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 October 30, 2009

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the transition period from to

Commission file number 0-27130

NetApp, Inc.
(Exact name of registrant as specified in its charter)

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

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

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

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

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

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

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

Indicate by check mark whether the registrant is a shell company (a 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.

Class	Outstanding at November 25, 2009
Common Stock	**338,906,046**

TABLE OF CONTENTS

TRADEMARKS

 Specifications are subject to change without notice. NetApp, the NetApp logo, Go further, faster, NearStore, and SnapMirror are trademarks or registered trademarks of NetApp, Inc. in the United States and/or other countries. Windows is a registered trademark of Microsoft Corporation. UNIX is a registered trademark of The Open Group. All other brands or products are trademarks or registered trademarks of their respective holders and should be treated as such.

PART I. FINANCIAL INFORMATION

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

NETAPP, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS

(In thousands)
(Unaudited)

	October 30, 2009	April 24, 2009
ASSETS		
Current Assets:		
Cash and cash equivalents	$ 1,728,841	$ 1,494,153
Short-term investments	1,226,697	1,110,053
Accounts receivable, net of allowances of $2,142 and $3,068 at October 30, 2009, and April 24, 2009, respectively	318,033	446,537
Inventories	61,141	61,104
Prepaid expenses and other assets	115,525	119,887
Short-term deferred income taxes	140,352	207,050
Total current assets	3,590,589	3,438,784
Property and Equipment, Net	780,378	807,923
Goodwill	680,986	680,986
Intangible Assets, Net	34,970	45,744
Long-Term Investments and Restricted Cash	116,406	127,317
Long-Term Deferred Income Taxes and Other Assets	361,178	283,625
	$ 5,564,507	$ 5,384,379
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current Liabilities:		
Accounts payable	$ 118,807	$ 137,826
Accrued compensation and related benefits	220,778	204,168
Other accrued liabilities	179,087	190,315
Accrual for GSA settlement	—	128,715
Income taxes payable	3,020	4,732
Deferred revenue	1,017,067	1,013,569
Total current liabilities	1,538,759	1,679,325
1.75% Convertible Senior Notes Due 2013	1,078,016	1,054,717
Other Long-Term Obligations	139,402	164,499
Long-Term Deferred Revenue	704,836	701,649
	3,461,013	3,600,190
Commitments and Contingencies (Note 16)		
Stockholders' Equity:		
Common stock (442,003 and 436,565 shares issued at October 30, 2009 and April 24, 2009, respectively)	442	437
Additional paid-in capital	3,276,172	3,115,796
Treasury stock at cost (104,325 shares at October 30, 2009 and April 24, 2009)	(2,927,376)	(2,927,376)
Retained earnings	1,747,831	1,600,490
Accumulated other comprehensive income (loss)	6,425	(5,158)
Total stockholders' equity	2,103,494	1,784,189
	$ 5,564,507	$ 5,384,379

See accompanying notes to condensed consolidated financial statements.

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

	Three Months Ended		Six Months Ended	
	October 30, 2009	October 24, 2008	October 30, 2009	October 24, 2008
Revenues:				
Product	$ 525,148	$ 570,436	$1,003,394	$1,118,291
Software entitlements and maintenance	169,815	152,722	335,105	297,134
Service	215,064	188,473	409,489	364,982
Net revenues	910,027	911,631	1,747,988	1,780,407
Cost of Revenues:				
Cost of product	199,134	260,332	411,669	510,110
Cost of software entitlements and maintenance	3,106	2,259	6,218	4,445
Cost of service	101,106	102,884	200,927	203,048
Total cost of revenues	303,346	365,475	618,814	717,603
Gross margin	606,681	546,156	1,129,174	1,062,804
Operating Expenses:				
Sales and marketing	300,835	304,045	602,268	607,152
Research and development	132,354	125,496	262,671	250,848
General and administrative	56,939	51,011	116,490	100,474
Restructuring and other charges	1,179	—	2,675	—
Merger termination proceeds, net	—	—	(41,120)	—
Total operating expenses	491,307	480,552	942,984	958,474
Income from Operations	115,374	65,604	186,190	104,330
Other Income (Expenses), Net:				
Interest income	6,979	17,619	15,596	33,094
Interest expense	(17,916)	(17,807)	(37,117)	(27,319)
Gain (loss) on investments, net	2,805	(22,613)	2,713	(25,234)
Other expenses, net	(1,270)	(479)	(2,218)	(2,468)
Total other expenses, net	(9,402)	(23,280)	(21,026)	(21,927)
Income Before Income Taxes	105,972	42,324	165,164	82,403
Provision (Benefit) for Income Taxes	10,295	(729)	17,823	4,627
Net Income	$ 95,677	$ 43,053	$ 147,341	$ 77,776
Net Income per Share:				
Basic	$ 0.28	$ 0.13	$ 0.44	$ 0.24
Diluted	$ 0.27	$ 0.13	$ 0.43	$ 0.23
Shares Used in Net Income per Share Calculations:				
Basic	336,667	327,319	335,602	330,587
Diluted	349,751	333,385	344,313	337,253

See accompanying notes to condensed consolidated financial statements.

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

	Six Months Ended	
	October 30, 2009	October 24, 2008
Cash Flows from Operating Activities:		
Net income	$ 147,341	$ 77,776
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	85,189	85,467
Stock-based compensation	85,429	64,167
Gain (loss) on investments	(2,537)	15,936
Asset impairment and write-offs	1,140	760
Allowance for doubtful accounts	9	1,704
Accretion of discount and issuance costs on notes	25,291	17,076
Deferred income taxes	(1,919)	(47,300)
Deferred rent	(829)	3,011
Tax benefit from stock-based compensation	14,410	45,549
Excess tax benefit from stock-based compensation	(1,350)	(34,311)
Changes in assets and liabilities:		
Accounts receivable	131,717	211,207
Inventories	334	(8,014)
Prepaid expenses and other assets	(1,071)	(20,002)
Accounts payable	(16,858)	(16,333)
Accrued compensation and related benefits	9,561	(30,756)
Other accrued liabilities	(19,456)	4,909
Accrual for GSA settlement	(128,715)	—
Income taxes payable	(1,608)	(536)
Long-term other liabilities	(6,334)	(818)
Deferred revenue	(14,215)	88,143
Net cash provided by operating activities	305,529	457,635
Cash Flows used in Investing Activities:		
Purchases of investments	(883,231)	(483,962)
Redemptions of investments	780,808	263,643
Reclassification from cash and cash equivalents to short-term investments	—	(597,974)
Change in restricted cash	(827)	682
Proceeds from nonmarketable securities	4,480	807
Purchases of property and equipment	(47,490)	(103,967)
Net cash used in investing activities	(146,260)	(920,771)
Cash Flows from Financing Activities:		
Proceeds from sale of common stock related to employee stock transactions	65,888	45,566
Tax withholding payments reimbursed by employee stock transactions	(5,717)	(2,591)
Excess tax benefit from stock-based compensation	1,350	34,311
Proceeds from issuance of convertible notes	—	1,265,000
Payment of financing costs	—	(26,581)
Sale of common stock warrants	—	163,059
Purchase of note hedges	—	(254,898)
Repayment of revolving credit facility	—	(107,251)
Repurchases of common stock	—	(399,982)
Net cash provided by financing activities	61,521	716,633
Effect of Exchange Rate Changes on Cash and Cash Equivalents	13,898	(18,947)
Net Increase in Cash and Cash Equivalents	234,688	234,550
Cash and Cash Equivalents:		
Beginning of period	1,494,153	936,479
End of period	$ 1,728,841	$ 1,171,029
Noncash Investing and Financing Activities:		
Acquisition of property and equipment on account	$ 7,123	$ 21,320
Supplemental Cash Flow Information:		
Income taxes paid	$ 16,483	$ 13,694
Income taxes refunded	$ 867	$ 6,658
Interest paid on debt	$ 11,069	$ 1,780

See accompanying notes to condensed consolidated financial statements.

NETAPP, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(In thousands, except per share amounts, Unaudited)

1. The Company

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

2. Condensed Consolidated Financial Statements

The accompanying unaudited condensed consolidated financial statements have been prepared by NetApp, Inc. without audit and reflect all adjustments, consisting only of normal recurring adjustments which are, in the opinion of management, necessary for a fair presentation of our financial position, results of operations, 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, they do not include all information and footnotes required by GAAP for annual consolidated financial statements, and should be read in conjunction with the Company's audited consolidated financial statements as of and for the fiscal year ended April 24, 2009 contained in the Company's Annual Report on Form 10-K filed on June 17, 2009, as revised in the Company's Current Report on Form 8-K filed on September 30, 2009. The results of operations for the three and six month periods ended October 30, 2009 are not necessarily indicative of the operating results to be expected for the full fiscal year or future operating periods. The Company evaluated subsequent events for disclosure through December 2, 2009, the date the financial statements were issued.

We operate on a 52-week or 53-week fiscal year ending on the last Friday in April. The first six month period of fiscal 2010 was a 27-week, or 189-day period, and the first six month period of fiscal 2009 was a 26-week, or 182-day period.

Effective April 25, 2009, we adopted the new guidance for accounting for convertible debt, which requires retrospective adoption to previously disclosed consolidated financial statements. As such, certain prior period amounts have been revised in the unaudited condensed consolidated financial statements to reflect the adoption of this guidance for all periods presented. See Note 7 for a discussion of the impact of the implementation of this standard.

Recent Accounting Pronouncements

In August 2009, the Financial Accounting Standards Board (FASB) issued revised guidance for the fair value measurement of liabilities. The purpose of this revision is to reduce ambiguity in financial reporting when measuring the fair value of liabilities. The revised guidance was effective for us during the interim period ending on October 30, 2009 and did not have a material impact on our financial statements.

In June 2009, the FASB issued revised guidance for the accounting for variable interest entities (VIEs). The scope within the revised standard now includes qualifying special-purpose entities and provides revised guidance on (1) determining the primary beneficiary of the VIE, (2) how power is shared, (3) consideration for kick-out, participating and protective rights, (4) reconsideration of the primary beneficiary, (5) reconsideration of a VIE, (6) fees paid to decision makers or service providers, and (7) presentation requirements. This accounting guidance is effective as of the first three month period of fiscal 2011, and early adoption is prohibited. We are currently evaluating the impact of the adoption of this guidance on our consolidated financial statements.

In October 2009, the FASB amended the accounting standards for multiple deliverable revenue arrangements to:

(i) provide updated guidance on whether multiple deliverables exist, how the deliverables in an arrangement should be separated, and how the consideration should be allocated;

(ii) require an entity to allocate revenue in an arrangement using estimated selling prices (ESP) of deliverables if a vendor does not have vendor-specific objective evidence of selling price (VSOE) or third-party evidence of selling price (TPE);

(iii) eliminate the use of the residual method and require an entity to allocate revenue using the relative selling price method; and

(iv) expand the disclosure requirements to require an entity to provide both qualitative and quantitative information about the significant judgments made in applying the revised guidance and subsequent changes in those judgments that may significantly affect the timing or amount of revenue recognition.

In addition, in October 2009, the FASB amended the accounting standards for revenue recognition to exclude tangible products containing software components and non-software components that function together to deliver the tangible product's essential functionality from the scope of the software revenue recognition guidance. The revised revenue recognition accounting standards are effective for revenue arrangements entered into or materially modified in fiscal years beginning on or after June 15, 2010 and shall be applied on a prospective basis. Earlier application is permitted. We are assessing the impact of the new accounting standards on our financial position and results of operations.

3. Concentration of Risk

Sales to Arrow and Avnet, who are U.S. distributors, each accounted for 12% and 11% of our net revenues, respectively, for each of the three and six month periods ended October 30, 2009, and 11% and 10% of our revenues, respectively, for each of the three and six month periods ended October 24, 2008.

During the three and six month periods ended October 30, 2009, sales to customers in Germany accounted for 12% and 10% of our net revenues, respectively. During each of the three and six month periods ended October 24, 2008, sales to customers in Germany accounted for 10% of our net revenues.

4. Use of Estimates

The preparation of the 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 period. Such estimates include, but are not limited to, revenue recognition and allowances; allowance for doubtful accounts; valuation of goodwill and intangibles; fair value of derivative instruments and related hedged items; accounting for income taxes; inventory valuation and contractual commitments; restructuring accruals; warranty reserve; impairment losses on investments; fair value of awards granted under our stock-based compensation plans; and loss contingencies. Actual results could differ from those estimates.

5. Significant Accounting Policies

With the exception of the adoption of revised accounting guidance as described above, there have been no significant changes in our significant accounting policies for the three and six month periods ended October 30, 2009, as compared to the significant accounting policies described in our Annual Report on Form 10-K for the fiscal year ended April 24, 2009, as revised to reflect the adoption of the new guidance on accounting for convertible debt by our Current Report on Form 8-K filed on September 30, 2009.

Financial Instruments

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

Cash and Cash Equivalents. We consider all highly liquid investments with an original maturity of three months or less to be cash equivalents. Cash equivalents are recognized at fair value.

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

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

6. Termination of Proposed Merger with Data Domain, Inc.

On May 20, 2009, we announced that we had entered into a merger agreement with Data Domain, Inc. (Data Domain) under which we would acquire Data Domain in a stock and cash transaction. On July 8, 2009, Data Domain's Board of Directors terminated the merger agreement and, pursuant to the terms of the agreement, Data Domain paid us a $57,000 termination fee. We incurred $15,880 of incremental third-party costs relating to the terminated merger transaction during the same period, resulting in a net amount of $41,120 reported as merger termination proceeds, net in the condensed consolidated statement of operations for the six month period ended October 30, 2009.

7. Convertible Notes and Credit Facilities

1.75% Convertible Senior Notes Due 2013

On June 10, 2008, we issued $1,265,000 aggregate principal amount of 1.75% Convertible Senior Notes due 2013 (the Notes) to initial purchasers who resold the Notes to qualified institutional buyers as defined in Rule 144A under the Securities Act of 1933, as amended. The Notes are unsecured, unsubordinated obligations of the Company. Interest is payable in cash at a rate of 1.75% per annum. The net proceeds from the offering, after deducting the initial purchasers' issue costs and offering expenses of $26,581, were $1,238,419.

On April 25, 2009, we adopted new guidance related to the accounting for convertible debt instruments and allocated the initial proceeds of the Notes between a liability (debt) and an equity component based on the fair value of the debt component as of the issuance date. The initial debt component of the Notes was valued at $1,016,962 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 $248,038 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, $5,212 of the issuance costs were allocated to the equity component of the Notes, and $21,369 of the issuance costs remained classified as long-term other assets. The debt discount and the issuance costs allocated to the debt component are amortized as additional interest expense over the term of the Notes using the effective interest method and an effective interest rate of 6.31% for all periods presented.

The statements of operations for the three and six month periods ended October 24, 2008 were impacted by the adoption of the new guidance as follows:

	Three Months Ended October 24, 2008		Six Months Ended October 24, 2008	
	As Previously Reported	As Adjusted	As Previously Reported	As Adjusted
Interest expense	$ (7,542)	$ (17,807)	$ (12,117)	$ (27,319)
Provision (benefit) for income taxes	3,407	(729)	10,752	4,627
Net income	49,182	43,053	86,853	77,776
Net income per share — basic	$ 0.15	$ 0.13	$ 0.26	$ 0.24
Net income per share — diluted	$ 0.15	$ 0.13	$ 0.26	$ 0.23

The amortization of the debt discount is a non-cash expense and has no impact on total operating, investing and financing cash flows in the prior period condensed consolidated statements of cash flows.

The following table reflects the carrying value of our convertible debt as of October 30, 2009 and April 24, 2009:

	October 30, 2009	April 24, 2009
1.75% Convertible Notes Due 2013	$ 1,265,000	$ 1,265,000
Less: Unamortized discount	(186,984)	(210,283)
Net long-term carrying amount of Notes	$ 1,078,016	$ 1,054,717

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

	Three Months Ended		Six Months Ended	
	October 30, 2009	October 24, 2008	October 30, 2009	October 24, 2008
Contractual interest coupon	$ 5,534	$ 5,473	$ 11,437	$ 8,302
Amortization of debt discount	11,249	10,604	23,302	15,724
Amortization of issuance costs	962	905	1,989	1,352
Total interest cost recognized	$ 17,745	$ 16,982	$ 36,728	$ 25,378

The remaining debt discount and issuance cost of $186,984 and $16,138, respectively, as of October 30, 2009 will be amortized over the expected remaining life of the Notes, which is approximately 3.6 years.

Maturity — The Notes will mature on June 1, 2013 unless repurchased or converted in accordance with their terms prior to such date.

Redemption — The Notes are not redeemable by us prior to the maturity date, but the holders may require us to repurchase the Notes following a fundamental change, which is deemed to have occurred upon a change of control, liquidation or a termination of trading. Holders of the Notes who convert their Notes in connection with a fundamental change will, under certain circumstances, be entitled to a make-whole premium in the form of an increase in the conversion rate. Additionally, in the event of a fundamental change, holders of the Notes may require us to repurchase all or a portion of their Notes at a repurchase price equal to 100% of the principal amount of the Notes plus accrued and unpaid interest, if any, to, but not including, the fundamental change repurchase date.

Conversion — Holders of the Notes may convert their Notes on or after March 1, 2013 until the close of business on the scheduled trading day immediately preceding the maturity date. Upon conversion, we will satisfy our conversion obligation by delivering cash and shares of our common stock, if any, based on a daily settlement amount. Prior to March 1, 2013, holders of the Notes may convert their Notes, under any of the following conditions:

- during the five business day period after any five consecutive trading day period in which the trading price of the Notes for each day in this five consecutive trading day period was less than 98% of an amount equal to (i) the last reported sale price of our common stock multiplied by (ii) the conversion rate on such day;
- during any calendar quarter beginning after June 30, 2008 (and only during such calendar quarter), if the last reported sale price of our common stock for 20 or more trading days in a period of 30 consecutive trading days ending on the last trading day of the immediately preceding calendar quarter exceeds 130% of the applicable conversion price in effect for the Notes on the last trading day of such immediately preceding calendar quarter; or
- upon the occurrence of specified corporate transactions under the indenture for the Notes.

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

As of October 30, 2009, none of the conditions allowing the holders of the Notes to convert had been met and we had not issued any shares related to the Notes. As of October 30, 2009, the if-converted value of the Notes did not exceed their face value.

Note Hedges and Warrants

Concurrent with the issuance of the Notes, we entered into note hedge transactions (the Note Hedges), which are designed to mitigate potential dilution from the conversion of the Notes in the event that the market value per share of our common stock at the time of exercise is greater than $31.85 per share, subject to adjustments. The Note Hedges generally cover, subject to anti-dilution adjustments, the net shares of our common stock that would be deliverable to converting Note holders in the event of a conversion of the Notes. The Note Hedges expire at the earlier of (i) the last day on which any Notes remain outstanding and (ii) the scheduled trading day immediately preceding the maturity date of the Notes. We also entered into separate warrant transactions whereby we sold to the same financial institutions warrants (the Warrants) to acquire, subject to anti-dilution adjustments, 39,700 shares of our common stock at an exercise price of $41.28 per share, subject to adjustment, on a series of days commencing on September 3, 2013. Upon exercise of the Warrants, we have the option to deliver cash or shares of our common stock equal to the difference between the then market price and the strike price of the Warrants. As of October 30, 2009, we had not received any shares related to the Note Hedges or delivered cash or shares related to the Warrants.

If the market value per share of our common stock at the time of conversion of the Notes is above the strike price of the Note Hedges, the Note Hedges will generally entitle us to receive net shares of our common stock (and cash for any fractional share amount) based on the excess of the then current market price of our common stock over the strike price of the Note Hedges, which is designed to offset any shares that we may have to deliver to the Note holders. Additionally, at the time of exercise of the Warrants, if the market price of our common stock exceeds the strike price of the Warrants, we will owe the option counterparties net shares of our common stock (and cash for any fractional share amount) or cash in an amount based on the excess of the then current market price of our common stock over the strike price of the Warrants.

The cost of the Note Hedges was $254,898 and has been accounted for as an equity transaction. We received proceeds of $163,059 related to the sale of the Warrants, which has also been classified as equity.

Lehman Brothers OTC Derivatives, Inc. (Lehman OTC) is the counterparty to 20% of our Note Hedges. The bankruptcy filing by Lehman OTC on October 3, 2008 constituted an "event of default" under the hedge transaction that could, at our option, lead to termination under the hedge transaction to the extent we provide notice to the counterparty under such transaction. We have not terminated the Note Hedge transaction with Lehman OTC, and will continue to carefully monitor the developments impacting Lehman OTC. The "event of default" is not expected to have an impact on our financial position or results of operations. However, we could incur significant costs to replace this hedge transaction originally held with Lehman OTC if we elect to do so. If we do not elect to replace this hedge transaction, then we would be subject to potential dilution upon conversion of the Notes, if on the date of conversion the per-share market price of our common stock exceeds the conversion price of $31.85.

