest rate resets to a maximum rate defined for each security and the ARS continues to pay interest in accordance with its terms, although the principal associated with the ARS will not be accessible until there is a successful auction or such time as other markets for ARS investments develop or the final maturity of the individual securities.

As of April 29, 2011, we determined there was a total decline in the fair value of our ARS investments of approximately $6.2 million, of which we have recorded cumulative net temporary impairment charges of $4.1 million, and $2.1 million was recognized as an other-than-temporary impairment charge. In addition, we have classified all of our auction rate securities as long-term assets in our consolidated balance sheets at April 29, 2011 as our ability to liquidate such securities in the next 12 months is uncertain. Although we currently have the ability and intent to hold these ARS investments until recovery in market value or until maturity, if current market conditions deteriorate, or the anticipated recovery in market values does not occur, we may be required to record additional impairment charges in future quarters. We intend, and have the ability, to hold these investments until the market recovers.

We may need to undertake cost-reduction initiatives and restructuring initiatives in the future.

We have previously recognized restructuring charges related to initiatives to realign our business strategies and resize our business in response to economic and market conditions, including those announced in February 2009 and December 2008. We may undertake future cost-reduction initiatives and restructuring plans that may adversely impact our operations and we may not realize all of the anticipated benefits of our prior or any future restructurings.

Our business and operations are experiencing rapid growth and organizational change. If we fail to effectively manage such growth and change in a manner that preserves our reputation and the key aspects of our corporate culture, our business and operating results could be harmed.

Due to recent organic growth and acquisitions, we have experienced, and may continue to experience, rapid growth and organizational change, which has placed, and may continue to place, significant demands on our management, operational and financial resources. Our headcount has grown from approximately 8,300 employees on April 30, 2010 to over 11,000 employees following the ESG acquisition in May 2011. We will incur significant expenditures and the allocation of valuable management resources to assimilate our additional human resources in a manner that preserves the key aspects of our corporate culture and enables us to maintain our reputation in the marketplace. If we do not effectively manage our growth and train, retain and manage our employee base, our corporate culture could be undermined, the quality of our products and customer service could suffer, and our reputation could be harmed, each of which could adversely impact our business, financial condition and results of operations.

In addition, as our headcount increases, our costs will also increase. Our business will be harmed if our efforts to expand our organization and headcount are not accompanied by a corresponding increase in revenues.

If we are unable to establish fair value for any undelivered element of a sales arrangement, all or a portion of the revenues relating to the arrangement could be deferred to future periods.

In the course of our sales efforts, we often enter into multiple element arrangements that include software related elements consisting of non-essential software and undelivered software entitlements and maintenance. If we are required to change the pricing of our software-related elements through discounting, or otherwise introduce variability in the pricing of such elements, we may be unable to maintain Vendor Specific Objective Evidence of fair value of the undelivered elements of the arrangement, and would therefore be required to delay the recognition of all or a portion of the related arrangement. A delay in the recognition of revenues may cause fluctuations in our financial results and may adversely affect our operating margins.

We are continually seeking ways to make our cost structure, business processes and systems more efficient, including moving activities from higher-cost to lower-cost owned locations, outsourcing certain business process functions and implementing new business information systems. Problems with the execution of these activities could have an adverse effect on our business or results of operations.

We continuously seek to make our cost structure and business processes more efficient. We are focused on increasing workforce flexibility and scalability, and improving overall competitiveness by leveraging our global capabilities, as well as external talent and skills worldwide. For example, certain engineering activities and projects that were formerly performed in the U.S. have been moved to lower cost international locations and we rely on partners or third-party service providers for the provision of certain business process functions and activities in IT, human resources and accounting.

The challenges involved with moving or outsourcing activities include executing business functions in accordance with local laws and other obligations while maintaining adequate standards, controls and procedures. We are also subject to increased business continuity risks as we increase our reliance on outsource providers. For example, we may no longer be able to exercise control over some aspects of the future development, support or maintenance of outsourced operations and processes, including the management and internal controls associated with those outsourced business operations and processes, which could adversely affect our business. If we are unable to effectively utilize or integrate and interoperate with external resources or if our partners or third party service providers experience business difficulties or are unable to provide business services as anticipated, we may need to seek alternative service providers or resume providing these business processes internally, which could be costly and time-consuming and have a material adverse effect on our operating results. In addition, we may not achieve the expected benefits of our business process improvement initiatives.

We are currently implementing changes to our business information systems and processes and other IT initiatives. These initiatives involve a large investment of capital and resources and significant changes to our current operating processes. Failure to properly implement one or more of these initiatives, or an interruption in service or unavailability of our systems, could result in lost business and increased costs which could negatively impact our business, results of operations and cash flows.

We are subject to risks related to the provision of employee health care benefits and recent health care reform legislation.

We use a combination of insurance and self-insurance for workers' compensation coverage and health care plans. We record expenses under these plans based on estimates of the number and costs of expected claims, administrative costs and stop-loss premiums. These estimates are then adjusted each year to reflect actual costs incurred. Actual costs under these plans are subject to variability depending primarily upon participant enrollment and demographics, the actual number and costs of claims made and whether and how much the stop-loss insurance we purchase covers the cost of these claims. In the event that our cost estimates differ from actual costs, we could incur additional unplanned health care costs which could adversely impact our financial condition.

In March 2010, comprehensive health care reform legislation under the Patient Protection and Affordable Care Act (HR 3590) and the Health Care Education and Affordability Reconciliation Act (HR 4872) was passed and signed into law. Among other things, the health reform legislation includes guaranteed coverage requirements, eliminates pre-existing condition exclusions and annual and lifetime maximum limits, restricts the extent to which policies can be rescinded, and imposes new and significant taxes on health insurers and health care benefits. Provisions of the health reform legislation become effective at various dates over the next several years. The Department of Health and Human Services, the National Association of Insurance Commissioners, the Department of Labor and the Treasury Department have yet to issue necessary enabling regulations and guidance with respect to the health care reform legislation.

Due to the breadth and complexity of the health reform legislation, the lack of implementing regulations and interpretive guidance, and the phased-in nature of the implementation, it is difficult to predict the overall impact of the health reform legislation on our business over the coming years. Possible adverse affects of the health reform legislation include reduced revenues, increased costs, exposure to expanded liability and requirements for us to revise the ways in which we conduct business or risk of loss of business. In addition, our results of operations, financial position, and cash flows could be materially adversely affected.

We depend on attracting and retaining qualified personnel. If we are unable to attract and retain such personnel, our operating results could be materially and adversely impacted.

Our continued success depends, in part, on our ability to identify, attract, motivate and retain qualified personnel. Because our future success is dependent on our ability to continue to enhance and introduce new products, we are particularly dependent on our ability to identify, attract, motivate and retain qualified engineers with the requisite education, background and industry experience. Competition for qualified employees, particularly in Silicon Valley, can be intense. The loss of the services of a significant number of our employees, particularly our engineers, salespeople and key managers, could be disruptive to our development efforts or business relationships and could materially and adversely affect our operating results.

A component of our strategy to hire and retain personnel consists of long-term compensation in the form of equity-based grants. We face increased risk of the inability to continue to offer equity if we are unable to obtain shareholder approval in light of increased shareholder activism, heightened focus on corporate compensation practices, and increased scrutiny of the dilutive effects of such equity compensation programs. Such inability could adversely impact our ability to continue to attract and retain employees.

In addition, because of the structure of our incentive compensation plans, we may be at increased risk of losing employees and other service providers at certain points in time. For example, the retention value of our compensation plans decreases after the payment of bonuses or the vesting of stock options, employee stock purchase rights or other equity compensation. As a result, employees may be more likely to leave us during periods following such payments or the vesting of such rights. The loss of services of a significant number of our key employees during a short period of time could be disruptive to our product development and sales efforts and adversely impact our business relationships and operating results.

Our business could be materially and adversely affected as a result of a natural disaster, terrorist acts or other catastrophic events.

We depend on the ability of our personnel, raw materials, equipment and products to move reasonably unimpeded around the world. Any political, military, terrorism, global trade, world health or other issue that hinders this movement or restricts the import or export of materials could lead to significant business disruptions. Furthermore, any strike, economic failure or other material disruption caused by fire, floods, hurricanes, earthquakes, volcanoes, power loss, power shortages, environmental disasters, telecommunications or business information systems failures, break-ins and similar events could also adversely affect our ability to conduct business. If such disruptions result in cancellations of customer orders or contribute to a general decrease in economic activity or corporate spending on information technology, or directly impact our marketing, manufacturing, financial and logistics functions, our results of operations and financial condition could be materially adversely affected. In addition, our headquarters are located in Northern California, an area susceptible to earthquakes. If any significant disaster were to occur, our ability to operate our business could be impaired.

Undetected software errors, hardware errors, or failures found in new products may result in loss of or delay in market acceptance of our products, which could increase our costs and reduce our revenues. Product quality problems could lead to reduced revenues, gross margins and operating results.

Our products may contain undetected software errors, hardware errors or failures when first introduced or as new versions are released. Despite testing by us and by current and potential customers, errors may not be found in new products until after commencement of commercial shipments, resulting in loss of or delay in market acceptance, which could materially and adversely affect our operating results.

In addition, if we fail to remedy a product defect, we may experience a failure of a product line, temporary or permanent withdrawal from a product or market, damage to our reputation, inventory costs or product reengineering expenses, and these occurrences could have a material impact on our revenues, gross margins and operating results. We may be subject to losses that may result from or are alleged to result from defects in our products, which could subject us to claims for damages, including consequential damages.

We are exposed to various risks related to legal proceedings or claims and protection of intellectual property rights, which could adversely affect our operating results.

We may be a party to lawsuits and other claims in the normal course of our business from time to time, including intellectual property, commercial, product liability, employment, class action, whistleblower and other litigation and claims, and governmental and other regulatory investigations and proceedings. Litigation can be expensive, lengthy and disruptive to normal business operations. Moreover, the results of complex legal proceedings are difficult to predict. An unfavorable resolution of a particular lawsuit could have a material adverse effect on our business, operating results, or financial condition.

If we are unable to protect our intellectual property, we may be subject to increased competition that could materially and adversely affect our operating results. Our success depends significantly upon our proprietary technology. We rely on a combination of copyright and trademark laws, trade secrets, confidentiality procedures, contractual provisions, and patents to protect our proprietary rights. We seek to protect our software, documentation and other written materials under trade secret, copyright and patent laws, which afford only limited protection. Some of our U.S. trademarks are registered internationally as well. We will continue to evaluate the registration of additional trademarks as appropriate. We generally enter into confidentiality agreements with our employees and with our resellers, strategic partners and customers. We currently have multiple U.S. and international patent applications pending and multiple U.S. patents issued. The pending applications may not be approved, and our existing and future patents may be challenged. If such challenges are brought, the patents may be invalidated. We may not be able to develop proprietary products or technologies that are patentable, and patents issued to us may not provide us with any competitive advantages and may be challenged by third parties. Further, the patents of others may materially and adversely affect our ability to do business. In addition, a failure to obtain and defend our trademark registrations may impede our marketing and branding efforts and competitive position.

Litigation may be necessary to protect our proprietary technology. Any such litigation may be time-consuming and costly. Despite our efforts to protect our proprietary rights, unauthorized parties may attempt to copy aspects of our products or obtain and use information that we regard as proprietary. In addition, the laws of some foreign countries do not protect proprietary rights to as great an extent as do the laws of the United States. Our means of protecting our proprietary rights may not be adequate or our competitors may independently develop similar technology, duplicate our products, or design around patents issued to us or other intellectual property rights of ours.

We are subject to intellectual property infringement claims. We may, from time to time, receive claims that we are infringing third parties' intellectual property rights. Third parties may in the future, claim infringement by us with respect to current or future products, patents, trademarks or other proprietary rights. We expect that companies in the network storage and data management market will increasingly be subject to infringement claims as the number of products and competitors in our industry segment grows and the functionality of products in different industry segments overlaps. Any such claims could be time consuming, result in costly litigation, cause product shipment delays, require us to redesign our products or enter into royalty or licensing agreements, any of which could materially and adversely affect our operating results. Such royalty or licensing agreements, if required, may not be available on terms acceptable to us or at all.

Our business could be materially adversely affected by changes in regulations or standards regarding energy efficiency of our products and climate change issues.

We continually seek ways to increase the energy efficiency of our products. Recent analyses have estimated the amount of global carbon emissions that are due to information technology products. As a result, governmental and non-governmental organizations have turned their attention to development of regulations and standards to drive technological improvements and reduce such amount of carbon emissions. There is a risk that the development of these standards will not fully address the complexity of the technology developed by the IT industry or will favor certain technological approaches. Depending on the regulations or standards that are ultimately adopted, compliance could adversely affect our business, financial condition or operating results.

Climate change issues, energy usage and emissions controls may result in new environmental legislation and regulations, at any or all of the international, federal and state levels, that may unfavorably impact us, our suppliers, and our customers in how we conduct our business including the design, development, and manufacturing of our products. This could cause us to incur additional direct costs in complying with any new environmental regulations, as well as increased indirect costs resulting from our customers, suppliers or both incurring additional compliance costs that get passed on to us. These costs may adversely impact our operations and financial condition.

Our business and results of operations could be adversely impacted as a consequence of regulations or business trends such as:

- Decreased demand for storage products that produce significant greenhouse gases;
- Increased demand for storage products that produce lower emissions and are more energy efficient, and increased competition to develop such products; and
- Reputational risk based on negative public perception of publicly reported data on our greenhouse gas emissions.

Our business is subject to increasingly complex corporate governance, public disclosure, accounting and tax requirements that have increased both our costs and the risk of noncompliance.

Because our common stock is publicly traded, we are subject to certain rules and regulations of federal, state and financial market exchange entities charged with the protection of investors and the oversight of companies whose securities are publicly traded. These entities, including the Public Company Accounting Oversight Board, the SEC, and NASDAQ, have implemented requirements and regulations and continue developing additional regulations and requirements in response to corporate scandals and laws enacted by Congress, most notably the Sarbanes-Oxley Act of 2002. Our efforts to comply with these regulations have resulted in, and are likely to continue resulting in, increased general and administrative expenses and diversion of management time and attention from revenue-generating activities to compliance activities.

We have completed our evaluation of our internal controls over financial reporting for the fiscal year ended April 29, 2011 as required by Section 404 of the Sarbanes-Oxley Act of 2002. Although our assessment, testing and evaluation resulted in our conclusion that, as of April 29, 2011, our internal controls over financial reporting were effective, we cannot predict the outcome of our testing in future periods. If our internal controls are ineffective in future periods, our business and reputation could be harmed. We may incur additional expenses and commitment of management's time in connection with further evaluations, both of which could materially increase our operating expenses and accordingly reduce our operating results.

On July 21, 2010, the President signed into law the Dodd-Frank Act. Many aspects of the Dodd-Frank Act are subject to rulemaking and will take effect over several years, making it difficult to anticipate the overall financial impact on us. However, as we continue to implement changes in response to this new law and its associated regulations, we expect to incur additional operating costs that could have a material adverse effect on our financial condition and results of operations.

Because new and modified laws, regulations, and standards are subject to varying interpretations in many cases due to their lack of specificity, their application in practice may evolve over time as new guidance is provided by regulatory and governing bodies. This evolution may result in continuing uncertainty regarding compliance matters and additional costs necessitated by ongoing revisions to our disclosure and governance practices.

If a data center or other third party who relies on our products experiences a disruption in service or a loss of data, such disruption or loss could be attributed to the quality of our products, thereby causing financial or reputational harm to our business.

Third-party vendors, including data centers, SaaS, cloud computing and Internet infrastructure and bandwidth providers rely on our products for their data storage needs. We exercise little control over how these third-party vendors use or maintain our products, and in some cases improper usage or maintenance could impair the performance of our products. A disruption in the services provided by these third-party vendors, or the loss of data stored by such vendors, could result in financial or reputational harm to our business to the extent that such disruption or loss is caused by, or perceived by our customers to have been caused by, defects in our products. Moreover, the risk of reputational harm may be magnified and/or distorted through the rapid dissemination of information over the Internet, including through news articles, blogs, chat rooms, and social media sites.

Security and privacy breaches may expose us to liability, and our reputation and business could suffer.

We obtain and store sensitive data related to our employees, customers and partners, including intellectual property, books of record and personally identifiable information. It is critical to our business strategy that our infrastructure remains secure and is perceived by our employees, customers and partners to be secure. If our security measures are breached as a result of technical problems, third-party actions, employee error, or malfeasance, our reputation could be damaged and our business could suffer.

Changes in financial accounting standards may cause adverse unexpected fluctuations and affect our reported results of operations.

A change in accounting standards or practices and varying interpretations of existing accounting pronouncements, such as the changes to revenue recognition standards that we recently adopted, the increased use of fair value measures, additional proposed changes to revenue recognition, lease accounting, financial instruments and other accounting standards, and the potential requirement that U.S. registrants prepare financial statements in accordance with International Financial Reporting Standards (IFRS), could have a significant effect on our reported financial results or the way we conduct our business.

Implementation of accounting regulations and related interpretations and policies, particularly those related to revenue recognition, could cause us to defer recognition of revenue or recognize lower revenue, which may affect our results of operations.

Item 1B. *Unresolved Staff Comments*

None.

Item 2. *Properties*

We own approximately 1.1 million square feet of facilities at our Sunnyvale, California headquarters, of which we occupy approximately 0.9 million square feet. In addition, we have commitments related to various lease arrangements with BNP Paribas LLC (BNP) for approximately 0.6 million square feet of additional facilities, of which we occupy approximately 0.3 million square feet (as further described below under “Contractual Obligations” in Item 7 and Note 18 of the accompanying consolidated financial statements under Item 8). Our headquarters site supports corporate general administration, sales and marketing, research and development, global services, and operations.

We own approximately 0.6 million square feet of facilities in Research Triangle Park (RTP), North Carolina, of which we occupy approximately 0.5 million square feet. This site supports research and development, global services and sales and marketing.

In connection with the acquisition of ESG, which closed on May 6, 2011, we have acquired forty acres of land and a 0.3 million square foot facility in Wichita, Kansas. This site supports sales and marketing, research and development, and global services.

We lease and occupy approximately 0.3 million square feet of facilities in Bangalore, India. This site supports sales and marketing, research and development, and global services. We also own fifteen acres of land in Bangalore, India to be held for future development.

We lease other sales offices and research and development facilities throughout the U.S. and internationally. We expect that our existing facilities and those being developed worldwide are suitable and adequate for our requirements over at least the next two years and that additional space will be available as needed.

See additional discussion regarding properties in Note 18 of the accompanying consolidated financial statements under Item 8. and Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations — Liquidity and Capital Resources.

Item 3. ***Legal Proceedings***

On October 13, 2010, Amalgamated Bank (as trustee of the Longview Largecap 500 Index Fund and the Longview Largecap 500 Index Veba Fund) filed a derivative lawsuit on behalf of NetApp, Inc. and NetApp U.S. Public Sector, Inc. in the Superior Court of the State of California, Santa Clara County. The lawsuit named 15 of our current and former directors as defendants. On February 3, 2011, the plaintiff filed an amended complaint in response to motions to dismiss that we and the individual defendants had filed. Like the original complaint, the amended complaint includes claims of breach of fiduciary duty and waste of corporate assets and alleges that the defendants failed to monitor internal controls to ensure that we complied with legal requirements in our General Services Administration (GSA) contracting activities, resulting in us incurring defense and settlement costs. The amended complaint seeks disgorgement of salaries and other compensation from the defendants and additional unspecified damages. We and the individual defendants filed motions to dismiss the amended complaint in early March 2011, and the hearing on these motions is scheduled for July 15, 2011.

Item 4. ***Reserved***

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PART II

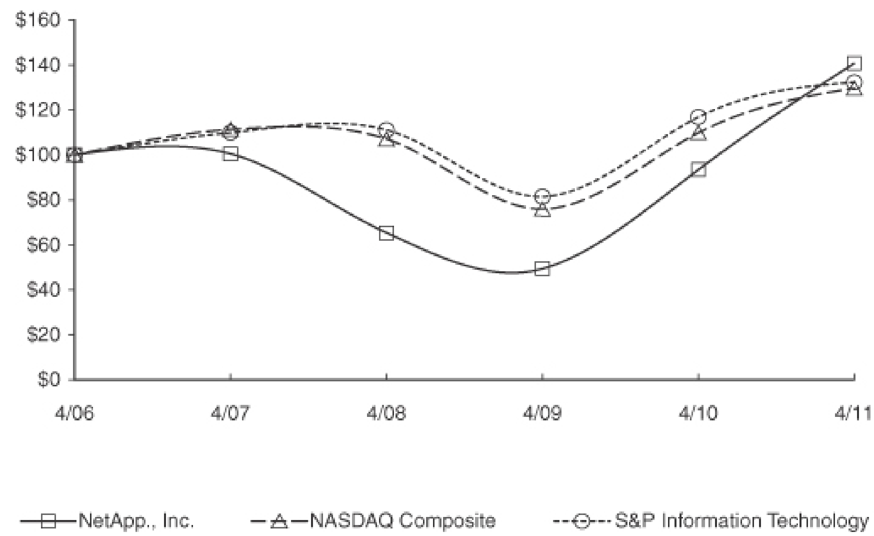
Item 5. *Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities*

Our common stock commenced trading on the NASDAQ Global Select Market (and its predecessor, the Nasdaq National Market) on November 21, 1995, and is traded under the symbol "NTAP." As of June 10, 2011 there were 753 holders of record of the common stock. The closing price for our common stock on June 10, 2011 was $49.01. The following table sets forth for the periods indicated the high and low closing sale prices for our common stock as reported on the NASDAQ Global Select Market.

	Fiscal 2011		Fiscal 2010	
	High	Low	High	Low
First Quarter	$44.03	$31.47	$23.56	$16.93
Second Quarter	53.25	37.58	29.50	21.55
Third Quarter	59.48	49.25	34.54	27.60
Fourth Quarter	60.60	45.70	36.17	29.83

The following graph shows a five-year comparison of cumulative total return on our common stock, the NASDAQ Composite Index and the S&P 500 Information Technology Index from April 30, 2006 through April 29, 2011. The past performance of our common stock is no indication of future performance.

COMPARISON OF 5 YEAR CUMULATIVE TOTAL RETURN*
Among NetApp, Inc., The NASDAQ Composite Index
And The S&P Information Technology Index



* $100 invested on 4/30/06 in stock or index, including reinvestment of dividends.
Fiscal year ending April 30.

	4/06	4/07	4/08	4/09	4/10	4/11
NetApp, Inc.	100.00	100.38	65.28	49.37	93.53	140.57
NASDAQ Composite	100.00	111.24	107.01	75.98	109.83	129.57
S&P Information Technology	100.00	109.94	111.04	81.40	116.80	132.17

We believe that a number of factors may cause the market price of our common stock to fluctuate significantly. See “Item 1A. Business — Risk Factors.”

Dividend Policy

We have never paid cash dividends on our capital stock. We currently anticipate retaining all available funds, if any, to finance internal growth and product development as well as other possible management initiatives, including stock repurchases and acquisitions. Payment of dividends in the future will depend upon our earnings and financial condition and such other factors as the Board of Directors may consider or deem appropriate at the time.

Securities Authorized for Issuance under Equity Compensation Plans

Information regarding securities authorized for issuance under equity compensation plans is incorporated by reference to our Proxy Statement for the 2011 Annual Meeting of Stockholders.

Unregistered Securities Sold in Fiscal 2011

We did not sell any unregistered securities during fiscal 2011.

Issuer Purchases of Equity Securities

On May 13, 2003, we announced that our Board of Directors had authorized a stock repurchase program. As of April 29, 2011, our Board of Directors had authorized the repurchase of up to $4,023.6 million of common stock under this program. We did not repurchase any common stock during the fiscal 2011. As of April 29, 2011, we had repurchased 104.3 million shares of our common stock at a weighted-average price of $28.06 per share for an aggregate purchase price of $2,927.4 million since inception of the stock repurchase program, and the remaining authorized amount for stock repurchases under this program was $1,096.3 million with no termination date.

Item 6. ***Selected Financial Data***

The following selected consolidated financial data set forth below was derived from our historical audited consolidated financial statements and should be read in conjunction with, "Management's Discussion and Analysis of Financial Condition and Results of Operations" and "Financial Statements and Supplementary Data," and other financial data included elsewhere in this Annual Report on Form 10-K. Our historical results of operations are not necessarily indicative of results of operations to be expected for any future period.

	Fiscal Year Ended				
	April 29, 2011	April 30, 2010	April 24, 2009	April 25, 2008	April 27, 2007
	(In millions, except per-share amounts)				
Net revenues(1)	$5,122.6	$3,931.4	$3,406.4	$3,303.2	$2,804.3
Total cost of revenue	1,793.9	1,412.2	1,416.5	1,289.8	1,099.8
Gross profit	3,328.7	2,519.2	1,989.9	2,013.4	1,704.5
Total operating expenses	2,504.4	2,030.8	1,942.7	1,699.8	1,403.3
Income from operations	824.3	488.4	47.2	313.6	301.2
Net income(1)	$ 673.1	$ 400.4	$ 64.6	$ 309.7	$ 297.7
Net income per share, basic	$ 1.87	$ 1.18	$ 0.20	$ 0.88	$ 0.80
Net income per share, diluted	$ 1.71	$ 1.13	$ 0.19	$ 0.86	$ 0.77
Shares used in basic net income per share calculation	360.9	339.6	330.3	351.7	371.2
Shares used in diluted net income per share calculation	393.7	353.2	334.6	361.1	388.5

	April 29, 2011	April 30, 2010	April 24, 2009	April 25, 2008	April 27, 2007
	(In millions)				
Cash, cash equivalents and short-term investments	$5,174.7	$3,724.0	$2,604.3	$1,164.4	$1,308.8
Working capital	2,992.4	2,626.1	1,759.5	653.3	1,053.3
Total assets	8,498.8	6,494.4	5,384.4	4,071.0	3,658.5
Short-term debt(2)	1,150.4	—	—	—	85.1
Long-term debt and other	192.9	1,273.4	1,219.3	318.7	9.5
Total stockholders' equity	3,730.2	2,530.5	1,784.2	1,700.3	1,989.0

(1) In fiscal 2011, we adopted new accounting standards related to revenue recognition. Net revenues and net income were higher by $129.2 million and $53.0 million, respectively, as a result of adoption of these new standards. Net revenues for fiscal 2009 included a GSA settlement of $128.7 million.

(2) Based upon the closing price of our common stock for the prescribed measurement period in fiscal 2011, the contingent conversion threshold of the 1.75% Convertible Senior Notes due 2013 (the Notes) was exceeded as of April 29, 2011. As a result, the Notes are convertible at the option of the holder through June 30, 2011. Accordingly, since the terms of the Notes require the principal to be settled in cash, we reclassified from stockholders' equity to temporary equity the portion of the Notes attributable to the conversion feature which had not yet been accreted to its face value and the Notes have been classified as a current liability. For the holders to be able to continue to convert the Notes, our closing stock price must exceed $41.41 for 20 out of the last 30 trading days of each future calendar quarter. If this threshold is not met, the Notes will be reclassified to long-term debt and the remaining portion of the Notes attributable to the conversion feature not yet accreted to its face value will be reclassified back to equity.

Item 7. ***Management's Discussion and Analysis of Financial Condition and Results of Operations***

The following discussion of our financial condition and results of operations should be read together with the financial statements and the related notes set forth under "Item 8. Financial Statements and Supplementary Data". The following discussion also contains trend information and other forward looking statements that involve a number of risks and uncertainties. The Risk Factors set forth in "Item 1. Business" are hereby incorporated into the discussion by reference.

Overview

Revenues for fiscal 2011 were $5.1 billion, up $1.2 billion, or 30%, from fiscal 2010. The improved revenue performance in fiscal 2011 was predominantly the result of strong demand for our storage efficiency and data management solutions including the new products launched in November 2010. Additionally, net revenues for fiscal 2011 include a favorable impact of $129.2 million from the adoption of new accounting standards related to revenue recognition. Revenues for fiscal 2010 were $3.9 billion, up $0.5 billion, or 15%, from fiscal 2009. Improved revenue performance in fiscal 2010 was the result of improvements in product, software entitlements and maintenance (SEM) and service revenues. Revenues in fiscal 2009 were negatively impacted by a $128.7 million settlement with the General Services Administration (GSA). The dispute related to our discounting practices and compliance with the price reduction provisions of GSA contracts between August 1997 and February 2005.

Gross profit as a percentage of net revenues increased during fiscal 2011 primarily as a result of higher product and service revenues at improved margins. The gross profit margin percentage increased during fiscal 2010 due largely to reductions in product materials cost, partially offset by a decrease in the overall average selling prices of our products, as well as an increase in our SEM and services revenues mix relative to product revenues. In addition, our gross profit margin percentage in fiscal 2009 was negatively impacted by the GSA settlement.

Operating expenses, excluding restructuring and other charges and acquisition related (income) expense, net, for fiscal 2011 totaled $2.5 billion, up 21% from fiscal 2010. The increase is primarily due to a 17% increase in average headcount in fiscal 2011 and higher levels of incentive compensation and commission expense due to higher revenues and operating profits. Salary and related expenses during fiscal 2011 were favorably impacted by having 52 weeks in fiscal 2011 compared to 53 weeks in fiscal 2010. During fiscal 2010, operating expenses, excluding restructuring and other charges and acquisition related (income) expense, net, totaled $2.1 billion, up 10% from fiscal 2009 and reflected the impact of an increase in incentive compensation and commissions expense related to our stronger sales and operating profit performance, as well as having 53 weeks in fiscal 2010 compared to 52 weeks in fiscal 2009.

During fiscal 2010, we entered into a merger agreement with Data Domain, Inc., which was subsequently terminated on July 8, 2009. In accordance with the agreement, we received a $57.0 million termination fee, which, when netted against $15.9 million of incremental third-party costs we incurred relating to the terminated merger transaction, resulted in net proceeds of $41.1 million.

Subsequent Event

On May 6, 2011, we completed the acquisition of certain assets and liabilities related to the Engenio external storage systems business (ESG) of LSI Corporation (LSI). We paid LSI $480 million in cash and assumed certain assets and liabilities related to ESG. This acquisition will enable us to further expand our OEM channel, and address emerging and fast-growing segments of the storage market such as video, including full-motion video capture and digital video surveillance, as well as high-performance computing applications, such as genomics sequencing and scientific research.

The transaction is expected to materially impact our results of operations in fiscal 2012 and beyond. We expect fiscal 2012 ESG product revenues to consist primarily of revenues from sales to their existing OEMs, with new business developing slowly over the course of the year. The fiscal 2012 consolidated product gross margin percentage is expected to decrease compared to fiscal 2011, reflecting the impact on our existing business of the lower gross margin ESG OEM revenues.

Critical Accounting Estimates and Policies

Our discussion and analysis of financial condition and results of operations are based upon our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States of America. The preparation of such statements requires us to make estimates and assumptions that affect the reported amounts of revenues and expenses during the reporting period and the reported amounts of assets and liabilities as of the date of the financial statements. Our estimates are based on historical experience and other assumptions that we consider to be appropriate in the circumstances. However, actual future results may vary from our estimates.

We believe that the following accounting policies are significantly affected by critical accounting estimates and that they are both highly important to the portrayal of our financial condition and results and require difficult management judgments and assumptions about matters that are inherently uncertain. Note 2 of the accompanying consolidated financial statements describes the significant accounting policies used in the preparation of the consolidated financial statements. Certain of these significant accounting policies are considered to be critical accounting policies.

We believe the accounting policies described below are those that most frequently require us to make estimates and judgments and therefore are critical to the understanding of our results of operations.

Revenue Recognition, Reserves and Allowances

Revenue Recognition — We recognize revenue when:

- *Persuasive evidence of an arrangement exists:* It is our customary practice to have a purchase order and/or contract prior to recognizing revenue on an arrangement from our end users, customers, value-added resellers, or distributors.
- *Delivery has occurred:* Our product is physically delivered to our customers, generally with standard transfer terms such as FOB origin. We typically do not allow for restocking rights with any of our value-added resellers or distributors. Products shipped with acceptance criteria or return rights are not recognized as revenue until all criteria are achieved. If undelivered products or services exist that are essential to the functionality of the delivered product in an arrangement, delivery is not considered to have occurred.
- *The fee is fixed or determinable:* Arrangements with payment terms extending beyond our standard terms, conditions and practices are not considered to be fixed or determinable. Revenue from such arrangements is recognized at the earlier of customer payment or when the fees become due and payable. We typically do not allow for price-protection rights with any of our value-added resellers or distributors.
- *Collection is reasonably assured:* If there is considerable doubt surrounding the credit worthiness of a customer at the outset of an arrangement, the associated revenue is deferred and recognized upon cash receipt.

Our multiple element arrangements include our systems and one or more of the following undelivered elements: SEM and premium hardware maintenance. Our SEM entitle our customers to receive unspecified product upgrades and enhancements on a when-and-if-available basis, bug fixes, and patch releases. Premium hardware maintenance services include contracts for technical support and minimum response times. Revenues from SEM and premium hardware maintenance services are recognized ratably over the contractual term, generally from one to five years. We also offer extended service contracts (which extend our standard parts warranty and may include premium hardware maintenance) at the end of the warranty term; revenues from these contracts are recognized ratably over the contract term. We also sell professional services either on a time and materials basis or under fixed price standard projects; we recognize revenue for these services as they are performed. Revenue from hardware installation services is recognized in the period the services are delivered.

In October 2009, the FASB amended the accounting standards for revenue recognition to exclude tangible products containing software components and non-software components that function together to deliver the tangible product's essential functionality from the scope of the software revenue recognition guidance. Concurrently, the FASB also amended the accounting standards for multiple deliverable revenue arrangements to:

- provide updated guidance on whether multiple deliverables exist, how the deliverables in an arrangement should be separated, and how the arrangement consideration should be allocated among its elements;
- require an entity to allocate revenue in an arrangement that has separate units of accounting using best estimated selling prices (BESP) of deliverables if a vendor does not have vendor-specific objective evidence (VSOE) of fair value or third-party evidence of selling price (TPE); and
- eliminate the use of the residual method and require an entity to allocate revenue using the relative selling price method to the separate units of accounting.

We elected to early adopt these standards in the fourth quarter of fiscal 2011, and the standards were applied retrospectively from the beginning of fiscal 2011 for new and materially modified revenue arrangements originating after April 30, 2010.

The majority of our products are hardware systems containing software components that function together to provide the essential functionality of the product. Therefore, our hardware systems and software components essential to the functionality of the hardware systems are considered non-software deliverables and therefore are not subject to industry-specific software revenue recognition guidance.

Our product revenue also includes revenue from the sale of non-essential software products. Non-essential software products may operate on our hardware systems, but are not considered essential to the functionality of the hardware. Non-essential software sales generally include a perpetual license to our software. Non-essential software sales continue to be subject to the industry-specific software revenue recognition guidance. For arrangements within the scope of the new guidance, a deliverable constitutes a separate unit of accounting when it has standalone value and there are no customer negotiated refunds or return rights for the delivered elements.

For transactions entered into or materially modified after April 30, 2010, we recognize revenue in accordance with the new accounting standards when applicable. Certain arrangements with multiple deliverables may continue to have software deliverables that are subject to the existing software revenue recognition guidance along with non-software deliverables that are subject to the new standards. The revenue for these multiple element arrangements is allocated to the software deliverables and the non-software deliverables as a group based on the relative selling prices of all of the deliverables in the arrangement using the selling price hierarchy set forth in the new standards.

For our non-software deliverables, we recognize revenue based on the new standards and allocate the arrangement consideration based on the relative selling price of the deliverables. For our non-software deliverables, we use BESP as our selling price. For our software entitlements and support services, we generally use VSOE as our selling price. When we are unable to establish selling price using VSOE for our software entitlements and support services, we use BESP in our allocation of arrangement consideration.

VSOE of fair value for elements of an arrangement is based upon the normal pricing and discounting practices for those services when sold separately. In determining VSOE, we require that a substantial majority of the selling prices for an element fall within a reasonably narrow pricing range, generally evidenced by a substantial majority of such historical stand-alone transactions falling within a reasonably narrow range. In addition, we consider major service type, customer classifications, and other variables in determining VSOE.

When VSOE cannot be established, the Company attempts to establish selling price of each element based on TPE. TPE is determined based on competitor prices for similar deliverables when sold separately. Generally, our go-to-market strategy differs from that of our peers and our offerings contain a significant level of differentiation such that the comparable pricing of products with similar functionality cannot be obtained. Furthermore, we are unable to reliably determine what similar competitor products' selling prices are on a stand-alone basis. Therefore, the Company is typically not able to determine TPE for our products or services.

When we are unable to establish selling price of our non-software deliverables using VSOE or TPE, we use BESP in our allocation of arrangement consideration. The objective of BESP is to determine the price at which we would transact a sale if the product or service were sold on a stand-alone basis. BESP is determined for a product or service by considering multiple factors including, but not limited to, cost of products, gross margin objectives, historical pricing practices, customer classes and distribution channels. In determining BESP, we require that the majority of the selling prices fall within a reasonable pricing range, generally evidenced by a majority of such historical transactions falling within a reasonable range.

We regularly review VSOE, TPE, and BESP and maintain internal controls over the establishment and updates of these estimates.

For sales of software deliverables after April 30, 2010 and for all transactions entered into prior to the first quarter of fiscal year 2011, we recognize revenue based on software revenue recognition guidance. Under the software revenue recognition guidance, we use the residual method to recognize revenue when a multiple element arrangement includes one or more elements to be delivered at a future date and VSOE of fair value of all undelivered elements exists. In the majority of our contracts, the only element that remains undelivered at the time of delivery of the product is SEM and/or service. Under the residual method, the fair value of the undelivered elements is deferred and the remaining portion of the contract fee is recognized as product revenue. If evidence of the fair value of one or more undelivered elements does not exist, all revenue is generally deferred until the earlier of when delivery of those elements occurs or when fair value can be established. In instances where the only undelivered element without fair value is SEM, the entire arrangement is recognized ratably over the maintenance period.

Net revenues and net income for the year ended April 29, 2011 were higher by $129.2 million and $53.0 million, respectively, as a result of adoption of the new revenue recognition accounting standards. We are not able to reasonably estimate the effect of adopting these standards on future financial periods as the impact will vary based on the nature and volume of new or materially modified sales transactions in any given period. In terms of the timing and pattern of revenue recognition, we expect that these new accounting standards will facilitate our efforts to optimize our offerings due to better alignment between the economics of an arrangement and the related accounting. This may lead us to engage in new go-to-market practices in the future. In particular, we expect that the amended accounting standards will enable us to better integrate products and services (for which we have not established VSOE) into existing offerings and solutions. As our go-to-market strategies evolve, we may modify our pricing practices in the future, which could result in changes in selling prices, including both VSOE and BESP.

We record reductions to revenue for estimated sales returns at the time of shipment. Sales returns are estimated based on historical sales returns, current trends, and our expectations regarding future experience. We monitor and analyze the accuracy of sales returns estimates by reviewing actual returns and adjust them for future expectations to determine the adequacy of our current and future reserve needs. If actual future returns and allowances differ from past experience, additional allowances may be required.

We also maintain a separate allowance for doubtful accounts for estimated losses based on our assessment of the collectability of specific customer accounts and the aging of the accounts receivable. We analyze accounts receivable and historical bad debts, customer concentrations, customer solvency, current economic and geographic trends, and changes in customer payment terms and practices when evaluating the adequacy of our current and future allowance. In circumstances where we are aware of a specific customer's inability to meet its financial obligations to us, a specific allowance for bad debt is estimated and recorded, which reduces the recognized receivable to the estimated amount we believe will ultimately be collected. We monitor and analyze the accuracy of our allowance for doubtful accounts estimate by reviewing past collectability and adjusting it for future expectations to determine the adequacy of our current and future allowance. Our reserve levels have generally been sufficient to cover credit losses. Our allowance for doubtful accounts as of April 29, 2011 was $0.5 million, compared to $1.6 million as of April 30, 2010. If the financial condition of our customers were to deteriorate, resulting in an impairment of their ability to make payments, additional allowances may be required.

Inventory Valuation and Purchase Order Accruals

Inventories are stated at the lower of cost or market (which approximates actual cost on a first-in, first-out basis). We perform an excess and obsolete analysis of our inventory based upon assumptions about future demand and market conditions. We adjust the inventory value based on estimated excess and obsolete inventories determined primarily by future demand forecasts. Although we strive for accuracy in our forecasts of future product demand, any significant unanticipated changes in demand or technological developments could have a significant impact on the value of our inventory commitments and on our reported results. If actual market conditions are less favorable than those projected, additional write-downs and other charges against earnings may be required. If actual market conditions are more favorable, we may realize higher gross profits in the period when the written-down inventory is sold. Historically, our inventory valuation adjustments have been sufficient to cover any excess and obsolete exposure and have not required material adjustments in subsequent periods.

In the normal course of business we make commitments to our third party contract manufacturers to manage lead times and meet product forecasts, and to other parties to purchase various key components used in the manufacture of our products. We establish accruals for estimated losses on purchased commitments when we believe it is probable that the components will not be utilized in future operations. To the extent that such forecasts are not achieved, our commitments and associated accruals may change.

We are subject to a variety of federal, state, local, and foreign environmental regulations relating to the use, storage, discharge, and disposal of hazardous chemicals used in the manufacture of our products, which may require design changes or recycling of products we manufacture. We will continue to monitor our compliance with these regulations, which may require us to incur higher costs, and adversely impact our operating results.

Business Combinations

We allocate the purchase price of acquired companies to identifiable assets acquired and liabilities assumed at their acquisition date fair values. Goodwill as of the acquisition date is measured as the excess of consideration transferred over the net of the acquisition date fair values of the assets acquired and the liabilities assumed. Significant management judgments and assumptions are required in determining the fair value of acquired assets and liabilities, particularly acquired intangible assets which typically comprise acquired technology, trademarks and tradenames, customer contracts and relationships and covenants not to compete.

The valuation of purchased intangible assets is principally based upon estimates of the future performance and cash flows from the acquired business. If different assumptions are used, it could materially impact the purchase price allocation and our financial position and results of operations. Management's estimates of fair value are based upon assumptions believed to be reasonable, but which are inherently uncertain and unpredictable. As a result, during the measurement period, which may be up to one year from the acquisition date, we record adjustments to the assets acquired and liabilities assumed, with the corresponding offset to goodwill to the extent that we identify adjustments to the preliminary purchase price allocation.

Valuation of Goodwill and Intangibles

Purchased intangible assets are amortized over their useful lives unless these lives are determined to be indefinite. In-process research and development is capitalized at fair value and classified as indefinite-lived assets until completion or abandonment and is subject to periodic review for impairment. Accordingly, the allocation of acquisition cost to identifiable intangible assets has a significant impact on our future operating results. The allocation process requires extensive use of estimates and assumptions, including estimates of future cash flows expected to be generated by the acquired assets. Should conditions be different than management's assessment, material write-downs of the fair value of intangible assets may be required. We periodically review the estimated remaining useful lives of our intangible assets. A reduction in the estimate of remaining useful life could result in accelerated amortization expense or a write-down in future periods. As such, any future write-downs of these assets would adversely affect our operating results.

We perform an annual review of the valuation of goodwill in the fourth quarter of each fiscal year, or more often if indicators of impairment exist. Triggering events for impairment reviews may be indicators such as adverse industry or economic trends, restructuring actions, lower projections of profitability, or a sustained decline in our market capitalization. Evaluations of possible impairment and, if applicable, adjustments to carrying values require us to estimate, among other factors, future cash flows, useful lives, and fair market values of our reporting units and assets. When we conduct our evaluation of goodwill, the fair value of goodwill is assessed using valuation techniques that require significant management judgment. Should conditions be different from management's last assessment, significant write-downs of goodwill may be required, which would adversely affect our operating results. In fiscal 2011, we performed such evaluation and determined the fair value substantially exceeded the carrying value and therefore, found no impairment of goodwill.

Restructuring Reserves

We recognize a liability for restructuring costs when the liability is incurred. The restructuring accruals are based upon management estimates at the time they are recorded. These estimates can change depending upon changes in facts and circumstances subsequent to the date the original liability was recorded. The main components of our restructuring charges are workforce reduction, intangibles and fixed assets write-offs and non-cancelable lease costs related to excess facilities. Severance-related charges are accrued when it is determined that a liability has been incurred, which is generally when individuals have been notified of their termination dates and expected severance payments. We record contract cancellation costs when contracts are terminated. The decision to eliminate excess facilities results in charges for lease termination fees and future commitments to pay lease charges, net of estimated future sublease income. We recognize charges for elimination of excess facilities when we have vacated the premises. Intangible asset write-offs consist of impairment of acquired intangible assets related to our decision to cease the development and availability of specific products. Fixed assets write-offs primarily consist of equipment, software and furniture associated with excess facilities being eliminated, and are based on an estimate of the amounts and timing of future cash flows related to the expected future remaining use and ultimate sale or disposal of the equipment and furniture.

Our estimates involve a number of risks and uncertainties, some of which are beyond our control, including future real estate market conditions and our ability to successfully enter into subleases or lease termination agreements with terms as favorable as those assumed when arriving at our estimates. We regularly evaluate a number of factors to determine the appropriateness and reasonableness of our restructuring accruals, including the various assumptions noted above. If actual results differ significantly from our estimates, we may be required to adjust our restructuring accruals in the future.

Product Warranties

Estimated future warranty costs are expensed as a cost of product revenues when revenue is recognized, based on estimates of the costs that may be incurred under our warranty obligations including material, distribution and labor costs. Our accrued liability for estimated future warranty costs is included in other accrued liabilities and other long-term obligations on the accompanying consolidated balance sheets. Factors that affect our warranty liability include the number of installed units, estimated material costs, estimated distribution costs and estimated labor costs. We periodically assess the adequacy of our warranty accrual and adjust the amount as considered necessary.

Stock-Based Compensation

We account for stock-based compensation using the Black-Scholes option pricing model to estimate the fair value of each option grant on the date of grant. Our option pricing model requires the input of highly subjective assumptions, including the expected stock price volatility, expected term, and forfeiture rate. Any changes in these highly subjective assumptions significantly impact stock-based compensation expense.

Loss Contingencies

We are subject to the possibility of various loss contingencies arising in the course of business. We consider the likelihood of the loss or impairment of an asset or the incurrence of a liability as well as our ability to reasonably estimate the amount of loss in determining loss contingencies. An estimated loss contingency is accrued when it is probable that a liability has been incurred or an asset has been impaired and the amount of loss can be reasonably estimated. We regularly evaluate current information available to us to determine whether such accruals should be adjusted.

Fair Value Measurements and Impairments

All of our available-for-sale investments and nonmarketable securities are subject to periodic impairment review. Investments are considered to be impaired when a decline in fair value is judged to be other-than-temporary. This determination requires significant judgment. For publicly traded investments, impairment is determined based upon the specific facts and circumstances present at the time, including factors such as current economic and market conditions, the credit rating of the security's issuer, the length of time an investment's fair value has been below our carrying value, and our ability and intent to hold investments to maturity or for a period of time sufficient to allow for any anticipated recovery in fair value. If an investment's decline in fair value, caused by factors other than changes in interest rates, is deemed to be other-than-temporary, we reduce its carrying value to its estimated fair value, as determined based on quoted market prices, liquidation values or other metrics. For investments in publicly held companies, we recognize an impairment charge when the decline in the fair value of our investment is below its cost basis and is judged to be other-than-temporary. The ultimate value realized on these investments is subject to market price volatility until they are sold.

Pursuant to the accounting guidance for fair value measurement and its subsequent updates, fair value is defined as the price that would be received to sell an asset or paid to transfer a liability (i.e., the "exit price") in an orderly transaction between market participants at the measurement date. The accounting guidance establishes a hierarchy for inputs used in measuring fair value that minimizes the use of unobservable inputs by requiring the use of observable market data when available. Observable inputs are inputs that market participants would use in pricing the asset or liability based on active market data. Unobservable inputs are inputs that reflect the assumptions market participants would use in pricing the asset or liability based on the best information available in the circumstances.

The fair value hierarchy is broken down into the three input levels summarized below:

- Level 1 — Valuations are based on quoted prices in active markets for identical assets or liabilities, and readily accessible by us at the reporting date. Examples of assets and liabilities utilizing Level 1 inputs are certain money market funds, U.S. Treasuries and trading securities with quoted prices on active markets.
- Level 2 — Valuations based on inputs other than the quoted prices in active markets that are observable either directly or indirectly in active markets. Examples of assets and liabilities utilizing Level 2 inputs are U.S. government agency bonds, corporate bonds, commercial paper, certificates of deposit and over-the-counter derivatives.

- Level 3 — Valuations based on unobservable inputs in which there is little or no market data, which require us to develop our own assumptions. Examples of assets and liabilities utilizing Level 3 inputs are cost method investments, auction rate securities (ARS) and the Primary Fund.

We measure our available-for-sale securities at fair value on a recurring basis. Available-for-sale securities include U.S. Treasury securities, U.S. government agency bonds, corporate bonds, commercial paper, ARSs, money market funds and certificates of deposit. Where possible, we utilize quoted market prices to measure and such items are classified as Level 1 in the hierarchy. When quoted market prices for identical assets are unavailable, varying valuation techniques are used. Such assets are classified as Level 2 or Level 3 in the hierarchy. We classify items in Level 2 if investments are valued using observable inputs to quoted market prices, benchmark yields, reported trades, broker/dealer quotes or alternative pricing sources with reasonable levels of price transparency. We classify items in Level 3 if investments are valued using a pricing model, based on unobservable inputs in the market or that require us to develop our own assumptions. Our assessment of the significance of a particular input to the fair value measurement in its entirety requires judgment and considers factors specific to the investment.

We are also exposed to market risk relating to our available-for-sale investments due to uncertainties in the credit and capital markets. The fair value of our investments may change significantly due to events and conditions in the credit and capital markets. These securities/issuers could be subject to review for possible downgrade. Any downgrade in these credit ratings may result in an additional decline in the estimated fair value of our investments. We monitor and evaluate the accounting for our investment portfolio on a quarterly basis for additional other-than-temporary impairment charges.

We actively review current investment ratings, company specific events, and general economic conditions in managing our investments and determining whether there is a significant decline in fair value that is other-than-temporary. As of April 29, 2011 and April 30, 2010, our short-term and long-term investments in marketable securities have been classified as “available-for-sale” and are carried at fair value. Available-for-sale investments with original maturities of greater than three months at the date of purchases are classified as short-term investments as these investments generally consist of marketable securities that are intended to be available to meet current cash requirements. Currently, all marketable securities held by us are classified as available-for-sale and our entire ARS portfolio is classified as long-term investments.

Our ARS portfolio consists of securities with long-term nominal maturities which, in accordance with investment policy guidelines, had credit ratings of AAA and Aaa at the time of purchase. During fiscal 2008, we reclassified all of our investments in ARS from short-term investments to long-term investments as we believed our ability to liquidate these investments in the next twelve months was uncertain. Based on an analysis of the fair value and marketability of these investments, we recorded cumulative temporary impairment charges of approximately $4.5 million and $3.3 million during fiscal 2011 and 2010, respectively, partially offset by $0.4 million and $0.7 million, respectively, in unrealized gains within other comprehensive income (loss). During fiscal 2009, we recorded cumulative temporary impairment charges of approximately $7.0 million, partially offset by $0.3 million in unrealized gains within other comprehensive income (loss). In addition, during fiscal 2009, we recorded an other-than-temporary impairment charge of $2.1 million due to a significant decline in the estimated fair values of certain of our ARS related to credit quality risk and rating downgrades.

The valuation models used to estimate the fair value of our ARS include numerous assumptions such as assessments of the underlying structure of each security, expected cash flows, discount rates, credit ratings, workout periods, and overall capital market liquidity. These assumptions, assessments and the interpretations of relevant market data are subject to uncertainties, are difficult to predict and require significant judgment. The use of different assumptions, or applying different judgments to inherently subjective matters and changes in future market conditions could result in significantly different estimates of fair value. There is no assurance as to when the market for auction rate securities will stabilize. The fair value of our ARS could change significantly based on market conditions and continued uncertainties in the credit markets. If these uncertainties continue or if these securities experience credit rating downgrades, we may incur additional temporary impairment related to our auction rate securities portfolio. We will continue to monitor the fair value of our ARS and relevant market conditions and will record additional temporary or other-than-temporary impairments if future circumstances warrant such charges.

As a result of the bankruptcy filing of Lehman Brothers, which occurred during fiscal 2009, we recorded an other-than-temporary impairment charge of $11.8 million on our corporate bonds related to investments in Lehman Brothers securities and approximately $9.3 million on our investments in the Primary Fund that held Lehman Brothers investments. During fiscal 2010, we sold our remaining holdings of Lehman Brothers bonds and the Primary Fund made multiple distributions of its assets to its investors, and as of April 30, 2010, we recovered our recorded investment, with the exception of $0.2 million, for which we recognized an additional loss. As of April 30, 2010, we no longer had any direct or indirect investments related to Lehman Brothers and have recognized all related losses in our statements of operations.

During fiscal 2011, 2010 and 2009, recognized gains and losses on available-for-sale investments were not material. Management determines the appropriate classification of investments at the time of purchase and reevaluates the classification at each reporting date. The fair value of our marketable securities, including those included in cash equivalents and long-term investments, was $4,043.6 million and $3,619.2 million as of April 29, 2011 and April 30, 2010, respectively.

To determine the fair value of nonmarketable investments, we use the most recent information available to us, including new financings or estimates of current fair value, as well as traditional valuation techniques. It is our policy to review the fair value of these investments on a regular basis to determine whether the investments in these companies are other-than-temporarily impaired. In the case of privately-held companies, this evaluation is based on information that we request from these companies. If we believe the carrying value of an investment is in excess of fair value, and this difference is other-than-temporary, it is our policy to write down the investment to fair value. The carrying value of our investments in privately-held companies was $1.3 million and $1.4 million as of April 29, 2011 and April 30, 2010, respectively. During fiscal 2011 and 2010, we recorded $0.1 million of net impairment charges and $3.4 million of realized gains in our consolidated statements of operations, respectively, for our investments in privately-held companies, and adjusted the carrying amount of those investments to fair value, as we deemed the decline in the value of these assets to be other-than-temporary.

Income Taxes

The determination of our tax provision is subject to judgments and estimates due to the complexity of the tax law that we are subject to in several tax jurisdictions. Earnings derived from our international business are generally taxed at rates that are lower than U.S. rates, resulting in a lower effective tax rate than the U.S. statutory tax rate of 35.0%. The ability to maintain our current effective tax rate is contingent on existing tax laws in both the United States and the respective countries in which our international subsidiaries are located. Future changes in domestic or international tax laws could affect the continued realization of the tax benefits we are currently receiving. In addition, a decrease in the percentage of our total earnings from international business or a change in the mix of international business among particular tax jurisdictions could increase our overall effective tax rate.

We account for income taxes by recognizing deferred tax assets and liabilities for the effect of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes. We reduce deferred tax assets by a valuation allowance if it is more likely than not that some or all of the deferred tax asset will not be realized. Tax attributes related to the exercise of employee stock options are not realized until they result in a reduction of taxes payable. We do not include unrealized stock option attributes as components of our gross deferred tax assets and corresponding valuation allowance disclosures.

We have provided a valuation allowance of $45.5 million as of April 29, 2011, compared to $28.3 million as of April 30, 2010 and $28.0 million as of April 24, 2009, on certain of our deferred tax assets. The change in valuation allowance in fiscal 2011 was primarily related to the realizability of state credit carryforwards as a result of the expected application of the California single sales factor apportionment election. The change in valuation allowance in fiscal 2010 was primarily related to changes in blended state tax rates. The tax effected amounts of gross unrealized net operating loss and business tax credit carryforwards are $414.2 million as of April 29, 2011.

We recognize tax liabilities for uncertain tax positions by applying a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. We recognize the tax liability for uncertain income tax positions on income tax returns based on a two-step process. The first step is to determine whether it is more likely than not that each income tax position would be sustained upon audit. The second step is to estimate and measure the tax benefit as the amount that has a greater than 50% likelihood of being realized upon ultimate settlement with the tax authority. Estimating these amounts requires us to determine the probability of various possible outcomes. We evaluate these uncertain tax positions on a quarterly basis. This evaluation is based on the consideration of several factors, including changes in facts or circumstances, changes in applicable tax law, settlement of issues under audit and new exposures. If we later determine that our exposure is lower or that the liability is not sufficient to cover our revised expectations, we adjust the liability and effect a related change in our tax provision during the period in which we make such determination.

New Accounting Standards

See Note 4 of the accompanying consolidated financial statements for a full description of new accounting pronouncements, including the respective expected dates of adoption and effects on results of operations and financial condition.

