

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

**Form 10-Q**

(Mark One)

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

**For the quarterly period ended July 26, 2013**

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 000-27130**

**NetApp, Inc.**

*(Exact name of registrant as specified in its charter)*

**Delaware**  
*(State or other jurisdiction of  
incorporation or organization)*

**77-0307520**  
*(I.R.S. Employer  
Identification No.)*

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

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

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Website, 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 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.

Large accelerated filer       Accelerated filer       Non-accelerated filer       Smaller reporting company   
(Do not check if a 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

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

As of August 20, 2013, there were 340,094,193 shares of the registrant's common stock, \$0.001 par value, outstanding.

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## PART I — FINANCIAL INFORMATION

## Item 1. Condensed Consolidated Financial Statements (Unaudited)

NETAPP, INC.  
CONDENSED CONSOLIDATED BALANCE SHEETS  
(In millions, except par value)  
(Unaudited)

	July 26, 2013	April 26, 2013
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 1,796.8	\$ 3,277.1
Short-term investments	3,287.2	3,675.5
Accounts receivable, net of allowances of \$3.1 million and \$4.2 million as of July 26, 2013 and April 26, 2013, respectively	533.3	800.9
Inventories	116.5	139.5
Other current assets	467.8	525.2
Total current assets	6,201.6	8,418.2
Property and equipment, net	1,163.4	1,170.9
Goodwill	988.1	988.1
Purchased intangible assets, net	165.7	180.6
Other non-current assets	499.1	484.6
<b>Total assets</b>	<b>\$ 9,017.9</b>	<b>\$ 11,242.4</b>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities:		
Accounts payable	\$ 218.7	\$ 259.7
Accrued compensation and related benefits	240.4	348.0
Other current liabilities	341.9	401.8
Current portion of long-term debt	0.0	1,257.8
Short-term deferred revenue	1,529.1	1,563.3
Total current liabilities	2,330.1	3,830.6
Long-term debt	994.8	994.6
Other long-term liabilities	262.8	253.5
Long-term deferred revenue	1,412.2	1,446.2
Total liabilities	4,999.9	6,524.9
Commitments and contingencies (Note 15)		
Stockholders' equity:		
Common stock, \$0.001 par value, (446.2 and 460.9 shares issued as of July 26, 2013 and April 26, 2013, respectively)	0.4	0.5
Additional paid-in capital	4,633.0	4,738.9
Treasury stock, at cost (104.3 shares as of July 26, 2013 and April 26, 2013)	(2,927.4)	(2,927.4)
Retained earnings	2,313.3	2,896.8
Accumulated other comprehensive income (loss)	(1.3)	8.7
Total stockholders' equity	4,018.0	4,717.5
<b>Total liabilities and stockholders' equity</b>	<b>\$ 9,017.9</b>	<b>\$ 11,242.4</b>

See accompanying notes to condensed consolidated financial statements.

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**NETAPP, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS**  
**(In millions, except per share amounts)**  
**(Unaudited)**

	<b>Three Months Ended</b>	
	<b>July 26, 2013</b>	<b>July 27, 2012</b>
<b>Revenues:</b>		
Product	\$ 930.8	\$ 898.0
Software entitlements and maintenance	228.5	218.5
Service	356.9	328.1
Net revenues	<u>1,516.2</u>	<u>1,444.6</u>
<b>Cost of revenues:</b>		
Cost of product	449.9	452.2
Cost of software entitlements and maintenance	7.5	6.6
Cost of service	149.2	135.7
Total cost of revenues	<u>606.6</u>	<u>594.5</u>
Gross profit	<u>909.6</u>	<u>850.1</u>
<b>Operating expenses:</b>		
Sales and marketing	467.8	482.9
Research and development	228.1	221.4
General and administrative	68.4	65.6
Restructuring and other charges	48.4	0.0
Total operating expenses	<u>812.7</u>	<u>769.9</u>
<b>Income from operations</b>	96.9	80.2
<b>Other expense, net:</b>		
Interest income	10.0	10.8
Interest expense	(16.5)	(19.9)
Other income, net	1.9	3.1
Total other expense, net	<u>(4.6)</u>	<u>(6.0)</u>
<b>Income before income taxes</b>	92.3	74.2
Provision for income taxes	10.7	10.4
<b>Net income</b>	<u>\$ 81.6</u>	<u>\$ 63.8</u>
<b>Net income per share:</b>		
Basic	<u>\$ 0.23</u>	<u>\$ 0.17</u>
Diluted	<u>\$ 0.23</u>	<u>\$ 0.17</u>
<b>Shares used in net income per share calculations:</b>		
Basic	<u>350.9</u>	<u>366.1</u>
Diluted	<u>359.9</u>	<u>371.2</u>
<b>Cash dividends declared per share</b>	<u>\$ 0.15</u>	<u>\$ 0.00</u>

See accompanying notes to condensed consolidated financial statements.

**NETAPP, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME**  
**(In millions)**  
**(Unaudited)**

	<b>Three Months Ended</b>	
	<b>July 26, 2013</b>	<b>July 27, 2012</b>
<b>Net income</b>	<b>\$ 81.6</b>	<b>\$ 63.8</b>
<b>Other comprehensive income (loss):</b>		
Foreign currency translation adjustments	(1.2)	(5.2)
Defined benefit obligation adjustments	0.1	0.1
Unrealized gains (losses) on available-for-sale securities:		
Unrealized holding gains (losses) arising during the period	(8.4)	4.1
Income tax effect on unrealized holding losses (gains)	1.0	(0.5)
Reclassification adjustments for gains included in net income	(0.1)	(0.1)
Unrealized gains (losses) on cash flow hedges:		
Unrealized holding gains (losses) arising during the period	(0.4)	6.4
Reclassification adjustments for gains included in net income	(1.0)	(4.5)
<b>Other comprehensive income (loss)</b>	<b>(10.0)</b>	<b>0.3</b>
<b>Comprehensive income</b>	<b>\$ 71.6</b>	<b>\$ 64.1</b>

See accompanying notes to condensed consolidated financial statements.

**NETAPP, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
**(In millions)**  
**(Unaudited)**

	<b>Three Months Ended</b>	
	<b>July 26, 2013</b>	<b>July 27, 2012</b>
<b>Cash flows from operating activities:</b>		
Net income	\$ 81.6	\$ 63.8
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	85.9	82.4
Stock-based compensation	66.3	79.2
Accretion of discount and issuance costs on debt	8.2	14.3
Deferred income taxes	(10.1)	(18.0)
Excess tax benefit from stock-based compensation	(0.1)	(4.9)
Other non-cash items, net	(25.3)	(14.8)
Changes in assets and liabilities:		
Accounts receivable	265.2	244.2
Inventories	22.9	(42.2)
Other operating assets	53.8	(27.1)
Accounts payable	(37.9)	41.9
Accrued compensation and other current liabilities	(175.4)	(146.7)
Deferred revenue	(54.3)	(47.0)
Other operating liabilities	5.0	4.1
Net cash provided by operating activities	<u>285.8</u>	<u>229.2</u>
<b>Cash flows from investing activities:</b>		
Purchases of investments	(234.9)	(628.0)
Maturities and sales of investments	624.9	561.9
Purchases of property and equipment	(65.3)	(61.9)
Other investing activities, net	1.2	1.3
Net cash provided by (used in) investing activities	<u>325.9</u>	<u>(126.7)</u>
<b>Cash flows from financing activities:</b>		
Issuance of common stock	71.5	35.0
Repurchase of common stock and forward contract	(849.5)	(150.0)
Excess tax benefit from stock-based compensation	0.1	4.9
Repayment of long-term debt	(1,264.9)	0.0
Dividends paid	(51.4)	0.0
Other financing activities, net	9.5	(2.0)
Net cash used in financing activities	<u>(2,084.7)</u>	<u>(112.1)</u>
<b>Effect of exchange rate changes on cash and cash equivalents</b>	(7.3)	(10.8)
<b>Net decrease in cash and cash equivalents</b>	(1,480.3)	(20.4)
<b>Cash and cash equivalents:</b>		
Beginning of period	3,277.1	1,549.8
End of period	<u>\$ 1,796.8</u>	<u>\$ 1,529.4</u>

See accompanying notes to condensed consolidated financial statements.

**NETAPP, INC.**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**(Unaudited)**

**1. The Company**

Headquartered in Sunnyvale, California, NetApp, Inc. (we, us, or the Company) is a supplier of enterprise storage and data management software and hardware products and services. Our solutions help global enterprises meet 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. Condensed Consolidated Financial Statements**

*Fiscal Year* — Our fiscal year is reported on a 52- or 53-week year ending on the last Friday in April. The first quarters of fiscal 2014 and 2013 were each 13-week periods.

*Basis of Presentation* — The accompanying unaudited condensed consolidated financial statements have been prepared by the Company, and reflect all adjustments, consisting only of normal recurring adjustments, that are, in the opinion of management, necessary for the fair presentation of our financial position, results of operations, comprehensive income and cash flows for the interim periods presented. The statements have been prepared in accordance with accounting principles generally accepted in the United States of America (GAAP) for interim financial information and in accordance with the instructions to Form 10-Q and Rule 10-01 of Regulation S-X. Accordingly, these statements do not include all information and footnotes required by GAAP for annual consolidated financial statements, and should be read in conjunction with our audited consolidated financial statements as of and for the fiscal year ended April 26, 2013 contained in our Annual Report on Form 10-K filed with the Securities and Exchange Commission on June 17, 2013. The results of operations for the three months ended July 26, 2013 are not necessarily indicative of the operating results to be expected for the full fiscal year or future operating periods.

**3. Significant Accounting Policies**

There have been no significant changes in our significant accounting policies as of and for the three months ended July 26, 2013, as compared to the significant accounting policies described in our Annual Report on Form 10-K for the fiscal year ended April 26, 2013.

*Recent Accounting Standards Not Yet Effective*

In July 2013, the Financial Accounting Standards Board issued an accounting standard update providing presentation requirements for unrecognized tax benefit when a net operating loss carryforward, a similar tax loss, or a similar tax credit carryforward exists. This accounting standard update will be effective for us beginning in our first quarter of fiscal 2015 and is not expected to have a significant impact on our consolidated financial statements.

*Use of Estimates* — The preparation of the condensed consolidated financial statements in conformity with 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 periods. Such estimates include, but are not limited to, revenue recognition, reserves and allowances; inventory valuation and purchase order accruals; valuation of goodwill and intangibles; restructuring reserves; product warranties; employee benefit accruals; stock-based compensation; loss contingencies; investment impairments; income taxes and fair value measurements. Actual results could differ materially from those estimates.

**4. Statements of Cash Flows**

Non-cash investing and financing activities and supplemental cash flow information are as follows (in millions):

	<b>Three Months Ended</b>	
	<b>July 26, 2013</b>	<b>July 27, 2012</b>
<b>Non-cash Investing and Financing Activities:</b>		
Reclassification of equity component of Convertible Notes	\$ 0.0	\$ 62.6
Acquisition of property and equipment outstanding in accounts payable	\$ 17.7	\$ 27.4
Acquisition of software through long-term financing	\$ 10.6	\$ 0.0
<b>Supplemental Cash Flow Information:</b>		
Income taxes paid, net of refunds	\$ 19.1	\$ 16.2
Interest paid, net of capitalized interest	\$ 23.0	\$ 11.2

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**5. Purchased Intangible Assets, Net**

Purchased intangible assets, net are summarized below (in millions):

	July 26, 2013			April 26, 2013		
	Gross Assets	Accumulated Amortization	Net Assets	Gross Assets	Accumulated Amortization	Net Assets
Developed technology	\$283.0	\$ (119.8)	\$163.2	\$312.4	\$ (134.9)	\$177.5
Customer contracts/relationships	9.6	(8.4)	1.2	54.7	(53.1)	1.6
Trademarks and trade names	2.9	(2.0)	0.9	9.9	(8.9)	1.0
Covenants not to compete	1.6	(1.2)	0.4	2.2	(1.7)	0.5
Total purchased intangible assets	<u>\$297.1</u>	<u>\$ (131.4)</u>	<u>\$165.7</u>	<u>\$379.2</u>	<u>\$ (198.6)</u>	<u>\$180.6</u>

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

	Three Months Ended		Statements of Operations Classifications
	July 26, 2013	July 27, 2012	
Developed technology	\$ 14.3	\$ 13.9	Cost of revenues
Customer contracts/relationships	0.4	6.3	Operating expenses
Trademarks and trade names	0.1	1.0	Operating expenses
Covenants not to compete	0.1	0.2	Operating expenses
	<u>\$ 14.9</u>	<u>\$ 21.4</u>	

As of July 26, 2013, future amortization expense related to purchased intangible assets is as follows (in millions):

Fiscal Year	Amount
Remainder of 2014	\$ 44.3
2015	57.8
2016	53.6
2017	6.7
2018	3.3
Total	<u>\$165.7</u>

**6. Balance Sheet Details**

*Cash and cash equivalents (in millions):*

	July 26, 2013	April 26, 2013
Cash	\$ 1,327.7	\$ 1,634.7
Cash equivalents	469.1	1,642.4
Cash and cash equivalents	<u>\$ 1,796.8</u>	<u>\$ 3,277.1</u>

*Inventories (in millions):*

	July 26, 2013	April 26, 2013
Purchased components	\$ 13.6	\$ 16.3
Finished goods	102.9	123.2
Inventories	<u>\$ 116.5</u>	<u>\$ 139.5</u>

*Other current assets (in millions):*

	July 26, 2013	April 26, 2013
Prepaid expenses and other current assets	\$ 212.6	\$ 262.6
Short-term restricted cash	8.3	8.9
Deferred tax assets	246.9	253.7
Other current assets	<u>\$ 467.8</u>	<u>\$ 525.2</u>



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### Property and equipment, net (in millions):

	July 26, 2013	April 26, 2013
Land and land improvements	\$ 265.7	\$ 265.5
Buildings and building improvements	540.5	534.8
Leasehold improvements	101.0	100.3
Computer, production, engineering and other equipment	725.1	714.0
Software	432.8	422.6
Furniture and fixtures	83.7	82.2
Construction-in-progress	23.2	19.9
	<u>2,172.0</u>	<u>2,139.3</u>
Accumulated depreciation and amortization	<u>(1,008.6)</u>	<u>(968.4)</u>
Property and equipment, net	<u>\$ 1,163.4</u>	<u>\$ 1,170.9</u>

Software includes capitalized internal-use software development costs with a net book value as follows (in millions):

	July 26, 2013	April 26, 2013
Computer software	<u>\$ 158.4</u>	<u>\$ 162.5</u>

### Other non-current assets (in millions):

	July 26, 2013	April 26, 2013
Auction rate securities	\$ 42.2	\$ 42.0
Deferred tax assets	209.4	200.4
Other assets	247.5	242.2
Other non-current assets	<u>\$ 499.1</u>	<u>\$ 484.6</u>

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

	July 26, 2013	April 26, 2013
Product	\$ 24.4	\$ 15.7
Software entitlements and maintenance and service	2,916.9	2,993.8
Total	<u>\$ 2,941.3</u>	<u>\$ 3,009.5</u>
Reported as:		
Short-term	\$ 1,529.1	\$ 1,563.3
Long-term	1,412.2	1,446.2
Total	<u>\$ 2,941.3</u>	<u>\$ 3,009.5</u>

## 7. Financial Instruments and Fair Value Measurements

The accounting guidance for fair value measurements provides a framework for measuring fair value on either a recurring or nonrecurring basis whereby the inputs used in our valuation techniques are assigned a hierarchical level. The following are the three levels of inputs to measure fair value:

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

*Level 2:* Inputs that reflect quoted prices for identical assets or liabilities in less active markets; quoted prices for similar assets or liabilities in active markets; benchmark yields, reported trades, broker/dealer quotes, 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 that reflect our own assumptions incorporated in valuation techniques used to measure 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 consider an inactive market to be one in which there are infrequent or 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 measuring the fair values of liabilities and assets, respectively.

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**Investments**

The following is a summary of our investments (in millions):

	July 26, 2013				April 26, 2013			
	Cost or Amortized Cost	Gross Unrealized		Estimated Fair Value	Cost or Amortized Cost	Gross Unrealized		Estimated Fair Value
		Gains	Losses			Gains	Losses	
Corporate bonds	\$2,836.7	\$ 9.1	\$ (3.0)	\$2,842.8	\$3,132.8	\$ 14.9	\$ (0.6)	\$3,147.1
U.S. Treasury and government debt securities	329.0	0.4	(0.1)	329.3	392.8	0.9	0.0	393.7
Commercial paper	125.9	0.0	0.0	125.9	178.5	0.0	0.0	178.5
Certificates of deposit	135.0	0.1	0.0	135.1	135.4	0.1	0.0	135.5
Money market funds	323.2	0.0	0.0	323.2	1,463.1	0.0	0.0	1,463.1
Auction rate securities	44.2	0.5	(2.5)	42.2	44.2	0.5	(2.7)	42.0
Equity funds	29.9	0.0	0.0	29.9	28.3	0.0	0.0	28.3
Total debt and equity securities	<u>\$3,823.9</u>	<u>\$10.1</u>	<u>\$ (5.6)</u>	<u>\$3,828.4</u>	<u>\$5,375.1</u>	<u>\$ 16.4</u>	<u>\$ (3.3)</u>	<u>\$5,388.2</u>

The unrealized losses on our available-for-sale investments were caused by market value declines as a result of the economic environment, as well as fluctuations in market interest rates. Because the declines in market value are attributable to changes in market conditions and not credit quality, and because we have currently concluded that we neither intend to sell nor is it more likely than not that we will 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 as of July 26, 2013.

The following table presents the contractual maturities of our debt investments as of July 26, 2013 (in millions):

	Amortized Cost	Fair Value
Due in one year or less	\$1,240.6	\$1,242.2
Due in one through five years	2,040.1	2,045.0
Due after ten years*	44.2	42.2
	<u>\$3,324.9</u>	<u>\$3,329.4</u>

\* Consists of auction rate securities (ARS) 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 July 26, 2013 (in millions):

	Total	Fair Value Measurements at Reporting Date Using		
		Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
<b>Assets</b>				
Corporate bonds	\$2,842.8	\$ 0.0	\$ 2,842.8	\$ 0.0
U.S. Treasury and government debt securities	329.3	207.2	122.1	0.0
Commercial paper	125.9	0.0	125.9	0.0
Certificates of deposit	135.1	0.0	135.1	0.0
Money market funds	323.2	323.2	0.0	0.0
Auction rate securities	42.2	0.0	0.0	42.2
Equity funds	29.9	29.9	0.0	0.0
Foreign currency contracts	1.5	0.0	1.5	0.0
Total	<u>\$3,829.9</u>	<u>\$ 560.3</u>	<u>\$ 3,227.4</u>	<u>\$ 42.2</u>
<b>Liabilities</b>				
Foreign currency contracts	<u>\$ 2.2</u>	<u>\$ 0.0</u>	<u>\$ 2.2</u>	<u>\$ 0.0</u>

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The following table summarizes the balance sheet classifications of our financial assets and liabilities measured at fair value on a recurring basis as of July 26, 2013 (in millions):

	Total	Fair Value Measurements at Reporting Date Using		
		Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
<b>Assets</b>				
Cash equivalents	\$ 469.1	\$ 323.2	\$ 145.9	\$ 0.0
Short-term investments	3,287.2	207.2	3,080.0	0.0
Other current assets	3.8	2.3	1.5	0.0
Other non-current assets	69.8	27.6	0.0	42.2
Total	<u>\$3,829.9</u>	<u>\$ 560.3</u>	<u>\$ 3,227.4</u>	<u>\$ 42.2</u>
<b>Liabilities</b>				
Other current liabilities	<u>\$ 2.2</u>	<u>\$ 0.0</u>	<u>\$ 2.2</u>	<u>\$ 0.0</u>

Level 2 investments are held by a custodian who prices some of the investments using standard inputs in various asset price models or obtains investment prices from a third-party pricing provider that incorporates standard inputs in various asset price models. We review Level 2 inputs and fair value for reasonableness and the values may be further validated by comparison to multiple independent pricing sources. In addition, we review third-party pricing provider models, key inputs and assumptions and understand the pricing processes at our third-party providers in determining the overall reasonableness of the fair value of our Level 2 financial instruments. As of July 26, 2013, we have not made any adjustments to the prices obtained from our third-party pricing providers.