The terms of the Notes, the rights of the holders of the Notes and other counterparties to Note Hedges and Warrants were not affected by the bankruptcy filings of Lehman OTC.

Earnings per share impact on the Notes, Note Hedges and Warrants — The Notes will have no impact on diluted earnings per share unless the price of our common stock exceeds the conversion price (initially $31.85 per share) because the principal amount of the Notes will be settled in cash upon conversion. The Note Hedges are not included for purposes of calculating earnings per share in the periods presented, as their effect would be anti-dilutive. Upon conversion of the Notes, the Note Hedges are designed to neutralize the dilutive effect of the Notes when the stock price is above $31.85 per share. Also, the Warrants will have no impact on earnings per share until our common stock share price exceeds $41.28. Prior to conversion of the Notes or exercise of the Note Hedges, we will include the effect of additional shares that may be issued if our common stock price exceeds the conversion price, using the treasury stock method.

Fair Value of Notes

As of October 30, 2009, the approximate fair value of the principal amount of our Notes, which includes the debt and equity components, was approximately $1,389,919, or 109.9% of the face value of the Notes, based upon quoted market information.

Unsecured Credit Agreement

On November 2, 2007, we entered into a senior unsecured credit agreement (the Unsecured Credit Agreement) with certain lenders and BNP Paribas, as syndication agent, and JPMorgan Chase Bank National Association, as administrative agent. The Unsecured Credit Agreement provides for a revolving unsecured credit facility that is comprised of commitments from various lenders who agree to make revolving loans and swingline loans and issue letters of credit of up to an aggregate amount of $250,000 with a term of five years. Revolving loans may be, at our option, Alternative Base Rate borrowings or Eurodollar borrowings. Interest on Eurodollar borrowings accrues at a floating rate based on LIBOR for the interest period specified by us plus a spread based on our leverage ratio. Interest on Alternative Base Rate borrowings, swingline loans, and letters of credit accrues at a rate based on the Prime Rate in effect on such day. The proceeds of the loans may be used for our general corporate purposes, including stock repurchases and working capital needs. As of October 30, 2009, no amount was outstanding under this facility. The amounts allocated under the Unsecured Credit Agreement to support certain of our outstanding letters of credit as of October 30, 2009 were immaterial. As of October 30, 2009, we were in compliance with all covenants as required by the Unsecured Credit Agreement.

8. Stock-Based Compensation, Equity Incentive Programs and Stockholders' Equity

Stock-Based Compensation Expense

Stock-based compensation expense included in the condensed consolidated statements of operations for the three and six month periods ended October 30, 2009 and October 24, 2008, respectively, are as follows:

	Three Months Ended		Six Months Ended	
	October 30, 2009	October 24, 2008	October 30, 2009	October 24, 2008
Cost of product revenues	$ 510	$ 624	$ 1,730	$ 1,572
Cost of service revenues	2,942	2,419	7,461	5,460
Sales and marketing	15,690	12,849	39,655	29,191
Research and development	7,909	7,482	20,625	17,669
General and administrative	6,194	4,389	15,958	10,275
Total stock-based compensation expense	$ 33,245	$ 27,763	$ 85,429	$ 64,167

The following table summarizes stock-based compensation expense associated with each type of award:

	Three Months Ended		Six Months Ended	
	October 30, 2009	October 24, 2008	October 30, 2009	October 24, 2008
Employee stock options	$ 11,111	$ 14,726	$ 40,508	$ 38,057
Restricted stock units (RSUs) and restricted stock awards (RSAs)	13,668	7,409	30,484	15,098
Employee Stock Purchase Plan (ESPP)	8,727	5,608	14,808	10,989
Change in amounts capitalized in inventory	(261)	20	(371)	23
Total stock-based compensation expense	$ 33,245	$ 27,763	$ 85,429	$ 64,167

For the six month periods ended October 30, 2009 and October 24, 2008, total income tax benefits associated with employee stock transactions and recognized in stockholders' equity was $14,410 and $45,549, respectively.

Valuation Assumptions

We estimated the fair value of stock options using the Black-Scholes model on the date of the grant. Assumptions used in the Black-Scholes valuation model were as follows:

	Stock Options		ESPP	
	Three Months Ended		Three Months Ended	
	October 30, 2009	October 24, 2008	October 30, 2009	October 24, 2008
Expected term in years(1)	4.7	3.9	N/A*	N/A*
Risk-free interest rate(2)	2.38% - 2.44%	2.36% - 3.05%		
Volatility(3)	40% - 44%	39% - 69%		
Expected dividend(4)	0%	0%		

	Stock Options		ESPP	
	Six Months Ended		Six Months Ended	
	October 30, 2009	October 24, 2008	October 30, 2009	October 24, 2008
Expected term in years(1)	4.2	4.0	1.3	1.3
Risk-free interest rate(2)	1.89% - 2.58%	2.36% - 3.69%	0.25% - 0.97%	2.05% - 2.52%
Volatility(3)	40% - 49%	38% - 69%	44% - 47%	39% - 41%
Expected dividend(4)	0%	0%	0%	0%

* N/A- No new employee purchase rights were granted under the ESPP during the three month periods ended October 30, 2009 or October 24, 2008.

(1) The expected term of the options represents the estimated period of time until exercise and is based on historical experience of similar awards, giving consideration to the contractual terms, vesting schedules, and expectations of future employee behavior. The expected term for the ESPP is based on the term of the purchase period.

(2) The risk-free interest rate is based upon United States Treasury bills with equivalent expected terms.

(3) The volatility rate is based on the implied volatility of traded options.

(4) The expected dividend is based on our history and expected dividend payouts.

Our forfeiture rate is based on historical termination behavior and we recognize compensation expense only for those equity awards expected to vest.

Stock Option Exchange

On April 21, 2009, our stockholders approved a stock option exchange program (the Exchange) pursuant to which eligible employees were able to exchange some or all of their outstanding options with an exercise price greater than or equal to $22.00 per share that were granted before June 20, 2008, whether vested or unvested, for new RSUs. The number of RSUs granted in exchange for the options depended on the exercise price of the options exchanged. The vesting schedule of the RSUs was determined on a grant-by-grant basis and depended on the extent to which the options surrendered in exchange for such RSUs had vested at the time of such exchange and, for surrendered options that were fully vested, the exercise price. Vesting of the RSUs is conditioned upon continued service with the Company through each applicable vesting date. On May 22, 2009, we commenced the Exchange, which expired on June 19, 2009. In connection with the Exchange, we accepted for exchange options to purchase 24,484 shares of our common stock. All surrendered options were cancelled, and immediately thereafter, we issued a total of 3,226 RSUs in exchange. One share of our common stock is issuable upon the vesting of each RSU. The fair value of the RSUs issued was measured as the total of the unrecognized compensation cost of the options surrendered and the incremental value of the RSUs issued, measured as the excess of the fair value of the RSUs over the fair value of the options tendered immediately before the exchange. The incremental cost of the RSUs was $5,768. The value of the RSUs, totaling $70,110, is being amortized over the weighted average vesting period of the RSUs of 3.5 years.

In addition, under the terms of the Exchange, option holders who would have otherwise received fewer than forty RSUs for options tendered received cash payments equal to the number of RSUs otherwise issuable times the market value of our common stock as of the close of market on the day preceding the completion of the Exchange. A total of $465 in cash payments was made, and we recorded a charge to stock-based compensation expense of $508, which represented the acceleration of the unamortized expense related to the options tendered and their incremental value as of the date of the Exchange.

In connection with the incentive stock options tendered for RSUs under the Exchange, we recorded $10,013 of deferred tax benefits which had not been previously recognized related to the cumulative amortized stock-based compensation expense related to such options which had not been previously benefited for income tax purposes.

Stock Options

A summary of the combined activity under our stock option plans and agreements is as follows:

	Outstanding Options		Weighted Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value
	Numbers of Shares	Weighted Average Exercise Price		
Outstanding at April 24, 2009	66,119	$ 29.27		
Options granted	4,021	21.86		
Options exercised	(2,382)	16.93		
Options cancelled in the Exchange	(24,484)	39.05		
Options forfeitures and cancellations	(3,073)	34.29		
Outstanding at October 30, 2009	40,201	22.93	4.45	$252,321
Options vested and expected to vest as of October 30, 2009	36,831	23.11	4.32	$229,215
Exercisable at October 30, 2009	27,328	24.04	3.76	$161,209

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

	Three Months Ended		Six Months Ended	
	October 30, 2009	October 24, 2008	October 30, 2009	October 24, 2008
Weighted-average fair value per share granted	$ 9.70	$ 7.91	$ 8.14	$ 8.31
Intrinsic value of options exercised	$ 12,369	$ 10,600	$ 16,491	$ 20,317
Proceeds received from the exercise of stock options	$ 27,385	$ 10,038	$ 40,337	$ 19,516
Fair value of option vested	$ 35,894	$ 32,831	$ 81,936	$ 80,617

There was $91,694 of total unrecognized compensation expense as of October 30, 2009 related to options. The unrecognized compensation expense will be amortized on a straight-line basis over a weighted-average remaining period of 2.9 years.

The following table summarizes activity related to our RSUs:

	Numbers of Shares	Weighted Average Grant Date Fair Value
Outstanding at April 24, 2009	5,453	$ 22.38
RSUs granted	1,043	21.13
RSUs issued in the Exchange	3,226	21.73
RSUs vested	(852)	27.23
RSUs forfeitures and cancellations	(329)	23.53
Outstanding at October 30, 2009	8,541	21.46

As of October 30, 2009, there was $118,787 of total unrecognized compensation expense related to RSUs. The unrecognized compensation expense will be amortized on a straight-line basis over a weighted-average remaining vesting period of 2.8 years.

The following table summarizes activity related to our RSAs:

	Number of Shares	Weighted-Average Grant Date Fair Value
Nonvested at April 24, 2009	81	$ 36.68
Awards vested	(11)	28.89
Nonvested at October 30, 2009	70	37.93

Although nonvested shares are legally issued, they are considered contingently returnable shares subject to repurchase by the Company when employees terminate their employment. The total fair value of shares vested during the three and six month periods ended October 30, 2009 was $33 and $325, respectively. The total fair value of shares vested during the three and six month periods ended October 24, 2008 was $15 and $208, respectively. There was $1,082 of total unrecognized compensation expense as of October 30, 2009 related to RSAs that will be amortized on a straight-line basis over a weighted-average remaining period of 1.0 years.

Employee Stock Purchase Plan — Under the Employee Stock Purchase Plan (ESPP), employees are entitled to purchase shares of our common stock at 85% of the fair market value at certain specified dates over a two-year period. The weighted average fair value of purchase rights granted under the ESPP during the six month periods ended October 30, 2009 and October 24, 2008 was $7.07 and $7.82, respectively. During the six month periods ended October 30, 2009 and October 24, 2008, 2,507 shares and 1,257 shares were issued under the ESPP at a weighted average price of $10.38 and $20.72, respectively. No shares were issued under the ESPP during the three month periods ended October 30, 2009 or October 24, 2008.

Stock Repurchase Program

Since the inception of our stock repurchase programs on May 13, 2003 through October 30, 2009, we have purchased a total of 104,325 shares of our common stock at an average price of $28.06 per share for an aggregate purchase price of $2,927,376. As of October 30, 2009, our Board of Directors had authorized the repurchase of up to $4,023,639 of common stock under various stock repurchase programs, and $1,096,262 remains available under these authorizations. The stock repurchase programs may be suspended or discontinued at any time.

During the six month period ended October 30, 2009, we did not repurchase any shares of our common stock under the stock repurchase program. During the six month period ended October 24, 2008, we repurchased 16,960 shares of our common stock at an aggregate cost of $399,981, or a weighted average price of $23.58 per share. The repurchases were recorded as treasury stock and resulted in a reduction of stockholders' equity.

9. Financial Instruments and Fair Value

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

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

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

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

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

Investments

The following is a summary of investments at October 30, 2009 and April 24, 2009:

	October 30, 2009				April 24, 2009			
		Gross Unrealized		Estimated		Gross Unrealized		Estimated
	Cost	Gains	Losses	Fair Value	Cost	Gains	Losses	Fair Value
Corporate bonds	$ 437,362	$5,594	$ (43)	$ 442,913	$ 486,151	$2,318	$(1,802)	$ 486,667
Auction rate securities	72,578	187	(3,780)	68,985	73,278	296	(7,037)	66,537
U.S. government agency bonds	632,816	2,158	(111)	634,863	80,359	1,415	—	81,774
U.S. Treasuries	51,661	683	—	52,344	31,862	773	—	32,635
Corporate securities	20,090	—	—	20,090	486,546	1	(464)	486,083
Municipal bonds	1,500	6	—	1,506	—	—	—	—
Certificates of deposit	175,000	—	(19)	174,981	115,002	83	—	115,085
Money market funds	1,568,706	—	—	1,568,706	1,327,794	—	—	1,327,794
Total debt and equity securities	2,959,713	8,628	(3,953)	2,964,388	2,600,992	4,886	(9,303)	2,596,575
Less cash equivalents	1,628,927	—	—	1,628,927	1,368,355	—	—	1,368,355
Less long-term investments	112,357	187	(3,780)	108,764	124,908	296	(7,037)	118,167
Total short-term investments	$1,218,429	$8,441	$ (173)	$1,226,697	$1,107,729	$4,590	$(2,266)	$1,110,053

Fair Value of Financial Instruments

The following table summarizes our financial assets and liabilities measured at fair value on a recurring basis as of October 30, 2009:

	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets				
Corporate bonds	$ 442,913	$ —	$ 442,913	$ —
Trading securities	11,484	11,484	—	—
U.S. government agency bonds	634,863	—	634,863	—
U.S. Treasuries	52,344	52,344	—	—
Municipal bonds	1,506	—	1,506	—
Corporate securities	20,090	—	20,090	—
Certificates of deposit	174,981	—	174,981	—
Money market funds	1,568,706	1,528,927	—	39,779
Auction rate securities	68,985	—	—	68,985
Investment in nonpublic companies	1,986	—	—	1,986
Foreign currency contracts	189	—	189	—
Total	$2,978,047	$ 1,592,755	$1,274,542	$ 110,750
Liabilities				
Foreign currency contracts	$ 1,190	$ —	$ 1,190	$ —

Reported as:

	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets				
Cash equivalents(1)	$1,628,927	$ 1,528,927	$ 100,000	$ —
Short-term investments(2)	1,226,697	52,344	1,174,353	—
Trading securities(3)	11,484	11,484	—	—
Long-term investments(4)	110,750	—	—	110,750
Foreign currency contracts(5)	189	—	189	—
Total	$2,978,047	$ 1,592,755	$1,274,542	$ 110,750
Liabilities				
Foreign currency contracts(6)	$ 1,190	$ —	$ 1,190	$ —

(1) Included in Cash and cash equivalents in the accompanying condensed consolidated balance sheet, in addition to $99,914 of cash. Cash equivalents consist of instruments with remaining maturities of three months or less at the date of purchase and consists primarily of certain money market funds, for which the carrying amounts is a reasonable estimate of fair value.

(2) Our short-term investments include U.S. Treasury securities, U.S. government agency bonds, corporate bonds, corporate securities, and certificates of deposit.

(3) Trading securities relate to a deferred compensation plan; $2,018 of the deferred compensation plan assets were included in prepaid expenses and other assets and $9,466 of the deferred compensation plan assets were

included in long-term deferred income taxes and other assets in the accompanying condensed consolidated balance sheet.

(4) Long-term investments consist of auction rate securities and the Primary Fund (as defined below), and are included in long-term investments and restricted cash in the accompanying condensed consolidated balance sheet, in addition to $5,656 of long-term restricted cash.

(5) Included in prepaid expenses and other assets in the accompanying condensed consolidated balance sheet.

(6) Included in other accrued liabilities in the accompanying condensed consolidated balance sheet.

We classify investments within Level 1 if quoted prices are available in active markets. Level 1 investments generally include U.S. Treasury notes, trading securities with quoted prices on active markets, and money market funds, with the exception of the Primary Fund, which is classified in Level 3.

We classify items in Level 2 if the investments are valued using observable inputs to quoted market prices, benchmark yields, reported trades, broker/dealer quotes or alternative pricing sources with reasonable levels of price transparency. These investments include: corporate bonds, corporate securities, U.S. government agency bonds, municipal bonds, certificates of deposit, and foreign currency contracts. Investments are held by a custodian who obtains investment prices from a third party pricing provider that uses standard inputs to models which vary by asset class. We corroborate the prices obtained from the pricing service against other independent sources and, as of October 30, 2009, have not found it necessary to make any adjustments to the prices obtained.

The unrealized losses on our available-for-sale investments in corporate bonds, U.S. government agency bonds, and certificates of deposit were caused by market value declines as a result of the recent economic environment, as well as fluctuations in market interest rates. Because the decline in market value is attributable to changes in market conditions and not credit quality, and because we do not intend to sell and we will not be likely to be required to sell those investments prior to a recovery of par value, we do not consider these investments to be other-than temporarily impaired at October 30, 2009.

Our foreign currency forward exchange contracts are also classified within Level 2. We determine the fair value of these instruments by considering the estimated amount we would pay or receive to terminate these agreements at the reporting date. We use observable inputs, including quoted prices in active markets for similar assets or liabilities. Our foreign currency derivative contracts are classified within Level 2 as the valuation inputs are based on quoted market prices of similar instruments in active markets. In the three month period ended October 30, 2009, net losses generated by hedged assets and liabilities totaled $1,028, and losses on the related derivative instruments totaled $515. In the six month period ended October 30, 2009, net gains generated by hedged assets and liabilities totaled $8,721, which were offset by losses on the related derivative instruments of $12,265. In the three and six month periods ended October 24, 2008, net losses generated by hedged assets and liabilities totaled $25,425 and $25,106, respectively, which were offset by gains on the related derivative instruments of $24,764 and $22,147, respectively.

We classify items in Level 3 if the investments are valued using a pricing model or based on unobservable inputs in the market. These investments include auction rate securities, the Primary Fund and cost method investments.

As of October 30, 2009 and April 24, 2009, we had a remaining investment of $39,779 and $51,630, with a par value of $49,077 and $60,928, respectively, in the Reserve Primary Fund (the Primary Fund), which is a money-market fund that suspended redemptions in September 2008 and is in the process of liquidating its portfolio of investments. All amounts invested in the Primary Fund are included in long-term investments given the lack of liquidity of the fund and the uncertainty as to the timing and the amount of the final distributions of the fund. On December 3, 2008, the Primary Fund announced a plan for liquidation and distribution of assets that included the establishment of a special reserve to be set aside out of its assets for pending or threatened claims, as well as anticipated costs and expenses, including related legal and accounting fees. On February 26, 2009, the Primary Fund announced a plan to set aside $3,500,000 of the fund's remaining assets as the "special reserve" which may be increased or decreased as further information becomes available. However, on November 25, 2009, the U.S. District Court issued an order enjoining the Primary Fund's liquidation plan and ordered that the remaining assets of the Primary Fund be liquidated and distributed on a pro rata basis to all Primary Fund shareholders who have not received $1.00 per share owned on or after September 15, 2008, provided however, that an expense fund of

$83.5 million to cover claims for indemnification and management fees and expenses shall be set aside and be withheld from distribution. As of October 30, 2009, we have received less than $1 per share owned of our original investment. We received distributions of $11,851 during the three and six month periods ended October 30, 2009 and received $546,344 during fiscal 2009 from the Primary Fund. We could realize additional losses in our holdings of the Primary Fund and may not receive all or a portion of our remaining balance in the Primary Fund as a result of market conditions and ongoing litigation against the fund.

As of October 30, 2009 and April 24, 2009, we had auction rate securities (ARSs) with a par value of $74,700 and $75,400, respectively, and an estimated fair value of $68,985 and $66,537, respectively, which are classified as long-term investments. Substantially all of our ARSs are backed by pools of student loans guaranteed by the U.S. Department of Education. As of October 30, 2009, we recorded cumulative temporary losses of $3,593 within AOCI. In addition, we recorded other-than-temporary losses of $2,122 in other income (expense), net, during the three and six month periods ended October 24, 2008 based on an analysis of the fair value and marketability of these investments. We estimated the fair value for each individual ARS using an income (discounted cash flow) approach which incorporates both observable and unobservable inputs to discount the expected future cash flows. Based on our ability to access our cash and other short-term investments, our expected operating cash flows, and our other sources of cash, we do not intend to sell these investments prior to recovery of value. We will continue to monitor our ARS investments in light of the current debt market environment and evaluate our accounting for these investments.