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Results of Operations

The following table sets forth certain Consolidated Statements of Operations data as a percentage of net revenues for the periods indicated:

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
Revenues:			
Product	65.7%	60.6%	63.2%
Software entitlements and maintenance	14.1	17.3	18.2
Service	20.2	22.1	22.4
GSA settlement	—	—	(3.8)
Net revenues	100.0	100.0	100.0
Cost of revenues:			
Cost of product	26.2	24.8	29.6
Cost of software entitlements and maintenance	0.3	0.3	0.3
Cost of service	8.5	10.8	11.7
Gross profit	65.0	64.1	58.4
Operating expenses:			
Sales and marketing	31.2	32.9	34.8
Research and development	12.7	13.6	14.6
General and administrative	4.9	6.1	6.0
Restructuring and other charges	—	0.1	1.6
Acquisition related (income) expense, net	0.1	(1.0)	—
Total operating expenses	48.9	51.7	57.0
Income from operations	16.1	12.4	1.4
Other expense, net:			
Interest income	0.8	0.9	1.7
Interest expense	(1.5)	(1.9)	(1.9)
Other income (expense), net	0.1	—	(1.0)
Total other expense, net	(0.6)	(1.0)	(1.2)
Income before income taxes	15.5	11.4	0.2
Provision for (benefit from) income taxes	2.4	1.2	(1.7)
Net income	13.1%	10.2%	1.9%

Discussion and Analysis of Results of Operations

Net Revenues — Our net revenues for fiscal 2011, 2010 and 2009 were as follows (in millions, except percentages):

	Year Ended				
	April 29, 2011	April 30, 2010	% Change	April 24, 2009	% Change
Net revenues	$ 5,122.6	$ 3,931.4	30%	$ 3,406.4	15%

Net revenues increased by $1.2 billion, or 30%, in fiscal 2011 compared to fiscal 2010 and by $525.0 million, or 15%, in fiscal 2010 compared to fiscal 2009. The increase in our net revenues for fiscal 2011 was primarily due to an increase in product revenues, which comprised 66% of net revenues in fiscal 2011 compared to 61% in fiscal 2010. Additionally, net revenues for fiscal 2011 include a favorable impact of $129.2 million from the adoption of new accounting standards related to revenue recognition. The increase in net revenues in fiscal 2010 was also primarily related to an increase in product revenues. Net revenues for fiscal 2009 were negatively impacted by the $128.7 million GSA settlement.

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Sales through our indirect channels represented 73%, 69% and 69% of net revenues for fiscal 2011, 2010 and 2009, respectively. The indirect channel mix for 2009 would have been 3% lower if not for the impact of the GSA settlement.

The following table sets forth sales to customers, who are distributors, who accounted for 10% or more of net revenues (in millions, except percentages):

	Year Ended					
	April 29, 2011	% of Net Revenues	April 30, 2010	% of Net Revenues	April 24, 2009	% of Net Revenues
Arrow Electronics, Inc.	$903.0	18%	$550.7	14%	$360.3	11%
Avnet, Inc.	639.0	12%	444.0	11%	356.4	10%

Product Revenues (in millions, except percentages):

	Year Ended				
	April 29, 2011	April 30, 2010	% Change	April 24, 2009	% Change
Product revenues	$ 3,367.1	$ 2,381.1	41%	$ 2,152.7	11%

Product revenues increased by $986.0 million, or 41%, in fiscal 2011 compared to fiscal 2010, and increased by $228.4 million, or 11%, in fiscal 2010 compared to fiscal 2009. Product revenues for fiscal 2011 include a 4% favorable impact from the adoption of new accounting standards related to revenue recognition. Product revenues consist of configured systems, which are comprised of bundled hardware and software products, as well as add-on hardware and software and other products. Configured systems unit volume increased by 46% in fiscal 2011 compared to fiscal 2010, with increases between 40% and 50% in large, medium-sized and smaller systems, and increased 19% in fiscal 2010 compared to fiscal 2009, with the largest increase in smaller systems. Total configured system revenues increased by $690.3 million in fiscal 2011, compared to fiscal 2010, with the largest increase in medium-sized systems. Total configured system revenues increased by $139.9 million in fiscal 2010, compared to fiscal 2009, with the largest increase in medium-sized systems.

During fiscal 2011, large, medium-sized and smaller systems generated approximately 22%, 57% and 21% of configured systems revenues, respectively, compared to approximately 23%, 56% and 21%, respectively in fiscal 2010 and approximately 24%, 55% and 21%, respectively in fiscal 2009. Overall average selling prices (ASPs) decreased in fiscal 2011 compared to fiscal 2010 due primarily to lower ASPs per unit in large-sized systems as manufacturing cost reductions were passed along to customers as price reductions. ASPs declined in fiscal 2010 compared to fiscal 2009 due primarily to a shift in mix towards smaller systems, as well as lower ASPs per unit in medium-sized and smaller systems.

In addition, our net add-on hardware, software and other product revenues accounted for a $295.7 million increase in fiscal 2011 compared to fiscal 2010, primarily due to customers increasing the capacity and/or functionality of their storage systems. Our net add-on hardware, software and other product revenues accounted for an $88.5 million increase in fiscal 2010 compared to fiscal 2009, primarily due to customers increasing the capacity of their storage systems.

Our systems are highly configurable to respond to customer requirements in the open systems storage markets that we serve. This wide variation in customer configurations can significantly impact revenues, cost of revenues, and gross profit performance. Price changes, foreign currency, unit volumes, customer mix and product configuration can also impact revenues, cost of revenues and gross profit performance. Disks are a significant component of our storage systems. Industry disk pricing continues to fall every year, and we pass along those price decreases to our customers while working to maintain relatively constant profit margins on our disk drives. As our sales price per terabyte continues to decline, improved system performance, increased capacity and software to manage this increased capacity have an offsetting impact on product revenues.

Software Entitlements and Maintenance Revenues (in millions, except percentages):

	Year Ended				
	April 29, 2011	April 30, 2010	% Change	April 24, 2009	% Change
Software entitlements and maintenance revenues	$ 720.6	$ 679.8	6%	$ 618.3	10%

SEM revenues increased by $40.8 million, or 6%, in fiscal 2011 compared to fiscal 2010 and increased $61.5 million, or 10%, in fiscal 2010 compared to fiscal 2009. These increases were the result of an increase in the aggregate contract value of the installed base under SEM contracts, which is recognized as revenue ratably over the terms of the underlying contracts. Adoption of new accounting standards related to revenue recognition did not have a significant impact on SEM revenues.

Service Revenues (in millions, except percentages):

	Year Ended				
	April 29, 2011	April 30, 2010	% Change	April 24, 2009	% Change
Service revenues	$ 1,034.9	$ 870.5	19%	$ 764.1	14%

Service revenues include hardware maintenance, professional services and educational and training services. Service revenues increased by $164.4 million, or 19%, in fiscal 2011, compared to fiscal 2010 and by $106.4 million, or 14%, in fiscal 2010, compared to fiscal 2009. Adoption of new accounting standards related to revenue recognition did not have a significant impact on service revenues.

Hardware maintenance contract revenues increased 23% in fiscal 2011 compared to fiscal 2010 and increased 20% in fiscal 2010 compared to fiscal 2009, as a result of an increase in the installed base under service contracts. Professional services and educational and training services revenues increased 11% for fiscal 2011, compared to fiscal 2010 and increased 4% for fiscal 2010, compared to fiscal 2009.

GSA settlement (in millions, except percentages):

	Year Ended				
	April 29, 2011	April 30, 2010	% Change	April 24, 2009	% Change
GSA settlement	$ —	$ —	NM	$ (128.7)	(100)%

NM — Not meaningful.

During fiscal 2009 we recorded $128.7 million as a reduction of revenues for the GSA settlement.

Revenues by Geographic Area (in millions, except percentages):

	Year Ended				
	April 29, 2011	April 30, 2010	% Change	April 24, 2009	% Change
Americas (United States, Canada and Latin America)	$ 2,899.0	$ 2,208.1	31%	$ 1,805.2	22%
Europe, Middle East and Africa (EMEA)	1,719.1	1,329.1	29%	1,213.3	10%
Asia Pacific and Japan (APAC)	504.5	394.2	28%	387.9	2%
Net revenues	$ 5,122.6	$ 3,931.4		$ 3,406.4	

Sales to the United States accounted for 89%, 89% and 90% of Americas' revenues in fiscal 2011, 2010 and 2009, respectively. Revenues from the Americas geographic area increased $690.9 million in fiscal 2011 compared to fiscal 2010. Revenues from the Americas geographic area increased by $402.9 million in fiscal 2010 compared to fiscal 2009, due to an increase in gross revenues of $531.6 million and the negative impact in fiscal 2009 of the $128.7 million GSA settlement. Sales to Germany accounted for 12%, 11% and 11% of net revenues in fiscal 2011, 2010 and 2009, respectively. No other single foreign country accounted for ten percent or more of net revenues in any of the years presented.

Cost of Revenues

Our cost of revenues consists of three elements: (1) cost of product revenues, which includes the costs of manufacturing and shipping of our storage systems, amortization of purchased intangible assets, inventory write-downs, and warranty costs; (2) cost of SEM, which includes the costs of providing SEM and third party royalty costs, and (3) cost of service revenues, which reflects costs associated with providing support activities for hardware, global support partnership programs, professional services and educational and training services. Cost of revenues also reflect the adoption of the new accounting standards related to revenue recognition.

Our gross profit is impacted by a variety of factors including pricing and discount practices, product configuration, channel sales mix, revenue mix and product material costs. Service gross profit is also typically impacted by factors such as changes in the size of our installed base of products, as well as the timing of support service initiations and renewals, and incremental investments in our customer support infrastructure. If our shipment volumes, product and services mix, average selling prices and pricing actions that impact our gross profit are adversely affected, whether by economic uncertainties or for other reasons, our gross profit could decline.

Cost of Product Revenues (in millions, except percentages):

	Year Ended				
	April 29, 2011	April 30, 2010	% Change	April 24, 2009	% Change
Cost of product revenues	$ 1,342.0	$ 976.4	37%	$ 1,007.6	(3)%

Cost of product revenues increased by $365.6 million, or 37%, in fiscal 2011 compared to fiscal 2010 and decreased by $31.2 million, or 3%, in fiscal 2010 compared to fiscal 2009. The changes were comprised of the following elements (in percentage points of the total change):

	Year Ended Fiscal 2010 to Fiscal 2011 Percentage Change Points	Year Ended Fiscal 2009 to Fiscal 2010 Percentage Change Points
Materials costs	34	1
Excess and obsolete inventory	—	(2)
Warranty	1	(1)
Manufacturing overhead	1	—
Other	1	(1)
Total change	37	(3)

In fiscal 2011, the increase in materials cost is primarily due to the 46% increase in configured systems unit volume, and includes the impact from adoption of the new accounting standards related to revenue recognition. Average materials costs per unit in fiscal 2011 did not significantly change from fiscal 2010. Our fiscal 2011 cost of product revenues includes:

(i) an increase of $222.7 million in material costs related to increased volumes in configured systems;

(ii) an increase of $15.8 million in warranty expenses; and

(iii) an increase of $127.1 million in costs of hardware add-ons and other product costs.

In fiscal 2010, the decrease in materials cost reflects a decrease in unit costs in our medium-sized and smaller systems, partially offset by an increase of in high-end systems unit cost. Average materials costs per unit were favorably impacted by lower average per unit materials costs in our medium-sized and smaller systems due to favorable materials pricing in fiscal 2010, partially offset by an increase in average per unit materials costs in our high-end systems. Our fiscal 2010 cost of product revenues includes:

(i) a decrease of $9.9 million in material costs, despite an increase in total units shipped;

(ii) a decrease of $11.3 million in warranty expenses; and

(iii) a decrease of $8.6 million in inventory valuation charges.

Cost of product revenues represented 40% of product revenue for 2011 compared to 41% for 2010, and 47% for 2009. The overall reduction of costs as a percentage of revenues for both fiscal 2011 and 2010 was the result of reductions in materials cost per unit outpacing sales price reductions.

Cost of Software Entitlements and Maintenance Revenues (in millions, except percentages):

	Year Ended				
	April 29, 2011	April 30, 2010	% Change	April 24, 2009	% Change
Cost of software entitlements and maintenance revenues	$ 15.7	$ 12.3	28%	$ 9.2	34%

Cost of SEM revenues increased by $3.4 million, or 28% in fiscal 2011 compared to fiscal 2010 and increased $3.1 million, or 34%, in fiscal 2010 compared to fiscal 2009 primarily due to an increase in software related service support costs. Cost of SEM revenues represented 2% of SEM revenues for each of fiscal 2011, 2010 and 2009, respectively.

Cost of Service Revenues (in millions, except percentages):

	Year Ended				
	April 29, 2011	April 30, 2010	% Change	April 24, 2009	% Change
Cost of service revenues	$ 436.2	$ 423.5	3%	$ 399.7	6%

Cost of service revenues increased by $12.7 million, or 3%, in fiscal 2011 compared to fiscal 2010 primarily due to an increase in service and support purchased from third parties, as well as an increase in logistics costs, and increased by $23.8 million, or 6%, in fiscal 2010 compared to fiscal 2009 due to increased commissions and incentive compensation plan expenses, as well as an increase in service and support purchased from third parties. Costs represented 42%, 49% and 52%, respectively, of service revenues for fiscal 2011, 2010 and 2009. The decrease in service cost of revenues as a percentage of service revenue in fiscal 2011 compared to fiscal 2010, and fiscal 2010 compared to fiscal 2009 was primarily due to improved productivity.

Operating Expenses

Sales and Marketing, Research and Development, and General and Administrative Expenses

Compensation costs comprise the largest component of operating expenses. Included in compensation costs are salaries and related benefits, stock-based compensation costs and employee incentive compensation plan costs. Compensation costs included in operating expenses increased approximately $202.3 million, or 18%, during fiscal 2011 compared to fiscal 2010, primarily due to:

(i) an increase in salaries, benefits and other compensation related costs due to an increase in average headcount, primarily in sales, marketing and engineering functions, of $169.9 million;

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(ii) an increase in incentive compensation expense reflecting stronger operating performance and increased headcount of $16.7 million; and

(iii) an increase in stock based compensation of $15.7 million.

In addition, sales and marketing expenses reflected an increase in commissions expense of $30.2 million during fiscal 2011, reflecting stronger sales performance compared to fiscal 2010.

Compensation costs included in operating expenses increased approximately $108.6 million, or 11%, during fiscal 2010 compared to fiscal 2009, primarily due to:

(i) a $75.6 million increase in employee incentive compensation due to stronger operating profit performance;

(ii) a $16.4 million increase in stock based compensation; and

(iii) a $16.5 million increase in salaries, benefits and other compensation related costs.

In addition, sales and marketing expenses reflected an increase in commissions expense of $60.7 million during fiscal 2010, reflecting stronger sales performance compared to fiscal 2009.

Sales and Marketing (in millions, except percentages) —

	Year Ended				
	April 29, 2011	April 30, 2010	% Change	April 24, 2009	% Change
Sales and marketing expenses	$ 1,597.0	$ 1,293.7	23%	$ 1,186.1	9%

Sales and marketing expense consists primarily of compensation costs, commissions, outside services, allocated facilities and IT costs, advertising and marketing promotional expense, and travel and entertainment expense. In addition, during fiscal 2009, we recorded a $9.4 million loss on impairment of a sales force automation tool. Sales and marketing expenses increased due to the following:

	Year Ended Fiscal 2010 to Fiscal 2011 Percentage Change Points	Year Ended Fiscal 2009 to Fiscal 2010 Percentage Change Points
Salaries	6	—
Incentive plan compensation	1	3
Stock based compensation	1	1
Other compensation and benefit costs	3	1
Commissions	2	5
Outside services	5	—
Advertising and marketing promotional expense	1	(1)
Travel and entertainment expense	1	(1)
Facilities and IT support costs	2	1
Asset impairment	—	(1)
Other	1	1
Total change	23	9

The increase in salaries and related expenses in fiscal 2011 reflects an increase in average sales and marketing headcount of 20%, compared to the prior year. Outside services increased to support sales and marketing initiatives.

Research and Development (in millions, except percentages) —

	Year Ended				
	April 29, 2011	April 30, 2010	% Change	April 24, 2009	% Change
Research and development expenses	$ 648.6	$ 535.7	21%	$ 498.5	7%

Research and development expense consists primarily of compensation costs, allocated facilities and IT costs, depreciation and amortization, equipment and software related costs, prototypes, non-recurring engineering, or (NRE) charges and other outside services costs. Research and development expenses increased due to the following:

	Year Ended Fiscal 2010 to Fiscal 2011 Percentage Change Points	Year Ended Fiscal 2009 to Fiscal 2010 Percentage Change Points
Salaries	8	(1)
Incentive plan compensation	1	6
Stock based compensation	1	—
Other compensation and benefit costs	2	—
Travel and entertainment expense	1	—
Facilities and IT support costs	4	2
NRE charges	(1)	1
Outside services	1	—
Equipment and software related costs	1	—
Other	3	(1)
Total change	21	7

The fiscal 2011 increase in salaries and related expenses reflects a 28% increase in average engineering headcount compared to fiscal 2010.

We believe that our future performance will depend in large part on our ability to maintain and enhance our current product line, develop new products that achieve market acceptance, maintain technological competitiveness and meet an expanding range of customer requirements. We expect to continue to spend on current and future product development efforts, broaden our existing product offerings and introduce new products that expand our solutions portfolio.

General and Administrative (in millions, except percentages):

	Year Ended				
	April 29, 2011	April 30, 2010	% Change	April 24, 2009	% Change
General and administrative expenses	$ 251.3	$ 238.8	5%	$ 203.7	17%

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General and administrative expense consists primarily of compensation costs, professional and corporate legal fees, outside services and allocated facilities and IT costs. General and administrative expenses increased due to the following:

	Year Ended Fiscal 2010 to Fiscal 2011 Percentage Change Points	Year Ended Fiscal 2009 to Fiscal 2010 Percentage Change Points
Salaries	3	1
Incentive plan compensation	1	8
Stock based compensation	1	4
Other compensation and benefit costs	(1)	3
Professional and corporate legal fees	(5)	(1)
Outside services	3	—
IT costs	1	1
Other	2	1
Total change	5	17

The fiscal 2011 increase in salaries and related expenses reflects a 10% increase in average general and administrative headcount compared to fiscal 2010. The increase in outside services in fiscal 2011 reflects additional spending on contractors. Partially offsetting the increase in general and administrative expense was a decrease in legal fees due to the resolution of the Sun Microsystems litigation in fiscal 2011.

Restructuring and Other Charges (in millions, except percentages):

	Year Ended				
	April 29, 2011	April 30, 2010	% Change	April 24, 2009	% Change
Restructuring and other charges	$ 1.8	$ 2.5	(28)%	$ 54.4	(95)%

In the fourth quarter of 2011, we incurred severance-related restructuring charges of $2.4 million relating to the acquisition of Akorri Networks, Inc. (Akorri), that were partially offset by a reversal of $0.6 million related to our fiscal 2009 restructuring plans.

In fiscal 2010, we incurred $2.5 million related to both our fiscal 2009 restructuring plans and our fiscal 2002 restructuring plan.

In fiscal 2009, we announced our fiscal 2009 restructuring plans that resulted in restructuring charges totaling $54.4 million.

Fiscal 2009 Restructuring Plans — In February 2009, we announced our decision to execute a worldwide restructuring program, which included a reduction in workforce, the closing or downsizing of certain facilities, and the establishment of a plan to outsource certain internal activities. In December 2008, we announced our decision to cease the development and availability of our SnapMirror® for Open Systems product, which was originally acquired through our acquisition of Topio in fiscal 2007. As part of this decision, we also announced the closure of our engineering facility in Haifa, Israel. As of April 29, 2011, we had no further facilities-related lease payment reserves related to these activities.

Fiscal 2002 Restructuring Plan — As of April 29, 2011, we have no material balances remaining in facility restructuring reserves established as part of a restructuring plan in fiscal 2002 related to future lease commitments on exited facilities, net of expected sublease income.

See Note 7 of the accompanying consolidated financial statements for more information.

Acquisition Related (Income) Expense, Net (in millions, except percentages):

	Year Ended				
	April 29, 2011	April 30, 2010	% Change	April 24, 2009	% Change
Acquisition related (income) expense, net	$ 5.7	$ (39.9)	NM	$ —	NM

NM — Not meaningful.

During fiscal 2011, we incurred $5.7 million of costs including due diligence, legal and other one-time integration charges associated with our acquisitions of Bycast Inc. (Bycast), Akorri and ESG.

On May 20, 2009, we announced that we had entered into a merger agreement with Data Domain, Inc. (Data Domain) under which we would acquire Data Domain in a stock and cash transaction. On July 8, 2009, Data Domain's Board of Directors terminated the merger agreement and pursuant to the terms of the agreement, Data Domain paid us a $57.0 million termination fee. We incurred $15.9 million of incremental third-party costs relating to the terminated merger transaction during the same period, resulting in net proceeds of $41.1 million recorded in the consolidated statements of operations during fiscal 2010. During fiscal 2010, we paid $1.2 million of acquisition related expenses related to the acquisition of Bycast.

See Notes 6 and 20 of the accompanying financial statements for more information.

Other Income and Expense

Interest Income (in millions, except percentages):

	Year Ended				
	April 29, 2011	April 30, 2010	% Change	April 24, 2009	% Change
Interest income	$ 39.9	$ 31.2	28%	$ 57.6	(46)%

The increase in interest income for fiscal 2011 compared to fiscal 2010 was primarily due to higher levels of cash equivalent and investment balances in fiscal 2011. The decrease in interest income for fiscal 2010 compared to fiscal 2009, was primarily due to lower market yields on our cash and investment portfolio.

Interest Expense (in millions, except percentages):

	Year Ended				
	April 29, 2011	April 30, 2010	% Change	April 24, 2009	% Change
Interest expense	$ (75.9)	$ (74.1)	2%	$ (63.4)	17%

Interest expense was relatively flat for fiscal 2011 compared to fiscal 2010. Interest expense increased $10.7 million for fiscal 2010 compared to fiscal 2009, primarily due to interest expense on our 1.75% Notes, issued on June 10, 2008, which were outstanding for the full year ended April 30, 2010, but only for a partial period in the prior year.

During fiscal 2011, 2010 and 2009, we recognized incremental non-cash interest expense from the amortization of debt discount and issuance costs relating to our Notes of approximately $53.1 million, $50.8 million and $41.0 million, respectively. The coupon interest expense related to the Notes was $22.1 million, $22.5 million and $19.4 million for fiscal 2011, 2010 and 2009, respectively.

Other Income (Expense), Net (in millions, except percentages):

	Year Ended				
	April 29, 2011	April 30, 2010	% Change	April 24, 2009	% Change
Realized gain on investments, net	$ 3.5	$ 3.9	(10)%	$ —	NM
Impairment of investments	—	—	—	(29.5)	(100)%
Other expenses, net	2.3	(2.4)	NM	(3.6)	(33)%
Other income (expense), net	$ 5.8	$ 1.5	287%	$ (33.1)	NM

NM — Not meaningful

Other income (expense), net in fiscal 2011 included $3.5 million of net gains on investments, consisting primarily of a $2.5 million distribution from our investment in the Primary Fund and gains on investments in privately held companies. Other expenses, net included $3.0 million in other income, partially offset by $0.7 million in net losses on foreign currency transactions and related hedging activities.

Other income (expense), net in fiscal 2010 included $3.9 million of net gains on investments, consisting primarily of a gain on investments in privately held companies of $3.7 million and $1.0 million net gain on our investment in the Primary Fund and Lehman Brothers securities, offset by net losses on other investments of $0.8 million. Other expenses included $5.3 million in net losses on foreign currency transactions and related hedging activities, partially offset by other income of $2.9 million.

Other income (expense), net in fiscal 2009 included a net impairment loss related to our investments in privately held companies of $6.3 million, an other-than-temporary impairment charge on our available-for-sale investments related to direct and indirect investments in Lehman Brothers securities of $21.1 million, and an other-than-temporary decline in the value of our ARS of $2.1 million. Other expenses included $5.0 in net exchange losses from foreign currency transactions and related hedging activities, partially offset by other income of $1.4 million.

Provision for (Benefit from) Income Taxes (in millions, except percentages):

	Year Ended				
	April 29, 2011	April 30, 2010	% Change	April 24, 2009	% Change
Provision for (benefit from) income taxes	$ 121.0	$ 46.6	160%	$ (56.3)	NM

NM — Not meaningful.

Our effective tax rate for fiscal 2011 was 15.2%, compared to an effective tax rate of 10.4% for fiscal 2010, and an effective tax benefit of 681.5% for fiscal 2009. Our effective tax rate reflects our corporate legal entity structure and the global nature of our business with a significant amount of our profits generated and taxed in foreign jurisdictions at rates below the U.S. statutory tax rate. The effective tax rate for both fiscal 2011 and fiscal 2010 was favorably impacted by the geographic mix of profits. The tax benefit rate for fiscal 2009 reflected losses generated in the U.S. during that period that were partially offset by profits generated in foreign tax jurisdictions where the tax rates were below the U.S. statutory rate.

The effective tax rate of 15.2% in fiscal 2011 included a benefit of $146.9 million, or 18.5 percentage points, related to foreign income tax rates that are lower than the U.S. federal statutory rate of 35%, a benefit of $17.8 million, or 2.2 percentage points, related to research and development tax credits, a benefit of $1.3 million, or 0.2 percentage points, related to stock-based compensation and an IRS audit settlement of $21.1 million, or 2.7 percentage points, partially offset by the unfavorable impact of $31.1 million, or 3.9 percentage points, related to state income taxes.

The effective tax rate of 10.4% in fiscal 2010 included a benefit of $105.3 million, or 23.5 percentage points, related to foreign income tax rates that are lower than the U.S. federal statutory rate of 35%, a benefit of $7.8 million, or 1.7 percentage points, related to research and development tax credits, a benefit of $2.6 million, or 0.6 percentages points, related to stock-based compensation, partially offset by the unfavorable impact of $2.6 million, or 0.6 percentage points, related to state income taxes.

The effective tax benefit of 681.5% for fiscal 2009 included the benefit of $51.0 million related to foreign income tax rates that are lower than the U.S. federal statutory rate of 35%, a benefit of $9.2 million related to research and development tax credits, a benefit of $7.9 million related to state income taxes, partially offset by the unfavorable impact of $10.2 million related to stock-based compensation.

Liquidity and Capital Resources

The following sections discuss our principal liquidity requirements, as well as our sources and uses of cash flows on our liquidity and capital resources. The principal objectives of our investment policy are the preservation of principal and maintenance of liquidity. We attempt to mitigate default risk by investing in high-quality investment grade securities, limiting the time to maturity and by monitoring the counter-parties and underlying obligors closely. We believe our cash equivalents and short-term investments are liquid and accessible. We are not aware of any significant deterioration in the fair value of our cash equivalents or investments from the values reported as of April 29, 2011.

Liquidity Sources, Cash Requirements

Our principal sources of liquidity as of April 29, 2011 consisted of approximately $5.2 billion in cash, cash equivalents and short-term investments, as well as cash we expect to generate from operations.

Cash, cash equivalents and short-term investments consist of the following:

	April 29, 2011	April 30, 2010
Cash and cash equivalents	$ 2,757.3	$ 1,705.0
Short-term investments	2,417.4	2,019.0
Total cash, cash equivalents and short-term investments	$ 5,174.7	$ 3,724.0

As of April 29, 2011, $3.0 billion of cash, cash equivalents and short-term investments were held in the United States, while $2.2 billion were held in foreign countries. Most of the amounts held outside the United States may be repatriated to the United States but, under current law, would be subject to U.S. federal and state income taxes. As of April 29, 2011, we have not provided for U.S. federal and state income taxes on approximately $872.1 million of undistributed earnings of our foreign subsidiaries, as such earnings are considered indefinitely reinvested outside the United States. If we repatriate foreign earnings for cash requirements in the United States, we would incur U.S. federal and state income tax, reduced by the current amount of our U.S. federal and state net operating loss and tax credit carryforwards. However, our intent is to keep these funds permanently reinvested outside of the U.S. and our current plans do not demonstrate a need to repatriate them to fund our U.S. operations. Our principal liquidity requirements are to fund the $480 million purchase price of our fiscal 2012 acquisition of certain assets related to ESG, meet our working capital needs, support ongoing business activities, fund research and development, meet capital expenditure needs, invest in critical or complementary technologies, and to service our debt and synthetic leases. Our contractual obligations as of April 29, 2011 are summarized below in the Contractual Obligations tables.

Key factors that could affect our cash flows include changes in our revenue mix and profitability, our ability to effectively manage our working capital, in particular, accounts receivable and inventories, our ability to effectively integrate acquired products, businesses and technologies, including ESG and conversions of our Notes by holders. Based on our current business outlook, we believe that our sources of cash will satisfy our working capital needs, capital expenditures, investment requirements, stock repurchases, contractual obligations, commitments, interest payments on our Notes and other liquidity requirements associated with operations and meet our cash requirements for at least the next 12 months. However, in the event our liquidity is insufficient, we may be required to further curtail spending and implement additional cost saving measures and restructuring actions. We cannot be certain that we will continue to generate cash flows at or above current levels or that we will be able to obtain additional financing, if necessary, on satisfactory terms, if at all.

Our investment portfolio, including auction rate securities has been and will continue to be exposed to market risk due to trends in the credit and capital markets. We continue to closely monitor current economic and market events to minimize our market risk on our investment portfolio. Based on our ability to access our cash and short-term investments, our expected operating cash flows, and our other potential sources of cash, we do not anticipate that the lack of liquidity of these investments will impact our ability to fund working capital needs, capital expenditures, acquisitions or other cash requirements. We intend to and believe that we have the ability to hold these investments until the market recovers. If current market conditions deteriorate, we may be required to record additional charges to earnings in future periods.

Capital Expenditure Requirements

Our capital expenditures were $222.7 million during fiscal 2011. We anticipate capital expenditures for fiscal 2012 to be between $250.0 million and $300.0 million. We expect to fund our capital expenditures, including our commitments related to facilities, equipment, operating leases and internal-use software development projects over the next few years through existing cash, cash equivalents, investments and cash generated from operations. The timing and amount of our capital requirements cannot be precisely determined and will depend on a number of factors, including future demand for products, changes in the network storage industry, hiring plans and our decisions related to the financing of our facilities and equipment requirements. We expect that our existing facilities and those being developed in Sunnyvale, California; Research Triangle Park, North Carolina; and worldwide are adequate for our requirements over at least the next two years and that additional space will be available as needed.

Acquisition Related Requirements

On May 6, 2011, we completed the acquisition of certain assets related to the ESG business. We paid LSI $480 million in cash and also assumed certain assets and liabilities related to ESG. As of April 29, 2011, we had incurred approximately $4.8 million in acquisition and one-time integration related expenses for ESG which are included in acquisition related (income) expense, net, in our consolidated statements of operations. As part of our efforts to integrate ESG into our business, we expect to incur additional one-time integration, restructuring and impairment charges. See Note 20 of the accompanying financial statements for more information.

Cash Flows

As of April 29, 2011, compared to April 30, 2010, our cash and cash equivalents and short-term and long-term investments increased by $1.5 billion to $5.2 billion. The increase was primarily a result of $1.3 billion of cash provided by operating activities and to a lesser extent from issuances of common stock related to employee stock option exercises and purchases under the employee stock purchase plan of $196.5 million, net of tax benefit, partially offset by $74.9 million and $61.6 million net cash paid in connection with the acquisitions of Bycast and Akorri, respectively and $222.7 million in capital expenditures. We derive our liquidity and capital resources primarily from our cash flow from operations and from working capital. Accounts receivable days sales outstanding as of April 29, 2011 increased to 47 days, compared to 37 days as of April 30, 2010, as material supply constraints through the middle of the fourth quarter of fiscal 2011 contributed to a back-end loaded shipment profile, which in turn, drove the increase in days sales outstanding. Working capital increased by $366.3 million to $3.0 billion as of April 29, 2011, compared to $2.6 billion as of April 30, 2010, primarily due to an increase in cash, cash equivalents and short-term investments of $1.5 billion, partially offset by the reclassification of our $1.2 billion Notes to current liabilities as the underlying contingent conversion threshold was exceeded at April 29, 2011.

Cash Flows from Operating Activities

During fiscal 2011 and 2010, we generated cash from operating activities of $1.3 billion and $975.0 million, respectively. The primary sources of cash from operating activities in fiscal 2011 consisted of net income of $673.1 million, adjusted by non-cash stock-based compensation expense of $175.2 million and depreciation and amortization expense of $165.6 million. Significant changes in assets and liabilities impacting operating cash flows in fiscal 2011 included an increase in accounts receivable of $262.7 million due to the backend loaded shipment profile during the fourth quarter of fiscal year 2011, an increase in deferred revenue of $382.9 million primarily resulting from overall growth in shipments, and an increase in accrued compensation and other current liabilities of $118.8 million due to our increase in headcount. The primary sources of cash from operating activities in fiscal 2010 consisted of net income of $400.4 million, adjusted by non-cash stock-based compensation expense of $159.8 million and depreciation and amortization expense of $166.0 million. Significant changes in assets and liabilities impacting operating cash flows in fiscal 2010 included an increase in deferred revenue of $176.7 million and an increase in accrued compensation and other current liabilities of $53.2 million.

We expect that cash provided by operating activities may fluctuate in future periods as a result of a number of factors, including fluctuations in our operating results, shipment linearity, accounts receivable collections performance, inventory and supply chain management, tax benefits from stock-based compensation, and the timing and amount of compensation and other payments.

Cash Flows from Investing Activities

Capital expenditures for fiscal 2011 were $222.7 million. We paid $418.5 million for net purchases and redemptions of our investments in fiscal 2011. During fiscal 2011, we completed our acquisitions of Bycast and Akorri for total cash payments of $74.9 million and $61.6 million, respectively, net of cash acquired. Capital expenditures for fiscal 2010 were $135.6 million, which included the purchase of fifteen acres of land in Bangalore, India for approximately $28.5 million. We paid $860.3 million for net purchases and redemptions of short-term investments in fiscal 2010.

Cash Flows from Financing Activities

We received $450.9 million from financing activities in fiscal 2011, which primarily consisted of $324.2 million of proceeds from employee equity award plans, net of shares withheld for taxes, and $127.7 million of excess tax benefit from stock-based compensation. We received $219.9 million from financing activities in fiscal 2010, which primarily consisted of $197.1 million of proceeds from employee equity award plans, net of shares withheld for taxes and $14.2 million from the settlement of a Note hedge with Lehman Brothers.

Net proceeds from the issuance of common stock related to employee participation in employee equity award programs have historically been a significant component of our liquidity. The extent to which our employees exercise stock options or participate in our ESPP program generally increases or decreases based upon changes in the market price of our common stock. As a result, our cash flow resulting from the issuance of common stock in connection with these programs and related tax benefits will vary.

Stock Repurchase Program

Since the May 13, 2003 inception of our stock repurchase program through April 29, 2011, our Board of Directors has authorized the repurchase of up to $4.0 billion of common stock under such stock repurchase program. At April 29, 2011, $1.1 billion remains available under these authorizations. The stock repurchase program may be suspended or discontinued at any time.

Convertible Notes

As of April 29, 2011, we had $1.265 billion principal amount of 1.75% Convertible Senior Notes due 2013 (See Note 10 of the accompanying consolidated financial statements). The Notes will mature on June 1, 2013, unless earlier repurchased or converted. Based upon the closing price of our common stock for the prescribed measurement period in fiscal 2011, the contingent conversion threshold of the Notes was exceeded as of April 29, 2011. Accordingly, the carrying value of the Notes was classified as a current liability at April 29, 2011. Since the Notes are convertible at the option of the holder and the principal amount is required to be paid in cash, the difference between the principal amount and the carrying value of the Notes is reflected as convertible debt in mezzanine on our balance sheet as of April 29, 2011. The determination of whether or not the Notes are convertible must continue to be performed on an ongoing basis. Consequently, the Notes may not be convertible in future quarters, and therefore may again be classified as long-term debt, if the contingent conversion threshold is not met in such quarters. As of April 29, 2011, shares issued related to conversion of the Notes were minimal. Receipts of shares related to the Note hedge transactions were minimal and there was no cash or shares delivered in relation to the warrant transactions as of April 29, 2011.

Contractual Obligations

The following summarizes our contractual obligations at April 29, 2011 and the effect such obligations are expected to have on our liquidity and cash flows in future periods (in millions):

	2012	2013	2014	2015	2016	Thereafter	Total
Off-balance sheet commitments:							
Office operating lease payments	$ 30.3	$ 26.4	$22.5	$20.9	$14.9	$ 11.7	$ 126.7
Real estate lease payments(1)	3.2	129.2	—	—	—	—	132.4
Less: sublease income	(1.4)	(1.4)	(1.1)	(1.1)	(0.5)	—	(5.5)
Equipment operating lease payments	21.5	13.2	6.5	0.6	—	—	41.8
Purchase commitments with contract manufacturers(2)	171.0	3.6	1.2	0.2	—	—	176.0
Capital expenditures	32.1	4.0	—	—	—	—	36.1
Other purchase obligations(3)	171.7	62.5	18.7	13.9	3.2	—	270.0
Total off balance-sheet commitments	428.4	237.5	47.8	34.5	17.6	11.7	777.5
1.75% Convertible notes(4)	1,287.1	—	—	—	—	—	1,287.1
Long-term financing arrangements	5.7	6.0	0.2	—	—	—	11.9
Uncertain tax positions(5)							104.2
Total	$1,721.2	$243.5	$48.0	$34.5	$17.6	$ 11.7	$2,180.7
Other Commercial Commitments:							
Letters of credit	$ 4.0	$ 0.1	$ —	$ —	$ —	$ 1.2	$ 5.3

Some of the amounts we include in this table are based on management's estimates and assumptions about these obligations, including their duration, the possibility of renewal or termination, anticipated actions by management and third parties and other factors. Because these estimates and assumptions are necessarily subjective, our actual future obligations may vary from those reflected in the table. We expect to fund our contractual obligations and other commitments in the table above through existing cash, cash equivalents, investments, and cash generated from operations or obtain additional financing, if necessary.

(1) Included in real estate lease payments pursuant to four financing arrangements with BNP Paribas LLC (BNPPLC) are (i) lease commitments of $3.2 million in fiscal 2012; and $2.1 million in fiscal 2013, which are based on either the LIBOR rate at April 29, 2011 plus a spread or a fixed rate for terms of five years, and (ii) at the expiration or termination of the lease, a supplemental payment obligation equal to our minimum guarantee of $127.1 million in the event that we elect not to purchase or arrange for sale of the buildings.

(2) Contract manufacturer commitments consist of obligations for on hand inventories and non-cancelable purchase orders with our contract manufacturer. We record a liability for firm, noncancelable, and nonreturnable purchase commitments for quantities in excess of our future demand forecasts, which is consistent with the valuation of our excess and obsolete inventory. As of April 29, 2011, the liability for these purchase commitments in excess of future demand was approximately $4.5 million and is recorded in other current liabilities.

(3) Purchase obligations represent an estimate of all open purchase orders and contractual obligations in the ordinary course of business, other than commitments with contract manufacturers and suppliers, for which we have not received the goods or services. Purchase obligations do not include contracts that may be cancelled without penalty. Although open purchase orders are considered enforceable and legally binding, the terms generally allow us the option to cancel, reschedule, and adjust our requirements based on our business needs prior to the delivery of goods or performance of services.

(4) Amount includes the $1.265 billion principal amount of 1.75% Notes due 2013 and the estimated fiscal 2012 interest payment for the Notes of $22.1 million. Based upon the closing price of our common stock for the prescribed measurement period during fiscal 2011, the contingent conversion threshold on the Notes was exceeded. As a result, the Notes are convertible at the option of the holder through June 30, 2011. Accordingly, since the terms of the Notes require the principal to be settled in cash, we reclassified from equity the portion of the Notes attributable to the conversion feature, which had not yet been accreted to its face value, and reclassified the Notes to current liabilities. For the holders to be able to continue to convert the Notes, our closing stock price must exceed $41.41 for 20 out of the last 30 trading days of each future calendar quarter. If this threshold is not met, the Notes will be reclassified to long-term debt.

(5) As of April 29, 2011, our liability for uncertain tax positions was $104.2 million, which due to the uncertainty of the timing of future payments, are presented in the total column on a separate line in this table.

As of April 29, 2011, we have four leasing arrangements (Leasing Arrangements 1, 2, 3 and 4) with BNPPLC which require us to lease certain of our land to BNPPLC for a period of 99 years and to lease approximately 0.6 million square feet of office space for our headquarters in Sunnyvale, which had an original cost of $149.6 million. Under these leasing arrangements, we pay BNPPLC minimum lease payments, which vary based on LIBOR plus a spread or a fixed rate on the costs of the facilities on the respective lease commencement dates. We make payments for each of the leases for a term of five years. We have the option to renew each of the leases for two consecutive five-year periods upon approval by BNPPLC. Upon expiration (or upon any earlier termination) of the lease terms, we must elect one of the following options: (i) purchase the buildings from BNPPLC at cost; (ii) if certain conditions are met, arrange for the sale of the buildings by BNPPLC to a third party for an amount equal to at least 85% of the costs (residual guarantee), and be liable for any deficiency between the net proceeds received from the third party and such amounts; or (iii) pay BNPPLC supplemental payments for an amount equal to at least 85% of the costs (residual guarantee), in which event we may recoup some or all of such payments by arranging for a sale of each or all buildings by BNPPLC during the ensuing two-year period. The following table summarizes the costs, the residual guarantee, the applicable LIBOR plus spread or fixed rate at April 29, 2011 and the date we began to make payments for each of our leasing arrangements (in millions):

Leasing Arrangements	Cost	Residual Guarantee	LIBOR Plus Spread or Fixed Rate	Lease Commencement Date	Term
1	$48.5	$41.2	3.69%	January 2008	5 years
2	80.0	68.0	0.79%	December 2007	5 years
3	10.5	8.9	3.67%	December 2007	5 years
4	10.6	9.0	3.69%	December 2007	5 years

All leases require us to maintain specified financial covenants with which we were in compliance as of April 29, 2011. Such financial covenants include a maximum ratio of Total Debt to Earnings before Interest, Taxes, Depreciation and Amortization of less than three to one and a minimum amount of Unencumbered Cash and Short-Term Investments of $300 million. Our failure to comply with these financial covenants could result in a default under the leases which, subject to our right and ability to exercise our purchase option, would give BNPPLC the right to, among other things, (i) terminate our possession of the leased property and require us to pay lease termination damages and other amounts as set forth in the lease agreements, or (ii) exercise certain foreclosure remedies. If we were to exercise our purchase option, or be required to pay lease termination damages, these payments would significantly reduce our available liquidity, which could constrain our operating flexibility.

As of April 29, 2011, we estimated that the fair value of the properties under synthetic lease was $35.8 million less than their aggregate residual guarantees. We are accruing for this deficiency over the remaining terms of the respective leases. As of April 29, 2011, a deficiency reserve of $16.1 million was included in other long-term liabilities.

We may from time to time terminate one or more of our leasing arrangements and repay amounts outstanding in order to meet our operating or other objectives.

Legal Contingencies

We are subject to various legal proceedings and claims which may arise in the normal course of business. No accrual has been recorded as of April 29, 2011, as the outcome of these legal matters is currently not determinable.

On October 13, 2010, Amalgamated Bank (as trustee of the Longview Largecap 500 Index Fund and the Longview Largecap 500 Index Veba Fund) filed a derivative lawsuit on behalf of NetApp, Inc. and NetApp U.S. Public Sector, Inc. in the Superior Court of the State of California, Santa Clara County. The lawsuit named 15 of our current and former directors as defendants. On February 3, 2011, the plaintiff filed an amended complaint in response to motions to dismiss that we and the individual defendants had filed. Like the original complaint, the amended complaint includes claims of breach of fiduciary duty and waste of corporate assets and alleges that the defendants failed to monitor internal controls to ensure that we complied with legal requirements in our General Services Administration (GSA) contracting activities, resulting in us incurring defense and settlement costs. The amended complaint seeks disgorgement of salaries and other compensation from the defendants and additional unspecified damages. We and the individual defendants filed motions to dismiss the amended complaint in early March 2011, and the hearing on these motions is scheduled for July 15, 2011.

Off-Balance Sheet Arrangements

During the ordinary course of business, we provide standby letters of credit or other guarantee instruments to third parties as required for certain transactions initiated either by us or our subsidiaries. As of April 29, 2011, our financial guarantees of $5.3 million that were not recorded on our balance sheet consisted of standby letters of credit related to workers' compensation, a customs guarantee, a corporate credit card program, foreign rent guarantees and surety bonds, which were primarily related to self-insurance.

We use derivative instruments to manage exposures to foreign currency risk. Our primary objective in holding derivatives is to reduce the volatility of earnings and cash flows associated with changes in foreign currency. The program is not designated for trading or speculative purposes. Currently, we do not enter into any foreign exchange forward contracts to hedge exposures related to firm commitments or nonmarketable investments. Our major foreign currency exchange exposures and related hedging programs are described below:

- We utilize monthly foreign currency forward and options contracts to hedge exchange rate fluctuations related to certain foreign monetary assets and liabilities.
- We use currency forward contracts to hedge exposures related to forecasted sales denominated in certain foreign currencies. These contracts are designated as cash flow hedges and in general closely match the underlying forecasted transactions in duration.

As of April 29, 2011, our notional fair value of foreign exchange forward and foreign currency option contracts totaled $592.4 million. We do not believe that these derivatives present significant credit risks, because of the short term maturity of the outstanding contracts at any point in time, the counterparties to the derivatives consist of major financial institutions, and we manage the notional amount of contracts entered into with any one counterparty. Other than the risk associated with the financial condition of the counterparties, our maximum exposure related to foreign currency forward and option contracts is limited to the premiums paid. See Note 12 of the accompanying consolidated financial statements for more information related to our hedging activities.

In the ordinary course of business, we enter into recourse lease financing arrangements with third-party leasing companies and from time to time provide guarantees for a portion of other financing arrangements under which we could be called upon to make payments to the third-party funding companies in the event of nonpayment by end-user customers. See Note 18 of the accompanying consolidated financial statements for more information related to these financing arrangements.

We enter into indemnification agreements with third parties in the ordinary course of business. Generally, these indemnification agreements require us to reimburse losses suffered by the third party due to various events, such as lawsuits arising from patent or copyright infringement. These indemnification obligations are considered off-balance sheet arrangements under accounting guidance.

We have commitments related to four lease arrangements with BNPPLC for approximately 0.6 million square feet of office space for our headquarters in Sunnyvale, California (as further described above under “Contractual Obligations”). Our future minimum lease payments and residual guarantees under these real estate leases will amount to a total of $132.4 million as discussed above in “Contractual Obligations”.

We have evaluated our accounting for these leases as required by guidance on accounting for variable interest entities and have determined the following:

- BNPPLC is a leasing company for BNP Paribas in the United States. BNPPLC is not a “special purpose entity” organized for the sole purpose of facilitating the leases to us. The obligation to absorb expected losses and receive expected residual returns rests with the parent, BNP Paribas. Therefore, we are not the primary beneficiary of BNPPLC as we do not absorb the majority of BNPPLC’s expected losses or expected residual returns; and
- BNPPLC has represented in the related closing agreements that the fair value of the property leased to us by BNPPLC is less than half of the total of the fair values of all assets of BNPPLC, excluding any assets of BNPPLC held within a silo. Further, the property leased to NetApp is not held within a silo. The definition of “held within a silo” means that BNPPLC has obtained funds equal to or in excess of 95% of the fair value of the leased asset to acquire or maintain its investment in such asset through nonrecourse financing or other contractual arrangements, the effect of which is to leave such asset (or proceeds thereof) as the only significant asset of BNPPLC at risk for the repayment of such funds.

Accordingly, under current accounting guidance, we are not required to consolidate either the leasing entity or the specific assets that we lease under the BNPPLC lease.

Item 7A. *Quantitative and Qualitative Disclosures About Market Risk*

We are exposed to market risk related to fluctuations in interest rates, market prices, and foreign currency exchange rates. We use certain derivative financial instruments to manage these risks. We do not use derivative financial instruments for speculative or trading purposes. All financial instruments are used in accordance with management-approved policies.

Market Risk and Market Interest Risk

Investment and Interest Income — As of April 29, 2011, we had available-for-sale investments of $2.5 billion. Our investment portfolio primarily consists of investments with original maturities at the date of purchase of greater than three months, which are classified as available-for-sale. These investments, consisting primarily of corporate bonds, commercial paper, U.S. government agency bonds, U.S. Treasuries, and certificates of deposit, are subject to interest rate and interest income risk and will decrease in value if market interest rates increase. A hypothetical 10 percent increase in market interest rates from levels at April 29, 2011 would cause the fair value of these available-for-sale investments to decline by approximately $3.6 million. Volatility in market interest rates over time will cause variability in our interest income. We do not use derivative financial instruments in our investment portfolio.

Our investment policy is to limit credit exposure through diversification and investment in highly rated securities. We further mitigate concentrations of credit risk in our investments by limiting our investments in the debt securities of a single issuer and by diversifying risk across geographies and type of issuer. We actively review, along with our investment advisors, current investment ratings, company specific events and general economic conditions in managing our investments and in determining whether there is a significant decline in fair value that is other-than-temporary. We will monitor and evaluate the accounting for our investment portfolio on a quarterly basis for additional other-than-temporary impairment charges.

We are also exposed to market risk relating to our auction rate securities due to uncertainties in the credit and capital markets. As of April 29, 2011, we recorded cumulative temporary impairment charges of $4.5 million, offset by $0.4 million of unrealized gains related to these securities. The fair value of our auction rate securities may change significantly due to events and conditions in the credit and capital markets. These securities/issuers could be subject to review for possible downgrade. Any downgrade in these credit ratings may result in an additional decline in the estimated fair value of our auction rate securities. Changes in the various assumptions used to value these securities and any increase in the markets' perceived risk associated with such investments may also result in a decline in estimated fair value.

If current market conditions deteriorate, or the anticipated recovery in market values does not occur, we may be required to record additional unrealized losses in other comprehensive income (loss) or other-than-temporary impairment charges to earnings in future quarters. We intend, and have the ability, to hold these investments until the market recovers. We do not believe that the lack of liquidity relating to our portfolio investments will impact our ability to fund working capital needs, capital expenditures or other operating requirements. See Note 9 of the accompanying consolidated financial statements in Part II, Item 8; Management's Discussion and Analysis of Financial Condition and Results of Operations, "Liquidity and Capital Resources," in Part II, Item 7; and Risk Factors in Part I, Item 1A of this Annual Report on Form 10-K for a description of recent market events that may affect the value and liquidity of the investments in our portfolio that we held at April 29, 2011.

Lease Commitments — As of April 29, 2011, one of our four lease arrangements with BNPPLC is based on a floating interest rate. The minimum lease payments will vary based on LIBOR plus a spread. All of our leases have an initial term of five years, and we have the option to renew these leases for two consecutive five-year periods upon approval by BNPPLC. A hypothetical 10 percent increase in market interest rate from the level at April 29, 2011 would increase our lease payments on this one floating lease arrangement under the initial five-year term by an immaterial amount. We do not currently hedge against market interest rate increases.

Convertible Notes — In June 2008, we issued $1.265 billion principal amount of 1.75% Notes due 2013, of which $1.017 billion was allocated to debt and $0.248 billion was allocated to equity. Holders may convert the Notes prior to maturity upon the occurrence of certain circumstances, including, but not limited to:

- during the five business day period after any five consecutive trading day period in which the trading price of the Notes for each day in this five consecutive trading day period was less than 98% of an amount equal to (i) the last reported sale price of our common stock multiplied by (ii) the conversion rate on such day;
- during any calendar quarter if the last reported sale price of our common stock for 20 or more trading days in a period of 30 consecutive trading days ending on the last trading day of the immediately preceding calendar quarter exceeds 130% of the applicable conversion price in effect for the Notes on the last trading day of such immediately preceding calendar quarter; or
- upon the occurrence of specified corporate transactions under the indenture for the Notes.

The Notes are convertible into the right to receive cash in an amount up to the principal amount and shares of our common stock for the conversion value in excess of the principal amount, if any, at an initial conversion rate of 31.4006 shares of common stock per $1,000 principal amount of Notes, subject to adjustment as described in the indenture governing the Notes, which represents an initial conversion price of $31.85 per share.

Concurrent with the issuance of the Notes, we entered into convertible Note hedge transactions and separately, warrant transactions, to reduce the potential dilution from the conversion of the Notes and to mitigate any negative effect such conversion may have on the price of our common stock. In fiscal 2010, we terminated the hedge transaction with a counterparty to 20% of our Note hedges, and because we have decided not to replace the hedge, we are subject to potential dilution on the 20% unhedged portion of our Notes upon conversion if on the date of conversion the per-share market price of our common stock exceeds the conversion price of $31.85.

For at least 20 trading days during the 30 consecutive trading days ended March 31, 2011, our common stock price exceeded the conversion threshold price of $41.41 per share set forth for these Notes. Accordingly, the Notes are convertible at the holder's option through June 30, 2011, and the carrying value of the Notes was classified as a current liability as of April 29, 2011. Since the Notes are convertible at the option of the holder and the principal amount is required to be paid in cash, the difference between the principal amount and the carrying value of these Notes is reflected as convertible debt in mezzanine on our consolidated balance sheets as of April 29, 2011. The determination of whether or not the Notes are convertible must continue to be performed on a quarterly basis. Consequently, the Notes may not be convertible in future quarters, and therefore may again be classified as long-term debt, if the contingent conversion thresholds are not met in such quarters.

Upon conversion of any Notes, we deliver cash up to the principal amount of the Notes and, with respect to any excess conversion value greater than the principal amount of the Notes, shares of our common stock. As of April 29, 2011, shares issued related to the Notes were minimal. Based on the closing price of our common stock of $52.11 on April 29, 2011, the if-converted value of our Notes exceeded their principal amount by approximately $834.3 million.

The fair value of our Notes is subject to interest rate risk, market risk and other factors due to the convertible feature. Generally, the fair value of Notes will increase as interest rates fall and/or our common stock price increases, and decrease as interest rates rise and/or our common stock price decreases. The interest and market value changes affect the fair value of our Notes, but do not impact our financial position, cash flows, or results of operations due to the fixed nature of the debt obligations. We do not carry the Notes at fair value, but present the fair value of the principal amount of our Notes for disclosure purposes. As of April 29, 2011, the principal amount of our Notes, which consists of the combined debt and mezzanine components, was $1.265 billion, and the total estimated fair value of such was $2.1 billion based on the closing trading price of $168 per $100 of our Notes as of that date.

Foreign Currency Exchange Rate Risk and Foreign Exchange Forward Contracts

We hedge risks associated with foreign currency transactions to minimize the impact of changes in foreign currency exchange rates on earnings. We utilize forward and option contracts to hedge against the short-term impact of foreign currency fluctuations on certain assets and liabilities denominated in foreign currencies. All balance sheet hedges are marked to market through earnings every period. We also use foreign exchange forward contracts to hedge foreign currency forecasted transactions related to forecasted sales transactions. These derivatives are designated as cash flow hedges under accounting guidance for derivatives and hedging. For cash flow hedges outstanding at April 29, 2011, the time-value component is recorded in earnings while all other gains or losses were included in other comprehensive income.

We do not enter into foreign exchange contracts for speculative or trading purposes. In entering into forward and option foreign exchange contracts, we have assumed the risk that might arise from the possible inability of counterparties to meet the terms of their contracts. We attempt to limit our exposure to credit risk by executing foreign exchange contracts with creditworthy multinational commercial banks. All contracts have a maturity of less than one year.

The following table provides information about our currency forward contracts outstanding on April 29, 2011 and April 30, 2010 (in millions):

	April 29, 2011			April 30, 2010		
Currency	Local Currency Amount	Notional Contract Amount (USD)	Fair Value (USD)	Local Currency Amount	Notional Contract Amount (USD)	Fair Value (USD)
Forward Contracts:						
Euro	241.6	$357.7	$357.4	235.9	$313.5	$313.6
British Pound Sterling	55.0	91.7	91.9	49.7	76.0	75.9
Canadian Dollar	53.1	56.0	56.1	28.6	28.1	28.1
Australian Dollar	31.5	34.4	34.4	25.0	23.2	23.0
Other	N/A	52.6	52.5	N/A	43.6	43.6

Item 8. *Financial Statements and Supplementary Data*

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of
NetApp, Inc.
Sunnyvale, California

We have audited the accompanying consolidated balance sheets of NetApp, Inc. and subsidiaries (collectively, the "Company") as of April 29, 2011 and April 30, 2010, and the related consolidated statements of operations, cash flows, and stockholders' equity and comprehensive income for each of the three years in the period ended April 29, 2011. Our audits also included the financial statement schedule listed in Item 15. These consolidated financial statements and financial statement schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on the consolidated financial statements and financial statement schedule based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of the Company as of April 29, 2011 and April 30, 2010, and the results of its operations and its cash flows for each of the three years in the period ended April 29, 2011, in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, such financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

As discussed in Note 2 to the consolidated financial statements, in the year ended April 29, 2011, the Company changed its method of recognizing revenue for multiple element arrangements in accordance with the Financial Accounting Standards Board's Accounting Standards Update (ASU) 2009-13, *Multiple-Deliverable Revenue Arrangements* and ASU 2009-14, *Certain Revenue Arrangements that include Software Elements*.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Company's internal control over financial reporting as of April 29, 2011, based on the criteria established in *Internal Control — Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated June 23, 2011 expressed an unqualified opinion on the Company's internal control over financial reporting.

/s/ DELOITTE & TOUCHE LLP

San Jose, California
June 23, 2011

NETAPP, INC.