Quantitative information about our Level 3 fair value measurements is as follows (fair value in millions):

	Fair Value as of July 26, 2013	Valuation Techniques	Unobservable Inputs	Range (Weighted average)
ARS	\$ 42.2	Discounted cash flow	Time-to-economic maturity Liquidity risk premium, market credit spread and other factors Coupon rate	6.7 yrs – 11.2 yrs (8.3 yrs) 1.7% - 2.9% (2.3%) 1.1% - 2.7% (1.5%)
		Market comparable securities	Discount rate	3.7% - 5.7% (4.9%)

All of our ARS are classified as other non-current assets and are backed by pools of student loans guaranteed by the U.S. Department of Education. We estimate the fair value of each individual ARS using an income (discounted cash flow) and market approach that incorporate both observable and unobservable inputs. Key inputs into the discounted cash flow analysis include the time-to-economic maturity, liquidity risk premium, market credit spread and other factors and a coupon rate. The key input into the market approach is a discount rate. A significant increase (decrease) in the time-to-economic maturity, liquidity risk premium, market credit spread and other factors, coupon rate or discount rate could result in a significantly lower (higher) fair value estimate. We review the fair value of our Level 3 financial instruments for overall reasonableness by reviewing service provider pricing methodologies, key inputs and assumptions and by understanding the processes used by our third-party service provider. We will continue to monitor our ARS investments in light of the debt market environment and evaluate these investments for impairment and classification.

The table below provides a reconciliation of the beginning and ending balance of our Level 3 ARS measured at fair value on a recurring basis using significant unobservable inputs (in millions):

	Three Months Ended	
	July 26, 2013	July 27, 2012
Balance at beginning of period	\$ 42.0	\$ 51.0
Total unrealized gains, net included in other comprehensive income (loss)	0.2	0.3
Settlements	0.0	(5.0)
Balance at end of period	<u>\$ 42.2</u>	<u>\$ 46.3</u>

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[Table of Contents](#)***Fair Value of Debt***

As of July 26, 2013, the fair value of our 2.00% Senior Notes and 3.25% Senior Notes (collectively referred to as Senior Notes) was approximately \$997.3 million. The fair value of our debt was based on observable market prices in a less active market and discounted cash flow models that take into consideration variables such as credit-rating and interest rate changes. All of our debt obligations are categorized as Level 2 instruments.

**8. Financing Arrangements*****Long-term Debt***

The following table summarizes the carrying value of our long-term debt (in millions):

	July 26, 2013		April 26, 2013	
	Amount	Effective Interest Rate	Amount	Effective Interest Rate
2.00% Senior Notes due 2017	\$ 750.0	2.25%	\$ 750.0	2.25%
3.25% Senior Notes due 2022	250.0	3.43%	250.0	3.43%
1.75% Convertible Notes due 2013	0.0	N/A	1,264.9	6.31%
Total	1,000.0		2,264.9	
Less: Unamortized discount	(5.2)		(12.5)	
Total	994.8		2,252.4	
Less: Current portion	(0.0)		(1,257.8)	
Total long-term debt	<u>\$ 994.8</u>		<u>\$ 994.6</u>	

N/A - Not Applicable

***Senior Notes***

Our Senior Notes are unsecured, unsubordinated obligations, which pay interest semi-annually on June 15 and December 15 and rank equally in right of payment with any future senior unsecured indebtedness. Interest expense associated with the Senior Notes was \$6.3 million for the three months ended July 26, 2013.

We may redeem the Senior Notes in whole or in part, at any time at our option at specified redemption prices. In addition, upon the occurrence of certain change of control triggering events, we may be required to repurchase the Senior Notes at 101% of their aggregate principal amount, plus accrued and unpaid interest to the date of repurchase. The Senior Notes also include covenants that limit our ability to incur debt secured by liens on assets or on shares of stock or indebtedness of our subsidiaries; to engage in sale and lease-back transactions; and to consolidate, merge or sell all or substantially all of our assets. As of July 26, 2013, we were in compliance with all covenants associated with the Senior Notes.

***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 (the Convertible Notes) with a maturity date of June 1, 2013. The Convertible Notes were unsecured, unsubordinated obligations of the Company and paid interest in cash semi-annually at a rate of 1.75% per annum. Upon maturity, the Convertible Notes were converted based on a conversion rate of 31.40 shares of common stock per \$1,000 principal amount of the Convertible Notes (which represented the effective conversion price of \$31.85 per share). Upon conversion in June 2013, the holders received cash for the principal amount of the Convertible Notes and an aggregate of 4.9 million shares of common stock for the \$178.9 million excess of the conversion value over the principal amount.

We separately accounted for the liability and equity components of the Convertible Notes. The initial debt component of the Convertible 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 was allocated to the equity component of the Convertible Notes, and \$21.4 million of the issuance costs remained classified as other non-current assets. The debt discount and the issuance costs allocated to the debt component were amortized as additional interest expense over the term of the Convertible Notes using the effective interest method.

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### *Convertible Note Hedges and Warrants*

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

- **Convertible Note Hedges:** As of April 26, 2013, we had arrangements with counterparties to buy up to approximately 31.8 million shares of our common stock, at a price of \$31.85 per share. In June 2013, concurrent with the repayment and conversion of the Convertible Notes, we exercised the Convertible Note hedges, for which we received an aggregate of 3.9 million shares from the counterparties.
- **Warrants:** As of July 26, 2013, we had outstanding warrants for certain counterparties to acquire, subject to anti-dilution adjustments, 39.9 million shares of our common stock at an exercise price of \$41.12 per share as adjusted to reflect our July 2013 dividend. Prior to the dividend, we had 39.7 million outstanding warrants at an exercise price of \$41.28 per share. The number of warrants and the exercise price are subject to additional adjustments for specified conditions, including future dividend declarations. The warrants are exercisable on a series of days commencing on September 3, 2013 and ending on October 28, 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.

### *Interest Expense on Convertible Notes*

The following table presents the amount of interest expense related to the Convertible Notes (in millions):

	Three Months Ended	
	July 26, 2013	July 27, 2012
Contractual coupon interest expense	\$ 2.5	\$ 5.5
Amortization of debt discount	7.1	13.5
Amortization of debt issuance costs	0.6	1.2
Less capitalized interest	0.0	(0.5)
Total interest expense related to Convertible Notes	<u>\$ 10.2</u>	<u>\$ 19.7</u>

### *Debt Maturities*

As of July 26, 2013, our aggregate future principal debt maturities are as follows (in millions):

Fiscal Year	Amount
2018	\$ 750.0
Thereafter	250.0
Total	<u>\$1,000.0</u>

### *Credit Facility*

In December 2012, we entered into a credit agreement with a syndicated group of lenders that provides for an unsecured \$250.0 million five-year revolving credit facility that is comprised of revolving loans, Eurocurrency loans and/or swingline loans. The credit facility includes a \$100.0 million foreign currency sub-facility, a \$50.0 million letter of credit sub-facility and a \$10.0 million swingline sub-facility available on same-day notice. Available borrowings under the credit facility are reduced by the amount of any outstanding borrowings on the sub-facilities. We may also, subject to certain requirements, request an increase in the facility up to an additional \$100.0 million and request two additional one-year extensions, subject to certain conditions. The proceeds from the facility may be used by us for general corporate purposes.

Borrowings under the facility, except for swingline loans, accrue interest in arrears at an alternate base rate as defined in the credit agreement or, at our option, an adjusted London Interbank Offered Rate (LIBOR) plus in each case, a spread (based on our public debt ratings and the type of loan) ranging from 0.2% to 1.2%. Swingline borrowings accrue interest at an alternate base rate. In addition, we are required to pay fees to maintain the credit facility, whether or not we have outstanding borrowings. The facility terminates on December 21, 2017 if no extensions have been requested and contains financial covenants requiring us to maintain a maximum leverage ratio of not more than 3.0:1.0 and a minimum interest coverage ratio of not less than 3.5:1.0. The facility contains customary affirmative and negative covenants, including covenants that limit our ability to incur debt secured by liens on assets or indebtedness of our subsidiaries and to consolidate, merge or sell all or substantially all of our assets. As of July 26, 2013, no borrowings were outstanding under the facility and we were in compliance with all covenants associated with the facility.

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**Other Long-Term Financing Arrangements**

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

	July 26, 2013	April 26, 2013
Current portion of other long-term financing arrangements	\$ 9.3	\$ 5.2
Non-current portion of other long-term financing arrangements	11.0	5.6
Total	<u>\$ 20.3</u>	<u>\$ 10.8</u>

**9. Stockholders' Equity**

**Stock Options**

The following table summarizes activity related to our stock options (in millions, except for exercise price and contractual term):

	Number of Shares	Weighted- Average Exercise Price	Weighted- Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value
Outstanding as of April 26, 2013	19.2	\$ 31.27		
Granted	2.4	37.63		
Exercised	(2.3)	25.17		
Forfeited and expired	(0.2)	44.39		
Outstanding as of July 26, 2013	<u>19.1</u>	32.67	3.73	\$ 199.4
Vested and expected to vest as of July 26, 2013	18.4	32.50	3.63	195.6
Exercisable as of July 26, 2013	13.1	30.16	2.78	166.8

The aggregate intrinsic value represents the pre-tax difference between the exercise price of stock options and the quoted 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):

	Three Months Ended	
	July 26, 2013	July 27, 2012
Weighted-average fair value per share granted	\$ 9.78	\$ 10.71
Intrinsic value of exercises	\$ 27.4	\$ 5.4
Proceeds received from exercises	\$ 56.8	\$ 6.7
Fair value of options vested	\$ 12.0	\$ 14.4

**Restricted Stock Units**

The following table summarizes activity related to our restricted stock units (RSUs) (in millions, except for fair value):

	Number of Shares	Weighted- Average Grant Date Fair Value
Outstanding as of April 26, 2013	12.8	\$ 38.36
Granted	4.6	38.16
Vested	(2.7)	36.55
Forfeited	(0.6)	39.93
Outstanding as of July 26, 2013	<u>14.1</u>	38.57

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RSUs are converted into common stock upon vesting. We primarily use the net share settlement approach upon vesting, where a portion of the shares are withheld as settlement of statutory employee withholding taxes, which decreases the shares issued to the employee by a corresponding value. The number and value of the shares netted for employee taxes are summarized in the table below (in millions):

	Three Months Ended	
	July 26, 2013	July 27, 2012
Shares withheld for taxes	0.9	0.7
Fair value of shares withheld	\$ 35.3	\$ 19.8

### Employee Stock Purchase Plan

Under the Employee Stock Purchase Plan (ESPP), employees who elect to participate are granted options that include a purchase price adjustment provision under which the employees may purchase common stock at a 15% discount from the market value of the common stock at certain specified dates within a two-year offering period. Information related to the purchase rights issued under the ESPP is provided below (in millions, except per right information):

	Three Months Ended	
	July 26, 2013	July 27, 2012
Weighted-average fair value per right granted	\$ 10.53	\$ 10.25
Shares issued under the ESPP	2.0	1.9
Proceeds from issuance of shares	\$ 49.9	\$ 48.2

### Stock-Based Compensation Expense

Stock-based compensation expense consists primarily of expenses for stock options, RSUs and ESPP and is included in the condensed consolidated statements of operations as follows (in millions):

	Three Months Ended	
	July 26, 2013	July 27, 2012
Cost of product revenues	\$ 1.3	\$ 1.8
Cost of service revenues	4.0	5.6
Sales and marketing	30.5	39.0
Research and development	21.4	23.7
General and administrative	9.1	9.1
Total stock-based compensation expense	\$ 66.3	\$ 79.2

As of July 26, 2013, total unrecognized compensation expense related to our equity awards was \$525.4 million, which is expected to be recognized on a straight-line basis over a weighted-average remaining service period of 2.7 years.

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

	Three Months Ended	
	July 26, 2013	July 27, 2012
Income tax charges associated with employee stock transactions	\$ 8.0	\$ 8.8

### Valuation Assumptions

The fair value of each award is estimated on the grant date using the Black-Scholes option pricing model and the following weighted-average assumptions:

	Stock Options	
	Three Months Ended	
	July 26, 2013	July 27, 2012
Expected term in years	4.8	4.8
Risk-free interest rate	1.0%	0.6%
Volatility	34%	41%
Dividend yield	1.6%	0.0%

  

	ESPP	
	Three Months Ended	
	July 26, 2013	July 27, 2012
Expected term in years	1.2	1.2
Risk-free interest rate	0.2%	0.2%
Volatility	32%	38%
Dividend yield	1.6%	0.0%

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The weighted-average assumptions used to value RSUs are summarized as follows:

	RSUs	
	Three Months Ended	
	July 26, 2013	July 27, 2012
Grant date fair value per share	\$ 38.16	\$ 29.03
Expected dividend	1.6%	0.0%

Prior to the initial declaration of a quarterly cash dividend on May 21, 2013, the fair value of RSUs was measured based on the grant date share price, as we did not historically pay cash dividends on our common stock. For awards granted on or subsequent to May 21, 2013, the fair value of RSUs was measured based on the grant date share price, less the present value of expected dividends during the vesting period, discounted at a risk-free interest rate.

### ***Stock Repurchase Program***

As of July 26, 2013, our Board of Directors has authorized the repurchase of up to \$7.1 billion of our common stock. Under this program, which may be suspended or discontinued at any time, we may purchase shares of our outstanding common stock through open market and privately negotiated transactions at prices deemed appropriate by our management.

The following table summarizes activity related to this program for the three months ended July 26, 2013 (in millions, except per share information):

Number of shares purchased	21.7
Average price per share	\$ 39.20
Aggregate purchase price	\$ 849.5
Remaining authorization at end of period	\$2,156.8

The aggregate purchase price of our share repurchases for the three months ended July 26, 2013 consisted of \$750.0 million under an accelerated share repurchase agreement (ASR) and \$99.5 million repurchased on the open market, for which collectively \$235.8 million and \$613.7 million was allocated to additional paid-in capital and retained earnings, respectively.

### ***Accelerated Share Repurchase Agreement***

On June 5, 2013, we entered into a collared ASR with a counterparty under which we prepaid \$750.0 million to purchase shares of our common stock. The aggregate number of shares ultimately purchased was determined based on the volume weighted-average share price of our common stock over a specified period of time. The contract was settled in July 2013. The total number of shares repurchased under this ASR was 19.2 million shares, at an average price per share of \$39.13. The value of the ASR forward contract was determined to be \$13.9 million, which has been recorded as additional paid-in capital.

### ***Dividends***

On May 21, 2013, we declared a cash dividend of \$0.15 per common share, for which we paid an aggregate of \$51.4 million on July 23, 2013. No dividends were declared or paid during the three months ended July 27, 2012. On August 14, 2013, we declared a cash dividend of \$0.15 per share of common stock, payable on October 25, 2013 to holders of record as of the close of business on October 21, 2013. The timing and amount of future dividends will depend on market conditions, corporate business and financial considerations and regulatory requirements.

### ***Retained Earnings***

A reconciliation of retained earnings for the three months ended July 26, 2013 is as follows (in millions):

	Retained Earnings
Balance as of April 26, 2013	\$2,896.8
Net income	81.6
Repurchases of common stock	(613.7)
Dividends	(51.4)
Balance as of July 26, 2013	<u>\$2,313.3</u>



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**Accumulated comprehensive income (loss) and other comprehensive income**

Changes in accumulated other comprehensive income (AOCI) by component, net of tax, are summarized below (in millions):

	Foreign Currency Translation Adjustments	Defined Benefit Obligation Adjustments	Unrealized Gains on Available- for-Sale Securities	Unrealized Gains (Losses) on Derivative Instruments	Total
Balance as of April 26, 2013	\$ 2.0	\$ (5.7)	\$ 11.4	\$ 1.0	\$ 8.7
Other comprehensive income (loss) (OCI) before reclassifications	(1.2)	0.1	(7.4)	(0.4)	(8.9)
Amounts reclassified from AOCI	0.0	0.0	(0.1)	(1.0)	(1.1)
Net OCI	(1.2)	0.1	(7.5)	(1.4)	(10.0)
Balance as of July 26, 2013	\$ 0.8	\$ (5.6)	\$ 3.9	\$ (0.4)	\$ (1.3)

The amounts reclassified out of AOCI are as follows (in millions):

OCI Components	Three Months Ended		Statements of Operations Location
	July 26, 2013	July 27, 2012	
	Amounts Reclassified from AOCI		
Realized gains on available-for-sale securities	\$ (0.1)	\$ (0.1)	Other income, net
Realized gains on cash flow hedges	(1.0)	(4.5)	Net revenues
Total reclassifications	\$ (1.1)	\$ (4.6)	

**10. Derivatives and Hedging Activities**

We use derivative instruments to manage exposures to foreign currency risk. All contracts have a maturity of less than six months. The notional amount of our outstanding U.S. dollar equivalent foreign currency exchange forward contracts consisted of the following (in millions):

	July 26, 2013	April 26, 2013
<b>Cash Flow Hedges</b>		
Forward contracts purchased	\$134.9	\$108.4
<b>Balance Sheet Contracts</b>		
Forward contracts sold	143.8	158.2
Forward contracts purchased	272.8	358.4

We have in place master netting arrangements to mitigate the credit risk of our counterparties and to potentially reduce our losses due to counterparty nonperformance. We present our derivative instruments as net amounts in our condensed consolidated balance sheets. The gross and net fair value amounts of such instruments were not material as of July 26, 2013 and April 26, 2013. We did not recognize any gains and losses in earnings due to hedge ineffectiveness for any period presented.

The effect of derivative instruments designated as cash flow hedges recognized in net revenues on our condensed consolidated statements of operations is presented in the condensed consolidated statements of comprehensive income and Note 9.

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The effect of derivative instruments not designated as hedging instruments recognized in other income, net on our condensed consolidated statements of operations was as follows (in millions):

	Three Months Ended	
	July 26, 2013	July 27, 2012
	Gain Recognized into Income	
Foreign currency exchange forward contracts	\$ 0.2	\$ 15.9

### 11. Restructuring and Other Charges

In May 2013, we initiated a business restructuring plan under which we realigned internal resources, resulting in a reduction of our global workforce of approximately 7%. Restructuring and other charges during the three months ended July 26, 2013 consisted primarily of employee severance-related costs.

Activities related to this plan for the three months ended July 26, 2013 were as follows (in millions):

	Total
Gross charges	\$ 48.4
Cash payments	(24.6)
Balance as of July 26, 2013	\$ 23.8

The reserve balance as of July 26, 2013 is included in accrued compensation and related benefits in our condensed consolidated balance sheet.

### 12. Income Taxes

Our effective tax rates for the periods presented were as follows:

	Three Months Ended	
	July 26, 2013	July 27, 2012
Effective tax rates	11.6%	14.0%

Our effective tax rates reflect the impact of a significant amount of our earnings being taxed in foreign jurisdictions at rates below the U.S. statutory tax rate.

As of July 26, 2013, we had \$194.3 million of unrecognized tax benefits, of which \$138.4 million has been recorded in other long-term liabilities. Unrecognized tax benefits of \$124.1 million, including penalties and interest, would affect our provision for income taxes if recognized. During the three months ended July 26, 2013, there was a gross increase in our unrecognized tax benefits of \$7.2 million for tax positions related to the current year, and a gross increase of \$1.0 million and gross decrease, including settlements and statute lapses, of \$3.5 million for tax positions related to prior years.