As of October 30, 2009 and April 24, 2009, we held investments in a private equity fund of $1,986 and $2,023, respectively. In addition, at April 24, 2009, we held equity investments in privately held companies of $1,946. For the three and six month periods ended October 30, 2009, we recorded a gain of $2,805 and $2,713, respectively, and for the three and six month periods ended October 24, 2008, we recorded a gain of $638 and losses of $1,983, respectively, on these investments.

The table below provides a reconciliation of our Level 3 financial assets measured at fair value on a recurring basis using significant unobservable inputs (Level 3) for the three and six month periods ended October 30, 2009.

	Primary Fund	Auction Rate Securities	Private Equity Fund	Nonpublic Companies
Balance at April 24, 2009	$ 51,630	$ 66,537	$ 2,023	$ 1,946
Total unrealized gains included in other comprehensive income	—	2,664	—	—
Total realized gains (losses) included in earnings	—	—	110	(202)
Purchases, sales and settlements, net	—	(250)	(137)	(1,433)
Balance at July 31, 2009	51,630	68,951	1,996	311
Total unrealized gains included in other comprehensive income	—	484	—	—
Total realized gains included in earnings	—	—	—	2,805
Purchases, sales and settlements, net	(11,851)	(450)	(10)	(3,116)
Balance at October 30, 2009	$ 39,779	$ 68,985	$ 1,986	$ —

10. Derivative Financial Instruments

We use derivative instruments to manage exposures to foreign currency risk. Our primary objective in holding derivatives is to reduce the volatility of earnings and cash flows associated with changes in foreign currency. The program is not designated for trading or speculative purposes. Our derivatives expose us to credit risk to the extent that the counterparties may be unable to meet the terms of the agreement. We seek to mitigate such risk by limiting our counterparties to major financial institutions. In addition, the potential risk of loss with any one counterparty resulting from this type of credit risk is monitored on an ongoing basis. We also have in place a master netting arrangement to mitigate the credit risk of our counterparty and potentially to reduce our losses due to counterparty nonperformance. All contracts have a maturity of less than six months.

We recognize derivative instruments as either assets or liabilities on the balance sheet at fair value. Changes in fair value (i.e. gains or losses) of the derivatives are recorded as revenues or other income (expense), or as AOCI. If the derivative is designated as a hedge, depending on the nature of the exposure being hedged, changes in fair value will either be offset against the change in fair value of the hedged items through earnings or recognized in AOCI until the hedged item is recognized in earnings. Any ineffective portion of the hedge is recognized in earnings immediately.

Currently, we do not enter into any foreign exchange forward contracts to hedge exposures related to firm commitments or nonmarketable investments. Our major foreign currency exchange exposures and related hedging programs are described below:

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

Forecasted Transactions. We use currency forward contracts to hedge exposures related to forecasted sales denominated in certain foreign currencies. These contracts are designated as cash flow hedges and in general closely match the underlying forecasted transactions in duration. The contracts are carried on the balance sheet at fair value, and the effective portion of the contracts' gains and losses is recorded as AOCI until the forecasted transaction occurs. When the forecasted transaction occurs, we reclassify the related gain or loss on the cash flow hedge to revenue. If the underlying forecasted transactions do not occur, or it becomes probable that they will not occur, the gain or loss on the related cash flow hedge is recognized immediately in earnings. We measure the effectiveness of hedges of forecasted transactions on a monthly basis by comparing the fair values of the designated currency forward contracts with the fair values of the forecasted transactions. Any ineffective portion of the derivative hedging gain or loss as well as changes in the fair value of the derivative's time value (which are excluded from the assessment of hedge effectiveness) is recognized in current period earnings. During the three and six month periods ended October 30, 2009, no ineffectiveness was recognized in earnings and the time value component in our cash flow hedges of $2 and $21, respectively, was recognized as a reduction to other expenses, net.

Over the next twelve months, it is expected that $375 of derivative net losses recorded in AOCI as of October 30, 2009 will be reclassified into earnings as an adjustment to revenues. The maximum length of time over which forecasted foreign denominated revenues are hedged is six months.

As of October 30, 2009, we had the following outstanding currency forward contracts that were entered into to hedge forecasted foreign denominated sales and our balance sheet monetary asset and liability exposures:

Cash Flow Hedges:

Currency	Buy/Sell	Notional
Euro (EUR)	Sell	$69,914
British pound (GBP)	Sell	15,933

Balance Sheet contracts:

Currency	Buy/Sell	Notional
Euro (EUR)	Sell	$138,063
British pound (GBP)	Sell	36,265
Canadian dollar (CAD)	Sell	17,338
Other	Sell	20,859
Australia Dollar (AUD)	Buy	35,870
Other	Buy	10,674
Put Option (EUR)	Sell	13,238

We net derivative assets and liabilities in the consolidated balance sheets to the extent that master netting arrangements meet the requirements of accounting guidance on balance sheet offsetting.

The fair value of derivative instruments in our condensed consolidated balance sheets as of October 30, 2009 was as follows:

	Fair Values of Derivative Instruments			
	Asset Derivatives		Liability Derivatives	
	Balance Sheet Location	Fair Value	Balance Sheet Location	Fair Value
Derivatives designated as hedging instruments:				
Foreign exchange forward contracts	Prepaid expense and other assets	$ 66	Other accrued liabilities	$ (442)
Derivatives not designated as hedging instruments:				
Foreign exchange forward contracts	Prepaid expense and other assets	1,978	Other accrued liabilities	(2,603)
Total derivatives		$ 2,044		$ (3,045)

The effect of derivative instruments designated as cash flow hedges on our condensed consolidated statements of operations for the three and six month periods ended October 30, 2009 was as follows:

	Three Months Ended October 30, 2009			Six Months Ended October 30, 2009		
Derivatives in Cash Flow Hedging Relationships	Loss Recognized in OCI(1)	Loss Reclassified from AOCI into Income(2)	Loss Recognized in Income(3)	Loss Recognized in OCI(1)	Loss Reclassified from AOCI into Income(2)	Loss Recognized in Income (3)
Foreign exchange forward contracts	$ (779)	$ (1,584)	$ (2)	$ (5,617)	$ (5,764)	$ (21)

(1) Amount recognized in AOCI (effective portion).

(2) Amount of loss reclassified from AOCI into income (effective portion) located in revenue.

(3) No ineffectiveness was recognized during the period. Amount of loss recognized in income on derivatives relate to the time value amount being excluded from the effectiveness testing. Such amount is located in other expenses, net.

The effect of derivative instruments not designated as hedges on our condensed consolidated statements of operations for the three and six month periods ended October 30, 2009 was as follows:

	Three Months Ended October 30, 2009	Six Months Ended October 30, 2009
Derivatives Not Designated as Hedging Instruments	Loss Recognized(*)	
Foreign exchange forward contracts	$ (513)	$ (12,244)

(*) Amount of loss recognized in income located in other expenses, net.

11. Inventories

Inventories are stated at the lower of cost or market, with cost determined on a first in, first out basis. Inventories consist of the following:

	October 30, 2009	April 24, 2009
Purchased components	$ 1,640	$ 5,034
Work-in-process	236	56
Finished goods	59,265	56,014
Total	$ 61,141	$ 61,104

12. Goodwill and Purchased Intangible Assets

Goodwill as of October 30, 2009 and April 24, 2009 was $680,986. We conducted our annual goodwill impairment test in the three month period ended April 24, 2009. Based on this analysis, we determined that there was no impairment to goodwill. We will continue to monitor conditions and changes that could indicate that our recorded goodwill may be impaired.

Identified intangible assets are summarized as follows:

		October 30, 2009			April 24, 2009		
	Amortization Period (Years)	Gross Assets	Accumulated Amortization	Net Assets	Gross Assets	Accumulated Amortization	Net Assets
Identified Intangible Assets:							
Patents	5	$ 895	$ (835)	$ 60	$ 10,040	$ (9,891)	$ 149
Existing technology	4 - 5	80,100	(52,438)	27,662	107,860	(71,210)	36,650
Trademarks/tradenames	2 - 7	6,400	(3,733)	2,667	6,600	(3,419)	3,181
Customer contracts/relationships	2 - 8	12,200	(7,619)	4,581	12,500	(6,736)	5,764
Total identified intangible assets, net		$ 99,595	$ (64,625)	$34,970	$ 137,000	$ (91,256)	$45,744

Amortization expense for identified intangible assets is summarized below:

	Three Months Ended		Six Months Ended		
	October 30, 2009	October 24, 2008	October 30, 2009	October 24, 2008	Statement of Operations Classifications
Patents	$ 45	$ 45	$ 90	$ 390	Research and development
Existing technology	4,273	6,748	8,988	13,496	Cost of product revenues
Other identified intangibles	849	1,259	1,697	2,518	Sales and marketing
	$ 5,167	$ 8,052	$ 10,775	$ 16,404	

Based on the identified intangible assets recorded at October 30, 2009, future amortization expense for the next five fiscal years is as follows:

Fiscal Year	Amount
Remainder of 2010	$ 9,862
2011	11,701
2012	7,150
2013	4,963
2014	554
Thereafter	740
Total	$34,970

13. Restructuring and Other Charges

In the three and six month periods ended October 30, 2009, we recorded restructuring expense of $1,179, and $2,675, net, respectively, primarily related to adjustments to future lease commitments and employee severance costs associated with our fiscal 2009 restructuring plan.

Fiscal 2009 Restructuring Plan

In February 2009, we announced our decision to execute a worldwide restructuring program, which included a reduction in workforce, the closing or downsizing of certain facilities, and the establishment of a plan to outsource certain internal activities. In December 2008, we announced our decision to cease the development and availability of our SnapMirror® for Open Systems product, which was originally acquired through our acquisition of Topio, Inc. in fiscal 2007. As part of this decision, we also announced the closure of our engineering facility in Haifa, Israel.

As of October 30, 2009, approximately $5,149 of the costs associated with these activities was unpaid. We expect that severance-related charges and other costs will be substantially paid by January 2010 and the facilities-related lease payments to be substantially paid by January 2013.

Fiscal 2002 Restructuring Plan

As of October 30, 2009, we also have $920 remaining in facility restructuring reserves established as part of a restructuring plan in fiscal 2002 related to future lease commitments on exited facilities, net of expected sublease income. We expect to substantially fulfill the remaining contractual obligations related to this facility restructuring reserve by fiscal 2011.

Activities related to the restructuring reserves for the three and six month periods ended October 30, 2009 were as follows:

	Severance-Related Charges	Facilities	Contract Cancellation Costs	Other	Total
Reserve balance at April 24, 2009	$ 10,282	$ 5,446	$ 199	$1,234	$ 17,161
Adjustments to accrual and other charges	993	114	(1)	390	1,496
Cash payments	(8,450)	(944)	(78)	(927)	(10,399)
Foreign currency changes	195	328	13	(106)	430
Reserve balance at July 31, 2009	$ 3,020	$ 4,944	$ 133	$ 591	$ 8,688
Adjustments to accrual and other charges	(242)	1,401	(7)	27	1,179
Cash payments	(2,206)	(798)	(6)	(540)	(3,550)
Foreign currency changes	32	75	5	4	116
Reserve balance at October 30, 2009	$ 604	$ 5,622	$ 125	$ 82	$ 6,433

Of the reserve balance at October 30, 2009, $3,889 was included in other accrued liabilities, and the remaining $2,544 was classified as other long-term obligations.

14. Net Income per Share

Basic net income per share is computed by dividing income available to common stockholders by the weighted average number of common shares outstanding, excluding common shares subject to repurchase for that period. Diluted net income per share is computed giving effect to all dilutive potential shares that were outstanding during the period. Dilutive potential common shares consist of incremental common shares subject to repurchase and common shares issuable upon exercise of stock options, restricted stock units, ESPP shares, warrants, and restricted stock awards.

Certain equity awards outstanding, representing 20,305 and 31,016 shares of common stock for the three and six month periods ended October 30, 2009, respectively, and 50,015 and 48,183 shares of common stock for the three and six month periods ended October 24, 2008, respectively, have been excluded from the diluted net income per share calculations, because their effect would have been antidilutive. Dilutive shares outstanding do not include any effect resulting from the conversion of our Notes issued in June 2008 and warrants as their impact would be anti-dilutive for all periods presented.

Repurchased shares are held as treasury stock and our outstanding shares used to calculate earnings per share have been reduced by the weighted number of repurchased shares.

The following is a reconciliation of the numerators and denominators of the basic and diluted net income per share computations for the periods presented:

	Three Months Ended		Six Months Ended	
	October 30, 2009	October 24, 2008	October 30, 2009	October 24, 2008
Net Income (Numerator):				
Net income, basic and diluted	$ 95,677	$ 43,053	$ 147,341	$ 77,776
Shares (Denominator):				
Weighted average common shares outstanding	336,738	327,445	335,676	330,718
Weighted average common shares outstanding subject to repurchase	(71)	(126)	(74)	(131)
Shares used in basic computation	336,667	327,319	335,602	330,587
Weighted average common shares outstanding subject to repurchase	71	126	74	131
Dilutive weighted average shares outstanding	13,013	5,940	8,637	6,535
Shares used in diluted computation	349,751	333,385	344,313	337,253
Net Income per Share:				
Basic	$ 0.28	$ 0.13	$ 0.44	$ 0.24
Diluted	$ 0.27	$ 0.13	$ 0.43	$ 0.23

15. Comprehensive Income

The components of comprehensive income were as follows:

	Three Months Ended		Six Months Ended	
	October 30, 2009	October 24, 2008	October 30, 2009	October 24, 2008
Net income	$ 95,677	$ 43,053	$ 147,341	$ 77,776
Change in currency translation adjustments	421	(3,563)	2,800	(3,879)
Change in unrealized gain (loss) on available-for-sale investments, net of related tax effect	1,695	(8,908)	8,635	(11,356)
Change in unrealized gain on derivatives qualifying as cash flow hedges	805	3,579	149	4,358
Comprehensive income	$ 98,598	$ 34,161	$ 158,925	$ 66,899

The components of accumulated other comprehensive income (loss) were as follows:

	October 30, 2009	April 24, 2009
Accumulated translation adjustments	$ 2,468	$ (332)
Accumulated unrealized gain (loss) on available-for-sale investments	4,332	(4,303)
Accumulated unrealized loss on derivatives qualifying as cash flow hedges	(375)	(523)
Total accumulated other comprehensive income (loss)	$ 6,425	$(5,158)

16. Commitments and Contingencies

The following summarizes our commitments and contingencies at October 30, 2009, and the effect such obligations may have on our future periods:

	2010*	2011	2012	2013	2014	Thereafter	Total
Contractual Obligations:							
Office operating lease payments(1)	$ 14,494	$24,794	$20,349	$ 17,057	$15,023	$34,021	$125,738
Real estate lease payments(2)	1,826	3,651	3,651	129,444	—	—	138,572
Equipment operating lease payments	15,840	21,297	8,436	1,217	33	—	46,823
Purchase commitments with contract manufacturers(3)	90,693	—	—	—	—	—	90,693
Other purchase orders and commitments	19,317	16,868	11,004	4,608	1,200	200	53,197
Capital expenditures	970	—	—	—	—	—	970
Total Contractual Cash Obligations	$143,140	$66,610	$43,440	$152,326	$16,256	$34,221	$455,993
Other Commercial Commitments:							
Letters of credit	$ 3,698	$ 400	$ 363	$ 67	$ —	$ 617	$ 5,145

* Reflects the remaining six months of fiscal year 2010.

(1) Sublease income of $665 in the remainder of fiscal 2010, $1,114 in fiscal 2011, $364 in fiscal 2012, $359 in fiscal 2013, $370 in fiscal 2014 and $246 thereafter has been excluded from the table.

(2) Included in real estate lease payments pursuant to four financing arrangements with BNP Paribas Leasing Corporation (BNPPLC) are (i) lease commitments of $1,826 in the remainder of fiscal 2010; $3,651 in each of the fiscal years 2011 and 2012; $2,326 in fiscal 2013, which are based on the LIBOR rate at October 30, 2009 plus a spread or a fixed rate, for terms of five years; and (ii) at the expiration or termination of the lease, a supplemental payment obligation equal to our minimum guarantee of $127,118 in the event that we elect not to purchase or arrange for sale of the buildings. Sublease income of $5,280 in the remainder of fiscal 2010, $4,678 in fiscal 2011, $396 in fiscal 2012 and $264 in fiscal 2013 has been excluded from the table.

(3) Contract manufacturer commitments consist of obligations for on hand inventories and non-cancelable purchase orders with our contract manufacturer. We record a liability for firm, noncancelable, and nonreturnable purchase commitments for quantities in excess of our future demand forecasts, which is consistent with the valuation of our excess and obsolete inventory. As of October 30, 2009, the liability for these purchase commitments in excess of future demand was approximately $3,178 and is recorded in other accrued liabilities.

As of October 30, 2009, we have four leasing arrangements (Leasing Arrangements 1, 2, 3 and 4) with BNPPLC which require us to lease our land to BNPPLC for a period of 99 years, and to lease approximately 564,274 square feet of office space for our headquarters in Sunnyvale costing up to $149,550. Under these leasing arrangements, we pay BNPPLC minimum lease payments, which vary based on LIBOR plus a spread or a fixed rate on the costs of the facilities on the respective lease commencement dates. We make payments for each of the leases for a term of five years. We have the option to renew each of the leases for two consecutive five-year periods upon approval by BNPPLC. Upon expiration (or upon any earlier termination) of the lease terms, we must elect one of the following options: (i) purchase the buildings from BNPPLC at cost; (ii) if certain conditions are met, arrange for the sale of the buildings by BNPPLC to a third party for an amount equal to at least 85% of the costs (residual guarantee), and be liable for any deficiency between the net proceeds received from the third party and such amounts; or (iii) pay BNPPLC supplemental payments for an amount equal to at least 85% of the costs (residual guarantee), in which event we may recoup some or all of such payments by arranging for a sale of each or all buildings by BNPPLC during the ensuing two-year period. The following table summarizes the costs, the residual guarantee, the applicable LIBOR plus spread or fixed rate at October 30, 2009, and the date we began to make payments for each of our leasing arrangements:

Leasing Arrangements	Cost	Residual Guarantee	LIBOR plus Spread or Fixed Rate	Lease Commencement Date	Term
1	$48,500	$ 41,225	3.99%	January 2008	5 years
2	$79,950	$ 67,958	1.10%	December 2007	5 years
3	$10,475	$ 8,904	3.97%	December 2007	5 years
4	$10,625	$ 9,031	3.99%	December 2007	5 years

These leases require us to maintain specified financial covenants with which we were in compliance as of October 30, 2009. Such financial covenants include a maximum ratio of Total Debt to Earnings before Interest, Taxes, Depreciation and Amortization and a minimum amount of Unencumbered Cash and Short-Term Investments.

Warranty Reserve

We provide customers a warranty on software of ninety days and a warranty on hardware with terms ranging from one to three years. Estimated future warranty costs are expensed as a cost of product revenues when revenue is recognized, based on estimates of the costs that may be incurred under our warranty obligations including material, distribution and labor costs. Our accrued liability for estimated future warranty costs is included in other accrued liabilities and other long-term obligations on the accompanying consolidated balance sheets. Factors that affect our warranty liability include the number of installed units, estimated material costs, estimated distribution costs and estimated labor costs. We periodically assess the adequacy of our warranty accrual and adjust the amount as considered necessary. Changes in warranty reserves during the three and six month periods ended October 30, 2009 and October 24, 2008 were as follows:

	Three Months Ended		Six Months Ended	
	October 30, 2009	October 24, 2008	October 30, 2009	October 24, 2008
Warranty reserve at beginning of period	$ 40,297	$ 41,929	$ 42,325	$ 42,815
Expense accrued during the period	2,321	9,495	7,624	15,095
Warranty costs incurred	(6,757)	(6,495)	(14,088)	(12,981)
Warranty reserve at end of period	$ 35,861	$ 44,929	$ 35,861	$ 44,929

Financing Guarantees

We have both nonrecourse and recourse lease financing arrangements with third-party leasing companies through new and preexisting relationships with customers. In addition, from time to time we provide guarantees for a portion of other financing arrangements under which we could be called upon to make payments to our third-party funding companies in the event of nonpayment by end-user customers. Under the terms of the nonrecourse leases, we do not have any continuing obligations or liabilities to the third-party leasing companies. Under the terms of the recourse leases, which are generally three years or less, we remain liable for the aggregate unpaid remaining lease payments to the third-party leasing companies in the event of end-user customer default. These arrangements are generally collateralized by a security interest in the underlying assets. Where we provide a guarantee, we defer the revenue associated with the end-user financing arrangement in accordance with our revenue recognition policies. As of October 30, 2009, the maximum guaranteed payment contingencies under our financing arrangements totaled approximately $75,200; and the related deferred revenue and cost of revenue totaled approximately $76,300 and $6,500, respectively. To date, we have not experienced material losses under our lease financing programs or other financing arrangements.