CONSOLIDATED BALANCE SHEETS

	April 29, 2011	April 30, 2010
	(In millions, except par value)	
ASSETS		
Current assets:		
Cash and cash equivalents	$ 2,757.3	$ 1,705.0
Short-term investments	2,417.4	2,019.0
Accounts receivable, net of allowances of $0.5 million and $1.6 million at April 29, 2011 and April 30, 2010, respectively	742.6	471.5
Inventories	108.5	112.9
Other current assets	339.4	228.7
Total current assets	6,365.2	4,537.1
Property and equipment, net	911.6	804.4
Goodwill	760.3	681.0
Other intangible assets, net	53.0	25.1
Long-term investments and restricted cash	69.2	72.8
Other non-current assets	339.5	374.0
Total assets	$ 8,498.8	$ 6,494.4
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current Liabilities:		
Accounts payable	$ 232.8	$ 184.6
Accrued compensation and related benefits	437.2	379.1
Other current liabilities	325.8	212.2
1.75% Convertible Senior Notes Due 2013	1,150.4	0.0
Short-term deferred revenue	1,226.6	1,135.1
Total current liabilities	3,372.8	1,911.0
1.75% Convertible Senior Notes Due 2013	0.0	1,101.5
Other long-term liabilities	192.9	171.9
Long-term deferred revenue	1,088.3	779.5
Total liabilities	4,654.0	3,963.9
Commitments and contingencies (Note 18)		
1.75% Convertible Senior Notes Due 2013	114.6	0.0
Stockholders' equity:		
Preferred stock, $0.001 par value, 5.0 shares authorized; no shares issued or outstanding in 2011 and 2010	0.0	0.0
Common stock, $0.001 par value, 885.0 shares authorized; 473.3 and 451.6 shares issued at April 29, 2011 and April 30, 2010	0.5	0.5
Additional paid-in capital	3,970.3	3,453.7
Treasury stock at cost (104.3 shares at April 29, 2011 and April 30, 2010)	(2,927.4)	(2,927.4)
Retained earnings	2,674.0	2,000.9
Accumulated other comprehensive income	12.8	2.8
Total stockholders' equity	3,730.2	2,530.5
Total liabilities and stockholders' equity	$ 8,498.8	$ 6,494.4

See notes to consolidated financial statements.

NETAPP, INC.

CONSOLIDATED STATEMENTS OF OPERATIONS

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
	(In millions, except per share amounts)		
Revenues:			
Product	$3,367.1	$2,381.1	$ 2,152.7
Software entitlements and maintenance	720.6	679.8	618.3
Service	1,034.9	870.5	764.1
GSA settlement	0.0	0.0	(128.7)
Net revenues	5,122.6	3,931.4	3,406.4
Cost of revenues:			
Cost of product	1,342.0	976.4	1,007.6
Cost of software entitlements and maintenance	15.7	12.3	9.2
Cost of service	436.2	423.5	399.7
Total cost of revenues	1,793.9	1,412.2	1,416.5
Gross profit	3,328.7	2,519.2	1,989.9
Operating expenses:			
Sales and marketing	1,597.0	1,293.7	1,186.1
Research and development	648.6	535.7	498.5
General and administrative	251.3	238.8	203.7
Restructuring and other charges	1.8	2.5	54.4
Acquisition related (income) expense, net	5.7	(39.9)	0.0
Total operating expenses	2,504.4	2,030.8	1,942.7
Income from operations	824.3	488.4	47.2
Other expense, net:			
Interest income	39.9	31.2	57.6
Interest expense	(75.9)	(74.1)	(63.4)
Other income (expense), net	5.8	1.5	(33.1)
Total other expense, net	(30.2)	(41.4)	(38.9)
Income before income taxes	794.1	447.0	8.3
Provision for (benefit from) income taxes	121.0	46.6	(56.3)
Net income	$ 673.1	$ 400.4	$ 64.6
Net income per share:			
Basic	$ 1.87	$ 1.18	$ 0.20
Diluted	$ 1.71	$ 1.13	$ 0.19
Shares used in net income per share calculations:			
Basic	360.9	339.6	330.3
Diluted	393.7	353.2	334.6

See notes to consolidated financial statements.

NETAPP, INC.

CONSOLIDATED STATEMENTS OF CASH FLOWS

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
		(In millions)	
Cash flows from operating activities:			
Net income	$ 673.1	$ 400.4	$ 64.6
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization	165.6	166.0	170.5
Stock-based compensation	175.2	159.8	140.8
Accretion of discount and issuance costs on notes	53.1	50.8	41.0
Unrealized losses on derivative activities	9.9	0.0	0.0
Deferred income taxes	(26.3)	(11.3)	(124.6)
Tax benefit (charges) from stock-based compensation	128.5	(0.9)	45.4
Excess tax benefit from stock-based compensation	(127.7)	(8.6)	(36.7)
Other non-cash items, net	4.9	9.7	57.8
Changes in assets and liabilities, net of acquisition of businesses:			
Accounts receivable	(262.7)	(21.3)	128.7
Inventories	4.4	(52.1)	9.1
Other operating assets	6.0	(36.8)	(0.8)
Accounts payable	38.7	42.7	(27.0)
Accrued compensation and other current liabilities	118.8	53.2	190.5
Deferred revenue	382.9	176.7	219.3
Other operating liabilities	1.9	46.7	10.6
Net cash provided by operating activities	1,346.3	975.0	889.2
Cash flows from investing activities:			
Purchases of investments	(2,190.9)	(2,632.6)	(1,152.5)
Redemptions of investments	1,772.4	1,772.3	1,035.7
Reclassification from cash and cash equivalents to short-term investments	0.0	0.0	(598.0)
Purchases of property and equipment	(222.7)	(135.6)	(289.6)
Acquisition of businesses, net of cash acquired	(136.5)	0.0	0.0
Other investing activities, net	0.5	8.2	1.1
Net cash used in investing activities	(777.2)	(987.7)	(1,003.3)
Cash flows from financing activities:			
Issuance of common stock	324.2	197.1	85.9
Repurchases of common stock	0.0	0.0	(400.0)
Excess tax benefit from stock-based compensation	127.7	8.6	36.7
Issuance of long-term debt	0.0	0.0	1,238.4
Sale of common stock warrants	0.0	0.0	163.1
Settlement (purchase) of note hedge	0.0	14.2	(254.9)
Repayment of long-term debt	0.0	0.0	(172.6)
Other financing activities	(1.0)	0.0	0.0
Net cash provided by financing activities	450.9	219.9	696.6
Effect of exchange rate changes on cash and cash equivalents	32.3	3.6	(24.8)
Net increase in cash and cash equivalents	1,052.3	210.8	557.7
Cash and cash equivalents:			
Beginning of year	1,705.0	1,494.2	936.5
End of year	$ 2,757.3	$ 1,705.0	$ 1,494.2

See notes to consolidated financial statements.

NETAPP, INC.

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
AND COMPREHENSIVE INCOME

	Common Stock			Treasury Stock			Accumulated	
	Shares	Amount	Additional Paid-in Capital	Shares	Treasury Amount	Retained Earnings	Other Comprehensive Income (Loss)	Total
					(In millions)			
Balances, April 25, 2008	429.1	$ 0.4	$2,690.6	(87.4)	$(2,527.4)	$1,535.9	$ 0.8	$1,700.3
Components of comprehensive income:								
Net income	0.0	0.0	0.0	0.0	0.0	64.6	0.0	64.6
Currency translation adjustment	0.0	0.0	0.0	0.0	0.0	0.0	(4.8)	(4.8)
Unrealized gain on investments, net	0.0	0.0	0.0	0.0	0.0	0.0	(2.0)	(2.0)
Unrealized gain on derivatives	0.0	0.0	0.0	0.0	0.0	0.0	0.8	0.8
Total comprehensive income	0.0	0.0	0.0	0.0	0.0	0.0	0.0	58.6
Issuance of common stock, net of taxes	7.5	0.0	85.9	0.0	0.0	0.0	0.0	85.9
Repurchase of common stock	0.0	0.0	0.0	(16.9)	(400.0)	0.0	0.0	(400.0)
Purchase of note hedges	0.0	0.0	(254.9)	0.0	0.0	0.0	0.0	(254.9)
Sale of common stock warrants	0.0	0.0	163.1	0.0	0.0	0.0	0.0	163.1
Convertible debt discount	0.0	0.0	248.0	0.0	0.0	0.0	0.0	248.0
Issuance costs related to equity component of convertible notes	0.0	0.0	(5.2)	0.0	0.0	0.0	0.0	(5.2)
Net tax effect of issuance costs related to convertible notes	0.0	0.0	2.2	0.0	0.0	0.0	0.0	2.2
Stock-based compensation expense	0.0	0.0	140.8	0.0	0.0	0.0	0.0	140.8
Income tax benefit from employee stock transactions	0.0	0.0	45.4	0.0	0.0	0.0	0.0	45.4
Balances, April 24, 2009	436.6	0.4	3,115.9	(104.3)	(2,927.4)	1,600.5	(5.2)	1,784.2
Components of comprehensive income:								
Net income	0.0	0.0	0.0	0.0	0.0	400.4	0.0	400.4
Currency translation adjustment	0.0	0.0	0.0	0.0	0.0	0.0	1.5	1.5
Unrealized gain on investments, net	0.0	0.0	0.0	0.0	0.0	0.0	5.3	5.3
Unrealized gain on derivatives	0.0	0.0	0.0	0.0	0.0	0.0	1.2	1.2
Total comprehensive income	0.0	0.0	0.0	0.0	0.0	0.0	0.0	408.4
Issuance of common stock, net of taxes	15.0	0.1	197.0	0.0	0.0	0.0	0.0	197.1
Stock-based compensation expense	0.0	0.0	159.6	0.0	0.0	0.0	0.0	159.6
Income tax charge from employee stock transactions	0.0	0.0	(0.9)	0.0	0.0	0.0	0.0	(0.9)
Settlement of note hedge	0.0	0.0	14.2	0.0	0.0	0.0	0.0	14.2
Taxes on settlement of note hedge	0.0	0.0	(32.1)	0.0	0.0	0.0	0.0	(32.1)
Balances, April 30, 2010	451.6	0.5	3,453.7	(104.3)	(2,927.4)	2,000.9	2.8	2,530.5
Components of comprehensive income:								
Net income	0.0	0.0	0.0	0.0	0.0	673.1	0.0	673.1
Currency translation adjustment	0.0	0.0	0.0	0.0	0.0	0.0	10.4	10.4
Unrealized gain on investments, net	0.0	0.0	0.0	0.0	0.0	0.0	2.5	2.5
Unrealized loss on derivatives	0.0	0.0	0.0	0.0	0.0	0.0	(2.9)	(2.9)
Total comprehensive income	0.0	0.0	0.0	0.0	0.0	0.0	0.0	683.1
Reclassification of equity component of convertible debt to mezzanine	0.0	0.0	(114.6)	0.0	0.0	0.0	0.0	(114.6)
Issuance of common stock, net of taxes	21.7	0.0	324.2	0.0	0.0	0.0	0.0	324.2
Stock-based compensation expense	0.0	0.0	175.2	0.0	0.0	0.0	0.0	175.2
Income tax benefit from employee stock transactions	0.0	0.0	128.5	0.0	0.0	0.0	0.0	128.5
Stock options assumed in business acquisition	0.0	0.0	3.3	0.0	0.0	0.0	0.0	3.3
Balances, April 29, 2011	473.3	$ 0.5	$3,970.3	(104.3)	$(2,927.4)	$2,674.0	$ 12.8	$3,730.2

See notes to consolidated financial statements.

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1. The Company

Based in Sunnyvale, California, NetApp, Inc. (“we” or “the Company”) was incorporated in California in April 1992 and reincorporated in Delaware in November 2001; in March 2008, the Company changed its name from Network Appliance, Inc. to NetApp, Inc. The Company is a supplier of enterprise storage and data management software and hardware products and services. Our solutions help global enterprises meet major information technology challenges such as managing storage growth, assuring secure and timely information access, protecting data and controlling costs by providing innovative solutions that simplify the complexity associated with managing corporate data.

2. Significant Accounting Policies

Fiscal Year — We operate on a 52-week or 53-week year ending on the last Friday in April. Fiscal 2011 and 2009 were 52-week fiscal years and fiscal 2010 was a 53-week fiscal year.

Principles of Consolidation — The consolidated financial statements include the Company and its wholly-owned subsidiaries. Intercompany accounts and transactions are eliminated in consolidation.

Use of Estimates — The preparation of the consolidated financial statements in conformity with accounting principles generally accepted in the United States of America (GAAP) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Such estimates include, but are not limited to, revenue recognition, reserve and allowances; inventory valuation and purchase order accruals; valuation of goodwill and intangibles; restructuring reserves; product warranties; self-insurance; stock-based compensation; loss contingencies; investment impairments; income taxes, and fair value measurements. Actual results could differ from those estimates.

Financial Instruments — For certain financial instruments, including cash and cash equivalents, short-term investments, accounts receivable, accounts payable and other current liabilities, the carrying amounts approximate their fair value due to the relatively short maturity of these balances. The following methods were used to estimate the fair value of each class of financial instruments for which it is practicable to estimate that value:

Cash and Cash Equivalents — We consider all highly liquid debt investments with original maturities of three months or less at time of purchase to be cash equivalents. Cash equivalents consist primarily of money market funds, for which the carrying amounts are reasonable estimates of fair value. Cash equivalents are recognized at fair value.

Short-Term Investments — Short-term investments consist of marketable debt or equity securities which are classified as available-for-sale and are recognized at fair value. The determination of fair value is further detailed in Note 9 of the accompanying consolidated financial statements. We regularly review our investment portfolio to identify and evaluate investments that have indications of possible impairment. Factors considered in determining whether a loss is other-than-temporary include: the length of time and extent to which the fair market value has been lower than the cost basis, the financial condition and near-term prospects of the investee, credit quality, likelihood of recovery, and our intent and ability to hold the investment for a period of time sufficient to allow for any anticipated recovery in fair market value. We classify our investments as current or noncurrent based on the nature of the investments and their availability for use in current operations.

Unrealized gains and temporary losses, net of related taxes, are included with accumulated other comprehensive income (loss) (AOCI). Upon realization, those amounts are reclassified from AOCI to results of operations. The amortization of premiums and discounts on the investments and realized gains and losses related to investments are included in results of operations. Other-than-temporary impairments on available-for-sale debt securities are determined to be either credit losses or losses due to other factors. Credit losses are recognized in our results of operations and other losses are included in AOCI.

Fair Value Measurements and Impairments — All of our available-for-sale investments and nonmarketable equity securities are subject to a periodic impairment review. Investments are considered to be impaired when a decline in fair value is judged to be other-than-temporary. This determination requires significant judgment.

For publicly traded investments, impairment is determined based upon the specific facts and circumstances present at the time, including factors such as current economic and market conditions, the credit rating of the security's issuer, the length of time an investment's fair value has been below our carrying value, the extent to which fair value was below cost, and our ability and intent to hold investments for a period of time sufficient to allow for anticipated recovery in value. If an investment's decline in fair value, caused by factors other than changes in interest rates, is deemed to be other-than-temporary, we reduce its carrying value to its estimated fair value, as determined based on quoted market prices or liquidation values. Declines in value judged to be other-than-temporary, if any, are recorded in operations as incurred.

For long-term investments, such as auction rate securities, impairment is determined based on fair value and marketability of these investments. The valuation models we used to estimate fair value included numerous assumptions such as assessments of the underlying structure of each security, expected cash flows, discount rates, credit ratings, workout periods, and overall capital market liquidity.

For nonmarketable investments, impairment is based on the most recent information available to us, including new financings or estimates of current fair value, as well as through traditional valuation techniques. It is our policy to review the fair value of these investments on a regular basis to determine whether the investments in these companies are other-than-temporarily impaired. In the case of privately-held companies, this evaluation is based on information that we request from these companies. If we believe the carrying value of an investment is in excess of fair value, and this difference is other-than-temporary, it is our policy to write down the investment to fair value.

Inventories — Inventories are stated at the lower of cost or market, which approximates actual cost on a first-in, first out basis. We write down for excess and obsolete inventory based on the difference between the cost of inventory and the estimated fair value based upon assumptions about future demand and market conditions. In addition, we record a liability for firm, noncancelable, and unconditional purchase commitments with contract manufacturers and suppliers for quantities in excess of our future demand forecasts consistent with our valuation of excess and obsolete inventory.

Property and Equipment — Property and equipment are recorded at cost. Depreciation and amortization is computed using the straight-line method, generally over the following periods:

	Depreciation Life (years)
Buildings	40 years
Building improvements	10 years
Furniture and fixtures	5 years
Computer, production, engineering and other equipment	3 years
Software	3 to 5 years
Leasehold improvements	Shorter of remaining lease term or useful life

Construction in progress will be amortized over the estimated useful lives of the respective assets when they are ready for their intended use.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Software Development Costs — The costs for the development of new software products and substantial enhancements to existing software products are expensed as incurred until technological feasibility has been established, at which time any additional costs would be capitalized in accordance with the accounting guidance for software. Because our current process for developing software is essentially completed concurrently with the establishment of technological feasibility, which occurs upon the completion of a working model, no costs have been capitalized for any of the periods presented.

Internal-Use Software Development Costs — We capitalize qualifying costs, which are incurred during the application development stage, for computer software developed for or obtained for internal-use and amortize them over the software's estimated useful life.

Business Combinations — We recognize identifiable assets acquired and liabilities assumed at their acquisition date fair values. Goodwill as of the acquisition date is measured as the excess of consideration transferred over the net of the acquisition date fair values of the assets acquired and the liabilities assumed. While we use our best estimates and assumptions as a part of the purchase price allocation process to accurately value assets acquired and liabilities assumed at the acquisition date, our estimates are inherently uncertain and subject to refinement. As a result, during the measurement period, which may be up to one year from the acquisition date, we record adjustments to the assets acquired and liabilities assumed, with the corresponding offset to goodwill to the extent that we identify adjustments to the preliminary purchase price allocation. Upon the conclusion of the measurement period or final determination of the values of assets acquired or liabilities assumed, whichever comes first, any subsequent adjustments are recorded to our consolidated statements of operations.

Goodwill and Purchased Intangible Assets — Goodwill is recorded when the consideration paid for an acquisition exceeds the fair value of net tangible and intangible assets acquired. Acquisition-related intangible assets are amortized on a straight-line basis over their economic lives of five years for patents, four to six years for existing technology, two to eight years for customer relationships, one to three years for covenants not to compete and two to seven years for trademarks and tradenames as we believe this method would most closely reflect the pattern in which the economic benefits of the assets will be consumed.

Goodwill is measured and tested for impairment on an annual basis in the fourth quarter of our fiscal year or more frequently if we believe indicators of impairment exist. Triggering events for impairment reviews may be indicators such as adverse industry or economic trends, restructuring actions, lower projections of profitability, or a sustained decline in our market capitalization. The performance of the test involves a two-step process. The first step requires comparing the fair value of the each of our reporting units to its net book value, including goodwill. We have three reporting units, the fair values of which are determined based on an allocation of our entity level market capitalization, as determined through quoted market prices. A potential impairment exists if the fair value of the reporting unit is lower than its net book value. The second step of the process is only performed if a potential impairment exists, and it involves determining the difference between the fair value of the reporting unit's net assets other than goodwill to the fair value of the reporting unit and if the difference is less than the net book value of goodwill, an impairment exists and is recorded. We have not been required to perform this second step of the process because the fair value of our reporting units have exceeded the net book value at every measurement date.

Impairment of Long-Lived Assets — We review the carrying values of long-lived assets whenever events and circumstances, such as reductions in demand, lower projections of profitability, significant changes in the manner of our use of acquired assets, or significant negative industry or economic trends, indicate that the net book value of an asset may not be recovered through expected future cash flows from its use and eventual disposition. If this review indicates that there is an impairment, the impaired asset is written down to its fair value, which is typically calculated using: (i) quoted market prices and/or (ii) discounted expected future cash

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flows utilizing a discount rate. Our estimates regarding future anticipated net revenue and cash flows, the remaining economic life of the products and technologies, or both, may differ from those used to assess the recoverability of assets. In that event, impairment charges or shortened useful lives of certain long-lived assets may be required, resulting in a reduction in net income or an increase to net loss in the period when such determinations are made.

Derivative Instruments — Derivatives that are not designated as hedges are adjusted to fair value through earnings. If the derivative is designated as a hedge, depending on the nature of the exposure being hedged, changes in fair value will either be offset against the change in fair value of the hedged items through earnings or recognized in AOCI until the hedged item is recognized in earnings. The ineffective portion of the hedge is recognized in earnings immediately.

As a result of our significant international operations, we are subject to risks associated with fluctuating exchange rates. We use derivative financial instruments, principally currency forward contracts and currency options, to attempt to minimize the impact of exchange rate movements on our balance sheet and operating results. Factors that could have an impact on the effectiveness of our hedging program include the accuracy of forecasts and the volatility of foreign currency markets. These programs reduce, but do not always entirely eliminate, the impact of currency exchange movements. The maturities of these instruments are generally less than one year.

Currently, we do not enter into any foreign exchange forward contracts to hedge exposures related to firm commitments or nonmarketable investments. Cash flows from our derivative programs are included under operating activities in the consolidated statements of cash flows with the exception of cash flows from the derivatives used to hedge the convertible Notes issued June 10, 2008. The cash flows related to the Note hedges are included under financing activities.

Residual Guarantees — We record liabilities in other accrued liabilities for the fair value of residual guarantees relating to certain properties under our synthetic leases. In the event that the fair values of the properties, as determined by appraisals, are below the residual guarantees, we accrue for the deficiencies over the remaining term of the respective leases.

Revenue Recognition — We recognize revenue when:

- *Persuasive evidence of an arrangement exists:* It is our customary practice to have a purchase order and/or contract prior to recognizing revenue on an arrangement from our end users, customers, value-added resellers, or distributors.
- *Delivery has occurred:* Our product is physically delivered to our customers, generally with standard transfer terms such as FOB origin. We typically do not allow for restocking rights with any of our value-added resellers or distributors. Products shipped with acceptance criteria or return rights are not recognized as revenue until all criteria are achieved. If undelivered products or services exist that are essential to the functionality of the delivered product in an arrangement, delivery is not considered to have occurred.
- *The fee is fixed or determinable:* Arrangements with payment terms extending beyond our standard terms, conditions and practices are not considered to be fixed or determinable. Revenue from such arrangements is recognized at the earlier of customer payment or when the fees become due and payable. We typically do not allow for price-protection rights with any of our value-added resellers or distributors.
- *Collection is reasonably assured:* If there is considerable doubt surrounding the credit worthiness of a customer at the outset of an arrangement, the associated revenue is deferred and recognized upon cash receipt.

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Our multiple element arrangements include our systems and one or more of the following undelivered elements: software entitlements and maintenance (SEM), premium hardware maintenance, and storage review services. Our SEM entitle our customers to receive unspecified product upgrades and enhancements on a when-and-if-available basis, bug fixes, and patch releases. Premium hardware maintenance services include contracts for technical support and minimum response times. Revenues from SEM, premium hardware maintenance services and storage review services are recognized ratably over the contractual term, generally from one to five years. We also offer extended service contracts (which extend our standard parts warranty and may include premium hardware maintenance) at the end of the warranty term; revenues from these contracts are recognized ratably over the contract term. We also sell professional services either on a time and materials basis or under fixed price standard projects; we recognize revenue for these services as they are performed. Revenue from hardware installation services is recognized in the period the services are delivered.

In October 2009, the FASB amended the accounting standards for revenue recognition to exclude tangible products containing software components and non-software components that function together to deliver the tangible product's essential functionality from the scope of the software revenue recognition guidance. Concurrently, the FASB also amended the accounting standards for multiple deliverable revenue arrangements to:

- provide updated guidance on whether multiple deliverables exist, how the deliverables in an arrangement should be separated, and how the arrangement consideration should be allocated among its elements;
- require an entity to allocate revenue in an arrangement that has separate units of accounting using best estimated selling prices (BESP) of deliverables if a vendor does not have vendor-specific objective evidence (VSOE) of fair value or third-party evidence of selling price (TPE); and
- eliminate the use of the residual method and require an entity to allocate revenue using the relative selling price method to the separate units of accounting.

We elected to early adopt these standards in the fourth quarter of fiscal 2011, and the standards were applied retrospectively from the beginning of fiscal 2011 for new and materially modified revenue arrangements originating after April 30, 2010.

The majority of our products are hardware systems containing software components that function together to provide the essential functionality of the product. Therefore, our hardware systems and software components essential to the functionality of the hardware systems are considered non-software deliverables and therefore are not subject to industry-specific software revenue recognition guidance.

Our product revenue also includes revenue from the sale of non-essential software products. Non-essential software products may operate on our hardware systems, but are not considered essential to the functionality of the hardware. Non-essential software sales generally include a perpetual license to our software. Non-essential software sales continue to be subject to the industry-specific software revenue recognition guidance. For arrangements within the scope of the new guidance, a deliverable constitutes a separate unit of accounting when it has standalone value and there are no customer negotiated refunds or return rights for the delivered elements.

For transactions entered into or materially modified after April 30, 2010, we recognize revenue in accordance with the new accounting standards when applicable. Certain arrangements with multiple deliverables may continue to have software deliverables that are subject to the existing software revenue recognition guidance along with non-software deliverables that are subject to the new standards. The revenue for these multiple element arrangements is allocated to the software deliverables and the non-software deliverables as a group based on the relative selling prices of all of the deliverables in the arrangement using the selling price hierarchy set forth in the standards.

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For our non-software deliverables, we recognize revenue based on the new standards and allocate the arrangement consideration based on the relative selling price of the deliverables. For our non-software deliverables, we use BESP as our selling price. For our software entitlements and support services, we generally use VSOE as our selling price. When we are unable to establish selling price using VSOE for our software entitlements and support services, we use BESP in our allocation of arrangement consideration.

VSOE of fair value for elements of an arrangement is based upon the normal pricing and discounting practices for those services when sold separately. In determining VSOE, we require that a substantial majority of the selling prices for an element fall within a reasonably narrow pricing range, generally evidenced by a substantial majority of such historical stand-alone transactions falling within a reasonably narrow range. In addition, we consider major service type, customer classifications, and other variables in determining VSOE.

When VSOE cannot be established, the Company attempts to establish selling price of each element based on TPE. TPE is determined based on competitor prices for similar deliverables when sold separately. Generally, our go-to-market strategy differs from that of our peers and our offerings contain a significant level of differentiation such that the comparable pricing of products with similar functionality cannot be obtained. Furthermore, we are unable to reliably determine what similar competitor products' selling prices are on a stand-alone basis. Therefore, the Company is typically not able to determine TPE for our products or services.

When we are unable to establish selling price of our non-software deliverables using VSOE or TPE, we use our BESP in our allocation of arrangement consideration. The objective of BESP is to determine the price at which we would transact a sale if the product or service were sold on a stand-alone basis. BESP is determined for a product or service by considering multiple factors including, but not limited to, cost of products, gross margin objectives, historical pricing practices, customer classes and distribution channels. In determining BESP, we require that the majority of the selling prices fall within a reasonable pricing range, generally evidenced by a majority of such historical transactions falling within a reasonable range.

We regularly review VSOE, TPE, and BESP and maintain internal controls over the establishment and updates of these estimates.

For sales of software deliverables after April 30, 2010 and for all transactions entered into prior to the first quarter of fiscal year 2011, we recognize revenue based on software revenue recognition guidance. Under the software revenue recognition guidance, we use the residual method to recognize revenue when a multiple element arrangement includes one or more elements to be delivered at a future date and VSOE of fair value of all undelivered elements exists. In the majority of our contracts, the only element that remains undelivered at the time of delivery of the product is SEM and/or service. Under the residual method, the fair value of the undelivered elements is deferred and the remaining portion of the contract fee is recognized as product revenue. If evidence of the fair value of one or more undelivered elements does not exist, all revenue is generally deferred until the earlier of when delivery of those elements occurs or when fair value can be established. In instances where the only undelivered element without fair value is SEM, the entire arrangement is recognized ratably over the maintenance period.

Net revenues and net income for the year ended April 29, 2011 were higher by $129.2 million and $53.0 million, respectively, as a result of adoption of the new revenue recognition accounting standards. We are not able to reasonably estimate the effect of adopting these standards on future financial periods as the impact will vary based on the nature and volume of new or materially modified sales transactions in any given period. In terms of the timing and pattern of revenue recognition, we expect that these new accounting standards will facilitate our efforts to optimize our offerings due to better alignment between the economics of an arrangement and the related accounting. This may lead us to engage in new go-to-market practices in the future. In particular, we expect that the amended accounting standards will enable us to better integrate products and services (for which we have not established VSOE) into existing offerings and solutions. As our go-to-market strategies evolve, we may modify our pricing practices in the future, which could result in changes in selling prices, including both VSOE and BESP.

We record reductions to revenue for estimated sales returns at the time of shipment. Sales returns are estimated based on historical sales returns, current trends, and our expectations regarding future experience. We monitor and analyze the accuracy of sales returns estimates by reviewing actual returns and adjust them for future expectations to determine the adequacy of our current and future reserve needs. If actual future returns and allowances differ from past experience, additional allowances may be required.

Sales and Value Added Taxes — Taxes collected from customers and remitted to governmental authorities are presented on a net basis in the accompanying consolidated statements of operations.

Product Warranties — Estimated future warranty costs are expensed as a cost of product revenues when revenue is recognized, based on estimates of the costs that may be incurred under our warranty obligations including material, distribution and labor costs. Our accrued liability for estimated future warranty costs is included in other accrued liabilities and other long-term obligations on the accompanying consolidated balance sheets. Factors that affect our warranty liability include the number of installed units, estimated material costs, estimated distribution costs and estimated labor costs. We periodically assess the adequacy of our warranty accrual and adjust the amount as considered necessary.

Foreign Currency Translation — For subsidiaries whose functional currency is the local currency, gains and losses resulting from translation of these foreign currency financial statements into U.S. dollars are recorded in AOCI. For subsidiaries where the functional currency is the U.S. dollar, gains and losses resulting from the process of remeasuring foreign currency financial statements into U.S. dollars are included in other income (expense), net.

Stock-Based Compensation — We measure and recognize stock-based compensation expense for all stock-based awards, including employee stock options, restricted stock units and rights to purchase shares under our ESPP, based on their estimated fair value, and recognize the costs in our financial statements over the employees' requisite service period.

The fair value of employee restricted stock units is equal to the market value of our common stock on the date the award is granted. Calculating the fair value of employee stock options and the rights to purchase shares under the ESPP requires estimates and significant judgment. The fair value of each option grant is estimated on the date of grant using the Black-Scholes option pricing model, and is not remeasured as a result of subsequent stock price fluctuations. Option-pricing models require the input of highly subjective assumptions, including the expected term of options, and the expected price volatility of the stock underlying such options. Our expected term assumption is based primarily on historical exercise and post-vesting forfeiture experience. Our stock price volatility assumption is based on an implied volatility of call options and dealer quotes on call options, generally having a term of greater than twelve months. The risk-free interest rate is based upon United States Treasury bills with equivalent expected terms, and the expected dividend is based on our history and expected dividend payouts. Changes in the subjective assumptions required in the valuation models may significantly affect the estimated value of our stock-based awards and the related stock-based compensation expense. Likewise, the shortening of the contractual life of our options could change the estimated exercise behavior in a manner other than currently expected.

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In addition, we estimate the number of stock-based awards that will be forfeited due to employee turnover. Our forfeiture assumption is based primarily on historical experience. Changes in the estimated forfeiture rate can have a significant effect on reported stock-based compensation expense, as the effect of adjusting the rate is recognized in the period the forfeiture estimate is changed.

Income Taxes — Deferred income tax assets and liabilities are provided for temporary differences that will result in tax deductions or income in future periods, as well as the future benefit of tax credit carryforwards. A valuation allowance reduces tax assets to their estimated realizable value.

Determining the liability for uncertain tax positions requires us to make significant estimates and judgments as to whether, and the extent to which, additional taxes may be due based on potential tax audit issues in the U.S. and other tax jurisdictions throughout the world. Our estimates are based on the outcomes of previous audits, as well as the precedents set in cases in which others have taken similar tax positions to those taken by us. If we later determine that our exposure is lower or that the liability is not sufficient to cover our revised expectations, we adjust the liability and effect a related change in our tax provision during the period in which we make such a determination.

The accounting guidance for income taxes prescribes a comprehensive model for how a company should recognize, measure, present, and disclose in its financial statements uncertain tax positions that we have taken or expect to take on a tax return (including a decision whether to file or not to file a return in a particular jurisdiction). We recognize the tax liability for uncertain income tax positions on the income tax return based on the two-step process prescribed in the interpretation. The first step is to determine whether it is more likely than not that each income tax position would be sustained upon audit. The second step is to estimate and measure the tax benefit as the amount that has a greater than 50% likelihood of being realized upon ultimate settlement with the tax authority. Estimating these amounts requires us to determine the probability of various possible outcomes. We evaluate these uncertain tax positions on a quarterly basis. See note 14 for further discussion.

Net Income per Share — Basic net income per share is computed by dividing income available to common stockholders by the weighted average number of common shares outstanding, excluding common shares subject to repurchase for that period. Diluted net income per share is computed giving effect to all dilutive potential shares that were outstanding during the period. Dilutive potential common shares consist of incremental common shares subject to repurchase, common shares issuable upon exercise of stock options, restricted stock awards, ESPP shares, warrants, and assumed conversion of our Notes. Repurchased shares are held as treasury stock and our outstanding shares used to calculate earnings per share have been reduced by the weighted number of repurchased shares.

3. Concentration of Risk

Financial instruments that potentially subject us to concentrations of credit risk consist primarily of cash equivalents, investments, foreign exchange contracts and accounts receivable. Cash equivalents and short-term investments consist primarily of corporate bonds, U.S. government agency securities, and money market funds, all of which are considered high investment grade. Our policy is to limit the amount of credit exposure through diversification and investment in highly rated securities. We further mitigate concentrations of credit risk in our investments by limiting our investments in the debt securities of a single issuer and by diversifying risk across geographies and type of issuer.

Our long term investments, consisting primarily of auction rate securities, have been and will continue to be exposed to market risk due to uncertainties in the credit and capital markets.

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In entering into forward foreign exchange contracts, we have assumed the risk that might arise from the possible inability of counterparties to meet the terms of their contracts. The counterparties to these contracts are major multinational commercial banks, and we do not expect any losses as a result of counterparty defaults.

We sell our products primarily to large organizations in different industries and geographies. We do not require collateral or other security to support accounts receivable. In addition, we maintain an allowance for potential credit losses. To reduce credit risk, we perform ongoing credit evaluations on our customers' financial condition. We establish an allowance for doubtful accounts based upon factors surrounding the credit risk of customers, historical trends and other information and, to date, such losses have been within management's expectations. Concentrations of credit risk with respect to trade accounts receivable are limited due to the wide variety of customers who are dispersed across many geographic regions.

There are no concentrations of business transacted with a particular market that would severely impact our business in the near term. However, we currently rely on a limited number of suppliers for certain key components and a few key contract manufacturers to manufacture most of our products; any disruption or termination of these arrangements could materially adversely affect our operating results.

4. Recent Accounting Standards Not Yet Effective

In December 2010, the FASB issued authoritative guidance on business combinations. This authoritative guidance requires a public entity that presents comparative financial statements to disclose the revenue and earnings of the combined entity as though the business combinations that occurred during the current year had occurred as of the beginning of the prior annual reporting period. In addition, this authoritative guidance expands the supplemental pro forma disclosures to include a description of the nature and amount of material, nonrecurring pro forma adjustments directly attributable to the business combination included in the reported pro forma revenue and earnings. This authoritative guidance is effective prospectively for business combinations for which the acquisition date is on or after the beginning of the first annual reporting period beginning on or after December 15, 2010. This guidance is effective for us beginning in the first quarter of fiscal 2012. There will be no impact on the Company's results as the amendments relate only to additional disclosures.

In December 2010, the FASB issued amendments to the guidance on goodwill impairment testing. The amendments modify Step 1 of the goodwill impairment test for reporting units with zero or negative carrying amounts. For those reporting units, an entity is required to perform Step 2 of the goodwill impairment test if it is more likely than not that a goodwill impairment exists. In making that determination, an entity should consider whether there are any adverse qualitative factors indicating that an impairment may exist. The amendments are effective for us at the beginning of fiscal year 2012 and are not expected to have a material impact on our financial statements.

In May 2011, the FASB issued new guidance for fair value measurements to provide a consistent definition of fair value and ensure that the fair value measurement and disclosure requirements are similar between U.S. GAAP and International Financial Reporting Standards. The guidance changes certain fair value measurement principles and enhances the disclosure requirements particularly for level 3 fair value measurements. The guidance is effective for us prospectively beginning in the first quarter of fiscal 2012, and we are currently evaluating the impact of adoption on our financial statements.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

5. Statements of Cash Flows

Supplemental cash flows and noncash investing and financing activities are as follows (in millions):

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
Noncash Investing and Financing Activities:			
Acquisition of property and equipment on account	$ 39.3	$ 17.2	$ 13.2
Acquisition of property and equipment through long-term financing	$ 12.6	$ 0.0	$ 0.0
Options assumed from acquired business	$ 3.3	$ 0.0	$ 0.0
Taxes on settlement of note hedge	$ 0.0	$ 32.1	$ 0.0
Supplemental Cash Flow Information:			
Income taxes paid, net of refunds	$ 27.9	$ 22.8	$ 16.2
Interest paid	$ 22.7	$ 22.1	$ 12.7

6. Business Combinations

Acquisition of Akorri Networks, Inc.

On January 31, 2011, we completed the acquisition of Akorri Networks, Inc., (Akorri) a privately-held company headquartered in Massachusetts. Akorri is a provider of data center management software focused on performance and capacity analytics for virtualized, shared information technology infrastructures. The acquisition extends our offering by adding performance capacity analytics to provide customers greater visibility across the entire IT stack, resulting in further improvement in IT efficiency and flexibility through functions that help control, automate, and analyze their shared IT infrastructure.

We acquired 100% of the outstanding shares of Akorri for a purchase price of $62.3 million in cash, of which $7.9 million was placed in an escrow account to secure Akorri's obligations under certain indemnity provisions. Subject to any claims for indemnity, the escrow funds will be released 18 months from the closing date of the acquisition. The results of operations of Akorri are included in our consolidated statements of operations beginning January 31, 2011, the closing date of the acquisition

The purchase price was allocated to Akorri's net tangible and intangible assets based on various fair value estimates and analyses, including work performed by third-party valuation specialists (in millions):

Cash	$ 0.7
Other current assets	0.8
Other non-current assets	7.3
Deferred revenue	(1.2)
Accounts payable and accrued liabilities	(0.5)
Identified intangible assets	22.0
Deferred income taxes	9.9
Goodwill	23.3
Total initial purchase price	$62.3

Goodwill is not deductible for income tax purposes.

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Adjustments may be made to the allocation of the purchase price during the measurement period to reflect adjustments related to facts existing at the time of the acquisition. The identified intangible assets, which are amortized on a straight-line basis over their estimated useful lives, consisted of the following (in millions, except useful life):

	Fair Value	Useful Life (Years)
Developed technology	$18.7	6
Customer relationships	2.3	3
Trademarks and trade names	0.6	4
Covenant not to compete	0.4	2
Total identified intangible assets	$22.0	

Pro forma results of operations have not been presented because the acquisition was not material to our results of operations.

Certain terminated Akorri employees were provided with termination benefits including severance payouts of $2.4 million as a result of the acquisition. We have accounted for these costs as restructuring charges in our statements of operations.

We incurred $0.6 million in acquisition related expenses for Akorri, which are included in acquisition related (income) expense, net, in our consolidated statements of operations for the fiscal year ended April 29, 2011.

Bycast Acquisition

On May 13, 2010, we completed our acquisition of Bycast Inc. (Bycast), a privately held company headquartered in Vancouver, Canada. Bycast develops and sells software designed to manage petabyte-scale, globally distributed repositories of images, video and records for enterprises and service providers. The acquisition extends our position in unified storage by adding an object-based storage software offering, which simplifies the task of large-scale storage and improves the ability to search and locate data objects.

We acquired 100% of the outstanding shares of Bycast for a purchase price of $80.5 million in cash, of which $13.1 million was placed in an escrow account to secure Bycast's obligations under certain indemnity provisions. Subject to any claims for indemnity, the escrow funds will be released 18 months from the closing date of the acquisition. In addition, we assumed all of the then outstanding options to purchase Bycast common stock, and converted those into options to purchase approximately 0.2 million shares of our common stock. The results of operations of Bycast are included in our consolidated statements of operations beginning May 13, 2010, the closing date of the acquisition.

The following table summarizes the purchase price (in millions):

Cash	$ 80.5
Fair value of vested options assumed	3.3
Total initial purchase price	$ 83.8

The fair value of the assumed options was determined using a Black-Scholes valuation model.

The purchase price as shown in the table above was allocated to Bycast's net tangible and intangible assets based on various fair value estimates and analyses, including work performed by third-party valuation specialists (in millions):

Cash	$ 5.7
Tangible assets	3.8
Deferred revenue and other liabilities	(1.4)
Identified intangible assets	23.6
Deferred income taxes	(3.9)
Goodwill	56.0
Total initial purchase price	$83.8

Goodwill is not deductible for income tax purposes.

The identified intangible assets, which are amortized on a straight-line basis over their estimated useful lives, consisted of the following (in millions, except useful life):

	Fair Value	Useful Life (Years)
Developed technology	$18.0	5
Customer relationships	4.7	3
Trademarks and trade names	0.7	5
Covenant not to compete	0.2	2
Total identified intangible assets	$23.6	

Pro forma results of operations have not been presented because the acquisition was not material to our results of operations.

We incurred $0.3 million and $1.2 million in acquisition related expenses for Bycast, which are included in acquisition related (income) expense, net, in our consolidated statements of operations for fiscal years ended April 29, 2011 and April 30, 2010, respectively.

Termination of Proposed Merger with Data Domain, Inc.

In July 2009, a proposed merger between us and Data Domain, Inc. (Data Domain) was terminated by Data Domain's Board of Directors and, pursuant to the terms of the agreement, Data Domain paid us a $57.0 million termination fee. We incurred $15.9 million of incremental third-party costs relating to the terminated merger transaction during the same period, resulting in a net amount of $41.1 million which is included in acquisition related (income) expense, net in our consolidated statements of operations for the fiscal year ended April 30, 2010.

7. Goodwill and Purchased Intangible Assets

Goodwill activity is summarized as follows (in millions):

April 24, 2009	$681.0
Additions	0.0
April 30, 2010	681.0
Additions	79.3
April 29, 2011	$760.3

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We conducted our annual goodwill impairment test in the three month period ended April 29, 2011. Based on this analysis, we determined that there was no impairment to goodwill. We will continue to monitor conditions and changes that could indicate that our recorded goodwill may be impaired.

Identified intangible assets are summarized as follows (in millions):

	April 29, 2011			April 30, 2010		
	Gross Assets	Accumulated Amortization	Net Assets	Gross Assets	Accumulated Amortization	Net Assets
Identified Intangible Assets:						
Existing technology	$66.1	$ (23.2)	$42.9	$75.1	$ (55.5)	$19.6
Trademarks and tradenames	7.7	(5.5)	2.2	6.4	(4.3)	2.1
Customer contracts/relationships	12.0	(4.6)	7.4	12.2	(8.8)	3.4
Covenants not to compete	0.6	(0.1)	0.5	0.0	0.0	0.0
Total identified intangible assets	$86.4	$ (33.4)	$53.0	$93.7	$ (68.6)	$25.1

During fiscal 2011, we retired $52.9 million of fully amortized intangible assets relating to prior acquisitions.

Amortization expense for identified intangible assets is summarized below (in millions):

	Year Ended			Statements of Operations Classifications
	April 29, 2011	April 30, 2010	April 24, 2009	
Existing technology	$ 13.3	$ 17.2	$ 25.0	Cost of product revenues
Trademarks and tradenames	1.2	1.0	1.1	Sales and marketing
Customer contracts/relationships	3.0	2.4	3.3	Sales and marketing
Covenants not to compete	0.2	0.0	0.0	Sales and marketing/R&D
	$ 17.7	$ 20.6	$ 29.4	

In fiscal 2009, we ceased development and availability of our SnapMirror for Open Systems product, and as a result recorded impairment charges of $14.9 million attributable to identified intangible assets related to this product line.

As of April 29, 2011, future amortization expense related to identifiable intangible assets is as follows (in millions):

Fiscal Year	Amount
2012	$ 16.8
2013	14.4
2014	8.3
2015	7.5
2016	3.4
Thereafter	2.6
Total	$ 53.0

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8. Balance Sheet Detail

Cash and cash equivalents (in millions):

	April 29, 2011	April 30, 2010
Cash	$1,169.1	$ 187.8
Cash equivalents	1,588.2	1,517.2
	$2,757.3	$1,705.0

Inventories (in millions):

	April 29, 2011	April 30, 2010
Purchased components	$ 7.5	$ 9.4
Work-in-process	0.1	0.2
Finished goods	100.9	103.3
	$108.5	$112.9

Other current assets (in millions):

	April 29, 2011	April 30, 2010
Net deferred tax assets	$145.7	$ 69.6
Prepaid expenses and other current assets	188.4	157.0
Short-term restricted cash	5.3	2.1
	$339.4	$228.7

Property and equipment (in millions):

	April 29, 2011	April 30, 2010
Land	$ 204.7	$ 204.7
Buildings and building improvements	406.2	394.8
Leasehold improvements	79.3	73.7
Computers, production, engineering and other equipment	475.5	392.0
Software	270.4	236.6
Furniture and fixtures	61.5	63.2
Construction-in-progress	91.9	37.0
	1,589.5	1,402.0
Accumulated depreciation and amortization	(677.9)	(597.6)
	$ 911.6	$ 804.4

Depreciation and amortization expense related to property and equipment is summarized below:

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
Depreciation and amortization expense	$147.9	$145.4	$141.1

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Computer software represents capitalized internal-use software development costs. The net book value of computer software is as follows:

	April 29, 2011	April 30, 2010
Computer software	$ 88.3	$ 76.0

Amortization expense related to computer software is summarized below:

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
Computer software amortization expense	$ 37.9	$ 36.6	$ 32.6

Long term investments and restricted cash (in millions):

	April 29, 2011	April 30, 2010
Auction rate securities	$ 65.1	$ 69.0
Nonmarketable securities	1.3	1.4
Restricted cash	2.8	2.4
	$ 69.2	$ 72.8

Short-term and long-term deferred revenue (in millions):

	April 29, 2011	April 30, 2010
Product	$ 106.2	$ 78.4
Service	2,208.7	1,836.2
Total	$2,314.9	$1,914.6
Reported as:		
Short-term	$1,226.6	$1,135.1
Long-term	1,088.3	779.5
Total	$2,314.9	$1,914.6

9. Financial Instruments and Fair Value

We measure assets and liabilities at fair value based upon expected exit price, representing the amount that would be received on the sale of an asset or paid to transfer a liability, as the case may be, in an orderly transaction between market participants. As such, fair value is based on assumptions that market participants would use in pricing an asset or liability. The accounting guidance provides a framework for measuring fair value on either a recurring or nonrecurring basis whereby inputs, used in valuation techniques, are assigned a hierarchical level. The following are the hierarchical levels of inputs to measure fair value:

Level 1: Observable inputs that reflect quoted prices (unadjusted) for identical assets or liabilities in active markets.

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Level 2: Inputs reflect quoted prices for identical assets or liabilities in markets that are not active; quoted prices for similar assets or liabilities in active markets; inputs other than quoted prices that are observable for the assets or liabilities; or inputs that are derived principally from or corroborated by observable market data by correlation or other means.

Level 3: Unobservable inputs reflecting our own assumptions incorporated in valuation techniques used to determine fair value. These assumptions are required to be consistent with market participant assumptions that are reasonably available.

We consider an active market to be one in which transactions for the asset or liability occur with sufficient frequency and volume to provide pricing information on an ongoing basis, and view an inactive market as one in which there are few transactions for the asset or liability, the prices are not current, or price quotations vary substantially either over time or among market makers. Where appropriate, our own or the counterparty's non-performance risk is considered in determining the fair values of liabilities and assets, respectively.

Investments

The following is a summary of investments at April 29, 2011 and April 30, 2010 (in millions):

	April 29, 2011				April 30, 2010			
		Gross Unrealized		Estimated		Gross Unrealized		
	Cost	Gains	Losses	Fair Value	Cost	Gains	Losses	Estimated Fair Value
Corporate bonds	$1,643.2	$10.2	$ (0.6)	$1,652.8	$1,128.1	$ 3.4	$ (1.8)	$1,129.7
Auction rate securities	69.2	0.4	(4.5)	65.1	71.6	0.7	(3.3)	69.0
U.S. treasury and government debt securities	661.9	0.6	(0.7)	661.8	816.9	2.1	(0.1)	818.9
Commercial paper	5.0	0.0	0.0	5.0	215.9	0.0	0.0	215.9
Municipal bonds	1.5	0.0	0.0	1.5	1.5	0.0	0.0	1.5
Certificates of deposit	96.3	0.0	0.0	96.3	159.0	0.0	0.0	159.0
Money market funds	1,539.6	0.0	0.0	1,539.6	1,211.2	0.0	0.0	1,211.2
Equity funds	20.2	0.0	0.0	20.2	12.6	0.0	0.0	12.6
Investment in privately-held companies	1.3	0.0	0.0	1.3	1.4	0.0	0.0	1.4
Total debt and equity securities	$4,038.2	$11.2	$ (5.8)	$4,043.6	$3,618.2	$ 6.2	$ (5.2)	$3,619.2

We record net unrealized gains or losses on available-for-sale securities that are determined to be temporary in other comprehensive income (loss). The following table shows the gross unrealized losses and fair values of our investments, aggregated by investment category and length of time that individual securities have been in a continuous unrealized loss position, at April 29, 2011 (in millions):

	Less than 12 Months		12 Months or Greater		Total	
	Fair Value	Unrealized Loss	Fair Value	Unrealized Loss	Fair Value	Unrealized Loss
Corporate bonds	$ 236.7	$ (0.6)	$ 1.1	$ 0.0	$ 237.8	$ (0.6)
Auction rate securities	0.0	0.0	51.0	(4.5)	51.0	(4.5)
U.S. treasury and government debt securities	193.4	(0.7)	0.0	0.0	193.4	(0.7)
Total	$ 430.1	$ (1.3)	$ 52.1	$ (4.5)	$ 482.2	$ (5.8)

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The following table shows the gross unrealized losses and fair values of our investments, aggregated by investment category and length of time that individual securities have been in a continuous unrealized loss position, at April 30, 2010 (in millions):

	Less than 12 Months		12 Months or Greater		Total	
	Fair Value	Unrealized Loss	Fair Value	Unrealized Loss	Fair Value	Unrealized Loss
Corporate bonds	$ 516.1	$ (1.8)	$ 0.0	$ 0.0	$ 516.1	$ (1.8)
Auction rate securities	0.0	0.0	59.7	(3.3)	59.7	(3.3)
U.S. treasury and government debt securities	165.3	(0.1)	0.0	0.0	165.3	(0.1)
Total	$ 681.4	$ (1.9)	$ 59.7	$ (3.3)	$ 741.1	$ (5.2)

The following table presents the contractual maturities of our debt investments as of April 29, 2011 (in millions):

Debt Investment Maturities	Cost	Fair Value
Due in one year or less	$ 814.6	$ 817.6
Due in one through five years	1,593.2	1,599.8
Due in five through ten years	0.0	0.0
Due after ten years*	69.2	65.1
	$2,477.0	$2,482.5

* Consists of auction rate securities which have contractual maturities of greater than 10 years.

Fair Value of Financial Instruments

The following table summarizes our financial assets and liabilities measured at fair value on a recurring basis as of April 29, 2011 (in millions):

	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets				
Corporate bonds	$1,652.8	$ 0.0	$1,652.8	$ 0.0
U.S. treasury and government debt securities	661.8	5.0	656.8	0.0
Municipal bonds	1.5	0.0	1.5	0.0
Commercial paper	5.0	0.0	5.0	0.0
Certificates of deposit	96.3	0.0	96.3	0.0
Money market funds	1,539.6	1,539.6	0.0	0.0
Auction rate securities	65.1	0.0	0.0	65.1
Equity funds	20.2	20.2	0.0	0.0
Investment in privately-held companies	1.3	0.0	0.0	1.3
Foreign currency contracts	0.4	0.0	0.4	0.0
Total	$4,044.0	$ 1,564.8	$2,412.8	$ 66.4
Liabilities				
Foreign currency contracts	$ (10.9)	$ 0.0	$ (10.9)	$ 0.0

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Reported as (in millions):

	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets				
Cash equivalents	$1,539.6	$ 1,539.6	$ 0.0	$ 0.0
Short-term investments	2,417.4	5.0	2,412.4	0.0
Other current assets	4.1	3.7	0.4	0.0
Long-term investments	65.1	0.0	0.0	65.1
Other non-current assets	17.8	16.5	0.0	1.3
Total	$4,044.0	$ 1,564.8	$2,412.8	$ 66.4
Liabilities				
Other current liabilities	$ (10.9)	$ 0.0	$ (10.9)	$ 0.0

We classify investments within Level 1 if quoted prices are available in active markets. Level 1 investments generally include trading securities with quoted prices on active markets, and money market funds.

We classify items in Level 2 if the investments are valued using observable inputs to quoted market prices, benchmark yields, reported trades, broker/dealer quotes or alternative pricing sources with reasonable levels of price transparency. These investments include: corporate bonds, commercial paper, U.S. Treasuries, U.S. government agency bonds, municipal bonds, certificates of deposit, and foreign currency contracts. Investments are held by a custodian who obtains investment prices from a third party pricing provider that incorporates standard inputs in various asset price models. We corroborate the prices obtained from the pricing service against other independent sources and, as of April 29, 2011, have not found it necessary to make any adjustments to the prices obtained.

The unrealized losses on our available-for-sale investments in corporate bonds and U.S. treasury and government debt securities were caused by market value declines as a result of the recent economic environment, as well as fluctuations in market interest rates. Because the decline in market value is attributable to changes in market conditions and not credit quality, and because we neither intend to sell nor are likely to be required to sell these investments prior to a recovery of par value, we do not consider these investments to be other-than temporarily impaired at April 29, 2011.

Our foreign currency forward exchange contracts are also classified within Level 2. We determine the fair value of these instruments by considering the estimated amount we would pay or receive to terminate these agreements at the reporting date. We use observable inputs, including quoted prices in active markets for similar assets or liabilities. Our foreign currency derivative contracts are classified within Level 2 as the valuation inputs are based on quoted market prices of similar instruments in active markets.

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We classify items in Level 3 if the investments are valued using a pricing model or based on unobservable inputs in the market. These investments include auction rate securities and cost method investments. The table below provides a reconciliation of the beginning and ending balance of our Level 3 financial assets measured at fair value on a recurring basis using significant unobservable inputs as of April 29, 2011 (in millions).

	Primary Fund	Auction Rate Securities	Private Equity Fund	Privately-Held Companies
Balance at April 24, 2009	$ 51.6	$ 66.5	$ 2.0	$ 1.9
Total unrealized gains included in other comprehensive income	0.0	4.2	0.0	0.0
Total realized gains (losses) included in earnings	(0.2)	0.0	0.8	2.6
Purchases, sales and settlements, net	(51.4)	(1.7)	(1.4)	(4.5)
Balance at April 30, 2010	0.0	69.0	1.4	0.0
Total unrealized losses included in other comprehensive income	0.0	(1.4)	0.0	0.0
Total realized losses included in earnings	0.0	0.0	(0.1)	0.0
Purchases, sales and settlements, net	0.0	(2.5)	0.0	0.0
Balance at April 29, 2011	$ 0.0	$ 65.1	$ 1.3	$ 0.0

As of April 24, 2009, we held an investment in the Reserve Primary Fund (the Primary Fund), a money market fund which had suspended redemptions in September 2008 and was in the process of liquidating its portfolio of investments, with a recorded value of $51.6 million that had been previously written down from its par value of $60.9 million. During fiscal 2010, the Primary Fund made multiple distributions of its assets to its investors and we recognized an additional loss of $0.2 million in our income statement, and as of April 30, 2010, we had recovered $51.4 million of our recorded investment. Future distributions, if any, will be recognized as income upon receipt. During fiscal 2011 and 2010, we received $2.5 million and $1.0 million, respectively, in distributions from our investment in the Primary Fund.

As of April 29, 2011 and April 30, 2010, we had auction rate securities (ARSs) with a par value of $71.3 million and $73.8 million, respectively, and an estimated fair value of $65.1 million and $69.0 million, respectively, which are classified as long-term investments. All of our ARSs are backed by pools of student loans guaranteed by the U.S. Department of Education. As of April 29, 2011, we recorded cumulative net temporary impairment charges of $4.1 million within AOCI. In addition, we recorded other-than-temporary impairment charges of $2.1 million in other income (expense), net, during fiscal 2009 based on an analysis of the fair value and marketability of these investments. We estimated the fair value for each individual ARS using an income (discounted cash flow) approach that incorporates both observable and unobservable inputs to discount the expected future cash flows. Key inputs into the discounted cash flow analysis include managements' expectation of when the principal amount will be recovered either through redemption at par, or some other refinancing event by the issuer; and marketability adjustments. Based on our ability to access our cash and other short-term investments, our expected operating cash flows, and our other sources of cash, we do not intend to sell these investments prior to recovery of value. We will continue to monitor our ARS investments in light of the current debt market environment and evaluate our accounting for these investments.