Our fiscal 2005 through 2007 income tax returns are currently under audit by the IRS. In September 2012, we reached a tentative agreement with the IRS field examination team on certain transfer pricing matters under appeals, and in July 2013, we received a revised Revenue Agent's Report (RAR) from the IRS. We are currently in the process of preparing for the review of the revised RAR by certain higher authorities within the IRS and the Joint Committee on Taxation. In February 2012, the IRS commenced an examination of our fiscal 2008 through fiscal 2010 income tax returns. Our open years in U.S. federal jurisdictions are fiscal 2005 and later years. 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 tax attribute carryforwards from these years that could be subject to adjustments, if and when utilized. We are also currently under audit by the California Franchise Tax Board for our fiscal 2007 and 2008 income tax returns.

On September 17, 2010, the Danish Tax Authorities issued a decision concluding that distributions declared in 2005 and 2006 from our Danish subsidiary were subject to Danish at-source dividend withholding tax. We do not believe that our Danish subsidiary is liable for withholding tax and filed an appeal with the Danish Tax Tribunal to that effect. On December 19, 2011, the Danish Tax Tribunal issued a ruling that our Danish subsidiary was not liable for Danish withholding tax. The Danish tax examination agency appealed to the Danish High Court in March 2012.

We are in various stages of the examination and appeals process in connection with tax audits worldwide, and it is difficult to determine when these examinations will be settled. It is reasonably possible that over the next twelve-month period, we may experience an increase or decrease in unrecognized tax benefits. It is not possible to determine either the magnitude or the range of any increase or decrease at this time.

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.

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### 13. Net Income per Share

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

	Three Months Ended	
	July 26, 2013	July 27, 2012
<b>Numerator:</b>		
Net income	\$ 81.6	\$ 63.8
<b>Denominator:</b>		
Shares used in basic computation	350.9	366.1
Dilutive potential shares related to employee equity award plans	6.9	4.9
Dilutive impact of assumed conversion of Convertible Notes	2.1	0.2
Shares used in diluted computation	<u>359.9</u>	<u>371.2</u>
<b>Net Income per Share:</b>		
Basic	<u>\$ 0.23</u>	<u>\$ 0.17</u>
Diluted	<u>\$ 0.23</u>	<u>\$ 0.17</u>

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

	Three Months Ended	
	July 26, 2013	July 27, 2012
Employee equity award plans	6.6	17.7

Dilutive shares do not include any effect resulting from warrants as their impact would have been anti-dilutive for all periods reported above.

### 14. Segment, Geographic, and Significant Customer Information

We operate in one industry segment: the design, manufacturing, marketing, and technical support of high-performance networked storage solutions. We conduct business globally, and our sales and support activities are 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 using this internal management system because management does not review operations or operating results, or make planning decisions, below the consolidated entity level.

Summarized revenues by geographic region based on information from our internal management system and utilized by our Chief Executive Officer, who is considered our Chief Operating Decision Maker, is as follows (in millions):

	Three Months Ended	
	July 26, 2013	July 27, 2012
Americas (United States, Canada and Latin America)	\$ 858.5	\$ 801.1
Europe, Middle East and Africa	448.0	439.3
Asia Pacific	209.7	204.2
Net revenues	<u>\$1,516.2</u>	<u>\$1,444.6</u>

Americas revenues consist of Americas commercial and U.S. public sector revenues. Sales to customers inside the United States comprised \$772.8 million and \$711.4 million of Americas net revenues during the three months ended July 26, 2013 and July 27, 2012, respectively. Sales to Germany were \$146.7 million, or 10% of net revenues, for the three months ended July 27, 2012. During the three months ended July 26, 2013, sales to Germany were less than 10% of our net revenues. No other foreign country accounted for 10% or more of our net revenues for any period presented.

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The majority of our assets, excluding cash, cash equivalents, restricted cash, investments and accounts receivable, were attributable to our domestic operations. The following table presents cash, cash equivalents, restricted cash and investments held in the United States and internationally in various foreign subsidiaries (in millions):

	July 26, 2013	April 26, 2013
United States	\$ 1,368.5	\$ 3,419.3
International	3,768.6	3,586.8
Total	<u>\$ 5,137.1</u>	<u>\$ 7,006.1</u>

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):

	July 26, 2013	April 26, 2013
United States	\$ 1,071.0	\$ 1,076.3
International	92.4	94.6
Total	<u>\$ 1,163.4</u>	<u>\$ 1,170.9</u>

The following customers, each of which is a distributor, accounted for 10% or more of our net revenues:

	Three Months Ended	
	July 26, 2013	July 27, 2012 <sup>(1)</sup>
Arrow Electronics, Inc.	21%	17%
Avnet, Inc.	16%	14%

<sup>(1)</sup> Net revenues for Arrow Electronics, Inc. for the three months ended July 27, 2012 have been corrected from 16% previously disclosed to 17%.

The following customers accounted for 10% or more of net accounts receivable:

	July 26, 2013	April 26, 2013
Arrow Electronics, Inc.	13%	16%
Avnet, Inc.	11%	14%

## 15. Commitments and Contingencies

### *Operating Lease Commitments*

As of July 26, 2013, future annual minimum lease payments under non-cancelable operating leases with an initial term in excess of one year totaled \$217.1 million.

### *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. As of July 26, 2013, we had \$336.3 million in non-cancelable purchase commitments with our contract manufacturers. 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 cost of product sales. As of July 26, 2013 and April 26, 2013, such liability amounted to \$9.3 million and \$9.5 million, respectively, and is included in other current liabilities in our condensed 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. As of July 26, 2013, we had \$71.5 million in capital purchase commitments and \$181.2 million in other purchase commitments.

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### ***Product Warranties***

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

	<b>Three Months Ended</b>	
	<b>July 26, 2013</b>	<b>July 27, 2012</b>
Beginning balance	\$ 117.2	\$ 83.1
Expense accrued during the period	24.0	23.7
Warranty costs incurred	(21.4)	(10.3)
Ending balance	<u>\$ 119.8</u>	<u>\$ 96.5</u>

Our warranty reserves were reported in our condensed consolidated balance sheets as follows (in millions):

	<b>July 26, 2013</b>	<b>April 26, 2013</b>
	Other current liabilities	\$ 81.8
Other long-term liabilities	38.0	35.6
Total	<u>\$119.8</u>	<u>\$117.2</u>

### ***Financing Guarantees***

Some of our customers have entered into recourse and non-recourse financing leasing arrangements using third-party financing companies, and in some situations, we enter into customer financing arrangements for our products and services that are contemporaneously sold on a recourse or non-recourse basis to third-party financing companies. Under the terms of 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. Under the terms of the nonrecourse leases, we do not have any continuing obligations or liabilities to the third-party financing companies. Where we provide a guarantee for recourse leases, we defer revenues subject to the industry-specific software revenue recognition guidance, and recognize revenues for non-software deliverables in accordance with our multiple deliverable revenue arrangement policy. In connection with certain recourse financing arrangements, we receive advance payments associated with undelivered elements that are subject to customer refund rights. We defer revenue associated with these advance payments until the related refund rights expire and we perform the services.

The following schedule of financing guarantees represents the total maximum potential future payments under financing arrangements with third parties, and the related deferred revenue (in millions):

	<b>July 26, 2013</b>	<b>April 26, 2013</b>
	Maximum guaranteed payment contingencies	\$ 196.1
Deferred revenue associated with financing guarantees	(180.8)	(168.6)
Maximum potential future payments relating to financing guarantees, net of associated deferred revenue	<u>\$ 15.3</u>	<u>\$ 13.8</u>

To date, we have not experienced material losses under our lease financing programs or other financing arrangements.

### ***Legal Contingencies***

When a loss is considered probable and reasonably estimable, we record a liability in the amount of our best estimate for the ultimate loss. However, the likelihood of a loss with respect to a particular contingency is often difficult to predict and determining a meaningful estimate of the loss or a range of loss may not be practicable based on the information available and the potential effect of future events and decisions by third parties that will determine the ultimate resolution of the contingency.

We are subject to various legal proceedings and claims that arise in the normal course of business. No accrual has been recorded as of July 26, 2013 related to such matters as they are not probable and/or reasonably estimable.

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

### **Forward-Looking Statements**

This Quarterly Report on Form 10-Q 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). Forward-looking statements are all statements (and their underlying assumptions) included in this document that refer, directly or indirectly, to future events or outcomes and, as such, are inherently not factual, but rather reflect only our current projections for the future. Consequently, forward-looking statements usually include words such as “estimate,” “intend,” “plan,” “predict,” “seek,” “may,” “will,” “should,” “would,” “could,” “anticipate,” “expect,” “believe,” or similar words, in each case, intended to refer to future events or circumstances. A non-comprehensive list of the topics including forward-looking statements in this document includes:

- our future financial and operating results;
- our strategies;
- our beliefs and objectives for future operations, research and development;
- political, economic and industry trends;
- expected timing of, and benefits from, product introductions, developments, enhancements and acceptance;
- expected benefits from acquisitions and joint ventures, growth opportunities and investments;
- expected outcomes from legal, regulatory and administrative proceedings;
- our competitive position;
- our short-term and long-term cash requirements, including without limitation, anticipated capital expenditures;
- our anticipated tax rate;
- the dilutive effect of our warrants on our earnings per share;
- the repayment of our 2.00% Senior Notes due on December 15, 2017 and 3.25% Senior Notes due on December 15, 2022 (collectively referred to as the Senior Notes);
- future uses of our cash, including, without limitation, the continuation of our stock repurchase and cash dividend programs.

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

- our ability to accurately forecast demand for our products and services, and future financial performance;
- our ability to understand, and effectively respond to changes affecting, our market environment, products, technologies and customer requirements;
- the overall growth and structure of the data storage industry;
- general global political, macroeconomic and market conditions, particularly in Europe;
- disruptions in our supply chain, which could limit our ability to ship products to our customers in the amounts and at the prices forecasted;
- failure of our products and services to meet our customers’ quality requirements, including, without limitation, any epidemic failure event relating to our products installed by our customers in their systems;

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- our ability to maintain our gross profit margins;
- our ability to successfully manage our backlog;
- the quality of our strategy and our ability to successfully execute on the same, including, without limitation, our organic and acquisition-related growth strategies;
- our ability to effectively integrate acquired businesses, products and technologies;
- our ability to timely and successfully introduce, and increase volumes of, new products and services, and to forecast demand and pricing for the same;
- our ability to design, manufacture and market products meeting global environmental standards;
- the impact of industry consolidation, affecting our suppliers, competitors, partners and customers;
- our ability to successfully recruit and retain critical employees and to manage our investment in people, process and systems;
- our ability to maintain our customer, partner, supplier and contract manufacturer relationships on favorable terms and conditions;
- the actions of our competitors, most of which are larger and have greater financial and other resources than we have, including, without limitation, their ability to introduce competitive products and to acquire businesses and technologies that negatively impact our strategy or operations or customer demand for our products;
- our ability to grow direct and indirect sales and to efficiently provide global service and support;
- the availability of acceptable financing to support our future cash requirements;
- valuation and liquidity of our investment portfolio;
- the results of our ongoing litigation, tax audits, government audits, inquiries and investigations; and
- those factors discussed under the heading “Risk Factors” elsewhere in this Quarterly Report on Form 10-Q.

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 the foregoing factors as well as other important factors.

## Overview

### *Financial Results and Key Performance Metrics Overview*

The following table provides an overview of some of our key financial metrics (in millions, except per share amounts, percentages and days sales outstanding):

	Three Months Ended	
	July 26, 2013	July 27, 2012
Net revenues	\$1,516.2	\$1,444.6
Gross profit	\$ 909.6	\$ 850.1
Gross profit margin percentage	60.0%	58.8%
Income from operations	\$ 96.9	\$ 80.2
Income from operations as a percentage of net revenues	6.4%	5.6%
Net income	\$ 81.6	\$ 63.8
Diluted income per share	\$ 0.23	\$ 0.17
Operating cash flows	\$ 285.8	\$ 229.2
	July 26, 2013	April 26, 2013
Deferred revenue	\$2,941.3	\$3,009.5
Days sales outstanding (DSO)	32	42

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### **1.75% Convertible Notes and Hedges**

In June 2013, we settled our Convertible Notes. Upon conversion, we repaid the principal amount of \$1.3 billion and issued an aggregate of 4.9 million shares of common stock for the excess of the conversion value over the principal amount of the Convertible Notes. Concurrently, we exercised our Convertible Note hedges, for which we received 3.9 million shares from the counterparties.

### **Dividends and Stock Repurchase Program Activity**

In May 2013, our Board of Directors approved a \$1.6 billion increase to our stock repurchase program under which during the three months ended July 27, 2013 we repurchased 21.7 million shares of our common stock at an average price of \$39.20 per share, for \$849.5 million. We also declared a quarterly cash dividend of \$0.15 per share of common stock, for which we paid an aggregate of \$51.4 million in the same period.

### **Restructuring and other charges**

In May 2013, we initiated a business restructuring plan under which we realigned internal resources resulting in a reduction of our global workforce by approximately 7% and recognized \$48.4 million of employee severance costs in the three months ended July 26, 2013.

### **Critical Accounting Policies and Estimates**

Our condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America, which require management to make judgments, estimates and assumptions that affect the reported amounts of assets, liabilities, net revenue and expenses, and the disclosure of contingent assets and liabilities. Our estimates are based on historical experience and various other assumptions that we believe to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities. We believe that the accounting estimates employed and the resulting balances are reasonable; however, actual results may differ from these estimates and such differences may be material.

The summary of significant accounting policies is included in under Item 7, "Management's Discussion and Analysis of Financial Condition and Results of Operations" in our Annual Report on Form 10-K for the fiscal year ended April 26, 2013. An accounting policy is deemed to be critical if it requires an accounting estimate to be made based on assumptions about matters that are highly uncertain at the time the estimate is made, if different estimates reasonably could have been used, or if changes in the estimate that are reasonably possible could materially impact the financial statements. There have been no material changes to the critical accounting policies and estimates as filed in such report.

### **New Accounting Standards**

See Note 3 of the accompanying condensed 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.



[Table of Contents](#)**Results of Operations**

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

	Three Months Ended	
	July 26, 2013	July 27, 2012
<b>Revenues:</b>		
Product	61.4%	62.2%
Software entitlements and maintenance	15.1	15.1
Service	23.5	22.7
Net revenues	100.0	100.0
<b>Cost of revenues:</b>		
Cost of product	29.7	31.3
Cost of software entitlements and maintenance	0.5	0.5
Cost of service	9.8	9.4
<b>Gross profit</b>	<u>60.0</u>	<u>58.8</u>
<b>Operating expenses:</b>		
Sales and marketing	30.9	33.4
Research and development	15.0	15.3
General and administrative	4.5	4.5
Restructuring and other charges	3.2	—
Total operating expenses	53.6	53.2
<b>Income from operations</b>	6.4	5.6
<b>Other expense, net</b>	(0.3)	(0.5)
<b>Income before income taxes</b>	6.1	5.1
Provision for income taxes	0.7	0.7
<b>Net income</b>	<u>5.4%</u>	<u>4.4%</u>

**Discussion and Analysis of Results of Operations***Overview*

Net revenues for the three months ended July 26, 2013 were \$1,516.2 million, up \$71.6 million, or 5%, compared to the prior year. The increases were due primarily to increases in product and hardware maintenance contracts revenues.

Gross profit as a percentage of revenue increased 1% during the three months ended July 26, 2013 compared to the prior year, primarily due to pricing, higher capacity, changes in average selling prices (ASPs), changes in mix and lower OEM revenues.

Sales and marketing, research and development, and general and administrative expenses for the three months ended July 26, 2013 totaled \$764.3 million, down 1%, compared to the prior year, reflecting cost control programs implemented in fiscal 2014.

*Net Revenues (in millions, except percentages):*

	Three Months Ended		
	July 26, 2013	July 27, 2012	% Change
Net revenues	\$ 1,516.2	\$ 1,444.6	5%

The increase in net revenues for the three months ended July 26, 2013 was primarily due to an increase in product revenues of \$32.8 million and an increase in service revenues of \$28.8 million. Product revenues comprised 61% of net revenues for the three months ended July 26, 2013 compared to 62% of net revenues for the three months ended July 27, 2012.

Sales through our indirect channels represented 80% of net revenues for the three months ended July 26, 2013, compared to 78% of net revenues for the three months ended July 27, 2012. Included in indirect channel sales were \$166.5 million of OEM revenue during the three months ended July 26, 2013 compared to \$208.9 million during the three months ended July 27, 2012.

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The following customers, each of which is a distributor, accounted for 10% or more of net revenues:

	Three Months Ended	
	July 26, 2013	July 27, 2012 <sup>(1)</sup>
Arrow Electronics, Inc.	21%	17%
Avnet, Inc.	16%	14%

<sup>(1)</sup> Net revenues for Arrow Electronics, Inc. for the three months ended July 27, 2012 have been corrected from 16% previously disclosed to 17%.

### Product Revenues (in millions, except percentages):

	Three Months Ended		
	July 26, 2013	July 27, 2012	% Change
Product revenues	\$ 930.8	\$ 898.0	4%

Product revenues consist of configured systems, which include bundled hardware and software products, and non-configured products, which consist primarily of add-on storage, OEM products and add-on hardware and software products.

Total configured system revenues of \$537.0 million increased by \$71.1 million, or 15%, during the three months ended July 26, 2013 compared to the same period in the prior year, due to revenue increases across all platforms, with the largest increase in the 6000 series systems. Total configured systems unit volume increased 9% and ASPs increased across all platforms during the three months ended July 26, 2013 compared to the prior year due to favorable product mix.

Non-configured product revenues of \$393.9 million decreased \$38.3 million, or 9%, during the three months ended July 26, 2013 compared to the same period in the prior year. This decrease was primarily due to lower revenue from non-configured OEM products, which declined 22%.

Our systems are highly configurable to respond to customer requirements in the open systems storage markets that we serve. This can cause a wide variation in product configurations that can significantly impact revenues, cost of revenues and gross profits. Pricing changes, discounting practices, product competition, foreign currency, unit volumes, customer mix, natural disasters and product material costs can also impact revenues, cost of revenues and/or gross profits. Disks are a significant component of our storage systems. Industry disk pricing has fallen every year; however, when supplies are constrained, disk prices may increase. To the extent that disk prices increase or decrease, we intend to pass along those price increases or decreases to our customers while working to maintain relatively constant profit margins on our disk drives. While our sales price per terabyte historically declines over time, improved system performance, increased capacity and software to manage this increased capacity have an offsetting favorable impact on product revenues.

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

	Three Months Ended		
	July 26, 2013	July 27, 2012	% Change
Software entitlements and maintenance revenues	\$ 228.5	\$ 218.5	5%

SEM contracts entitle customers to receive unspecified product upgrades and enhancements on a when-and-if-available basis, bug fixes and patch releases.

The increase in SEM revenues was due to increases 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.

### Service Revenues (in millions, except percentages):

	Three Months Ended		
	July 26, 2013	July 27, 2012	% Change
Service revenues	\$ 356.9	\$ 328.1	9%

Service revenues include hardware maintenance, professional services and educational and training services.

Hardware maintenance contract revenues comprised 77% of service revenues for the three months ended July 26, 2013 and 71% for the same period in the prior year. These revenues increased \$39.5 million, or 17%, during the three months ended July 26, 2013, compared to the prior year, as a result of increases in the installed base and aggregate contract values under service contracts. Professional services and educational and training services comprised 23% of service revenues for the three months ended July 26, 2013 and 29% of service revenues for the three months ended July 27, 2012.