Purchase 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 for which we believe it is probable that they will not be utilized in future operations. To the extent that such forecasts are not achieved, our commitments and associated accruals may change.

Indemnification agreements

We enter into standard indemnification agreements in the ordinary course of business. Pursuant to these agreements, we agree to defend and indemnify other parties, primarily our customers or business partners or subcontractors, for damages and reasonable costs incurred in any suit or claim brought against them alleging that our products sold to them infringe any U.S. patent, copyright, trade secret, or similar right. If a product becomes the subject of an infringement claim, we may, at our option: (i) replace the product with another noninfringing product that provides substantially similar performance; (ii) modify the infringing product so that it no longer infringes but remains functionally equivalent; (iii) obtain the right for the customer to continue using the product at our expense and for the reseller to continue selling the product; (iv) take back the infringing product and refund to customer the purchase price paid less depreciation amortized on a straight-line basis. We have not been required to make material payments pursuant to these provisions historically. We have not recorded any liability at October 30, 2009 related to these guarantees since the maximum amount of potential future payments under such guarantees, indemnities and warranties is not determinable, other than as described above.

Legal Contingencies

We are subject to various legal proceedings and claims which may arise in the normal course of business.

In April 2009, we entered into a settlement agreement with the United States of America, acting through the United States Department of Justice ("DOJ") and on behalf of the General Services Administration (the "GSA"), under which we paid the United States $128,000, plus interest of $715, related to a dispute regarding our discount practices and compliance with the price reduction clause provisions of GSA contracts between August 1997 and February 2005. In September 2009, we received a letter from the GSA confirming that the Company will not be excluded from further government contracting as a result of this dispute.

On September 5, 2007, we filed a patent infringement lawsuit in the Eastern District of Texas seeking compensatory damages and a permanent injunction against Sun Microsystems. On October 25, 2007, Sun Microsystems filed a counter claim against us in the Eastern District of Texas seeking compensatory damages and a permanent injunction. On October 29, 2007, Sun filed a second lawsuit against us in the Northern District of California asserting additional patents against us. The Texas court granted a joint motion to transfer the Texas lawsuit to the Northern District of California on November 26, 2007. On March 26, 2008, Sun filed a third lawsuit in federal court that extends the patent infringement charges to storage management technology we acquired in January 2008. The three lawsuits are currently in the discovery phase and no trial date has been set, so we are unable at this time to determine the likely outcome of these various patent litigations. Since we are unable to reasonably estimate the amount or range of any potential settlement, no accrual has been recorded as of October 30, 2009.

17. Income Taxes

Our effective tax rate for the six month period ended October 30, 2009 was 10.8% compared with 5.6% for the six month period ended October 24, 2008. Our effective tax rate reflects the impact of a significant amount of our earnings being taxed in foreign jurisdictions at rates below the U.S. statutory tax rate. The increase in the effective tax rate for the six month period ended October 30, 2009 relative to the rate for the same period last year is primarily due to the geographic mix of profits which resulted in an increase in the proportion of U.S. earnings to foreign earnings. The earnings from U.S. operations are generally subject to higher income tax rates.

We maintain liabilities for uncertain tax positions. These liabilities involve considerable judgment and estimation and are continuously monitored by management based on the best information available, including changes in tax regulations, the outcome of relevant court cases, and other information. We are currently under examination by various taxing authorities. Although the outcome of any tax audit is uncertain, we believe we have adequately provided in our condensed consolidated financial statements for any additional taxes that we may be required to pay as a result of such examinations. If the payment ultimately proves to be unnecessary, the reversal of these tax liabilities would result in tax benefits being recognized in the period we determine such liabilities are no longer necessary. However, if an ultimate tax assessment exceeds our estimate of tax liabilities, additional tax expense will be recorded.

As of October 30, 2009, our unrecognized tax benefits were $145,176 of which $108,263, if recognized, would affect our provision for income taxes. In the six month period ended October 30, 2009, we recognized deferred tax assets of $8,290, which had a corresponding increase to additional paid in capital, to reflect the related additional recognition of tax benefits from stock options.

During fiscal year 2009, we received Notices of Proposed Adjustments from the IRS in connection with a federal income tax audit of our fiscal 2003 and 2004 tax returns. We filed a protest with the IRS in response to the Notices of Proposed Adjustments and recently received a rebuttal from the IRS examination team in response to our protest. The Notices of Proposed Adjustments focus primarily on issues of the timing and the amount of income recognized and deductions taken during the audit years and on the level of cost allocations made to foreign operations during the audit years. If upon the conclusion of this audit, the ultimate determination of our taxes owed in the U.S. is for an amount in excess of the tax provision we have recorded in the applicable period or subsequently reserved for, our overall tax expense and effective tax rate may be adversely impacted in the period of adjustment.

18. Subsequent Event

On November 18, 2009, we entered into an agreement to purchase fifteen acres of land in Bangalore, India for an aggregate purchase price of Rs. 121,50,00,000, or approximately $26.2 million. We expect to complete the purchase during the three months ending January 29, 2010.

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

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), and is subject to the safe harbor provisions set forth in the Exchange Act. Forward-looking statements usually contain the words "estimate," "intend," "plan," "predict," "seek," "may," "will," "should," "would," "could," "anticipate," "expect," "believe," or similar expressions and variations or negatives of these words. In addition, any statements that refer to expectations, projections, or other characterizations of future events or circumstances, including any underlying assumptions, are forward-looking statements. All forward-looking statements, including but not limited to, statements about:

- our future financial and operating results;
- our business strategies;
- management's plans, beliefs and objectives for future operations, research and development;
- acquisitions and joint ventures, growth opportunities, investments and legal proceedings;
- competitive positions;
- product introductions, development, enhancements and acceptance;
- economic and industry trends or trend analyses;
- future cash flows and cash deployment strategies;
- short-term and long-term cash requirements;
- our restructuring plans and estimates;
- our anticipated tax rate;
- the conversion, maturation or repurchase of the Notes,
- compliance with laws, regulations and loan covenants,
- the continuation of our stock repurchase program; and
- the impact of completed acquisitions

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

- acceptance of, and demand for, our products;
- the amount of orders received in future periods;
- our ability to ship our products in a timely manner;
- our ability to achieve anticipated pricing, cost, and gross margins levels;
- our ability to maintain or increase backlog and increase revenue;
- our ability to successfully execute on our strategy;
- our ability to increase our customer base, market share and revenue;
- our ability to successfully introduce new products;
- our ability to adapt to changes in market demand;
- the general economic environment and the growth of the storage markets;
- demand for our global service and support and professional services;

- our ability to identify and respond to significant market trends and emerging standards;
- our ability to realize our financial objectives through management of our investment in people, process, and systems;
- our ability to maintain our supplier and contract manufacturer relationships;
- the ability of our suppliers and contract manufacturers to meet our requirements;
- the ability of our competitors to introduce new products that compete successfully with our products;
- our ability to grow direct and indirect sales and to efficiently utilize global service and support;
- the general economic environment and the growth of the storage markets;
- variability in our gross margins;
- our ability to sustain and/or improve our cash and overall financial position;
- our cash requirements and terms and availability of financing;
- valuation and liquidity of our investment portfolio;
- our ability to finance business acquisitions, construction projects and capital expenditures through cash from operations and/or financing;
- the impact of industry consolidation;
- the results of our ongoing litigation, tax audits, government audits and inquiries; and
- those factors discussed under "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 foregoing factors as well as other important factors, including those described in the Risk Factors included on page 46.

Overview

Revenue for the three month period ended October 30, 2009 was $910.0 million, nearly flat from the comparable period in the prior year, and for the six month period ended October 30, 2009 was $1,748.0 million, down 2% from the comparable period in the prior year. Better than anticipated three and six month revenue performance was driven by stabilization in the macroeconomic environment, as well as strong demand for our storage efficiency and data management solutions.

Gross margins strengthened during the current three and six month periods due largely to improvements in product materials cost and an increase in software entitlements and maintenance in the revenue mix.

During the six month period ended October 30, 2009, we entered into a merger agreement with Data Domain, Inc., which was subsequently terminated on July 8, 2009. In accordance with the agreement, we received a $57.0 million termination fee, which, when netted against $15.9 million of incremental third-party costs we incurred relating to the terminated merger transaction, resulted in net proceeds of $41.1 million.

During the three and six month periods ended October 30, 2009, sales and marketing, research and development, and general and administrative expenses totaled $490.1 million and $981.4 million, respectively, up 2% each from the comparable periods of the prior year and reflected the impact of having 14 weeks in the first three month period of fiscal 2010 compared to 13 weeks in the same period of the prior year, as well as an increase in incentive compensation plan expense. These increases were almost entirely offset by decreases in salaries and related expenses resulting from our restructuring plans and a reduction in other operations-related expenses due to our continuing focus on maintaining spending discipline in light of the current business conditions.

Critical Accounting Estimates and Policies

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

We believe the accounting policies and estimates discussed 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 24, 2009 as revised in our Current Report on Form 8-K filed on September 30, 2009, affect our more significant judgments and estimates used in the preparation of the condensed consolidated financial statements. There have been no material changes to the critical accounting policies and estimates as filed in such report, except for the retrospective adoption of new guidance for accounting for convertible debt.

Recent Accounting Pronouncements

Information regarding recent accounting pronouncements is provided in Note 2 of the notes to condensed consolidated financial statements.

Results of Operations

The following table sets forth certain consolidated statements of operations data as a percentage of net revenues for the periods indicated:

	Three Months Ended		Six Months Ended	
	October 30, 2009	October 24, 2008	October 30, 2009	October 24, 2008
Revenues:				
Product	57.7%	62.5%	57.4%	62.8%
Software entitlements and maintenance	18.7	16.8	19.2	16.7
Service	23.6	20.7	23.4	20.5
	100.0	100.0	100.0	100.0
Cost of Revenues:				
Cost of product	21.9	28.6	23.5	28.7
Cost of software entitlements and maintenance	0.3	0.2	0.4	0.2
Cost of service	11.1	11.3	11.5	11.4
Gross Margin	66.7	59.9	64.6	59.7
Operating Expenses:				
Sales and marketing	33.1	33.3	34.5	34.1
Research and development	14.5	13.8	15.0	14.1
General and administrative	6.3	5.6	6.7	5.6
Restructuring and other charges	0.1	—	0.2	—
Merger termination proceeds, net	—	—	(2.4)	—
Total Operating Expenses	54.0	52.7	54.0	53.8
Income from Operations	12.7	7.2	10.6	5.9
Other Income (Expenses), Net:				
Interest income	0.7	2.0	0.8	1.8
Interest expense	(2.0)	(2.0)	(2.1)	(1.5)
Gain (loss) on investments, net	0.3	(2.5)	0.2	(1.4)
Other expenses, net	(0.1)	(0.1)	(0.1)	(0.1)
Total Other Expenses, Net	(1.1)	(2.6)	(1.2)	(1.2)
Income Before Income Taxes	11.6	4.6	9.4	4.7
Provision (Benefit) for Income Taxes	1.1	(0.1)	1.0	0.3
Net Income	10.5%	4.7%	8.4%	4.4%

Discussion and Analysis of Results of Operations

Net Revenues — Our net revenues for the three and six month periods ended October 30, 2009 and October 24, 2008 were as follows:

	Three Months Ended			Six Months Ended		
	October 30, 2009	October 24, 2008	% Change	October 30, 2009	October 24, 2008	% Change
		(In millions)			(In millions)	
Net revenues	$ 910.0	$ 911.6	0%	$ 1,748.0	$ 1,780.4	(2)%

Net revenues for the three month period ended October 30, 2009 decreased by $1.6 million, or were nearly flat, compared to the comparable period of the prior year, and for the six month period ended October 30, 2009, decreased by $32.4 million, or 2%, from the comparable period in the prior year. The decrease in net revenues for both periods was due to decreases in product revenues, partially offset by increases in software entitlements and maintenance revenues, as well as in service revenues.

Sales through our indirect channels represented 67% and 68% of net revenues for the three month periods ended October 30, 2009 and October 24, 2008, respectively, and represented 68% and 64% of net revenues for the six month periods ended October 30, 2009 and October 24, 2008, respectively.

Sales to Arrow and Avnet, who are U.S. distributors, each accounted for 12% and 11% of our net revenues, respectively, for each of the three and six month periods ended October 30, 2009 and 11% and 10% of our revenues, respectively, for each of the three and six month periods ended October 24, 2008.

Product Revenues

	Three Months Ended			Six Months Ended		
	October 30, 2009	October 24, 2008	% Change	October 30, 2009	October 24, 2008	% Change
		(In millions)			(In millions)	
Product revenues	$ 525.1	$ 570.4	(8)%	$ 1,003.4	$ 1,118.3	(10)%

Product revenues decreased by $45.3 million, or 8%, for the three month period ended October 30, 2009 from the comparable period in the prior year. Our configured systems comprise bundled hardware and software products. Unit volume decreased by 6% for the three month period ended October 30, 2009 compared to the prior year, with the largest decrease related to low-end systems. During the three month period ended October 30, 2009, high-end, midrange and low-end systems generated approximately 23%, 58% and 19% of configured systems revenue, respectively, compared to approximately 26%, 52% and 22%, respectively, in the prior year.

Product revenues decreased by $114.9 million, or 10%, for the six month period ended October 30, 2009 from the comparable period in the prior year. Unit volume decreased by 6% for the six month period ended October 30, 2009 compared to the prior year, with the largest decrease related to low-end systems. During the six month period ended October 30, 2009, high-end, midrange and low-end systems generated approximately 22%, 58% and 20% of configured systems revenue, respectively, compared to approximately 27%, 52% and 21%, respectively, in the prior year.

This trend reflects a shift in customer buying patterns from our higher priced systems towards our midrange systems, which is the core strength of our product offerings. In addition, average selling prices declined in all ranges, driven by lower list prices, unfavorable configuration mix (consisting of hardware and software components, disk capacity and disk price) and higher discounting.

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

Software Entitlements and Maintenance Revenues

	Three Months Ended			Six Months Ended		
	October 30, 2009	October 24, 2008	% Change	October 30, 2009	October 24, 2008	% Change
		(In millions)			(In millions)	
Software entitlements and maintenance revenues	$ 169.8	$ 152.7	11%	$ 335.1	$ 297.1	13%

Software entitlements and maintenance (SEM) revenues increased by $17.1 million, or 11%, for the three month period ended October 30, 2009, and by $38.0 million, or 13%, for the six month period ended October 30, 2009, from the comparable periods in the prior year. These increases were driven by an increase in the aggregate contract value of the installed base under SEM contracts, which is recognized as revenue ratably over the terms of the underlying contracts.

Service Revenues

	Three Months Ended			Six Months Ended		
	October 30, 2009	October 24, 2008	% Change	October 30, 2009	October 24, 2008	% Change
		(In millions)			(In millions)	
Service revenues	$ 215.1	$ 188.5	14%	$ 409.5	$ 365.0	12%

Service revenues increased by $26.6 million, or 14%, for the three month period ended October 30, 2009, and by $44.5 million, or 12%, for the six month period ended October 30, 2009, from the comparable periods in the prior year. Service maintenance contract revenues increased 20% for each of the three and six month periods ended October 30, 2009, driven by an increase in the installed base under service contracts and the timing of recognition of the related revenue. Professional services and educational and training services revenues increased 5% and 1% for the three and six month periods ended October 30, 2009, respectively, compared to the prior year.

.

Revenues by Geographic Area

	Three Months Ended			Six Months Ended		
	October 30, 2009	October 24, 2008	% Change	October 30, 2009	October 24, 2008	% Change
		(In millions)			(In millions)	
International	$ 416.7	$ 410.9	1%	$ 781.5	$ 810.4	(4)%
United States	493.3	500.7	(1)%	966.5	970.0	0%
Net revenues	$ 910.0	$ 911.6		$ 1,748.0	$ 1,780.4	

The slight increase in international revenues for the three month period ended October 30, 2009 from the comparable period in the prior year was primarily due to an increase in sales to customers in Germany, while the decrease in United States revenues was due to a decrease in sales to U.S. commercial customers, partially offset by an increase in sales to the U.S. public sector. The decrease in international revenues for the six month period ended October 30, 2009 from the comparable period in the prior year was due to a decrease in sales to customers in Europe. Total international revenues (including U.S. exports) were approximately 46% and 45% of net revenues for the three and six month periods ended October 30, 2009, respectively, compared to 45% and 46% for the comparable periods in the prior year.

Cost of Revenues

Our cost of revenues includes: (1) cost of product revenues, which includes the costs of manufacturing and shipping of our storage systems, and amortization of purchased intangible assets, inventory write-downs, and warranty costs; (2) cost of software maintenance and entitlements, which includes the costs of providing software entitlements and maintenance and third party royalty costs, and (3) cost of service, which reflects costs associated with providing services for support center activities and global service partnership programs.

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

Cost of Product Revenues

	Three Months Ended			Six Months Ended		
	October 30, 2009	October 24, 2008	% Change	October 30, 2009	October 24, 2008	% Change
		(In millions)			(In millions)	
Cost of product revenues	$ 199.1	$ 260.3	(24)%	$ 411.7	$ 510.1	(19)%

Cost of product revenues decreased by $61.2 million, or 24%, for the three month period ended October 30, 2009 from the comparable period in the prior year, primarily due to decreased materials cost of $41.0 million. Our material costs were favorably impacted by lower unit volume in our high-end and low-end systems, and lower average per unit materials costs in our midrange and low-end systems due to favorable materials pricing, which we expect to continue. These favorable impacts were partially offset by higher unit volume in our midrange systems and higher average per unit materials costs in our high-end systems. Cost of product revenues represented 38% and 46% of product revenue for the three month periods ended October 30, 2009 and October 24, 2008, respectively, reflecting the overall reduction in materials costs as a percentage of revenues.

Cost of product revenues decreased by $98.4 million, or 19%, for the six month period ended October 30, 2009, from the comparable period in the prior year, primarily due to decreased materials cost of $73.7 million resulting from lower unit volume in our midrange and low-end systems, partially offset by higher average per unit materials costs in our high-end systems. Cost of product revenues represented 41% and 46% of product revenue for the six month periods ended October 30, 2009 and October 24, 2008, respectively, reflecting the overall reduction in materials costs as a percentage of revenues.

Cost of product revenues decreased due to the following:

	Three Months % Change Fiscal 2009 to Fiscal 2010	Six Months % Change Fiscal 2009 to Fiscal 2010
Materials costs	(16)%	(14)%
Excess and obsolete inventory	(3)	(2)
Warranty	(3)	(2)
Other	(2)	(1)
Total change	(24)%	(19)%

Cost of Software Entitlements and Maintenance Revenues

	Three Months Ended			Six Months Ended		
	October 30, 2009	October 24, 2008	% Change	October 30, 2009	October 24, 2008	% Change
		(In millions)			(In millions)	
Cost of software entitlements and maintenance revenues	$ 3.1	$ 2.3	37%	$ 6.2	$ 4.4	40%

Cost of software entitlements and maintenance revenues (SEM) increased $0.8 million, or 37%, and $1.8 million, or 40% for the three and six month periods ended October 30, 2009, respectively, from the comparable periods in the prior year, due to an increase in field service engineering costs. Cost of SEM revenue represented 2% and 1% of SEM revenue for the three month periods ended October 30, 2009 and October 24, 2008, respectively. Cost of SEM revenue represented 2% and 2% of SEM revenue for the six month periods ended October 30, 2009 and October 24, 2008, respectively.

Cost of Service Revenues

	Three Months Ended			Six Months Ended		
	October 30, 2009	October 24, 2008	% Change	October 30, 2009	October 24, 2008	% Change
		(In millions)			(In millions)	
Cost of service revenues	$ 101.1	$ 102.9	(2)%	$ 200.9	$ 203.0	(1)%

Cost of service revenues decreased by $1.8 million, or 2%, and by $2.1 million, or 1%, for the three and six month periods ended October 30, 2009, respectively, from the comparable periods in the prior year. Cost of service revenues represented 47% and 55% of service revenue for the three month periods ended October 30, 2009 and October 24, 2008, respectively, and represented 49% and 56% of service revenue for the six month periods ended October 30, 2009 and October 24, 2008, respectively, reflecting improved productivity.