As of April 29, 2011 and April 30, 2010, we held investments in a private equity fund of $1.3 million and $1.4 million, respectively. During fiscal 2011, we recorded a net other-than-temporary impairment charge of $0.1 million on the private equity fund. During fiscal 2010, we recorded realized gains of $0.8 million on this investment and $2.6 million on equity investments in privately held companies. During fiscal 2009, we recorded

$6.3 million of other-than-temporary impairment charges on certain of the equity investments in privately held companies and adjusted their carrying amount to fair value, as we deemed the decline in the value of those assets to be other-than-temporary.

Other Fair Value Disclosures

The fair value of certain of our financial instruments that are not measured at fair value, including accounts receivable, accounts payable, accrued compensation, and other current liabilities, approximates the carrying amount because of their short maturities. The fair value of our Notes is disclosed in Note 10 of the accompanying consolidated financial statements and was determined using quoted market prices for those securities.

10. Financing Arrangements

1.75% Convertible Senior Notes Due 2013

On June 10, 2008, we issued $1,265.0 million aggregate principal amount of 1.75% Convertible Senior Notes due 2013 (the Notes). The Notes are unsecured, unsubordinated obligations of the Company. Interest is payable in cash semi-annually at a rate of 1.75% per annum. The Notes will mature on June 1, 2013 unless repurchased or converted in accordance with their terms prior to such date. The Notes may be converted, under the conditions specified below, based on an initial conversion rate of 31.40 shares of common stock per 1,000 principal amount of Notes (which represents an initial effective conversion price of the Notes of approximately $31.85 per share), subject to adjustment as described in the indenture governing the Notes. We received net proceeds of $1,238.4 million, after deducting issuance costs of $26.6 million.

The Notes are not redeemable by us prior to the maturity date. In the event of a fundamental change, holders of the Notes may require us to repurchase all or a portion of their Notes at a repurchase price equal to 100% of the principal amount of the Notes plus accrued and unpaid interest, if any, to, but excluding, the fundamental change repurchase date.

The holders of the Notes may convert their Notes until the close of business on the scheduled trading day immediately preceding the maturity date if any of the following conditions are met: (1) during the five business day period after any five consecutive trading day period (the measurement period) in which the trading price of the Notes for each day in the measurement period was less than 98% of the product of the last reported sale price of our common stock and the conversion rate for the Notes on each such day; (2) during any calendar quarter (and only during such calendar quarter) if the last reported sale price of our common stock for 20 or more trading days in a period of 30 consecutive trading days ending on the last trading day of the immediately preceding calendar quarter exceeds 130% of the applicable conversion price in effect for the Notes on the last trading day of such immediately preceding calendar quarter; or (3) upon the occurrence of specified corporate transactions set forth in the indenture for the Notes. On or after March 1, 2013 until the scheduled trading day immediately preceding the maturity date, holders of the Notes may convert their Notes regardless of the foregoing conditions. Upon conversion, a holder will receive cash in an amount equal to the lesser of the conversion value and the principal amount of the Notes, and any shares of our common stock for any conversion value in excess of the principal amount of the Notes, if any. Holders of the Notes who convert their Notes in connection with a fundamental change (as defined in the indenture for the Notes) will, under certain circumstances, be entitled to a make-whole premium in the form of an increase in the conversion rate.

For at least 20 trading days during the 30 consecutive trading days ended March 31, 2011, our common stock price exceeded the conversion threshold price of $41.41 per share set forth for these Notes. Accordingly, the Notes are convertible at the holder's option through June 30, 2011, and the carrying value of the Notes was classified as a current liability as of April 29, 2011. Since the Notes are convertible at the option of the holder and the principal amount is required to be paid in cash, the difference between the principal amount and the carrying value of the Notes is reflected as convertible debt in mezzanine on our Balance Sheet as of April 29, 2011. The determination of whether or not the Notes are convertible must continue to be performed on a quarterly basis. Consequently, the Notes may not be convertible in future quarters, and therefore may again be classified as long-term debt, if the contingent conversion thresholds are not met in such quarters.

Upon conversion of any Notes, we deliver cash up to the principal amount of the Notes and, with respect to any excess conversion value greater than the principal amount of the Notes, shares of our common stock. As of April 29, 2011, shares issued related to the Notes were minimal. Based on the closing price of our common stock of $52.11 on April 29, 2011, the if-converted value of our Notes exceeded their principal amount by approximately $834.3 million.

We separately account for the liability and equity components of the Notes. The initial debt component of the Notes was valued at $1,017.0 million based on the contractual cash flows discounted at an appropriate comparable market non-convertible debt borrowing rate at the date of issuance of 6.31%, with the equity component representing the residual amount of the proceeds of $248.0 million which was recorded as a debt discount. Issuance costs were allocated pro rata based on the relative initial carrying amounts of the debt and equity components. As a result, $5.2 million of the issuance costs were allocated to the equity component of the Notes, and $21.4 million of the issuance costs remained classified as long-term other assets. The debt discount and the issuance costs allocated to the debt component are amortized as additional interest expense over the term of the Notes using the effective interest method and an effective interest rate of 6.31% for all periods presented.

The following table reflects the carrying value of our convertible debt as of April 29, 2011 and April 30, 2010 (in millions):

	April 29, 2011	April 30, 2010
1.75% Convertible Notes Due 2013	$1,265.0	$1,265.0
Less: Unamortized discount	(114.6)	(163.5)
Net carrying amount of Notes	$1,150.4	$1,101.5

The following table presents the amount of interest cost recognized relating to both the contractual interest coupon and the amortization of the discount and issuance costs (in millions):

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
Contractual coupon interest expense	$ 22.1	$ 22.5	$ 19.4
Amortization of debt discount	48.9	46.8	37.8
Amortization of issuance costs	4.2	4.0	3.2
Total interest expense recognized	$ 75.2	$ 73.3	$ 60.4

The following table reflects the remaining debt discount and issuance cost as of April 29, 2011 (in millions):

Remaining debt discount	$ 114.6
Remaining issuance costs	9.9
Remaining life of the Notes (years)	2.1

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Note Hedges and Warrants

Concurrent with the issuance of the Notes, we purchased Note hedges and sold warrants. The separate Note hedge and warrants transactions are structured to reduce the potential future economic dilution associated with the conversion of the Notes.

- Note Hedges. As of April 29, 2011 and April 30, 2010, we have transactions with counterparties to buy up to approximately 31.8 million shares, subject to anti-dilution adjustments, of our common stock at a price of $31.85 per share, subject to adjustment. The Note hedge transactions will expire at the earlier of (1) the last day on which any Notes remain outstanding and (2) the scheduled trading day immediately preceding the maturity date of the Notes. Upon exercise of the Note hedges, we have the option to receive cash or shares of our common stock equal to the difference between the then market price and the strike price of the hedges.
- Warrants. As of April 29, 2011 and April 30, 2010, we have outstanding warrants for others to acquire, subject to anti-dilution adjustments, 39.7 million shares of our common stock at an exercise price of $41.28 per share, subject to adjustment, on a series of days commencing on September 3, 2013. Upon exercise of the warrants, we have the option to deliver cash or shares of our common stock equal to the difference between the then market price and the strike price of the warrants.

As of April 29, 2011, we are subject to potential dilution on the approximately 20% unhedged portion of our Notes upon conversion, if on the date of conversion, the per-share market price of our common stock exceeds the conversion price of approximately $31.85.

As of April 29, 2011, receipts of shares related to the Note hedge transactions were minimal. Additionally, there was no cash or shares delivered in relation to the warrant transactions. We received proceeds of $163.1 million related to the sale of the warrants in fiscal year 2009, which has been classified as equity. In fiscal years 2009 and 2010 we did not receive any shares related to the Note hedge transactions or deliver cash or shares related to the warrant transactions.

Lehman Brothers OTC Derivatives, Inc. (Lehman OTC) was the counterparty to 20% of our Note hedges. The bankruptcy filing by Lehman OTC on October 3, 2008 constituted an “event of default” under the hedge transaction. In April 2010, we terminated the hedge transaction with Lehman OTC in exchange for an unsecured bankruptcy claim, which we subsequently sold to a third party for $14.2 million. Because we have decided not to replace the hedge, we are subject to potential dilution on the 20% unhedged portion of our Notes upon conversion, if on the date of conversion, the per-share market price of our common stock exceeds the conversion price of $31.85. The terms of the Notes, the rights of the holders of the Notes and other counterparties to Note hedges and warrants were not affected by the termination of this hedge.

Fair Value of Notes

As of April 29, 2011, the approximate fair value of the principal amount of our Notes, which includes the debt and equity components, was approximately $2,127.5 million, or 168% of the face value of the Notes, based upon quoted market information.

Other Long-Term Financing Arrangements

The following presents the amounts due under other long-term financing arrangements (in millions):

	April 29, 2011	April 30, 2010
Current portion of other long-term financing arrangements	$ 5.5	$ 0.0
Non-current portion of other long-term financing arrangements	6.0	0.0
	$ 11.5	$ 0.0

11. Stockholders' Equity

Equity Incentive Programs

Acquisition Plans — We have assumed stock incentive plans in connection with our acquisitions. The options granted under these plans generally vest at a rate of 25% on the first anniversary of the vesting commencement date and then ratably over the following 36 months. The restricted stock units generally vest at a rate of 50% on the first and second annual anniversaries of the vesting commencement date.

The 1999 Plan — As amended through July 13, 2010, the 1999 Stock Option Plan ("the 1999 Plan") comprises five separate equity incentive programs: (i) the Discretionary Option Grant Program under which options may be granted to eligible individuals at a fixed price per share; (ii) the Stock Appreciation Rights Program under which eligible persons may be granted stock appreciation rights that allow individuals to receive the appreciation in Fair Market Value of the shares; (iii) the Stock Issuance Program under which eligible individuals may be issued shares of Common Stock directly; (iv) the Performance Share and Performance Unit Program (also known as restricted stock units or RSUs) under which eligible persons may be granted performance shares and performance units which result in payment to the participant only if performance goals or other vesting criteria are achieved; and (v) the Automatic Award Program under which nonemployee board members automatically receive equity grants at designated intervals over their period of board service.

Under the 1999 Plan, the Board of Directors may grant to employees, nonemployee directors, and consultants and other independent advisors options to purchase shares of our common stock during their period of service with us. The exercise price for an incentive stock option and a nonstatutory option cannot be less than 100% of the fair market value of the common stock on the grant date. Options granted under the 1999 Plan generally vest over a four-year period. Options granted prior to April 29, 2006, have a term of no more than 10 years after the date of grant and those granted after April 29, 2006 have a term of no more than seven years, subject to earlier termination upon the occurrence of certain events. The 1999 Plan prohibits the repricing of any outstanding stock option or stock appreciation right after it has been granted or to cancel any outstanding stock option or stock appreciation right and immediately replace it with a new stock option or stock appreciation right with a lower exercise price unless approved by stockholders. RSUs granted under the 1999 Plan generally vest over a four-year period with 25% of the units vesting on each annual anniversary of the grant date. The 1999 Plan limits the number of shares issued under the Stock Issuance Program and the Performance Share and Performance Unit Program to 8.9 million shares plus 50% of the awards cancelled and returned to the 1999 Plan and 50% of the number of shares added to the 1999 Plan after the 2009 Annual Meeting. The 1999 Plan limits the value of performance units a participant may receive during any calendar year to $2.0 million. The 1999 Plan expires in August 2019.

In fiscal 2011, the 1999 Plan was amended to increase the shares reserved for issuance under the plan by an additional 7.0 million. As of April 29, 2011, 14.1 million shares were available for grant under our equity incentive plans.

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Stock Options

A summary of the combined activity under our stock option plans and agreements is as follows (in millions, except for per share information and term):

	Numbers of Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value
Outstanding at April 25, 2008	65.6	$ 30.03		
Options granted	8.7	17.67		
Options exercised	(3.7)	11.20		
Options forfeitures and cancellations	(4.5)	32.61		
Outstanding at April 24, 2009	66.1	29.27		
Options granted	7.1	26.95		
Options exercised	(8.5)	19.33		
Options cancelled in the Exchange	(24.5)	39.05		
Options forfeitures and cancellations	(5.0)	39.12		
Outstanding at April 30, 2010	35.2	23.02		
Options granted	3.9	45.28		
Options assumed in acquisition	0.2	16.56		
Options exercised	(13.8)	21.85		
Options forfeitures and cancellations	(1.0)	34.43		
Outstanding at April 29, 2011	24.5	$ 26.62	4.34	$ 626.5
Options vested and expected to vest as of April 29, 2011	23.3	$ 26.25	4.27	$ 604.2
Exercisable at April 29, 2011	13.9	$ 23.81	3.54	$ 394.5

The intrinsic value of stock options represents the difference between the exercise price of stock options and the market price of our stock on that day for all in-the-money options. Additional information related to our stock options is summarized below (in millions except per share information):

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
Weighted-average fair value per share granted	$15.83	$ 9.74	$ 7.28
Weighted-average fair value per share of options assumed in acquisition	$21.15	N/A	N/A
Intrinsic value of options exercised	$325.3	$ 92.9	$ 30.3
Proceeds received from the exercise of stock options	$301.1	$165.1	$ 41.1
Fair value of options vested	$ 96.6	$165.6	$179.8

There was $91.7 million of total unrecognized compensation expense as of April 29, 2011 related to options. The unrecognized compensation expense will be amortized on a straight-line basis over a weighted-average remaining period of 2.3 years.

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The following table summarizes information about stock options outstanding under all option plans as of April 29, 2011 (in millions, except for per share information and life):

Range of Exercise Prices		Options Outstanding: Number Outstanding at April 29, 2011	Options Outstanding: Weighted Average Remaining Contractual Life (In Years)	Options Outstanding: Weighted Average Exercise Price	Options Exercisable: Number Exercisable	Options Exercisable: Weighted Average Exercisable Price
$ 0.55	$12.17	0.9	2.38	$ 9.63	0.8	$ 9.40
12.25	13.56	2.9	4.57	13.50	1.2	13.48
13.63	20.52	2.5	2.29	17.05	2.3	17.06
20.61	20.86	2.5	4.73	20.71	1.1	20.73
20.92	22.93	2.5	3.59	22.10	1.8	22.10
22.94	24.72	2.6	4.33	24.01	1.5	23.89
24.98	31.73	2.5	3.93	29.15	2.3	29.20
31.89	33.54	3.3	4.77	33.22	1.5	32.89
33.77	39.83	2.5	5.18	37.26	1.2	37.27
40.30	58.99	2.3	6.41	50.43	0.2	46.34
$ 0.55	$58.99	24.5	4.34	$ 26.62	13.9	$ 23.81

The following table summarizes activity related to our RSUs (in millions, except the fair value):

	Numbers of Shares	Weighted Average Grant Date Fair Value
Outstanding at April 25, 2008	4.6	$ 26.30
RSUs granted	2.2	17.16
RSUs vested	(0.8)	28.81
RSUs forfeitures and cancellations	(0.5)	25.48
Outstanding at April 24, 2009	5.5	22.38
RSUs granted	3.1	29.32
RSUs issued in the Stock Option Exchange	3.2	21.73
RSUs vested	(2.1)	24.64
RSUs forfeitures and cancellations	(0.7)	23.39
Outstanding at April 30, 2010	9.0	23.92
RSUs granted	4.7	49.13
RSUs vested	(2.9)	22.52
RSUs forfeitures and cancellations	(0.7)	27.57
Outstanding at April 29, 2011	10.1	$ 35.79

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RSUs are converted into common stock upon vesting. Upon the vesting of restricted stock, we primarily use the net share settlement approach, which withholds a portion of the shares to cover the applicable taxes and decreases the shares issued to the employee by a corresponding value. The number and the value of the shares netted for employee taxes are summarized in the table below (in millions):

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
Shares withheld for taxes	1.0	0.7	0.3
Fair value of shares withheld	$ 45.9	$ 20.8	$ 5.1

As of April 29, 2011, there was $240.5 million of total unrecognized compensation expense related to RSUs. The unrecognized compensation expense will be amortized on a straight-line basis over a weighted-average remaining vesting period of 2.6 years.

Stock Option Exchange

In April 2009, our stockholders approved a stock option exchange program (the Exchange) pursuant to which eligible employees were able to exchange some or all of their outstanding options with an exercise price greater than or equal to $22.00 per share that were granted before June 20, 2008, whether vested or unvested, for new RSUs. In connection with the Exchange, we exchanged options to purchase 24.5 million shares of our common stock for total of 3.2 million RSUs. The fair value of the RSUs issued was measured as the total of the unrecognized compensation cost of the options surrendered and the incremental value of the RSUs issued, measured as the excess of the fair value of the RSUs over the fair value of the options tendered immediately before the exchange. The incremental cost of the RSUs was $5.8 million. The value of the RSUs, totaling $70.1 million, is being amortized over the weighted average vesting period of the RSUs of 3.5 years.

Stock Issuance Program — Under the 1999 Stock Issuance Program, certain eligible persons may be issued shares of common stock directly. No restricted stock awards (RSAs) were issued to employees during fiscal 2011, 2010 and 2009. At April 29, 2011, 7.7 million shares were available for future issuances under this program.

Employee Stock Purchase Plan — Under the Employee Stock Purchase Plan (ESPP), employees are entitled to purchase shares of our common stock at 85% of the fair market value at certain specified dates over a two-year period. In fiscal 2011, 2010 and 2009, the plan was amended to increase the share reserved by an additional 5.0 million, 6.7 million and 2.9 million shares of common stock, respectively. Of the 35.2 million shares authorized to be issued under this plan, 4.0 million shares were available for issuance at April 29, 2011. Additional information related to our purchase rights issued under the ESPP is summarized below (in millions, except per share information):

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
Weighted-average fair value per right granted	$15.86	$ 8.86	$ 6.17
Shares issued under the ESPP	6.0	5.1	3.3
Weighted average price of shares issued	$11.50	$10.49	$14.96

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Stock-Based Compensation Expense

Stock-based compensation expenses included in the consolidated statements of operations for fiscal 2011, 2010 and 2009, respectively, are as follows (in millions):

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
Cost of product revenues	$ 3.6	$ 4.0	$ 3.3
Cost of service revenues	14.4	14.3	12.3
Sales and marketing	81.5	73.7	65.1
Research and development	44.5	38.5	37.9
General and administrative	31.2	29.3	22.2
Total stock-based compensation expense	$175.2	$159.8	$140.8

The following table summarizes stock-based compensation associated with each type of award (in millions):

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
Employee stock options	$ 53.7	$ 61.1	$ 80.5
RSU's and restricted stock awards	88.9	64.1	32.9
ESPP	32.6	34.3	27.4
Change in amounts capitalized in inventory	0.0	0.3	0.0
Total stock-based compensation expense	$175.2	$159.8	$140.8

Total income tax benefits (charges) associated with employee stock transactions and recognized in stockholders' equity were as follows (in millions):

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
Income tax benefits (charges) associated with employee stock transactions	$128.5	$ (0.9)	$ 45.4

Valuation Assumptions

The fair value of each award is estimated on the date of grant using the Black-Scholes option pricing model, assuming no expected dividends and the following weighted average assumptions:

	Stock Options Year Ended			ESPP Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009	April 29, 2011	April 30, 2010	April 24, 2009
Expected term in years	4.8	4.5	4.0	1.2	1.3	1.3
Risk-free interest rate	2.01%	2.27%	2.11%	0.37%	0.39%	1.16%
Volatility	37%	41%	54%	39%	39%	73%

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Stock Repurchase Program

Since the May 13, 2003 inception of our stock repurchase program through April 29, 2011, we have repurchased a total of 104.3 million shares of our common stock at an average price of $28.06 per share, for an aggregate purchase price of $2.9 billion. As of April 29, 2011, our Board of Directors had authorized the repurchase of up to $4.0 billion of common stock under this stock repurchase program, and $1.1 billion remains available under these authorizations. The stock repurchase program may be suspended or discontinued at any time.

During fiscal years 2011 and 2010, we did not repurchase any shares of our common stock under the stock repurchase program. During fiscal 2009, we repurchased 17.0 million shares of our common stock at an aggregate cost of $400.0 million, or a weighted average price of $23.58 per share. The repurchases were recorded as treasury stock and resulted in a reduction of stockholders' equity.

Preferred Stock

Our Board of Directors has the authority to issue up to 5.0 million shares of preferred stock and to determine the price, rights, preferences, privileges, and restrictions, including voting rights, of those shares without any further vote or action by the stockholders.

Comprehensive Income (Loss)

Comprehensive income (loss) consists of net income and other comprehensive income (OCI), which is a separate component of stockholders' equity and is disclosed within the consolidated statements of stockholders' equity and comprehensive income. OCI includes foreign currency translation adjustments, unrealized gains and losses on derivatives and unrealized gains and losses on our available-for-sale securities, which includes a cumulative temporary impairment charge of $4.5 million, $3.3 million and $7.0 million in fiscal 2011, 2010 and 2009, respectively, associated with our auction rate securities.

The components of accumulated other comprehensive income (loss), net of related tax effects, at the end of each fiscal year, were as follows (in millions):

	April 29, 2011	April 30, 2010	April 24, 2009
Accumulated translation adjustments	$ 11.6	$ 1.2	$ (0.3)
Accumulated unrealized gain (loss) on available-for-sale investments	3.4	0.9	(4.4)
Accumulated unrealized gain (loss) on derivatives qualifying as cash flow hedges	(2.2)	0.7	(0.5)
Total accumulated other comprehensive income (loss)	$ 12.8	$ 2.8	$ (5.2)

12. Derivatives and Hedging Activities

We use derivative instruments to manage exposures to foreign currency risk. Our primary objective in holding derivatives is to reduce the volatility of earnings and cash flows associated with changes in foreign currency. The program is not designated for trading or speculative purposes. Our derivatives expose us to credit risk to the extent that the counterparties may be unable to meet the terms of the agreement. We seek to mitigate such risk by limiting our counterparties to major financial institutions. In addition, the potential risk of loss with

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any one counterparty resulting from this type of credit risk is monitored on an ongoing basis. We also have in place a master netting arrangement to mitigate the credit risk of our counterparty and potentially to reduce our losses due to counterparty nonperformance. All contracts have a maturity of less than six months.

Our major foreign currency exchange exposures and related hedging programs are described below:

Balance Sheet. We utilize monthly foreign currency forward and options contracts to hedge exchange rate fluctuations related to certain foreign monetary assets and liabilities. These derivative instruments do not subject us to material balance sheet risk due to exchange rate movements because gains and losses on these derivatives are intended to offset gains and losses on the assets and liabilities being hedged and the net amount is included in earnings.

Forecasted Transactions. We use currency forward contracts to hedge exposures related to forecasted sales denominated in certain foreign currencies. These contracts are designated as cash flow hedges and in general closely match the underlying forecasted transactions in duration. The contracts are carried on the balance sheet at fair value, and the effective portion of the contracts' gains and losses is recorded as AOCI until the forecasted transaction occurs. When the forecasted transaction occurs, we reclassify the related gain or loss on the cash flow hedge to revenues. If the underlying forecasted transactions do not occur, or it becomes probable that they will not occur, the gain or loss on the related cash flow hedge is recognized immediately in earnings. We measure the effectiveness of hedges of forecasted transactions on a monthly basis by comparing the fair values of the designated currency forward contracts with the fair values of the forecasted transactions. Any ineffective portion of the derivative hedging gain or loss as well as changes in the fair value of the derivative's time value (which are excluded from the assessment of hedge effectiveness) is recognized in current period earnings.

Over the next twelve months, it is expected that $2.3 million of derivative net losses recorded in AOCI as of April 29, 2011 will be reclassified into earnings as an adjustment to revenues. The maximum length of time over which forecasted foreign denominated revenues are hedged is six months.

The notional value of our outstanding currency forward contracts that were entered into to hedge forecasted foreign denominated sales and our balance sheet monetary asset and liability exposures consisted of the following (in millions):

	April 29, 2011	April 30, 2010
Cash Flow Hedges		
Euro	$104.0	$ 81.0
British Pound Sterling	20.9	18.9
Balance Sheet Contracts		
Euro	253.7	232.6
British Pound Sterling	70.8	57.0
Canadian Dollar	56.0	28.1
Australian Dollar	34.4	23.0
Other	52.6	43.6

As of April 29, 2011 and April 30, 2010, the fair value of our short-term foreign currency contracts was not material. Certain of these contracts are designed to hedge our exposure to foreign monetary assets and liabilities and are not accounted for as a hedging activity. Accordingly, changes in fair value of these instruments are recognized in earnings during the period of change. Net deferred gains and losses relating to changes in fair value of our foreign currency contracts that are accounted for as cash flow hedges were not material for any period presented. We did not recognize any gains and losses in earnings due to hedge ineffectiveness for any period presented. The amount of net losses recorded in AOCI as of April 29, 2011 was not material. Gain (loss) on derivative instruments was a loss of $20.6 million in fiscal 2011 and gains of $8.2 million and $20.9 million in fiscal years 2010 and 2009, respectively.

13. Restructuring and Other Charges

Fiscal 2011 restructuring charges primarily related to charges taken as a result of the Akorri acquisition and adjustments to future lease commitments and employee severance costs associated with our fiscal 2009 restructuring plan.

Activities related to the restructuring reserves for fiscal 2011, 2010 and 2009 were as follows (in millions):

	Severance-Related Charges	Facilities	Contract Cancellation Costs	Other	Fixed Assets Write-off	Intangible Write-off	Total
Reserve balance at April 25, 2008	$ 0.0	$ 1.9	$ 0.0	$ 0.0	$ 0.0	$ 0.0	$ 1.9
Restructuring and other charges	28.0	4.5	0.3	2.9	3.8	14.9	54.4
Cash payments	(17.6)	(1.0)	(0.1)	(1.8)	0.0	0.0	(20.5)
Non-cash charges	0.0	0.3	0.0	0.1	(3.8)	(14.9)	(18.3)
Foreign currency changes	(0.1)	(0.2)	0.0	0.0	0.0	0.0	(0.3)
Reserve balance at April 24, 2009	10.3	5.5	0.2	1.2	0.0	0.0	17.2
Restructuring and other charges	0.6	1.6	(0.1)	0.4	0.0	0.0	2.5
Cash payments	(11.1)	(3.3)	(0.1)	(1.5)	0.0	0.0	(16.0)
Foreign currency changes	0.2	0.3	0.0	(0.1)	0.0	0.0	0.4
Reserve balance at April 30, 2010	0.0	4.1	0.0	0.0	0.0	0.0	4.1
Restructuring and other charges	2.4	(0.6)	0.0	0.0	0.0	0.0	1.8
Cash payments	(2.4)	(3.5)	0.0	0.0	0.0	0.0	(5.9)
Foreign currency changes	0.0	0.1	0.0	0.0	0.0	0.0	0.1
Reserve balance at April 29, 2011	$ 0.0	$ 0.1	$ 0.0	$ 0.0	$ 0.0	$ 0.0	$ 0.1

Akorri Acquisition Restructuring

In the fourth quarter of 2011, we incurred restructuring charges relating to the acquisition of Akorri. Restructuring expenses of $2.4 million were accrued for and paid out for severance-related charges during this period. As of April 29, 2011 we had approximately $0.1 million relating to abandoned lease-related restructuring reserves resulting from this acquisition.

Fiscal 2009 Restructuring Plans

In February 2009, we announced our decision to execute a worldwide restructuring program, which included a reduction in workforce, the closing or downsizing of certain facilities, and the establishment of a plan to outsource certain internal activities. In December 2008, we announced our decision to cease the development and availability of our SnapMirror® for Open Systems product, which was originally acquired through our acquisition of Topio in fiscal 2007. As part of this decision, we also announced the closure of our engineering facility in Haifa, Israel. As of April 29, 2011, we had no further facilities-related lease payment reserves related to these activities.

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Fiscal 2002 Restructuring Plan

As of April 29, 2011, we have no material balances remaining in facility restructuring reserves established as part of a restructuring plan in fiscal 2002 related to future lease commitments on exited facilities, net of expected sublease income.

The total restructuring reserve balance of $0.1 million as of April 29, 2011 was included in other current liabilities.

14. Income Taxes

Income before income taxes is as follows (in millions):

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
Domestic	$307.6	$ 60.2	$(250.9)
Foreign	486.5	386.8	259.2
Total	$794.1	$447.0	$ 8.3

The provision for (benefit from) income taxes consists of the following (in millions):

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
Current:			
Federal	$113.0	$ 33.6	$ 16.2
State	(1.3)	1.5	40.8
Foreign	35.6	22.8	11.2
Total current	147.3	57.9	68.2
Deferred:			
Federal	(27.5)	(4.6)	(78.7)
State	13.7	(2.9)	(52.0)
Foreign	(12.5)	(3.8)	6.2
Total deferred	(26.3)	(11.3)	(124.5)
Provision for (benefit from) income taxes	$121.0	$ 46.6	$ (56.3)

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The provision (benefit) for income taxes differs from the amount computed by applying the statutory federal income tax rate as follows (in millions):

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
Tax computed at federal statutory rate	$ 277.9	$ 156.5	$ 2.9
State income taxes, net of federal benefit	31.1	2.6	(7.9)
Federal credits	(17.8)	(7.8)	(9.2)
Stock-based compensation	(1.3)	(2.6)	10.2
Foreign earnings in lower tax jurisdiction	(146.9)	(105.2)	(51.0)
IRS audit settlement	(21.1)	0.0	0.0
Other	(0.9)	3.1	(1.3)
Provision for (benefit from) income taxes	$ 121.0	$ 46.6	$ (56.3)

The income tax benefits (charges) associated with dispositions from employee stock transactions were recognized as additional paid-in capital (in millions):

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
Income tax benefits (charges)	$128.5	$ (0.9)	$ 45.4

The components of our deferred tax assets and liabilities are as follows (in millions):

	Year Ended	
	April 29, 2011	April 30, 2010
Deferred Tax Assets:		
Inventory reserves and capitalization	$ 6.6	$ 5.1
Reserves and accruals not currently deductible	50.2	49.1
Net operating loss and credit carryforwards	120.3	75.3
Stock-based compensation	74.1	90.2
Deferred revenue	176.2	168.7
Capitalized research and development expenditures	3.3	6.6
Investment losses	0.0	2.4
Conditional royalty	13.6	13.6
Other	0.5	1.0
Gross deferred tax assets	444.8	412.0
Valuation allowance	(45.5)	(28.3)
Total deferred tax assets	399.3	383.7
Deferred Tax Liabilities:		
Depreciation	11.9	8.0
Acquisition intangibles	7.4	8.5
Convertible notes	28.2	35.2
Other	(1.9)	(1.0)
Total deferred tax liabilities	45.6	50.7
Net deferred tax assets	$353.7	$333.0

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Current and noncurrent net deferred tax assets for fiscal 2011 and 2010 are as follows (in millions):

	Year Ended	
	April 29, 2011	April 30, 2010
Current net deferred tax assets	$145.7	$ 69.6
Noncurrent net deferred tax assets	208.0	263.4

The valuation allowance increased by $17.2 million and $0.3 million in fiscal 2011 and 2010, respectively. The change in valuation allowance in fiscal 2011 was primarily related to the realizability of state credit carryforwards as a result of the expected application of the California single sales factor apportionment election. The change in valuation allowance in fiscal 2010 was primarily related to changes of blended state tax rates.

A reconciliation of the beginning and ending amount of unrecognized tax benefits is as follows (in millions):

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
Balance at beginning of period	$134.5	$110.1	$ 97.8
Additions based on tax positions related to the current year	12.5	34.9	13.8
Additions for tax positions of prior years	26.3	3.7	0.7
Decreases for tax positions of prior years	(40.0)	(14.2)	(2.2)
Balance at end of period	$133.3	$134.5	$110.1

Of the $133.3 million of unrecognized tax benefits at April 29, 2011, $104.2 million has been recorded and included in other long-term liabilities, of which $92.7 million, if recognized, would affect our provision for income taxes.

We recognize accrued interest and penalties related to unrecognized foreign tax benefits in the income tax provision. During the fiscal years ended 2005 through 2011, we recognized total accrued interest and penalties of approximately $1.0 million and have included this accrual in our liability for unrecognized tax benefits.

During fiscal 2010, we recorded a $32.1 million charge to additional paid in capital related to the establishment of a $26.1 million tax liability to provide for the uncertainty relating to the tax treatment of the termination of the Lehman Brothers bond hedge, as well a $6.0 million deferred tax liability for related temporary tax return differences in the valuation of the convertible debt as a result of the transaction.

We are subject to taxation in the United States, various states, and several foreign jurisdictions.

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The tax years that remain subject to examination for our major tax jurisdictions are shown below:

Tax Years Subject to Examination for Major Tax Jurisdictions at April 29, 2011

2005 — 2010	United States — federal income tax
2003 — 2010	United States — state and local income tax
2005 — 2010	Australia
2004 — 2010	Germany
2002 — 2010	India
2003 — 2010	Japan
2009 — 2010	The Netherlands
2007 — 2010	United Kingdom
2006 — 2010	Canada

In addition, we are effectively subject to federal tax examination adjustments for tax years ended on or after fiscal year 2000, in that we have net operating loss carryforwards from these years that could be subject to adjustment, if and when utilized.

We are currently undergoing federal income tax audits in the United States and several foreign tax jurisdictions. The rights to some of our intellectual property (IP) are owned by certain of our foreign subsidiaries, and payments are made between U.S. and foreign tax jurisdictions relating to the use of this IP in a qualified cost sharing arrangement. In recent years, several other U.S. companies have had their foreign IP arrangements challenged as part of IRS examinations, which has resulted in material proposed assessments and/or litigation with respect to those companies.

During fiscal year 2009, we received Notices of Proposed Adjustments from the IRS in connection with a federal income tax audit of our fiscal 2003 and 2004 tax returns. We filed a protest with the IRS in response to the Notices of Proposed Adjustments and subsequently received a rebuttal from the IRS examination team in response to our protest. In April 2011, we executed a closing agreement with the IRS Appeals Office to close this examination. The Notices of Proposed Adjustments in this audit focused primarily on issues relating to the timing and the amount of income recognized, deductions taken and on the level of cost allocations made to foreign operations during the audit years. The settlement of our 2003-2004 IRS examination resulted in additional liability of $10.8 million, which is almost entirely offset by net operating loss carryforwards. As a result of the examination settlement, we have reduced our reserve for uncertain tax positions and recognized a net benefit of $21.1 million.

We do not include unrealized stock option attributes as components of our gross deferred tax assets and corresponding valuation allowance disclosures. The tax effected amounts of gross unrealized net operating loss and business tax credit carryforwards are $414.2 million as of April 29, 2011, which will result in additional paid in capital if and when realized as a reduction in taxes otherwise paid.

As of April 29, 2011, the amount of accumulated unremitted earnings from our foreign subsidiaries is approximately $872.1 million.

Network Appliance Systems India Pvt. Ltd., our Indian subsidiary, received a tax holiday from the Indian tax authorities attributed to its call center and research and development activities effective June 6, 2003. These activities qualify under the Software Technology Park of India (STPI) incentive for the development and manufacture of computer software and information technology enabled services. Under this tax holiday, net taxable income derived from call center and research and development activities is exempt from Indian taxation.

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The income tax holiday expired on March 31, 2011. Other tax and customs benefits remain available. Notwithstanding qualification for the income tax holiday, minimum alternate tax rules in India effective for us as of fiscal 2009 overrode the full tax exemption. For fiscal 2010, we were subject to a minimum alternate tax on this income in India at a rate of 16.99%. The minimum alternate tax paid is eligible for credit against regular tax paid in future years. The credits may be carried forward for ten years.

In April 2010 our Dutch subsidiary received a favorable tax ruling from the Dutch tax authorities effective May 1, 2010 that replaces the previous Dutch tax ruling that expired on April 30, 2010. This ruling results in both a lower level of earnings subject to tax in the Netherlands and an extension of the expiration date to April 30, 2015.

As of April 29, 2011, the federal, and state net operating loss carryforwards for income tax purposes were approximately $781.2 million and $352.9 million, respectively. The federal net operating loss carryforwards will begin to expire in fiscal 2022. State net operating losses of $26.4 million will expire in fiscal years 2012 through 2014; $11.3 million will expire in fiscal year 2015 while the remaining $315.2 million will expire in fiscal years 2016 through 2031.

As of April 29, 2011, we had federal and state tax credit carryforwards of approximately $108.9 million and $93.3 million, respectively, available to offset future income tax liabilities. Federal tax credit carryforwards of $55.7 million will begin to expire in fiscal years 2016 through 2023, while the remaining $53.2 million will expire in fiscal years beginning 2024. State tax credits of $0.04 million will expire in fiscal years 2012 through 2014, while the remaining $93.3 million is available indefinitely to reduce cash taxes otherwise payable. As discussed above, most of the net operating loss and tax credit carryovers, if realized, will be recognized as additional paid in capital in that they are employee stock option tax attributes.

On December 17, 2010, the Tax Relief Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (the Act) was signed into law. Under the Act, the federal research credit was retroactively extended for amounts paid or incurred after December 31, 2009, and before January 1, 2012.

During fiscal year 2010, the IRS commenced the examination of our fiscal 2005 through 2007 federal income tax returns, and, in addition, the California Franchise Tax Board began the examination of our fiscal 2007 and 2008 California income tax returns. These audits are currently in progress.

If, upon the conclusion of these audits, the ultimate determination of taxes owed in the U.S. is for an amount in excess of the tax provision we have recorded in the applicable period or subsequently reserved for, our overall tax expense and effective tax rate could be adversely impacted in the period of adjustment.

On September 17, 2010, the Danish tax authorities issued a decision concluding that distributions declared in 2005 and 2006 from the Company’s Danish subsidiary, for which the Company has not paid or accrued any taxes, are subject to Danish at-source dividend withholding tax. The Company believes the assessment is without merit and has appealed this assessment decision with the Danish National Tax Tribunal.

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15. Net Income per Share

The following is a calculation of basic and diluted net income per share for the periods presented (in millions):

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
Numerator:			
Net Income	$673.1	$400.4	$ 64.6
Denominator:			
Weighted average common shares outstanding	360.9	339.7	330.4
Weighted average common shares outstanding subject to repurchase	0.0	(0.1)	(0.1)
Shares used in basic computation	360.9	339.6	330.3
Weighted average common shares outstanding subject to repurchase	0.0	0.1	0.1
Dilutive potential shares related to employee equity award plans	14.6	13.2	4.2
Dilutive impact of assumed conversion of Notes	12.7	0.3	0.0
Dilutive impact of warrants	5.5	0.0	0.0
Shares used in diluted computation	393.7	353.2	334.6
Net Income per Share:			
Basic	$ 1.87	$ 1.18	$ 0.20
Diluted	$ 1.71	$ 1.13	$ 0.19

The following potential weighted average common shares have been excluded from the diluted net income per share calculations, as their effect would have been antidilutive (in millions):

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
Options and RSUs	2.6	19.3	61.1

Dilutive shares outstanding for fiscal years 2010 and 2009 do not include any effect resulting from warrants and for fiscal 2009 do not include any effect resulting from assumed conversion of the Notes, as their impact would have been anti-dilutive. The Note hedges (as described in Note 10) are not included for purposes of, calculating earnings per share as their effect would be anti-dilutive. The Note hedges, if exercised upon conversion of the Notes, are expected to reduce approximately 80% of the dilutive effect of the Notes when our stock price is above $31.85 per share.

16. Segment, Geographic, and Significant Customer Information

We operate in one reportable industry segment: the design, manufacturing, marketing, and technical support of high-performance networked storage solutions. Our company conducts business globally and is primarily managed on a geographic basis. Our management reviews financial information presented on a consolidated basis, accompanied by disaggregated information it receives from its internal management system about revenues by geographic region, based on the location from which the customer relationship is managed, for purposes of allocating resources and evaluating financial performance. We do not allocate costs of revenues, research and development, sales and marketing, or general and administrative expenses to our geographic regions in this internal management system because management does not review operations or operating results, or make planning decisions, below the consolidated entity level.

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Summarized revenues by geographic region for fiscal 2011, 2010 and 2009, based on the our internal management system and as utilized by our Chief Executive Officer, who is considered our Chief Operating Decision Maker (CODM), is as follows (in millions):

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
Americas (United States, Canada and Latin America)*	$2,899.0	$2,208.1	$1,805.2
Europe, Middle East and Africa	1,719.1	1,329.1	1,213.3
Asia Pacific and Japan	504.5	394.2	387.9
Net revenues	$5,122.6	$3,931.4	$3,406.4

* Sales to the United States accounted for $2,593.2 million, $1,971.7 million and $1,622.3 million in fiscal 2011, 2010 and 2009, respectively.

The majority of our assets, excluding cash, cash equivalents, restricted cash, investments and accounts receivable, as of April 29, 2011 and April 30, 2010 were attributable to our U.S. operations. The following table presents total cash, cash equivalents, restricted cash and investments held in the United States and outside of the United States in various foreign subsidiaries (in millions):

	Year Ended	
	April 29, 2011	April 30, 2010
United States	$3,037.5	$2,086.4
International	2,211.8	1,712.5
Total cash, cash equivalents, restricted cash and investments	$5,249.3	$3,798.9

With the exception of property and equipment, we do not identify or allocate our long-lived assets by geographic area. The following table presents property and equipment information for geographic areas based on the physical location of the assets (in millions):

	Year Ended	
	April 29, 2011	April 30, 2010
United States	$840.2	$735.0
International	71.4	69.4
Total property and equipment	$911.6	$804.4

No more than ten percent of property and equipment was located in any single foreign country.

International sales to single foreign countries which accounted for ten percent or more of net revenues were as follows (in millions):

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
Germany	$618.0	$441.1	$380.2

Sales to customers, who are distributors, which accounted for ten percent or more of net revenues were as follows (in millions):

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
Arrow Electronics, Inc.	$903.0	$550.7	$360.3
Avnet, Inc.	639.0	444.0	356.4

The following customers accounted for ten percent or more of net accounts receivable (in millions):

	April 29, 2011	April 30, 2010
Arrow Electronics, Inc.	$101.4	$ 48.7
Avnet, Inc.	$107.5	$ 29.1

17. Employee Benefits and Deferred Compensation

Employee 401(k) Plans

We have established a 401(k) tax-deferred savings plan. Employees meeting the eligibility requirements, as defined, may contribute specified percentages of their salaries. In 2011, 2010 and 2009, we matched 50% of the employee's contribution up to a total of 6% of the employee's annual salary, and the matched contributions are vested over 3 years. The amounts we contributed to this plan were as follows (in millions):

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
401(k) contributions	$ 15.6	$ 9.2	$ 13.6

Deferred Compensation Plans

We have a non-qualified deferred compensation plan that allows a group of employees within the United States to contribute base salary and/or incentive compensation on a tax deferred basis in excess of the IRS limits imposed on 401(k) plans. The amounts of the marketable securities related to investments in debt and equity securities that are held in a rabbi trust under non-qualified deferred compensation plans and the related deferred compensation liability under this plan, which are recorded primarily in other long-term liabilities were as follows (in millions):

	Year Ended	
	April 29, 2011	April 30, 2010
Deferred compensation plan assets	$ 20.2	$ 12.6
Deferred compensation liabilities reported as:		
Other current liabilities	3.7	2.3
Other long-term liabilities	16.5	10.3

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Postretirement Health Care Plan

We maintain a plan to provide postretirement health and welfare benefits to certain executives who meet certain age and service requirements. Coverage continues through the duration of the lifetime of the retiree or the retiree's spouse, whichever is longer. There is no funding requirement associated with the plan and none of the benefit obligation was funded as of April 29, 2011. Assumed health care cost trend rates have a significant effect on the amounts reported for the health care plan.

The accumulated postretirement benefit obligation is summarized as follows and is classified in other long term liabilities in the accompanying consolidated balance sheets (in millions):

	April 29, 2011	April 30, 2010
Accumulated postretirement benefit obligation	$ 5.4	$ 4.8

18. Commitments and Contingencies

Operating Leases — We lease office space in several U.S. locations. Outside the United States, larger leased sites include sites in The Netherlands, Australia, Belgium, France, Germany, India, Japan, and the United Kingdom. We also lease equipment and vehicles.

As of April 29, 2011, we have four leasing arrangements (Leasing Arrangements 1, 2, 3 and 4) with BNPPLC which require us to lease certain portions of our land to BNPPLC for a period of 99 years and to lease approximately 0.6 million square feet of office space for our headquarters in Sunnyvale, which had an original cost of $149.6 million. Under these leasing arrangements, we pay BNPPLC minimum lease payments, which vary based on LIBOR plus a spread or a fixed rate on the costs of the facilities on the respective lease commencement dates. We make payments for each of the leases for a term of five years. We have the option to renew each of one of the following options: (i) purchase the buildings from BNPPLC at cost; (ii) if certain conditions are met, arrange for the sale of the buildings by BNPPLC to a third party for an amount equal to at least 85% of the costs (residual guarantee), and be liable for any deficiency between the net proceeds received from the third party and such amounts; or (iii) pay BNPPLC supplemental payments for an amount equal to at least 85% of the costs (residual guarantee), in which event we may recoup some or all of such payments by arranging for a sale of each or all buildings by BNPPLC during the ensuing two-year period. The following table summarizes the costs, the residual guarantee, the applicable LIBOR plus spread or fixed rate at April 29, 2011 and the date we began to make payments for each of our leasing arrangements (in millions):

Leasing Arrangements	Cost	Residual Guarantee	LIBOR Plus Spread or Fixed Rate	Lease Commencement Date	Term
1	$ 48.5	$ 41.2	3.69%	January 2008	5 years
2	80.0	68.0	0.79%	December 2007	5 years
3	10.5	8.9	3.67%	December 2007	5 years
4	10.6	9.0	3.69%	December 2007	5 years

These leases require us to maintain specified financial covenants with which we were in compliance as of April 29, 2011. Such financial covenants include a maximum ratio of Total Debt to Earnings before Interest, Taxes, Depreciation and Amortization of less than three to one and a minimum amount of Unencumbered Cash and Short-Term Investments of $300 million.

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Future annual minimum lease payments under all noncancelable operating leases with an initial term in excess of one year as of April 29, 2011 are as follows (in millions):

	2012	2013	2014	2015	2016	Thereafter	Total
Office operating lease payments	$30.3	$ 26.4	$22.5	$20.9	$14.9	$ 11.7	$126.7
Real estate lease payments	3.2	129.2	0.0	0.0	0.0	0.0	132.4
Equipment operating lease payments	21.5	13.2	6.5	0.6	0.0	0.0	41.8
Less: Sublease income	(1.4)	(1.4)	(1.1)	(1.1)	(0.5)	0.0	(5.5)
Total lease commitments	$53.6	$167.4	$27.9	$20.4	$14.4	$ 11.7	$295.4

Included in real estate lease payments pursuant to four financing arrangements with BNP Paribas Leasing Corporation (BNPPLC) are (i) lease commitments, which are based on the LIBOR rate at April 29, 2011 plus a spread or a fixed rate, for terms of five years; and (ii) included in the amount for fiscal year 2013 at the expiration or termination of the lease, a supplemental payment obligation equal to our minimum guarantee of $127.1 million in the event that we elect not to purchase or arrange for sale of the buildings.

As of April 29, 2011, we estimated that the fair value of the properties under synthetic lease was $35.8 million less than their aggregate residual guarantees. We are accruing for this deficiency over the remaining terms of the respective leases. As of April 29, 2011, a deficiency reserve of $16.1 million was included in other long-term liabilities.

Rent expense in fiscal 2011, 2010 and 2009 was as follows (in millions):

	Year Ended		
	April 29, 2011	April 30, 2010	April 24, 2009
Facilities rent expense	$ 51.7	$ 43.2	$ 40.6
Equipment rent expense	23.1	23.4	25.3
	$ 74.8	$ 66.6	$ 65.9
Less: sublease income	(6.3)	(12.5)	(11.8)
Net rent expense	$ 68.5	$ 54.1	$ 54.1

Purchase Orders and Other Commitments

In the normal course of business we make commitments to our third party contract manufacturers, to manage manufacturer lead times and meet product forecasts, and to other parties, to purchase various key components used in the manufacture of our products. We establish accruals for estimated losses on purchased components to the extent we believe it is probable that such components will not be utilized in future operations. To the extent that such forecasts are not achieved, our commitments and associated accruals may change. We had $176.0 million in non-cancelable purchase commitments with our contract manufacturers as of April 29, 2011. In addition, we recorded a liability for firm non-cancelable and unconditional purchase commitments with contract manufacturers for quantities in excess of our future demand forecasts through a charge to product cost of sales. As of April 29, 2011 and April 30, 2010, such liability amounted to $4.5 million and $3.8 million, respectively, and is included in other current liabilities in the consolidated balance sheets.

In addition to commitments with contract manufacturers and component suppliers, we have open purchase orders and contractual obligations associated with our ordinary course business for which we have not received goods or services. We had $36.1 million in capital purchase commitments and $270.0 million in other purchase commitments as of April 29, 2011.

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During the ordinary course of business, we provide standby letters of credit or other guarantee instruments to third parties as required for certain transactions initiated either by us or our subsidiaries. As of April 29, 2011, our financial guarantees of $5.3 million that were not recorded on our balance sheet consisted of standby letters of credit related to workers' compensation, a customs guarantee, a corporate credit card program, foreign rent guarantees and surety bonds.

Product Warranties

We provide customers a warranty on software of ninety days and a warranty on hardware of three years. The following table summarizes our warranty reserves (in millions):

	Year Ended	
	April 29, 2011	April 30, 2010
Beginning balance	$ 31.9	$ 42.3
Expense accrued during the period	31.8	16.0
Warranty costs incurred	(23.2)	(26.4)
Ending balance	$ 40.5	$ 31.9

Financing Guarantees

We have both nonrecourse and recourse lease financing arrangements with third-party leasing companies through new and preexisting relationships with customers. In addition, from time to time we provide guarantees for a portion of other financing arrangements under which we could be called upon to make payments to our third-party funding companies in the event of nonpayment by end-user customers. Under the terms of the nonrecourse leases, we do not have any continuing obligations or liabilities to the third-party leasing companies. Under the terms of the recourse leases, which are generally three years or less, we remain liable for the aggregate unpaid remaining lease payments to the third-party leasing companies in the event of end-user customer default. These arrangements are generally collateralized by a security interest in the underlying assets. Where we provide a guarantee, we defer the revenues associated with the end-user financing arrangement in accordance with our revenue recognition policies. As of April 29, 2011, the maximum guaranteed payment contingencies under our financing arrangements totaled approximately $89.0 million, and the related deferred revenue and cost of revenues totaled approximately $87.7 million and $7.6 million, respectively. To date, we have not experienced material losses under our lease financing programs or other financing arrangements.

Indemnification Agreements

We enter into standard indemnification agreements in the ordinary course of business. Pursuant to these agreements, we agree to defend and indemnify other parties, primarily our customers or business partners or subcontractors, for damages and reasonable costs incurred in any suit or claim brought against them alleging that our products sold to them infringe any U.S. patent, copyright, trade secret, or similar right. If a product becomes the subject of an infringement claim, we may, at our option: (i) replace the product with another noninfringing product that provides substantially similar performance; (ii) modify the infringing product so that it no longer infringes but remains functionally equivalent; (iii) obtain the right for the customer to continue using the product at our expense and for the reseller to continue selling the product; (iv) take back the infringing product and refund to customer the purchase price paid less depreciation amortized on a straight-line basis. We have not been required to make material payments pursuant to these provisions historically. We have not recorded any liability at April 29, 2011 related to these guarantees since the maximum amount of potential future payments under such guarantees, indemnities and warranties is not determinable, other than as described above.

Legal Contingencies

We are subject to various legal proceedings and claims which may arise in the normal course of business. No accrual has been recorded as of April 29, 2011, as the outcome of these legal matters is currently not determinable.

On October 13, 2010, Amalgamated Bank (as trustee of the Longview Largecap 500 Index Fund and the Longview Largecap 500 Index Veba Fund) filed a derivative lawsuit on behalf of NetApp, Inc. and NetApp U.S. Public Sector, Inc. in the Superior Court of the State of California, Santa Clara County. The lawsuit named 15 of our current and former directors as defendants. On February 3, 2011, the plaintiff filed an amended complaint in response to motions to dismiss that we and the individual defendants had filed. Like the original complaint, the amended complaint includes claims of breach of fiduciary duty and waste of corporate assets and alleges that the defendants failed to monitor internal controls to ensure that we complied with legal requirements in our General Services Administration (GSA) contracting activities, resulting in us incurring defense and settlement costs. The amended complaint seeks disgorgement of salaries and other compensation from the defendants and additional unspecified damages. We and the individual defendants filed motions to dismiss the amended complaint in early March 2011, and the hearing on these motions is scheduled for July 15, 2011.

19. Selected Quarterly Financial Data (Unaudited)

Selected quarterly financial data for fiscal 2011 and 2010 was as follows (in millions, except per share amounts):

	Year Ended April 29, 2011			
	Q1 (1)	Q2 (1)	Q3 (1)	Q4 (2)
Net revenues	$1,153.7	$1,251.0	$1,289.6	$1,428.3
Gross profit	737.8	816.5	846.2	928.2
Income before income taxes	171.0	202.3	212.7	208.1
Net income	150.7	175.4	186.4	160.6
Net income per share, basic	0.43	0.49	0.51	0.44
Net income per share, diluted	0.40	0.45	0.46	0.40

	Year Ended April 30, 2010			
	Q1	Q2	Q3	Q4
Net revenues	$838.0	$910.0	$1,011.7	$1,171.7
Gross profit	522.5	606.7	641.5	748.5
Income before income taxes	59.2	106.0	117.9	163.9
Net income	51.7	95.7	107.9	145.1
Net income per share, basic	0.15	0.28	0.32	0.42
Net income per share, diluted	0.15	0.27	0.30	0.40

(1) The amounts previously reported in our Quarterly Reports on Form 10-Q for fiscal 2011 have been adjusted to reflect the retrospective adoption of new revenue recognition accounting standards, which is discussed more fully in Note 2. The impact from the adoption was as follows (in millions, except per share amounts):

	Year Ended April 29, 2011		
	Q1	Q2	Q3
Net revenues	$15.9	$43.6	$21.5
Gross profit	13.4	15.4	22.4
Income before income taxes	13.4	15.4	22.4
Net income	8.9	10.8	13.9
Net income per share, basic	0.03	0.03	0.04
Net income per share, diluted	0.02	0.03	0.04

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

(2) As a result of the adoption of new revenue recognition accounting standards, fourth quarter fiscal 2011 net revenues and net income were higher by $48.2 million and $19.4 million, respectively

In the fourth quarter of fiscal 2011 we identified classification errors in previously issued interim condensed consolidated balance sheets as of October 29, 2010 and January 28, 2011, related to our 1.75% convertible senior notes due June 2013 (the "Notes") which had met the conversion threshold set forth in the Notes. See note 10 for the further discussion regarding the Notes. The Notes were previously reported as a long term liability of $1,125.4 million and $1,137.7 million as of October 29, 2010 and January 28, 2011, and should have been reflected as a current liability. In addition $139.6 million and $127.3 million as of October 29, 2010 and January 28, 2011, respectively, was recorded within additional paid-in-capital and should have been presented as temporary equity. Management has determined that the foregoing errors are not material to the previously issued interim condensed consolidated financial statements. The Company made these reclassifications in the consolidated balance sheet as of April 29, 2011, and will prospectively correct the classification errors in our interim condensed consolidated financial statements during fiscal 2012. The errors did not affect the previously reported results of operations or cash flows of the Company.

20. Subsequent Event

On May 6, 2011, we completed the acquisition of certain assets related to the Engenio external storage systems business (ESG) of LSI Corporation (LSI). We paid LSI $480 million in cash and also assumed certain assets and liabilities related to ESG. Over the next three years, LSI will pay us between $13.0 million and $14.5 million to service certain LSI customer warranties. This acquisition will enable us to address emerging and fast-growing market segments such as video, including full-motion video capture and digital video surveillance, as well as high performance computing applications, such as genomics sequencing and scientific research.

We are in the process of completing a purchase price allocation for this acquisition. We currently expect between $250.0 million and $350.0 million of the purchase price to be allocated to identifiable intangible assets other than goodwill in the final purchase price allocation. A preliminary purchase price allocation is currently expected to be included in our consolidated financial statements for the quarter ending July 29, 2011.

The following unaudited pro forma condensed combined financial information gives effect to the acquisition of ESG as if it were consummated on April 25, 2009. Due to differing fiscal year ends of NetApp and ESG, the unaudited pro forma condensed combined financial information is based on the historical results of NetApp for fiscal 2011 and fiscal 2010, respectively and the historical results of ESG for the twelve month periods ended April 3, 2011 and April 4, 2010, respectively. The unaudited pro forma condensed combined financial information is presented for informational purposes only and is not intended to represent or be indicative of the results of operations of the Company that would have been reported had the acquisition occurred on April 25, 2009 (the beginning of the earliest period presented) and should not be taken as representative of future consolidated results of operations of the combined company (in millions).