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[Table of Contents](#)**Revenues by Geographic Area (in millions, except percentages):**

	Three Months Ended		
	July 26, 2013	July 27, 2012	% Change
Americas (United States, Canada and Latin America)	\$ 858.5	\$ 801.1	7%
Europe, Middle East and Africa (EMEA)	448.0	439.3	2%
Asia Pacific	209.7	204.2	3%
Net revenues	<u>\$1,516.2</u>	<u>\$1,444.6</u>	

Americas revenues consist of Americas commercial and U.S. public sector revenues. Sales to customers inside the United States comprised 90% and 89% of Americas net revenues during the three months ended July 26, 2013 and July 27, 2012, respectively. Americas sales as a percentage of net revenues was up 2% from the same period in the prior year due primarily to strength in the Americas commercial revenues. Sales to Germany were \$146.7 million, or 10% of net revenues, for the three months ended July 27, 2012. During the three months ended July 26, 2013, sales to Germany were less than 10% of our net revenues. No other foreign country accounted for 10% or more of our net revenues for any period 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 products, 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.

Our gross profit is impacted by a variety of factors, including pricing changes, discounting practices, foreign currency, product configuration, unit volumes, customer mix, revenue mix, natural disasters and product material costs. Service gross profit is 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 any of these factors 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):**

	Three Months Ended		
	July 26, 2013	July 27, 2012	% Change
Cost of product revenues	\$ 449.9	\$ 452.2	(1)%

The changes in cost of product revenues consisted of the following (in percentage points of the total change):

	Three Months Ended Fiscal 2014 to Fiscal 2013 Percentage Change Points
Materials cost	1
Excess and obsolete inventory	(2)
Total change	<u>(1)</u>

Cost of product revenues represented 48% of product revenues for the three months ended July 26, 2013, compared to 50% for the three months ended July 27, 2012.

Materials cost represented 83% and 81% of product costs for the three months ended July 26, 2013 and July 27, 2012, respectively, and increased \$4.7 million from the prior year due to a 9% volume increase in configured systems, a change in mix of configured systems towards higher cost 6000 series systems and a favorable configuration mix within branded series platforms resulting in an overall increase in average unit materials cost. Cost of product revenues were favorably impacted by a \$9.1 million decrease in inventory write-downs for the three months ended July 26, 2013 compared to the same period in the prior year.

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

	Three Months Ended		
	July 26, 2013	July 27, 2012	% Change
Cost of software entitlements and maintenance revenues	\$ 7.5	\$ 6.6	14%

Cost of SEM revenues represented 3% of SEM revenues for all periods presented. Cost of SEM revenues increases are primarily due to higher volume subject to royalty costs.

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

	Three Months Ended		
	July 26, 2013	July 27, 2012	% Change
Cost of service revenues	\$ 149.2	\$ 135.7	10%

Costs represented 42% and 41% of service revenues for the three months ended July 26, 2013 and July 27, 2012, respectively. Cost of service revenues increases are primarily due to increases in service contractor costs.

**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, benefits, other compensation-related costs, stock-based compensation costs and employee incentive compensation plan costs.

Compensation costs included in operating expenses increased \$1.3 million, or less than 1%, for the three months ended July 26, 2013 compared to the prior year, primarily due to:

- (i) an increase in salaries, benefits and other compensation-related costs of \$10.9 million due to increases in average headcount;
- (ii) substantially offset by a decrease in stock-based compensation expense of \$10.8 million related to the reset of the employee stock purchase plan (ESPP) offering in June 2012.

*Sales and Marketing (in millions, except percentages):*

	Three Months Ended		
	July 26, 2013	July 27, 2012	% Change
Sales and marketing expenses	\$ 467.8	\$ 482.9	(3)%

Sales and marketing expenses consist primarily of compensation costs, commissions, outside services, allocated facilities and information technology (IT) costs, advertising and marketing promotional expense and travel and entertainment expense. Sales and marketing expenses decreased due to the following:

	Three Months Ended Fiscal 2014 to Fiscal 2013 Percentage Change Points
Compensation costs	(1)
Outside services	(1)
Amortization	(1)
Total change	(3)

The decrease in compensation costs during the three months ended July 26, 2013 is primarily due to lower stock-based compensation expense, partially offset by higher salaries resulting from an increase of 3% in average sales and marketing headcount compared to the prior year. The decrease in outside services reflects lower spending for third party sales support. Amortization expense during the three months ended July 27, 2013 decreased due to certain intangible assets becoming fully amortized during the period.

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*Research and Development (in millions, except percentages):*

	Three Months Ended		
	July 26, 2013	July 27, 2012	% Change
Research and development expenses	\$ 228.1	\$ 221.4	3%

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

	Three Months Ended Fiscal 2014 to Fiscal 2013 Percentage Change Points
Compensation costs	3
Depreciation	2
Other	(2)
Total change	3

The increase in compensation costs during the three months ended July 27, 2013 is primarily due to higher salaries and benefits, resulting from an increase of 2% in average engineering headcount compared to the prior year, partially offset by lower stock-based compensation expense compared to the prior year. Depreciation expense increased during fiscal 2013 due to higher levels of investment in engineering equipment.

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):*

	Three Months Ended		
	July 26, 2013	July 27, 2012	% Change
General and administrative expenses	\$ 68.4	\$ 65.6	4%

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

	Three Months Ended Fiscal 2014 to Fiscal 2013 Percentage Change Points
Compensation costs	2
Outside services	3
Other	(1)
Total change	4

The increase in compensation costs for the three months ended July 26, 2013 is primarily due to higher salaries and incentive plan compensation expense resulting from an increase of 5% in average general and administrative headcount compared to the prior year. The increase in outside services during the three months ended July 26, 2013 reflect higher spending on contractors and professional services.

*Restructuring and other charges (in millions, except percentages):*

	Three Months Ended		
	July 26, 2013	July 27, 2012	% Change
Restructuring and other charges	\$ 48.4	—	NM

NM - Not Meaningful

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In May 2013, we initiated a business restructuring plan under which we realigned internal resources resulting in a reduction of our global workforce by approximately 7%. As a result, we recognized \$48.4 million of employee severance costs in connection with the plan in the three months ended July 26, 2013. We do not anticipate incurring a significant amount of future expenses related to this plan.

### **Other Expense, Net**

*Interest Income (in millions, except percentages):*

	Three Months Ended		
	July 26, 2013	July 27, 2012	% Change
Interest income	\$ 10.0	\$ 10.8	(7)%

The decrease in interest income was primarily due to a decrease in our investment portfolio as a result of the liquidation of some of our investments to repay our Convertible Notes and to support our stock repurchase activities.

*Interest Expense (in millions, except percentages):*

	Three Months Ended		
	July 26, 2013	July 27, 2012	% Change
Interest expense	\$(16.5)	\$(19.9)	(17)%

During the three months ended July 26, 2013 and July 27, 2012, we recognized non-cash interest expense from the amortization of debt discount and issuance costs relating to our debt of \$8.2 million and \$14.3 million, respectively. The coupon interest expense related to our debt was \$8.3 million and \$5.4 million for the three months ended July 26, 2013 and July 27, 2012, respectively. Total interest expense related to the Convertible Notes and the Senior Notes was \$10.2 million and \$6.3 million, respectively, for the three months ended July 26, 2013. Total interest expense related to the Convertible Notes was \$19.7 million for the three months ended July 27, 2012. The decrease in interest expense reflects the maturity of our Convertible Notes in June 2013.

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

	Three Months Ended		
	July 26, 2013	July 27, 2012	% Change
Other income, net	\$ 1.9	\$ 3.1	(39)%

The decrease in other income, net for the three months ended July 26, 2013 compared to the prior period is primarily due to lower net foreign exchange gains.

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

	Three Months Ended		
	July 26, 2013	July 27, 2012	% Change
Provision for income taxes	\$ 10.7	\$ 10.4	3%

Our effective tax rate for the three months ended July 26, 2013 was 11.6% compared to an effective tax rate of 14.0% for the three months ended July 27, 2012. 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 rates during the three months ended July 26, 2013 and July 27, 2012 were favorably impacted by the geographic mix of profits.

Our provision for income taxes increased for the three months ended July 26, 2013 compared to the three months ended July 27, 2012 as a result of higher pre-tax income. Our effective tax rate decreased for the three months ended July 26, 2013 compared to the prior year primarily as a result of a higher discrete tax benefit from equity awards.

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We continue to monitor the progress of various ongoing tax controversies and the impact, if any, of the expected tolling of the statute of limitations in various taxing jurisdictions, as further discussed in Note 12 of the accompanying condensed consolidated financial statements.

As of July 26, 2013, we had \$194.3 million of unrecognized tax benefits, of which \$138.4 million has been recorded in other long-term liabilities. Unrecognized tax benefits of \$124.1 million, including penalties and interest, would affect our provision for income taxes if recognized. During the three months ended July 26, 2013, there was a gross increase in our unrecognized tax benefits of \$7.2 million for tax positions related to the current year, and a gross increase of \$1.0 million and gross decrease, including settlements and statute lapses, of \$3.5 million for tax positions related to prior years.

### **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 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 July 26, 2013.

#### ***Liquidity, Capital Resources and Cash Requirements***

(\$ in Millions)	July 26, 2013	April 26, 2013
Cash and cash equivalents and short-term investments	\$ 5,084.0	\$ 6,952.6
Current portion of principal amount of Convertible Notes	—	1,264.9
Principal amount of Senior Notes	1,000.0	1,000.0
Debt as a % of stockholders' equity	25%	48%

The following is a summary of our cash flows:

(In Millions)	Three Months Ended	
	July 26, 2013	July 27, 2012
Net cash provided by operating activities	\$ 285.8	\$ 229.2
Net cash provided by (used in) investing activities	325.9	(126.7)
Net cash used in financing activities	(2,084.7)	(112.1)
Effect of exchange rate changes on cash and cash equivalents	(7.3)	(10.8)
Net decrease in cash and cash equivalents	\$ (1,480.3)	\$ (20.4)

#### ***Cash Flows***

As of July 26, 2013, our cash, cash equivalents and short-term investments decreased by \$1.9 billion from April 26, 2013, to \$5.1 billion. The decrease was primarily due to the repayment of the principal amount of our Convertible Notes of \$1.3 billion and \$0.8 billion in cash paid for the repurchase of our common stock, partially offset by \$0.3 billion of cash provided by operating activities and \$0.4 billion from maturities and sales of investments, net of purchases. We derive our liquidity and capital resources primarily from our operating cash flows and from working capital. Accounts receivable days sales outstanding as of July 26, 2013 decreased to 32 days, compared to 42 days as of April 26, 2013, primarily due to improvements in shipment linearity in which a lesser proportion of the shipments was made in the latter part of the first quarter of fiscal 2014, compared with the fourth quarter of fiscal 2013. Working capital decreased by \$0.7 billion to \$3.9 billion as of July 26, 2013 as a result of a decrease of \$2.2 billion in current assets, primarily due to the net decrease in cash, cash equivalents and short-term investments, partially offset by a decrease of \$1.5 billion in current liabilities, primarily due to the maturity of our Convertible Notes.

#### ***Cash Flows from Operating Activities***

During the three months ended July 26, 2013, we generated cash from operating activities of \$285.8 million. The primary sources of cash from operating activities during the three months ended July 26, 2013 consisted of net income of \$81.6 million, adjusted by depreciation and amortization of \$85.9 million and stock-based compensation of \$66.3 million.

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Changes in assets and liabilities as of July 26, 2013 included the following:

- *Accounts receivable* decreased due to higher collections compared to the same period in the prior year resulting from improvements in shipping linearity.
- *Accrued compensation and related benefits* decreased due to employee payouts related to fiscal year 2013 commissions and incentive compensation plans, partially offset by accrued restructuring charges.
- *Deferred revenue* decreased due to a seasonal decrease in service contract activities.

We expect that cash provided by operating activities may materially 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 or charges from stock-based compensation, and the timing and amount of compensation and other payments.

### *Cash Flows from Investing Activities*

During the three months ended July 26, 2013, we generated \$390.0 million from maturities and sales of investments, net of purchases and paid \$65.3 million for capital expenditures.

### *Cash Flows from Financing Activities*

During the three months ended July 26, 2013, we used \$1.3 billion for the principal repayment of our Convertible Notes and used \$0.8 billion for the repurchase of 21.7 million shares of our common stock.

### *Liquidity*

Our principal sources of liquidity as of July 26, 2013 consisted of 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 (in millions):

	July 26, 2013	April 26, 2013
Cash and cash equivalents	\$ 1,796.8	\$ 3,277.1
Short-term investments	3,287.2	3,675.5
Total	<u>\$ 5,084.0</u>	<u>\$ 6,952.6</u>

As of July 26, 2013, \$1.4 billion of cash, cash equivalents and short-term investments were held in the United States, while \$3.7 billion was held in foreign countries. Most of the amounts held outside the United States can be repatriated to the United States but, under current law, would be subject to U.S. federal and state income taxes. If we were to repatriate foreign earnings for cash requirements in the United States, we would incur U.S. federal and state income taxes reduced by the current amount of our U.S. federal and state net operating loss and tax credit carry forwards. However, our intent is to keep these funds permanently reinvested outside of the United States, and our current plans do not contemplate a need to repatriate them to fund our U.S. operations. Our principal liquidity requirements are primarily to meet our working capital needs, support ongoing business activities, fund research and development, meet capital expenditure needs, invest in critical or complementary technologies, and service interest and principal payments on our debt.

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 and the timing of repayments of our debt. Based on past performance and our current business outlook, we believe that our sources of cash will satisfy our working capital needs, capital expenditures, investment requirements, stock repurchases, cash dividends, contractual obligations, commitments, principal and interest payments on our debt and other liquidity requirements associated with operations and meet our cash requirements for at least the next 12 months. We anticipate the cash used for future dividends and share repurchases will come from our domestic cash and cash generated from ongoing domestic operating activities. However, in the event our liquidity is insufficient, we may be required to curtail spending and implement additional cost saving measures and restructuring actions or enter into new financing arrangements. 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.



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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 the 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, debt obligations or other cash requirements. We routinely monitor our financial exposure to both sovereign and non-sovereign borrowers and counterparties. Our gross exposures to our investments in Greece, Italy, Portugal, and Spain are individually and collectively not material.

### *Senior Notes*

The following table summarizes the principal amount of our Senior Notes as of July 26, 2013 (in millions):

2.00% Senior Notes Due 2017	\$ 750.0
3.25% Senior Notes Due 2022	250.0
Total	<u>\$1,000.0</u>

Interest on the Senior Notes is payable semi-annually. For further information on the underlying terms, see Note 8 of the accompanying condensed consolidated financial statements.

### *Credit Facility*

We have an unsecured \$250.0 million five-year revolving credit facility that terminates on December 21, 2017 if no extensions have been requested, and contains financial covenants requiring us to maintain a maximum leverage ratio and a minimum interest coverage ratio. We may also, subject to certain requirements, request an increase in the facility up to an additional \$100.0 million and request two additional one-year extensions, subject to certain conditions. As of July 26, 2013, no borrowings were outstanding under the facility and we were in compliance with all covenants associated with the facility.

### *Capital Expenditure Requirements*

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 North Carolina, California and India and other locations worldwide are adequate for our requirements over at least the next two years and that additional space will be available as needed. Our capital expenditures were \$65.3 million during the three months ended July 26, 2013. We anticipate capital expenditures for the remainder of fiscal 2014 to be between \$125.0 million and \$175.0 million.

### *Dividends and Share Repurchase Program*

In August 2013, we declared a cash dividend of \$0.15 per share of common stock, payable on October 25, 2013 to holders of record as of the close of business on October 21, 2013.

As of July 26, 2013, our Board of Directors had authorized the repurchase of up to \$7.1 billion of our common stock under our stock repurchase program. Under this program, we can purchase shares of our outstanding common stock through open market and privately negotiated transactions at prices deemed appropriate by our management. The stock repurchase program may be suspended or discontinued at any time. As of July 26, 2013, the remaining authorized amount for stock repurchases under this program was \$2.2 billion with no termination date. We plan to complete the program within the next three years including planned repurchases of \$1.2 billion by May 2014, of which \$0.2 billion is planned to be completed by September 2013.

The timing and amount of stock repurchase transactions and future dividends will depend on market conditions, corporate business and financial considerations and regulatory requirements.

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### ***Contractual Obligations***

#### ***Operating Lease Commitments***

As of July 26, 2013, future annual minimum lease payments under non-cancelable operating leases with an initial term in excess of one year totaled \$217.1 million.

#### ***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. As of July 26, 2013, we had \$336.3 million in non-cancelable purchase commitments with our contract manufacturers. 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 cost of product sales. As of July 26, 2013 and April 26, 2013, such liability amounted to \$9.3 million and \$9.5 million, respectively, and is included in other current liabilities in our condensed 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 of business for which we have not received goods or services. As of July 26, 2013, we had \$71.5 million in capital purchase commitments and \$181.2 million in other purchase commitments.

#### ***Unrecognized Tax Benefits***

As of July 26, 2013, our liability for uncertain tax positions was \$141.4 million, including interest and penalties. Due to the uncertainty of the timing of future cash payments, we cannot make reasonably reliable estimates of the period of cash settlement with the taxing authorities.

#### ***Legal Contingencies***

We are subject to various legal proceedings and claims which arise in the normal course of business. See further details on such matters in Note 15 to our condensed consolidated financial statements.

#### ***Off-Balance Sheet Arrangements***

In 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 July 26, 2013, our financial guarantees of \$10.1 million that were not recorded on our consolidated 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.

In the ordinary course of business, some of our customers have entered into recourse and non-recourse financing leasing arrangements using third-party financing companies, and in some situations, we enter into customer financing arrangements for our products and services that are contemporaneously sold on a recourse or non-recourse basis to third-party financing companies. During the terms of 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. Where we provide a guarantee for recourse leases, we defer revenues subject to the industry-specific software revenue recognition guidance, and recognize revenues for non-software deliverables in accordance with our multiple deliverable revenue arrangement policy. In connection with certain recourse financing arrangements, we receive advance payments associated with undelivered elements that are subject to customer refund rights. We defer revenue associated with these advance payments until the related refund rights expire and we perform the services. As of July 26, 2013, the maximum guaranteed payment contingencies under our financing arrangements totaled \$196.1 million and the related deferred revenue totaled \$180.8 million.

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-parties 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.

### **Item 3. 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 foreign currency exchange 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 July 26, 2013, we had debt investments of \$3.3 billion. Our investment portfolio primarily consists of investments with original maturities greater than three months at the date of purchase, which are classified as available-for-sale investments. These investments, which consist primarily of corporate bonds, commercial paper, certificates of deposit, U.S. Treasury securities and U.S. government agency securities, are subject to interest rate and interest income risk and will decrease in value if market interest rates increase. Conversely, declines in interest rates, including the impact from lower credit spreads, could have a material adverse impact on interest income for our investment portfolio. A hypothetical 100 basis point increase in market interest rates from levels as of July 26, 2013 would have resulted in a decrease in the fair value of our fixed-income securities of approximately \$37 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 monitor and evaluate our investment portfolio on a quarterly basis for any other-than-temporary impairments.

We are also exposed to market risk relating to our auction rate securities (ARS) due to uncertainties in the credit and capital markets. As of July 26, 2013, our holdings in these securities had a par value of \$44.9 million and an estimated fair value of \$42.2 million. The fair value of our ARS 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 ARS. Changes in the various assumptions used to value these securities and any increase in the market's perceived risk associated with such investments may also result in a decline in the estimated fair value.