Operating Expenses

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

Compensation costs comprise the largest component of operating expenses. Included in compensation costs are salaries and related benefits, stock-based compensation costs and performance based employee incentive plan compensation costs. Compensation costs included in operating expenses increased approximately $21 million, or 9%, during the three month period ended October 30, 2009 compared to the three month period ended October 24, 2008, primarily due to a $27 million increase in employee incentive compensation and a $5 million increase in stock-based compensation, offset by an $11 million decrease in salaries, benefits and other compensations costs associated with a 3% decrease in headcount. Compensation costs included in operating expenses increased approximately $45 million, or 9%, during the six month period ended October 30, 2009 compared to the six months ended October 24, 2008, primarily due to a $31 million increase in employee incentive compensation and a $19 million increase in stock-based compensation, offset by a $5 million decrease in salaries, benefits and other compensations costs associated with a 3% decrease in headcount. In addition, operating expenses were higher for the six month period ended October 30, 2009 due to additional employee compensation related to having 14 weeks in the first three month period of fiscal 2010 compared to 13 weeks in the prior year.

Sales and Marketing —

	Three Months Ended			Six Months Ended		
	October 30, 2009	October 24, 2008	% Change	October 30, 2009	October 24, 2008	% Change
		(In millions)			(In millions)	
Sales and marketing expenses	$ 300.8	$ 304.0	(1)%	$ 602.3	$ 607.2	(1)%

Sales and marketing expense consists primarily of compensation costs, commissions, allocated facilities and IT costs, advertising and marketing promotional expense, travel and entertainment expense. Sales and marketing expenses decreased due to the following:

	Three Months % Change Fiscal 2009 to Fiscal 2010	Six Months % Change Fiscal 2009 to Fiscal 2010
Incentive plan compensation	4%	2%
Stock based compensation	1	2
Other compensation costs, including impact of headcount reductions	(3)	(1)
Commissions	2	—
Advertising and marketing promotional expense	(2)	(2)
IT expenses related to software implementations and IT support	1	2
Travel and entertainment expense	(1)	(2)
Other	(3)	(2)
Total change	(1)%	(1)%

Research and Development —

	Three Months Ended			Six Months Ended		
	October 30, 2009	October 24, 2008	% Change	October 30, 2009	October 24, 2008	% Change
		(In millions)			(In millions)	
Research and development expenses	$ 132.4	$ 125.5	5%	$ 262.7	$ 250.8	5%

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

	Three Months % Change Fiscal 2009 to Fiscal 2010	Six Months % Change Fiscal 2009 to Fiscal 2010
Incentive plan compensation	8%	5%
Stock based compensation	—	1
Other compensation costs, including impact of headcount reductions	(2)	(1)
Facilities and IT support costs	2	2
NRE charges	1	1
Outside services	(2)	(2)
Other	(2)	(1)
Total change	5%	5%

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 —

	Three Months Ended			Six Months Ended		
	October 30, 2009	October 24, 2008	% Change	October 30, 2009	October 24, 2008	% Change
		(In millions)			(In millions)	
General and administrative expenses	$ 56.9	$ 51.0	12%	$ 116.5	$ 100.5	16%

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

	Three Months % Change Fiscal 2009 to Fiscal 2010	Six Months % Change Fiscal 2009 to Fiscal 2010
Incentive plan compensation	11%	7%
Stock based compensation	4	6
Other compensation costs	—	3
Professional and corporate legal fees	(3)	(1)
IT costs	1	1
Other	(1)	—
Total change	12%	16%

Restructuring and Other Charges

	Three Months Ended			Six Months Ended		
	October 30, 2009	October 24, 2008	% Change	October 30, 2009	October 24, 2008	% Change
		(In millions)			(In millions)	
Restructuring and other charges	$ 1.2	$ —	N/A	$ 2.7	$ —	N/A

In the three and six month periods ended October 30, 2009, we recorded restructuring expense of $1.2 million and $2.7 million, net, respectively, primarily related to adjustments to future lease commitments and employee severance costs associated with our fiscal 2009 restructuring plan, which included a program for a reduction in workforce, the closing or downsizing of certain facilities, and the establishment of a plan to outsource certain internal activities.

As of October 30, 2009, approximately $6.1 million of the costs associated with restructuring activities were unpaid. We expect that severance-related charges and other costs totaling $0.8 million will be substantially paid by the three month period ending January 29, 2010 and the facilities-related lease payments totaling $5.3 million to be substantially paid by January 2013.

See Note 13 to our condensed consolidated financial statements for further discussion of our restructuring activities.

Merger Termination Proceeds, Net

	Three Months Ended			Six Months Ended		
	October 30, 2009	October 24, 2008	% Change	October 30, 2009	October 24, 2008	% Change
		(In millions)			(In millions)	
Merger termination proceeds, net	$ —	$ —	N/A	$ (41.1)	$ —	N/A

On May 20, 2009, we announced that we had entered into a merger agreement with Data Domain, Inc. (Data Domain) under which we would acquire Data Domain in a stock and cash transaction. On July 8, 2009, Data Domain's Board of Directors terminated the merger agreement and pursuant to the terms of the agreement, Data

Domain paid us a $57.0 million termination fee. We incurred $15.9 million of incremental third-party costs relating to the terminated merger transaction during the same period, resulting in net proceeds of $41.1 million recorded in the condensed consolidated statement of operations for the six month period ended October 30, 2009.

Other Income and Expense

Interest Income — Interest income for the three and six month periods ended October 30, 2009 and October 24, 2008 was as follows:

	Three Months Ended			Six Months Ended		
	October 30, 2009	October 24, 2008	% Change	October 30, 2009	October 24, 2008	% Change
		(In millions)			(In millions)	
Interest income	$ 7.0	$ 17.6	(60)%	$ 15.6	$ 33.1	(53)%

The decrease in interest income for the three and six month periods ended October 30, 2009 compared to the prior year was primarily due to lower market yields on our cash and investment portfolio.

Interest Expense — Interest expense for the three and six month periods ended October 30, 2009 and October 24, 2008 was as follows:

	Three Months Ended			Six Months Ended		
	October 30, 2009	October 24, 2008	% Change	October 30, 2009	October 24, 2008	% Change
		(In millions)			(In millions)	
Interest expense	$ (17.9)	$ (17.8)	1%	$ (37.1)	$ (27.3)	36%

On April 25, 2009, as required by new guidance on accounting for convertible debt, we retrospectively revised our accounting for 1.75% Convertible Notes Due 2013 (the Notes) by allocating the initial proceeds from the Notes between a liability component and an equity component. Accordingly, we recorded additional interest expense on the debt component of our Notes using an effective interest rate of 6.31% for all periods. As a result of this adoption, we recognized approximately $12.2 million and $25.3 million, respectively, in incremental non-cash interest expense during the three and six month periods ended October 30, 2009 from the amortization of debt discount and issuance costs.

Interest expense was relatively flat for the three month period ended October 30, 2009 compared to the prior year. Interest expense increased $9.8 million for the six month period ended October 30, 2009 compared to the prior year, primarily due to interest expense on our Notes, issued on June 10, 2008, which were outstanding for the full six month period ended October 30, 2009 but only a partial period in the comparable period of the prior year.

Gain (Loss) on Investments, Net —

	Three Months Ended			Six Months Ended		
	October 30, 2009	October 24, 2008	% Change	October 30, 2009	October 24, 2008	% Change
		(In millions)			(In millions)	
Gain (Loss) on investments, net	$ 2.8	$ (22.6)	(112)%	$ 2.7	$ (25.2)	(111)%

During the three and six month periods ended October 30, 2009, we recorded gain on investments in privately held companies of $2.8 million and $2.7 million, respectively. During the three month period ended October 24, 2008, net loss on investments included an other-than-temporary impairment charge of $21.1 million on our available-for-sale investments related to direct and indirect investments in Lehman Brothers securities and an other-than-temporary decline of $2.1 million in the value of our auction rate securities, partially offset by a gain of $0.6 million for our investments in privately-held companies. During the six month period ended October 24, 2008, net loss on investments included a net write-down of $2.0 million for our investments in privately-held companies, an other-than-temporary impairment charge of $21.1 million on our available-for-sale investments related to direct and indirect investments in Lehman Brothers securities and an other-than-temporary impairment of $2.1 million due to a decline in the value of our auction rate securities.

Other Expenses, Net —

	Three Months Ended			Six Months Ended		
	October 30, 2009	October 24, 2008	% Change	October 30, 2009	October 24, 2008	% Change
		(In millions)			(In millions)	
Other expenses, net	$ (1.3)	$ (0.5)	165%	$ (2.2)	$ (2.5)	(10)%

Other expense, net, consists of primarily net exchange losses from foreign currency transactions and related hedging activities.

Provision for Income Taxes

	Three Months Ended			Six Months Ended		
	October 30, 2009	October 24, 2008	% Change	October 30, 2009	October 24, 2008	% Change
		(In millions)			(In millions)	
Provision for income taxes	$ 10.3	$ (0.7)	n/a	$ 17.8	$ 4.6	285%

Our effective tax rate for the six month period ended October 30, 2009 was 10.8%, compared with 5.6% for the six month period ended October 24, 2008. Our effective tax rate reflects the impact of a significant amount of our earnings being taxed in foreign jurisdictions at rates below the U.S. statutory tax rate. Our effective tax rate for the six month period ended October 30, 2009 increased relative to the six month period ended October 24, 2008 primarily due to the geographic mix of profits which resulted in an increase in the ratio of U.S. earnings to foreign earnings for fiscal 2010. The earnings from U.S. operations are generally subject to higher income tax rates. The provision for income taxes for the six month period ended October 30, 2009 included a discrete charge of approximately $7.8 million, primarily attributable to a $16.4 million charge for the tax impact of the net merger termination fees and a $3.8 million increase in our reserve for uncertain tax positions, offset by a $12.4 million benefit related to stock-based compensation. The provision for income taxes for the six month period ended October 30, 2008 included a discrete benefit of approximately $5.4 million, primarily attributable to a $3.5 million decrease in our reserve for uncertain tax positions, and a $1.9 million benefit related to stock-based compensation.

On May 27, 2009, the United States Court of Appeals for the Ninth Circuit held in Xilinx Inc. v. Commissioner that stock-based compensation must be included in the research and development cost base of companies that have entered into a cost sharing agreement and must, therefore, be allocated among the participants based on anticipated benefits. The Court is considering a review of the decision by the full Ninth Circuit panel of justices. The Court's reversal of the prior U.S. Tax Court decision impacts our estimate of tax benefits that are required to be recognized under accounting guidance. We evaluated the impact of the Xilinx case on our provision for income taxes for the six month period ended October 30, 2009 and established additional liabilities for uncertain tax positions of $32.6 million. This additional reserve for uncertain tax positions resulted in a reduction of our unrecognized tax attributes.

During fiscal year 2009, we received Notices of Proposed Adjustments from the IRS in connection with a federal income tax audit of our fiscal 2003 and 2004 tax returns. We filed a protest with the IRS in response to the Notices of Proposed Adjustments and recently received a rebuttal from the IRS examination team in response to our protest. The Notices of Proposed Adjustments focus primarily on issues of the timing and the amount of income recognized and deductions taken during the audit years and on the level of cost allocations made to foreign operations during the audit years. If upon the conclusion of this audit the ultimate determination of our taxes owed in the U.S. is for an amount in excess of the tax provision we have recorded in the applicable period or subsequently reserved for, our overall tax expense and effective tax rate may be adversely impacted in the period of adjustment.

Liquidity and Capital Resources

The following sections discuss our principal liquidity requirements, as well as our sources and uses of cash flows on our liquidity and capital resources. The principal objectives of our investment policy are the preservation of principal and maintenance of liquidity. We attempt to mitigate default risk by investing in high-quality investment grade securities, limiting the time to maturity and by monitoring the counter-parties and underlying obligors closely. We believe our cash equivalents and short-term investments are liquid and accessible. We are not aware of any significant deterioration in the fair value of our cash equivalents or investments from the values reported as of October 30, 2009.

Liquidity Sources, Cash Requirements

Our principal sources of liquidity as of October 30, 2009 consisted of: (1) approximately $3.0 billion in cash, cash equivalents and short-term investments, (2) cash we expect to generate from operations, and (3) an unsecured revolving credit facility totaling $250.0 million. Our principal liquidity requirements are primarily to meet our working capital needs, support ongoing business activities, research and development, capital expenditure needs, investment in critical or complementary technologies, and to service our debt and synthetic leases.

Key factors that could affect our cash flows include changes in our revenue mix and profitability, as well as our ability to effectively manage our working capital, in particular, accounts receivable and inventories. Based on our current business outlook, we believe that our sources of cash will be sufficient to fund our operations and meet our cash requirements for at least the next 12 months. However, in the event our liquidity is insufficient, we may be required to further curtail spending and implement additional cost saving measures and restructuring actions. In light of the current economic and market conditions, we cannot be certain that we will continue to generate cash flows at or above current levels or that we will be able to obtain additional financing, if necessary, on satisfactory terms, if at all.

Our cash contractual obligations and commitments as of October 30, 2009 are summarized below in the Contractual Obligations and Commitments tables.

Our investment portfolio, including auction rate securities and our investment in the Primary Fund (as described in Note 9 to our condensed consolidated financial statements) has been and will continue to be exposed to market risk due to uncertainties in the credit and capital markets. However, we are not dependent on liquidating these investments in the next twelve months in order to meet our liquidity needs. We continue to closely monitor current economic and market events to minimize our market risk on our investment portfolio. Based on our ability to access our cash and short-term investments, our expected operating cash flows, and our other potential sources of cash, we do not anticipate that the lack of liquidity of these investments will impact our ability to fund working capital needs, capital expenditures, acquisitions or other cash requirements. We intend to and believe that we have the ability to hold these investments until the market recovers. If current market conditions deteriorate further, or the anticipated recovery in market values does not occur, we may be required to record additional charges to earnings in future periods.

Capital Expenditure Requirements

We expect to fund our capital expenditures, including our commitments related to facilities and equipment operating leases, 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 at this time and will depend on a number of factors including future demand for products, product mix, changes in the network storage industry, economic conditions and market competition. We expect that our existing facilities in Sunnyvale, California; Research Triangle Park, North Carolina; and worldwide are adequate for our requirements over at least the next two years, and that additional space will be available as needed. However, if current economic conditions deteriorate further, we may be required to implement additional restructuring plans to eliminate or consolidate excess facilities, incur cancellation penalties and impair fixed assets.

Cash Flows

As of October 30, 2009, compared to April 24, 2009, our cash and cash equivalents and short-term investments increased by $351.3 million to $3.0 billion. The increase in cash and cash equivalents and short-term investments was primarily a result of cash provided by operating activities, issuance of common stock related to employee stock option exercises and employee stock purchase plan, partially offset by capital expenditures. We derive our liquidity and capital resources primarily from our cash flow from operations and from working capital. Days sales outstanding as of October 30, 2009 decreased to 32 days, compared to 46 days as of April 24, 2009, primarily due to collection efficiencies. Working capital increased by $292.4 million to $2,051.8 million as of October 30, 2009, compared to $1,759.5 million as of April 24, 2009.

Cash Flows from Operating Activities

During the six month period ended October 30, 2009, we generated cash flows from operating activities of $305.5 million. We recorded net income of $147.3 million for the six month period ended October 30, 2009. Significant changes in noncash adjustments affecting net income included stock-based compensation expense of $85.4 million; depreciation and amortization expense of $85.2 million; non-cash interest expense from the accretion of debt discount and issuance costs of $25.3 million, and tax benefits from stock options of $14.4 million. Significant changes in assets and liabilities impacting operating cash flows included a decrease in accounts receivable of $131.7 million and a decrease in the accrual for the GSA settlement of $128.7 million due to payment.

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

Cash Flows from Investing Activities

Capital expenditures for the six month period ended October 30, 2009 were $47.5 million. We paid $102.4 million for net purchases and redemptions of short-term investments and received $4.5 million from the sale of nonmarketable and marketable securities.

Cash Flows from Financing Activities

We received $61.5 million from financing activities for the six month period ended October 30, 2009. Proceeds from employee stock option exercises and employee stock purchase plan were $65.9 million. We withheld shares with an aggregate value of $5.7 million in connection with the vesting of certain employees' restricted stock units for purposes of satisfying those employees' federal, state, and local withholding tax obligations.

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

Stock Repurchase Program

At October 30, 2009, $1.1 billion remained available for future repurchases under plans approved as of that date. The stock repurchase program may be suspended or discontinued at any time.

Convertible Notes

As of October 30, 2009, we had $1.265 billion principal amount of 1.75% Convertible Senior Notes due 2013 (See Note 7 to our condensed consolidated financial statements). The Notes will mature on June 1, 2013, unless earlier repurchased or converted. As of October 30, 2009, the Notes have not been repurchased or converted. We also have not received any shares under the related Note Hedges or delivered cash or shares under the related Warrants.

Credit Facilities

As of October 30, 2009, we have an unsecured revolving credit facility totaling $250.0 million, of which $0.6 million was allocated as of October 30, 2009 to support certain of our outstanding letters of credit.

This credit facility requires us to maintain specified financial covenants, with which we were in compliance as of October 30, 2009. Such specified financial covenants include a maximum ratio of Total Debt to Earnings before

Interest, Taxes, Depreciation and Amortization and a minimum amount of Unencumbered Cash and Short-Term Investments. Our failure to comply with these financial covenants could result in a default under the credit facility, which would give the counterparties thereto the ability to exercise certain rights, including the right to accelerate the amounts outstanding thereunder and to terminate the facility.

Contractual Obligations

The following summarizes our contractual obligations at October 30, 2009 and the effect such obligations are expected to have on our liquidity and cash flows in future periods (in millions):

	2010*	2011	2012	2013	2014	Thereafter	Total
Contractual Obligations:							
Office operating lease payments(1)	$ 14.5	$24.8	$20.3	$ 17.1	$ 15.0	$ 34.0	$ 125.7
Real estate lease payments(2)	1.8	3.7	3.7	129.4	—	—	138.6
Equipment operating lease payments	15.8	21.3	8.5	1.2	—	—	46.8
Purchase commitments with contract manufacturers(3)	90.7	—	—	—	—	—	90.7
Other purchase orders and commitments	19.3	16.9	11.0	4.6	1.2	0.2	53.2
Capital expenditures	1.0	—	—	—	—	—	1.0
1.75% Convertible notes(4)	11.1	22.1	22.1	22.1	1,276.1	—	1,353.5
Uncertain tax positions(5)	—	—	—	—	—	96.0	96.0
Total Contractual Cash Obligations	$154.2	$88.8	$65.6	$174.4	$1,292.3	$ 130.2	$1,905.5
Other Commercial Commitments:							
Letters of credit	$ 3.7	$ 0.4	$ 0.3	$ 0.1	$ —	$ 0.6	$ 5.1

For purposes of the above table, contractual obligations for the purchase of goods and services are defined as agreements that are enforceable, are legally binding on us, and subject us to penalties if we cancel the agreement. Some of the figures we include in this table are based on management's estimates and assumptions about these obligations, including their duration, the possibility of renewal or termination, anticipated actions by management and third parties, and other factors. Because these estimates and assumptions are necessarily subjective, our actual future obligations may vary from those reflected in the table.

* Reflects the remaining six months of fiscal 2010.

(1) Sublease income of $0.7 million in the remainder of fiscal 2010, $1.1 million in fiscal 2011, $0.4 million in each of the fiscal years 2012, 2013 and 2014, and $0.2 million thereafter has been excluded from the table.

(2) Included in real estate lease payments pursuant to four financing arrangements with BNP Paribas LLC (BNPPLC) are (i) lease commitments of $1.8 million in the remainder of fiscal 2010; $3.7 million in each of the fiscal years 2011 and 2012; and $2.3 million in fiscal 2013, which are based on either the LIBOR rate at October 30, 2009 plus a spread or a fixed rate for terms of five years, and (ii) at the expiration or termination of the lease, a supplemental payment obligation equal to our minimum guarantee of $127.1 million in the event that we elect not to purchase or arrange for sale of the buildings. See Note 16 to our condensed consolidated financial statements. Sublease income of $5.3 million in the remainder of fiscal 2010, $4.7 million in fiscal 2011, $0.4 million in fiscal 2012 and $0.3 million in fiscal 2013 has been excluded from the table.

(3) Contract manufacturer commitments consist of obligations for on hand inventories and non-cancelable purchase order with our contract manufacturer. We record a liability for firm, noncancelable, and nonreturnable purchase commitments for quantities in excess of our future demand forecasts, which is consistent with the valuation of our excess and obsolete inventory. As of October 30, 2009, the liability for these purchase commitments in excess of future demand was approximately $3.2 million and is recorded in other accrued liabilities.

(4) Included in these amounts are obligations related to the $1.265 billion principal amount of 1.75% Notes due 2013 (see Note 7 to our condensed consolidated financial statements). Estimated interest payments for the Notes are $88.5 million for fiscal 2010 through fiscal 2014.