	Year Ended	
	April 29, 2011	April 30, 2010
Net revenues	$5,823.8	$4,605.7
Net income	$ 606.8	$ 366.9

An adjustment of $2.5 million has been reflected in the unaudited pro forma condensed combined information to exclude acquisition related costs directly attributable to the acquisition because they will not have a continuing impact on the combined results.

Item 9. *Changes in and Disagreements with Accountants on Accounting and Financial Disclosure*

None.

Item 9A. *Controls and Procedures*

(a) Evaluation of Disclosure Controls and Procedures

Disclosure Controls are procedures designed to ensure that information required to be disclosed in our reports filed or submitted under the Securities Exchange Act of 1934, as amended (the Exchange Act), such as this Annual Report, is recorded, processed, summarized and reported within the time periods specified in the U.S. Securities and Exchange Commission's rules and forms. Disclosure controls and procedures are also designed to ensure that such information is accumulated and communicated to our management, including the CEO and CFO, as appropriate to allow timely decisions regarding required disclosure.

Under the supervision and with the participation of our management, including our CEO and CFO, we conducted an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act, as of the end of the period covered by this report (the "Evaluation Date"). Based on this evaluation, our CEO and CFO concluded as of the Evaluation Date that our disclosure controls and procedures were effective such that the information relating to NetApp, including our consolidated subsidiaries, required to be disclosed in our Securities and Exchange Commission (SEC) reports (i) is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms, and (ii) is accumulated and communicated to NetApp's management, including our CEO and CFO, as appropriate to allow timely decisions regarding required disclosure.

(b) Management's Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Exchange Act Rule 13a-15(f). Our internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting based on the criteria established in *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). Based on this assessment, our management concluded that, as of April 29, 2011, our internal control over financial reporting was effective based on those criteria.

The effectiveness of our internal control over financial reporting as of April 29, 2011 has been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their report which is included herein.

(c) Changes in Internal Control Over Financial Reporting

There were no changes in our internal control over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act) identified in connection with management's evaluation during our last fiscal quarter that have materially affected, or are reasonably likely to materially effect, our internal control over financial reporting.

(d) Report of Independent Registered Public Accounting Firm

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of
NetApp, Inc.
Sunnyvale, California

We have audited the internal control over financial reporting of NetApp, Inc. and subsidiaries (collectively, the "Company") as of April 29, 2011, based on criteria established in *Internal Control — Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission. The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed by, or under the supervision of, the company's principal executive and principal financial officers, or persons performing similar functions, and effected by the company's board of directors, management, and other personnel to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of the inherent limitations of internal control over financial reporting, including the possibility of collusion or improper management override of controls, material misstatements due to error or fraud may not be prevented or detected on a timely basis. Also, projections of any evaluation of the effectiveness of the internal control over financial reporting to future periods are subject to the risk that the controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of April 29, 2011, based on the criteria established in *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated financial statements and financial statement schedule as of and for the year ended April 29, 2011 of the Company and our report dated June 23, 2011 expressed an unqualified opinion on those financial statements and financial statement schedule and included an explanatory paragraph relating to the change in the Company's method for recognizing revenue for multiple element arrangements.

/s/ DELOITTE & TOUCHE LLP

San Jose, California
June 23, 2011

Item 9B. ***Other Information***

None.

PART III

Item 10. ***Directors and Executive Officers of the Registrant***

The information required by this Item with respect to the Company's executive officers is incorporated herein by reference from the information under Item 1 of Part I of this Annual Report on Form 10-K under the section entitled "Executive Officers." The information required by this Item with respect to the Company's directors is incorporated herein by reference from the information provided under the heading "Election of Directors" in the Proxy Statement for the 2011 Annual Meeting of Stockholders which will be filed with the Securities and Exchange Commission. The information required by Item 405 of Regulation S-K is incorporated herein by reference from the information provided under the heading "Section 16(a) Beneficial Ownership Reporting Compliance" in the Proxy Statement for the 2011 Annual Meeting of Stockholders.

We have adopted a written code of ethics that applies to our Board of Directors and all of our employees, including our principal executive officer, principal financial officer and principal accounting officer. A copy of the code is available on our website at www.netapp.com. We will post any amendments to or waivers from the provisions of our code of ethics on our website.

Item 11. ***Executive Compensation***

Information regarding the compensation of executive officers and directors of the Company is incorporated by reference from the information under the heading "Executive Compensation and Related Information" in our Proxy Statement for the 2011 Annual Meeting of Stockholders.

Item 12. ***Security Ownership of Certain Beneficial Owners and Management***

Information regarding security ownership of certain beneficial owners and management is incorporated by reference from the information under the heading "Security Ownership of Certain Beneficial Owners and Management" in our Proxy Statement for the 2011 Annual Meeting of Stockholders.

Item 13. ***Certain Relationships and Related Transactions***

Information regarding certain relationships and related transactions is incorporated by reference from the information under the caption "Employment Contracts, Termination of Employment and Change-In-Control Agreements" in our Proxy Statement for the 2011 Annual Meeting of Stockholders.

Item 14. ***Principal Accountant Fees and Services***

The information required by this item is incorporated by reference from the information under the caption "Audit Fees" in our Proxy Statement for the 2011 Annual Meeting of Stockholders.

With the exception of the information incorporated in Items 10, 11, 12, 13, and 14 of this Annual Report on Form 10-K, NetApp's Proxy Statement is not deemed "filed" as part of this Annual Report on Form 10-K.

PART IV

Item 15. ***Exhibits and Financial Statement Schedules***

See the Exhibit Index immediately following Schedule II of this Annual Report on Form 10-K.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Company has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on June 23, 2011.

NETAPP, INC.

By: /S/ THOMAS GEORGENS

Thomas Georgens

Chief Executive Officer, President and Director, (Principal Executive Officer and Principal Operating Officer)

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Thomas Georgens and Steven J. Gomo, and each of them, as his true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Annual Report on Form 10-K, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their or his substitutes, may lawfully do or cause to be done by virtue thereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Company and in the capacities and on the dates indicated:

Signature	Title	Date
/s/ THOMAS GEORGENS Thomas Georgens	Chief Executive Officer, President and Director, (Principal Executive Officer and Principal Operating Officer)	June 23, 2011
/s/ NICHOLAS G. MOORE Nicholas G. Moore	Lead Independent Director	June 23, 2011
/s/ STEVEN J. GOMO Steven J. Gomo	Executive Vice President of Finance and Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	June 23, 2011
/s/ DANIEL J. WARMENHOVEN Daniel J. Warmenhoven	Executive Chairman of the Board	June 23, 2011
/s/ JEFFRY R. ALLEN Jeffry R. Allen	Director	June 23, 2011
/s/ ALAN L. EARHART Alan L. Earhart	Director	June 23, 2011
/s/ GERALD HELD Gerald Held	Director	June 23, 2011

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Signature	Title	Date
/s/ T. MICHAEL NEVENS T. Michael Nevens	Director	June 23, 2011
/s/ GEORGE T. SHAHEEN George T. Shaheen	Director	June 23, 2011
/s/ ROBERT T. WALL Robert T. Wall	Director	June 23, 2011
/s/ RICHARD P. WALLACE Richard P. Wallace	Director	June 23, 2011

SCHEDULE II

NETAPP, INC.

VALUATION AND QUALIFYING ACCOUNTS
Years Ended April 29, 2011, April 30, 2010 and April 24, 2009
(In millions)

Description	Balance at Beginning of Period	Additions Charged (Credited) to Costs and Expenses	Reductions and Write-offs	Balance at End of Period
Allowance for doubtful accounts:				
2011	$ 1.6	$ (0.8)	$ 0.3	$ 0.5
2010	$ 3.1	$ 0.0	$ 1.5	$ 1.6
2009	$ 2.4	$ 1.1	$ 0.4	$ 3.1

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EXHIBIT INDEX

Exhibit No	Description
2.1(20) †	Agreement and Plan of Merger, dated as of May 20, 2009, by and among the Company, Kentucky Merger Sub One Corporation, Derby Merger Sub Two LLC and Data Domain, Inc.
2.2(20)	Amendment No. 1 to Agreement and Plan of Merger, dated June 3, 2009, by and among the Company, Kentucky Merger Sub One Corporation, Derby Merger Sub Two LLC and Data Domain, Inc.
2.3(21)	Termination Notice to the Merger Agreement, dated July 8, 2009, by and among the Company, Data Domain, Inc., Kentucky Merger Sub One Corporation, a direct, wholly owned subsidiary of NetApp, Inc., and Derby Merger Sub Two LLC, a direct, wholly owned subsidiary of the Company.
2.4†	Asset Purchase Agreement, dated as of March 9, 2011, by and between LSI Corporation as Seller and the Company as Buyer.
3.1(15)	Certificate of Incorporation of the Company, as amended.
3.2(29)	Bylaws of the Company, as amended.
4.1(17)	Indenture for 1.75% Convertible Senior Notes Due 2013, dated as of June 10, 2008, by and between U.S. Bank National Association, as Trustee, and the Company.
4.2(17)	Registration Rights Agreement, dated as of June 10, 2008, by and among Goldman, Sachs & Co., Morgan Stanley & Co. Incorporated and the Company.
10.1(25) *	Form of Indemnification Agreement by and between the Company and each of its directors and executive officers.
10.2(23) *	The Company’s Amended and Restated Change of Control Severance Agreement (CEO)
10.3(23) *	The Company’s Amended and Restated Change of Control Severance Agreement (Executive Chairman).
10.4(16) *	Form of Change of Control Severance Agreements (Non-CEO Executives)
10.5(22) *	The Company’s Amended and Restated Executive Compensation Plan.
10.6(5) *	The Company’s Deferred Compensation Plan.
10.7*	The Company’s Amended and Restated Employee Stock Purchase Plan, as amended on February 4, 2011.
10.8(1)*	The Company’s Amended and Restated 1995 Stock Incentive Plan.
10.9(9)	Form of Stock Option Agreement approved for use under the Company’s amended and restated 1995 Stock Option Plan.
10.10(9)	Form of Stock Issuance Agreement approved for use under the Company’s amended and restated 1995 Stock Option Plan (Restricted Stock).
10.11(9)	Form of Stock Option Agreement approved for use under the Company’s amended and restated 1995 Stock Option Plan (Chairman of the Board or any Board Committee Chairperson).
10.12(28) *	The Company’s Amended and Restated 1999 Stock Option Plan.
10.13(9)	Form of Stock Option Agreement approved for use under the Company’s amended and restated 1999 Stock Option Plan.
10.14(26)	Form of Restricted Stock Unit Agreement approved for use under the Company’s amended and restated 1999 Stock Option Plan (Employees).

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Exhibit No	Description
10.15(9)	Form of Stock Option Agreement approved for use under the Company's amended and restated 1999 Stock Option Plan (Non-Employee Director Automatic Stock Option — Initial).
10.16(9)	Form of Stock Option Agreement approved for use under the Company's amended and restated 1999 Stock Option Plan (Non-Employee Director Automatic Stock Option — Annual).
10.17(26)	Form of Restricted Stock Unit Agreement approved for use under the Company's amended and restated 1999 Stock Option Plan (Non-Employees Directors).
10.18(9)	Form of Stock Option Agreement approved for use under the Company's amended and restated 1999 Stock Option Plan (China).
10.19(9)	Form of Stock Option Agreement approved for use under the Company's amended and restated 1999 Stock Option Plan (France).
10.20(9)	Form of Stock Option Agreement approved for use under the Company's amended and restated 1999 Stock Option Plan (India).
10.21(9)	Form of Stock Option Agreement approved for use under the Company's amended and restated 1999 Stock Option Plan (United Kingdom).
10.22(15)	Form of Stock Option Agreement approved for use under the Company's amended and restated 1999 Stock Option Plan (Israel).
10.23(19) *	WebManage Technologies, Inc. 1999 Stock Option Plan.
10.24(3) *	Spinnaker Networks, Inc. 2000 Stock Plan.
10.25(4) *	Alacritus, Inc. 2005 Stock Plan.
10.26(6)	Form of Stock Option Grant Notice and Option Agreement for use under the Decru, Inc. Amended and Restated 2001 Equity Incentive Plan and the 2001 Equity Incentive Plan filed under Attachment II.
10.27(6)	Form of Stock Option Grant Notice and Option Agreement for use under the Decru, Inc. 2001 Equity Incentive Plan and the 2001 Equity Incentive Plan filed under Attachment II.
10.28(6)	Form of Restricted Stock Bonus Grant Notice and Agreement under the Decru, Inc. 2001 Equity Incentive Plan.
10.29(10) *	SANPro Systems, Inc. 2001 U.S. Stock Option Plan.
10.30(14) *	Onaro, Inc. Amended and Restated 2002 Stock Option and Incentive Plan (including Appendix — Israeli Taxpayers).
10.31(30) *	Akorri Networks, Inc. 2010 Equity Incentive Plan, including form of Restricted Stock Unit Agreement.
10.32(27) *	Bycast Inc. 2010 Equity Incentive Plan
10.33(27) *	Incentive Stock Option Plan of Bycast Inc.
10.34(2)	Patent Cross License Agreement, dated as of October 1, 2000, by and between Intel Corporation and the Company.
10.35(7)	Asset Purchase Agreement, dated June 20, 2003, by and between Auspex Systems, Inc. and the Company.
10.36(8)	Purchase and Sale Agreement, dated July 27, 2004 by and between Cisco Systems, Inc. and the Company.
10.37(11)	Master Confirmation, dated March 19, 2007, by and between JP Morgan Securities Inc. and the Company.

Exhibit No	Description
10.38(12)	Master Confirmation, dated August 13, 2007, by and between Bank of America, N.A. and the Company.
10.39(15)	Amended and Restated Closing Certificate and Agreement (Building 7), dated November 29, 2007, by and between BNP Paribas Leasing Corporation and the Company.
10.40(15)	Amended and Restated Construction Agreement (Building 7), dated November 29, 2007, by and between BNP Paribas Leasing Corporation and the Company.
10.41(15)	Amended and Restated Lease Agreement (Building 7), dated November 29, 2007, by and between BNP Paribas Leasing Corporation and the Company.
10.42(15)	Amended and Restated Common Definitions and Provisions Agreement (Building 7), dated November 29, 2007, by and between BNP Paribas Leasing Corporation and the Company.
10.43(15)	Amended and Restated Purchase Agreement (Building 7), dated November 29, 2007, by and between BNP Paribas Leasing Corporation and the Company.
10.44(15)	Amended and Restated Ground Lease (Building 7), dated November 29, 2007, by and between BNP Paribas Leasing Corporation and the Company.
10.45(15)	First Modification Agreement (Building 7), dated as of April 9, 2008, by and between BNP Paribas Leasing Corporation and the Company.
10.46(31)	Second Modification Agreement (Building 7), dated as of December 31, 2010, by and between BNP Paribas Leasing Corporation and the Company.
10.47(13)	Closing Certificate and Agreement (Moffett Business Center), dated November 29, 2007, by and between BNP Paribas Leasing Corporation and the Company.
10.48(13)	Lease Agreement (Moffett Business Center), dated November 29, 2007, by and between BNP Paribas Leasing Corporation and the Company.
10.49(13)	Common Definitions and Provisions Agreement (Moffett Business Center), dated November 29, 2007, by and between BNP Paribas Leasing Corporation and the Company.
10.50(13)	Purchase Agreement (Moffett Business Center), dated November 29, 2007, by and between BNP Paribas Leasing Corporation and the Company.
10.51(15)	First Modification Agreement (Moffett Business Center), dated as of April 9, 2008, by and between BNP Paribas Leasing Corporation and the Company.
10.52(31)	Second Modification Agreement (Moffett Business Center), dated as of December 31, 2010, by and between BNP Paribas Leasing Corporation and the Company.
10.53(13)	Closing Certificate and Agreement (1299 Orleans), dated November 29, 2007, by and between BNP Paribas Leasing Corporation and the Company.
10.54(13)	Lease Agreement (1299 Orleans), dated November 29, 2007, by and between BNP Paribas Leasing Corporation and the Company.
10.55(13)	Common Definitions and Provisions Agreement (1299 Orleans), dated November 29, 2007, by and between BNP Paribas Leasing Corporation and the Company.
10.56(13)	Purchase Agreement (1299 Orleans), dated November 29, 2007, by and between BNP Paribas Leasing Corporation and the Company.
10.57(15)	First Modification Agreement (1299 Orleans), dated as of April 9, 2008, by and between BNP Paribas Leasing Corporation and the Company.
10.58(31)	Second Modification Agreement (1299 Orleans), dated as of December 31, 2010, by and between BNP Paribas Leasing Corporation and the Company.

Exhibit No	Description
10.59(24)	Agreement to Sell, dated as of November 18, 2009, by and between Bhoruka Financial Services Limited, as Seller, and NetApp India Private Limited, as Buyer.
10.60(17)	Form of Convertible Bond Hedge Confirmation.
10.61(17)	Form of Warrant Confirmation.
10.62(17)	Form of Amendment to Warrant Confirmation.
10.63(18)	Settlement Agreement entered into among the U.S.A, acting through the United States Department of Justice and on behalf of the General Services Administration, the Company and Igor Kapuscinski.
21.1	Subsidiaries of the Company.
23.1	Consent of Independent Registered Public Accounting Firm.
24.1	Power of Attorney (see signature page).
31.1	Certification of the Chief Executive Officer pursuant to Section 302(a) of the Sarbanes-Oxley Act of 2002.
31.2	Certification of the Chief Financial Officer pursuant to Section 302(a) of the Sarbanes-Oxley Act of 2002.
32.1	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to section 906 of the Sarbanes-Oxley Act of 2002.
32.2	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to section 906 of the Sarbanes-Oxley Act of 2002.
101.INS**	XBRL Instance Document
101.SCH**	XBRL Taxonomy Extension Schema Document
101.CAL**	XBRL Taxonomy Calculation Linkbase Document
101.DEF**	XBRL Taxonomy Extension Definition Linkbase Document
101.LAB**	XBRL Taxonomy Label Linkbase Document
101.PRE**	XBRL Taxonomy Extension Presentation Linkbase Document

(1) Previously filed as an exhibit to the Company's Proxy Statement dated August 21, 1998.
(2) Previously filed as an exhibit to the Company's Quarterly Report on Form 10-Q dated March 12, 2001.
(3) Previously filed as an exhibit to the Company's Form S-8 registration statement dated March 1, 2004.
(4) Previously filed as an exhibit to the Company's Form S-8 registration statement dated June 2, 2005.
(5) Previously filed as an exhibit to the Company's Current Report on Form 8-K dated July 7, 2005.
(6) Previously filed as an exhibit to the Company's Form S-8 registration statement dated September 2, 2005.
(7) Previously filed as an exhibit to the Company's Quarterly Report on Form 10-Q dated September 3, 2003.
(8) Previously filed as an exhibit to the Company's Quarterly Report on Form 10-Q dated August 31, 2004.
(9) Previously filed as an exhibit to the Company's Annual Report on Form 10-K dated July 8, 2005.
(10) Previously filed as an exhibit to the Company's Form S-8 registration statement dated January 5, 2007.
(11) Previously filed as an exhibit to the Company's Annual Report on Form 10-K dated June 26, 2007.
(12) Previously filed as an exhibit to the Company's Quarterly Report on Form 10-Q dated December 4, 2007.
(13) Previously filed as an exhibit to the Company's Quarterly Report on Form 10-Q dated March 5, 2008.
(14) Previously filed as an exhibit to the Company's Form S-8 registration statement dated February 25, 2008.
(15) Previously filed as an exhibit to the Company's Annual Report on Form 10-K dated June 24, 2008.
(16) Previously filed as an exhibit to the Company's Quarterly Report on Form 10-Q dated September 3, 2008.
(17) Previously filed as an exhibit to the Company's Current Report on Form 8-K dated June 10, 2008.

(18) Previously filed as an exhibit to the Company's Annual Report on Form 10-K dated June 17, 2009.
(19) Previously filed as an exhibit to the Company's S-8 registration statement dated January 16, 2001.
(20) Previously filed as an exhibit to Registration Statement on Form S-4, as filed with the SEC on June 4, 2009.
(21) Previously filed as an exhibit to the Company's Quarterly Report on Form 10-Q dated September 4, 2009.
(22) Previously filed as exhibits to the Company's Proxy Statement dated August 20, 2009.
(23) Previously filed as an exhibit to the Company's Quarterly Report on Form 10-Q dated December 2, 2009.
(24) Previously filed as an exhibit to the Company's Current Report on Form 8-K dated November 25, 2009.
(25) Previously filed as an exhibit to the Company's Quarterly Report on Form 10-Q dated March 1, 2010.
(26) Previously filed as an exhibit to the Company's Annual Report on Form 10-K dated June 18, 2010.
(27) Previously filed as an exhibit to the Company's Form S-8 registration statement dated June 18, 2010.
(28) Previously filed as an appendix to the Company's Proxy Statement dated July 13, 2010.
(29) Previously filed as an exhibit to the Company's Quarterly Report on Form 10-Q dated December 6, 2010.
(30) Previously filed as an exhibit to the Company's Form S-8 registration statement dated February 4, 2011.
(31) Previously filed as an exhibit to the Company's Quarterly Report on Form 10-Q dated March 4, 2011
* Identifies management plan or compensatory plan or arrangement.
** XBRL (Extensible Business Reporting Language) information is furnished and not filed or a part of a registration statement or prospectus for purposes of sections 11 or 12 of the Securities Act of 1933, is deemed not filed for purposes of section 18 of the Securities Exchange Act of 1934, and is otherwise not subject to liability under these sections.
† The schedules and other attachments to this exhibit have been omitted. The Company agrees to furnish a copy of any omitted schedules or attachments to the SEC upon request.

TRADEMARKS

Exhibit 2.4

ASSET PURCHASE AGREEMENT

by and between

LSI CORPORATION

as Seller

and

NETAPP, INC.

as Buyer

dated as of March 9, 2011

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Schedules

Exhibits

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT ("Agreement") is made as of March 9, 2011 by and between LSI CORPORATION, a Delaware corporation ("Seller" or "LSI"), and NETAPP, INC., a Delaware corporation ("Buyer") (Buyer and Seller, together, the "Parties").

R E C I T A L S

A. **WHEREAS**, Seller and its Subsidiaries (as hereinafter defined) are, among other things, engaged through one of its business units (referred to herein as "Engenio Storage Group") in the Engenio Business (as hereinafter defined);

B. **WHEREAS**, the Engenio Business is comprised of certain assets and liabilities that are currently part of Seller and its Subsidiaries;

C. **WHEREAS**, Seller and its Subsidiaries desire to sell, transfer and assign to Buyer or a Buyer Designee (as hereinafter defined), and Buyer or a Buyer Designee desires to purchase and assume from Seller and its Subsidiaries, the Purchased Assets (as hereinafter defined), and Buyer or a Buyer Designee is willing to assume, the Assumed Liabilities (as hereinafter defined), in each case as more fully described and upon the terms and subject to the conditions set forth herein; and

D. **WHEREAS**, Seller and its Subsidiaries and Buyer or a Buyer Designee desire to enter into each Assignment and Bill of Sale and Assumption Agreement, the India Purchase Agreement, the Intellectual Property Agreement, each Lease Assignment, the Real Estate Deed, each Sublease, the Supply Amendment and the Transition Services Agreement (each as hereinafter defined, and collectively, the "Collateral Agreements").

NOW, THEREFORE, in consideration of the mutual agreements and covenants herein contained and intending to be legally bound hereby, the parties hereto hereby agree as follows:

1. Definitions

1.1 Defined Terms

For the purposes of this Agreement the following words and phrases shall have the following meanings:

"Affiliate" of any Person means any Person that controls, is controlled by, or is under common control with such Person. As used herein, "control" (including the terms "controlling", "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities or other interests, by contract or otherwise.

"Assigned Intellectual Property" means all of the Intellectual Property and Information owned by Seller or one of its Affiliates that is used or held for use primarily in the operation or conduct of the Engenio Business and is being assigned to Buyer pursuant to the Intellectual Property Agreement, which will set forth the Assigned Software, the Assigned Technical Information, the Assigned Trademarks, and the Assigned Patents (as each such term is defined in the Intellectual Property Agreement).

"Assignment and Bill of Sale and Assumption Agreement" means each agreement in substantially the form set forth in Exhibit A.

"Assumed Leases" means the Leases identified on Schedule 3.7(a) to be assumed or subleased by Buyer or a Buyer Designee pursuant to a Lease Assignment or Sublease as designated on Schedule 3.7(a).

"Benefit Plan" means each Pension Plan, Welfare Plan and employment, compensation, bonus, pension, profit sharing, deferred compensation, incentive compensation, stock ownership, stock option, stock appreciation right, stock purchase, phantom stock or other equity compensation, performance, retirement, thrift, savings, stock bonus, excess benefit, supplemental unemployment, paid time off, perquisite, tuition reimbursement, outplacement, fringe benefit, vacation, sabbatical, sick leave, severance, or retention, termination, change in control, redundancy policy, workers' compensation, retirement, cafeteria, disability, death benefit, hospitalization, medical, dental, life insurance, accident benefit, welfare benefit or other plan, program, agreement or arrangement, in each case maintained or contributed to, or required to be maintained or contributed to, by Seller or its Subsidiaries or any ERISA Affiliate, or any plan covering non-United States employees or former employees which if maintained or administered in or otherwise subject to the laws of the United States would be described in this paragraph, in each case for the benefit of any Business Employee.

"Business Day" means a day that is not (i) a Saturday, a Sunday or a statutory or civic holiday in the State of New York, (ii) a day on which banking institutions are required by Law to be closed in the State of New York, or (iii) a day on which the principal offices of Seller or Buyer are closed or become closed prior to 2:00 p.m. local time.

"Business Employees" means the employees of Seller or its Subsidiaries who are principally engaged in performing services for the Engenio Business.

"Business Records" means all books, records, ledgers, tangible data, disks, tapes, other media-storing data and files or other similar information whether in hardcopy or computer format and whether stored in network facilities or otherwise, in each case to the extent used or held for use primarily in the operation or conduct of the Engenio Business, including any advertising, promotional and media materials, training materials, trade show materials and videos, engineering information, manuals and data, including databases for reference designs, product datasheets, sales and purchase correspondence, including price lists, lists of present and former customers, information concerning customer contacts, purchasing history and invoices, technical characteristics and other information reasonably required for ongoing customer relationships, lists of present and former suppliers or vendors, mailing lists, warranty information, catalogs, sales promotion literature, advertising materials, brochures, bids, records of operation, accounting and financial records, personnel and employment records, standard forms of documents, manuals of operations or business procedures, designs, research materials and product testing reports, and any information relating to any Tax imposed on any Purchased Assets or with respect to the Engenio Business, but excluding portions of such items to the extent (i) they are included in, or primarily related to, any Excluded Assets or Excluded Liabilities, or (ii) any applicable Law prohibits the transfer of such information.

"Buyer Designee" means one or more Affiliates of Buyer identified to Seller in accordance with Section 2.10 prior to the Closing Date.

"CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9601 et seq. as amended.

"Closing" means the closing of the transactions described in Article 7.

"Code" means the U.S. Internal Revenue Code of 1986, as amended.

"Confidentiality Agreement" means the Mutual Non-Disclosure Agreement between Seller and Buyer dated January 11, 2011.

"Contracts" means all Third-Party contracts, agreements, leases and subleases, supply contracts, commitments, purchase orders, sales orders, binding offers and instruments, or other written or oral arrangements, used or held for use primarily in the operation or conduct of the Engenio Business, to which Seller or a Subsidiary is a party, including the contracts identified as to be assigned on Schedule 2.1(a) and including any such contracts, agreements, leases and subleases, supply contracts, commitments, purchase orders, sales orders and instruments (i) for the lease of machinery, equipment, motor vehicles, furniture or office equipment, (ii) for the provision of goods or services to the Engenio Business, (iii) for the sale of goods or performance of services by the Engenio Business, (iv) for the sale and distribution of the Engenio Products, and (v) any such contracts, agreements, leases and subleases, supply contracts, commitments, purchase orders, sales orders and instruments referred to in clauses (i) - (iv), inclusive, entered into between the date hereof and the Closing Date by Seller or a Subsidiary to the extent such Contracts entered into after the date hereof are entered into in the ordinary course of business consistent with past practice and outstanding as of the Closing Date, but not the Excluded Contracts.

“Copyrights” means rights in works of authorship, including without limitation copyrights, whether registered or unregistered and whether arising under the laws of the United States or any other jurisdiction anywhere in the world, including moral rights, and all registrations and applications for registration with respect thereto.

“Encumbrance” means any lien, encumbrance, claim, charge, security interest, mortgage, pledge, easement, encroachment, building or use restriction, capital lease, conditional sale or other title retention agreement, covenant or other similar restriction, adverse claims of ownership or use, or other similar restriction or Third Party right affecting the Purchased Assets, but shall not include Permitted Encumbrances.

“Engenio Business” means the worldwide design, engineering, manufacturing, use, marketing, sale and distribution of external storage systems products and related embedded and value-added software and other components for use in external storage markets consisting of open, modular storage products comprised of complete systems and sub-assemblies configured from modular components, as carried on and conducted by the Engenio Storage Group since January 1, 2006, but excluding (a) the RAID adapter business of Seller which develops LSI® MegaRAID® and 3ware® storage controllers and software, (b) the ONStor™ clustered NAS gateway and non-integrated file storage products business of Seller which develops ONStor™ Products; (c) other semiconductor devices supplied by Seller to the Engenio Storage Group, and (d) any billing, order entry, fulfillment, accounting, collections or other corporate centralized functional organizations within, or controlled by, Seller.

“Engenio Product(s)” means all products and components thereof to the extent such components are owned, designed or manufactured by, or on behalf of, Seller or its Affiliates (but not any semiconductor devices supplied by Seller to the Engenio Storage Group) that are used or held for use primarily in the Engenio Business, including without limitation those listed on Schedule 1.1(b), which are under development, produced, marketed or sold by Seller or an Affiliate or Subsidiary of Seller, or have been developed, produced, marketed or sold by Seller or an Affiliate or Subsidiary of Seller since January 1, 2006.

“Environmental Law” means any Law that governs the existence of or provides a remedy for release of Hazardous Substances, the protection of persons, natural resources or the environment, the management of Hazardous Substances, or other activities involving Hazardous Substances including under CERCLA, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., the Clean Water Act, 33 U.S.C. Section § 1251 et seq., the Clean Air Act, 42 U.S.C. § 7401 et seq., the Toxic Substance Control Act, 15 U.S.C. § 2601 et seq., the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq., and the Occupational Safety and Health Act, 29 U.S.C. § 651 et seq., or any other similar Law, as any such Law has been amended or supplemented, and the regulations promulgated pursuant thereto.

“Environmental Liability” means any liability arising in connection with or in any way relating to Seller or a Subsidiary, any property now or previously owned, leased or operated by such Seller or a Subsidiary (or any predecessor thereof), the Engenio Business, or the Purchased Assets which (i) arise under or relate to any Environmental Law and (ii) relate to actions occurring or conditions existing on or before the Closing Date.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"ERISA Affiliate" means each Subsidiary and any other Person that, together with Seller or any of the Subsidiaries is (or at the relevant time was) treated as a single employer under Section 414(b), (c), (m) or (o) of the Code and the regulations thereunder.

"Excluded Contracts" means those Contracts (i) identified in Schedule 2.2(f), (ii) under which performance by Seller or an Affiliate of Seller has been completed and for which there is no remaining warranty, maintenance, or support obligation and under which performance by the counterparty has been completed and for which there is no remaining payment obligation of such party, (iii) that constitute a General Purchase Agreement, or (iv) primarily related to Excluded Assets or Excluded Liabilities.

"Excluded Taxes" means any liability, obligation or commitment, whether or not accrued, assessed or currently due and payable, with respect to (i) any Taxes of Seller or its Affiliates (including any liability of Seller or its Affiliates for the Taxes of any other Person (other than Buyer or its Affiliates) under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign law)), as a transferee or successor, by contract or otherwise, (ii) any Taxes relating to, pertaining to, or arising out of, the Engenio Business or the Purchased Assets for any Pre-Closing Tax Period, including all interest, penalties or other amounts with respect thereto accruing in Post-Closing Tax Periods, and (iii) any Taxes required by Law to be paid by Seller or any Subsidiary (or withheld from Seller by Buyer or a Buyer Designee) as a result of their sale of Purchased Assets in any jurisdiction (including any mandatory withholding Taxes) other than (x) any Transfer Taxes to be paid by Buyer or a Buyer Designee under Section 2.9(b) and (y) any Taxes to the extent deducted an withheld by Buyer or a Buyer Designee at Closing pursuant to Section 2.9(a).

"Fixtures and Supplies" means all fixtures, improvements, furniture, furnishings, office and other supplies, vehicles, and other tangible personal property owned by Seller or a Subsidiary and used or held for use primarily in the operation or conduct of the Engenio Business that are located on the Transferred Premises or at the real property which is leased pursuant to the Assumed Leases, including desks, tables, chairs, file cabinets, racks, cubicles and other storage devices and office supplies and any additions, improvements, replacements and alterations thereto between the date hereof and the Closing Date and all warranties and guarantees, if any, express or implied with respect to the foregoing, but excluding any such items primarily related to Excluded Assets or Excluded Liabilities.

"GAAP" means U.S. generally accepted accounting principles.

"General Purchase Agreements" means Third-Party supply contracts or other agreements between Seller or an Affiliate of Seller and a Third Party pursuant to which Seller or an Affiliate purchases products or services from such Third-Party for any of Seller's or an Affiliate's businesses and not used or held for use primarily in the operation or conduct of the Engenio Business.

"Governmental Body" means any legislative, executive or judicial unit of any governmental entity (supranational, national, federal, provincial, state or local) or any department, commission, board, agency, bureau, official or other regulatory, administrative or judicial authority thereof.

"Governmental Permits" means all governmental permits and licenses, certificates of inspection, approvals or other authorizations issued to Seller or a Subsidiary with respect to the Engenio Business or the Premises and necessary for the operation of the Engenio Business or the Premises as currently conducted under applicable Laws, including those identified on Schedule 2.1(j).

"Hazardous Substance" means (i) any hazardous, toxic or dangerous waste, substance or material defined as such pursuant to any Environmental Law, (ii) asbestos or PCBs and (iii) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any Governmental Body pursuant to any Environmental Law.

"HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"India Purchase Agreement" means an agreement reasonably satisfactory to both parties for the sale or transfer of Purchased Assets in India.

"Information" means any and all documented and undocumented information (excluding Patents), including any technical information, Trade Secrets and other confidential information, data and drawings of whatever kind in whatever medium, specifications, techniques, know-how, network configurations and architectures, APIs, subroutines, techniques, user interfaces, URLs works of authorship, algorithms, formulae, protocols, schematics, compositions, processes, designs, bills of material, sketches, photographs, graphs, drawings, samples, non-patented inventions, discoveries, developments and ideas, build instructions, Software code (in any form, including source code and executable or object code), build scripts, test scripts, databases and data collections, past and current manufacturing and distribution methods and processes, tooling requirements, current and anticipated customer requirements, price lists, part lists, customer lists, market studies, business plans, database technologies, systems, structures, architectures, improvements, devices, concepts, methods and information, however documented and whether or not embodied in any tangible form, and any and all notes, analysis, compilations, studies, summaries, and other material containing or based, in whole or in part, on any information included in the foregoing, and including all tangible embodiments of any of the foregoing. "Information" does not include any semiconductor integrated circuit design or manufacturing technology.

"Intellectual Property" means all intellectual property rights arising from or associated with any of the following, whether protected, created or arising under the laws of the United States or any other jurisdiction anywhere in the world: (a) Copyrights, (b) Trademarks, (c) Patents, (d) Trade Secrets, (e) mask work rights and other rights protecting integrated circuit or chip topographies or designs, and any applications for registration therefor, (f) rights in databases and data collections (including knowledge databases, customer lists and customer databases), whether registered or unregistered, and any applications for registration therefor; (g) rights in URL and domain name registrations, (h) rights in inventions (whether or not patentable) and improvements thereto, and (i) any other proprietary, intellectual or industrial property rights of any kind or nature now known or hereafter recognized in any jurisdiction worldwide.

"Intellectual Property Agreement" means the agreement in substantially the form set forth in Exhibit B.

"Inventory" means all inventory, wherever located, including raw materials, work in process, recycled materials, demo and evaluation inventory, finished products, inventoriable supplies, and non-capital spare parts owned by Seller or an Affiliate or Subsidiary and used or held for use primarily in the operation or conduct of the Engenio Business, and any rights of Seller or a Subsidiary to the warranties received from suppliers and any related claims, credits, rights of recovery and set-off with respect to such Inventory, but only to the extent such rights are assignable, but excluding any such items primarily related to Excluded Assets or Excluded Liabilities.

"IRS" means the U.S. Internal Revenue Service.

"knowledge of Seller" or "to Seller's knowledge" means the actual knowledge of the individuals specified on Schedule 1.1(a) after reasonable investigation.

"Law" means any supranational, national, federal, state, provincial or local law, statute, ordinance, rule, regulation, code, order, judgment, injunction or decree of any country.

"Lease" means the lease to be assigned or subleased, as the case may be, together with all amendments, modifications or supplements thereto, for any of the Leased Premises.

"Lease Assignment" means each assignment agreement with respect to a Lease in substantially the form set forth in Exhibit C.

"Leased Equipment" means the vehicles, computers, servers, machinery and equipment and other similar items leased and used or held for use by Seller or a Subsidiary primarily in the operation or conduct of the Engenio Business but excluding any such items primarily related to Excluded Assets or Excluded Liabilities.

"Leased Premises" means the real property identified on Schedule 3.7(a), together with all rights, easements and privileges appertaining or relating to such real property, and all improvements located thereon, that is leased by Seller or a Subsidiary from Third Parties and used or held for use by Seller or a Subsidiary primarily in the operation or conduct of the Engenio Business.

"Licensed Intellectual Property" means all of the Intellectual Property and Information that is being licensed to Buyer pursuant to the Intellectual Property Agreement, which sets forth the Licensed Software, the Licensed Technical Information and the Licensed Patents (as each such term is defined in the Intellectual Property Agreement).

"Licenses" means all licenses, agreements and other arrangements identified on Schedule 2.1(h) under which Seller or a Subsidiary has the right to use any Intellectual Property or Information of a Third Party which is used or held for use primarily in the operation or conduct of the Engenio Business but not (i) the Nonassignable Licenses, (ii) Contracts for non-customized Software that is licensed solely in executable or object code form pursuant to a nonexclusive, internal use software license, and not incorporated into, or used directly in, the development, manufacturing or distribution of, any of the Engenio Products or services of the Engenio Business and is generally available to the public on standard, non-negotiated terms ("Standard Software"), or (iii) any such items primarily related to Excluded Assets or Excluded Liabilities.

"Nonassignable Licenses" means those Licenses of Intellectual Property or Information under which Seller or an Affiliate of Seller is the licensee that are (i) not to be assigned as set forth on Schedule 2.1(h) or (ii) related to other businesses of Seller or an Affiliate of Seller and not used or held for use primarily in the operation or conduct of the Engenio Business, including Contracts for Standard Software and corporate wide information technology licenses used to operate Seller's retained businesses.

"ONStor™ Products" means those clustered NAS gateway and non-integrated file storage products listed on Schedule 1.1(c).

"Patents" means patents or patent applications worldwide of any kind or nature (including industrial designs and utility models that are subject to statutory protection), and any renewals, reissues, reexaminations, extensions, continuations, continuations-in-part, divisions and substitutions relating to any of the patents and patent applications, as well as all related counterparts to such patents and patent applications, wheresoever issued or pending anywhere in the world.

"Pension Plan" means each "employee pension benefit plan" (within the meaning of Section 3(2) of ERISA) or similar equivalent under applicable Laws other than the United States.

"Permitted Encumbrances" means any (i) statutory lien for Taxes, assessments and other governmental charges or liens of carriers, landlords, warehouseman, mechanics and material men incurred in the ordinary course of business, in each case for sums not yet due and payable, (ii) liens incurred or deposits made in the ordinary course of the Engenio Business in connection with workers' compensation, unemployment insurance and other types of social security or to secure the performance of tenders, statutory obligations, surety and appeal bonds, bids, leases, government contracts, performance and return of money bonds and similar obligations, (iii) licenses or covenants granted by Seller or an Affiliate of Seller in connection with sales of products or patent licensing activities in the ordinary course of business, (iv) any use or other building restriction set forth in the Leases for the Leased Premises, (v) any Encumbrances that are set forth on the title commitment for the Transferred Premises and (vi) any Encumbrance or minor imperfection in title and minor encroachments, if any, that, individually or in the aggregate, are not material in amount, do not materially interfere with the conduct of the Engenio Business or with the use of the Purchased Assets and do not materially affect the value of the Purchased Assets or the Engenio Business.

"Person" means any individual, corporation, partnership, firm, association, joint venture, joint stock company, trust, unincorporated organization or other entity, or any government or regulatory, administrative or political subdivision or agency, department or instrumentality thereof.

"Post-Closing Tax Period" means any Tax period beginning after the Closing Date, and, in the case of any Straddle Period, the portion of such Straddle Period beginning the day after the Closing Date.

"Pre-Closing Tax Period" means any Tax period ending on or before the Closing Date and, in the case of any Straddle Period, the portion of such Straddle Period ending on the Closing Date.

"Premises" means the (i) Leased Premises, (ii) the Transferred Premises, and (iii) the premises owned by Seller or a Subsidiary that are not being transferred hereunder, in each case that are used by the Engenio Business.

"Principal Equipment" means all personal property of Seller or a Subsidiary used or held for use by Seller or a Subsidiary primarily in the operation or conduct of the Engenio Business including such personal property located (i) on the Transferred Premises, at the real property which is leased pursuant to the Assumed Leases or at the Bangalore facility or (ii) at any other facility owned, leased or operated by or for the Engenio Business or at any contract manufacturer or original design manufacturer and including without limitation all computers, laptops, cell phone devices, smartphones, servers, printers, copiers, faxes, machinery, equipment (including any related replacement or spare parts, components dies, molds, tools, and tooling), phone or conferencing equipment, network equipment, data processing equipment and peripheral equipment and other similar items of personal property, but not (x) the Leased Equipment, (y) any such items primarily related to Excluded Assets or Excluded Liabilities, or (z) any such item of Principal Equipment abandoned by Buyer, at its sole election, that remains at any facility of Seller or its Subsidiary (other than the Transferred Premises or the real property being leased pursuant to the Assumed Leases) for 30 days following the Closing Date. Principal Equipment includes rights to the warranties received from the manufacturers and distributors of such items and to any related claims, credits, rights of recovery and set-off with respect to such items, but only to the extent that such rights are assignable.

"Real Estate Deed" means a limited warranty deed with respect to the Transferred Premises, in substantially the form set forth in Exhibit D.

"Return" means any return, declaration, report, claim for refund, or information return or statement, and any other document filed or required to be filed in respect of any Tax, including any schedule or attachment thereto or amendment thereof.

"Seller Material Adverse Effect" means any fact, circumstance, change, condition or effect that, individually or when taken together with all other such facts, circumstances, changes, conditions or effects that exist at the date of determination of the occurrence of the Seller Material Adverse Effect, has or is reasonably likely to have a material adverse effect on the business, operations, financial condition or results of operations of the Engenio Business, taken as a whole, or Seller's ability to perform its obligations under this Agreement and the Collateral Agreements or consummate the transactions contemplated hereby or thereby; provided, however, that no facts, circumstances, changes, conditions or effects (by themselves or when aggregated with any other facts, circumstances, changes, conditions or effects) resulting from, relating to or arising out of the items enumerated in sub-clauses (i) to (vi) below shall be deemed to be or constitute a Seller Material Adverse Effect, and no facts, circumstances, changes, conditions or effects resulting from, relating to or arising out of the following (by themselves or when aggregated with any other facts, circumstances, changes or effects) shall be taken into account when determining whether a Seller Material Adverse Effect has occurred or may, would or could occur: (i) general economic, financial or political conditions in the United States or any other jurisdiction in which the Engenio Business has substantial business or operations, and any changes therein (including any changes arising out of acts of terrorism, war, weather conditions or other force majeure events), to the extent that such conditions do not have a materially disproportionate impact on the Engenio Business, taken as a whole, relative to other external storage businesses of comparable size; (ii) conditions in the storage industry, and any industry-wide changes therein (including any changes arising out of acts of terrorism, war, weather conditions or other force majeure events), to the extent that such conditions do not have a materially disproportionate impact on the Engenio Business, taken as a whole, relative to other external storage businesses of comparable size; (iii) conditions in the financial markets, and any changes therein (including any changes arising out of acts of terrorism, war, weather conditions or other force majeure events), to the extent that such conditions do not have a materially disproportionate impact on the Engenio Business, taken as a whole, relative to other external storage businesses of comparable size; (iv) acts of terrorism or war to the extent that such acts do not have a materially disproportionate impact on the Engenio Business, taken as a whole, relative to other external storage businesses of comparable size; (v) directly from the announcement or pendency of this Agreement and the transactions contemplated hereby, including negative reactions of any OEMs or customers to the sale announcement; or (vi) directly from compliance by Seller or its Subsidiaries with the express terms of this Agreement or the failure by Seller or its Subsidiaries to take any action that is prohibited by this Agreement.

"Software" means any and all (a) computer programs, including any and all software implementations of algorithms, heuristics models and methodologies, whether in source code or object code, (b) testing, validation, verification and quality assurance materials, (c) databases, conversion, interpreters and compilations, including any and all data and collections of data, whether machine readable or otherwise, (d) descriptions, schematics, flow-charts and other work product used to design, plan, organize and develop any of the foregoing, (e) software development processes, practices, methods and policies recorded in permanent form, relating to any of the foregoing, (f) performance metrics, sightings, bug and feature lists, build, release and change control manifests recorded in permanent form, relating to any of the foregoing and (g) all documentation, including user manuals, web materials, and architectural and design specifications and training materials, relating to any of the foregoing.

"Straddle Period" means any Tax period that begins on or before and ends after the Closing Date.

"Sublease" means each sublease with respect to a Lease in substantially the form set forth in Exhibit E.

"Subsidiary" means each entity listed on Schedule 3.2.

"Supply Amendment" means the amendment to that certain Master OEM Agreement effective as of June 17, 2005 between Seller and Buyer in substantially the form set forth in Exhibit G.

"Tax" means a tax of any kind, and all charges, fees, customs, levies, duties, imposts, required deposits or other assessments, whether federal, state, local or foreign, including all net income, capital gains, gross income, gross receipt, property, franchise, sales, use, excise, registration, withholding, payroll, employment, social security, worker's compensation, unemployment, occupation, capital stock, ad valorem, value added, transfer, gains, profits, net worth, asset, transaction, real property, personal property, alternative, add-on minimum, escheat or estimated tax or other tax, including any interest, penalties or additions to tax with respect thereto, whether disputed or not, imposed upon any Person by any taxing or social security authority or other Governmental Body under applicable Law.

"Third Party" means any Person not an Affiliate of the other referenced Person or Persons.

"Trademarks" means trademarks, trade names, corporate names, business names, trade styles, service marks, service names, logos, slogans, 800 numbers, or other source or business identifiers and general intangibles of like nature, together with goodwill associated therewith, whether registered or unregistered and whether arising under the laws of the United States or any state or territory thereof or any other jurisdiction anywhere in the world, and registrations and applications for registration with respect to any of the foregoing.

"Trade Secrets" means all information of any kind or nature, in whatever form and whether or not embodied in a tangible medium, including customer lists, concepts, ideas, methods, processes, know-how, methodologies, designs, plans, schematics, bill of materials, drawings, formulae, technical data, specifications, research and development information, technology and product roadmaps, models, data bases, marketing materials and other proprietary or confidential information, in each case to the extent any of the foregoing derives economic value from not being generally known to other Persons who can obtain economic value from its disclosure or use, excluding any Copyrights or Patents that cover or protect any of the foregoing.

"Transferred Premises" means the real property identified on Schedule 3.7(b), together with all rights, easements and privileges appertaining or relating to such real property, and all improvements located on such real property.

"Transition Services Agreement" means the agreement in substantially the form set forth in Exhibit F.

"Warranty Cap" means fourteen million five hundred thousand U.S. dollars ($14,500,000) less the fair market value of spare parts Inventory transferred to Buyer useable to service warranty obligations for Engenio Products listed on Schedule 1.1(b) sold prior to the Closing, which fair market value shall not exceed the dollar amount set forth on Schedule 1.1(d).

"Welfare Plan" means each "employee welfare benefit plan" (within the meaning of Section 3(1) of ERISA) or similar applicable Laws of jurisdictions other than the United States.

1.2 Additional Defined Terms

For purposes of this Agreement, the following terms shall have the meanings specified in the Sections indicated below:

Term	Section
"Accrued Amounts"	Section 5.4(g)
"Agreement"	Preamble
"Allocation"	Section 5.3(c)
"Antitrust Division"	Section 5.6(b)
"ARD Jurisdiction"	Section 5.4(b)
"ARD Regulations"	Section 2.4(d)
"Asset Level Allocation Statement"	Section 5.3(c)
"Assigned Patents"	Section 3.13(a)
"Assigned Registered IP"	Section 3.13(a)
"Assigned Trademarks"	Section 3.13(a)
"Assumed Liabilities"	Section 2.4
"Balance Sheet"	Section 3.12(a)
"Bulk Sales Laws"	Section 2.8
"Buyer"	Preamble
"Buyer Indemnified Party"	Section 9.3(b)
"Buyer Proprietary Information"	Section 6.3
"Buyer Savings Plan"	Section 5.4(f)
"Cap Amount"	Section 9.3(f)
"Closing Date"	Section 7.3
"Closing Statement"	Section 5.16
"Collateral Agreements"	Recital D
"Engenio Intellectual Property"	Section 3.13(b)
"Engenio Storage Group"	Recital A
"Engenio Trade Secrets"	Section 3.13(g)
"Employment Related Liabilities"	Section 2.5(g)
"Entity Level Allocation Statement"	Section 5.3(b)
"Excluded Assets"	Section 2.2
"Excluded Leased Equipment"	Section 5.5(b)
"Excluded Liabilities"	Section 2.5
"FTC"	Section 5.6(b)
"Indemnified Party"	Section 9.3(a)
"Indemnifying Party"	Section 9.4(a)
"Leave Employees"	Section 5.4(b)
"Losses"	Section 9.3(a)
"LSI"	Preamble
"Material Contracts"	Section 3.11(a)
"Nonassignable Assets"	Section 2.6(c)
"Offered Employees"	Section 5.4(b)
"Parties"	Preamble
"Property Taxes"	Section 2.9(c)
"Purchase Price"	Section 2.3

“Purchased Assets”	Section 2.1
“Purchased Leased Equipment”	Section 5.5(b)
“Reasonable Efforts”	Section 5.8(a)(v)
“Required Closing Consents”	Section 7.1(b)
“Required Consents”	Section 3.4(b)
“Securities Act”	Section 5.14(a)
“Seller”	Preamble
“Seller Indemnified Party”	Section 9.3(c)
“Seller Name”	Section 5.8(a)
“Seller Proprietary Information”	Section 6.2
“Shared Contracts”	Section 2.6
“Termination Date”	Section 11.1(e)
“Third-Party Claim”	Section 9.4(a)
“Threshold Amount”	Section 9.3(f)
“Transfer Taxes”	Section 2.9(b)
“Transferred Employees”	Section 5.4(b)
“Unaudited Business Financials”	Section 3.12(a)
“WARN Act”	Section 3.10(j)

1.3 Other Definitional and Interpretive Matters

Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation shall apply:

(a) Calculation of Time Period. When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the starting reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

(b) Gender and Number. Any reference in this Agreement to gender shall include all genders, and words imparting the singular number only shall include the plural and vice versa.

(c) Headings. The provision of a Table of Contents, the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect or be utilized in construing or interpreting this Agreement. All references in this Agreement to any “Section” are to the corresponding Section of this Agreement unless otherwise specified.

(d) Herein. The words such as “herein,” “hereinafter,” “hereof,” and “hereunder” refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires.

(e) Including. The word “including” or any variation thereof means “including, without limitation” and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

(f) Currency. All currency references included herein shall refer to United States dollars.

(g) Reasonable Commercial Efforts. Reasonable commercial efforts means that the obligated party is required to make a diligent, reasonable and good faith effort to accomplish the applicable objective. Such obligation, however, does not require an expenditure of funds or the incurrence of a liability on the part of the obligated party, nor does it require that the obligated party act in a manner that would be contrary to normal commercial practices in order to accomplish the objective. The fact that the objective is or is not actually accomplished is not, by itself, an indication that the obligated party did or did not in fact utilize its reasonable commercial efforts in attempting to accomplish the objective.

(h) Schedules and Exhibits. The Schedules and Exhibits attached to this Agreement shall be construed with and as an integral part of this Agreement to the same extent as if the same had been set forth verbatim herein. Any matter disclosed by either party on any one Schedule with respect to any representation, warranty or covenant of such party shall be deemed disclosed for purposes of all other representations, warranties or covenants of such party to the extent that it is reasonably apparent from such disclosure that it also relates to such other representations, warranties or covenants.

2. Purchase and Sale of the Engenio Business

2.1 Purchase and Sale of Assets

Upon the terms and subject to the conditions of this Agreement and in reliance on the representations and warranties contained herein, on the Closing Date, Seller shall, or shall cause one or more of its Subsidiaries, as appropriate, to, grant, bargain, sell, transfer, assign, convey and deliver to Buyer or one or more Buyer Designees, and Buyer or one or more Buyer Designees shall purchase, acquire and accept from Seller or the applicable Subsidiary, all of the right, title and interest in, to and under the Purchased Assets that Seller or the applicable Subsidiary owns, leases, licenses, possesses or uses as the same shall exist on the Closing Date, wherever located, free and clear of Encumbrances. For purposes of this Agreement, "Purchased Assets" means all the assets, properties and rights used or held for use by Seller or the applicable Subsidiary primarily in the operation or conduct of the Engenio Business, whether tangible or intangible, real, personal or mixed, including the asset categories set forth or described in paragraphs (a) through (s) below (except in each case for the Excluded Assets), to the extent used or held for use primarily in the operation or conduct of the Engenio Business, whether or not any of such assets, properties or rights have any value for accounting purposes or are carried or reflected on or specifically referred to in Seller's or the applicable Subsidiary's books or financial statements:

(a) the Contracts;

(b) the Assumed Leases and any deposits related thereto;

(c) the Transferred Premises;

(d) the Principal Equipment and Purchased Leased Equipment;

(e) the Fixtures and Supplies;

(f) the Inventory;

(g) the Assigned Intellectual Property;

(h) the Licenses;

(i) the Business Records;

(j) the Governmental Permits (but only to the extent that such Governmental Permits are assignable or transferable to Buyer);

(k) the registered domain names listed on Schedule 2.1(k);

(l) all prepaid expenses for leased and rented equipment;

(m) all prepaid deposits for customer orders to be completed after the Closing Date;

(n) all Seller's lease deposits for the Assumed Leases;

(o) all Third Party prepaid royalties and maintenance and support for Licenses;

(p) all rights to the claims, causes of action, rights of recovery, and rights of set-off, made or asserted against any Person on or after the Closing Date relating to the Purchased Assets, whether arising out of actions or conditions occurring prior to, on, or after the Closing Date, including all rights to sue for or assert claims against and seek remedies for past, present and future infringements of any of the Assigned Intellectual Property and rights of priority and protection of interests therein and to retain any and all damages, settlement amounts and other amounts therefrom;

(q) all guarantees, warranties, indemnities and similar rights in favor of Seller or an applicable Subsidiary related to the items identified in clauses (a) through (h) above;

(r) the goodwill of the Engenio Business; and

(s) in the event Buyer or a Buyer Designee establishes or maintains a healthcare reimbursement or spending account program as of the Closing Date for Transferred Employees then, with respect to each such Transferred Employee who as of the Closing Date has a positive balance in Seller's healthcare reimbursement or spending account program, each such Transferred Employee's balance in Seller's health reimbursement or spending account shall be credited to the healthcare reimbursement or spending account program of Buyer or an applicable Buyer Designee.