*Debt* — As of July 26, 2013, we have outstanding \$1.0 billion aggregate principal amount of our Senior Notes. We carry these instruments at face value less unamortized discount on our condensed consolidated balance sheets. Since these instruments bear interest at fixed rates, we have no financial statement risk associated with changes in interest rates. However, the fair value of these instruments fluctuates when interest rates change. See Note 8 of the accompanying consolidated financial statements for more information.

*Credit Facility* — We are exposed to the impact of changes in interest rates in connection with our \$250.0 million five-year revolving credit facility. Borrowings under the facility accrue interest at rates that vary based on certain market rates and our credit rating on our Senior Notes. Consequently, our interest expense would fluctuate with any changes in these market interest rates or in our credit rating if we were to borrow any amounts under the credit facility. As of July 26, 2013, no amounts were outstanding under the credit facility.

#### **Foreign Currency Exchange Rate Risk**

We hedge risks associated with foreign currency transactions to minimize the impact of changes in foreign currency exchange rates on earnings. We utilize foreign currency exchange forward and option contracts to hedge against the short-term impact of foreign currency fluctuations on certain foreign-currency-denominated monetary assets and liabilities. We also use foreign currency exchange forward contracts to hedge foreign currency exposures related to forecasted sales transactions denominated in certain foreign currencies. These derivatives are designated and qualify as cash flow hedges under accounting guidance for derivatives and hedging.

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We do not enter into foreign currency exchange contracts for speculative or trading purposes. In entering into foreign currency exchange forward and option contracts, we have assumed the risk that might arise from the possible inability of counterparties to meet the terms of the 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 six months.

The following table provides information about our U.S. dollar equivalent foreign currency exchange forward contracts outstanding on July 26, 2013 and April 26, 2013 (in millions):

	<u>July 26, 2013</u>	<u>April 26, 2013</u>
	<u>Notional</u>	<u>Notional</u>
	<u>Contract</u>	<u>Contract</u>
	<u>Amount</u>	<u>Amount</u>
Forward contracts sold	\$ 143.8	\$ 158.2
Forward contracts purchased	407.7	466.8

The fair value of these contracts did not differ materially from their notional contract amount.

**Item 4. Controls and Procedures**

*Disclosure Controls and Procedures*

The phrase “disclosure controls and procedures” refers to controls and 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 Quarterly Report on Form 10-Q, is recorded, processed, summarized, and reported within the time periods specified in the rules and forms of the U.S. Securities and Exchange Commission (SEC). Disclosure controls and procedures are also designed to ensure that such information is accumulated and communicated to our management, including our 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 July 26, 2013, the end of the fiscal period covered by this Quarterly Report on Form 10-Q (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 required to be disclosed in our 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 our management, including our CEO and CFO, as appropriate to allow timely decisions regarding required disclosure.

*Changes in Internal Control Over Financial Reporting*

There has been no change in our internal control over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act) identified in connection with our evaluation that occurred during the first quarter of fiscal 2014 that has materially affected or is reasonably likely to materially affect our internal control over financial reporting.

## PART II — OTHER INFORMATION

### Item 1. Legal Proceedings

None

### Item 1A. Risk Factors

*The following risk factors and other information included elsewhere in this Quarterly Report on Form 10-Q should be considered and understood in the context of the following risk factors, which describe circumstances that may materially harm our future business, operating results or financial condition. The following discussion reflects our current judgment regarding the most significant risks we face. These risks can and will change in the future.*

***Continuing uncertain economic conditions restrict our visibility and may harm our operating results.***

The continuing global economic uncertainty and related political and fiscal challenges in the U.S. and abroad (particularly the Eurozone) due to the debt and fiscal crises of recent years have, among other things, limited our ability to forecast future demand for our products, contributed to increased periodic volatility in the computer, storage, and networking industries at large, as well as the information technology (IT) market, and could constrain future access to capital for our suppliers, customers and partners. The impacts of these circumstances are global and pervasive, affecting all participants in our industry, and the timing and nature of any ultimate resolution of these matters remain highly uncertain. Moreover, a significant portion of our sales are to Eurozone customers and, accordingly, we are particularly sensitive to developments in that region. Additionally, fiscal restraints have caused, and may in the future again cause, governments to defer purchases in response to tighter budgets. Consequently, we expect these concerns to challenge our business for the foreseeable future, and potentially cause harm to our operating results and could result in failure to meet our forecasted financial expectations.

When and if the current macroeconomic challenges are resolved, we expect the risk of economic uncertainty to continue, with the potential to restrict our visibility and harm our operating results.

***Our business may be harmed if growth in the storage market declines.***

Our industry has experienced significant historical growth due to the continuing increase in the demand for storage by consumers, enterprises and government bodies around the world, and our customers' purchases of storage solutions to address this demand. While IT spending has fluctuated periodically due to technology transitions and changing economic and business environments, overall growth in demand for storage has continued. Recent technology trends, such as the emergence of hosted (or "cloud") storage, software as a service (SaaS) and mobile data access, are driving significant changes in storage architectures and solution requirements. The impact of these trends on overall long-term growth patterns is uncertain. Nevertheless, if the general level of historic industry growth, or if the growth of the specific markets in which we compete, were to decline, our business and results of operations could suffer.

***Our quarterly operating results may fluctuate materially, which could harm our common stock price.***

Our operating results have fluctuated in the past and will continue to do so, sometimes materially. All of the matters discussed in this Risk Factor section could impact our operating results in any fiscal quarter or year. In addition to those matters, we face the following issues which could impact our quarterly results:

- 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; and
- Linearity, such as our historical intra-quarter 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.

If our operating results fall below our forecasts and the expectations of public market analysts and investors, the trading price of our common stock would likely decline.

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### ***Our sales and distribution structure makes forecasting revenues difficult and, if disrupted, could harm our operating results.***

Our business and sales models make revenues difficult to forecast. We sell to a variety of customers, with a corresponding variety of sales cycles. In addition, the majority of our sales are made indirectly through channel partners, including value-added resellers, systems integrators, distributors, original equipment manufacturers (OEMs) and strategic business partners. During the three months ended July 26, 2013, revenues generated from sales through our indirect channel accounted for 80% of net revenues. This structure significantly complicates our ability to forecast future revenue, particularly within any particular fiscal quarter or year. Moreover, our relationships with our indirect channel partners are critical to our success. The loss of one or more of our key indirect channel partners in a given geographic area could harm our operating results, as qualifying and developing new indirect channel partners typically require a significant investment of time and resources before acceptable levels of productivity are met. If we fail to maintain our relationships with our indirect channel partners, if their financial condition, business or customer relationships were to weaken or if they fail to comply with legal or regulatory requirements, our business and operating results could be harmed.

### ***If we do not achieve forecasted bookings in any quarter our financial results will be harmed.***

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 the level, timing and mix of bookings consistent with our quarterly targets and historical patterns, or if we experience cancellations of significant orders, our financial results will be harmed. Additionally, due to the complexities associated with revenue recognition, we may not be able to accurately forecast our non-deferred and deferred revenues, which could harm our operating results.

### ***We often incur expenses before we receive related benefits and expenses may be difficult to reduce quickly if demand declines.***

We base our expense levels in part on future revenue expectations and a significant percentage of our expenses are fixed. It is difficult to reduce our fixed costs quickly, and if revenue levels are below our expectations, operating results will be adversely impacted. During periods of uneven growth or decline, we may incur costs before we realize the anticipated related benefits, which could also harm our operating results. We have made, and will continue to make, significant investments in engineering, sales, service and support, marketing 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, such as 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.

### ***Any disruption to our supply chain could materially harm our business, results of operations and financial condition.***

We do not manufacture our products or their components. Instead, we rely on third parties to make our products and critical components, such as hard disk drives, as well as for associated logistics. Our lack of direct responsibility for, and control over, these elements of our business, as well as the diverse international geographic locations of our manufacturing partners and suppliers, creates significant risks for us, including, among other things:

- Limited ability to control the quality, quantity and cost of our products or of their components;
- The potential for binding price or purchase commitments with our suppliers that are higher than market rates;
- Limited ability to adjust production volumes in response to our customers' demand fluctuations;
- Labor and political unrest at facilities we do not operate or own;
- Geopolitical disputes disrupting our supply chain;
- Business, legal compliance, litigation and financial concerns affecting our suppliers or their ability to manufacture and ship our products in the quantities, quality and manner we require; and
- Disruptions due to floods, earthquakes, storms and other natural disasters, particularly in countries with limited infrastructure and disaster recovery resources.

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We have encountered some of these risks, such as the 2011 Thailand floods, which subjected us to supply constraints, price increases and minimum purchase commitments, and expect to be subject to similar risks in the future. When we do, our business, results of operations and financial condition could be harmed. The risks associated with our out-sourced manufacturing model are particularly acute when we transition products to new facilities or manufacturers, introduce and increase volumes of new products or qualify new contract manufacturers or suppliers, at which times our ability to manage the relationships among us, our manufacturing partners and our component suppliers, becomes critical. New manufacturers, products, components or facilities create increased costs and risk that we will fail to deliver high quality products in the required volumes to our customers. Any failure of a manufacturer or component supplier to meet our quality, quantity or delivery requirements in a cost-effective manner will harm our business, operating results and customer relationships.

### ***We rely on a limited number of suppliers for critical product components.***

We rely on a limited number of suppliers for drives and other components utilized in the assembly of our products, including certain single source suppliers, which has subjected us, and could in the future subject us to price rigidity, periodic supply constraints, and the inability to produce our products with the quality and in the quantities demanded. When industry supply is constrained, our suppliers may allocate volumes away from us and to our competitors, all of which rely on many of the same suppliers as we do. Accordingly, our operating results may be harmed.

### ***Our gross margins vary.***

Our gross margins reflect a variety of factors, including competitive pricing, component and product design, the volume and relative mixture of product, services and software entitlements and maintenance (SEM) revenues. Increased component costs, increased pricing pressures, the relative and varying rates of increases or decreases in component costs and product price, changes in product, services and SEM revenue mixture or decreased volume could harm our revenues, gross margins or earnings. Our gross margins are also impacted by quality failures and our sales and distribution activities, including, without limitation, pricing actions, rebates, sales initiatives and discount levels, and the timing of service contract renewals.

The costs of third-party components comprise a significant portion of our product costs. While we generally have been able to manage our component and product design costs, we may have difficulty managing these costs if supplies of certain components become limited or component prices increase. Any such limitation could result in an increase in our product costs. An increase in component or design costs relative to our product prices could harm our gross margins and earnings.

### ***Increasing competition and industry consolidation could harm our business and operating results.***

The storage and data management markets are intensely competitive and are characterized by rapidly changing technology and consolidation. We compete with many companies in the markets we serve. Over the last decade, the expansion of market opportunities by large, broad-portfolio technology companies, by vertical integration of storage products, technologies and services, such as the acquisition of Sun Microsystems by Oracle, and through internal and external storage-related corporate initiatives, by companies such as HP, Dell and IBM, has increased the number of large, diversified technology companies with which we compete. Accordingly, many of our key competitors have greater financial resources and offer a broad portfolio of IT products and services (full-stack vendors). These competitors typically maintain broad and deep relationships with customers and partners across a diverse portfolio of products and services. They may also be able to offer lower pricing (or other preferred terms) on storage system products due to these broader relationships. We believe further storage market expansion by large, diversified technology companies, in addition to any future 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 harm our business and operating results. A detailed description of storage and software products we compete with is identified in the Business Section of our Annual Report on Form 10-K filed with the Securities and Exchange Commission on June 17, 2013.

There have been trends toward consolidation in the storage industry and market expansion by large broad technology companies for several years, both of which have risks for us. Among other things, the last few years have witnessed considerable consolidation in the disk drive industry, an industry we depend upon for critical storage components. We expect this trend to continue as companies attempt to strengthen or hold their market positions in an evolving, maturing industry, as companies become unable to maintain their competitive positions or continue operations and as customers demand more flexible business models and terms. Disk drive and other component manufacturing industry consolidations may lead to higher component prices and supply constraints for us, which may, in turn, harm our operating results.



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***Our OEM relationships may not generate significant revenues.***

We have OEM relationships with several companies, which collectively accounted for 11% of our net revenue during the three months ended July 26, 2013. These OEMs market and sell their branded solutions based on our unified solutions, as well as associated software offerings. While these arrangements are part of our general strategy to expand our reach to more customers and into more countries, we do not have exclusive relationships with our OEMs, and there is no minimum commitment for any given period of time. We also compete with some of our OEMs, further complicating our relationships with them. Therefore, our relationships with these OEMs may not continue to generate significant revenues. In addition, we have no control over the products that the OEMs select to sell, or their release schedule and timing of those products; nor do we control their pricing.

If our OEM relationships increase, we may experience distribution channel conflicts between our direct sales force and the OEMs or among our channel partners. If we fail to minimize channel conflicts, or if our OEM relationships do 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 negatively affected in the past, and in the future could negatively affect, our revenues.***

For the three months ended July 26, 2013, sales to distributors Arrow Electronics, Inc. and Avnet, Inc. accounted for 21% and 16%, respectively, of our net revenues. We generally do not enter into binding purchase commitments with our customers, resellers and distributors for extended periods 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. In addition, unfavorable economic conditions may negatively impact the solvency of our customers, resellers and distributors or the ability of such customers, resellers and distributors to obtain credit to finance purchases of our products. If any of our key customers, resellers or distributors changes its pricing practices, reduces the size or frequency of its orders for our products, or stops purchasing our products altogether, our operating results and financial condition could be materially adversely impacted.

***Reduced U.S. government demand could materially harm our business and operating results. In addition, we could be harmed by claims that we have or a channel partner has failed to comply with regulatory and contractual requirements applicable to sales to the U.S. government.***

The U.S. government has become an important customer for us. However, government demand is uncertain, as it is subject to political and budgetary fluctuations and constraints. Recent and continued uncertainty regarding the U.S. budget and debt levels has increased demand uncertainty for our products. If the U.S. government or an individual agency or multiple agencies within the U.S. government reduce or shift their capital IT spending patterns, our revenues and operating results may be harmed.

Selling our products to the U.S. government, whether directly or through channel partners, also subjects us to certain regulatory and contractual requirements. Failure to comply with these requirements by either us or our channel partners could subject us to investigations, fines, and other penalties, which could materially harm our operating results and financial condition. As an example, the United States Department of Justice (DOJ) and the General Services Administration (GSA) have in the past pursued claims against and financial settlements with IT vendors, including us and several of our competitors and channel partners, under the False Claims Act and other statutes related to pricing and discount practices and compliance with certain provisions of GSA contracts for sales to the federal government. Although the DOJ and GSA currently have no claims pending against us, we could face claims in the future. Violations of certain regulatory and contractual requirements could also result in us being suspended or debarred from future government contracting. Any of these outcomes could have a material adverse effect on our revenues, operating results and financial position.

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***Some of our products are subject to U.S. export control laws and other laws affecting the countries in which our products and services may be sold, distributed, or delivered; any violation of these laws could have a material and adverse effect on our business, financial condition and results of operations.***

Due to the global nature of our business, we are subject to import and export restrictions and regulations, including the Export Administration Regulations (EAR) administered by the Commerce Department's Bureau of Industry and Security (BIS) and the trade and economic sanctions regulations administered by the Treasury Department's Office of Foreign Assets Control (OFAC). The U.S., through the BIS and OFAC, places restrictions on the sale or export of certain products and services to certain countries and persons. Violators of these export control and sanctions laws may be subject to significant penalties, which may include significant monetary fines, criminal proceedings against them and their officers and employees, a denial of export privileges, and suspension or debarment from selling products to the federal government. We take a variety of precautions to prevent our products from being shipped to U.S.-sanctioned targets; however, our products could be shipped to those targets by third parties, including potentially our channel partners, despite such precautions. For instance, media reports starting in November 2011 have asserted that certain of our products were delivered to Syria through a third-party possibly in violation of U.S. export-control laws. We have publicly stated that we condemn any use of our products or technologies in Syria, we have notified the U.S. government that we are conducting a review of these allegations, and intend to cooperate fully with any government inquiry. We have met with U.S. government officials, provided information at their request, and expressed our willingness to continue cooperating with any further inquiry or investigation. If we are found to have violated U.S. export control laws, we may be subject to various penalties available under the laws, any of which could have a material and adverse impact on our business, operating results and financial position. Even if we are not found to have violated such laws, the political and media scrutiny surrounding any governmental investigation of us could cause us significant financial and reputational harm and distract senior executives from managing our normal day-to-day operations, which could have a material and adverse impact on our business, operating results and financial position.

***If we are unable to maintain and develop relationships with strategic partners, our revenues may be harmed.***

Our growth strategy includes developing and maintaining strategic partnerships with major third-party software and hardware vendors to integrate our products into their products and also co-market our products with them. A detailed description of these partnership relationships is identified in the Business Section of our Annual Report on Form 10-K filed with the Securities and Exchange Commission on June 17, 2013. A number of these strategic partners are industry leaders that offer us expanded access to segments of the storage and data management market. However, there is intense competition for attractive strategic partners, and these relationships may not be exclusive, may not generate significant revenues and may terminate on short notice. For instance some of our partners are also partnering with our competitors, which may increase the availability of competing solutions and harm our ability to grow our relationships with those partners. Moreover, some of our partners, particularly large, more diversified technology companies, are also competitors, complicating our relationships. If we are unable to establish new partnerships or maintain existing partnerships, if our strategic partners favor their relationships with other vendors in the storage industry or if our strategic partners increasingly compete with us, we could experience lower than expected revenues, suffer delays in product development, or experience other harm to our operating results and business.

***Our failure to adjust to emerging standards in the storage industry may harm our business.***

Emerging standards in the storage and data management 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 U.S. 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.

***If our products are defective, our gross margins, operating results and customer relationships may be harmed.***

Our products are complex. We have experienced in the past, and expect to experience in the future, quality issues. Quality risk is most acute when we are introducing new products, as we discuss in the next risk factor. 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 higher ongoing warranty and service costs, and these occurrences could have a material impact on our gross margins, business 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.

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***If we are unable to develop, introduce and gain market acceptance for clustered Data ONTAP or other new products while managing the transition from older products, or if we cannot provide the expected level of quality, service and support for our new products, our business, operating results and financial condition could be harmed.***

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 and quality control risks.

We are currently devoting considerable effort and resources to develop, introduce and gain customer acceptance for our clustered Data ONTAP-based products (cDOT). cDOT is our next generation storage operating system for our core products and represents a fundamental and revolutionary change to our solution architecture. Over time, our goal is to replace our existing technology Data ONTAP 7-Mode with cDOT and, consequently, we anticipate that a majority of our revenues will ultimately derive from cDOT. We face considerable challenges as we develop and market cDOT, including, without limitation, cost and complexity associated with migrating customer data and applications from legacy systems to cDOT-based systems, developing some features for cDOT currently available with Data ONTAP 7 and potentially required by our customers, and maintaining service, support and customer relationships as we replace Data ONTAP-7 with cDOT.

Nevertheless, if we are unable, for technological, customer reluctance or other reasons, to develop, introduce and gain market acceptance for cDOT, or any other new products, as and when required by the market and our customers, our business, operating results and financial condition could be materially and adversely affected.

New or additional product introductions also increase the complexities of forecasting revenues, and subject us to additional financial and operational risks. In addition, as new or enhanced products are introduced, we must also avoid excessive levels of older product inventories, and ensure that enough supplies of new products can be delivered to meet customers' demands. If these risks are not managed effectively, we could experience material risks to our operations, financial condition and business model.

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 materially harm our business.***

A significant portion of our operations are located, and a significant portion of our revenues are derived, outside of the U.S. For the three months ended July 26, 2013, our international revenues accounted for 49% of our total revenues. In addition, 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 factors affecting our international operations, but not experienced in the U.S., including, among other things, local political or economic conditions, trade protection and export and import requirements, local labor conditions, transportation costs, government spending patterns, acts of terrorism, international conflicts and natural disasters in areas with limited infrastructure. In addition, due to the global nature of our business, we are subject to complex legal and regulatory requirements in the U.S. and the foreign jurisdictions in which we operate and sell our products, including antitrust and anti-competition laws, rules and regulations, and regulations related to data privacy. 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.