(5) As of October 30, 2009, our liability for uncertain tax positions was $96.0 million.

As of October 30, 2009, we have four leasing arrangements (Leasing Arrangements 1, 2, 3 and 4) with BNPPLC which requires us to lease our land to BNPPLC for a period of 99 years, and to lease approximately 564,274 square feet of office space for our headquarters in Sunnyvale costing up to $149.6 million. Under these leasing arrangements, we pay BNPPLC minimum lease payments, which vary based on LIBOR plus a spread or a fixed rate on the costs of the facilities on the respective lease commencement dates. We make payments for each of the leases for a term of five years. We have the option to renew each of the leases for two consecutive five-year periods upon approval by BNPPLC. Upon expiration (or upon any earlier termination) of the lease terms, we must elect one of the following options: (i) purchase the buildings from BNPPLC at cost; (ii) if certain conditions are met, arrange for the sale of the buildings by BNPPLC to a third party for an amount equal to at least 85% of the costs (residual guarantee), and be liable for any deficiency between the net proceeds received from the third party and such amounts; or (iii) pay BNPPLC supplemental payments for an amount equal to at least 85% of the costs (residual guarantee), in which event we may recoup some or all of such payments by arranging for a sale of each or all buildings by BNPPLC during the ensuing two-year period. The following table summarizes the costs, the residual guarantee, the applicable LIBOR plus spread or fixed rate at October 30, 2009, and the date we began to make payments for each of our leasing arrangements (in millions):

Leasing Arrangements	Cost	Residual Guarantee	LIBOR plus Spread or Fixed Rate	Lease Commencement Date	Term
1	$48.5	$ 41.2	3.99%	January 2008	5 years
2	$80.0	$ 68.0	1.10%	December 2007	5 years
3	$10.5	$ 8.9	3.97%	December 2007	5 years
4	$10.6	$ 9.0	3.99%	December 2007	5 years

All leases require us to maintain specified financial covenants with which we were in compliance as of October 30, 2009. Such financial covenants include a maximum ratio of Total Debt to Earnings before Interest, Taxes, Depreciation and Amortization and a minimum amount of Unencumbered Cash and Short-Term Investments. Our failure to comply with these financial covenants could result in a default under the leases which, subject to our right and ability to exercise our purchase option, would give BNPPLC the right to, among other things, (i) terminate our possession of the leased property and require us to pay lease termination damages and other amounts as set forth in the lease agreements, or (ii) exercise certain foreclosure remedies. If we were to exercise our purchase option, or be required to pay lease termination damages, these payments would significantly reduce our available liquidity, which could constrain our operating flexibility.

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

Legal Contingencies

In April 2009, we entered into a settlement agreement with the United States of America, acting through the United States Department of Justice (“DOJ”) and on behalf of the General Services Administration (the “GSA”), under which we paid the United States $128.0 million, plus interest of $0.7 million, related to a dispute regarding our discount practices and compliance with the price reduction clause provisions of GSA contracts between August 1997 and February 2005. In September 2009, we received a letter from the GSA confirming that the Company will not be excluded from further government contracting as a result of this dispute.

On September 5, 2007, we filed a patent infringement lawsuit in the Eastern District of Texas seeking compensatory damages and a permanent injunction against Sun Microsystems. On October 25, 2007, Sun Microsystems filed a counter claim against us in the Eastern District of Texas seeking compensatory damages and a permanent injunction. On October 29, 2007, Sun filed a second lawsuit against us in the Northern District of

California asserting additional patents against us. The Texas court granted a joint motion to transfer the Texas lawsuit to the Northern District of California on November 26, 2007. On March 26, 2008, Sun filed a third lawsuit in federal court that extends the patent infringement charges to storage management technology we acquired in January 2008. The three lawsuits are currently in the discovery phase and no trial date has been set, so we are unable at this time to determine the likely outcome of these various patent litigations. In addition, as we are unable to reasonably estimate the amount or range of the potential settlement, no accrual has been recorded as of October 30, 2009.

In addition, we are subject to various legal proceedings and claims which have arisen or may arise in the normal course of business. While the outcome of these legal matters is currently not determinable, we do not believe that any current litigation or claims will have a material adverse effect on our business, cash flow, operating results, or financial condition.

Off-Balance Sheet Arrangements

During the ordinary course of business, we provide standby letters of credit or other guarantee instruments to third parties as required for certain transactions initiated either by us or our subsidiaries. As of October 30, 2009, our financial guarantees of $5.1 million that were not recorded on our balance sheet consisted of standby letters of credit related to workers' compensation, a customs guarantee, a corporate credit card program, foreign rent guarantees and surety bonds, which were primarily related to self-insurance.

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

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

As of October 30, 2009, our notional fair value of foreign exchange forward and foreign currency option contracts totaled $358.0 million. We do not believe that these derivatives present significant credit risks, because the counterparties to the derivatives consist of major financial institutions, and we manage the notional amount of contracts entered into with any one counterparty. Other than the risk associated with the financial condition of the counterparties, our maximum exposure related to foreign currency forward and option contracts is limited to the premiums paid. See Note 10 to our condensed consolidated financial statements for more information related to our hedging activities.

In the ordinary course of business, we enter into recourse lease financing arrangements with third-party leasing companies and from time to time provide guarantees for a portion of other financing arrangements under which we could be called upon to make payments to the third-party funding companies in the event of nonpayment by end-user customers. See Note 16 of our condensed consolidated financial statements for more information related to these financing arrangements.

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

We have commitments related to four lease arrangements with BNPPLC for approximately 564,274 square feet of office space for our headquarters in Sunnyvale, California (as further described above under "Contractual Obligations").

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

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

Accordingly, under current accounting guidance, we are not required to consolidate either the leasing entity or the specific assets that we lease under the BNPPLC lease. Our future minimum lease payments and residual guarantees under these real estate leases will amount to a total of $138.6 million as discussed in above in "Contractual Obligations".

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 these risks. We do not use derivative financial instruments for speculative or trading purposes. All financial instruments are used in accordance with management-approved policies.

Market Risk and Market Interest Risk

Investment and Interest Income — As of October 30, 2009, we had available-for-sale investments of $1,335.5 million. Our investment portfolio primarily consists of investments with original maturities at the date of purchase of greater than three months, which are classified as available-for-sale. These investments, consisting primarily of corporate bonds, corporate securities, U.S. government agency bonds, U.S. Treasuries, and certificates of deposit, are subject to interest rate and interest income risk and will decrease in value if market interest rates increase. A hypothetical 10 percent increase in market interest rates from levels at October 30, 2009 would cause the fair value of these available-for-sale investments to decline by approximately $1.0 million. Volatility in market interest rates over time will, however, cause variability in our interest income. We do not use derivative financial instruments in our investment portfolio.

Our investment policy is to limit credit exposure through diversification and investment in highly rated securities. We further mitigate concentrations of credit risk in our investments by limiting our investments in the debt securities of a single issuer and by diversifying risk across geographies and type of issuer. We actively review, along with our investment advisors, current investment ratings, company specific events, and general economic conditions in managing our investments and in determining whether there is a significant decline in fair value that is other-than-temporary. We will continue to monitor and evaluate the accounting for our investment portfolio on a quarterly basis for additional other-than-temporary impairment charges. We could realize additional losses in our holdings of the Primary Fund and may not receive all or a portion of our remaining balance in the Primary Fund as a result of market conditions and ongoing litigation against the fund.

We are also exposed to market risk relating to our auction rate securities due to uncertainties in the credit and capital markets. As of October 30, 2009, we recorded cumulative unrealized loss of $3.8 million, offset by an immaterial amount of unrealized gains related to these securities. The fair value of our auction rate securities may change significantly due to events and conditions in the credit and capital markets. These securities/issuers could be subject to review for possible downgrade. Any downgrade in these credit ratings may result in an additional decline in the estimated fair value of our auction rate securities. Changes in the various assumptions used to value these securities and any increase in the markets' perceived risk associated with such investments may also result in a decline in estimated fair value.

If current market conditions deteriorate further, or the anticipated recovery in market values does not occur, we may be required to record additional unrealized losses in other comprehensive income (loss) or other-than-temporary impairment charges to earnings in future quarters. We intend and have the ability to hold these investments until the market recovers. We do not believe that the lack of liquidity relating to our portfolio investments will impact our ability to fund working capital needs, capital expenditures or other operating requirements. See Note 9 to our condensed consolidated financial statements in Part I, Item 1; Management's Discussion and Analysis of Financial Condition and Results of Operations, "Liquidity and Capital Resources," in Part I, Item 2; and Risk Factors in Part II, Item 1A of this Quarterly Report on Form 10-Q for a description of recent market events that may affect the value and liquidity of the investments in our portfolio that we held at October 30, 2009.

Lease Commitments — As of October 30, 2009, one of our four lease arrangements with BNPPLC is based on a floating interest rate. The minimum lease payments will vary based on LIBOR plus a spread. All of our leases have an initial term of five years, and we have the option to renew these leases for two consecutive five-year periods upon approval by BNPPLC. A hypothetical 10 percent increase in market interest rate from the level at October 30, 2009 would increase our lease payments on this one floating lease arrangement under the initial five-year term by an immaterial amount. We do not currently hedge against market interest rate increases.

Convertible Notes — In June 2008, we issued $1.265 billion principal amount of 1.75% Notes due 2013, of which $1.017 billion was allocated to debt and $0.248 billion was allocated to equity. Holders may convert the Notes prior to maturity upon the occurrence of certain circumstances. Upon conversion, we would pay the holder the cash value of the applicable number of shares of our common stock, up to the principal amount of the Note. Amounts in excess of the principal amount, if any, may be paid in cash or in stock at our option. Concurrent with the issuance of the Notes, we entered into convertible note hedge transactions and separately, warrant transactions, to reduce the potential dilution from the conversion of the Notes and to mitigate any negative effect such conversion may have on the price of our common stock.

The fair value of our Notes is subject to interest rate risk, market risk and other factors due to the convertible feature. Generally, the fair value of Notes will increase as interest rates fall and/or our common stock price increases, and decrease as interest rates rise and/or our common stock price decreases. The interest and market value changes affect the fair value of our Notes, but do not impact our financial position, cash flows, or results of operations due to the fixed nature of the debt obligations. We do not carry the Notes at fair value, but present the fair value of the principal amount of our Notes for disclosure purposes. As of October 30, 2009, the principal amount of our Notes, which consists of the combined debt and equity components, was $1.265 billion, and the total estimated fair value of such was $1.4 billion based on the closing trading price of $109.9 per $100 of our Notes as of that date.

Nonmarketable Securities — Our investments in nonmarketable securities had a carrying amount of $2.0 million as of October 30, 2009. If we determine that an other-than-temporary decline in fair value exists for a nonmarketable equity security, we write down the investment to its fair value and record the related impairment as an investment loss in our condensed consolidated statements of operations.

Foreign Currency Exchange Rate Risk and Foreign Exchange Forward Contracts

We hedge risks associated with foreign currency transactions to minimize the impact of changes in foreign currency exchange rates on earnings. We utilize forward and option contracts to hedge against the short-term impact of foreign currency fluctuations on certain assets and liabilities denominated in foreign currencies. All balance sheet hedges are marked to market through earnings every period. We also use foreign exchange forward contracts to hedge foreign currency forecasted transactions related to forecasted sales transactions. These derivatives are designated as cash flow hedges under accounting guidance for derivatives and hedging. For cash flow hedges outstanding at October 30, 2009, the time-value component is recorded in earnings while all other gains or losses were included in other comprehensive income.

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

The following table provides information about our foreign exchange forward contracts outstanding (based on trade date) on October 30, 2009 (in millions):

Currency	Buy/Sell	Foreign Currency Amount	Notional Contract Value in USD	Notional Fair Value in USD
Forward Contracts:				
EUR	Sell	141.4	$ 208.0	$ 208.0
GBP	Sell	31.8	$ 52.2	$ 52.2
CAD	Sell	18.8	$ 17.3	$ 17.3
Other	Sell	N/A	$ 20.9	$ 20.9
AUD	Buy	40.0	$ 35.9	$ 35.9
Other	Buy	N/A	$ 10.7	$ 10.7
Option Contracts:				
EUR	Sell	9.0	$ 13.2	$ 13.0

Item 4. ***Controls and Procedures***

Disclosure controls are 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 U.S. Securities and Exchange Commission's rules and forms. Disclosure controls and procedures are also designed to ensure that such information is accumulated and communicated to our management, including the CEO and CFO, as appropriate to allow timely decisions regarding required disclosure.

Under the supervision and with the participation of our management, including our CEO and CFO, we conducted an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act, as of October 30, 2009, 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 relating to NetApp, including its consolidated subsidiaries, required to be disclosed in its Securities and Exchange Commission ("SEC") reports (i) is recorded, processed, summarized, and reported within the time periods specified in SEC rules and forms, and (ii) is accumulated and communicated to NetApp management, including our CEO and CFO, as appropriate to allow timely decisions regarding required disclosure.

There was no change in our internal control over financial reporting that occurred during the period covered by this Quarterly Report on Form 10-Q 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***

In April 2009, we entered into a settlement agreement with the United States of America, acting through the United States Department of Justice ("DOJ") and on behalf of the General Services Administration (the "GSA"), under which we paid the United States $128.0 million, plus interest of $0.7 million, related to a dispute regarding our discount practices and compliance with the price reduction clause provisions of the GSA contracts between August 1997 and February 2005 in consideration for the release of NetApp by the DOJ and GSA with respect to the claims alleged in the investigation as set forth in the settlement agreement. We made the settlement payment on

April 27, 2009. In September 2009, we received a letter from the GSA confirming that the Company will not be excluded from further government contracting as a result of this dispute.

On September 5, 2007, we filed a patent infringement lawsuit in the Eastern District of Texas seeking compensatory damages and a permanent injunction against Sun Microsystems. On October 25, 2007, Sun Microsystems filed a counter claim against us in the Eastern District of Texas seeking compensatory damages and a permanent injunction. On October 29, 2007, Sun filed a second lawsuit against us in the Northern District of California asserting additional patents against us. The Texas court granted a joint motion to transfer the Texas lawsuit to the Northern District of California on November 26, 2007. On March 26, 2008, Sun filed a third lawsuit in federal court that extends the patent infringement charges to storage management technology we acquired in January 2008. The three lawsuits are currently in the discovery phase and no trial date has been set, so we are unable at this time to determine the likely outcome of these various patent litigations. Since we are unable to reasonably estimate the amount or range of any potential settlement, no accrual has been recorded as of October 30, 2009.

On June 12, 2009, a purported class action lawsuit was filed on behalf of the shareholders of Data Domain, Inc. (Data Domain) in the Court of Chancery of the State of Delaware (the Delaware Suit). In addition, on June 19, 2009, a purported class action lawsuit was filed on behalf of Data Domain's shareholders in the Superior Court of the State of California, County of Santa Clara (the California Suit). These lawsuits named as defendants the Data Domain directors, and NetApp and its merger subs (with the California Suit also naming Data Domain itself), and alleged breach of fiduciary duty by the Data Domain board of directors and aiding and abetting such breach by NetApp. Both complaints initially sought injunctive relief and damages. On July 23, 2009, the plaintiff in the California Suit purported to serve an amended complaint alleging a single claim for attorneys' fees and expenses based on the benefit allegedly conferred by the plaintiff's lawsuit upon Data Domain's shareholders. On August 26, 2009, the plaintiff in the Delaware Suit moved to dismiss its action and requested attorneys' fees and expenses based on the benefit allegedly conferred by the plaintiff's lawsuit upon Data Domain's shareholders. On October 16, 2009, the plaintiff in the California suit dismissed by stipulation all claims against us and our merger subs. In addition, on November 6, 2009, the plaintiff in the Delaware Suit confirmed by stipulation that its request for attorneys' fees and expenses was not directed against us and that it did not seek any award of fees or expenses from us or our merger subs.

Item 1A. ***Risk Factors***

The following risk factors and other information included in this Quarterly Report on Form 10-Q should be carefully considered. The risks and uncertainties described below are not the only ones we face. Additional risks and uncertainties not presently known to us or that we presently deem less significant may also impair our business operations. Please see page 27 of this Quarterly Report on Form 10-Q for additional discussion of these forward-looking statements. If any of the events or circumstances described in the following risk factors actually occurs, our business, operating results, and financial condition could be materially adversely affected.

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

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

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

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

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

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

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

- Fluctuations in demand for our products and services, in part due to changes in general economic conditions and specific economic conditions in the computer, storage, and networking industries;
- A shift in federal government spending patterns;
- Changes in sales and implementation cycles for our products and reduced visibility into our customers' spending plans and associated revenue;
- The level of price and product competition in our target product markets;
- The impact of the economic and credit environment on our customers, channel partners, and suppliers, including their ability to obtain financing or to fund capital expenditures;
- The overall movement toward industry consolidation among both our competitors and our customers;
- Our reliance on a limited number of suppliers due to industry consolidation, which could subject us to periodic supply-and-demand, price rigidity, and quality issues with our components;
- The timing of bookings or the cancellation of significant orders;
- Product configuration and mix;
- The extent to which our customers renew their service and maintenance contracts with us;
- Market acceptance of new products and product enhancements;
- Announcements and introductions of, and transitions to, new products by us or our competitors;
- Deferrals of customer orders in anticipation of new products or product enhancements introduced by us or our competitors;
- Our ability to develop, introduce, and market new products and enhancements in a timely manner;
- Technological changes in our target product markets;
- Our levels of expenditure on research and development and sales and marketing programs;
- Our ability to achieve targeted cost reductions;
- Adverse movements in foreign currency exchange rates as a result of our international operations;
- Excess or inadequate facilities;
- Actual events, circumstances, outcomes and amounts differing from judgments, assumptions, and estimates used in determining the values of certain assets (including the amounts of valuation allowances), liabilities, and other items reflected in our consolidated financial statements;

- Disruptions resulting from new systems and processes as we continue to enhance and scale our system infrastructure;
- Future accounting pronouncements and changes in accounting rules, such as the increased use of fair value measures, changes in accounting standards related to revenue recognition, and the potential requirement that U.S. registrants prepare financial statements in accordance with International Financial Reporting Standards (IFRS);
- 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 intraquarter revenue pattern in which a disproportionate percentage of each quarter's total revenues occur in the last month of the quarter.

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

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

Our revenues for a particular period are difficult to forecast, especially in light of the recent global economic downturn and related market uncertainty. Product sales are also difficult to forecast because the storage and data management market is rapidly evolving, and our sales cycle varies substantially from customer to customer. New or additional product introductions also increase the complexities of forecasting revenues.

Additionally, we derive a majority of our revenue in any given quarter from orders booked in the same quarter. Bookings typically follow intraquarter seasonality patterns weighted toward the back end of the quarter. If we do not achieve bookings in the latter part of a quarter consistent with our quarterly targets, our financial results will be adversely impacted.

We use a "pipeline" system, a common industry practice, to forecast bookings and trends in our business. Sales personnel monitor the status of potential business and estimate when a customer will make a purchase decision, the dollar amount of the sale and the products or services to be sold. These estimates are aggregated periodically to generate a bookings pipeline. Our pipeline estimates may prove to be unreliable either in a particular quarter or over a longer period of time, in part because the "conversion rate" of the pipeline into contracts varies from customer to customer, can be difficult to estimate, and requires management judgment. Small deviations from our forecasted conversion rate may result in inaccurate plans and budgets and could materially and adversely impact our business or our planned results of operations. In particular, the recent adverse events in the economic environment and financial markets have made it even more difficult for us to forecast our future results and may result in a reduction in our quarterly conversion rate as our customers' purchasing decisions are delayed, reduced in amount, or cancelled.

Uncertainty about future global economic conditions has caused consumers, businesses and governments to defer purchases in response to tighter credit, decreased cash availability and declining customer confidence. Accordingly, future demand for our products could differ from our current expectations.

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

The recent global financial crisis has led to a worldwide economic downturn that has created a challenging operating environment for our business. If the economy does not improve or worsens, demand for our products and services and our revenues may be adversely impacted. A prolonged downturn can adversely affect our revenues, gross margin and results of operations. During such economic downturns, it is critical to appropriately align our cost structure with prevailing market conditions and to minimize the effect of such downturns on our operations, while also maintaining our capabilities and strategic investments for future growth.

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

Conversely, if we are unable to effectively manage our resources and capacity during periods of increasing demand for our products, we could experience a material adverse effect on operations and financial results. If the network storage market fails to grow, or grows slower than we expect, our revenues will be adversely affected. Also, even if IT spending increases, our revenue may not grow at the same pace.