2.2 Excluded Assets

Notwithstanding the provisions of Section 2.1, it is hereby expressly acknowledged and agreed that the Purchased Assets shall not include, and neither Seller nor any Subsidiary is granting, bargaining, selling, transferring, assigning, conveying or delivering to Buyer or a Buyer

Designee, and neither Buyer nor any Buyer Designee is purchasing, acquiring or accepting from Seller or any Subsidiary, any of the rights, properties or assets set forth or described in paragraphs (a) through (k) below (the rights, properties and assets expressly excluded by this Section 2.2 or otherwise excluded by the terms of Section 2.1 from the Purchased Assets being referred to herein as the "Excluded Assets"):

(a) any of Seller's or its Affiliate's receivables, cash, cash equivalents, bank deposits or similar cash items (other than deposits related to the Assumed Leases) or employee receivables;

(b) any Intellectual Property or Information of Seller or any Affiliate other than the Assigned Intellectual Property or the Licensed Intellectual Property;

(c) any (i) confidential personnel records pertaining to any Business Employee to the extent applicable Law prohibits the transfer of such information, or (ii) other books and records that Seller or any Affiliate of Seller is required by Law to retain; provided, however, that Buyer shall have the right, to the extent permitted by Law and subject to reasonable restrictions, to make copies of any portions of such retained confidential personnel records and other books and records that relate to the Engenio Business, the Purchased Assets, the Assumed Liabilities or the Transferred Employees; and (iii) any information management system of Seller or any Affiliate of Seller other than those used or held for use primarily in the operation or conduct of the Engenio Business;

(d) any claim, right or interest of Seller or any Affiliate of Seller in or to any refund, rebate, abatement or other recovery for Excluded Taxes, together with any interest due thereon or penalty rebate arising therefrom;

(e) subject to Section 5.8, any rights to, or the use of, the "LSI" or "LSI Corporation" trademarks;

(f) the Excluded Contracts, the Nonassignable Licenses and the Excluded Leased Equipment;

(g) any insurance policies or rights of proceeds thereof;

(h) except as specified in Section 2.1, any of Seller's or any Affiliate's rights, claims or causes of action against Third Parties relating to the assets, properties or operations of the Engenio Business arising out of transactions occurring prior to, and including, the Closing Date;

(i) except as specifically provided in Section 5.4 or the applicable Assignment and Bill of Sale and Assumption Agreement for any particular jurisdiction, any of the assets of the Benefits Plans;

(j) all other assets, properties, interests and rights of Seller or any Affiliate relating primarily to (i) the RAID adapter business of Seller which develops LSI® MegaRAID® and 3ware® storage controllers and software and (ii) the ONStor™ clustered NAS gateway and non-integrated file storage products business of Seller which develops ONStor™ Products; and

(k) all other assets, properties, interests and rights of Seller or any Affiliate not related primarily to the Engenio Business.

2.3 Purchase Price

In consideration of the grant, bargain, sale, transfer, assignment, conveyance and delivery by Seller and the Subsidiaries of the Purchased Assets to Buyer or a Buyer Designee, and in addition to assuming the Assumed Liabilities, Buyer and/or a Buyer Designee(s) shall pay to Seller or the applicable Subsidiary at the Closing, an aggregate amount equal to four hundred eighty million dollars ($480,000,000) (the "Purchase Price") in cash by wire transfer of immediately available funds to an account designated by Seller's written instructions to Buyer at least two (2) Business Days prior to the Closing Date.

2.4 Assumed Liabilities

On the Closing Date, Buyer or one or more Buyer Designee shall execute and deliver to Seller each Assignment and Bill of Sale and Assumption Agreement and one or more Lease Assignments or Subleases pursuant to which Buyer or any such Buyer Designee shall accept, assume and agree to pay, perform or otherwise discharge, in accordance with the respective terms and subject to the respective conditions thereof, the Assumed Liabilities. For purposes of this Agreement, "Assumed Liabilities" means the liabilities and obligations set forth or described in paragraphs (a) through (d) below, whether or not any such liability or obligation has a value for accounting purposes or is carried or reflected on or specifically referred to in either Seller's or the applicable Subsidiary's books or financial statements:

(a) the liabilities and obligations arising after the Closing Date under the Assumed Leases and the transferred Contracts, Licenses and Governmental Permits, but excluding the liabilities and obligations set forth in Sections 2.5(h), 2.5(i), and 2.5(j);

(b) with respect to the Engenio Business, any support obligations and product warranty and sales return liabilities arising after the Closing Date from sales in the ordinary course of business after the Closing Date of the Engenio Products listed on Schedule 1.1(b);

(c) any support obligations and any product warranty liabilities arising after the Closing Date from sales in the ordinary course of Business of the Engenio Products listed on Schedule 1.1(b) on or before the Closing Date but only to the extent that such support obligations (including personnel costs) and product warranty liabilities exceed the Warranty Cap; and

(d) except as provided herein, the obligations and liabilities with respect to the Transferred Employees (including European Union Council Directive 77/187 as amended by the European Union Council Directive 2001/23 (Acquired Rights Directive) or any local laws which implement the same (the "ARD Regulations")), the Engenio Business or the Purchased Assets in any of the foregoing cases arising from, or in connection with, the operation or conduct of the Engenio Business or the ownership of the Purchased Assets by Buyer or a Buyer Designee after the Closing Date.

2.5 Excluded Liabilities

Neither Buyer nor any Buyer Designee shall assume or be obligated to pay, perform or otherwise assume or discharge any liabilities or obligations of Seller or any of its Affiliates, whether direct or indirect, known or unknown, absolute or contingent, except for the Assumed Liabilities (all of such liabilities and obligations not so assumed being referred to herein as the "Excluded Liabilities"). For the avoidance of doubt, the parties agree that the Excluded Liabilities include, but are not limited to, any and all liabilities or obligations set forth or described in paragraphs (a) through (n) below, whether or not any such liability or obligation has a value for accounting purpose or is carried or reflected on or specifically referred to in Seller's or the applicable Subsidiary's books or financial statements:

(a) any liability or obligation that arises from, or in connection with, the operation or the conduct of the Engenio Business or the ownership of the Purchased Assets on or prior to the Closing Date;

(b) any Excluded Taxes;

(c) any Environmental Liabilities;

(d) any liability or obligation arising out of or related to any Excluded Asset;

(e) any trade payable that arises from, or in connection with, the operation or the conduct of the Engenio Business or the ownership of the Purchased Assets on or prior to the Closing Date;

(f) any indebtedness for borrowed money or guarantees thereof of Seller and its Subsidiaries or intercompany obligations of Seller or any Subsidiary;

(g) except as set forth in Section 5.4(c), any liability or obligation relating to or arising out of (i) the employment and/or any termination of such employment by Seller or any Subsidiary of any employee or former employee of Seller or a Subsidiary on or before the Closing Date, including any and all liability or obligation relating to wages, remuneration, compensation, unreimbursed expenses, benefits, severance, pensions, sabbatical, vacation, personal days, floating holidays or other paid-time-off, working time related benefits, time savings accounts, end of career indemnities, 13th month payment or similar, anniversary bonus, early retirement, old-age part-time (Altersteilzeit) (including any amounts which Seller or any Subsidiary has book-reserved), reconciliation of interests (Interessenausgleich), social plans (Sozialplan), works council negotiation procedure, social security and related costs (together, the "Employment-Related Liabilities") of the employees or former employees of the Seller or any Subsidiary or Seller's or any Subsidiary's obligation to comply with the ARD Regulations, in each case, that are accrued or in the course of accrual or relate to periods prior to and on the Closing Date or that relate on a prorate temporis basis to the period prior and including the Closing Date; (ii) any employee's or former employee's or his/her dependents' rights or obligations under any fringe benefit of employment with Seller or a Subsidiary, including any Benefit Plan; (iii) any retention payments owed to Business Employees pursuant to arrangements entered into on or prior to the Closing Date by Seller or a Subsidiary; and/or (iv) the employment or the termination of employment (whether before, on or after Closing) or the transfer by operation of Law, in each case as a result of the transaction contemplated by this Agreement, of any person who is not a Transferred Employee but who claims or is deemed to transfer to the Buyer or any Buyer Designee by operation of Law, including, without limitation, liabilities and obligations and Losses arising from, or connected with, any Employment-Related Liabilities;

(h) any liability and obligation which arises out of or relates to any breach, default or violation by Seller or its Affiliates of the Assumed Leases and the Contracts, Licenses and Governmental Permits occurring on or prior to the Closing Date or which arises out of violation of applicable Law, in each case by Seller or its Affiliates;

(i) except as set forth in Section 2.4(c), any support obligations (including personnel costs) and any product warranty liabilities arising from sales of Engenio Products listed on Schedule 1.1(b) on or before the Closing Date;

(j) any support obligations (including personnel costs) and any product warranty and sales return or product return liabilities arising from sales of ONStor™ Products on, before or after the Closing Date;

(k) any liability or obligation in connection with, or relating to, any actions, suits, claims or proceedings against Seller or any Subsidiary which arise out of, accrue, or relate to (i) the operation or conduct of the Engenio Business or (ii) the ownership of the Purchased Assets in each case on or before the Closing Date;

(l) any benefit liability or obligation relating to or arising in connection with Section 4980B of the Code (COBRA) or otherwise by operation of applicable Law to provide continuation of health care coverage to employees or former employees of Seller or a Subsidiary or their dependents arising from a qualifying event occurring on or before the Closing Date;

(m) any liability or obligation arising from any (i) customer rebates or market development funds on or before the Closing Date and (ii) sales returns or product returns arising from sales of Engenio Products listed on Schedule 1.1(b) on or before the Closing Date; and

(n) except as set forth in Section 5.4(c), any liability or obligation arising from or relating to any Benefit Plan.

2.6 Further Assurances; Further Conveyances and Assumptions; Consent of Third Parties

(a) From time to time following the Closing to the extent permitted by applicable Law and subject to reasonable restrictions, Seller shall, or shall cause its Affiliates to, make available to Buyer or a Buyer Designee such confidential data and information in personnel records of Transferred Employees as is reasonably necessary for Buyer to integrate such employees into Buyer's or a Buyer Designee's workforce and comply with its obligations under Section 5.4.

(b) From time to time following the Closing, Seller and Buyer shall, and shall cause their respective Affiliates to, execute, acknowledge and deliver all such further conveyances, notices, assumptions, releases and acquittances and such other instruments, and shall take such further actions, as may be necessary or appropriate to assure fully to Buyer and its Affiliates and each of their respective successors or assigns, all of the properties, rights, titles, interests, estates, remedies, powers and privileges intended to be conveyed to Buyer or a Buyer Designee under this Agreement and the Collateral Agreements and to assure fully to Seller and its Affiliates and each of their respective successors and assigns, the assumption of the liabilities and obligations intended to be assumed by Buyer or a Buyer Designee under this Agreement and the Collateral Agreements, and to otherwise make effective the transactions contemplated hereby and thereby (including (i) transferring back to Seller or a Subsidiary any asset or liability not contemplated by this Agreement to be a Purchased Asset or an Assumed Liability, respectively, which asset or liability was transferred to Buyer or a Buyer Designee at the Closing, and (ii) transferring to Buyer or a Buyer Designee any asset or liability contemplated by this Agreement to be a Purchased Asset or an Assumed Liability, respectively, which was not transferred to Buyer or a Buyer Designee at the Closing).

(c) Nothing in this Agreement nor the consummation of the transactions contemplated hereby shall be construed as an attempt or agreement to assign any Purchased Asset, including any Contract, Lease, License, Governmental Permit, certificate, approval, authorization or other right, which by its terms or by Law is nonassignable without the consent of a Third Party or a Governmental Body or is cancelable by a Third Party in the event of an assignment ("Nonassignable Assets") (provided that in the event that Buyer or a Buyer Designee notifies Seller that any Purchased Asset should be transferred notwithstanding the right of a Third Party to cancel in the event of an assignment, then such Purchased Asset that is cancelable by a Third Party in the event of assignment shall not be included as a Nonassignable Asset for purposes of this Agreement) unless and until such consents shall have been obtained. Seller shall use all reasonable commercial efforts to obtain such consents and deliver any required notices prior to Closing, and Buyer shall, and shall cause its Affiliates to, cooperate with Seller to obtain such consents promptly. To the extent permitted by applicable Law, in the event consents to the assignment thereof cannot be obtained, Seller and Buyer shall, and shall cause their respective Affiliates to, cooperate in a mutually agreeable arrangement under which (i) Buyer or a Buyer Designee would obtain the benefits and assume the obligations under such Nonassignable Assets in accordance with this Agreement including by sub-contracting, sub-licensing, or sub-leasing to Buyer or a Buyer Designee, or (ii) such Nonassignable Assets would be held, as of and from the Closing Date, by Seller or the applicable Subsidiary in trust for Buyer or a Buyer Designee and the covenants and obligations thereunder would be performed by Buyer or a Buyer Designee in Seller's or such Subsidiary's name and all benefits and obligations existing thereunder would be for Buyer's or the applicable Buyer Designee's account. Seller shall, and shall cause its Affiliates to, also take or cause to be taken at Buyer's or a Buyer Designee's expense such actions in its name or otherwise as Buyer may reasonably request so as to provide Buyer or the applicable Buyer Designee with the benefits of the Nonassignable Assets and to effect collection of money or other consideration that becomes due and payable under the Nonassignable Assets, and Seller or the applicable Subsidiary shall promptly pay over to Buyer or the applicable Buyer Designee all money or other consideration received by it in respect to all Nonassignable Assets. If after the Closing Date any Nonassignable Asset becomes assignable (either because consent for the assignment thereof is obtained or otherwise), Seller shall promptly notify Buyer and assign or transfer such previously Nonassignable Asset to Buyer or the applicable Buyer Designee.

(d) Buyer and Seller shall, and shall cause their respective Affiliates to, use their respective reasonable commercial efforts to obtain, or to cause to be obtained, any consent, substitution, approval, or amendment required to transfer all rights and obligations under any and all Contracts, Leases, Licenses, Governmental Permits, certificates, approvals, authorizations or other rights or obligations or liabilities that constitute Assumed Liabilities. In the case of any agreements which include obligations with respect to products of Seller other than Engenio Products (the "Shared Contract"), Buyer and Seller shall, and shall cause their respective Affiliates to, obtain consent and amend such agreement to remove any obligations with respect to such products other than Engenio Products. In the event such amendment is not obtained prior to the Closing Date, then such Shared Contract shall be deemed to be a Nonassignable Asset in accordance with this Section 2.6 (provided, however, that, in connection with such Nonassignable Asset, Buyer shall have no obligation to perform any of the obligations with respect to products other than Engenio Products).

(e) As of and from the Closing Date, Seller on behalf of itself and its Affiliates authorizes Buyer, to the extent permitted by applicable Law and the terms of the Nonassignable Assets, at Buyer's expense, to perform all the obligations and receive all the benefits of Seller or its Affiliates under the Nonassignable Assets and appoints Buyer its attorney-in-fact to act in its name on its behalf or in the name of the applicable Affiliate of Seller and on such Affiliate's behalf with respect thereto.

(f) Notwithstanding anything in this Agreement to the contrary, unless and until any consent or approval with respect to any Nonassignable Asset is obtained, such Nonassignable Asset shall not constitute a Purchased Asset and any associated liability shall not constitute an Assumed Liability for any purpose under this Agreement.

(g) As reasonably requested by Buyer, Seller will identify the licenses included in the Nonassignable Assets and shall cooperate with and assist Buyer, at Buyer's reasonable request and expense, to obtain licenses or arrangements to replace the licenses, services and assets provided with respect to any Nonassignable Asset.

2.7 Intellectual Property and Information

Unless expressly set forth in this Agreement, the Intellectual Property Agreement or in any Collateral Agreement, no title, right or license of any kind is granted to Buyer pursuant to this Agreement with respect to the Intellectual Property or Information of Seller or any Affiliate of Seller, either directly or indirectly, by implication, by estoppel or otherwise.

2.8 Bulk Sales Law

Buyer hereby waives compliance by Seller and any Subsidiary with the requirements and provisions of any "bulk-transfer" Laws of any jurisdiction (collectively, the "Bulk Sales Laws"), including Article 6 of the California and Kansas Uniform Commercial Code, in each case that may otherwise be applicable with respect to the sale of any or all of the Purchased Assets to Buyer or a Buyer Designee. Seller agrees that the indemnification obligations set forth in Section 9.3(b)(ii) shall apply to Buyer's waiver of the Bulk Sales Laws.

2.9 Taxes

(a) Buyer or a Buyer Designee shall be entitled to deduct and withhold from the consideration otherwise payable pursuant to this Agreement to Seller or any Subsidiary such amounts as Buyer or any Buyer Designee is legally required to deduct and withhold under the Code, or any Tax Law with respect to Taxes resulting from Seller's or any Subsidiary's sale of Purchased Assets in any jurisdiction; provided that such right to deduct and withhold shall not apply to any Transfer Taxes allocated to Buyer or a Buyer Designee under Section 2.9(b). Buyer shall provide Seller with written notice of any requirement to so deduct or withhold any amount no less than five (5) days prior to the Closing Date, and shall provide Seller with a receipt from the applicable Governmental Body documenting the remittance of such deduction or withholding under the Code or any such Law as soon as reasonably practicable after the date of such deduction or withholding, but in any event not later than thirty (30) days following any such payment. To the extent that amounts are so withheld, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Person in respect of whom such deduction and withholding was made.

(b) The Party prescribed by applicable Law as primarily liable for the payment thereof shall be responsible for and timely pay any sales, use, stamp, registration, documentary, filing, recording, transfer, value added or similar fees or Taxes (including all applicable real estate transfer Taxes) ("Transfer Taxes") incurred in connection with the transfer of the Purchased Assets and the assumption of the Assumed Liabilities to and by, respectively, Buyer and Buyer Designees pursuant to this Agreement. In the case and to the extent of value added and similar Taxes incurred in connection with the transactions contemplated hereby that are recoverable by Buyer or a Buyer Designee, such Taxes shall be invoiced by Seller or its Subsidiaries to Buyer or Buyer Designee, as applicable, paid by Buyer or Buyer Designee to Seller or its Subsidiaries, as applicable, and remitted by Seller or its Subsidiaries, as applicable, to the relevant Governmental Body in accordance with applicable Law, and Buyer or Buyer Designee shall be entitled to such recovery. The Party prescribed by Law as primarily liable for the payment of such Transfer Taxes shall prepare all necessary documents (including all Returns) with respect to all such amounts in a timely manner. The applicable party shall file such Returns and pay such Taxes and shall provide evidence satisfactory to the other party that such Returns have been filed and Transfer Taxes have been paid. Buyer and Seller shall cooperate to minimize the amount of Transfer Taxes.

(c) All real property Taxes, personal property Taxes and similar ad valorem obligations ("Property Taxes") levied with respect to the Purchased Assets for a Straddle Period shall be apportioned between Seller and Buyer based on the number of days of such Straddle Period, and Seller shall be liable for the proportionate amount of Property Taxes that is attributable to the Pre-Closing Tax Period within such Straddle Period, and Buyer shall be liable for the proportionate amount of Property Taxes that is attributable to the Post-Closing Tax Period within such Straddle Period. Any refund, rebate, abatement or other recovery of Property Taxes attributable to the Pre-Closing Tax Period shall be for the account of Seller, and any refund, rebate, abatement or other recovery of Property Taxes attributable to the Post-Closing Tax Period shall be for the account of Buyer. Upon receipt of any bill (or any refund, rebate, abatement, or other recovery) for such Property Taxes, Buyer or Seller, as applicable, shall present a statement to the other setting forth the amount of reimbursement to which each is entitled under this

Section 2.9(c) together with such supporting evidence as is reasonably necessary to calculate the proration amount. The proration amount shall be paid by the party owing it to the other within ten (10) days after delivery of such statement. In the event that Buyer or Seller makes any payment for which it is entitled to reimbursement under this Section 2.9(c), the applicable party shall make such reimbursement promptly but in no event later than ten (10) days after the presentation of a statement setting forth the amount of reimbursement to which the presenting party is entitled along with such supporting evidence as is reasonably necessary to calculate the amount of reimbursement.

(d) Following the Closing, Buyer and Seller shall cooperate as reasonably requested for the purpose of enabling the requesting party to (i) make any election relating to Taxes, (ii) prepare Returns with respect to the Engenio Business or the Purchased Assets or (iii) to prepare for and defend audits or other Tax-related examinations by a Governmental Body with respect to the Engenio Business and the Purchased Assets. Such cooperation shall be at the expense of the requesting party.

2.10 Buyer Designee

The Parties agree that Buyer may assign the right to purchase certain of the Purchased Assets to one or more Buyer Designees or that one or more Buyer Designees may enter into a Collateral Agreement. Notwithstanding any such assignment or execution of a Collateral Agreement by a Buyer Designee, Buyer shall remain liable for, and any such assignment or execution shall not relieve Buyer of, its obligations hereunder or thereunder. Any reference to Buyer in this Agreement shall to the extent applicable also be deemed a reference to the applicable Buyer Designee, except where in context of this Agreement such use would not be appropriate.

2.11 Performance of Warranty Service; Warranty Reimbursement

Buyer agrees to perform the warranty service arising from sales of Engenio Products listed on Schedule 1.1(b) on, before or following the Closing Date. Seller shall pay to Buyer the Warranty Cap amount as set forth on Schedule 2.11.

3. Representations and Warranties of Seller

Except as set forth in the Schedules attached hereto and delivered by Seller to Buyer prior to the execution of this Agreement, Seller represents and warrants to Buyer that:

3.1 Organization and Qualification

Seller is a corporation duly organized, validly existing and in good standing under the Laws of the State of Delaware and has all requisite corporate power and authority to carry on the Engenio Business as currently conducted by it and to own or lease and operate the Purchased Assets and conduct the Engenio Business. Seller is duly qualified to do business and is in good standing as a foreign corporation (in any jurisdiction that recognizes such concept) in each jurisdiction where the ownership or operation of the Purchased Assets or the operation or conduct of the Engenio Business requires such qualification, except where the failure to be so qualified or in good standing, individually or in the aggregate, has not had and could not reasonably be expected to have a Seller Material Adverse Effect.

3.2 Subsidiaries

Schedule 3.2 sets forth a list of each Subsidiary of Seller that has title to any Purchased Asset or any Assumed Liability, together with its jurisdiction of organization. No other Affiliate of Seller owns any assets used or held for use primarily in the operation or conduct of the Engenio Business. Each entity is duly organized and validly existing and in good standing (in any jurisdiction that recognizes such concept) under the Laws of its jurisdiction of organization and has all requisite corporate or similar power and authority to own, lease and operate the Purchased Assets owned by it and to carry on its portion of the Engenio Business as presently conducted. Each Subsidiary of Seller set forth on Schedule 3.2 is duly qualified to do business and is in good standing as a foreign corporation or other entity (in any jurisdiction that recognizes such concept) in each jurisdiction where the ownership or operation of its properties and assets or the operation or conduct of the Engenio Business requires such qualification, except for failures to be so duly organized, validly existing, qualified or in good standing that, individually or in the aggregate, have not had and could not reasonably be expected to have a Seller Material Adverse Effect.

3.3 Authorization; Binding Effect

(a)(i) Seller has all requisite corporate power and authority to execute, deliver and perform this Agreement and the Collateral Agreements to which it will be a party and to effect the transactions contemplated hereby and thereby, and the execution, delivery and performance of this Agreement and the Collateral Agreements to which it will be a party has been duly authorized by all requisite corporate action.

(ii) Each Subsidiary that has title to any Purchased Asset or any Assumed Liability has all requisite corporate power and authority to execute, deliver and perform the Collateral Agreements to which it will be a party and to effect the transactions contemplated thereby, and the execution, delivery and performance of the Collateral Agreements to which it will be a party has been duly authorized by all requisite corporate action.

(b) This Agreement has been duly executed and delivered by Seller and this Agreement is, and the Collateral Agreements to which Seller and each Subsidiary that has title to any Purchased Asset or any Assumed Liability will be a party when duly executed and delivered by Seller or such Subsidiary will be, valid and legally binding obligations of Seller or such Subsidiary, enforceable against Seller or such Subsidiary, as applicable, in accordance with their respective terms, except to the extent that enforcement of the rights and remedies created hereby and thereby may be affected by bankruptcy, reorganization, moratorium, insolvency and similar Laws of general application affecting the rights and remedies of creditors and by general equity principles.

3.4 Non-Contravention; Consents

(a) Assuming that all Required Consents have been obtained, the execution, delivery and performance of this Agreement by Seller and the Collateral Agreements by Seller or any

Subsidiary that is a party thereto and the consummation of the transactions contemplated hereby and thereby do not and will not: (i) result in a breach or violation of, or conflict with, any provision of Seller's or the applicable Subsidiary's charter, by-laws or similar organizational document, (ii) violate or result in a breach of or constitute an occurrence of default under any provision of, result in the acceleration or cancellation of any obligation under, or give rise to a right by any party to terminate or amend its obligations under, any mortgage, deed of trust, conveyance to secure debt, note, loan, indenture, lien, lease, agreement, license, permit, instrument, order, judgment, decree or other arrangement or commitment to which Seller or the applicable Subsidiary is a party or by which it is bound and which relates to the Engenio Business or the Purchased Assets or (iii) violate any applicable Law, order, judgment, decree, rule or regulation of any court or any Governmental Body having jurisdiction over Seller, a Subsidiary, the Engenio Business or the Purchased Assets, other than in the case of clauses (ii) and (iii), any such violations, breaches, defaults, accelerations or cancellations of obligations or rights that, individually or in the aggregate, are not and could not reasonably be expected to be material to the Engenio Business, taken as a whole.

(b) No consent, approval, order or authorization of, or registration, declaration or filing with, any Person is required to be obtained by Seller or a Subsidiary in connection with the execution, delivery and performance of this Agreement and the Collateral Agreements to which Seller or such Subsidiary will be a party or for the consummation of the transactions contemplated hereby or thereby by Seller or such Subsidiary, except for (i) any filings required to be made under the HSR Act and any applicable filings required under foreign antitrust Laws, (ii) consents or approvals of Governmental Bodies or other Third Parties that are required to transfer or assign to Buyer or a Buyer Designee any Purchased Assets or assign the benefits of or delegate performance with regard thereto in any material respect, which are set forth in Schedule 3.4(b) (items (i) and (ii) being referred to herein as the "Required Consents") and (iii) such consents, approvals, orders, authorizations, registrations, declarations or filings the failure of which to be obtained or made, individually or in the aggregate, are not and could not reasonably be expected to be material to the Engenio Business, taken as a whole.

3.5 Title to Property; Principal Equipment; Sufficiency of Assets

(a) Seller or a Subsidiary has and at the Closing will have good and valid title to, or a valid and binding leasehold interest or license in, all real and personal tangible Purchased Assets free and clear of any Encumbrance except for Permitted Encumbrances.

(b) Each material item of Principal Equipment is in good operating condition and repair, subject to normal wear and tear, suitable for the purposes for which it is currently being used, but is otherwise being transferred on a "where is" and, as to condition, "as is" basis.

(c) Except for (i) the assets that will be used in connection with providing services under the Transition Services Agreement, (ii) the assets and Business Employees not transferred to Buyer or a Buyer Designee at Buyer's written request and (iii) the Excluded Assets (other than those set forth in Section 2.2(k)), the Purchased Assets and the Transferred Employees and the other rights to be acquired or licensed under this Agreement and the Collateral Agreements (including the services to be provided pursuant to the Transition Services Agreement) constitute (x) all property, assets, personnel and rights that are used or held for use by Seller or a Subsidiary primarily in the operation or conduct of the Engenio Business and (y) all property, assets and rights that are necessary for the operation or conduct of the Engenio Business as currently conducted. In the event this Section 3.5(c) is breached because Seller or a Subsidiary has in good faith failed to identify and transfer any asset or property or provide any service used or held for use primarily in the Engenio Business, such breach shall be deemed cured if Seller or the applicable Subsidiary promptly transfers such properties or assets or provides such services to Buyer or a Buyer Designee at no additional cost to Buyer or a Buyer Designee.

3.6 Permits; Licenses

Except as set forth in Schedule 2.1(j), there are no material Governmental Permits necessary for or used by Seller or a Subsidiary to operate the Engenio Business as now being operated or to use or occupy the Premises, which Governmental Permits are required by currently effective Laws. Seller or one of its Subsidiaries owns, holds or possesses in their own name, all Governmental Permits necessary to own or lease, operate and use the Purchased Assets or own, use or occupy the Premises and to carry on and conduct the Engenio Business and its operations as presently conducted, except for such Governmental Permits, the absence of which, individually or in the aggregate, is not material to the Engenio Business. The Governmental Permits held, owned or possessed by Seller or a Subsidiary are valid and in full force and effect and no proceeding is recorded, pending or, to Seller’s knowledge, threatened seeking the suspension, modification, limitation or revocation of any such Governmental Permit. Neither Seller nor any Subsidiary is in material violation of or default under any such Governmental Permits.

3.7 Real Estate; Environmental Matters

(a) Schedule 3.7(a) contains a complete and accurate list of the Leased Premises and the Assumed Leases. Buyer has been provided with a complete and correct copy of each Assumed Lease. Except as set forth in Schedule 3.7(a), each Assumed Lease is in full force and effect and neither Seller nor any Subsidiary has violated, and, to Seller’s knowledge, the landlord has not violated or waived, any of the material terms or conditions of any Assumed Lease and all the material covenants to be performed by Seller or a Subsidiary, and to Seller’s knowledge, the landlord under each Assumed Lease prior to the date hereof have been performed in all material respects.

(b) Schedule 3.7(b) contains a complete and accurate list of the Transferred Premises. Seller or a Subsidiary has good and marketable title to the Transferred Premises in accordance with Kansas Law. The Transferred Premises are in good operating condition and repair, subject to ordinary wear and tear, suitable for the purposes for which it is currently being used, but is otherwise being transferred on a “where is” and, as to condition, “as is” basis. Except as set forth in Schedule 3.7(b), none of such Transferred Premises are subject to any Encumbrance except for Permitted Encumbrances. No Third Party is in possession of any of the Transferred Premises or the Leased Premises (or any portion thereof).

(c) The use of any Premises, as presently used by the Engenio Business, does not violate in any material respect any local zoning or similar land use or other applicable Laws. Neither Seller nor any Subsidiary is in violation of or in noncompliance with any covenant, condition, restriction, order or easement affecting any Premises except where such violation or noncompliance, individually or in the aggregate, is not or could not reasonably be expected to be material to the Engenio Business, taken as a whole. There is no pending or, to Seller's knowledge, threatened condemnation or similar proceeding affecting any Premises.

(d) Except as set forth in Schedule 3.7(d), in respect of the Engenio Business and the Premises:

(i) the operations of the Engenio Business and the Premises comply in all material respects with all applicable Environmental Laws;

(ii) Seller and each Subsidiary has obtained all environmental, health and safety Governmental Permits required by or related to any Environmental Law and necessary for its operations, and all such Governmental Permits are in good standing, and Seller and each Subsidiary is in compliance with all terms and conditions of such permits except where the failure to obtain, maintain in good standing or be in compliance with, such permits, individually or in the aggregate, is not or could not reasonably be expected to be material to the Engenio Business, taken as a whole;

(iii) since January 1, 2008, none of Seller, any Subsidiary or any of the Premises or the operations of the Engenio Business, have been subject to any on-going or previous investigation by, order from or agreement with any Person respecting (A) any Environmental Law, or (B) any remedial action arising from the release or threatened release of a Hazardous Substance into the environment;

(iv) neither Seller nor any Subsidiary is subject to any judicial or administrative proceeding, order, judgment, decree or settlement alleging or addressing a violation of or liability under any Environmental Law;

(v) Seller or each applicable Subsidiary has filed all notices required to be filed under any Environmental Law indicating past or present treatment, storage or disposal of a Hazardous Substance or reporting a spill or release of a Hazardous Substance into the environment except where the failure to file any such notices, individually or in the aggregate, has not had and could not reasonably be expected to have a Seller Material Adverse Effect;

(vi) Seller and its Subsidiaries have provided or made available to Buyer all material reports, assessments, compliance reports or audits, remedial actions plans or similar documents relating to any material environmental conditions of the Premises that are in Seller's possession;

(vii) To Seller's knowledge, there is no asbestos containing material or lead based paint containing materials in at, on, under or within the Transferred Premises;

(viii) neither Seller nor any Subsidiary has received any written notice, or to Seller's knowledge, other claim to the effect that it is or may be liable to any Person as a result of the release or threatened release of a Hazardous Substance; and

(ix) there have been no releases or to Seller's knowledge, threatened releases of any Hazardous Substances into, on or under any of the Premises by Seller or its Affiliates or, to Seller's knowledge, any other Person, in any case in such a way as to create any liability (including the costs of investigation and remediation) under any applicable Environmental Law.

3.8 Compliance With Laws

(a) Except as set forth on Schedule 3.8, with respect to the Purchased Assets, the Licensed Intellectual Property, the Engenio Products and the Engenio Business, Seller and each Subsidiary is in compliance in all material respects with all applicable Laws and all decrees, orders, judgments, writs, injunctions, permits and licenses of or from Governmental Bodies by which the Engenio Business, the Licensed Intellectual Property, the Engenio Products or the Purchased Assets are bound or affected.

(b) Without limiting the generality of the foregoing, neither Seller nor any of its Subsidiaries, nor, to Seller's knowledge, any agent, employee or other Person associated with or acting on behalf of Seller or its Subsidiaries, has, directly or indirectly, used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity, made any unlawful payment to any foreign or domestic government official or employee or to any foreign or domestic political party or campaign from corporate funds, violated any provision of the Foreign Corrupt Practices Act of 1977, as amended or any money laundering laws, or similar legislation in applicable jurisdictions or made any bribe, rebate, payoff, influence payment, kickback or other similar unlawful payment.

3.9 Litigation

Except as set forth on Schedule 3.9, there is no action, suit, consent decree, proceeding, arbitration or governmental investigation pending or, to Seller's knowledge, threatened by, against or involving Seller or any Subsidiary, the Engenio Business, the Purchased Assets, the Assumed Liabilities or the Transferred Employees (i) which seeks to restrain or enjoin the consummation of the transactions contemplated hereby or (ii) with respect to the Engenio Business, the Purchased Assets, the Assumed Liabilities or the Transferred Employees that, individually or in the aggregate, has been or could reasonably be expected to be material to the Engenio Business, taken as a whole. To Seller's knowledge, there is no basis for any such action, suit, decree, proceeding, arbitration or investigation not disclosed on Schedule 3.9.

3.10 Business Employees

(a) Schedule 3.10(a)(i) contains a complete and accurate list of all the Engenio Business Employees as of March 2, 2011, showing for each Business Employee, the name, title, location, service date, leave status (active or inactive), annual base salary or wages, annual incentive/bonus or commission opportunity and 2011 salary increase. Except as set forth on Schedule 3.10(a)(ii), (i) no Business Employee is covered by any union, collective bargaining agreement or other similar labor agreement; (ii) to Seller's knowledge, are there no pending union, works council or similar labor organizing activities or arrangements; and (iii) in the three years prior to the date hereof, there has been no labor dispute, other than routine individual grievances, or any activity or proceeding by a labor union or representative thereof to organize the Business Employees, or any lockouts, strikes, slowdowns, work stoppages or threats thereof by or with respect to Business Employees. No unfair labor practice, labor dispute or labor charge or complaint is pending or, to the knowledge of Seller, threatened with respect to any Business Employee.

(b) Except as set forth in Schedule 3.10(b), neither Seller nor any Subsidiary currently maintains, contributes to or has any liability under any Benefit Plan. With respect to each of the Benefit Plans identified on Schedule 3.10(b), Seller has made available to Buyer true and complete copies of the most recent plan or summary or other written description describing all material terms thereof.

(c) Each Benefit Plan that is intended to be qualified under Section 401(a) of the Code has received a favorable determination letter, or has pending or has time remaining in which to file an application for such determination, from the IRS, and to the knowledge of Seller, no fact exists indicating that any such determination letter should be revoked or not issued or reissued.

(d) Other than as set forth in Schedule 3.10(b), no Benefit Plan is, and Seller, any Subsidiary or any ERISA Affiliate does not sponsor or maintain or has previously sponsored, maintained, contributed to, incurred an obligation to contribute to, or is or was required to contribute to: (i) any "multiemployer plan" as defined in Section 3(37) or 4011(a)(3) of ERISA, or (ii) any pension plan subject to Title IV of ERISA, Part 3 of Title I of ERISA or Section 412 of the Code.

(e) No Benefit Plan provides for retiree or post-employment health, disability or life benefits to any Business Employee, and Seller, any Subsidiary or any ERISA Affiliate has not promised to or contracted with any Business Employee (either individually or to Business Employees as a group) with retiree health or other retiree employee welfare benefits.

(f) Neither the execution nor the delivery of this Agreement or the Collateral Agreements or the consummation of the transactions contemplated hereby, either alone or in combination with another event, will (i) entitle any Business Employee to any payment from Seller or any Subsidiary; (ii) increase the amount of compensation or benefits due from Seller or any Subsidiary to any such employee; (iii) accelerate the vesting, funding or time of payment of any compensation, equity award or other benefits from Seller or any Subsidiary; or (iv) result in the payment of any "excess parachute payment" within the meaning of Section 280G of the Code or any similar provisions of foreign, state or local Law.

(g) Neither Seller nor any Subsidiary maintains or sponsors any "nonqualified deferred compensation plan" within the meaning of Section 409A(d)(1) of the Code in which a Business Employee participates and may incur an additional tax under Section 409A of the Code.

(h) Each Benefit Plan that covers any Business Employee outside of the United States or is otherwise not subject to ERISA or the Code has been maintained in substantial compliance with its terms and with the requirements prescribed by any and all applicable Laws (including without limitation any special provisions relating to the tax status of contributions to, earnings of or distributions from such Benefit Plans where each such Benefit Plan was intended to have such tax status).

(i) With respect to the Engenio Business, there is not presently pending or existing, and to Seller's knowledge there is not threatened, (i) any strike, slowdown, picketing, or work stoppage, (ii) any application for certification of a collective bargaining agent, (iii) any controversies or disputes pending, or to Seller's knowledge, threatened between Seller or any Subsidiary and any of its employees, or (iv) any claims, litigation or disputes by a works council or other applicable Government Body, which controversies, claims, litigation or disputes, individually or in the aggregate, are or could reasonably be expected to be material to the Engenio Business, taken as a whole.

(j) Except for the defined benefit plan set forth on Schedule 3.10(b) with respect to Business Employees located in Germany, no Business Employee has a contractual right to any defined benefit pension or rights under an occupational pension plan.

(k) In the twelve (12) months prior to the date hereof, no Business Employee located in the European Union has transferred to the Engenio Business from another business unit of Seller or any of its Subsidiaries or pursuant to the ARD Regulations.

3.11 Contracts

(a) Schedule 3.11(a) contains a complete and accurate list of all existing Contracts of Seller or a Subsidiary that:

(i) involve or could reasonably be expected to involve payments by or to Seller or a Subsidiary either of more than $250,000 per year or more than $500,000 in the aggregate over the full term thereof;

(ii) contain any provision or covenant prohibiting or limiting the ability of Seller or a Subsidiary to (A) engage in any activity relating to or involving the Engenio Business (including geographical restrictions), (B) to compete in any line of business, directly or indirectly, with any Person as to the Engenio Business;

(iii) provide for "most favored nation" terms, including such terms for pricing, and that is material to the Engenio Business;

(iv) create or obligate Seller or a Subsidiary to participate in any joint venture or similar arrangement with respect to or affecting the Engenio Business or the Purchased Assets;

(v) contain material maintenance, warranty, support or similar obligations, other than as set forth on the standard terms and conditions of sale included in Schedule 3.15;

(vi) for any distributor, original equipment manufacturer, reseller, value added reseller, sales, agency or manufacturer's representative relationships that is material to the Engenio Business; and

(vii) constitute any other agreement, commitment, arrangement or plan not made in the ordinary course of business that is material to the Engenio Business (clauses (i) through (vii) collectively, the "Material Contracts").

(b) Schedule 3.11(b) contains a complete and accurate list of all contracts, agreements, commitments, purchase orders, and instruments that are material to the Engenio Business but are not included in the Purchased Assets.

(c) Each Material Contract is valid, binding and enforceable against Seller or the applicable Subsidiary and, to Seller's knowledge, the other parties thereto in accordance with its terms and is in full force and effect. Neither Seller nor any Subsidiary is in default under or in breach of or is otherwise delinquent in performance under any Material Contract (and neither Seller nor any Subsidiary has received any notice alleging any such default, breach or delinquency). To Seller's knowledge, each of the other parties thereto has performed in all material respects all obligations required to be performed by it under, and is not in material default under, any Material Contract and no event has occurred that, with notice or lapse of time, or both, would constitute such a material default. Seller or a Subsidiary has made available to Buyer true and complete copies of all Material Contracts.

3.12 Financial Information; Absence of Certain Changes

(a) Schedule 3.12(a) contains true and complete copies of the following unaudited financial statements of the Engenio Business (the "Unaudited Business Financials"):

(i) unaudited balance sheet of the Engenio Business as of December 31, 2010 (the "Balance Sheet");

(ii) unaudited balance sheet of the Engenio Business as of December 31, 2009; and

(iii) unaudited statements of operations of the Engenio Business for the years ended December 31, 2010, 2009 and 2008.

(b) The Unaudited Business Financials were prepared on the basis of the books and records (which are accurate and complete in all material respects) of the Engenio Business (in each case, as of the date of such Unaudited Business Financials) and in accordance with GAAP consistently applied throughout the periods covered, except for the omission of footnotes and for normal year-end adjustments. The Unaudited Business Financials present fairly, in all material respects, the financial position of the Engenio Business as of the dates thereof and the results of its operations and cash flows for each of the periods then ended in conformity with GAAP except for (i) the omission of footnotes and normal year-end adjustments; and (ii) any potential adjustments relating to the tax provision in the statements of operations or to any line items in the balance sheets affected by tax related adjustments. The Closing Statement will be prepared on the basis of the books and records of the Engenio Business and each line item thereof will be prepared in accordance with GAAP applied consistently with the Unaudited Business Financials.

(c) Except as set forth in Schedule 3.12(c), since the date of the Balance Sheet, the Engenio Business has been conducted by Seller and the Subsidiaries in the ordinary course consistent with past practices and there has not been:

(i) any event, occurrence, development or state of circumstances or facts which, individually or in the aggregate, has had or could reasonably be expected to have a Seller Material Adverse Effect;

(ii) any creation or other incurrence of any Encumbrance on any Purchased Asset other than in the ordinary course of business consistent with past practices;

(iii) failure to timely pay when due any material obligation related to the Engenio Business;

(iv) any material damage, destruction or other casualty loss (whether or not covered by insurance) affecting the Engenio Business or any Purchased Asset;

(v) any transaction or commitment made, or any contract or agreement entered into, by Seller or a Subsidiary relating to the Engenio Business or any Purchased Asset (including the acquisition or disposition of any assets) or any relinquishment by Seller or a Subsidiary of any contract or other right, in either case, material to the Engenio Business, other than transactions and commitments other than in the ordinary course of business consistent with past practices and those contemplated by this Agreement and the Collateral Agreements;

(vi) any change in any method of accounting or accounting practice by Seller or a Subsidiary with respect to the Engenio Business;

(vii) any (i) employment, retention, bonus, deferred compensation, severance, retirement or other similar agreement entered into with any Business Employee (or any amendment to any such existing agreement), (ii) change in compensation or other benefits payable to any Business Employee pursuant to any severance or retirement plans or policies thereof, or (iii) grant of any severance or termination pay to any Business Employee;

(viii) any labor dispute, other than routine individual grievances, or any activity or proceeding by a labor union or representative thereof to organize the Business Employees, or any lockouts, strikes, slowdowns, work stoppages or threats thereof by or with respect to Business Employees; or

(ix) any shipments or sales of quantities of Engenio Products to customers, including distributors, other than in the ordinary course consistent with their past requirements.

(d) Except as set forth in Schedule 3.12(d), Seller has not received or booked any prepaid revenues for the Engenio Business applicable to performance due after the Closing Date.

3.13 Intellectual Property

(a) Seller or one of its Affiliates owns exclusively all right, title and interest in and to the Assigned Intellectual Property, free and clear of all Encumbrances other than Permitted

Encumbrances. Seller or one of its Affiliates owns or has a valid right to grant the licenses to the Licensed Intellectual Property that it is licensing to Buyer pursuant to the Intellectual Property Agreement. Seller and its Affiliates have not received any notice or claim challenging Seller's or any of its Affiliates' ownership of any Assigned Intellectual Property or suggesting that any other Person has any claim of legal or beneficial ownership or exclusive rights with respect thereto, nor to Seller's knowledge is there a reasonable basis for any claim that Seller or its Affiliates, as applicable, does not so own any of such Assigned Intellectual Property. Schedule A of Appendix F to the Intellectual Property Agreement contains a complete and accurate list of all registered Trademarks and pending applications for registration of Trademarks that are to be assigned to Buyer or a Buyer Designee (the "Assigned Trademarks"). Schedule A of Appendix G to the Intellectual Property Agreement contains a complete and accurate list of all Patents that are to be assigned to Buyer or a Buyer Designee (the "Assigned Patents" and, together with the Assigned Trademarks, the "Assigned Registered IP"), and there are no registered Copyrights and pending applications for registration of Copyrights being assigned to Buyer of a Buyer Designee. The appendices to the Intellectual Property Agreement attached hereto identify as of the date of this Agreement (i) each item of Assigned Registered IP in which Seller has or purports to have an ownership interest of any nature (whether exclusively, jointly with another Person, or otherwise), (ii) the jurisdiction in which such item of Assigned Registered IP has been registered or filed and the applicable application, registration, or serial or other similar identification number, and (iii) any other Person that has an ownership interest in such item of Assigned Registered IP and the nature of such ownership interest. The parties acknowledge that the appendices to the Intellectual Property Agreement may be updated by mutual written agreement of the parties prior to the Closing to ensure that any lists accurately reflect the Assigned Registered IP to be transferred pursuant to the terms and conditions of this Agreement. Seller will provide to Buyer at Closing (i) complete and accurate copies of all applications, material correspondence with Governmental Bodies or registration organizations, and other material documents related to each such item of Assigned Registered IP in Seller's possession, and (ii) a listing of all actions, filings and payment obligations due to be made to any Governmental Body within one hundred and eighty (180) days following the date of Closing with respect to each item of Assigned Registered IP. Seller has not received any notice or claim challenging the validity or enforceability of any of the Assigned Registered IP or indicating an intention on the part of any Person to bring a claim that any of the Assigned Registered IP is invalid or unenforceable, nor to Seller's knowledge is there a reasonable basis for any claim that any of the Assigned Registered IP is either invalid or unenforceable. All Assigned Registered IP has been registered or obtained in accordance with all applicable legal requirements, and Seller has timely paid all filing, examination, issuance, post registration and maintenance fees and annuities associated with or required with respect thereto. To Seller's knowledge, none of the Assigned Registered IP has been or is now involved in any interference, reissue, reexamination, opposition, cancellation or similar proceeding and no such action is or has been threatened. Seller has not taken any action or failed to take any action that would result in the abandonment, cancellation, forfeiture, relinquishment, invalidation or unenforceability of any Assigned Registered IP.

(b) Except as set forth in Schedule 3.13(b), in connection with the operation of the Engenio Business,

(i) To Seller's knowledge, none of Seller or any of its Affiliates has infringed, misappropriated or otherwise violated any Intellectual Property rights of any Third Party;

(ii) there is no suit, or proceeding pending against or, to Seller's knowledge, threatened against or a written or, to Seller's knowledge, oral claim affecting, the Engenio Business (x) based upon, or challenging or seeking to deny or restrict, the rights of Seller or any of its Affiliates in any of the Assigned Intellectual Property or the Licensed Intellectual Property (collectively, the "Engenio Intellectual Property"), (y) alleging that the use of the Engenio Intellectual Property or any services provided, processes used, or products manufactured, used, imported, offered for sale or sold with respect to the Engenio Business conflict with, misappropriate, infringe or otherwise violate any Intellectual Property of any Third Party, or (z) alleging that Seller or any of its Affiliates infringed, misappropriated, or otherwise violated any Intellectual Property of any Third Party in connection with the operation of the Engenio Business; and

(iii)(A) the Engenio Intellectual Property constitutes all the Intellectual Property and Information owned by or licensed (to the extent Seller has a right to license or sublicense Buyer thereunder without payment of a fee) to Seller or one of its Affiliates that is used or held for use primarily in the operation or conduct of the Engenio Business; (B) there exist no restrictions on the disclosure, use, license or transfer of the Engenio Intellectual Property (other than the restrictions imposed in the Intellectual Property Agreement or by applicable Law); (C) the consummation of the transactions contemplated by this Agreement will not alter, impair or extinguish any of the Engenio Intellectual Property; (D) the Licenses set forth on Schedule 2.1(h) (the "Inbound License Agreements") constitute all Licenses of Seller or one of its Subsidiaries to the Intellectual Property or Information of Third Parties that are used or held for use primarily in the operation or conduct of the Engenio Business, other than licenses for Standard Software, non-disclosure agreements and other similar agreements that are not material to the Engenio Business; and (E) the Assigned Intellectual Property and Licensed Intellectual Property constitute all of the Intellectual Property and Information owned by Seller that are necessary for the operation or conduct of the Engenio Business as currently conducted (provided that this subsection (E) shall not be interpreted as a representation regarding non-infringement, which is addressed in subsection (b)(i) above). No loss or expiration of Seller's or one of its Subsidiary's rights to use any Intellectual Property or Information licensed to Seller or any of its Subsidiaries under any Inbound License Agreement is pending or to the knowledge of Seller, threatened.

(c) Schedule 3.13(c) lists the companies that design, manufacture, market, sell or distribute external storage systems products and related embedded and value-added software and other components (other than semiconductor devices) with which Seller or its Subsidiaries have entered into Contracts by which the Seller or its Subsidiaries are bound, and which Assigned Registered IP may be subject to, containing any covenant or other provision that in any way limits or restricts the ability of Seller or a Subsidiary to use, assert, enforce, or otherwise exploit any Assigned Registered IP anywhere in the world. Neither Seller nor its Subsidiaries have (i) transferred ownership of (whether a whole or partial interest), or granted any exclusive right to use, any Assigned Intellectual Property to any Person; (ii) transferred ownership of (whether a whole or partial interest) or granted any exclusive right to use any improvements to or derivative works of any Assigned Intellectual Property; or (iii) granted rights to any Person to create improvements to or derivative works of any material Assigned Intellectual Property that is or would be owned by such Person or exclusively licensed to such Person.

(d) At the Closing, Seller will assign to Buyer free and clear of any Encumbrance the Assigned Intellectual Property and will license to Buyer the Licensed Intellectual Property, in each case in accordance with the Intellectual Property Agreement.

(e) None of the Assigned Intellectual Property has been adjudged invalid or unenforceable in whole or part and, to Seller's knowledge, all Assigned Intellectual Property is valid and enforceable.

(f) Seller and its Affiliates have taken reasonable actions to maintain and protect the Assigned Intellectual Property, including payment of applicable maintenance fees and filing of applicable statements of use other than certain foreign applications which Seller or an Affiliate thereof, in its reasonable business judgment, has abandoned in the ordinary course of business.

(g) Seller and its Affiliates have taken reasonable steps to maintain the confidentiality of all Trade Secrets relating to the Engenio Business ("Engenio Trade Secrets") and other information that at any time constituted a Trade Secret relating to the Engenio Business, including taking steps to ensure that any Engenio Trade Secrets disclosed by Seller or any of its Affiliates to a Third Party are subject to the confidentiality undertakings set forth in an applicable non-disclosure agreement. To Seller's knowledge, there has been no misappropriation of any material Engenio Trade Secrets. Seller and its Affiliates have not disclosed, nor is Seller or any of its Affiliates under any contractual or other obligation to disclose, to another Person any Engenio Trade Secrets, except pursuant to an enforceable confidentiality agreement or undertaking, and, to Seller's knowledge, no Person has materially breached any such agreement or undertaking. Without limiting the generality of the foregoing, Seller has and enforces in a commercially reasonable manner a policy requiring each Business Employee and independent contractor who has participated in the creation of any Engenio Intellectual Property or have had access to any Engenio Trade Secrets to enter into non-disclosure and invention assignment agreements substantially in Seller's standard forms (which have previously been provided to Buyer).

(h) To Seller's knowledge, no Business Employee or independent contractor of Seller or any of its Affiliates who is employed in connection with the Engenio Business is obligated under any agreement or subject to any judgment, decree or order of any court or Governmental Body, or any other restriction that could reasonably be expected to materially interfere with such Business Employee or independent contractor carrying out his or her duties for Seller or such Affiliate, as applicable, or that could reasonably be expected to materially conflict with the Assigned Intellectual Property, the Licensed Intellectual Property or the Engenio Business as presently conducted.

(i) To Seller's knowledge, none of the Software (other than Software code currently under development) used or held for use primarily in the operation or conduct of the Engenio Business and owned, developed, marketed, distributed, licensed, sold, or otherwise made available to any Person by Seller or a Subsidiary as used in the Engenio Business (collectively, "Company Software") (i) contains any bug, defect, or error that materially and adversely affects the use, functionality, or performance of such Company Software or any product or system containing or used in conjunction with such Company Software or (ii) fails to comply in any material respect with any applicable warranty or other contractual commitment relating to the use, functionality, or performance of such Company Software, or any product or system containing or used in conjunction with such Company Software.

(j) To Seller's knowledge, no Company Software contains any "back door," "drop dead device," "time bomb," "Trojan horse," "virus," "worm," "spyware" or "adware" (as such terms are commonly understood in the software industry) or any other code designed or intended to have, or capable of performing or facilitating, any of the following functions: (i) disrupting, disabling, harming, or providing unauthorized access to, a computer system or network or other device on which such code is stored or installed or (ii) compromising the privacy or data security of a user or damaging or destroying any data or file without the user's consent (collectively, "Malicious Code"). Seller implements commercially reasonable measures designed to prevent the introduction of Malicious Code into Company Software, including firewall protections and regular virus scans.

(k) Other than as set forth in Schedule 3.13(k), (i) no source code for any Company Software has been delivered, licensed, or made available to any escrow agent or other Person who is not, as of the date of this Agreement, an employee of Seller; (ii) Seller does not have any duty or obligation (whether present, contingent, or otherwise) to deliver, license, or make available the source code for any Company Software to any escrow agent or other Person; and (iii) no event has occurred, and no circumstance or condition exists, that (with or without notice or lapse of time) will, or could reasonably be expected to, result in the delivery, license, or disclosure of any source code for any Company Software to any other Person who is not, as of the date of this Agreement, an employee of Seller.

(l) No material Company Software is subject to any "copyleft" or other obligation or condition (including any obligation or condition under any "open source" license such as the GNU Public License, Lesser GNU Public License, or Mozilla Public License) that (i) could require, or could condition the use or distribution of such material Company Software or portion thereof on, (A) the disclosure, licensing, or distribution of any source code for any portion of such material Company Software or (B) the granting to licensees of the right to make derivative works or other modifications to such material Company Software or portions thereof or (ii) could otherwise impose any limitation, restriction, or condition on the right or ability of Sellers to use, distribute or charge for any material Company Software.

(m) There are no march-in or reversion rights to any Governmental Body or any public or private university, college, or other educational or research institution for any Assigned Intellectual Property. To Seller's knowledge, the Assigned Intellectual Property is not subject to a compulsory licensing scheme due to Seller's participation as a member or promoter of, or a contributor to, any industry standards body or similar organization. Neither Seller nor any Subsidiary has entered into a Contract with any other Person that licenses any Assigned Registered IP in accordance with any compulsory licensing scheme due to Seller's participation as a member or promoter of, or a contributor to, any industry standards body or similar organization.

(n) Neither the execution, delivery, or performance of this Agreement nor the consummation of any of the transactions or agreements contemplated by this Agreement will, with or without notice or the lapse of time, result in, or give any other Person the right or option to cause or declare, (i) a loss of, or Encumbrance on, any material Assigned Intellectual Property; (ii) the material release, disclosure, or delivery of the source code for any material Company Software, or of any Information, by or to any escrow agent or other Person; or (iii) the grant, assignment, or transfer by Seller to any other Person of any license or other right or interest under, to, or in any material Assigned Intellectual Property.

3.14 Product Liability and Recalls

(a) Each Product produced or sold by Seller or a Subsidiary in connection with the Engenio Business is, and at all times up to and including the sale thereof has been, in compliance in all material respects with all applicable Laws. To Seller's knowledge, there is no material design or manufacturing defect that has been established or is being investigated with respect to any such Product.

(b) Except as set forth in Schedule 3.14(b), since January 1, 2008, there has been no action, suit, claim, inquiry, proceeding or investigation in any case by or before any court or Governmental Body pending or, to Seller's knowledge, threatened against or involving the Engenio Business relating to any Product alleged to have been designed, manufactured or sold by the Engenio Business and alleged to have been defective or improperly designed or manufactured, nor, to Seller's knowledge, has there been any pattern of product failure relating to any Product designed, manufactured or sold by the Engenio Business.

(c) Since January 1, 2008, there has been no pending, or to Seller's knowledge, threatened recall or investigation of any Product sold by Seller or a Subsidiary in connection with the Engenio Business.

3.15 Product Warranty

(a) Schedule 3.15(a) includes copies of the standard terms and conditions of sale for the Engenio Products (containing applicable guaranty, warranty and indemnity provisions and support obligations). Except as set forth in Schedule 3.15(a), the products manufactured by the Engenio Business have been sold by the Engenio Business in accordance with the standard terms and conditions of sale.

(b) Schedule 3.15(b) sets forth a complete and accurate listing of any Engenio Products for which one percent or more have either been returned to Seller by customers or for which Seller has received return requests from customers, since December 31, 2008.

3.16 Inventory

The Inventory is, and as of the Closing Date will be, valued in accordance with GAAP of quality and quantity usable and saleable in the ordinary course of the Engenio Business consistent with past practice, except in each case for excess, obsolete items and items of below-standard quality that have been reserved for or written down to estimated net realizable value in accordance with GAAP applied on a basis consistent with past practices as set forth in the Balance Sheet.