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. We utilize forward and option contracts in an attempt to reduce the adverse earnings impact from the effect of exchange rate fluctuations on certain assets and liabilities as well as certain anticipated foreign currency cash flows on a short-term basis. Our hedging strategies may not be successful, and currency exchange rate fluctuations could have a material adverse effect on our operating results. In addition, our foreign currency exposure on assets and liabilities for which we do not hedge could have a material impact on our results of operations in periods when the U.S. dollar significantly fluctuates in relation to unhedged non-U.S. currencies in which we transact business.

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

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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 is influenced by a variety of factors, many of which are outside of our control. These factors include among other things, fluctuations in our earnings and financial results in the various countries and states in which we do business, and changes to the tax regulations in such jurisdictions. Any of these factors could materially impact our operating results.

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 U.S. 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 U.S. federal and state income taxes or foreign withholding taxes that may result from future remittances of undistributed earnings of foreign subsidiaries. The President's administration and Congress have announced several proposals to reform U.S. tax rules, including proposals that may result in a reduction or elimination of the deferral of U.S. 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 income tax audits in the U.S. and several foreign tax jurisdictions, as described in Note 12 to our consolidated financial statements. 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 Internal Revenue Service (IRS) examinations, which have resulted in material proposed assessments and/or litigation with respect to those companies.

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. Additionally, 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.

***Future issuances of common stock related to our warrants and employee equity awards may adversely affect the trading price of our common stock.***

Any new issuance of equity securities, including the issuance of shares upon the exercise of our outstanding warrants or shares issued in connection with employee equity awards could dilute the interests of our then-existing stockholders, and could substantially decrease the trading price of our common stock. 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.

***Our failure to pay quarterly dividends to our shareholders could cause the market price of our ordinary shares to decline significantly.***

Our ability to pay quarterly dividends will be subject to, among other things, our financial position and results of operations, available cash and cash flow, capital requirements, and other factors. Any reduction or discontinuation of quarterly dividends could cause the market price of our ordinary shares to decline significantly. Moreover, in the event our payment of quarterly dividends is reduced or discontinued, our failure or inability to resume paying dividends at historical levels could result in a persistently low market valuation of our stock.

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### ***Our acquisitions may not achieve expected benefits, increase our liabilities, disrupt our existing business and harm our results of operations.***

As part of our strategy, we seek to acquire other businesses and technologies to complement our current products, expand the breadth of our markets, or enhance our technical capabilities. In fiscal 2011, we completed acquisitions of two technology companies. In fiscal 2012, we completed the acquisition of certain assets related to Engenio, and in fiscal 2013, we completed the acquisitions of CacheIQ and IonGrid. The benefits we expect to receive from these and other acquisitions depend on our ability to successfully conduct due diligence, negotiate the terms of acquisition and integrate the acquired business. Any inaccuracy in our acquisition assumptions, any failure to uncover liabilities or risks associated with the acquisition, any failure to make the acquisition on favorable terms, or any failure to integrate the acquired business or assets as and when expected, may reduce or eliminate the expected benefits of the acquisition to us, increase our costs, disrupt our operations, result in additional liabilities, investigations and litigation, and may also harm our strategy, our results of operations or our business. The failure to achieve expected acquisition benefits may also result in impairment charges for goodwill and purchased intangible assets.

### ***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.***

We maintain an investment portfolio of various holdings, types, and maturities. A significant part of our investment portfolio consists of U.S. government securities. If global credit experiences prolonged periods of decline, or if there is a downgrade of U.S. government debt, our investment portfolio may be adversely impacted and we could determine that more of our investments have experienced an other-than-temporary decline in fair value, requiring impairment charges that could adversely affect our financial results. For a summary of these investments and our management of the same, please see “Quantitative and Qualitative Disclosures About Market Risk” in this document.

### ***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, some of our customers have entered into recourse and nonrecourse financing leasing arrangements using third-party leasing companies. Under the terms of 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.

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, provided lease financing arrangements or guaranteed lease payments under full recourse lease arrangements. Such events have caused us to incur bad debt charges, in the case of financing arrangements have caused a loss of revenues, and in the case of recourse lease arrangements have caused us to make payments to third-party financiers. 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 continuing 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.

### ***Any repatriation of our overseas cash to fund U.S. operations, strategic opportunities or debt service may subject us to a significant tax liability.***

As of July 26, 2013, \$3.7 billion of cash, cash equivalents and short-term investments was held in foreign countries. Under current law, dividend repatriation of any of this cash would trigger significant adverse tax consequences in the U.S. As a result, if the cash generated by our domestic operations is not sufficient to fund our domestic operations and our broader corporate initiatives, such as stock repurchases, dividends, 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 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-held cash and incur a significant tax expense. In any such case, our business, operating results or financial condition could be adversely impacted.

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***If we default under our significant debt obligations, including our Senior Notes, our business, results of operations and financial condition will be harmed. Moreover, covenants associated with our Senior Notes may unduly restrict our business.***

We have Senior Notes outstanding in an aggregate principal amount of \$1.0 billion that mature at specific dates in calendar 2017 and 2022. We have also established a revolving credit facility under which we may borrow an aggregate amount outstanding at any time of \$250.0 million, under which we had no borrowings outstanding as of July 26, 2013. We may fail to pay these obligations, as and when required. Specifically, if we are unable to generate sufficient cash flows from operations or to borrow sufficient funds in the future to service or refinance our debt, our business, results of operations and financial condition will be harmed.

In addition, our debt and credit facility arrangements subject us to continued compliance with restrictive and financial covenants. If we do not comply with these covenants or otherwise default under the arrangements, we may be required to repay any outstanding amounts borrowed under these agreements. Moreover, compliance with these covenants may restrict our strategic or operational flexibility in the future, which could harm our business, operating results and financial condition.

***We may incur asset impairment and restructuring charges in response to changing market conditions or cost-cutting initiatives.***

We may undertake cost savings initiatives in response to changes in market conditions and market demand for our products. These initiatives may include restructuring, disposing of, and/or otherwise discontinuing certain products, or both. Any decision to take these actions may result in charges to earnings associated with, among other things, inventory or other fixed, intangible or goodwill asset reductions (including, without limitation, impairment charges), workforce and facility reductions and penalties and claims from third party resellers or users of discontinued products. These charges would harm our operating results. We have previously recognized restructuring and other charges associated with these activities including \$48.4 million of restructuring charges recognized in the three months ended July 26, 2013. In addition to the costs associated with these activities, we may not realize any of the anticipated benefits of the same.

***We could be harmed if we fail to manage our growth.***

While we have historically grown rapidly, primarily through organic initiatives our acquisition activity has been ongoing and we expect to continue to look for opportunities to supplement our organic growth through strategic initiatives.

Our growth has at times led to both organizational change and strain. We may continue to experience rapid growth and organizational change, which may continue to place significant demands on our management, operational and financial resources and systems. We incur significant expenditures of funds and the allocation of management and other resources to manage our growth and assimilate new human resources in a manner that preserves the key aspects of our corporate culture and our reputation in the marketplace. We may experience periods when our pace of growth exceeds the capacity and capabilities of our organization and systems. If we do not effectively manage our growth through cost-effective organizational and system programs, 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.

***We are continually seeking ways to make our cost structure, business processes and systems more efficient, including by moving activities from higher-cost to lower-cost locations, outsourcing certain business processes and 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, including by moving our business activities from higher-cost to lower-cost locations, outsourcing certain business processes and functions, and implementing changes to our business information systems. These efforts involve a significant investment of financial and human resources and significant changes to our current operating processes. In addition, as we move operations into lower-cost jurisdictions and outsource certain business processes, we become subject to new regulatory regimes and lose control of certain aspects of our operations and, as a consequence, become more dependent upon the systems and business processes of third-parties. If we are unable to move our operations, outsource business processes and implement new business information systems in a manner that complies with local law and maintains adequate standards, controls and procedures, the quality of our products and services may suffer and we may be subject to increased litigation risk, either of which could have an adverse effect on our business and results of operations.

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### ***If we are unable to attract and retain qualified personnel, our business and operating results could be harmed.***

Our continued success depends, in part, on our ability to hire 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 hire and retain qualified engineers. Competition for qualified employees, particularly in Silicon Valley, is 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. Equity grants are a critical component of our current compensation programs. If we reduce, modify or eliminate our equity programs, due to increased shareholder activism, heightened focus on corporate compensation practices, or increased scrutiny of the dilutive effects of such programs, we may have difficulty attracting and retaining critical employees.

In addition, because of the structure of our cash and equity incentive compensation plans, we may be at increased risk of losing employees at certain times. For example, the retention value of our compensation plans decreases after the payment of annual bonuses or the vesting of equity awards.

### ***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 economic failure or other material disruption caused by natural disasters, including fires, floods, hurricanes, earthquakes, and volcanoes; power loss or shortages; environmental disasters; telecommunications or business information systems failures or 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, or impair our ability to meet our customer demands, our results of operations and financial condition could be materially adversely affected. In addition, our headquarters and one of our major data centers are located in Northern California, an area susceptible to earthquakes. If any significant disaster were to occur, our ability to operate our business and our financial condition could be impaired.

### ***Our failure to protect our intellectual property could harm our business, results of operations and financial condition.***

Our success depends significantly upon developing, maintaining and protecting proprietary technology. We rely on a combination of patents, copyrights, trademarks, trade secrets, confidentiality procedures and contractual provisions with employees, resellers, strategic partners and customers, to protect our proprietary rights. We currently have multiple U.S. and international patent applications pending and multiple U.S. and international 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 U.S. 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.

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### ***Changes in regulations relating to our products or their components, or the manufacture, sourcing, distribution or use thereof, may harm our business and operating results.***

The laws and regulations governing the manufacturing, sourcing, distribution and use of our products have become more complex and stringent over time. For example, in addition to various environmental laws relating to carbon emissions and the use and discharge of hazardous materials, the SEC has recently adopted regulations concerning the supply of certain minerals originating from the conflict zones of the Democratic Republic of Congo or adjoining countries. We may incur costs to comply with the new disclosure requirements of this law and may realize other costs relating to the sourcing and availability of minerals used in our products. Further, since our supply chain is complex, we may face reputational harm if our customers or other stakeholders conclude that we are unable to verify sufficiently the origins of the minerals used in the products we sell. As the laws and regulations governing our products continue to expand and change, our costs are likely to rise, and the failure to comply with any such laws and regulations could subject us to business interruptions, litigation risks and reputational harm.

### ***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 could be attributed to the quality of our products, thereby causing financial or reputational harm to our business.***

Our clients (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 our clients use or maintain our products, and in some cases improper usage or maintenance could impair the performance of our products.

Our clients may authorize third-party technology providers to access their data on our systems. Because we do not control the transmissions between our clients, their customers, and third-party technology providers, or the processing of such data by third-party technology providers, we cannot ensure the complete integrity or security of such transmissions or processing. Errors or wrongdoing by clients, their customers, or third-party technology providers resulting in security breaches may be attributed to us.

A failure or inability to meet our clients' expectations with respect to security and confidentiality through 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. This may affect our ability to retain clients and attract new business.

### ***If our security measures are breached or if stored data is improperly accessed, customers may reduce or cease using our solutions, our reputation may be harmed and we may incur significant liabilities.***

We store and transmit sensitive and proprietary data related to our employees, clients and partners (including third-party vendors such as data centers and providers of SaaS, cloud computing, and Internet infrastructure and bandwidth), and their respective customers, including intellectual property, books of record and personally identifiable information. Security breaches could result in unauthorized access to, or loss or unauthorized disclosure of, such information, litigation, indemnity obligations, government investigations and other possible liabilities, as well as negative publicity, which could damage our reputation. Additionally, our clients and customers use our platforms for the transmission and storage of sensitive data. We do not regularly monitor or review the information or content that our clients and their customers upload and store, and, therefore, we have no direct control over the substance of the information or content stored within our platforms. Therefore, if employees, clients, partners or their respective customers use our platforms for the transmission or storage of personally identifiable or other sensitive information and our security measures are breached as a result of third-party action, employee error, malfeasance, stolen or fraudulently obtained log-in credentials or otherwise, our reputation could be damaged, our business may be harmed and we could incur significant liabilities. Because techniques used to obtain unauthorized access or to sabotage systems change frequently and often are not recognized until launched against a target, we may be unable to anticipate these techniques or to implement adequate preventative measures. As we continue to increase our client base and expand our brand, we may become more of a target for third parties seeking to compromise our security systems.



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Many jurisdictions have enacted laws requiring companies to notify individuals of data security breaches involving certain types of personal data. These mandatory disclosures regarding security breaches often lead to widespread negative publicity. 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. Any security breach, whether actual or perceived, could harm our reputation, erode client confidence in the effectiveness of our data security measures, negatively impact our ability to attract new clients, cause existing clients to elect not to renew their support contracts, or subject us to third-party lawsuits, regulatory fines or other action or liability, which could materially and adversely affect our business and operating results.

There can be no assurance that the limitations of liability in our contracts would be enforceable or adequate or would otherwise protect us from any such liabilities or damages with respect to any particular claim. Our existing general liability insurance coverage and coverage for errors and omissions may not continue to be available on acceptable terms or may not be available in sufficient amounts to cover one or more large claims, or our insurer may deny coverage as to any future claim. The successful assertion of one or more large claims against us that exceeds available insurance coverage, or the occurrence of changes in our insurance policies, including premium increases or the imposition of large deductible or co-insurance requirements, could have a material adverse effect on our business, financial condition and results of operations.

***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, the increased use of fair value measures, 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.

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The following table provides information with respect to the shares of common stock repurchased by us during the three months ended July 26, 2013:

<u>Period</u>	<u>Total Number of Shares Purchased</u> (Shares in thousands)	<u>Average Price Paid per Share</u>	<u>Total Number of Shares Purchased as Part of Publicly Announced Program <sup>(1)</sup></u> (Shares in thousands)	<u>Approximate Dollar Value of Shares That May Yet Be Purchased Under The Repurchase Program <sup>(1)</sup></u> (Dollars in millions)
April 27, 2013 - May 24, 2013	—	\$ —	137,025	\$ 3,006.3
May 25, 2013 - June 21, 2013	18,746	\$ 40.01	155,771	2,256.3
June 22, 2013 - July 26, 2013	<u>2,922</u>	\$ 34.04	158,693	2,156.8
Total	<u>21,668</u>	\$ 39.20	158,693	2,156.8

<sup>(1)</sup> As of July 26, 2013, our Board of Directors had authorized the repurchase of up to \$7.1 billion of our common stock under a stock repurchase program, including an increase of \$1.6 billion approved by our Board of Directors in May 2013. Since the May 13, 2003 inception of this program through July 26, 2013, we repurchased a total of 158.7 million shares of our common stock at an average price of \$31.30 per share, for an aggregate purchase price of \$5.0 billion. As of July 26, 2013, the remaining authorized amount for stock repurchases under this program was \$2.2 billion with no termination date. The stock repurchase program may be suspended or discontinued at any time.

**Item 3. Defaults upon Senior Securities**

None

**Item 4. Mine Safety Disclosures**

Not Applicable.

**Item 5. Other Information**

None

**Item 6. Exhibits**

See the Exhibit Index immediately following the signature page of this Quarterly Report on Form 10-Q.

**SIGNATURE**

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

NETAPP, INC.  
(Registrant)

/s/ NICHOLAS R. NOVIELLO  
Nicholas R. Noviello  
Executive Vice President and  
Chief Financial Officer

Dated: August 29, 2013

**EXHIBIT INDEX**

<u>Exhibit No</u>	<u>Description</u>	<u>Incorporation by Reference</u>			
		<u>Form</u>	<u>File No.</u>	<u>Exhibit</u>	<u>Filing Date</u>
3.1	Certificate of Incorporation of the Company, as amended.	10-K	000-27130	3.1	June 24, 2008
3.2	Bylaws of the Company, as amended.	10-Q	000-27130	3.2	December 6, 2010
10.1	Collared Accelerated Share Repurchase Transaction, dated as of June 5, 2013, by and between the Company and Goldman, Sachs & Co.	—	—	—	—
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	—	—	—	—

**GOLDMAN, SACHS & CO. | 200 WEST STREET | NEW YORK, NEW YORK 10282-2198 | TEL: 212-902-1000**

June 5, 2013

Collared Accelerated Share Repurchase Transaction

NetApp, Inc.  
495 East Java Drive  
Sunnyvale, California 94089

Account Number:  
Reference Number:

Dear Sir/Madam:

The purpose of this letter agreement (this "Confirmation") is to confirm the terms and conditions of the Transaction entered into between Goldman, Sachs & Co. ("Seller") and NetApp, Inc., a Delaware corporation, (the "Issuer") on the Trade Date specified below (the "Transaction"). This confirmation, together with the related Trade Notification (defined below), constitutes a "Confirmation" as referred to in the ISDA Master Agreement specified below.

The additional terms of any particular Transaction shall be set forth in a Trade Notification in the form of Schedule II hereto (a "Trade Notification"), which shall reference the Confirmation and supplement, form a part of, and be subject to such Confirmation. The definitions and provisions contained in the 2002 ISDA Equity Derivatives Definitions (as published by the International Swaps and Derivatives Association, Inc. ("ISDA")) (the "Equity Definitions") are incorporated into this Confirmation. If, in relation to any Transaction to which this Confirmation and a Trade Notification relate, there is any inconsistency between the Agreement, this Confirmation, any Trade Notification and the Equity Definitions, the following will prevail for purposes of such Transaction in the order of precedence indicated: (i) such Trade Notification, (ii) this Confirmation; (iii) the Agreement; and (iv) the Equity Definitions. Any reference to a currency shall have the meaning contained in Annex A to the 1998 ISDA FX and Currency Option Definitions, as published by ISDA.

1. This Confirmation evidences a complete and binding agreement between Seller and Issuer as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall be subject to an agreement (the "Agreement") in the form of the 2002 ISDA Master Agreement (the "ISDA Form") as if Seller and Issuer had executed an agreement in such form without any Schedule except for (i) the designation of the General Guarantee Agreement of The Goldman Sachs Group, Inc. ("GS Group") dated January 30, 2006 in favor of each person to whom GS&Co. may owe any Obligations (as defined in the General Guarantee Agreement) and filed as Exhibit 10.45 to GS Group's Annual Report on Form 10-K for the fiscal year ended November 25, 2005 and any successor guarantee by GS Group in favor of each person to whom GS&Co. may owe any Obligations (as defined in the General Guarantee Agreement) as a Credit Support

Document under the Agreement and (ii) the designation of GS Group as a Credit Support Provider in relation to GS&Co. under the Agreement). For the avoidance of doubt, the Transaction shall be the only transaction under the Agreement. If there exists any ISDA Master Agreement between Seller and the Issuer or any confirmation or other agreement between Seller and the Issuer pursuant to which an ISDA Master Agreement is deemed to exist between Seller and the Issuer, then notwithstanding anything to the contrary in such ISDA Master Agreement, such confirmation or agreement or any other agreement to which Seller and the Issuer are parties, the Transactions shall not be considered Transactions under, or otherwise governed by, such existing or deemed ISDA Master Agreement.