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

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

- Demand for storage and data management products;
- Pricing actions, rebates, initiatives, discount levels, and price competition;
- Direct versus indirect and OEM sales;
- Changes in customer, geographic, or product mix, including mix of configurations within each product group;
- Product and add-on software mix;
- The mix of services as a percentage of revenue;
- The mix and average selling prices of products;
- The mix of disk content;
- The timing of revenue recognition and revenue deferrals;
- New product introductions and enhancements;
- Excess inventory purchase commitments as a result of changes in demand forecasts and possible product and software defects as we transition our products; and
- The cost of components, manufacturing labor, quality, warranty, and freight.

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

- The size of the installed base of products under support contracts;
- The timing of technical support service contract renewals;
- Demand for and the timing of delivery of upgrades;
- The timing of our technical support service initiatives; and
- The level of spending on our customer support infrastructure.

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

- The mix of customers;
- The size and timing of service contract renewals;

- The volume and use of outside partners to deliver support services on our behalf; and
- Product quality and serviceability issues.

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

Our cost-reduction initiatives and restructuring plans may not result in anticipated savings or more efficient operations. Our restructuring plan announced earlier in calendar year 2009 may disrupt our operations and adversely affect our operations and financial results.

In February 2009, in response to global economic conditions and uncertainty about future IT spending, we announced a restructuring of our worldwide operations in an effort to strategically align our cost structure with expected revenues, as well as to reallocate resources into areas of our business with more growth potential.

Additionally, in December 2008, we decided to cease development and availability of our SnapMirror® for Open Systems ("SMOS") products, and as a result recorded restructuring charges attributable primarily to severance and employee-related and facility closure costs, as well as the impairment of certain acquired intangible assets.

We may not be able to realize the expected benefits of these restructuring plans. Our restructuring plans may fail to improve our gross margins, results of operations and cash flows as we anticipate. Our inability to realize these benefits may result in an ineffective business structure that could negatively impact our results of operations. In addition to costs related to severance and other employee-related costs, our restructuring plans may also subject us to litigation risks and expenses.

In addition, our restructuring plans may have other adverse consequences, such as attrition beyond our planned reduction in workforce, the loss of employees with valuable knowledge or expertise, a negative impact on employee morale, or a gain in competitive advantage by our competitors over us. The restructuring efforts could also be disruptive to our day-to-day operations and cause our remaining employees to be less productive, which in turn may affect our revenue and other operating results in the future. In the event that the economy recovers sooner than we expect and results in increased IT spending, we may not have sufficient capacity to capitalize on the related increase in demand for our products and services.

We may undertake future cost-reduction initiatives and restructuring plans that may adversely impact our operations; and we may not realize all of the anticipated benefits of our prior or any future restructurings.

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

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

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

In April 2005, we entered into an OEM agreement with IBM, which enables IBM to sell IBM branded solutions based on NetApp unified solutions, including NearStore® and V-Series systems, as well as associated software offerings. While this agreement is an element of our strategy to expand our reach into more customers and countries, we do not have an exclusive relationship with IBM, and there is no minimum commitment for any given period of time; therefore, this relationship may not continue to contribute revenue in future years. In addition, we have no control over the products that IBM selects to sell, or its release schedule and timing of those products; nor do we control its pricing. In the event that sales through IBM increase, we may experience distribution channel conflicts between our direct sales force and IBM or among our channel partners. If we fail to minimize channel conflicts, our operating results and financial condition could be harmed. We cannot assure you that this OEM relationship will continue to generate significant revenue while the agreement is in effect, or that the relationship will continue to be in effect for any specific period of time.

We may face increased risks and uncertainties related to our current or future investments in private companies, and these investments may not achieve our objectives.

On occasion, we make strategic investments in other companies, including private equity funds, which may decline in value and/or not meet desired objectives. The success of these investments depends on various factors over which we may have limited or no control. As of October 30, 2009, we had an investment with the carrying value of $2.0 million in a private equity fund. The risks to our strategic investment portfolio may be exacerbated by unfavorable financial market and macroeconomic conditions and, as a result, the value of the investment portfolio could be negatively impacted and lead to impairment charges. If we determine that an other-than-temporary impairment has occurred, we write down the investment to its estimated fair value, based on available information such as pricing in recent rounds of financing, current cash positions, earnings and cash flow forecasts, recent operational performance and any other readily available market data.

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

An element of our strategy to increase revenue is to strategically partner with major third-party software and hardware vendors that integrate our products into their products and also co-market our products with these vendors. We have significant partner relationships with database, business application, backup management and server virtualization companies, including Microsoft, Oracle, SAP, Symantec and VMware. In addition, in November 2009, we announced our intention to expand our relationship with Fujitsu. A number of these strategic partners are industry leaders that offer us expanded access to segments of the storage market. There is intense competition for attractive strategic partners, and even if we can establish relationships with these or other partners, these partnerships may not generate significant revenue or may not continue to be in effect for any specific period of time. If these relationships fail to materialize as expected, we could suffer delays in product development or other operational difficulties.

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

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

If we fail to manage distribution of our products and services properly, or if our distributors' financial condition or operations weaken, our revenue and gross margins could be adversely affected.

We market and sell our storage solutions directly through our worldwide sales force and indirectly through channel partners such as value-added resellers, systems integrators, distributors, OEMs and strategic business partners, and we derive a significant portion of our revenue from these channel partners. During the three and six month periods ended October 30, 2009, revenues generated from sales through our channel partners accounted for 67% and 68% of our revenues, respectively. In order for us to maintain or increase our revenues, we must effectively manage our relationships with channel partners.

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

- We compete with some of our channel partners through our direct sales force, which may lead these partners to use other suppliers who do not directly sell their own products;
- Our channel partners may demand that we absorb a greater share of the risks that their customers may ask them to bear;
- Our channel partners may have insufficient financial resources and may not be able to withstand changes and challenges in business conditions; and
- Revenue from indirect sales could suffer if our channel partners' financial condition or operations weaken.

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

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

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

In addition, selling our products to the U.S. government also subjects us to certain regulatory requirements. For example, in April 2009, we entered into a settlement agreement with the United States of America, acting through the United States Department of Justice ("DOJ") and on behalf of the General Services Administration (the "GSA"), under which we paid the United States $128.0 million, plus interest of $0.7 million, related to a dispute regarding our discount practices and compliance with the price reduction clause provisions of GSA contracts between August 1997 and February 2005. The failure to comply with these requirements could subject us to fines and other penalties, which could have a material adverse effect on our revenues and operating results.

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

During the three and six month periods ended October 30, 2009, sales to Arrow and Avnet, who are U.S. distributors, each accounted for approximately 12% and 11% of our revenues, respectively. The loss of orders from any of our more significant customers, strategic partners, distributors or resellers could cause our revenue and profitability to suffer. Our ability to attract new customers will depend on a variety of factors, including the cost-effectiveness, reliability, scalability, breadth and depth of our products.

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

Recent turmoil in the credit markets may further negatively impact our operations by affecting the solvency of our customers, resellers and distributors, or the ability of our customers to obtain credit to finance purchases of our products. If the global economy and credit markets continue to deteriorate and our future sales decline, our financial condition and operating results could be adversely impacted.

Because our expenses are based on our revenue forecasts, a substantial reduction or delay in sales of our products to, or unexpected returns from, customers and resellers, or the loss of any significant customer or reseller, could harm our business. Although our largest customers may vary from period to period, we anticipate that our operating results for any given period will continue to depend on large orders from significant customers. In addition, a change in the mix of our customers could adversely affect our revenue and gross margins.

We are exposed to the credit risk of some of our customers, resellers, and distributors, as well as credit exposures in weakened 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 in the United States and, because of local customs or conditions, longer in some markets outside the United States. We monitor individual customer payment capability in granting such open credit arrangements, and seek to limit such open credit to amounts we believe the customers can pay. Beyond our open credit arrangements, we also have recourse and nonrecourse customer financing leasing arrangements with third party leasing companies through preexisting relationships with customers. Under the terms of recourse leases, which are treated as off-balance sheet arrangements, we remain liable for the aggregate unpaid remaining lease payments to the third party leasing company in the event that any customers default. In addition, from time to time we provide guarantees for a portion of other financing arrangements under which we could be called upon to make payments to our funding parties in the event of nonpayment by end-user customers. We expect demand for customer financing to continue. During periods of economic downturn in the storage industry and the global economy, our exposure to credit risks from our customers increases. In addition, our exposure to credit risks of our customers may increase if our customers and their customers or their lease financing sources are adversely affected by the global economic downturn, or if there is a continuation or worsening of the downturn. Although we have programs in place to monitor and mitigate the associated risks, such programs may not be effective in reducing our credit risks.

In the past, there have been bankruptcies by our customers both who have open credit and who have lease financing arrangements with us, causing us to incur bad debt charges, and, in the case of financing arrangements, a loss of revenues. There can be no assurance that additional losses will not occur in future periods. Any future losses could harm our business and have a material adverse effect on our operating results and financial condition. Additionally, to the extent that the recent turmoil in the credit markets makes it more difficult for customers to obtain open credit or lease financing, those customers' ability to purchase our product could be adversely impacted, which in turn could have a material adverse impact on our financial condition and operating results.

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

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

- Fluctuations in our operating results;
- Variations between our operating results and either the guidance we have furnished to the public or the published expectations of securities analysts;
- Economic developments in the storage and data management market as a whole;
- Fluctuations in the valuation of companies perceived by investors to be comparable to us;
- Changes in analysts' recommendations or projections;
- Inquiries by the SEC, NASDAQ, law enforcement, or other regulatory bodies;
- International conflicts and acts of terrorism;
- Announcements of new products, applications, or product enhancements by us or our competitors;
- Changes in our relationships with our suppliers, customers, channel and strategic partners; and
- General market conditions, including the recent financial and credit crisis and global economic downturn.

In addition, the stock market has experienced volatility that has particularly affected the market prices of the equity securities of many technology companies. Certain macroeconomic factors such as changes in interest rates, the market climate for the technology sector, and levels of corporate spending on IT, as well as variations in our expected operating performance, could continue to have an impact on the trading price of our stock. As a result, the market price of our common stock may fluctuate significantly in the future, and any broad market decline may materially and adversely affect the market price of our common stock.

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

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

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

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

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

The storage markets are intensely competitive and are characterized by rapidly changing technology. In the storage market, our primary and near-line storage system products and our associated software portfolio compete primarily with storage system products and data management software from EMC, Hitachi Data Systems, HP, IBM, and Sun Microsystems. In addition, Dell, Inc. is a competitor in the storage marketplace through its business arrangement with EMC, which allows Dell to resell EMC storage hardware and software products, as well as through Dell's acquisition of EqualLogic, through which Dell offers low-priced storage solutions. In the secondary storage market, which includes the disk-to-disk backup, compliance and business continuity segments, our solutions compete primarily against products from EMC and Sun Microsystems. Our VTL products also compete with traditional tape backup solutions in the broader data backup/recovery space. Additionally, a number of small, newer companies have recently entered the storage systems and data management software markets, the near-line and VTL storage markets and the high-performance clustered storage markets, some of which may become significant competitors in the future.

There has been a trend toward industry consolidation in our markets for several years. For example, in April 2009, Oracle Corporation, one of our strategic partners, announced its plan to acquire Sun Microsystems, one of our competitors; in addition, in July 2009, EMC, one of our competitors, acquired Data Domain. We expect this trend to continue as companies attempt to strengthen or hold their market positions in an evolving industry and as companies are acquired or are unable to continue operations. We believe that industry consolidation may result in stronger competitors that are better able to compete as sole-source vendors for customers. In addition, current and potential competitors have established or may establish cooperative relationships among themselves or with third parties. For example, in November 2009, Cisco and EMC together with VMware announced a Virtual Computing Environment coalition. Accordingly, it is possible that new competitors or alliances among competitors may emerge and rapidly acquire significant market share. We may not be able to compete successfully against current or future competitors. Competitive pressures we face could materially and adversely affect our business and operating results.

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

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

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

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

The fact that we do not own or operate our manufacturing facilities and supply chain exposes us to risks, including reduced control over quality assurance, production costs and product supply, which could have a material adverse impact on the supply of our products and on our business and operating results.

Financial problems of either contract manufacturers or component suppliers could limit supply, increase costs, or result in accelerated payment terms. The loss of any contract manufacturer or key supplier could negatively impact our ability to manufacture and sell our products. Qualifying a new contract manufacturer and commencing volume production is expensive and time-consuming. If we are required to change contract manufacturers, we may lose revenue and damage our customer relationships. Disruption or termination of manufacturing capacity or component supply could delay shipments of our products and could materially and adversely affect our operating results. Such delays could also damage relationships with current and prospective customers and suppliers, and our competitive position and reputation could be harmed.

A return to growth in the economy is likely to put greater pressures on us, our contract manufacturers and our suppliers to accurately project demand and to establish optimal purchase commitment levels. Additionally, the reservation of manufacturing capacity at our contract manufacturers by other companies, inside or outside of our industry, or the inability by us to appropriately cancel, reschedule, or adjust our manufacturing or components requirements based upon business needs could result in either limitation of supply or increased costs from these suppliers.

If we inaccurately forecast demand for our products or if there is lack of demand for our products, we may have excess or inadequate inventory or incur cancellation charges or penalties, which would increase our costs and have an adverse impact on our gross margins.

We rely on a limited number of suppliers for components such as disk drives, computer boards and microprocessors utilized in the assembly of our products. In recent years, rapid industry consolidation has led to fewer component suppliers, which has and could subject us to future periodic supply constraints and price rigidity.

Furthermore, as a result of binding price or purchase commitments with suppliers, we may be obligated to purchase components at prices that are higher than those available in the current market, or in amounts greater than our needs. In the event that we become committed to purchase components at prices in excess of the current market price when the components are actually used, or are committed to buy components in amounts greater than our needs, our gross margins could decrease.

Component quality is a risk and is particularly significant with respect to our suppliers of disk drives. In order to meet product performance requirements, we must obtain disk drives of extremely high quality and capacity.

As suppliers upgrade their components, they regularly "end of life" older components. As we become aware of an end of life situation, we attempt to make purchases or purchase commitments to cover all future requirements or find a suitable substitute component. We may not be able to obtain a sufficient supply of components on a timely and cost effective basis. Our failure to do so may lead to an adverse impact on our business. On the other hand, if we fail to anticipate customer demand properly or if there is reduced demand or no demand for our products, an oversupply of end of life components could result in excess or obsolete components that could adversely affect our gross margins.

We intend to regularly introduce new products and product enhancements, which will require us to rapidly achieve volume production by coordinating with our contract manufacturers and suppliers. We may need to increase our material purchases, contract manufacturing capacity and quality functions to meet anticipated demand. The inability of our contract manufacturers or our component suppliers to provide us with adequate supplies of high-quality products and materials suitable for our needs could cause a delay in our ability to fulfill orders.

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

At October 30, 2009, we had $3.1 billion in cash, cash equivalents, available-for-sale securities and restricted cash and investments. We invest our cash in a variety of financial instruments, consisting principally of investments in U.S. Treasury securities, U.S. government agency bonds, corporate bonds, corporate securities, auction rate securities, certificates of deposit, and money market funds, including the Primary Fund. These investments are subject to general credit, liquidity, market and interest rate risks, which have been exacerbated by unusual events such as the financial and credit crisis, and bankruptcy filings in the United States which have affected various sectors of the financial markets and led to global credit and liquidity issues. These securities are generally classified as "available-for-sale" and, consequently, are recorded on our consolidated balance sheets at fair value with unrealized gains or losses reported as a component of accumulated other comprehensive income (loss), net of tax.

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

The fair value of our investments may change significantly due to events and conditions in the credit and capital markets. These securities/issuers could be subject to review for possible downgrade. Any downgrade in these credit ratings may result in an additional decline in the estimated fair value of our investments. Changes in the various assumptions used to value these securities and any increase in the markets' perceived risk associated with such investments may also result in a decline in estimated fair value. If such investments suffer market price declines, as we experienced with some of our investments during fiscal 2009, we may recognize in earnings the decline in the fair value of our investments below their cost basis when the decline is judged to be other-than-temporary.

As a result of the bankruptcy filing of Lehman Brothers, which occurred during fiscal 2009, we recorded an other-than-temporary impairment charge of $11.8 million on our corporate bonds related to investments in Lehman Brothers securities and approximately $9.3 million on our investments in the Primary Fund that held Lehman

Brothers investments. As of October 30, 2009, we have an investment in the Primary Fund, an AAA-rated money market fund at the time of purchase, with a par value of $49.1 million and an estimated fair value of $39.8 million, which suspended redemptions in September 2008 and is in the process of liquidating its portfolio of investments. On December 3, 2008, it announced a plan for liquidation and distribution of assets that includes the establishment of a special reserve to be set aside out of its assets for pending or threatened claims, as well as anticipated costs and expenses, including related legal and accounting fees. On February 26, 2009, the Primary Fund announced a plan to set aside $3.5 billion of the fund's remaining assets as the "special reserve" which may be increased or decreased as further information becomes available. However, on November 25, 2009, the U.S. District Court issued an order enjoining the Primary Fund's liquidation plan and ordered that the remaining assets of the Primary Fund be liquidated and distributed on a pro rata basis to all Primary Fund shareholders who have not received $1.00 per share owned on or after September 15, 2008, provided however, that an expense fund of $83.5 million to cover claims for indemnification and management fees and expenses shall be set aside and be withheld from distribution. As of October 30, 2009, we have received less than $1 per share owned of our original investment. We could realize additional losses in our holdings of the Primary Fund and may not receive all or a portion of our remaining balance in the Primary Fund as a result of market conditions and ongoing litigation against the fund.

If the conditions in the credit and capital markets continue to worsen, our investment portfolio may be impacted and we could determine that more of our investments have experienced an other-than-temporary decline in fair value, requiring further impairments, which could adversely impact our financial position and operating results.

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

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

Substantially all of our ARSs are backed by pools of student loans guaranteed by the U.S. Department of Education, and we believe the credit quality of these securities is high based on this guarantee. However liquidity issues in the global credit markets resulted in the failure of auctions for certain of our ARS investments, with a par value of $74.7 million. For each failed auction, the interest rate resets to a maximum rate defined for each security, and the ARS continue to pay interest in accordance with their terms, although the principal associated with the ARS will not be accessible until there is a successful auction or such time as other markets for ARS investments develop.

As of October 30, 2009, we determined there was a total decline in the fair value of our ARS investments of approximately $5.7 million, of which we have recorded cumulative temporary impairment charges of $2.1 million, and $3.6 million was recognized as an other-than-temporary impairment charge. In addition, we have classified all of our auction rate securities as long-term assets in our consolidated balance sheets of October 30, 2009 as our ability to liquidate such securities in the next 12 months is uncertain. Although we currently have the ability and intent to hold these ARS investments until recovery in market value or until maturity, if the current market conditions deteriorate further, or the anticipated recovery in market liquidity does not occur, we may be required to record additional impairment charges in future quarters.

Our leverage and debt service obligations may adversely affect our financial condition and results of operations.

As a result of our sale of $1.265 billion of 1.75% convertible senior notes in June 2008 (the "Notes"), we have a greater amount of long-term debt than we have maintained in the past. We also have a credit facility and various synthetic lease arrangements. In addition, subject to the restrictions in our existing and any future financings agreements, we may incur additional debt. Our maintenance of higher levels of indebtedness could have adverse consequences including:

- Adversely affecting our ability to satisfy our obligations;

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

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

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

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

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

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

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

We are also required to comply with financial covenants under our credit facility and synthetic lease arrangements, and our ability to comply with these financial covenants is dependent on our future performance, which will be subject to many factors, some of which are beyond our control, including prevailing economic conditions.

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

Future issuances of common stock and hedging activities by holders of the Notes may depress the trading price of our common stock and the Notes.

Any new issuance of equity securities, including the issuance of shares upon conversion of the Notes, could dilute the interests of our existing stockholders, including holders who receive shares upon conversion of their Notes, and could substantially decrease the trading price of our common stock and the Notes. We may issue equity securities in the future for a number of reasons, including to finance our operations and business strategy (including in connection with acquisitions, strategic collaborations or other transactions), to increase our capital, to adjust our ratio of debt to equity, to satisfy our obligations upon the exercise of outstanding warrants or options, or for other reasons.

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

Conversion of our Notes will dilute the ownership interest of existing stockholders.