3.17 Customer and Suppliers

Schedule 3.17 contains a list setting forth the five (5) largest customers of the Engenio Business, by dollar amount, over the twelve (12) months ended December 31, 2010 (and the amount of sales with respect to each such customer during such twelve month period), and the five (5) largest suppliers of the Engenio Business, by dollar amount, over the twelve (12) months ended December 31, 2010 (and the amounts paid to each such supplier during such twelve month period). Seller has no knowledge of, and has not received written notice of the intention of any of such customers or suppliers to cease doing business with Seller. All purchase and sale orders and other commitments for purchases and sales made by Seller or any Subsidiary in connection with the Engenio Business have been made in the ordinary course of business in accordance with past practices, and no payments have been made to any supplier or customers or any of their respective representatives other than payments to such suppliers or their representatives for the payment of the invoiced price of supplies purchased or goods sold in the ordinary course of business.

3.18 Restrictions on the Engenio Business

Except for this Agreement, there is no agreement, judgment, injunction, order or decree materially affecting (i) Seller's or a Subsidiary's conduct of the Engenio Business as currently conducted, or (ii) to Seller's knowledge, Buyer's ability to conduct the Engenio Business after the Closing as currently conducted by Seller.

3.19 Taxes

There are no liens for Taxes upon any of the Purchased Assets other than Permitted Encumbrances. No action, proceeding or, to Seller's knowledge, investigation has been instituted against Seller or any Subsidiary (to the extent related to the Engenio Business or the Purchased Assets). Seller and each Subsidiary has duly and timely filed all Returns that it was required to file; all such Returns were correct and complete in all material respects; and all Taxes of Seller or its Subsidiaries owed or shown as due on any Return have been paid. Seller and its Subsidiaries (to the extent related to the Engenio Business or the Purchased Assets) have withheld and paid all Taxes required to have been withheld and paid in connection with amounts paid or owing by them to any employee, independent contractor, creditor, stockholder or other third party except where the failure to make such payment, individually or in the aggregate, is not or could not reasonably be expected to be material to the Engenio Business, taken as a whole. Neither Seller nor any Subsidiary has received any claim in writing in the last two (2) years from a Governmental Body or social security administration in a jurisdiction where any Seller or Subsidiary (to the extent related to the Engenio Business or the Purchased Assets) does not file Returns that such Seller or Subsidiary is or may be subject to taxation by that jurisdiction. None of the Purchased Assets (a) is property required to be treated as owned by another person pursuant to the provisions of Section 168(f)(8) of the U.S. Internal Revenue Code of 1954 and in effect immediately before the enactment of the Tax Reform Act of 1986, (b) constitutes "tax-exempt use property" or "tax-exempt bond financed property" within the meaning of Section 168 of the Code, (c) secures any debt the interest of which is tax-exempt under Section 103(a) of the Code, or (d) is subject to a 467 rental agreement as defined in Section 467 of the Code. Seller (and not any of Seller's Affiliates) is the beneficial owner of the Assigned Intellectual Property and the Licensed Intellectual Property.

3.20 Brokers

Other than Goldman Sachs & Co., as to which Seller shall have full responsibility and for which Buyer shall not have any liability, no broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Seller or any Affiliate of Seller.

4. Representations and Warranties of Buyer

Except as set forth in Schedules attached hereto and delivered by Buyer to Seller prior to the execution of this Agreement, Buyer represents and warrants to Seller that:

4.1 Organization and Qualification

Each of Buyer and any Buyer Designee is a corporation, limited partnership, or other legal entity duly organized, validly existing and in good standing (in any jurisdiction in which such concept exists) under the Laws of the jurisdiction of its incorporation or organization and each of Buyer and any Buyer Designee has all requisite legal power and authority to carry on its business as currently conducted by it and to own or lease and operate its properties. Each of Buyer and any Buyer Designee is duly qualified to do business and is in good standing as a foreign corporation (in any jurisdiction that recognizes such concept) in each jurisdiction where the ownership or operation of its assets or the conduct of its business requires such qualification, except where the failure to be so qualified or in good standing, individually or in the aggregate, has not had and could not reasonably be expected to have a material adverse effect on Buyer or on Buyer's or any Buyer Designee's ability to consummate the transactions under this Agreement and the Collateral Agreements.

4.2 Authorization; Binding Effect

(a) Each of Buyer and any Buyer Designee has all requisite corporate power and authority to execute, deliver and perform this Agreement and the Collateral Agreements to which it will be a party, as the case may be, and to effect the transactions contemplated hereby and thereby and the execution, delivery and performance of this Agreement and the Collateral Agreements by Buyer has been duly authorized by all requisite corporate action and, to the extent not completed on the date hereof by a Buyer Designee, will be duly authorized by all requisite corporate action.

(b) This Agreement has been duly executed and delivered by Buyer and this Agreement is, and the Collateral Agreements to which Buyer or a Buyer Designee will be a party when duly executed and delivered by Buyer or such Buyer Designee will be, valid and legally binding obligations of Buyer or such Buyer Designee enforceable against Buyer or such Buyer Designee in accordance with their respective terms, except to the extent that enforcement of the rights and remedies created hereby and thereby may be affected by bankruptcy, reorganization, moratorium, insolvency and similar Laws of general application affecting the rights and remedies of creditors and by general equity principles.

4.3 Non-Contravention; Consents

(a) Assuming that the consents specified in Section 4.3(b) below have been obtained, the execution, delivery and performance of this Agreement and the Collateral Agreements by Buyer and any Buyer Designee and the consummation of the transactions contemplated hereby and thereby do not and will not: (i) result in a breach or violation of any provision of Buyer's or any Buyer Designee's charter or by-laws or similar organizational document, (ii) violate or result in a breach of or constitute an occurrence of default under any provision of, result in the acceleration or cancellation of any obligation under, or give rise to a right by any party to terminate or amend its obligations under, any mortgage, deed of trust, conveyance to secure debt, note, loan, indenture, lien, lease, agreement, instrument, order, judgment, decree or other arrangement or commitment to which Buyer or any Buyer Designee is a party or by which it or its assets or properties are bound, or (iii) violate any applicable Law, order, judgment, injunction, decree, rule or regulation of any court or any Governmental Body having jurisdiction over Buyer or any Buyer Designee or any of their respective properties, other than in the case of clauses (ii) and (iii), any such violations, breaches, defaults, accelerations or cancellations of obligations or rights that, individually or in the aggregate, have not had and could not be reasonably expected to have a material adverse effect on Buyer or on Buyer's or any Buyer Designee's ability to consummate the transactions under this Agreement and the Collateral Agreements.

(b) No consent, approval, order or authorization of, or registration, declaration or filing with, any Person is required to be obtained by Buyer or any Buyer Designee in connection with the execution, delivery and performance of this Agreement or the Collateral Agreements or for the consummation of the transactions contemplated hereby or thereby, except for (i) any filings required to be made under the HSR Act and any applicable filings required under foreign antitrust Laws, and (ii) such consents, approvals, orders, authorizations, registrations, declarations or filings the failure of which to be obtained or made, individually or in the aggregate, have not had and could not reasonably be expected to have a material adverse effect on Buyer or on Buyer's or any Buyer Designee's ability to consummate the transactions under this Agreement and the Collateral Agreements.

4.4 Brokers

No broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Buyer or any Affiliate of Buyer.

4.5 Sufficiency of Funds

Buyer: (i) has sufficient funds available to pay the Purchase Price and any expenses incurred by Buyer in connection with the transactions contemplated by this Agreement or the Collateral Agreements; (ii) has the resources and capabilities (financial or otherwise) to perform its obligations hereunder and under the Collateral Agreements; and (iii) has not incurred any obligation, commitment, restriction or liability of any kind, absolute or contingent, present or future, which would impair or adversely affect its ability to perform its obligations hereunder and under the Collateral Agreements.

5. Certain Covenants

5.1 Access and Information

(a) Seller shall give, or cause its Subsidiaries to give, to Buyer and its Affiliates, and their respective officers, employees, accountants, counsel and other representatives reasonable access during Seller's or the applicable Subsidiary's normal business hours throughout the period prior to the Closing to all of Seller's or the applicable Subsidiary's properties, books, contracts, commitments, reports of examination and records relating to the Engenio Business, the Transferred Employees, the Purchased Assets and the Assumed Liabilities (subject to any limitations that are reasonably required to preserve any applicable attorney-client privilege or legal or contractual Third-Party confidentiality obligation). Seller shall assist, and cause its Subsidiaries to assist, Buyer and its Affiliates in making such investigation and shall cause its counsel, accountants, engineers, consultants and other non-employee representatives to be reasonably available to any of them for such purposes.

(b) After the Closing Date, Seller and Buyer shall provide, and shall cause their respective Affiliates to provide, to each other and to their respective officers, employees, accountants, counsel and other representatives, upon request (subject to any limitations that are reasonably required to preserve any applicable attorney-client privilege or legal or contractual Third-Party confidentiality obligation), reasonable access for inspection and copying of all Business Records, Governmental Permits, Licenses, Contracts and any other information existing as of the Closing Date and relating to the Engenio Business, the Purchased Assets, the Assumed Liabilities or the Transferred Employees and shall make their respective personnel reasonably available for interviews, depositions and testimony in any legal matter concerning transactions contemplated by this Agreement, the operations or activities relating to the Engenio Business, the Purchased Assets, the Assumed Liabilities or the Transferred Employees and as otherwise may be necessary or desirable to enable the party requesting such assistance to: (i) comply with any reporting, filing or other requirements imposed by any Governmental Body; (ii) assert or defend any claims or allegations in any litigation or arbitration or in any administrative or legal proceeding other than claims or allegations that one party to this Agreement has asserted against the other; or (iii) subject to clause (ii) above, perform its obligations under this Agreement. The party requesting such information or assistance shall reimburse the other party for all reasonable and necessary out-of-pocket costs and expenses, if any, incurred by such party in providing such information and in rendering such assistance. The access to files, books and records contemplated by this Section 5.1(b) shall be during normal business hours and upon reasonable prior notice and shall be subject to such reasonable limitations as the party having custody or control thereof may impose to preserve the confidentiality of information contained therein.

(c) Buyer agrees to preserve all Business Records, Licenses and Governmental Permits in accordance with its corporate policies related to preservation of records. Buyer further agrees that, to the extent Business Records, Licenses or Governmental Permits are placed in storage, they will be kept in such a manner as to make individual document retrieval possible in a reasonably expeditious manner.

5.2 Conduct of the Engenio Business

From and after the date of this Agreement and until the Closing Date, except as otherwise contemplated by this Agreement or as set forth in the Schedules hereto or as Buyer shall otherwise consent to in writing, Seller and its Subsidiaries, with respect to the Engenio Business:

(a) will carry on the Engenio Business in the ordinary course consistent with past practice and consistent therewith use its reasonable commercial efforts to keep intact the Engenio Business, keep available the services of the Business Employees and preserve the relationships of the Engenio Business with customers, suppliers, licensors, licensees, distributors and others that have a business relationship with the Engenio Business;

(b) in the ordinary course consistent with past practice maintain the Purchased Assets in good operating condition and repair or restore such assets as necessary for the operation of the Engenio Business in the ordinary course of business;

(c) will not permit, other than as may be required by Law or a Governmental Body, all or any of the Purchased Assets (real or personal, tangible or intangible) presently and actively used or held for use primarily in the operation or conduct of the Engenio Business to be transferred, sold, licensed, disposed of, or subjected to any Encumbrance, other than sales of Inventory in the ordinary course of business consistent with past practice and Section 5.2(c);

(d) will not sell Inventory outside of the ordinary course of business consistent with past practice, including with respect to pricing, discounting practices, bundling, sales volume and services levels, and will maintain Inventory sufficient to meet expected customer requirements, consistent with past practice, including sufficient raw materials, capacity and work in process in light of anticipated demand and customary cycle times and sufficient finished goods Inventory for satisfaction of customer orders on hand at Closing and Inventory will be in an amount that at the Closing shall have a value of no less than $35 million in the aggregate as calculated in accordance with the Balance Sheet;

(e) will not acquire any asset that will be a Purchased Asset except in the ordinary course of business consistent with past practice;

(f) will not fail to pay when due any material obligation related to the Engenio Business;

(g) will not enter into, terminate or materially extend, amend, modify or waive any right with respect to any Material Contract except for purchase orders entered in the ordinary course of business consistent with past practice;

(h) will not sell, lease, license, abandon, permit to lapse, or otherwise transfer, or create or incur any Encumbrance on, any of the assets, securities, properties, or interests of the Engenio Business (including the Assigned Intellectual Property), including not taking any action to abandon, disclose, misuse, or misappropriate the Assigned Intellectual Property in any manner (other than non-exclusive licenses (other than patent portfolio licenses or cross licenses) in the ordinary course of business consistent with past practice) or assert or threaten any claims with respect to the Assigned Intellectual Property;

(i) will not incur or assume any liabilities, obligations or indebtedness for borrowed money, other than in the ordinary course of business consistent with past practice or that will constitute Excluded Liabilities;

(j) will not increase the salaries (except for the 2011 salary increase reflected on Schedule 3.10(a)(i)), wage rates, other compensation or fringe benefits of, or grant any severance or termination payment (other than as required by Law) to, any Business Employee;

(k) fail to comply in any material respect with all Laws applicable to the Engenio Business or the Purchased Assets;

(l) will not make, change or revoke any Tax election; file any amended Return; enter into any closing agreement; settle or compromise any Tax claim or assessment; or consent to any extension or waiver of the limitation period applicable to any claim or assessment with respect to Taxes, in each case to the extent such action could reasonably be expected to adversely affect the Purchased Assets or the Engenio Business;

(m) will not do any other act which would cause any representation or warranty of Seller in this Agreement to be or become untrue in any material respect or intentionally omit to take any action necessary to prevent any such representation or warranty from being untrue in any material respect;

(n) will use reasonable efforts to continue the construction of laboratories and facilities at the Transferred Premises in the manner and according to the schedule as currently contemplated by Seller immediately prior to the date hereof; and

(o) will not enter into any agreement or commitment with respect to any of the foregoing.

5.3 Taxes

(a) Seller and Buyer acknowledge and agree that (i) Seller will be responsible for and will perform all Tax withholding, payment and reporting duties with respect to any wages and other compensation paid by Seller or a Subsidiary to any Business Employee in connection with the operation or conduct of the Engenio Business for any Pre-Closing Tax Period, and (ii) Buyer will be responsible for and will perform all Tax withholding, payment and reporting duties with respect to any wages and other compensation paid by Buyer or a Buyer Designee to any Transferred Employee with respect any Post-Closing Tax Period. For the avoidance of doubt, nothing in this paragraph is intended to modify or adjust the substantive liability of Buyer and Seller under this Agreement with respect to the Taxes described in this paragraph.

(b) The allocation of the Purchase Price between the Seller and each Subsidiary shall be as set forth on Schedule 5.3 hereto, as adjusted pursuant to this Section 5.3 (the "Entity Level

Allocation Statement”). No later than five (5) days prior to the Closing Date, Buyer shall deliver to Seller an updated Entity Level Allocation Statement.

(c) Not later than sixty (60) days after the Closing Date, Buyer shall prepare and deliver to Seller (i) a final Entity Level Allocation Statement, and (ii) an allocation of the Purchase Price among the Purchased Assets (including a separate allocation for each separate purchase reflected on the final Entity Level Allocation Statement) in accordance with Section 1060 of the Code and the Treasury regulations promulgated thereunder (and any similar provision of state, local or foreign law, as appropriate) (the “Asset Level Allocation Statement”). Seller and Buyer shall work in good faith to resolve any disputes relating to the Asset Level Allocation Statement. If Seller and Buyer are unable to resolve any such dispute, such dispute shall be resolved promptly by a nationally recognized accounting firm acceptable to Buyer and Seller, the costs of which shall be borne equally by Buyer and Seller. The Parties agree that they will not, and will not permit any of their respective Affiliates to, take a position (except as required pursuant to any order of a Governmental Body) on any Return or in any audit or examination before any Governmental Body that is in way inconsistent with the final Entity Level Allocation Statement or the Asset Level Allocation Statement (the final Entity Level Allocation Statement and Asset Level Allocation Statement, together, the “Allocation”). If the Purchase Price is adjusted pursuant to Section 9.3(d), the Allocation shall be adjusted in a manner consistent with the procedures set forth in this Section 5.3(c).

(d) Seller shall promptly notify Buyer in writing upon receipt by Seller of notice of any pending or threatened Tax audits or assessments relating to the income, properties or operations of Seller that reasonably may be expected to relate to or give rise to a lien on the Purchased Assets or the Engenio Business. Each of Buyer and Seller shall promptly notify the other in writing upon receipt of notice of any pending or threatened Tax audit or assessment challenging the Allocation.

(e) Seller shall deliver to Buyer at the Closing a properly executed affidavit prepared in accordance with Treasury Regulations section 1.1445-2(b) certifying Seller’s non-foreign status.

5.4 Business Employees

(a) Prior to the Closing, Seller shall update the information provided in Schedule 3.10(a)(i) as of the Closing Date.

(b) As of the Closing Date, Buyer shall make offers of employment to at least the number of Business Employees of Seller set forth on Schedule 5.4(b) whom shall be specifically identified by Buyer prior to the Closing and whom shall include all Business Employees located in a country that has adopted the ARD Regulations in the event Buyer has made an offer of employment to one or more Business Employees in such country (such country, an “ARD Jurisdiction”), but shall not otherwise include any Business Employee located in any country that is an ARD Jurisdiction (the “Offered Employees”). Seller and any applicable Subsidiary shall cooperate and assist in facilitating Buyer’s or a Buyer Designee’s offers and will not take any action, or cause any of the Subsidiaries to take any action, which would impede, hinder, interfere or otherwise compete with Buyer’s or a Buyer Designee’s effort to hire any Business Employees.

Promptly after the date hereof, Seller will provide to Buyer all information not provided in Schedule 3.10(a) required to be disclosed by applicable Law of the jurisdiction in which the Business Employee is located in connection with the sale of the Engenio Business. To the extent permitted by applicable Law, including data privacy and data protection Laws, Seller agrees to provide Buyer with such information reasonably requested by Buyer to assist it with complying with the terms of this Section 5.4 and to assist Buyer with determining the wages paid to the Transferred Employees (as defined below) with respect to the period beginning on January 1, 2011 and ending on the Closing Date. Seller shall be responsible for any employment action related to any Business Employee who is not an Offered Employee. To the extent any notification or consultation requirements or works council negotiation procedures are imposed by applicable Law with regard to the transfer of Business Employees to Buyer or any of its Affiliates, Seller and Buyer agree to cooperate to ensure that such notification or consultation requirements or works council negotiation procedures are timely completed. Without limiting the foregoing, each Party shall comply with all applicable Laws in connection with the transfer of the Offered Employees to Buyer or a Buyer Designee, including with respect to notice, consultation and other procedural requirements. The parties will enter into an Assignment and Bill of Sale and Assumption Agreement or other appropriate documentation for relevant jurisdictions outside the United States where necessary or appropriate for the transfer of such Offered Employees and shall cooperate to complete all requisite consultation and related objection periods prior to the Closing Date. Any Offered Employee who accepts Buyer's offer of employment and commences employment with Buyer or a Buyer Designee shall be referred to as a "Transferred Employee." Employment of the Transferred Employees with Buyer or a Buyer Designee shall be effective as of the day following the close of business on the Closing Date; provided, that with respect to Offered Employees employed outside the European Union who, as of the Closing Date, are on Seller-approved leave (the "Leave Employees"), employment with Buyer or a Buyer Designee shall be effective as of (i) with respect to Leave Employees absent due to leave that is not protected under applicable Law, within 90 days after the Closing Date or (ii) with respect to Leave Employees absent due to protected leave under applicable Law, no later than the first Business Day following the end of the protected leave period.

(c) Where terms are not dictated by applicable Law, Buyer or a Buyer Designee shall provide, or shall cause to be provided, to Transferred Employees, until at least March 31, 2012 during their employment with Buyer or a Buyer Designee, at a minimum, the same base salaries or, as applicable, base wage rates, offered by Seller or the applicable Subsidiary immediately prior to the Closing Date (but taking into account the 2011 salary increases) as set forth on Schedule 3.10(a)(i). Buyer or a Buyer Designee shall provide, or shall cause to be provided, to Transferred Employees either (at Buyer's discretion) employee benefits that are no less favorable in the aggregate than either (i) those benefits provided to similarly situated employees of Buyer or the applicable Buyer Designee (taking into account employee's seniority and service with Seller or Buyer or their respective Affiliates, as applicable) or (ii) the employee benefits that they were offered by Seller or the applicable Subsidiary immediately prior to the Closing Date as set forth on Schedule 3.10(b). Except as expressly set forth in this Section 5.4, no Benefit Plans or assets of any Benefit Plan shall be transferred to Buyer or any Affiliate of Buyer. Buyer will take all action necessary to ensure that, to the extent permitted under applicable Buyer or Buyer Designee Benefit Plans, such Benefit Plans shall recognize (i) for purposes of satisfying any deductibles, co-pays and out-of-pocket maximums during the coverage period that includes the Closing Date, any payment made by any Transferred Employee towards deductibles, co-pays and out-of-pocket maximums in any health or other insurance plan of Seller or a Subsidiary during the coverage period that includes the Closing Date and (ii) for purposes of determining eligibility to participate and vesting and, in the case of any Buyer severance plan or program (if any), benefit accruals, all service with Seller or a Subsidiary prior to the Closing, including service with predecessor employers that was recognized by Seller or a Subsidiary, provided that such service shall not be recognized to the extent such recognition would result in a duplication of benefits. Buyer or the applicable Buyer Designee will continue to provide tuition assistance to those Transferred Employees who are receiving such benefits as of the Closing Date for the current academic session, in each case as set forth on Schedule 5.4(c). Buyer or the applicable Buyer Designee will honor the terms and conditions of Seller's international assignee program, including repatriation upon completion of assignment, completion bonuses, Tax equalization and Tax return preparation, with respect to Transferred Employees who are on international assignment as of the Closing Date, in each case as set forth on Schedule 5.4(c), except that these costs shall be allocated between the parties based on the portion of the international assignment occurring before or on the Closing Date (which shall be Seller's or the applicable Subsidiary's obligation) and after the Closing Date (which shall be Buyer's or the applicable Buyer Designee's obligation).

(d) Seller and Buyer intend that the transactions contemplated by this Agreement shall not constitute a severance of employment, under the terms of any Benefit Plan of Seller of any Subsidiary, of any Transferred Employee prior to or upon the consummation of the transactions contemplated hereby and that such employees will have continuous and uninterrupted employment immediately before and immediately after the Closing Date. Notwithstanding anything to the contrary in this Agreement, Buyer shall provide, at a minimum, severance benefits substantially equivalent to the benefits contained in the plans listed or as described on Schedule 5.4(d) to Transferred Employees whose employment is terminated involuntarily by Buyer on or before March 31, 2012 other than terminations in circumstances that would not require payments of severance benefits under Seller's severance plan.

(e) To the extent permitted under applicable Buyer Benefit Plans, (i) Buyer shall use commercially reasonable efforts to waive any pre-existing condition exclusion (to the extent such exclusion was waived under applicable health and Welfare Plans offered to the Transferred Employees by Seller or a Subsidiary) and proof of insurability, and (ii) the medical and dental plans maintained by Buyer and any Affiliate of Buyer shall recognize as dependents of the Transferred Employees the dependents recognized by Seller's or the applicable Subsidiary's medical and dental plans.

(f) As soon as practicable following the Closing Date, Buyer shall cause one or more defined contribution savings plans intended to qualify under sections 401(a) and 401(k) of the Code (the "Buyer Savings Plan") to provide for the receipt of Transferred Employees' lump sum cash distributions, in the form of an eligible rollover distribution from the LSI Corporation 401(k) Plan, provided such rollovers are made at the election of the Transferred Employees and in accordance with the terms of the Buyer Savings Plan. Seller shall cause the LSI Corporation 401(k) Plan to fully vest Transferred Employees in their accounts immediately prior to the Closing and permit the Transferred Employees to elect a lump sum cash distribution of benefits accrued through the Closing Date in accordance with the Code.

(g) Seller shall make and be responsible for incentive compensation payments, if any, earned by the Transferred Employees for the period from January 1, 2011 to and including the Closing Date under the applicable incentive plans in effect for any such period (including any pro rata amount with respect to such period under a plan or program ending or vesting on or after the Closing Date). Buyer shall not assume or otherwise become liable for, and Seller shall not transfer to Buyer, any liabilities of Seller with respect to accrued but unused vacation and sabbatical leave (collectively, the "Accrued Amounts"). At the Closing, Seller shall pay to each Transferred Employee the Accrued Amount with respect to such Transferred Employee; provided, that with respect to Transferred Employees in the European Union, Seller shall pay to Buyer each such Transferred Employee's applicable Accrued Amount, including for the avoidance of doubt, any applicable employee's and employer's social contributions, in each case to the extent required pursuant to applicable Law.

(h) As soon as practicable following the Closing, Seller shall provide Buyer with a schedule setting forth the number of employees and the work location of each employee of Seller or any Subsidiary in the United States who terminated employment within the ninety (90) day period prior to the Closing Date.

(i) Notwithstanding anything herein to the contrary, nothing in this Agreement shall require Buyer or a Buyer Designee to employ any Business Employees, or to employ any Transferred Employee on anything other than an at-will basis, terminable at any time with or without cause unless required otherwise under applicable Law. Nothing in this Section 5.4, expressed or implied, shall confer upon any employee or former employee of Seller or any Subsidiary or related entities (including, without limitation, the Transferred Employees) any rights or remedies (including, without limitation, any right to employment or continued employment for any specified period) of any nature or kind whatsoever, under or by reason of this Section 5.4. It is expressly agreed that the provisions of this Section 5.4 are not intended to be for the benefit of or otherwise be enforceable by, any third party, including, without limitation, any Transferred Employees. No provision of this Section 5.4 shall create any rights in any such persons in respect of any benefits that may be provided under any Benefit Plan or any plan or arrangement which may be established or maintained by Buyer, shall be construed to establish, amend, or modify an Benefit Plan or any other benefit plan, program, agreement or arrangement nor shall require Seller, Buyer or any Affiliate of Seller or Buyer to continue or amend any particular benefit plan and any such plan may be amended or terminated in accordance with its terms and applicable Law.

(j) Seller or a Subsidiary shall use reasonable commercial efforts to cause each Transferred Employee located in India to enter into a general release of claims against Seller in customary form.

(j) The Seller and its Subsidiaries shall execute and perform all such deeds, documents, and acts as may be reasonably required to continue to make available to Transferred Employees in India their respective account balances in the Provident Fund Plan and the Gratuity Fund following their transfer to Buyer or a Buyer Designee.

(k) None of the Business Employees in India are "workmen" as defined under Indian Law.

5.5 Collateral Agreements; Leased Equipment; Premises

(a) On or prior to the Closing Date, Buyer or a Buyer Designee shall execute and deliver to Seller, and Seller or the applicable Subsidiary shall execute and deliver to Buyer or a Buyer Designee, the Collateral Agreements. In addition, on or prior to the Closing Date Buyer and Seller shall negotiate in good faith an arm's-length customer and technical support agreement from Buyer to Seller related to Engenio Products currently used by Seller in its information technology infrastructure.

(b) Promptly after the date hereof, Seller shall provide Buyer with the costs and other terms applicable to the Leased Equipment and Buyer shall decide whether such Leased Equipment will (a) transfer to Buyer or a Buyer Designee as of the Closing Date by Buyer or a Buyer Designee assuming the leases for such equipment, (b) become the property of Buyer or a Buyer Designee as of the Closing Date by Buyer or a Buyer Designee paying for the costs of purchasing such equipment pursuant to the leases (the "Purchased Leased Equipment"), or (c) remain the property of Seller or a Subsidiary as of the Closing Date (the "Excluded Leased Equipment").

(c) Prior to the Closing Date, parties agree to negotiate in good faith to demarcate in a manner reasonably acceptable to Buyer and Seller (i) the portion of the Transferred Premises that will be leased on a transition basis to Seller pursuant to the Transition Services Agreement, and (ii) the portion of the Assumed Leases to be subleased by Seller or its Subsidiary to Buyer or a Buyer Designee.

5.6 Regulatory Compliance; Post-Closing Cooperation

(a) Subject to Section 5.6(b), upon the terms and subject to the conditions set forth in this Agreement, each of the parties agrees to use its reasonable commercial efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other parties in doing, all things necessary, proper or advisable to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated by this Agreement, including using reasonable commercial efforts to accomplish the following: (i) the taking of all acts necessary to cause the conditions to Closing to be satisfied as promptly as practicable; (ii) the obtaining of all necessary actions or nonactions, waivers, consents and approvals from Governmental Bodies and the making of all necessary registrations and filings (including filings with Governmental Bodies, if any) and the taking of all steps as may be necessary to obtain an approval or waiver from, or to avoid an action or proceeding by any Governmental Body; (iii) the obtaining of all necessary consents, approvals or waivers from Third Parties; (iv) the defending of any lawsuits or other legal proceedings, whether judicial or administrative, challenging this Agreement or the Collateral Agreements or the consummation of the transactions contemplated hereby or thereby, including seeking to have any stay or temporary restraining order entered by any court or other Governmental Body vacated or reversed; and (v) the execution and delivery of any additional instruments necessary to consummate the transactions contemplated by, and to fully carry out the purposes of, this Agreement and the Collateral Agreements.

(b) Seller and Buyer shall timely and promptly make all filings which may be required by each of them in connection with the consummation of the transactions contemplated hereby under the HSR Act and any state, foreign or multinational antitrust legislation or by any other foreign or multinational governmental authority, and the parties shall respectively use all reasonable commercial efforts to cause the receipt of approval of, or prompt termination or expiration of the applicable waiting period under such Laws. Seller and Buyer agree that their respective initial filings under the HSR Act and in respect of any foreign antitrust approval shall be made no later than the fifth (5th) Business Day following the date of this Agreement. Each party shall furnish to the other such necessary information and assistance as the other party may reasonably request in connection with the preparation of any necessary filings or submissions by it to any U.S. federal or state or foreign or multinational governmental agency, including any filings necessary under the provisions of the HSR Act. Each party shall provide the other party the opportunity to make copies of all correspondence, filings or communications (or memoranda setting forth the substance thereof) between such party or its representatives, on the one hand, and the Federal Trade Commission (the "FTC"), the Antitrust Division of the United States Department of Justice (the "Antitrust Division") or any state, foreign or multinational Governmental Body or members of their respective staffs, on the other hand, with respect to this Agreement or the transactions contemplated hereby. Each party agrees to inform promptly the other party of any communication made by or on behalf of such party to, or received by or on behalf of such party from, the FTC, the Antitrust Division or any other state, foreign or multinational Governmental Body regarding any of the transactions contemplated hereby.

5.7 Contacts with Suppliers and Customers

Prior to the Closing, Seller and Buyer agree to cooperate to prepare a communications plan for business partners of the Engenio Business, and in contacting any suppliers to, or customers of, the Engenio Business in connection with or pertaining to any subject matter of this Agreement or the Collateral Agreements and to facilitate the transition of the Engenio Business, including the preparation of letters to all customers, suppliers, distributors and other business partners of the Engenio Business to notify them of the Closing and provide information regarding the transition of the Engenio Business to Buyer. The Seller will be responsible for contacting parties to any Contracts for which consent is required in connection with their assignment pursuant to this Agreement. Notwithstanding anything to the contrary contained herein, this Agreement shall not affect Seller's continuing right to contact customers and suppliers in connection with the operation or conduct of the Engenio Business nor Buyer's continuing right to contact customers and suppliers in connection with the operation or conduct of its business.

5.8 Use of the Seller Name

(a) Buyer and Seller agree as follows:

(i) Except as provided below, immediately after the Closing Date, Buyer and any Buyer Designee shall cease using "LSI," or "LSI Corporation" or other similar mark (the "Seller Name") and any other trademark, design or logo previously or currently used by Seller or any of its Affiliates (other than those that are transferred pursuant to the Intellectual Property

Agreement) in all invoices, letterhead, advertising and promotional materials, office forms or business cards;

(ii) Except as provided below, within three (3) months after the Closing Date, Buyer shall (A) remove any other trademark, design or logo previously or currently used by Seller or any of its Affiliates from all buildings, signs and vehicles of the Engenio Business; and (B) cease using the Seller Name and any other trademark, design or logo previously or currently used by Seller or any of its Affiliates (other than those that are transferred pursuant to the Intellectual Property Agreement) in electronic databases, web sites, product instructions, packaging and other materials, printed or otherwise.

(iii) Buyer and Buyer Designees shall not be required at any time to remove the Seller Name and any other trademark, design or logo previously or currently used by Seller or any of its Affiliates from Inventory of the Engenio Business that is in existence as of the Closing Date, nor shall Buyer nor Buyer Designees be required at any time to remove such Seller Name and any such other trademark, design or logo from schematics, plans, manuals, drawings, machinery, tooling including hand tools, and the like of the Engenio Business in existence as of the Closing Date to the extent that such instrumentalities are used in the ordinary internal operation or conduct of the Engenio Business and are neither generally observed by the public nor intended for use as means to effectuate or enhance sales;

(iv) Buyer and Buyer Designees shall have the right to sell existing Inventory and to use existing packaging, labeling, containers, supplies, advertising materials, technical data sheets and any similar materials bearing the Seller Name or any other trademark, design or logo previously or currently used by Seller or any of its Affiliates until the earlier of (A) one year after the Closing Date or (B) the depletion of existing Inventory;

(v) Buyer and Buyer Designees shall use Reasonable Efforts (as defined below) to remove the Seller Name and any other trademark, design or logo previously or currently used by Seller or any of its Affiliates (other than those that are transferred pursuant to the Intellectual Property Agreement) from those assets of the Engenio Business (such as, but not limited to, tools, molds, and machines) used in association with the Engenio Products or otherwise reasonably used in the operation or conduct of the Engenio Business after the Closing. For the purposes of this Section 5.8(a)(v), "Reasonable Efforts" means Buyer and Buyer Designees shall remove the Seller Name from such assets but only at such time when such asset is not operated or otherwise is taken out of service in the normal course of business due to regular maintenance or repair (but only for such repairs or maintenance where such removal could normally be undertaken, for example, repair or maintenance of a mold cavity) whichever occurs first; provided that, in no event shall Buyer or any Buyer Designee use the Seller Name after the date which is one (1) year from the Closing Date. Buyer and Buyer Designees shall not be required to perform such removal on such assets that are not or are no longer used to manufacture the Engenio Products or other parts, or if discontinuance of use of such assets is reasonably anticipated during such time period, or from assets stored during that period provided that such marks are removed upon such asset's return to service or prior to their sale or other disposition.

(vi) Seller hereby grants to Buyer and Buyer Designees a limited right to use the Seller Name and associated trademarks, designs and logos as specified in, and during the periods, if any, specified in clauses (i) – (v) above.

(vii) Buyer and its Affiliates shall also have the right to use (in a factual manner that constitute fair use pursuant to applicable Law) the Seller Name solely to the extent necessary to communicate that the Engenio Products were formerly owned by Seller.

(b) In no event shall Buyer or any Affiliate of Buyer advertise or hold itself out as LSI or an Affiliate of LSI after the Closing Date.

5.9 Non-Solicitation or Hiring of Transferred Employees

None of Seller, any of its representatives or any of its Affiliates will at any time prior to the date that is one year after the date hereof, directly or indirectly, solicit the employment of or hire any Transferred Employee without Buyer's prior written consent. The term "solicit the employment" shall not be deemed to include generalized searches for employees through media advertisements, employment firms or otherwise that are not focused on or directed to Transferred Employees. This restriction shall not apply to any employee whose employment was involuntarily terminated other than for cause by Buyer a Buyer Designee, or their respective successors, after the Closing.

5.10 No Negotiation or Solicitation

Prior to the Closing Date, Seller and its Affiliates will not (and Seller will cause each of its employees, officers, representatives and agents or advisors not to and shall cause its Affiliates to cause employees, officers, representatives and agents or advisors not to) directly or indirectly (a) solicit, initiate, entertain, encourage or accept the submission of any proposal, offer or any discussions relating to or that might reasonably be expected to lead to or result in any proposal or offer from any Person relating to the direct or indirect acquisition of the Engenio Business or any portion of the Purchased Assets (other than purchases of Engenio Products or services from the Engenio Business in the ordinary course of business consistent with past practice), or (b) participate in any discussions or negotiations regarding the Engenio Business, furnish any information with respect thereto, or assist or participate in, or facilitate or encourage in any other manner any effort or attempt by any Person to do or seek any of the foregoing. Seller will notify Buyer if any Person makes any proposal, offer, inquiry or contact with respect to any of the foregoing within two (2) Business Days after receipt of any such offer or proposal, including the identity of the Person making such proposal, offer, inquiry or contact and all material terms thereof.

5.11 Non-Competition

(a) Seller agrees that, as part of the consideration for the payment of the Purchase Price, for a period of three (3) years immediately following the Closing Date, neither Seller nor any of its Affiliates will, directly or indirectly, as a principal, stockholder, joint venturer or otherwise, operate, perform or have any ownership interest in any business that designs, develops, manufactures, markets, sells, installs or distributes products in competition with the Engenio Business, except that Seller may (i) continue the activities of its RAID adapter business which develops LSI® MegaRAID® and 3ware® storage controllers and software and the ONStor™ clustered NAS gateway and non-integrated file storage products business of Seller which develops ONStor™ Products, and (ii) purchase or otherwise acquire by merger, purchase of assets, stock (including investing as a minority shareholder), controlling interest or otherwise any Person or business or engage in any similar merger and acquisition activity with any Person the primary business of which is not in competition with the Engenio Business, provided that Seller may not provide any such business access or license to any of the Assigned Intellectual Property for use in any business or product line that competes with the Engenio Business. For the purposes of this Section 5.11(a), ownership of securities of a company whose securities are publicly traded under a recognized securities exchange not in excess of 5% of any class of such securities shall not be considered to be competition with the Engenio Business, and a Person shall not be considered to be in the "primary business" of competing with the Engenio Business if such Person derives less than 20% of its revenues from products that compete with the Engenio Business. For the avoidance of doubt, the parties agree that the agreements and limitations set forth in this Section 5.11 shall not apply to any entity that acquires all or part of Seller in any transaction.

(b) Seller acknowledges that the restrictions set forth in Section 5.11(a) constitute a material inducement to Buyer's entering into and performing this Agreement. Seller further acknowledges, stipulates and agrees that a breach of such obligation could result in irreparable harm and continuing damage to Buyer for which there may be no adequate remedy at Law and further agrees that in the event of any breach of said obligation, Buyer may be entitled to injunctive relief and to such other relief as is proper under the circumstances.

(c) If any provision contained in this Section shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Section 5.11, but this Section 5.11 shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. It is the intention of the parties that if any of the restrictions or covenants contained herein is held to cover a geographic area or to be for a length of time which is not permitted by applicable Law, or in any way construed to be too broad or to any extent invalid, such provision shall not be construed to be null, void and of no effect, but to the extent such provision would be valid or enforceable under applicable Law, a court of competent jurisdiction shall construe and interpret or reform this Section 5.11 to provide for a covenant having the maximum enforceable geographic area, time period and other provisions (not greater than those contained herein) as shall be valid and enforceable under such applicable Law.

5.12 Post Closing Remittances

If on or after the Closing Date, either Party receives a payment from a Third Party (including a customer of the Engenio Business) that, pursuant to the terms hereof, should have been paid to the other Party, the Party who receives the payment agrees to hold in trust and remit such payment to the Party entitled thereto within five (5) Business Days of such receipt.

5.13 Prorations and Adjustments

(a) Except as otherwise expressly provided herein, all ordinary course expenses for (i) rents and other charges or amounts payable included in the Purchased Assets and transferred to Buyer hereunder and (ii) gas, electricity, water, sewer, rent and telephone charges at the Leased Premises and the Transferred Premises, in each case, for the period prior to the Closing Date, will be for the account of Seller and for the period on and after the Closing Date shall be for the account of Buyer. If any Party actually makes any payments that are, in whole or in part, designated as payments for the period allocated to the other Party under this Section 5.13, such other Party shall promptly reimburse such amounts to the Party so making such payments.

(b) For purposes of calculating prorations, Buyer shall be deemed to own the Purchased Assets, and, therefore be responsible for the expense thereof, as of 12:01 a.m. local time on the day after the Closing Date. All prorations shall be made on the basis of the actual number of days of the month that shall have elapsed as of the Closing Date and based upon a 365-day year. The amount of the prorations shall be subject to adjustment after the Closing, as and when complete and accurate information becomes available, and the Parties agree to cooperate and use their good faith efforts to make such adjustments.

5.14 Notification of Certain Matters

Seller shall give prompt written notice to Buyer of (a) the occurrence or non-occurrence of any event, the occurrence or non-occurrence of which could reasonably be expected to cause any representation or warranty of Seller in this Agreement to be untrue or inaccurate at or prior to the Closing in any material respect and (b) any failure of Seller in any material respect to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it hereunder, and Buyer shall give prompt written notice to Seller of (x) the occurrence or non-occurrence of any event, the occurrence or non-occurrence of which is could reasonably be expected to cause any representation or warranty of Buyer in this Agreement to be untrue or inaccurate at or prior to the Closing in any material respect and (y) any failure of Buyer in any material respect to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it hereunder; provided, however, that the delivery of any notice pursuant to this Section 5.14 shall not limit or otherwise affect any remedies available to the Party receiving such notice.

5.15 Title Insurance

Seller will cooperate with Buyer in Buyer's obtaining title insurance policies with respect to such of the Transferred Premises and Leased Premises as Buyer shall determine. In addition, Seller will provide an affidavit to Buyer's title insurance company in reasonable and customary form sufficient for such title insurance company to remove the "standard exceptions," including any exception for mechanics' or material suppliers' liens and any exception for "parties in possession," and sufficient for the title insurance company to insure any "gap" period prior to recording the instrument of transfer due to Seller's actions.

5.16 Closing Statement

Within ten Business Days after the Closing Date, Seller shall deliver to Buyer a schedule calculated as of the Closing Date of those line items of the Purchased Assets and Assumed Liabilities that are being transferred or assumed, as applicable, pursuant to this Agreement and that would be required to be set forth on a balance sheet prepared in accordance with GAAP (the "Closing Statement"). At least five Business Days prior to the Closing Date, Seller shall deliver a good faith estimate of the amounts to be set forth on the Closing Statement.

5.17 Indian Assets

Buyer and Seller will take all actions reasonably required to de-bond and bond Purchased Assets located in India to the extent required by, or otherwise beneficial under, applicable Law.

6. Confidential Nature of Information

6.1 Confidentiality Agreement

Buyer agrees that the Confidentiality Agreement shall apply to (a) all documents, materials and other information that it shall have obtained regarding Seller or its Affiliates during the course of the negotiations leading to the consummation of the transactions contemplated hereby (whether obtained before or after the date of this Agreement), any investigations made in connection therewith and the preparation of this Agreement and related documents and (b) all analyses, reports, compilations, evaluations and other materials prepared by Buyer or its counsel, accountants or financial advisors that contain or otherwise reflect or are based upon, in whole or in part, any of the provided information; provided, however, that subject to Section 6.2(a), the Confidentiality Agreement shall terminate as of the Closing and shall be of no further force and effect thereafter with respect to information of Seller or its Affiliates the ownership of which is transferred to Buyer or a Buyer Designee.

6.2 Seller's Proprietary Information

(a) Except as provided in Section 6.2(b), after the Closing and for a period of five (5) years following the Closing Date, Buyer agrees that it will keep confidential all of Seller's and its Affiliates' Information that is received from, or made available by, Seller in the course of the transactions contemplated hereby, and marked or identified at the time of disclosure as the proprietary or confidential information of Seller ("Seller Proprietary Information"), including, for purposes of this Section 6.2, information about the Engenio Business's business plans and strategies, marketing ideas and concepts, especially with respect to unannounced products and services, present and future product plans, pricing, volume estimates, financial data, product enhancement information, business plans, marketing plans, sales strategies, customer information (including customers' applications and environments), market testing information, development plans, specifications, customer requirements, configurations, designs, plans, drawings, apparatus, sketches, software, hardware, data, prototypes, connecting requirements or other technical and business information, except for such Seller Proprietary Information the ownership of which is transferred to Buyer or a Buyer Designee as part of the Purchased Assets.

(b) Notwithstanding the foregoing, such Seller Proprietary Information shall not be deemed confidential and Buyer shall have no obligation with respect to any such Seller Proprietary Information that:

(i) at the time of disclosure was already known to Buyer other than as a result of this transaction, free of restriction as evidenced by documentation in Buyer's possession;

(ii) is or becomes publicly known through publication, inspection of a product, or otherwise, and through no negligence or other wrongful act of Buyer;

(iii) is received by Buyer from a Third Party without similar restriction and without breach of any agreement;

(iv) to the extent it is independently developed by Buyer; or

(v) is, subject to Section 6.2(c), required to be disclosed under applicable Law or judicial process.

(c) If Buyer (or any of its Affiliates) is requested or required (by oral question, interrogatory, request for information or documents, subpoena, civil investigative demand or similar process) to disclose any Seller Proprietary Information, Buyer will promptly notify Seller of such request or requirement and will cooperate with Seller such that Seller may seek an appropriate protective order or other appropriate remedy. If, in the absence of a protective order or the receipt of a waiver hereunder, Buyer (or any of its Affiliates) is in the opinion of Buyer's counsel compelled to disclose the Seller Proprietary Information or else stand liable for contempt or suffer other censure or penalty, Buyer (or its Affiliate) may disclose only so much of the Seller Proprietary Information to the party compelling disclosure as is required by Law. Buyer will exercise its (and will cause its Affiliates to exercise their) reasonable commercial efforts to obtain a protective order or other reliable assurance that confidential treatment will be accorded to such Seller Proprietary Information.

6.3 Buyer's Proprietary Information

(a) Except as provided in Section 6.3(b), after the Closing Date and for a period of five (5) years thereafter, Seller agrees that it will keep confidential all of Seller's and its Affiliates' Information that is received from, or made available by, Buyer in the course of the transactions contemplated hereby and marked or identified at the time of disclosure as the proprietary or confidential information of Buyer, or the ownership of which or exclusive use of which is transferred to Buyer as part of the Purchased Assets (collectively, "Buyer Proprietary Information"), including, for purposes of this Section 6.3, information about the Engenio Business's business plans and strategies, marketing ideas and concepts, especially with respect to unannounced products and services, present and future product plans, pricing, volume estimates, financial data, product enhancement information, business plans, marketing plans, sales strategies, customer information (including customers' applications and environments), market testing information, development plans, specifications, customer requirements, configurations, designs, plans, drawings, apparatus, sketches, software, hardware, data, prototypes, connecting requirements, other technical and business information and information regarding Business Employees.

(b) Notwithstanding the foregoing, such Buyer Proprietary Information regarding the Engenio Business shall not be deemed confidential and Seller shall have no obligation with respect to any such Buyer Proprietary Information that:

(i) is or becomes publicly known through publication, inspection of a product, or otherwise, and through no negligence or other wrongful act of Seller;

(ii) is received by Seller after the Closing Date from a Third Party without similar restriction and without breach of any agreement; or

(iii) is, subject to Section 6.3(c), required to be disclosed under applicable Law or judicial process.

(c) If Seller (or any of its Affiliates) is requested or required (by oral question, interrogatory, request for information or documents, subpoena, civil investigative demand or similar process) to disclose any Buyer Proprietary Information regarding the Engenio Business, Seller will promptly notify Buyer of such request or requirement and will cooperate with Buyer such that Buyer may seek an appropriate protective order or other appropriate remedy. If, in the absence of a protective order or the receipt of a waiver hereunder, Seller (or any of its Affiliates) is in the opinion of Seller's counsel compelled to disclose the Buyer Proprietary Information or else stand liable for contempt or suffer other censure or penalty, Seller (or its Affiliate) may disclose only so much of the Buyer Proprietary Information to the party compelling disclosure as is required by Law. Seller will exercise its (and will cause its Affiliates to exercise their) reasonable commercial efforts to obtain a protective order or other reliable assurance that confidential treatment will be accorded to such Buyer Proprietary Information.

6.4 Confidential Nature of Agreements

Except to the extent that disclosure thereof is required under accounting, stock exchange or federal securities or labor relations Laws disclosure obligations or pursuant to legal process, both parties agree that the terms and conditions of this Agreement, the Collateral Agreements and all Schedules, attachments and amendments hereto and thereto shall be considered confidential or proprietary information protected under this Article 6. Notwithstanding anything in this Article 6 to the contrary, in the event that any such Information is also subject to a limitation on disclosure or use contained in another written agreement between Buyer and Seller or either of their respective Affiliates that is more restrictive than the limitation contained in this Article 6, then the limitation in such agreement shall supersede this Article 6.

7. Closing

At the Closing, the following transactions shall take place:

7.1 Deliveries by Seller or the Subsidiaries

On the Closing Date, Seller shall, or shall cause a Subsidiary to, execute and deliver to Buyer or a Buyer Designee the following:

(a) the Collateral Agreements;

(b) the consents, waivers or approvals identified by Buyer on Schedule 7.1(b) (the “Required Closing Consents”);

(c) a certificate of an appropriate officer of Seller, dated the Closing Date, certifying to the fulfillment of the conditions set forth in Sections 8.2(a) and (b), and an incumbency certificate of an Assistant Secretary of Seller, dated the Closing Date, in customary form; and

(d) all such other bills of sale, assignments and other instruments of assignment, transfer or conveyance as Buyer or a Buyer Designee may reasonably request or as may be otherwise necessary to evidence and effect the sale, transfer, assignment, conveyance and delivery of the Purchased Assets to Buyer or a Buyer Designee or to put Buyer or a Buyer Designee in actual possession or control of the Purchased Assets; provided that all information (including documents) capable of electronic transmission will be transmitted to Buyer or the applicable Buyer Designee in such manner, in which case such information shall not be transferred in any tangible form, and any inadvertent transfer of a tangible manifestation of such information shall promptly be returned to Seller or the applicable Selling Subsidiary upon discovery of Buyer’s or such Buyer Designee’s receipt thereof.

7.2 Deliveries by Buyer or a Buyer Designee

On the Closing Date, Buyer shall, or shall cause a Buyer Designee to, execute and deliver to Seller or a Subsidiary the following:

(a) the Purchase Price;

(b) the Collateral Agreements;

(c) a certificate of an appropriate officer of Buyer, dated the Closing Date, certifying to the fulfillment of the conditions set forth in Sections 8.3(a) and (b), and an incumbency certificate of an Assistant Secretary of Seller of Buyer, dated the Closing Date, in customary form; and

(d) all such other documents and instruments as Seller or a Subsidiary may reasonably request or as may be otherwise necessary or desirable to evidence and effect the assumption by Buyer or a Buyer Designee of the Assumed Liabilities.

7.3 Closing Date

The Closing shall take place at the offices of LSI, 1621 Barber Lane, Milpitas, California, at 10:00 a.m. local time within three (3) Business Days following the date on which the last of the conditions specified in Article 8 to be satisfied or waived has been satisfied or waived (other than conditions which can only be satisfied on the Closing Date, but subject to the satisfaction or waiver of such conditions), or at such other place or time or on such other date as Seller and Buyer may agree upon in writing (such date and time being referred to herein as the “Closing Date”); provided, however, that notwithstanding the foregoing, in no event shall the Closing Date occur prior to May 6, 2011.

7.4 Contemporaneous Effectiveness

All acts and deliveries prescribed by this Article 7, regardless of chronological sequence, will be deemed to occur contemporaneously and simultaneously on the occurrence of the last act or delivery, and none of such acts or deliveries will be effective until the last of the same has occurred.

8. Conditions Precedent to Closing

8.1 General Conditions

The respective obligations of Buyer and Seller to effect the Closing of the transactions contemplated hereby are subject to the fulfillment, prior to or at the Closing, of each of the following conditions:

(a) Legal Proceedings. No Governmental Body shall have enacted, issued, promulgated, enforced or entered any statute, rule, regulation, non-appealable judgment, decree, injunction or other order which is in effect on the Closing Date and which prohibits, restricts or delays consummation of the transactions contemplated by this Agreement or the Collateral Agreements and there shall be no pending lawsuit, claim or legal action relating to the transactions contemplated by this Agreement or any of the Collateral Agreements which seeks to prohibit or restrict the transactions contemplated by this Agreement.

(b) Antitrust Laws. Any applicable waiting period or approvals of a Governmental Body under the HSR Act or applicable foreign antitrust Laws, respectively, relating to the transactions contemplated by this Agreement or the Collateral Agreements shall have expired or been terminated.

8.2 Conditions Precedent to Buyer's Obligations

The obligations of Buyer to effect the Closing of the transactions contemplated hereby are subject to the fulfillment, prior to or at the Closing, of each of the following conditions, any of which may be waived in writing by Buyer:

(a) Representations and Warranties of Seller True and Correct at Closing. The representations and warranties of Seller contained in this Agreement or in any certificate delivered pursuant to the provisions of this Agreement that are qualified by the words "material," "Seller Material Adverse Effect" and similar phrases shall be true and correct in all respects at and as of date of this Agreement and at and as of the Closing Date, except to the extent that such representations and warranties are made as of a specified date, in which case such representations and warranties shall be true and correct in all respects as of the specified date, and the representations and warranties of Seller contained in this Agreement or in any Schedule, certificate or document delivered pursuant to the provisions hereof that are not so qualified shall be true and correct in all material respects at and as of date of this Agreement and at and as of the Closing Date, except to the extent that such representations and warranties are made as of a specified date, in which case such representations and warranties shall be true and correct in all material respects as of the specified date.

(b) Performance by Seller. Seller and/or the applicable Subsidiary shall have delivered all of the documents required under Section 7.1 and shall have otherwise performed in all material respects all obligations and agreements and complied in all material respects with all covenants required by this Agreement to be performed or complied with by it prior to or at the Closing, including executing the Collateral Agreements.

(c) Seller Material Adverse Effect. There shall not have occurred a Seller Material Adverse Effect from the date hereof to the Closing Date.

8.3 Conditions Precedent to Seller's Obligations

The obligations of Seller to effect the Closing of the transactions contemplated hereby are subject to the fulfillment, prior to or at the Closing, of each of the following conditions, any of which may be waived in writing by Seller:

(a) Representations and Warranties of Buyer True and Correct at Closing. The representations and warranties of Buyer contained in this Agreement or in any certificate delivered pursuant to the provisions of this Agreement that are qualified by the words "material," "material adverse effect" and similar phrases shall be true and correct in all respects at and as of the date of this Agreement and at and as of the Closing Date as though such representations and warranties were made at and as of the Closing Date, except to the extent that such representations and warranties are made as of a specified date, in which case such representations and warranties shall be true and correct in all respects as of the specified date, and the representations and warranties of Buyer contained in this Agreement or in any Schedule, certificate or document delivered pursuant to the provisions hereof or in connection with the transactions contemplated hereby that are not so qualified shall be true and correct in all material respects at and as of the date of this Agreement and at and as of the Closing Date as though such representations and warranties were made at and as of the Closing Date, except to the extent that such representations and warranties are made as of a specified date, in which case such representations and warranties shall be true and correct in all material respects as of the specified date.

(b) Performance by Buyer. Buyer and/or the applicable Buyer Designee shall have delivered all of the documents required under Section 7.2 and shall have otherwise performed in all material respects all obligations and agreements and complied in all material respects with all covenants required by this Agreement to be performed or complied with by it prior to or at the Closing, including executing the Collateral Agreements.

9. Indemnification

The rights and obligations of Buyer and Seller under this Agreement shall be subject to the following terms and conditions:

9.1 Effect of Investigation

The right to indemnification or other remedy of Buyer or its Affiliates hereunder based on the representations, warranties, covenants and agreements herein will not be affected by any investigation conducted with respect to, or any knowledge acquired (or capable of being acquired) at any time, by the Buyer or its Affiliates, whether before or after the execution and delivery of this Agreement or the Closing, with respect to the accuracy or inaccuracy of or compliance with, any such representation, warranty, covenant or agreement.

9.2 Survival of Representations and Warranties

The representations and warranties of Buyer and Seller contained in this Agreement shall survive the Closing solely for purposes of this Article 9 and such representations and warranties shall terminate at the close of business on the date that is eighteen (18) months after the Closing Date; provided, however, that (i) the representations and warranties in Section 3.7(d) with respect to environmental matters and the representations and warranties relating to Tax and ERISA matters shall survive the Closing and shall terminate at the close of business on the 120th day following the expiration of the applicable statute of limitations with respect to the environmental, Tax or ERISA liabilities in question (giving effect to any waiver, mitigation or extension thereof), (ii) the representations and warranties in Section 3.13 shall terminate at the close of business on the date that is twenty-four (24) months after the Closing Date and (iii) the representations and warranties in Section 3.2 with respect to authorization and Section 3.5(a) with respect to title shall survive indefinitely. Neither Seller nor Buyer shall have any liability whatsoever with respect to any such representations or warranties after the applicable expiration date; provided, however, that, notwithstanding anything herein to the contrary, the obligations of Buyer or Seller to indemnify and hold harmless any Indemnified Party shall not terminate with respect to any claim or right to indemnification as to which such Indemnified Party shall have made in good faith and with reasonable specificity under the circumstances before the applicable expiration date, provided notice to the Indemnifying Party in accordance with this Article 9 and, in such case, such claim or right to indemnification shall survive indefinitely until such claim has been finally resolved.