2. The terms of the particular Transaction to which this Confirmation and any related Trade Notification relates are as follows:

**GENERAL TERMS:**

Trade Date:	June 5, 2013
Buyer:	Issuer
Seller:	Goldman, Sachs & Co.
Shares:	Common Stock of Issuer (Ticker: NTAP)
Number of Shares:	The number of Shares delivered in accordance with Physical Settlement below.
Forward Price:	A price per Share (as determined by the Calculation Agent) equal to the Mean of the 10b-18 VWAPs; <u>provided, however</u> , that if the Forward Price would otherwise be: (A) greater than the Forward Cap Price, the Forward Price shall equal the Forward Cap Price (as specified in Schedule I), or (B) less than the Forward Floor Price, the Forward Price shall equal the Forward Floor Price (as specified in Schedule I).
10b-18 VWAP:	For each Observation Date that is a Trading Day during the Calculation Period or the Initial Hedge Period, a price per share equal to the price shown on the screen entitled "NTAP <Equity> AQR SEC" or any successor page as reported by Bloomberg L.P. or, if such page is unavailable or manifestly incorrect, a price per share determined by the Calculation Agent in a good faith and commercially reasonable manner and in accordance with Rule 10b-18 under the Securities Exchange Act of 1934, as amended (the "Exchange Act").
Mean of 10b-18 VWAPs:	The arithmetic mean of the 10b-18 VWAP on each Observation Date that is a Trading Day

during the Calculation Period.

Calculation Period:	The period from and including the first Observation Date that is a Trading Day that occurs after the Initial Hedge Completion Date to but excluding the relevant Valuation Date; <u>provided, however</u> , that if the Valuation Date is the Scheduled Valuation Date, then the Valuation Date shall be included in the Calculation Period.
Trading Day:	Any Exchange Business Day that is not a Disrupted Day (as defined below).
Initial Hedge Period:	The period from and including the Trade Date to and including the Initial Hedge Completion Date.
Initial Hedge Completion Date:	As set forth in the related Trade Notification, to be the Observation Date on which Seller completes its initial hedge, as determined by Seller in its good faith and commercially reasonable discretion and communicated to the Buyer by 6:00p.m. EST on such date, but in no event later than the Initial Hedge End Date.
Initial Hedge End Date:	Six Trading Days after the beginning of the Initial Hedge Period, subject to postponement as provided under Market Disruption Event below.
Initial Hedge Period Reference Price:	As set forth in the related Trade Notification, to be an amount in USD equal to the arithmetic mean (not a weighted average) of the 10b-18 VWAP on each Observation Date that is a Trading Day from, and including, the first Observation Date that is a Trading Day immediately following the Trade Date to, and including, the Initial Hedge Completion Date.
Initial Shares:	A number of Shares equal to (i) the Prepayment Amount (as defined below) divided by (ii) the Forward Cap Price.
Initial Share Delivery Date:	One Exchange Business Day following the Initial Hedge Completion Date. On the Initial Share Delivery Date, Seller shall deliver a number of shares equal to the Initial Shares to Buyer in accordance with Section 9.4 of the Equity Definitions, with the Initial Share Delivery Date deemed to be a "Settlement Date" for purposes of such Section 9.4.

Prepayment:	Applicable
Prepayment Amount:	As specified in Schedule I; Seller and Issuer hereby agree that, notwithstanding anything to the contrary herein or in the Agreement, in the event that (a) an Early Termination Date (whether as a result of an Event of Default or a Termination Event) occurs or is designated with respect to any Transaction and, as a result, Issuer owes to Seller an amount calculated under Section 6(d) and 6(e) of the Agreement (calculated as if the Transactions being terminated on such Early Termination Date were the sole Transactions under the Agreement) or (b) Issuer owes to Seller, pursuant to Sections 12.2, 12.3, 12.6, 12.7, or 12.9 of the Equity Definitions, an amount calculated under Section 12.8 of the Equity Definitions, such amount shall be deemed to be zero.
Prepayment Date:	The Trade Date. On the Prepayment Date, Buyer shall pay to Seller the Prepayment Amount.
Exchange:	NASDAQ GS
Related Exchange:	The primary U.S. exchange on which options or futures on the relevant Shares are traded.
Market Disruption Event:	<p>The definition of “Market Disruption Event” in Section 6.3(a) of the Equity Definitions is hereby amended by replacing the words “at any time during the one-hour period that ends at the relevant Valuation Time” in the third line thereof with the words “at any time on any Observation Date during the Calculation Period or Initial Hedge Period or” after the word “material”.</p> <p>Notwithstanding anything to the contrary in the Equity Definitions, if any Observation Date in the Calculation Period or the Initial Hedge Period is a Disrupted Day, the Calculation Agent shall have the option in its reasonable discretion either (i) to determine the weighting of each Rule 10b-18 eligible transaction in the Shares on the relevant Disrupted Day using its commercially reasonable judgment for purposes of calculating the Forward Price, as applicable, (ii) to elect to extend the Calculation Period or the Initial Hedge Period by a number of Observation Dates equal to the number of Disrupted Days during the Calculation Period or</p>



the Initial Hedge Period; provided that the Calculation Period shall not be extended to a date later than the Final Share Delivery Date or (iii) to suspend the Calculation Period or the Initial Hedge Period, as appropriate, until the circumstances giving rise to such suspension have ceased; provided that the Calculation Period shall not be extended to a date later than the Final Share Delivery Date, in any case, by delivering notice in writing to Issuer of (x) the circumstances giving rise to such Disrupted Day and (y) any such weighting, extension or suspension as soon as reasonably practicable after the occurrence of such Disrupted Day and, with respect to a Disrupted Day arising with respect to any Requirements (as defined in Section 10), shall subsequently notify Issuer on the day Seller believes that the circumstances giving rise to such Disrupted Day have changed. For the avoidance of doubt, if Calculation Agent elects the option described in clause (i) above, then such Disrupted Day shall be deemed to be a Trading Day for purposes of calculating the Forward Price or the Initial Hedge Period Reference Price, as the case may be.

**VALUATION:**

Valuation Time:

The Scheduled Closing Time on the relevant Exchange.

Valuation Date:

The earlier of (i) the Scheduled Valuation Date (as specified in Schedule I) and (ii) any date after the First Acceleration Date (as specified in Schedule I) specified by Seller to Issuer by 9:00pm EST on such date as a Valuation Date, in each case, subject to extension in accordance with "Market Disruption Event" above or Section 9 or Section 10 below; provided, however, that in no event shall the Scheduled Valuation Date be extended to a date later than the Final Share Delivery Date; provided further, that if a Valuation Date occurs pursuant to clause (ii) above, then (A) the Calculation Period for this Transaction shall be deemed to end as of the Trading Day immediately preceding the relevant Valuation Date and (B) Seller shall specify a Valuation Date with

respect to the entire Transaction (such Valuation Date for the full Prepayment Amount, the "Acceleration Date").

On a Valuation Date, Calculation Agent shall calculate the Settlement Amount.

Final Share Delivery Date:

As specified in Schedule I; provided that such date shall be extended by one Trading Day for each Trading Day during a Regulation M Event.

**SETTLEMENT TERMS:**

Physical Settlement:

Applicable.

On the Settlement Date, Seller shall deliver to Buyer a number of Shares equal to (a) (i) the Prepayment Amount divided by (ii) the Forward Price as determined on the Valuation Date, minus (b) the Initial Shares, rounded to the nearest whole number of Shares (such number of Shares, the "Settlement Amount"); provided that the number of Shares to be delivered under Physical Settlement shall not be less than the Minimum Shares and not greater than the Maximum Shares.

Settlement Currency:

USD

Settlement Date:

The first Clearance System Business Day immediately following the Valuation Date, or if such date is not a Clearance System Business Day or if there is a Settlement Disruption Event on such day, the immediately succeeding Clearance System Business Day on which there is no Settlement Disruption Event.

Minimum Shares:

To be determined as specified in Schedule I, the final number for which shall be specified to the Issuer in the Trade Notification.

Maximum Shares:

To be determined as specified in Schedule I, the final number for which shall be specified to the Issuer in the Trade Notification.

**SHARE ADJUSTMENTS:**

Potential Adjustment Event:

Notwithstanding anything to the contrary in Section 11.2(e) of the Equity Definitions, an Extraordinary Dividend shall not constitute a Potential Adjustment Event. The parties agree

that any open market Share repurchases by the Issuer at prevailing prices, repurchases of Shares by the Issuer pursuant to the Issuer's stock repurchase plans or Compensatory Plans (as defined below) or accelerated share repurchases, including any Transactions, forward contracts or similar transactions on customary terms (including, without limitation, any discount to average VWAP prices), shall not be considered Potential Adjustment Events.

Extraordinary Dividend:	Any dividend or distribution on the Shares with an ex-dividend date occurring during the period from and including the Trade Date to and including the Valuation Date (other than any dividend or distribution of the type described in Section 11.2(e)(i) or Section 11.2(e)(ii)(A) or (B) of the Equity Definitions) (a "Dividend") that is either (i) a non-regularly scheduled Dividend or (ii) the amount or value of which (as determined by the Calculation Agent) exceeds the Ordinary Dividend Amount.
Ordinary Dividend Amount:	For any calendar quarter, USD \$00.15
Method of Adjustment:	Calculation Agent Adjustment; <u>provided</u> that if Seller suspends trading in the Shares for all or any portion of a Trading Day within the Calculation Period, the suspension shall be treated as a Potential Adjustment Event subject to Calculation Agent Adjustment. In the case of a suspension pursuant to Section 10, the Calculation Agent shall make such adjustments prior to the period of suspension, if it is practical to do so. Otherwise, and in all cases of a suspension as contemplated under "Market Disruption Event" above, the Calculation Agent shall, in a reasonable fashion, make such adjustments promptly following the period of suspension.
<b>EXTRAORDINARY EVENTS:</b>	
Consequences of Merger Events:	
Share-for-Share:	Modified Calculation Agent Adjustment
Share-for-Other:	Cancellation and Payment on that portion of the Other Consideration that consists of cash; Modified Calculation Agent Adjustment on the remainder of the Other Consideration

Share-for-Combined:	Modified Calculation Agent Adjustment
Tender Offer:	Applicable; <u>provided</u> that 12.1(d) of the Equity Definitions shall be amended by replacing the “10%” in the third line thereof with “20%.”
Consequences of Tender Offers:	
Share-for-Share:	Modified Calculation Agent Adjustment
Share-for-Other:	Modified Calculation Agent Adjustment
Share-for-Combined:	Modified Calculation Agent Adjustment
For purposes of this Transaction, the definition of Merger Date in Section 12.1(c) shall be amended to read, “Merger Date shall mean the Announcement Date.” For purposes of this Transaction, the definition of Tender Offer Date in Section 12.1(e) shall be amended to read, “Tender Offer Date shall mean the Announcement Date.” For purposes of the Transaction, the definition of Announcement Date in Section 12.1(l) shall be amended by replacing the words “that leads” with the words “that, if consummated, would lead” in both clause (i) and clause (ii) thereof.	
Composition of Combined Consideration:	Applicable
Nationalization, Insolvency or Delisting:	Cancellation and Payment (Calculation Agent Determination)
Additional Disruption Events:	
Change in Law:	Applicable; <u>provided</u> that Section 12.9(a)(ii) of the Equity Definitions is hereby amended by (i) replacing the phrase “the interpretation” in the third line thereof with the phrase “, or public announcement of, the formal or informal interpretation” and (ii) by immediately following the word “Transaction” in clause (X) thereof, adding the phrase “in the manner contemplated by the Hedging Party on the Trade Date”; <u>provided further</u> that the parties agree that, for the avoidance of doubt, for purposes of Section 12.9(a)(ii) of the Equity Definitions, “any applicable law or regulation” shall include the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, any rules and regulations promulgated thereunder and any similar law or regulation (such rules and regulations referred to herein as “Dodd-Frank”) without regard to Section 739 of Dodd-Frank or any similar legal certainty provision in any legislation enacted, or rule or regulation

promulgated and the consequences specified in Section 12.9(b)(i) of the Equity Definitions shall apply to any Change in Law arising from any such act, rule or regulation.

Failure to Deliver:	Applicable
Insolvency Filing:	Applicable
Hedging Disruption:	Applicable
Increased Cost of Hedging:	Not Applicable
Loss of Stock Borrow:	Applicable
Maximum Stock Loan Rate:	200 bps
Increased Cost of Stock Borrow:	Applicable
Initial Stock Loan Rate:	50 bps
Determining Party:	For all Extraordinary Events other than Change in Law arising out of Dodd-Frank, Seller; with respect to a Change in Law arising out of Dodd-Frank, either the Issuer or Seller may be the Determining Party; <u>provided</u> that, upon receipt of written request from Issuer, Determining Party if Seller shall promptly (but in no event later than within seven Scheduled Trading Days from the receipt of such request) provide the other party with a written explanation describing in reasonable detail any determination made by it (including any quotations, market data or information from internal sources used in making such determinations, but without disclosing the Seller's proprietary models).
Hedging Party:	For all Additional Disruption Events, Seller
Non-Reliance:	Applicable
<b>AGREEMENTS AND ACKNOWLEDGMENTS:</b>	
Regarding Hedging Activities:	Applicable
Additional Acknowledgments:	Applicable
3.	Calculation Agent: Seller; <u>provided</u> that upon receipt of written request from Issuer, Calculation Agent shall promptly (but in no event later than within seven Scheduled Trading

Days from the receipt of such request) provide Issuer with a written explanation describing in reasonable detail any determination made by it (including any quotations, market data or information from internal sources used in making such calculations, adjustments or determinations, but without disclosing Seller's proprietary models). All determinations made by the Calculation Agent shall be made in good faith and in a commercially reasonable manner.

4. Account Details:

**Goldman Sachs**

ABA:

BANK NAME: JP MORGAN CHASE

CITY: NEW YORK

A/C #:

ENTITY NAME: GOLDMAN SACHS & CO., NEW YORK

5. (a) Nationalization, Insolvency or Delisting. The words "the Transaction will be cancelled," in the first line of Section 12.6(c)(ii) are replaced with the words "Seller will have the right to cancel this Transaction,".

(b) Additional Termination Event. The declaration of any Extraordinary Dividend by Issuer during the period from and including the Trade Date to but excluding the final Valuation Date shall constitute an Additional Termination Event with this Transaction as the only "Affected Transaction" and Issuer as the sole "Affected Party".

(c) For the avoidance of doubt, this Transaction shall be deemed to be a "Share Forward Transaction" for purposes of the Equity Definitions; provided, however, that in Section 9.2(a)(iii) of the Equity Definitions the words "the Excess Dividend Amount, if any, and" shall be deleted.

6. Certain Payments and Deliveries by Seller. Notwithstanding anything to the contrary herein, or in the Equity Definitions, if at any time (i) an Early Termination Date occurs and Seller would be required to make a payment pursuant to Sections 6(d) and 6(e) of the Agreement, (ii) a Tender Offer occurs and Seller would be required to make a payment pursuant to Sections 12.3 and 12.7 of the Equity Definitions, (iii) a Merger Event occurs and Seller would be required to make a payment pursuant to Sections 12.2 and 12.7 of the Equity Definitions (iv) an Additional Disruption Event occurs and Seller would be required to make a payment pursuant to Sections 12.8 and 12.9 of the Equity Definitions or (v) a Nationalization, Insolvency or Delisting occurs and Seller would be required to make a payment pursuant to Sections 12.6 and 12.7 of the Equity Definitions, then Issuer shall have the option to require Seller to make such payment in cash or to settle such payment amount in Shares (or, in the case of a Merger Event, a number of units, each comprising the number or amount of the securities or property that a hypothetical holder of one Share would receive in such Merger Event (each such unit, an "Alternative Delivery Unit" and, the securities or property comprising such unit, "Alternative Delivery Property")) (any such payment described in Sections 6(i), (ii), (iii), (iv) or (v) above, an "Seller Payment Amount"). If Issuer elects for Seller to settle an Seller Payment Amount in Shares or Alternative Delivery Property, then on the date such Seller Payment Amount is due, a Settlement Balance shall be

established with an initial balance equal to the Seller Payment Amount. On such date, Seller shall commence purchasing Shares or Alternative Delivery Property for delivery to Issuer. At the end of each Trading Day on which Seller purchases Shares or Alternative Delivery Property pursuant to this Section 6, Seller shall reduce the Settlement Balance by the amount, determined in a good faith and commercially reasonable manner, paid by Seller to purchase the Shares or Alternative Delivery Property purchased on such Trading Day. Seller shall deliver any Shares or Alternative Delivery Property purchased on a Trading Day to Issuer on the third Exchange Business Day following the relevant Trading Day. Seller shall continue purchasing Shares or Alternative Delivery Property until the Settlement Balance has been reduced to zero.

7. Reserved.

8. Reserved.

9. Special Provisions for Merger Events. Notwithstanding anything to the contrary herein or in the Equity Definitions, to the extent that an Announcement Date for a potential Merger Transaction occurs during the term of this Transaction and such Announcement Date does not cause this Transaction to terminate in whole under the provisions of “Extraordinary Event” in paragraph 2 above:

(a) As soon as practicable following the public announcement of such potential Merger Transaction, Issuer shall provide Seller with written notice of such announcement;

(b) Promptly after request from Seller, Issuer shall provide Seller with written notice specifying (i) Issuer’s average daily Rule 10b-18 Purchases (as defined in Rule 10b-18) during the three full calendar months immediately preceding the Announcement Date that were not effected through Seller or its affiliates and (ii) the number of Shares purchased pursuant to the block purchase proviso in Rule 10b-18(b)(4) under the Exchange Act for the three full calendar months preceding the Announcement Date. Such written notice shall be deemed to be a certification by Issuer to Seller that such information is true and correct in all material respects. Issuer understands that Seller will use this information in calculating the trading volume for purposes of Rule 10b-18; and

(c) Seller in its reasonable discretion may extend the Calculation Period to account for any reduction in the number of Shares that could be purchased on each day during the Calculation Period in compliance with Rule 10b-18 following the Announcement Date.

“Merger Transaction” means any merger, acquisition or similar transaction involving a recapitalization of Issuer as contemplated by Rule 10b-18(a)(13)(iv) under the Exchange Act.

10. Seller Adjustments. In the event that Seller reasonably determines that it is appropriate with regard to any legal, regulatory or self-regulatory requirements or related policies and procedures (whether or not such requirements, policies or procedures are imposed by law or have been voluntarily adopted by Seller, and including, without limitation, Rule 10b-18, Rule 10b-5, Regulation 13D-G and Regulation 14E, “Requirements”), for Seller to refrain from purchasing Shares or to purchase fewer than the number of Shares Seller would otherwise purchase on any Trading Day during the duration of this Transaction, then Seller may, in its reasonable discretion, elect that the Initial Hedge Period or the Calculation Period, as the case may be, be suspended and, if appropriate, extended with regard to any Requirements; provided that in no event shall the Initial Hedge Period or Calculation Period be extended to a date later than the Final Share Delivery Date. Seller shall notify the Issuer upon the exercise of Seller’s rights pursuant to this

Section 10 and shall subsequently notify the Issuer on the day Seller believes that the circumstances giving rise to such exercise have changed. If the Initial Hedge Period or the Calculation Period is suspended pursuant to this Section 10, at the end of such suspension Seller shall determine the number of Trading Days remaining in the Calculation Period, as appropriate, and the terms of this Transaction shall be adjusted as set forth above under "Method of Adjustment."

11. Covenants.

(a) The Buyer covenants and agrees:

(i) that during the term of this Agreement, neither it nor any of its "affiliated purchasers" (as such term is defined in Rule 10b-18 under the Exchange Act ("Rule 10b-18")) shall directly or indirectly (which shall be deemed to include the writing or purchase of any cash-settled derivative instrument) purchase Shares (or any security convertible into or exchangeable for Shares) without the prior written approval of Seller or take any other action that would cause the purchase by Seller of any Shares in connection with this Agreement not to comply with Rule 10b-18 under the Exchange Act (assuming for the purposes of this paragraph that such Rule were otherwise applicable to such purchases), except through Seller or except in the event that after the Initial Hedge Completion Date, the Issuer may purchase a number of Shares in the open market on such Exchange Business Day up to 4% of the ADTV (as defined in Rule 10b-18) available on such Exchange Business Day, through Seller pursuant to customary open market repurchase documentation reasonably acceptable to both parties in compliance with the provisions of Rule 10b-18 and other applicable laws, rules, and regulations."