9.3 General Agreement to Indemnify

(a) Seller and Buyer shall indemnify, defend and hold harmless the other party hereto, and Affiliates thereof, and any director, officer, employee or agent of such other party or Affiliates thereof (each an "Indemnified Party") from and against any and all claims, actions, suits, proceedings, liabilities, obligations, losses, and damages, amounts paid in settlement, interest, costs and expenses (including reasonable attorney's fees, court costs and other out-of-pocket expenses incurred in investigating, preparing or defending the foregoing) (collectively, "Losses") incurred or suffered by any Indemnified Party to the extent that the Losses arise by reason of, or result from (i) subject to Section 9.2, any breach or any failure of any representation or warranty of such party contained in this Agreement or any certificate delivered in connection with this Agreement to have been true when made and at and as of the Closing Date, or (ii) the breach by such party of any covenant or agreement of such party contained in this Agreement to the extent not waived by the other party.

(b) Seller further agrees to indemnify and hold harmless Buyer and Affiliates thereof, and any director, officer, employee or agent of Buyer or Affiliates thereof (each a "Buyer Indemnified Party") from and against any Losses incurred by Buyer or any Buyer Indemnified Party arising out of, resulting from, or relating to: (i) the Excluded Liabilities; (ii) Buyer's waiver of, or noncompliance with, any applicable Bulk Sales Laws; and (iii) any claim, demand or liability for Taxes relating to, pertaining to, or arising out of the Engenio Business or the Purchased Assets for any Pre-Closing Tax Period.

(c) Buyer further agrees to indemnify and hold harmless Seller and Affiliates thereof, and any director, officer, employee or agent of Seller or Affiliates thereof (each a "Seller Indemnified Party") from and against any Losses incurred by Seller or any Seller Indemnified Party arising out of, resulting from, or relating to: (i) any failure of Buyer to discharge any of the Assumed Liabilities; and (ii) any claim, demand or liability for Taxes relating to, pertaining to, or arising out of the Engenio Business or the Purchased Assets for any Post-Closing Tax Period.

(d) Amounts payable in respect of the parties' indemnification obligations shall be treated as an adjustment to the Purchase Price for Tax purposes and shall be treated as such by Buyer and Seller on their Returns to the extent permitted by law. Whether or not the Indemnifying Party (as defined below) chooses to defend or prosecute any Third-Party Claim (as defined below), both parties hereto shall cooperate in the defense or prosecution thereof and shall furnish such records, information and testimony, and attend such conferences, discovery proceedings, hearings, trials and appeals, as may be reasonably requested in connection therewith or as provided in Section 5.1.

(e) The indemnification obligations of each party hereto under this Article 9 shall inure to the benefit of the directors, officers and Affiliates of the other party hereto on the same terms as are applicable to such other party.

(f) The Indemnifying Party's liability for all claims made under Section 9.3(a)(i) shall be subject to the following limitations: (i) the Indemnifying Party shall have no liability for such claims until the aggregate amount of the Losses incurred shall exceed five tenths of one percent (0.5%) of the Purchase Price (the "Threshold Amount") in which case the Indemnifying Party shall be liable for the entire amount of such Losses (subject to the limit set forth in clause (ii)) and not just the amount of the Losses that exceeds the Threshold Amount, and (ii) the Indemnifying Party's aggregate liability for all such claims shall not exceed ten percent (10%) of the Purchase Price (the "Cap Amount"); provided, however, in no event shall the limitations in clauses (i) and (ii) of this Section 9.3(f) apply to (a) Losses resulting from fraud or intentional misrepresentation or (b) Losses arising out of breaches of the representations and warranties set forth in Sections 3.3, 3.5(a) and 3.20. The Indemnified Party may not make a claim for indemnification under Section 9.3(a)(i) after the expiration of the applicable survival period specified in Section 9.2; provided, however, that, notwithstanding anything herein to the contrary, so long as such Indemnified Party shall have, before the applicable expiration date, provided notice of a claim (made in good faith and with reasonable specificity under the circumstances) before the applicable expiration date to the Indemnifying Party in accordance with this Article 9, then, in such case, such claim or right to indemnification shall survive indefinitely until such claim has been finally resolved. Notwithstanding anything herein to the contrary, for purposes of this Article 9, all "materiality", "Seller Material Adverse Effect" and similar qualifications in the representations and warranties contained in this Agreement (or contained, incorporated or referenced in any certificate delivered pursuant to this Agreement) shall be disregarded for purposes of calculating the amount of such Losses, but shall not be disregarded for purposes of determining whether a breach of any such representation or warranty contained in this Agreement (or contained, incorporated or referenced in any certificate delivered pursuant to this Agreement) has occurred.

(g) The indemnification provided in this Article 9 shall be the sole and exclusive remedy after the Closing Date for damages available to the parties to this Agreement for breach of any of the terms, conditions, covenants, representations or warranties contained herein or any right, claim or action arising from the transactions contemplated by this Agreement; provided, however, this exclusive remedy for damages does not preclude a party from bringing an action for (i) specific performance or other equitable remedy to require a party to perform its obligations under this Agreement or any Collateral Agreement or (ii) fraud or intentional misrepresentation.

(h) Notwithstanding anything contained in this Agreement to the contrary, no party shall be liable to the other party for indirect, special, punitive, exemplary or consequential loss or damage arising out of this Agreement, provided, however, the foregoing shall not be construed to preclude recovery by the Indemnified Party in respect of Losses directly incurred from Third Party Claims. Both parties shall mitigate their damages.

(i) The rights to indemnification under this Section 9.3 shall not be subject to set-off for any claim by the Indemnifying Party against any Indemnified Party, whether or not arising from the same event giving rise to such Indemnified Party's claim for indemnification.

9.4 General Procedures for Indemnification

(a) The Indemnified Party seeking indemnification under this Agreement shall promptly notify the party against whom indemnification is sought (the "Indemnifying Party") of the assertion of any claim, or the commencement of any action, suit or proceeding by any Third Party, in respect of which indemnity may be sought hereunder and shall give the Indemnifying Party such information with respect thereto as the Indemnifying Party may reasonably request, but failure to give such notice shall not relieve the Indemnifying Party of any liability hereunder (unless and to the extent that the Indemnifying Party has suffered material prejudice by such failure). If the Indemnifying Party acknowledges in writing its obligation to indemnify the Indemnified Party, then the Indemnifying Party shall have the right, but not the obligation, exercisable by written notice to the Indemnified Party within twenty (20) days of receipt of notice from the Indemnified Party of the commencement of or assertion of any claim, action, suit or proceeding by a Third Party in respect of which indemnity may be sought hereunder (a "Third-Party Claim"), to assume the defense of such Third-Party Claim only if such Third-Party Claim (i) involves (and continues to involve) solely money damages or (ii) involves (and continues to involve) claims for both money damages and equitable relief against the Indemnified Party that cannot be severed, where the claims for money damages are the primary claims asserted by the Third Party and the claims for equitable relief are incidental to the claims for money damages; provided further, that in the case where Seller is the Indemnifying Party, as additional requirements in addition to the foregoing, the Seller shall only be permitted to assume the defense of such Third-Party Claim in the event that the monetary damages that are sought (or that would reasonably be expected to be sought) in connection with such Third-Party Claim do not exceed the Cap Amount or such lesser remaining amount after deducting therefrom the amount of all other previously paid and outstanding unpaid and/or unresolved claims pursuant to this Article 9. If the Indemnifying Party has not acknowledged in writing its obligation to indemnify the Indemnified Party, then the Indemnified Party shall have the right to assume and control the defense against such Third Party Claim. In the event that any party exercises its right to undertake any such defense against any Third Party Claim as provided above, then the other parties shall cooperate in such defense and make available at such cooperating party expense all witnesses, pertinent records, materials and information in such party's possession and control relating thereto as is reasonably required to by the party conducting the defense.

(b) The Indemnifying Party or the Indemnified Party, as the case may be, shall have the right to participate in (but not control), at its own expense, the defense of any Third-Party Claim that the other is defending, as provided in this Agreement.

(c) The Indemnifying Party, if it has assumed the defense of any Third-Party Claim as provided in this Agreement, shall not consent to a settlement of, or the entry of any judgment arising from, any such Third-Party Claim without the Indemnified Party's prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed) unless such settlement or judgment relates solely to monetary damages and, in addition, in the case where Seller is the Indemnifying Party, such monetary damages do not exceed the Cap Amount or such lesser remaining amount after deducting therefrom the amount of all other previously paid and outstanding unpaid and/or unresolved claims pursuant to this Article 9. The Indemnifying Party shall not, without the Indemnified Party's prior written consent, enter into any compromise or settlement that (i) commits the Indemnified Party to take, or to forbear to take, any action, or (ii) does not provide for a complete release by such Third Party of the Indemnified Party. The Indemnified Party shall have the sole and exclusive right to settle any Third-Party Claim, on such terms and conditions as it deems reasonably appropriate, to the extent such Third-Party Claim involves equitable or other non-monetary relief against the Indemnified Party, and shall have the right to settle any Third-Party Claim involving money damages for which the Indemnifying Party has not assumed the defense pursuant to this Section 9.4 with the written consent of the Indemnifying Party, which consent shall not be unreasonably withheld, conditioned or delayed.

(d) In the event an Indemnified Party shall claim a right to payment pursuant to this Agreement, such Indemnified Party shall send written notice of such claim to the Indemnifying Party; but failure to give such notice shall not relieve the Indemnifying Party of any liability hereunder (unless and to the extent that the Indemnifying Party has suffered material prejudice by such failure). Such notice shall specify the basis for such claim, the amount thereof, if known, and the method of computation thereof, all with reasonable particularity and shall contain a reference to the provisions of this Agreement in respect of which such a claim shall be incurred. Such notice shall be given promptly after the Indemnified Party becomes aware of the basis for each such a claim. The Indemnifying Party shall, within thirty (30) days after receipt of such notice of an indemnified Loss, and subject to the limitations set forth in Section 9.3, (i) pay or cause to be paid to the Indemnified Party the amount of such Loss specified in such notice which the Indemnifying Party does not contest, or (ii) notify the Indemnified Party if it wishes to contest the existence or amount of part or all of such a Loss by stating with particularity the basis upon which it contests the existence or amount thereof.

10. Miscellaneous Provisions

10.1 Notices

All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given upon receipt if (i) mailed by certified or registered mail, return receipt requested, (ii) sent by Federal Express or other express carrier, fee prepaid, (iii) sent via facsimile with receipt confirmed, or (iv) delivered personally, addressed as follows or to such other address or addresses of which the respective party shall have notified the other.

If to Seller, to:	LSI Corporation Attn: Chief Financial Officer 1621 Barber Lane Milpitas, CA 18109 United States of America Facsimile: (408) 433-7306
With a copy to:	LSI Corporation Attn: Vice President – Law 1110 American Parkway NE Allentown, PA 18109 United States of America Facsimile: (610) 712-5712
If to Buyer, to:	NetApp, Inc. Attention: General Counsel 495 East Java Drive Sunnyvale, CA 94089 United States of America Facsimile: (408) 822-4501
With a copy to:	Latham & Watkins LLP 140 Scott Drive Menlo Park, California 94025 United States of America Attention: Peter Kerman and Tad Freese Facsimile: (650) 463-2600

10.2 Expenses

Except as otherwise provided herein, each party to this Agreement will bear all of the fees, costs and expenses incurred by it in connection with the transactions contemplated hereby, whether or not such transactions are consummated.

10.3 Entire Agreement; Modification

The agreement of the parties, which consists of this Agreement, the Schedules and Exhibits hereto and the documents referred to herein, sets forth the entire agreement and understanding between the parties and supersedes any prior agreement or understanding, written or oral, relating to the subject matter of this Agreement, including the Confidentiality Agreement. No amendment, supplement, modification or waiver of this Agreement shall be binding unless executed in writing by the party to be bound thereby, and in accordance with Section 11.3.

10.4 Assignment; Binding Effect; Severability

This Agreement may not be assigned by any party hereto without the other party's written consent; provided, that Buyer may transfer or assign in whole or in part to one or more Buyer Designee its right to purchase all or a portion of the Purchased Assets, but no such transfer or assignment will relieve Buyer of its obligations hereunder. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the successors, legal representatives and permitted assigns of each party hereto. The provisions of this Agreement are severable, and in the event that any one or more provisions are deemed illegal or unenforceable the remaining provisions shall remain in full force and effect unless the deletion of such provision shall cause this Agreement to become materially adverse to either party, in which event the parties shall use reasonable commercial efforts to arrive at an accommodation that best preserves for the parties the benefits and obligations of the offending provision.

10.5 Governing Law

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS PERFORMED ENTIRELY WITHIN THAT STATE, IRRESPECTIVE OF THE CHOICE OF LAWS PRINCIPLES OF THE STATE OF NEW YORK, AS TO ALL MATTERS, INCLUDING MATTERS OF VALIDITY, CONSTRUCTION, EFFECT, ENFORCEABILITY, PERFORMANCE AND REMEDIES.

10.6 Consent to Jurisdiction

Each of Buyer and Seller irrevocably submits to the exclusive jurisdiction of (i) the Supreme Court of the State of New York, New York County, and (ii) the United States District Court for the Southern District of New York, for the purposes of any suit, action or other proceeding arising out of this Agreement or any transaction contemplated hereby (and each agrees that no such action, suit or proceeding relating to this Agreement or any transaction contemplated hereby shall be brought by it or any of its Affiliates except in such courts). Buyer further agrees, and Seller further agrees, that service of any process, summons, notice or document by U.S. registered mail to such Person's respective address set forth in Section 10.1 above shall be effective service of process for any action, suit or proceeding in New York with respect to any matters to which it has submitted to jurisdiction as set forth above in the immediately preceding sentence. Each of Buyer and Seller irrevocably and unconditionally waives (and agrees not to plead or claim), any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in (i) the Supreme Court of the State of New York, New York County, or (ii) the United States District Court for the Southern District of New York or that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

10.7 Waiver of Jury Trial

Each party hereby waives, and agrees to cause each of its Affiliates to waive, to the fullest extent permitted by applicable Law, any right it may have to a trial by jury in respect of any litigation directly or indirectly arising out of, under or in connection with this Agreement. Each party (i) certifies that no representative of any other party has represented, expressly or otherwise, that such other party would not, in the event of litigation, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other parties hereto have been induced to enter into this Agreement by, among other things, the mutual waivers and certifications in this Section 10.7.

10.8 Execution in Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

10.9 Public Announcement

Prior to the signing of this Agreement, Seller and Buyer shall prepare a mutually agreeable release announcing the transaction contemplated hereby. Except for such press release, neither Seller nor Buyer shall, without the approval of the other, make any press release or other announcement concerning the existence of this Agreement or the terms of the transactions contemplated by this Agreement, except as and to the extent that any such party shall be so obligated by Law, in which case the other party shall be advised and the parties shall use their reasonable commercial efforts to cause a mutually agreeable release or announcement to be issued; provided, however, that the foregoing shall not preclude, or require notification to the other Party of, communications or disclosures necessary to comply with accounting, stock exchange or federal securities or labor relations Law disclosure obligations.

10.10 No Third-Party Beneficiaries

Nothing in this Agreement, express or implied, is intended to or shall (a) confer on any Person other than the Parties and their respective successors or assigns (other than the right to indemnification of Indemnified Parties hereunder) any rights (including Third-Party beneficiary rights), remedies, obligations or liabilities under or by reason of this Agreement or (b) constitute the parties hereto as partners or as participants in a joint venture. This Agreement shall not provide Third Parties with any remedy, claim, liability, reimbursement, cause of action or other right in excess of those existing without reference to the terms of this Agreement. Nothing in this Agreement shall be construed as giving to any Business Employee, or any other individual, any right or entitlement to employment or continued employment or any right or entitlement under any Benefit Plan, policy or procedure maintained by Seller, except as expressly provided in such Benefit Plan, policy or procedure. No Third Party shall have any rights under Section 502, 503 or 504 of ERISA, any comparable applicable Law of any other jurisdiction, or any regulations thereunder because of this Agreement that would not otherwise exist without reference to this Agreement. No Third Party shall have any right, independent of any right that exists irrespective of this Agreement, under or granted by this Agreement, to bring any suit at Law or equity for any matter governed by or subject to the provisions of this Agreement.

11. Termination; Amendment and Waiver

11.1 Termination

This Agreement may be terminated at any time prior to the Closing Date by:

(a) Mutual Consent. The mutual written consent of Buyer and Seller;

(b) Failure of Buyer Condition. Buyer upon written notice to Seller if any of the conditions to the Closing set forth in Section 8.2 shall have become incapable of fulfillment by the Termination Date and shall not have been waived in writing by Buyer;

(c) Failure of Seller Condition. Seller upon written notice to Buyer if any of the conditions to the Closing set forth in Section 8.3 shall have become incapable of fulfillment by the Termination Date and shall not have been waived in writing by Seller;

(d) Court or Administrative Order. Buyer or Seller if (i) there shall be in effect a final, non-appealable order of a court or government administrative agency of competent jurisdiction prohibiting the consummation of the transactions contemplated hereby or (ii) if there shall be any Law that makes consummation of the transactions contemplated hereby illegal or otherwise prohibited; or

(e) Delay. Buyer or Seller if the Closing shall not have occurred by July 31, 2011 (the "Termination Date"); provided, however, that the party seeking termination pursuant to clause (b), (c) or (e) is not then in breach in any material respect of any of its representations, warranties, covenants or agreements contained in this Agreement.

11.2 Effect of Termination

In the event of the termination of this Agreement in accordance with Section 11.1, this Agreement shall become void and have no effect, without any liability on the part of any party or its directors, officers or stockholders, except for the obligations of the parties hereto as provided in Article 6 relating to the obligations of Buyer and Seller to keep confidential certain information, Section 10.2 relating to certain expenses, Section 10.9 relating to publicity and this Section 11.2. Nothing in this Section 11.2 shall be deemed to release either party from any liability for any knowing, willful and material breach of any representation, warranty, covenant or agreement hereunder prior to termination.

11.3 Amendment and Waiver

The Agreement may be amended with respect to any provision contained herein at any time prior to the Closing Date by action of the parties hereto taken by their Boards of Directors or by their duly authorized officers or employees, whether before or after such party's action. Any term or condition hereof may be waived and at any time prior to the Closing Date by the party hereto which is entitled to the benefits thereof by action taken by its Board of Directors or its duly authorized officer or employee, whether before or after the action of such party. Any such amendment or waiver shall be evidenced by a written instrument duly executed on behalf of each party by its duly authorized officer or employee. The failure of either party to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision nor shall it in any way affect the validity of this Agreement or the right of such party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

IN WITNESS WHEREOF, each party has caused this Agreement to be duly executed on its behalf by its duly authorized officer as of the date first written above.

LSI CORPORATION

By: /s/ Abhi Talwalkar
Name: Abhi Talwalkar
Title: President and Chief Executive Officer

NETAPP, INC.

By: /s/ Thomas Georgens
Name: Thomas Georgens
Title: President and Chief Executive Officer

NETAPP, INC.
EMPLOYEE STOCK PURCHASE PLAN

As Amended Effective February 4, 2011

I. PURPOSE OF THE PLAN

This Employee Stock Purchase Plan is intended to promote the interests of NetApp, Inc. by providing eligible employees with the opportunity to acquire a proprietary interest in the Corporation through participation in a payroll-deduction based employee stock purchase plan designed to qualify under Section 423 of the Code.

Capitalized terms herein shall have the meanings assigned to such terms in the attached Appendix.

Certain provisions of the Plan as restated August 2001 (the “2001 Restatement”) became effective with the offering period commencing December 3, 2001 and did not have any force or effect prior to such date.

All share numbers in this document reflect (i) the two-for-one split of the Common Stock effected on December 19, 1997, (ii) the two-for-one split of the Common Stock effected on December 22, 1998, (iii) the two-for-one split of the Common Stock effected on December 21, 1999, and (iv) the two-for-one split of the Common Stock effected on March 23, 2000.

II. ADMINISTRATION OF THE PLAN

The Plan Administrator shall have full authority to interpret and construe any provision of the Plan and to adopt such rules and regulations for administering the Plan as it may deem necessary in order to comply with the requirements of Code Section 423, including designating separate Offerings under the Plan. Without limiting the generality of the foregoing, the Plan Administrator is specifically authorized to adopt rules and procedures regarding eligibility to participate, the determination of what compensation qualifies as Cash Earnings, handling of the payroll deductions and other additional payments that the Corporation may permit to be made by a Participant to fund the exercise of purchase rights granted pursuant to the Plan, making of contributions to the Plan (including, without limitation, in forms other than payroll deductions), establishment of bank or trust accounts to hold contributions, payment of interest, conversion of local currency, obligations to pay payroll tax, determination of beneficiary designation requirements, withholding procedures and handling of stock certificates that vary with applicable local requirements. Further, without shareholder consent and without limiting Section X.A, the Plan Administrator shall be entitled to change the offering periods, designate separate Offerings, limit the frequency and/or number of changes in the amount withheld during an offering period, establish the exchange ratio applicable to amounts withheld in a currency other than U.S. dollars, permit payroll withholding in excess of the amount designated by a Participant in order to adjust for delays or mistakes in the Corporation’s processing of properly completed withholding elections, establish reasonable waiting and adjustment periods and/or accounting and crediting procedures to ensure that amounts applied toward the purchase of Common Stock for each Participant properly correspond with contribution amounts, and establish such other limitations or procedures as the Plan Administrator determines in its sole discretion advisable that are consistent with the Plan.

Decisions of the Plan Administrator shall be final and binding on all parties having an interest in the Plan.

III. STOCK SUBJECT TO PLAN

A. The stock purchasable under the Plan shall be shares of authorized but unissued or reacquired Common Stock, including shares of Common Stock purchased on the open market. The maximum number of shares of Common Stock which may be issued over the term of the Plan shall not exceed Thirty Five Million Two Hundred Thousand (35,200,000) shares, including (i) an increase of One Million Six Hundred Thousand (1,600,000) shares authorized by the Board on August 11, 1998 and approved by the shareholders on October 8, 1998, (ii) an increase of One Million (1,000,000) shares authorized by the Board on August 17, 1999 and approved by the shareholders on October 26, 1999, (iii) an increase of Three Million (3,000,000) shares authorized by the Board on August 9, 2001 and approved by the shareholders at the 2001 Annual Meeting held on October 18, 2001, (iv) an increase of Two Million Four Hundred Thousand (2,400,000) shares authorized by the Board on July 2, 2002, and approved by the shareholders at the 2002 Annual Meeting held on August 29, 2002, (v) an increase of One Million (1,000,000) shares authorized by the Board on June 12, 2003 and approved by shareholders at the 2003 Annual Meeting held on September 2, 2003, (vi) an increase of One Million Three

Hundred Thousand (1,300,000) shares authorized by the Board on July 7, 2004 and approved by the shareholders at the 2004 Annual Meeting held on September 2, 2004, (vii) an increase of One Million Five Hundred Thousand (1,500,000) shares authorized by the Board on July 1, 2005 and approved by the shareholders at the 2005 Annual Meeting held on August 31, 2005, (viii) an increase of One Million Six Hundred Thousand (1,600,000) shares authorized by the Board on July 10, 2006 and approved by the shareholders at the 2006 Annual Meeting held on August 31, 2006, (ix) an increase of One Million Six Hundred Thousand (1,600,000) shares authorized by the Board on July 13, 2007 and approved by the shareholders at the 2007 Annual Meeting held on September 19, 2007, (x) an increase of Two Million Nine Hundred Thousand (2,900,000) shares authorized by the Board on July 11, 2008 and approved by the shareholders at the 2008 Annual Meeting held on September 2, 2008, (xi) an increase of Six Million Seven Hundred Thousand (6,700,000) shares authorized by the Board on August 17, 2009 and approved by the shareholders at the 2009 Annual Meeting held on October 14, 2009, plus (xii) an increase of Five Million (5,000,0000) shares authorized by the Board on July 13, 2010 and approved by the shareholders at the 2010 Annual Meeting held on August 31, 2010.

B. Should any change be made to the Common Stock by reason of any stock split, stock dividend, recapitalization, combination of shares, exchange of shares or other change affecting the outstanding Common Stock as a class without the Corporation's receipt of consideration, appropriate adjustments shall be made to (i) the maximum number and class of securities issuable under the Plan, (ii) the maximum number and class of securities purchasable per Participant on any one Purchase Date, (iii) the maximum number and class of securities purchasable in total by all Participants on any one Purchase Date under the Plan and (iv) the number and class of securities and the price per share in effect under each outstanding purchase right in order to prevent the dilution or enlargement of benefits thereunder.

IV. OFFERING PERIODS

A. Shares of Common Stock shall be offered for purchase under the Plan through a series of overlapping offering periods until such time as (i) the maximum number of shares of Common Stock available for issuance under the Plan shall have been purchased or (ii) the Plan shall have been sooner terminated.

B. Each offering period shall be of such duration (not to exceed twenty-four (24) months) as determined by the Plan Administrator prior to the start date of such offering period. Offering periods shall commence at semi-annual intervals on the first business day of June and December each year over the remaining term of the Plan. Accordingly, two (2) separate offering periods shall commence in each calendar year the 2001 Restatement remains in existence. However, the initial offering period under the 2001 Restatement shall begin on the first business day in December 2001 and end on the last business day in November 2003.

NOTE: Prior to December 3, 2001, shares of Common Stock were offered for purchase under the Plan through a series of successive offering periods, each with a maximum duration of twenty-four (24) months. The last such offering period began on the first business day in December 1999 and terminated on November 30, 2001.

C. Each offering period shall be comprised of a series of one or more successive Purchase Intervals. Purchase Intervals shall run from the first business day in June each year to the last business day in November of the same year and from the first business day in December each year to the last business day in May of the following year.

D. Should the Fair Market Value per share of Common Stock on any Purchase Date within any offering period beginning on or after December 3, 2001 be less than the Fair Market Value per share of Common Stock on the start date of that offering period, then the individuals participating in such offering period shall, immediately after the purchase of shares of Common Stock on their behalf on such Purchase Date, be transferred from that offering period and automatically enrolled in the next offering period commencing after such Purchase Date.

V. ELIGIBILITY

A. Each individual who is an Eligible Employee on the start date of any offering period under the Plan may enter that offering period on such start date; provided, however, that the Plan Administrator, in its discretion, from time to time may, prior to a start date of any offering period for all purchase rights for future offering periods, establish (on a uniform and nondiscriminatory basis) waiting periods for participation in future offering periods of not more than two (2) years from the participant's date of hire. However, an Eligible Employee may participate in only one offering period at a time. Employees who are citizens or residents of a non-U.S. jurisdiction may be excluded from participation in the Plan or an Offering if the participation of such employees is prohibited under the laws of the applicable jurisdiction or if complying with the laws of the applicable jurisdiction would cause the Plan or an Offering to violate Section 423 of the Code.

B. Except as otherwise provided in Section IV.D, an Eligible Employee must, in order to participate in the Plan for a particular offering period, complete an on-line enrollment process in a uniform and non-discriminatory basis prescribed by the Plan Administrator or complete the enrollment forms prescribed by the Plan Administrator (including a stock purchase agreement and a payroll deduction authorization form) and file such forms with the Plan Administrator (or its designate) on or before the date established by the Plan Administrator on or prior to that offering period in a uniform and non-discriminatory basis.

VI. PAYROLL DEDUCTIONS

A. The payroll deduction authorized by the Participant for purposes of acquiring shares of Common Stock during an offering period may be any multiple of one percent (1%) of the Cash Earnings paid to the Participant during each Purchase Interval within that offering period, up to a maximum of ten percent (10%). The deduction rate so authorized by a Participant shall continue in effect throughout the offering period, except to the extent such rate is changed in accordance with the following guidelines:

(i) The Participant may, at any time during the offering period, reduce his or her rate of payroll deduction to become effective as soon as possible after filing the appropriate form with the Plan Administrator. The Participant may not, however, effect more than one (1) such reduction per Purchase Interval.

(ii) The Participant may, prior to the commencement of any new Purchase Interval within the offering period, increase the rate of his or her payroll deduction by filing the appropriate form with the Plan Administrator. The new rate (which may not exceed the ten percent (10%) maximum) shall become effective as of the start date of the first Purchase Interval following the filing of such form.

B. Payroll deductions on behalf of the Participant shall begin on the first pay day following the start date of the offering period in which he or she is enrolled and shall (unless sooner terminated by the Participant) continue through the pay day ending with or immediately prior to the last day of that offering period. The amounts so collected shall be credited to the Participant's book account under the Plan, but no interest shall be paid on the balance from time to time outstanding in such account, except as may be required by applicable law, as determined by the Corporation, and if so required, will apply to all Participants in the relevant Offering, except to the extent otherwise permitted by U.S. Treasury Regulation Section 1.423-2(f). The amounts collected from the Participant shall not be held in any segregated account or trust fund and may be commingled with the general assets of the Corporation and used for general corporate purposes, except under Offerings in which applicable local law requires that amounts collected from the Participants be segregated from the Corporation's general corporate funds and/or deposited with an independent third party for Participants in non-U.S. jurisdictions.

C. Payroll deductions shall automatically cease upon the Participant's withdrawal from the offering period or the termination of his or her purchase right in accordance with the provisions of the Plan.

D. The Participant's acquisition of Common Stock under the Plan on any Purchase Date shall neither limit nor require the Participant's acquisition of Common Stock on any subsequent Purchase Date, whether within the same or a different offering period.

E. The Plan Administrator shall have the discretion, exercisable prior to the start date of any offering period under the Plan, to determine whether the payroll deductions authorized by Participants during such offering period shall be calculated as a percentage of Base Salary or Cash Earnings.

VII. PURCHASE RIGHTS

A. **Grant of Purchase Right.** A Participant shall be granted a separate purchase right for each offering period in which he or she is enrolled. The purchase right shall be granted on the start date of the offering period and shall provide the Participant with the right to purchase shares of Common Stock, in a series of successive installments during that offering period, upon the terms set forth below. The Participant shall execute a stock purchase agreement embodying such terms and such other provisions (not inconsistent with the Plan) as the Plan Administrator may deem advisable. For purposes of the Plan, the Plan Administrator may designate separate Offerings under the Plan (the terms of which need not be identical) in which Eligible Employees will participate, even if the dates of the applicable offering periods of each such Offering are identical.

Under no circumstances shall purchase rights be granted under the Plan to any Eligible Employee if such individual would, immediately after the grant, own (within the meaning of Code Section 424(d)) or hold outstanding options or other rights to purchase, stock possessing five percent (5%) or more of the total combined voting power or value of all classes of stock of the Corporation or any Corporate Affiliate.

B. **Exercise of the Purchase Right.** Each purchase right shall be automatically exercised in installments on each successive Purchase Date within the offering period, and shares of Common Stock shall accordingly be purchased on behalf of each Participant on each such Purchase Date. The purchase shall be affected by applying the Participant's payroll deductions for the Purchase Interval ending on such Purchase Date to the purchase of whole shares of Common Stock at the purchase price in effect for the Participant for that Purchase Date.

C. **Purchase Price.** The purchase price per share at which Common Stock will be purchased on the Participant's behalf on each Purchase Date within the particular offering period in which he or she is enrolled shall be equal to eighty-five percent (85%) of the lower of (i) the Fair Market Value per share of Common Stock on the start date of that offering period or (ii) the Fair Market Value per share of Common Stock on that Purchase Date.

D. **Number of Purchasable Shares.** The number of shares of Common Stock purchasable by a Participant on each Purchase Date during the particular offering period in which he or she is enrolled shall be the number of whole shares obtained by dividing the amount collected from the Participant through payroll deductions during the Purchase Interval ending with that Purchase Date by the purchase price in effect for the Participant for that Purchase Date. However, the maximum number of shares of Common Stock purchasable per Participant on any one Purchase Date shall not exceed One Thousand Five Hundred (1,500) shares, subject to periodic adjustments in the event of certain changes in the Corporation's capitalization. However, the Plan Administrator shall have the discretionary authority, exercisable prior to the start of any offering period under the Plan, to increase or decrease, or implement, the limitations to be in effect for the number of shares purchasable per Participant and in total by all Participants enrolled in that particular offering period on each Purchase Date which occurs during that offering period.

E. **Excess Payroll Deductions.** Any payroll deductions not applied to the purchase of shares of Common Stock on any Purchase Date because they are not sufficient to purchase a whole share of Common Stock shall be held for the purchase of Common Stock on the next Purchase Date. However, any payroll deductions not applied to the purchase of Common Stock by reason of the limitation on the maximum number of shares purchasable per Participant or in total by all Participants on the Purchase Date shall be promptly refunded.

F. **Suspension of Payroll Deductions.** In the event that a Participant is, by reason of the accrual limitations in Article VIII, precluded from purchasing additional shares of Common Stock on one or more Purchase Dates during the offering period in which he or she is enrolled, then no further payroll deductions shall be collected from such Participant with respect to those Purchase Dates. The suspension of such deductions shall not terminate the Participant's purchase right for the offering period in which he or she is enrolled, and payroll deductions shall automatically resume on behalf of such Participant once he or she is again able to purchase shares during that offering period in compliance with the accrual limitations of Article VIII.

G. **Withdrawal from Offering Period.** The following provisions shall govern the Participant's withdrawal from an offering period under the Plan:

(i) A Participant may withdraw from the offering period in which he or she is enrolled by completing an on-line withdrawal process in a uniform and non-discriminatory basis prescribed by the Plan Administrator or by filing the appropriate form with the Plan Administrator (or its designate) at any time prior to the next scheduled Purchase Date in the offering period, and no further payroll deductions shall be collected from the Participant with respect to that offering period; provided, however, that the Plan Administrator, in its discretion, from time to time may, prior to a start date of any offering period for all purchase rights for future offering periods, establish (on a uniform and nondiscriminatory basis) a different date for effective withdrawals from the Plan. Any payroll deductions collected during the Purchase Interval in which such withdrawal occurs shall, at the Participant's election, be immediately refunded or held for the purchase of shares on the next Purchase Date. If no such election is made at the time the Participant withdraws from the offering period, then the payroll deductions collected with respect to the Purchase Interval in which such withdrawal occurs shall be refunded as soon as possible.

(ii) The Participant's withdrawal from the offering period shall be irrevocable, and the Participant may not subsequently rejoin that offering period. In order to resume participation in any subsequent offering period, such individual must re-enroll in the Plan (by completing an on-line enrollment process in a manner prescribed by the Plan Administrator or by making a timely filing of the prescribed enrollment forms) on or before the date determined by the Plan Administrator pursuant to Section V of that offering period.

H. **Termination of Eligible Employee Status.** Should the Participant cease to remain an Eligible Employee for any reason (including death, disability or change in status) while his or her purchase right remains outstanding, then that purchase right shall immediately terminate, and all of the Participant's payroll deductions for the Purchase Interval in which the purchase right so terminates shall be immediately refunded. However, should the Participant cease to remain in active service by reason of an approved unpaid leave of absence, then the Participant shall have the right, exercisable up until the last business day of the Purchase Interval in which such leave commences, to (a) withdraw all the payroll deductions collected to date on his or her behalf for that Purchase Interval or (b) have such funds held for the purchase of shares on his or her behalf on the next scheduled Purchase Date. In no event, however, shall any further payroll deductions be collected on the Participant's behalf during such leave; provided, however, that payroll deductions on the Participant's behalf may be collected for amounts paid during such leave for services rendered by the Participant prior to his or her leave. Upon the Participant's return to active service (i) within three (3) months following the commencement of such leave or (ii) prior to the expiration of any longer period for which such Participant's right to reemployment with the Corporation is guaranteed by either statute or contract, his or her payroll deductions under the Plan shall automatically resume at the rate in effect at the time the leave began, unless the Participant withdraws from the Plan prior to his or her return. An individual who returns to active employment following a leave of absence which exceeds in duration the applicable time period shall be treated as a new Employee for purposes of subsequent participation in the Plan and must accordingly re-enroll in the Plan (by completing an on-line enrollment process in a manner prescribed by the Plan Administrator or making a timely filing of the prescribed enrollment forms) on or before the date determined by the Plan Administrator pursuant to Section V of any offering period in which he or she wishes to participate.

I. **Change in Control.** Each outstanding purchase right shall automatically be exercised, immediately prior to the effective date of any Change in Control, by applying the payroll deductions of each Participant for the Purchase Interval in which such Change in Control occurs to the purchase of whole shares of Common Stock at a purchase price per share equal to eighty-five percent (85%) of the lower of (i) the Fair Market Value per share of Common Stock on the start date of the offering period in which the Participant is enrolled at the time of such Change in Control or (ii) the Fair Market Value per share of Common Stock immediately prior to the effective date of such Change in Control. However, the applicable limitation on the number of shares of Common Stock purchasable per Participant shall continue to apply to any such purchase, but not the limitation applicable to the maximum number of shares of Common Stock purchasable in total by all Participants on any one Purchase Date.

The Corporation shall use its best efforts to provide at least ten (10) days prior written notice of the occurrence of any Change in Control, and Participants shall, following the receipt of such notice, have the right to terminate their outstanding purchase rights prior to the effective date of the Change in Control.

J. **Proration of Purchase Rights.** Should the total number of shares of Common Stock to be purchased pursuant to outstanding purchase rights on any particular date exceed either (i) the maximum limitation on the number of shares purchasable in total by all Participants on such date or (ii) the number of shares then available for issuance under the Plan, the Plan Administrator shall make a pro-rata allocation of the available shares on a uniform and nondiscriminatory basis, and the payroll deductions of each Participant, to the extent in excess of the aggregate purchase price payable for the Common Stock pro-rated to such individual, shall be refunded.

K. **Assignability.** The purchase right shall be exercisable only by the Participant and shall not be assignable or transferable by the Participant.

L. **Shareholder Rights.** A Participant shall have no shareholder rights with respect to the shares subject to his or her outstanding purchase right until the shares are purchased on the Participant's behalf in accordance with the provisions of the Plan and the Participant has become a holder of record of the purchased shares.

VIII. ACCRUAL LIMITATIONS

A. No Participant shall be entitled to accrue rights to acquire Common Stock pursuant to any purchase right outstanding under this Plan if and to the extent such accrual, when aggregated with (i) rights to purchase Common Stock accrued under any other purchase right granted under this Plan and (ii) similar rights accrued under other employee stock purchase plans (within the meaning of Code Section 423) of the Corporation or any Corporate Affiliate, would otherwise permit such Participant to purchase more than Twenty-Five Thousand Dollars ($25,000) worth of stock of the Corporation or any Corporate Affiliate (determined on the basis of the Fair Market Value per share on the date or dates such rights are granted) for each calendar year such rights are at any time outstanding.

B. For purposes of applying such accrual limitations to the purchase rights granted under the Plan, the following provisions shall be in effect:

(i) The right to acquire Common Stock under each outstanding purchase right shall accrue in a series of installments on each successive Purchase Date during the offering period in which such right remains outstanding.

(ii) No right to acquire Common Stock under any outstanding purchase right shall accrue to the extent the Participant has already accrued in the same calendar year the right to acquire Common Stock under one (1) or more other purchase rights at a rate equal to Twenty-Five Thousand Dollars ($25,000) worth of Common Stock (determined on the basis of the Fair Market Value per share on the date or dates of grant) for each calendar year such rights were at any time outstanding.

C. If by reason of such accrual limitations, any purchase right of a Participant does not accrue for a particular Purchase Interval, then the payroll deductions which the Participant made during that Purchase Interval with respect to such purchase right shall be promptly refunded.

D. In the event there is any conflict between the provisions of this Article and one or more provisions of the Plan or any instrument issued thereunder, the provisions of this Article shall be controlling.

IX. EFFECTIVE DATE AND TERM OF THE PLAN

A. The Plan was adopted by the Board on September 26, 1995 and was subsequently approved by the shareholders and became effective at the Effective Time.

B. The Plan was amended by the Board on August 11, 1998 (the "1998 Amendment") to increase the maximum number of shares of Common Stock authorized for issuance under the Plan by an additional One Million Six Hundred Thousand (1,600,000) shares. The 1998 Amendment was approved by the shareholders at the 1998 Annual Meeting.

C. On August 17, 1999, the Board amended the Plan to (i) increase the maximum number of shares of Common Stock authorized for issuance under the Plan by an additional One Million (1,000,000) shares and (ii) make amendments to certain administrative provisions of the Plan (the "1999 Amendment"). The 1999 Amendment was approved by the shareholders on October 26, 1999.

D. The 2001 Restatement was adopted by the Board on August 9, 2001 and effects the following changes to the Plan: (i) increase the number of shares authorized for issuance under the Plan by an additional Three Million (3,000,000) shares, (ii) implement a series of overlapping twenty-four (24)-month offering periods beginning at semi-annual intervals each year, (iii) establish a series of semi-annual purchase dates within each such offering period, (iv) reduce the maximum number of shares of Common Stock purchasable per Participant on any one Purchase Date after November 30, 2001 from Twelve Thousand (12,000) shares to One Thousand Five Hundred (1,500) shares, (v) limit the number of shares of Common Stock purchasable in total by all Participants on any one Purchase Date after November 30, 2001 to One Million (1,000,000) shares, (vi) extend the maximum term of the Plan until the last business day in May 2011 and (vii) revise certain provisions of the Plan document in order to facilitate the administration of the Plan. No purchase rights were exercised under the Plan, and no shares of Common Stock were issued, on the basis of the 3,000,000-share increase authorized by the 2001 Restatement, until the 2001 Restatement was approved by the shareholders at the 2001 Annual Stockholders Meeting.

E. The Plan was amended by the Board on July 2, 2002 (the "2002 Restatement") to increase the number of shares authorized for issuance under the Plan by an additional Two Million Four Hundred Thousand (2,400,000) shares. The 2002 Restatement was approved by the shareholders on August 29, 2002.

F. The Plan was amended by the Board on June 12, 2003 (the "2003 Restatement") to increase the number of shares authorized for issuance under the Plan by an additional One Million (1,000,000) shares. The 2003 Restatement was approved by the shareholders at the 2003 Annual Meeting.

G. The Plan was amended by the Board on July 7, 2004 (the "2004 Restatement") to increase the number of shares authorized for issuance under the Plan by an additional One Million Three Hundred Thousand (1,300,000) shares. The 2004 Restatement was approved by the shareholders at the 2004 Annual Meeting.

H. The Plan was amended by the Board on July 1, 2005 (the "2005 Restatement") to increase the number of shares authorized for issuance under the Plan by an additional One Million Five Hundred Thousand (1,500,000) shares. The 2005 Restatement was approved by the shareholders at the 2005 Annual Meeting.

I. The Plan was amended by the Board on July 10, 2006 (the "2006 Restatement") to increase the number of shares authorized for issuance under the Plan by an additional One Million Six Hundred Thousand (1,600,000) shares. The 2006 Restatement was approved by the shareholders at the 2006 Annual Meeting.

J. The Plan was amended by the Board on July 13, 2007 (the "2007 Restatement") to increase the number of shares authorized for issuance under the Plan by an additional One Million Six Hundred Thousand (1,600,000) shares. The 2007 Restatement was approved by the shareholders at the 2007 Annual Meeting. The Plan was amended by the Board's Compensation Committee on November 28, 2007 to limit the number of shares of Common Stock purchasable in total by all Participants on any one Purchase Date to One Million Five Hundred Thousand (1,500,000) shares.

K. The Plan was amended by the Board's Compensation Committee on May 23, 2008 to remove the limitation on the maximum number of shares of Common Stock purchasable in total by all Participants on any one Purchase Date.

L. The Plan was amended by the Board on July 11, 2008 (the "2008 Restatement") to increase the number of shares authorized for issuance under the Plan by an additional Two Million Nine Hundred Thousand (2,900,000) shares. The 2008 Restatement was approved by the shareholders at the 2008 Annual Meeting.

M. The Plan was amended by the Board on August 17, 2009 (the "2009 Restatement") to increase the number of shares authorized for issuance under the Plan by an additional Six Million Seven Hundred Thousand (6,700,000) shares. The 2009 Restatement was approved by shareholders at the 2009 Annual Meeting.

N. The Plan was amended by the Board on July 13, 2010 (the "2010 Restatement") to increase the number of shares authorized for issuance under the Plan by an additional Five Million (5,000,000) shares, to revise the eligibility requirements and to remove the Plan's fixed-term expiration date. The 2010 Restatement was approved by shareholders at the 2010 Annual Meeting.

O. The Corporation shall comply with all applicable requirements of the 1933 Act (including the registration of such additional shares of Common Stock issuable under the Plan on a Form S-8 registration statement filed with the Securities and Exchange Commission), all applicable listing requirements of the Nasdaq National Market with respect to those shares, and all other applicable requirements established by law or regulation.

P. Unless sooner terminated by the Board, the Plan shall terminate upon the earliest of (i) the date on which all shares available for issuance under the Plan shall have been sold pursuant to purchase rights exercised under the Plan or (ii) the date on which all purchase rights are exercised in connection with a Change in Control. No further purchase rights shall be granted or exercised, and no further payroll deductions shall be collected, under the Plan following such termination.

X. AMENDMENT OF THE PLAN

A. The Board may alter, amend, suspend, terminate or discontinue the Plan at any time to become effective immediately following the close of any Purchase Interval. To the extent necessary to comply with Section 423 of the Code (or any successor rule or provision or any other applicable law, regulation or stock exchange rule), the Corporation shall obtain shareholder approval in such a manner and to such a degree as required. However, the Plan may be amended or terminated immediately upon Board action, if and to the extent necessary to assure that the Corporation will not recognize, for financial reporting purposes, any compensation expense in connection with the shares of Common Stock offered for purchase under the Plan, should the financial accounting rules applicable to the Plan at the Effective Time be subsequently revised so as to require the recognition of compensation expense in the absence of such amendment or termination.

XI. GENERAL PROVISIONS

A. All costs and expenses incurred in the administration of the Plan shall be paid by the Corporation; however, each Plan Participant shall bear all costs and expenses incurred by such individual in the sale or other disposition of any shares purchased under the Plan.

B. Nothing in the Plan shall confer upon the Participant any right to continue in the employ of the Corporation or any Corporate Affiliate for any period of specific duration or interfere with or otherwise restrict in any way the rights of the Corporation (or any Corporate Affiliate employing such person) or of the Participant, which rights are hereby expressly reserved by each, to terminate such person's employment at any time for any reason, with or without cause.

C. The provisions of the Plan shall be governed by the laws of the State of California without resort to that State's conflict-of-laws rules.

Schedule A
Corporations Participating in
Employee Stock Purchase Plan
As of February 4, 2011

The Corporation and its Corporate Affiliates are designated as Participating Corporations in the Plan, unless the Plan Administrator (or its delegate) determines otherwise.

APPENDIX

The following definitions shall be in effect under the Plan:

A. **Base Salary** shall mean the regular base salary paid to a Participant by one or more Participating Companies during such individual's period of participation in one or more offering periods under the Plan. Such Base Salary shall be calculated before deduction of (A) any income or employment tax withholdings or (B) any pre-tax contributions made by the Participant to any Code Section 401(k) salary deferral plan or any Code Section 125 cafeteria benefit program now or hereafter established by the Corporation or any Corporate Affiliate. The following items of compensation shall **not** be included in Base Salary: (i) all overtime payments, bonuses, commissions (other than those functioning as base salary equivalents), profit-sharing distributions and other incentive-type payments and (ii) any and all contributions (other than Code Section 401(k) or Code Section 125 contributions) made on the Participant's behalf by the Corporation or any Corporate Affiliate under any employee benefit or welfare plan now or hereafter established.

B. **Board** shall mean the Corporation's Board of Directors.

C. **Cash Earnings** shall mean the (i) base salary payable to a Participant by one or more Participating Companies during such individual's period of participation in one or more offering periods under the Plan plus (ii) all overtime payments, bonuses, commissions, current profit-sharing distributions and other incentive-type payments received during such period. Such Cash Earnings shall be calculated before deduction of (A) any income or employment tax withholdings or (B) any pre-tax contributions made by the Participant to any Code Section 401(k) salary deferral plan or any Code Section 125 cafeteria benefit program now or hereafter established by the Corporation or any Corporate Affiliate. However, Cash Earnings shall **not** include any contributions (other than Code Section 401(k) or Code Section 125 contributions deducted from such Cash Earnings) made by the Corporation or any Corporate Affiliate on the Participant's behalf to any employee benefit or welfare plan now or hereafter established.

D. **Change in Control** shall mean a change in ownership or control of the Corporation effected through any of the following transactions:

(i) a merger or consolidation in which securities possessing more than fifty percent (50%) of the total combined voting power of the Corporation's outstanding securities are transferred to a person or persons different from the persons holding those securities immediately prior to such transaction,

(ii) the sale, transfer or other disposition of all or substantially all of the assets of the Corporation in complete liquidation or dissolution of the Corporation; or

(iii) the acquisition, directly or indirectly by any person or related group of persons (other than the Corporation or a person that directly or indirectly controls, is controlled by, or is under common control with, the Corporation), of beneficial ownership (within the meaning of Rule 13d-3 of the 1934 Act) of securities possessing more than fifty percent (50%) of the total combined voting power of the Corporation's outstanding securities pursuant to a tender or exchange offer made directly to the Corporation's shareholders.

E. **Code** shall mean the Internal Revenue Code of 1986, as amended.

F. **Common Stock** shall mean the Corporation's common stock.

G. **Corporate Affiliate** shall mean any parent or subsidiary corporation of the Corporation (as determined in accordance with Code Section 424), whether now existing or subsequently established.

H. **Corporation** shall mean NetApp, Inc., a Delaware corporation, and any corporate successor to all or substantially all of the assets or voting stock of NetApp, Inc. which shall by appropriate action adopt the Plan.

I. **Effective Time** shall mean the time at which the underwriting agreement for the Corporation's initial public offering of the Common Stock was executed and finally priced. Any Corporate Affiliate which becomes a Participating Corporation after such Effective Time shall designate a subsequent Effective Time with respect to its employee-Participants.

J. **Eligible Employee** shall mean any person who is employed by a Participating Company on a basis under which he or she is regularly expected to render more than twenty (20) hours of service per week for more than five (5) months per calendar year for earnings considered wages under Code Section 3401(a), or any lesser number of hours per week and/or number of months in any calendar year established by the Plan Administrator (if required under applicable local law) for purposes of any separate Offering.

K. **Fair Market Value** per share of Common Stock on any relevant date shall be determined in accordance with the following provisions:

(i) If the Common Stock is at the time traded on the Nasdaq National Market, then the Fair Market Value shall be the closing selling price per share of Common Stock on the date in question, as such price is reported by the National Association of Securities Dealers on the Nasdaq National Market or any successor system and published in The Wall Street Journal. If there is no closing selling price for the Common Stock on the date in question, then the Fair Market Value shall be the closing selling price on the last preceding date for which such quotation exists.

(ii) If the Common Stock is at the time listed on any Stock Exchange, then the Fair Market Value shall be the closing selling price per share of Common Stock on the date in question on the Stock Exchange determined by the Plan Administrator to be the primary market for the Common Stock, as such price is officially quoted in the composite tape of transactions on such exchange

and published in The Wall Street Journal. If there is no closing selling price for the Common Stock on the date in question, then the Fair Market Value shall be the closing selling price on the last preceding date for which such quotation exists.

L. **1933 Act** shall mean the Securities Act of 1933, as amended.

M. **Offering** means an offer under the Plan of a purchase right that may be exercised during an offering period as further described in Section VII. For purposes of the Plan, the Plan Administrator may designate separate Offerings under the Plan (the terms of which need not be identical) in which Eligible Employees will participate, even if the dates of the applicable offering periods of each such Offering are identical.

N. **Participant** shall mean any Eligible Employee of a Participating Corporation who is actively participating in the Plan

O. **Participating Corporation** shall mean the Corporation and such Corporate Affiliate or Affiliates as may be authorized from time to time by the Board to extend the benefits of the Plan to their Eligible Employees. The Participating Corporations in the Plan as of July 2, 2002 are listed in attached Schedule A.

P. **Plan** shall mean the Corporation's Employee Stock Purchase Plan, as set forth in this document.

Q. **Plan Administrator** shall mean the committee of two (2) or more Board members appointed by the Board to administer the Plan.

R. **Purchase Date** shall mean the last business day of each Purchase Interval.

S. **Purchase Interval** shall mean each successive six (6)-month period within the offering period at the end of which there shall be purchased shares of Common Stock on behalf of each Participant.

T. **Stock Exchange** shall mean either the American Stock Exchange or the New York Stock Exchange.

Exhibit 21.1

SUBSIDIARIES OF THE COMPANY

SUBSIDIARIES:

NetApp UK Ltd.
NetApp France SAS
NetApp Italia Srl.
NetApp GmbH (Germany)
NetApp Japan KK
NetApp Korea, Ltd.
Network Appliance (Shanghai) Commercial Co., Ltd.
Network Appliance (Sales) Limited (Ireland)
NetApp Switzerland GmbH
NetApp B.V. (Netherlands)
NetApp Austria GesMBH
NetApp Spain Sales S.L.
NetApp Global Ltd. (Bermuda)
NetApp Denmark ApS
NetApp Australia Pty. Ltd.
NetApp Mexico S. de R.L. de C.V.
NetApp Singapore Pte. Ltd.
Network Appliance (Malaysia) Sdn Bhd
NetApp Systems India Private Ltd.
Network Appliance Argentina Srl
Network Appliance Brasil Ltd.
NetApp Canada Ltd.
NetApp Belgium BVBA
NetApp Israel Sales Ltd.
NetApp Israel R&D, Ltd.
NetApp Poland Sp. z.o.o.
NetApp U.S. Public Sector, Inc.
NetApp South Africa (Pty) Limited
Network Appliance Sweden AB
NetApp Finland Oy
NetApp Financial Solutions, Inc. (Delaware)
NetApp Luxembourg S.a.r.l.
Spinnaker Networks, Inc. (Delaware)
Spinnaker Networks, LLC (Delaware)
Alacritus, Inc. (Delaware)
Decru, Inc. (Delaware)
Decru BV (Netherlands)
NetApp Holdings Ltd. (Cyprus)
NetApp Holding & Manufacturing BV NAHM (Netherlands)
NetApp Norway AS
NetApp (Thailand) Limited
NetApp Saudi Arabia Ltd
Topio, Inc. (Delaware)
NetCache, Inc. (California)
Onaro, Inc. (Delaware)
Network Appliance (Hong Kong) Limited
Onaro Israel, Ltd.
NetApp Russia OOO
NetApp Nigeria Limited
NetApp Vietnam Company Limited
NetApp VTC, Inc. (Canada)
NetApp Asia Pacific Holdings, Ltd.
NetApp (China) Ltd.
Akorri Networks, Inc.

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in these Registration Statement Nos. 333-25277, 333-40307, 333-32318, 333-41384, 333-53776, 333-57378, 333-73982, 333-100837, 333-109627, 333-113200, 333-119640, 333-125448, 333-128098, 333-133564, 333-138337, 333-139835, 333-147034, 333-149375, 333-154867, 333-162696, 333-167619, 333-170089, and 333-172081 on Form S-8 of our reports dated June 23, 2011, relating to the consolidated financial statements and financial statement schedule of NetApp, Inc. and its subsidiaries (collectively, the "Company") which report expresses an unqualified opinion and includes an explanatory paragraph relating to the change in the Company's method for recognizing revenue for multiple element arrangements, and the effectiveness of the Company's internal control over financial reporting, appearing in this Annual Report on Form 10-K of the Company for the year ended April 29, 2011.

/s/ DELOITTE & TOUCHE LLP

San Jose, California
June 23, 2011

Exhibit 31.1

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

I, Thomas Georgens, certify that:

1) I have reviewed this Annual Report on Form 10-K of NetApp, Inc.;

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

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

4) The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13(a)-15(f) and 15(d)-15(f)) for the registrant and have:

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

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

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

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

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

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

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

/s/ THOMAS GEORGENS
Thomas Georgens
Chief Executive Officer, President and Director,
(Principal Executive Officer and Principal Operating Officer)

Date: June 23, 2011

Exhibit 31.2

**CERTIFICATION PURSUANT TO SECTION 302(a)
OF THE SARBANES-OXLEY ACT OF 2002**

I, Steven J. Gomo, certify that:

1) I have reviewed this Annual Report on Form 10-K of NetApp, Inc.;

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

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

4) The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13(a)-15(f) and 15(d)-15(f)) for the registrant and have:

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

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

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

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

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

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

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

/s/ STEVEN J. GOMO
Steven J. Gomo
Executive Vice President of Finance and Chief Financial Officer
(Principal Financial Officer and Principal Accounting Officer)

Date: June 23, 2011

Exhibit 32.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, Thomas Georgens, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Annual Report of NetApp, Inc., on Form 10-K for the fiscal year ended April 29, 2011 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, and that information contained in such Annual Report on Form 10-K fairly presents in all material respects the financial condition and results of operations of NetApp, Inc.

/s/ THOMAS GEORGENS
Thomas Georgens
Chief Executive Officer, President and Director,
(Principal Executive Officer and Principal Operating Officer)

Date: June 23, 2011

Exhibit 32.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, Steven J. Gomo, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Annual Report of NetApp, Inc., on Form 10-K for the fiscal year ended April 29, 2011 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, and that information contained in such Annual Report on Form 10-K fairly presents in all material respects the financial condition and results of operations of NetApp, Inc.

/s/ STEVEN J. GOMO
Steven J. Gomo
Executive Vice President of Finance and Chief Financial Officer
(Principal Financial Officer and Principal Accounting Officer)

Date: June 23, 2011