(ii) that it shall report the Transaction to the extent required under the Exchange Act and the rules and regulations thereunder;

(iii) that as of the Trade Date, the Issuer is in compliance with its reporting obligations under the Exchange Act;

(iv) that it is not relying, and has not relied, upon Seller or any of its representatives or advisors with respect to the legal, accounting, tax or other implications of this Agreement and that it has conducted its own analyses of the legal, accounting, tax and other implications of this Agreement, and that Seller and its affiliates may from time to time effect transactions for their own account or the account of customers and hold positions in securities or options on securities of the Buyer and that Seller and its affiliates may continue to conduct such transactions during the term of this Agreement; and

(v) that the Shares are not, and Issuer will not cause the Shares to be, subject to a "restricted period" (as defined in Regulation M promulgated under the Exchange Act) at any time during the Regulation M Period (as defined below) unless Issuer has provided written notice to Seller of such restricted period not later than the Scheduled Trading Day immediately preceding the first day of such "restricted period" (such event, a "Regulation M Event"); Issuer acknowledges that any such notice may cause an adjustment event to occur pursuant to Section 10; accordingly, Issuer acknowledges that its delivery of such notice must comply with the standards set forth in Section 20; provided, however, that Issuer may only declare up to 3



Regulation M Events during the Regulation M Period. "Regulation M Period" means, the period commencing on the first day of the Initial Hedge Period and ending on the earliest of (i) the Scheduled Valuation Date, (ii) the third Exchange Business Day immediately following the last day of the Calculation Period, or such earlier day as elected by Seller and notified to Issuer (or, if later, the First Acceleration Date), and (iii) in the event Section 6 applies to a Transaction, and Issuer elects to require Seller to deliver Shares or Alternative Delivery Property pursuant to such Section 6, the date reasonably determined by the Calculation Agent and notified to Issuer;

provided that this Section 11(a) shall not (i) limit the Buyer's ability, pursuant to its employee incentive plan or dividend reinvestment program, to re-acquire Shares in connection with the related equity transactions, (ii) limit Buyer's ability to withhold shares to cover tax liabilities associated with such equity transactions or (iii) limit Buyer's ability to grant stock and options to "affiliated purchasers" (as defined in Rule 10b-18) or the ability of such affiliated purchasers to acquire such stock or options, in connection with the Buyer's compensation policies for directors, officers and employees or any agreements with respect to the compensation of directors, officers or employees of any entities that are acquisition targets of Issuer, and in connection with any such purchase Buyer will be deemed to represent to Seller that such purchase does not constitute a "Rule 10b-18 Purchase" (as defined in Rule 10b-18) (any such incentive or compensatory plan, program or policy of Issuer, a "Compensatory Plan").

(b) During the Initial Hedge Period, Seller will use commercially reasonable efforts to purchase Shares to establish its initial hedge position in compliance with the limitations set forth in clauses (b)(2), (b)(3), (b)(4) and (c) of Rule 10b-18 under the Exchange Act, as if such rule could be applied to such purchases.

## 12. Representations, Warranties and Acknowledgments.

(a) The Buyer hereby represents and warrants to Seller that:

(i) as of the date hereof, the Buyer (A) is not in possession of any material, non-public information with respect to the Buyer or any of its securities, and is entering into this Agreement in good faith and not as part of a plan or scheme to evade the prohibitions of Rule 10b5-1 of the Exchange Act and (B) agrees not to alter or deviate from the terms of this Agreement or enter into or alter a corresponding or hedging transaction or position with respect to the Shares (including, without limitation, with respect to any securities convertible or exchangeable into the Shares) during the term of this Agreement;

(ii) the transactions contemplated by this Confirmation have been authorized under Buyer's publicly announced program to repurchase Shares;

(iii) the Buyer is not entering into this Agreement to facilitate a distribution of the Shares (or any security convertible into or exchangeable for Shares) or in connection with a future issuance of securities except pursuant to the Buyer's employee benefit plans and dividend reinvestment plan or other publicly disclosed transaction;

(iv) the Buyer is not entering into this Agreement to create actual or apparent trading activity in the Shares (or any security convertible into or

exchangeable for Shares) or to manipulate the price of the Shares (or any security convertible into or exchangeable for Shares); and

(v) the Buyer is as of the date hereof, and after giving effect to the transactions contemplated hereby will be, Solvent. As used in this paragraph, the term “Solvent” means, with respect to a particular date, that on such date (A) the present fair market value (or present fair saleable value) of the assets of the Buyer is not less than the total amount required to pay the liabilities of the Buyer on its total existing debts and liabilities (including contingent liabilities) as they become absolute and matured, (B) the Buyer is able to realize upon its assets and pay its debts and other liabilities, contingent obligations and commitments as they mature and become due in the normal course of business, (C) assuming consummation of the transactions as contemplated by this Agreement, the Buyer is not incurring debts or liabilities beyond its ability to pay as such debts and liabilities mature, (D) the Buyer is not engaged in any business or transaction, and does not propose to engage in any business or transaction, for which its property would constitute unreasonably small capital after giving due consideration to the prevailing practice in the industry in which the Buyer is engaged and (E) the Buyer is not a defendant in any civil action that could reasonably be expected to result in a judgment that Buyer is or would become unable to satisfy.

(b) Seller and the Buyer each hereby acknowledges that any transactions by Seller in the Shares will be undertaken by Seller, as the case may be, as principal for its own account. All of the actions to be taken by Seller in connection with this Agreement, shall be taken by Seller independently and without any advance or subsequent consultation with the Buyer.

(c) Buyer (i) is an “institutional account” as defined in FINRA Rule 4512(c); (ii) is capable of evaluating investment risks independently, both in general and with regard to all transactions and investment strategies involving a security or securities, and will exercise independent judgment in evaluating the recommendations of Seller or its associated persons, unless it has otherwise notified Seller in writing; and (iii) will notify Seller if any of the statements contained in clause (i) or (ii) of this Section 12(c) ceases to be true.

13. Acknowledgements of Buyer Regarding Hedging and Market Activity. Buyer acknowledges that:

- (a) during the period from (and including) the Trade Date to (and including) the Settlement Date, Seller and its affiliates may buy or sell Shares or other securities or buy or sell options or futures contracts or enter into swaps or other derivative securities in order to adjust its hedge position with respect to the transactions contemplated by this Transaction;
- (b) Seller and its affiliates also may be active in the market for the Shares other than in connection with hedging activities in relation to the transactions contemplated by this Transaction;
- (c) Seller shall make its own determination as to whether, when and in what manner any hedging or market activities in the Issuer’s securities shall be conducted and shall do so in a manner that it deems appropriate to hedge its price and market risk with respect to 10b-18 VWAP; and

- (d) any market activities of Seller and its affiliates with respect to the Shares may affect the market price and volatility of the Shares, as well as the 10b-18 VWAP, each in a manner that may be adverse to Buyer.

14. In the event that Seller becomes involved in any capacity in any action, proceeding or investigation brought by or against any person in connection with any matter referred to in this Agreement, to the extent that such action, proceeding or investigation results from the breach by the Buyer of any of its representations, warranties or covenants hereunder, the Buyer will reimburse Seller for its reasonable legal and other expenses (including the cost of any investigation and preparation) incurred in connection therewith. The Buyer also will indemnify and hold Seller harmless against any losses, claims, damages or liabilities to which it may become subject in connection with any matter referred to in this Agreement, to the extent any such loss, claim, damage or liability results from the breach by the Buyer of any of its representations, warranties or covenants hereunder, except to the extent that any such loss, claim, damage or liability results from the gross negligence or bad faith of Seller in effecting the transactions which are the subject of this Agreement; provided, however, that if it is determined by a court of competent jurisdiction in a final judgment that Seller is not entitled to be indemnified hereunder in connection with such matter, then Seller shall reimburse the Buyer for any expenses paid pursuant to the first sentence of this Section 14. If for any reason the foregoing indemnification is unavailable to Seller or insufficient to hold it harmless, then the Buyer shall contribute to the amount paid or payable by Seller as a result of such loss, claim, damage or liability in such proportion as is appropriate to reflect the relative fault of the Buyer on one hand and Seller on the other hand with respect to such loss, claim, damage, or liability and any other relevant equitable considerations. The reimbursement, indemnity and contribution obligations of the Buyer under this Section 14 shall be in addition to any liability which the Buyer may otherwise have, shall extend upon the same terms and conditions to any affiliate of Seller and the partners, directors, officers, agents, employees and controlling persons (if any), as the case may be, of Seller and any such affiliate and shall be binding upon and inure to the benefit of any successors, assigns, heirs and personal representatives of the Buyer, Seller, any such affiliate and any such person. The Buyer also agrees that neither Seller nor any of such affiliates, partners, directors, officers, agents, employees or controlling persons shall have any liability to the Buyer for or in connection with any matter referred to in this Agreement except to the extent that any losses, claims, damages, liabilities or expenses incurred by the Buyer result from the gross negligence or bad faith of Seller in effecting the transactions that are the subject of this Agreement. The foregoing provisions shall survive any termination or completion of this Agreement. For the purposes of this Section 14, the term "Seller" shall include Seller and its affiliates. The foregoing reimbursement, indemnity and contribution obligations of the Buyer shall be paid promptly in cash.

15. The parties hereto agree and acknowledge that Seller is a "financial participant" within the meaning of Section 101(22A) of Title 11 of the United States Code (the "Bankruptcy Code"). The parties hereto further agree and acknowledge that the Transaction is (i) a "securities contract" as such term is defined in Section 741(7) of the Bankruptcy Code, in which case each payment and delivery made pursuant to the Transaction is a "termination value," "payment amount" or "other transfer obligation" within the meaning of Section 362 of the Bankruptcy Code and a "settlement payment," within the meaning of Section 546 of the Bankruptcy Code and a "transfer," as such term is defined in Section 101(54) of the Bankruptcy Code and (ii) a "swap agreement," as such term is defined in Section 101(53B) of the Bankruptcy Code, with respect to which each payment and delivery hereunder or in connection herewith is a "termination value," "payment amount" or "other transfer obligation" within the meaning of Section 362 of the

Bankruptcy Code, and a “transfer,” as such term is defined in Section 101(54) of the Bankruptcy Code, and that Seller is entitled to the protections afforded by, among other sections, Sections 362(b)(6), 362(b)(17), 362(o), 546(e), 546(g), 548(d)(2), 555, 560 and 561 of 546(g) and 560 of the Bankruptcy Code.

16. Seller and Issuer hereby agree and acknowledge that Seller has authorized the Issuer and each of its employees, representatives and other agents to disclose this Transaction, including the tax treatment and tax structure thereof and all materials relating thereto, to any and all persons, and there are no express or implied agreements, arrangements or understandings to the contrary, and authorizes the Issuer to use any information that the Issuer receives or has received with respect to this Transaction in any manner.

17. Treatment in Bankruptcy; No Setoff; No Collateral.

(a) In the event the Buyer becomes the subject of proceedings (“Bankruptcy Proceedings”) under the U.S. Bankruptcy Code or any other applicable bankruptcy or insolvency statute from time to time in effect, any rights or claims of Seller hereunder in respect of this transaction shall rank for all purposes no higher than, but on a parity with, the rights or claims of holders of Shares, and Seller hereby agrees that its rights and claims hereunder shall be subordinated to those of all parties with claims or rights against the Buyer (other than common stockholders) to the extent necessary to assure such ranking. Without limiting the generality of the foregoing, after the commencement of Bankruptcy Proceedings, the claims of Seller hereunder shall for all purposes have rights equivalent to the rights of a holder of a percentage of the Shares equal to the aggregate amount of such claims (the “Claim Amount”) taken as a percentage of the sum of (i) the Claim Amount and (ii) the aggregate fair market value of all outstanding Shares on the record date for distributions made to the holders of such Shares in the related Bankruptcy Proceedings. Notwithstanding any right it might otherwise have to assert a higher priority claim in any such Bankruptcy Proceedings, Seller shall be entitled to receive a distribution solely to the extent and only in the form that a holder of such percentage of the Shares would be entitled to receive in such Bankruptcy Proceedings, and, from and after the commencement of such Bankruptcy Proceedings, Seller expressly waives (i) any other rights or distributions to which it might otherwise be entitled in such Bankruptcy Proceedings in respect of its rights and claims hereunder and (ii) any rights of setoff it might otherwise be entitled to assert in respect of such rights and claims. Section 6(f) of the Agreement is hereby deleted.

(b) Notwithstanding any provision of this Agreement or any other agreement between the parties to the contrary, neither the obligations of the Buyer nor the obligations of Seller hereunder are secured by any collateral, security interest, pledge or lien.

18. Reserved.

19. Account Details:

Account for Payments to Seller:	To be provided separately by Seller
Account for Payments to Issuer:	To be provided by Issuer

20. 10b5-1 Plan. Issuer and Seller each represent, warrant and covenant that:

(a) The Issuer is entering into this Confirmation and each Transaction hereunder in good faith and not as part of a plan or scheme to evade the prohibitions of Rule 10b5-1 under the

Exchange Act (“Rule 10b5-1”) or any other antifraud or anti-manipulation provisions of the federal or applicable state securities laws and, with respect to Issuer, that it has not entered into or altered and will not enter into or alter any corresponding or hedging transaction or position with respect to the Shares. The Issuer acknowledges that it is the intent of the parties that each Transaction entered into under this Confirmation comply with the requirements of paragraphs (c)(1)(i)(A) and (B) of Rule 10b5-1 and each Transaction entered into under this Confirmation shall be interpreted to comply with the requirements of Rule 10b5-1(c).

(b) Issuer will not seek to control or influence Seller’s decision to make any “purchases or sales” (within the meaning of Rule 10b5-1(c)(1)(i)(B)(3)) under any Transaction entered into under this Confirmation, including, without limitation, Seller’s decision to enter into any hedging transactions. Issuer represents and warrants that it has consulted with its own advisors as to the legal aspects of its adoption and implementation of this Confirmation and each Trade Notification under Rule 10b5-1.

(c) Each of Seller and Issuer acknowledges and agrees that any amendment, modification, waiver or termination of this Confirmation or Trade Notification must be effected in accordance with the requirements for the amendment or termination of a “plan” as defined in Rule 10b5-1(c). Without limiting the generality of the foregoing, any such amendment, modification, waiver or termination shall be made in good faith and not as part of a plan or scheme to evade the prohibitions of Rule 10b-5, and no such amendment, modification or waiver shall be made at any time at which Issuer or any officer, director, manager or similar person of Issuer is aware of any material non-public information regarding Issuer or the Shares.

21. Governing law: The laws of the State of New York.

**EACH PARTY HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHTS TO TRIAL BY JURY WITH RESPECT TO ANY LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS CONFIRMATION OR ANY TRANSACTION CONTEMPLATED HEREBY.**

Please confirm that the foregoing correctly sets forth the terms of our agreement by executing this Confirmation and returning it to us by facsimile to the number provided on the attached facsimile cover page.

Confirmed as of the date first written above:

NetApp, Inc.

Goldman, Sachs & Co.

By: /s/ Nicholas R. Noviello

By: /s/ Daniel Kopper

Name: Nicholas R. Noviello

Name: Daniel Kopper

Title: Executive Vice President - Finance, CFO

Title: Vice President

## Schedule I

This Schedule I, dated June 5, 2013 may be amended and/or superseded from time to time by mutual agreement of both parties. For the purposes of this Transaction, the following terms shall have the following values/meanings:

1. The Forward Cap Price equals 105.4% of the Initial Hedge Period Reference Price.
2. The Forward Floor Price equals 90% of the Initial Hedge Period Reference Price.
3. The Minimum Shares equals the Prepayment Amount divided by the Forward Cap Price, as set forth in the related Trade Notification.
4. The Maximum Shares equals the Prepayment Amount divided by the Forward Floor Price, as set forth in the related Trade Notification.
5. The Prepayment Amount equals USD 750,000,000.00.
6. The Scheduled Valuation Date shall mean the 30<sup>th</sup> Observation Date following the Initial Hedge Completion Date.
7. The Final Share Delivery Date shall be August 29, 2013.
8. The First Acceleration Date shall mean the 12<sup>th</sup> Observation Date following the Initial Hedge Completion Date; provided that under any circumstances where the Calculation Period is extended, the First Acceleration Date shall be postponed by an equal number of Observation Dates.
9. Observation Dates: Each Scheduled Trading Day after the Trade Date.

AGREED AND ACKNOWLEDGED (as of the date listed above)

NetApp, Inc.

/s/ Nicholas R. Noviello

Name: Nicholas R. Noviello

Title: Executive Vice President - Finance, CFO

Goldman, Sachs & Co.

/s/ Daniel Kopper

Name: Daniel Kopper

Title: Vice President



Schedule II  
TRADE NOTIFICATION

**To:** NetApp, Inc.  
495 East Java Drive  
Sunnyvale, California 94089

**From:** Goldman, Sachs & Co.

**Subject:** Collared Accelerated Share Repurchase Transaction

**Ref. No:** [Insert Reference No.]

**Date:** [Insert Date]

The purpose of this Trade Notification is to notify you of certain terms in the Transaction entered into between Goldman, Sachs & Co. (“Seller”) and NetApp, Inc. (“Issuer”) (together, the “Contracting Parties”) bearing the trade reference number set forth above.

This Trade Notification supplements, forms part of, and is subject to the Confirmation dated as of June 5, 2013 (the “Confirmation”) between the Contracting Parties, as amended and supplemented from time to time.

Initial Hedge Completion Date:	[    ]
Initial Hedge Period Reference Price:	USD [    ]
Minimum Shares:	[    ]
Maximum Shares:	[    ]

Yours sincerely,

Goldman, Sachs & Co.

By: \_\_\_\_\_  
Authorized Signatory

**CERTIFICATION PURSUANT TO SECTION 302(a)  
OF THE SARBANES-OXLEY ACT OF 2002**

I, Thomas Georgens, certify that:

- 1) I have reviewed this Quarterly Report on Form 10-Q 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 13a-15(f) and 15d-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

*President and Chief Executive Officer,*

*(Principal Executive Officer and Principal Operating Officer)*

Dated: August 29, 2013

**CERTIFICATION PURSUANT TO SECTION 302(a)  
OF THE SARBANES-OXLEY ACT OF 2002**

I, Nicholas R. Noviello, certify that:

- 1) I have reviewed this Quarterly Report on Form 10-Q 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 13a-15(f) and 15d-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/ NICHOLAS R. NOVIELLO

\_\_\_\_\_  
Nicholas R. Noviello  
*Executive Vice President and Chief Financial Officer*  
*(Principal Financial Officer and Principal Accounting Officer)*

Dated: August 29, 2013

**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 Quarterly Report of NetApp, Inc., on Form 10-Q for the quarterly period ended July 26, 2013 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 Quarterly Report on Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of NetApp, Inc.

/s/ THOMAS GEORGENS

Thomas Georgens  
*President and Chief Executive Officer,*  
*(Principal Executive Officer and Principal Operating Officer)*

Dated: August 29, 2013

**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, Nicholas R. Noviello, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Quarterly Report of NetApp, Inc., on Form 10-Q for the quarterly period ended July 26, 2013 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 Quarterly Report on Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of NetApp, Inc.

/s/ NICHOLAS R. NOVIELLO

Nicholas R. Noviello

*Executive Vice President and Chief Financial Officer*

*(Principal Financial Officer and Principal Accounting Officer)*

Dated: August 29, 2013