The conversion of some or all of our outstanding Notes will dilute the ownership interest of existing stockholders to the extent we deliver common stock upon conversion of the Notes. Upon conversion of a Note, we will satisfy our conversion obligation by delivering cash for the principal amount of the Note and shares of common stock, if any, to the extent the conversion value exceeds the principal amount. There would be no adjustment to the numerator in the net income per common share computation for the cash settled portion of the Notes as that portion of the debt instrument will always be settled in cash. The number of shares delivered upon conversion, if any, will be included in the denominator for the computation of diluted net income per common share. Any sales in the public market of any common stock issuable upon such conversion could adversely affect prevailing market prices of our common stock. In addition, the existence of the Notes may encourage short selling by market participants because the conversion of the Notes could be used to satisfy short positions, or anticipated conversion of the Notes into shares of our common stock could depress the price of our common stock.

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

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

Lehman Brothers OTC Derivatives, Inc. ("Lehman OTC") is the counterparty to 20% of our Note hedges. The bankruptcy filing by Lehman OTC on October 3, 2008 constituted an "event of default" under the hedge transaction that could, at our option, lead to termination under the hedge transaction to the extent we provide notice to Lehman OTC. We have not terminated the Note hedge transaction with Lehman OTC, and will continue to carefully monitor the developments impacting Lehman OTC. This "event of default" is not expected to have an impact on our financial position or results of operations. However, we could incur significant costs if we elect to replace this hedge transaction originally held with Lehman OTC. If we do not elect to replace this hedge transaction, then we would be subject to potential dilution upon conversion of the Notes if on the date of conversion the per-share market price of our common stock exceeds the conversion price of $31.85. The terms of the Notes, the rights of the holders of the Notes and other counterparties to Note hedges and warrants were not affected by the bankruptcy filings of Lehman OTC.

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

We have various synthetic lease arrangements with BNP Paribas Leasing Corporation as lessor ("BBPPLC") for our headquarters office buildings and land in Sunnyvale, California. These synthetic leases qualify for operating lease accounting treatment under the accounting guidance for leases and are not considered variable interest entities under applicable accounting guidance. Therefore, we do not include the properties or the associated debt on our condensed consolidated balance sheet. However, if circumstances were to change regarding our or BNPPLC's ownership of the properties, or in BNPPLC's overall portfolio, we could be required to consolidate the entity, the leased facilities and the associated debt.

Our future minimum lease payments under these synthetic leases limit our flexibility in planning for, or reacting to, changes in our business by restricting the funds available for use in addressing such changes. If we are unable to grow our business and revenues proportionately to our increase in fixed costs, our operating results will be harmed. If we elect not to purchase the properties at the end of the lease term, we have guaranteed a minimum residual value to BNPPLC. Therefore, if the fair value of the properties declines below that guaranteed minimum residual value, our residual value guarantee would require us to pay the difference to BNPPLC, which could have a material adverse effect on our cash flows, financial condition and operating results.

Reductions in headcount growth have resulted in excess capacity and vacant facilities. In addition, we may experience changes in our operations in the future that could result in additional excess capacity and vacant facilities. We will continue to be responsible for all carrying costs of these facilities' operating leases until such time as we can sublease these facilities or terminate the applicable leases based on the contractual terms of the operating lease agreements, and these costs may have an adverse effect on our business, operating results and financial condition.

Risks inherent in our international operations could have a material adverse effect on our operating results.

We conduct a significant portion of our business outside the United States. A substantial portion of our revenues is derived from sales outside of the U.S. During the three month periods ended October 30, 2009 and October 24, 2008, our international revenues accounted for 46% and 45% of our total revenues, respectively. During the six month periods ended October 30, 2009 and October 24, 2008, our international revenues accounted for 45% and 46% of our total revenues, respectively. In addition, we have research and development centers overseas, and a substantial portion of our products are manufactured outside of the U.S. Accordingly, our business and our future operating results could be materially and adversely affected by a variety of factors affecting our international operations, some of which are beyond our control, including regulatory, political, or economic conditions in a specific country or region, trade protection measures and other regulatory requirements, government spending patterns, and acts of terrorism and international conflicts. In addition, we may not be able to maintain or increase international market demand for our products.

We face exposure to adverse movements in foreign currency exchange rates as a result of our international operations. These exposures may change over time as business practices evolve, and they could have a material adverse impact on our financial results and cash flows. Our international sales are denominated in U.S. dollars and in foreign currencies. An increase in the value of the U.S. dollar relative to foreign currencies could make our products more expensive and therefore potentially less competitive in foreign markets. Conversely, lowering our price in local currency may result in lower U.S.-based revenue. A decrease in the value of the U.S. dollar relative to foreign currencies could increase the cost of local operating expenses. Additionally, we have exposures to emerging market currencies, which can have extreme currency volatility. We utilize forward and option contracts to hedge our foreign currency exposure associated with certain assets and liabilities as well as anticipated foreign currency cash flows. All balance sheet hedges are marked to market through earnings every quarter. The time-value component of our cash flow hedges is recorded in earnings while all other gains and losses are marked to market through other comprehensive income until forecasted transactions occur, at which time such realized gains and losses are recognized in earnings. These hedges attempt to reduce, but do not always entirely eliminate, the impact of currency exchange movements. Factors that could have an impact on the effectiveness of our hedging program include the accuracy of forecasts and the volatility of foreign currency markets as well as widening interest rate differentials and the volatility of the foreign exchange market. There can be no assurance that such hedging strategies will be successful and that currency exchange rate fluctuations will not have a material adverse effect on our operating results.

Additional risks inherent in our international business activities generally include, among others, longer accounts receivable payment cycles and difficulties in managing international operations. Such factors could materially and adversely affect our future international sales and consequently our operating results. Our international operations are subject to other risks, including general import/export restrictions and 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. law.

Moreover, in many foreign countries, particularly in those with developing economies, it is common to engage in business practices that are prohibited by regulations applicable to us, such as the Foreign Corrupt Practices Act. Although we implement policies and procedures designed to ensure compliance with these laws, our employees, contractors and agents, as well as those companies to which we outsource certain of our business operations, may take actions in violation of our policies. Any such violation, even if prohibited by our policies, could subject us to fines and other penalties, which could have a material adverse effect on our business, financial condition or results of operations.

We have credit exposure to our hedging counterparties.

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

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

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

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

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

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

We receive significant tax benefits from sales to our non-U.S. customers. These benefits are contingent upon existing tax regulations in the United States and in the countries in which our international operations are located. Future changes in domestic or international tax regulations could adversely affect our ability to continue to realize these tax benefits. We have not provided for United States federal and state income taxes or foreign withholding taxes that may result on future remittances of undistributed earnings of foreign subsidiaries. The Obama administration recently announced several proposals to reform United States tax rules, including proposals that may result in a reduction or elimination of the deferral of United States income tax on our future unrepatriated earnings. Absent a restructuring of some legal entities and their functionality, some of the future unrepatriated earnings would be taxed at the United States federal income tax rate.

Additionally, the United States Court of Appeals for the Ninth Circuit on May 27, 2009 held in Xilinx Inc. v. Commissioner that stock-based compensation must be included in the research and development cost base of companies that have entered into a cost sharing arrangement and must, therefore, be allocated among the participants based on anticipated benefits. The Court is considering a review of the decision by the full Ninth Circuit panel of justices. The Court's reversal of the prior U.S. Tax Court decision impacts our estimate of tax benefits that are required to be recognized under accounting guidance for income taxes. We evaluated the impact of the Xilinx case on our provision for income taxes for fiscal 2010 and established additional liabilities for uncertain tax positions of $32.6 million. This additional liability for uncertain tax positions results in a reduction of our unrecognized tax attributes.

Our international operations currently benefit from a tax ruling concluded in the Netherlands, which expires in 2010. If we are unable to negotiate a similar tax ruling upon expiration of the current ruling, our effective tax rate could increase and our operating results could be adversely affected. Our effective tax rate could also be adversely affected by different and evolving interpretations of existing law or regulations, which in turn would negatively impact our operating and financial results as a whole. Our effective tax rate could also be adversely affected if there is a change in international operations and how the operations are managed and structured. The price of our common stock could decline to the extent that our financial results are materially affected by an adverse change in our effective tax rate.

We are currently undergoing federal income tax audits in the United States and several foreign tax jurisdictions. The rights to some of our intellectual property ("IP") are owned by certain of our foreign subsidiaries, and payments are made between U.S. and foreign tax jurisdictions relating to the use of this IP in a qualified cost sharing arrangement. In recent years, several other U.S. companies have had their foreign IP arrangements challenged as part of IRS examinations, which has resulted in material proposed assessments and/or pending litigation with respect to those companies. During fiscal 2009, we received Notices of Proposed Adjustments from the IRS in connection with federal income tax audits conducted with respect to our fiscal 2003 and 2004 tax years. We filed a protest with the IRS in response to the Notices of Proposed Adjustments and recently received a rebuttal from the IRS examination team in response to our protest. If the ultimate determination of income taxes assessed under the current IRS audit 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 acquisitions may not provide the anticipated benefits and may disrupt our existing business.

As part of our strategy, we are continuously evaluating opportunities to buy other businesses or technologies that would complement our current products, expand the breadth of our markets, or enhance our technical capabilities. The success our acquisitions is impacted by a number of factors, and may be subject to the following risks:

- The inability to successfully integrate the operations, technologies, products and personnel of the acquired companies;
- The diversion of management's attention from normal daily operations of the business;
- The loss of key employees;
- Substantial transaction costs and accounting charges; and
- Exposure to litigation related to acquisitions.

Any future acquisitions may also result in risks to our existing business, including:

- Dilution of our current stockholders' percentage ownership to the extent we issue new equity;
- Assumption of additional liabilities;

- Incurrence of additional debt or a decline in available cash;
- Adverse effects to our financial statements, such as the need to make large and immediate write-offs or the incurrence of restructuring and other related expenses;
- Liability for intellectual property infringement and other litigation claims, which we may or may not be aware of at the time of acquisition; and
- Creation of goodwill or other intangible assets that could result in significant future amortization expense or impairment charges.

The failure to achieve the anticipated benefits of an acquisition may also result in impairment charges for goodwill or acquired intangibles. For example, in fiscal 2009 we announced our decision to cease the development and availability of our SMOS product, which was originally acquired through our acquisition of Topio, Inc. in fiscal 2007, resulting in the impairment of acquired intangibles related to such acquisition. Additional or realized risks of this nature could have a material adverse effect on our business, financial condition and results of operations.

The occurrence of any of the above risks could seriously harm our business.

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

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

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

We continuously seek to make our cost structure and business processes more efficient. We are focused on increasing workforce flexibility and scalability, and improving overall competitiveness by leveraging our global capabilities, as well as external talent and skills worldwide. For example, certain engineering activities and projects that were formerly performed in the U.S. have been moved to lower cost international locations. The challenges involved with these initiatives include executing business functions in accordance with local laws and other obligations while maintaining adequate standards, controls and procedures.

We will rely on partners or third party service providers for the provision of certain business process functions and activities in IT, human resources and accounting, and as a result, we may incur increased business continuity risks as we increase our reliance on such parties. For example, we may no longer be able to exercise control over some aspects of the future development, support or maintenance of outsourced operations and processes, including the management and internal controls associated with those outsourced business operations and processes, which could adversely affect our business. If we are unable to effectively utilize or integrate and interoperate with external resources or if our partners or third party service providers experience business difficulties or are unable to provide business services as anticipated, we may need to seek alternative service providers or resume providing these business processes internally, which could be costly and time consuming and have a material adverse effect on our operating results. In addition, we may not achieve the expected benefits of our business process improvement initiatives.

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

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

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

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

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

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

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, any of which could have a material impact on our revenue, gross margins and operating results.

In addition, 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. Based on our historical experience, we believe that the risk of exposure to product liability claims is low. However, should we experience increased exposure to product liability claims, our business could be adversely impacted.

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

We are a party to lawsuits in the normal course of our business, including our ongoing litigation with Sun Microsystems. Litigation can be expensive, lengthy and disruptive to normal business operations. Moreover, the results of complex legal proceedings are difficult to predict. An unfavorable resolution of a particular lawsuit could have a material adverse effect on our business, operating results, or financial condition.

If we are unable to protect our intellectual property, we may be subject to increased competition that could materially and adversely affect our operating results. Our success depends significantly upon our proprietary technology. We rely on a combination of copyright and trademark laws, trade secrets, confidentiality procedures, contractual provisions, and patents to protect our proprietary rights. We seek to protect our software, documentation and other written materials under trade secret, copyright and patent laws, which afford only limited protection.

Some of our U.S. trademarks are registered internationally as well. We will continue to evaluate the registration of additional trademarks as appropriate. We generally enter into confidentiality agreements with our employees and with our resellers, strategic partners and customers. We currently have multiple U.S. and international patent applications pending and multiple U.S. patents issued. The pending applications may not be approved, and our existing and future patents may be challenged. If such challenges are brought, the patents may be invalidated. We may not be able to develop proprietary products or technologies that are patentable, or where any issued patent will provide us with any competitive advantages or will not be challenged by third parties. Further, the patents of others may materially and adversely affect our ability to do business. In addition, a failure to obtain and defend our trademark registrations may impede our marketing and branding efforts and competitive position.

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

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

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

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

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

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

We completed our evaluation of our internal controls over financial reporting for the fiscal year ended April 24, 2009 as required by Section 404 of the Sarbanes-Oxley Act of 2002. Although our assessment, testing and evaluation resulted in our conclusion that as of April 24, 2009, our internal controls over financial reporting were effective, we cannot predict the outcome of our testing in future periods. If our internal controls are ineffective in future periods, our business and reputation could be harmed. We may incur additional expenses and commitment of management's time in connection with further evaluations, either of which could materially increase our operating expenses and accordingly reduce our operating results.

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

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

A change in accounting standards or practices and varying interpretations of existing accounting pronouncements, such as the increased use of fair value measures, changes to standards related to revenue recognition, 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.

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

The following table provides information as of October 30, 2009 with respect to the shares of common stock repurchased by NetApp during the three month period ended October 30, 2009:

Period	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Program(1)	Approximate Dollar Value of Shares that may yet be Purchased Under the Repurchase Program(1)
	(Shares in thousands)		(Shares in thousands)	(Dollars in millions)
August 1, 2009 — August 28, 2009	—	$ —	—	$ 1,096
August 29, 2009 — September 25, 2009	—	$ —	—	$ 1,096
September 26, 2009 — October 30, 2009	—	$ —	—	$ 1,096
Total	—	$ —	—	$ 1,096

(1) On May 13, 2003, we announced that our Board of Directors had authorized a stock repurchase program. As of October 30, 2009, our Board of Directors had authorized the repurchase of up to $4,023,638,730 of common stock under this program. We did not repurchase any common stock during the three month period ended October 30, 2009. As of October 30, 2009, we had repurchased 104,325,286 shares of our common stock at a weighted-average price of $28.06 per share for an aggregate purchase price of $2,927,376,373 since inception of the stock repurchase program, and the remaining authorized amount for stock repurchases under this program was $1,096,262,357 with no termination date.

Item 3. ***Defaults upon Senior Securities***

None

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

On October 14, 2009, we held our 2009 Annual Meeting of Stockholders. Voting results are summarized below:

Proposal I — To elect the following individuals to serve as members of the Board of the Directors for the ensuing year or until their respective successors are duly elected and qualified:

Name	Votes For	Abstain
Daniel J. Warmenhoven	280,994,773	9,088,948
Donald T. Valentine	280,594,536	9,489,185
Jeffry R. Allen	167,846,481	122,237,240
Alan L. Earhart	284,509,946	5,573,776
Thomas Georgens	281,968,374	8,115,347
Mark Leslie	280,984,405	9,099,317
Nicholas G. Moore	284,448,586	5,635,135
George T. Shaheen	282,549,881	7,533,840
Robert T. Wall	278,167,883	11,915,838

No members of the Company's Board of Directors had continuing terms without election.

Proposal II — To approve an amendment to modify the number of shares issued pursuant to the stock issuance, and performance share and performance unit programs under the Company's 1999 Stock Option Plan.

Votes For	Against	Abstain
192,450,174	64,827,064	223,718

Proposal III — To approve an amendment to the Automatic Option Grant Program under the 1999 Stock Option Plan.

Votes For	Against	Abstain
230,398,701	26,882,752	219,503

Proposal IV — To approve an amendment to the Employee Stock Purchase Plan (Purchase Plan) to increase the share reserve under the Purchase Plan by an additional 6,700,000 shares of common stock.

Votes For	Against	Abstain
244,799,587	12,587,680	113,689

Proposal V — To approve an amendment and restatement of the Executive Compensation Plan.

Votes For	Against	Abstain
242,309,051	47,450,209	324,461

Proposal V — To ratify the appointment of Deloitte & Touche LLP as independent auditors of the Company for the fiscal year ending April 30, 2010.

Votes For	Against	Abstain
282,596,257	7,041,188	446,276

Item 5. ***Other Information***

The Company filed a Current Report on 8-K on November 25, 2009 related to an agreement to purchase land in Bangalore, India, which is hereby incorporated by reference into this Item 5.

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/ STEVEN J. GOMO

Steven J. Gomo
Executive Vice President of Finance and
Chief Financial Officer

Date: December 2, 2009

EXHIBIT INDEX

Exhibit No	Description
3.1(1)	Certificate of Incorporation of the Company, as amended.
3.2	Bylaws of the Company.
10.1(2)	The Company's Amended and Restated 1999 Stock Option Plan.
10.2(2)	The Company's Amended and Restated Employee Stock Purchase Plan.
10.3(2)	The Company's Amended and Restated Executive Compensation Plan.
10.4	The Company's Amended and Restated Change of Control Severance Agreement (CEO).
10.5	The Company's Amended and Restated Change of Control Severance Agreement (Executive Chairman).
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.

(1) Previously filed as an exhibit to the Company's Annual Report on Form 10-K dated June 24, 2008.

(2) Previously filed as exhibits to the Company's Proxy Statement dated August 20, 2009.

Exhibit 3.2

CERTIFICATE OF AMENDMENT

TO THE BYLAWS OF

NETAPP, INC.

The undersigned, Andrew Kryder, hereby certifies that he is the duly appointed, qualified, and acting Secretary, General Counsel, and Senior Vice President, Legal and Tax of NetApp, Inc., a Delaware corporation (the "**Company**"), and that on August 17, 2009, pursuant to Article III, Section 1 of the Bylaws of the Company, the Board of Directors (the "**Board**") of the Company amended such Bylaws as set forth below, effective as of October 14, 2009:

"**<u>Decrease in the Number of Directors</u>**

WHEREAS, the Board deems it advisable and in the best interests of the Company and its stockholders to decrease the number of authorized directors on the Board from ten (10) to nine (9); and

WHEREAS, Article III, Section 1 of the Bylaws of the Company states, in relevant part:

> The number of directors of this corporation that shall constitute the whole Board shall be determined by resolution of the Board of Directors; provided, however, that no decrease in the number of directors shall have the effect of shortening the term of an incumbent director.

RESOLVED: That the number of authorized directors on the Board be, and hereby is, decreased from ten (10) to nine (9)."

IN WITNESS WHEREOF, the undersigned has hereunto set his hand this 19th day of October, 2009.

By: /s/ Andrew Kryder
Signature

Andrew Kryder

Secretary, General Counsel, and Senior Vice President,
Legal and Tax

BYLAWS
OF
NETWORK APPLIANCE, INC.

ARTICLE I

OFFICES

Section 1. The registered office shall be in the City of Wilmington, County of New Castle, State of Delaware.

Section 2. The corporation may also have offices at such other places both within and without the State of Delaware as the Board of Directors may from time to time determine or the business of the corporation may require.

ARTICLE II

MEETINGS OF STOCKHOLDERS

Section 1. All meetings of the stockholders for the election of directors shall be held at such place as may be fixed from time to time by the Board of Directors, or at such other place either within or without the State of Delaware as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting. Meetings of stockholders for any other purpose may be held at such time and place, within or without the State of Delaware, as shall be stated in the notice of the meeting or in a duly executed waiver of notice thereof.

Section 2. Annual meetings of stockholders shall be held at such date and time as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting. At each annual meeting, the stockholders shall elect directors to succeed those directors whose terms expire in that year and shall transact such other business as may properly be brought before the meeting.

Section 3. Written notice of the annual meeting stating the place, date and hour of the meeting shall be given to each stockholder entitled to vote at such meeting not less than ten (10) nor more than sixty (60) days before the date of the meeting.

Section 4. The officer who has charge of the stock ledger of the corporation shall prepare and make available, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present.

Section 5. Special meetings of the stockholders, for any purpose or purposes, unless otherwise prescribed by statute or by the Certificate of Incorporation, may only be called by the Board.

Section 6. Written notice of a special meeting stating the place, date and hour of the meeting and the purpose or purposes for which the meeting is called, shall be given not fewer than ten (10) nor more than sixty (60) days before the date of the meeting, to each stockholder entitled to vote at such meeting.

Section 7. Business transacted at any special meeting of stockholders shall be limited to the purposes stated in the notice.

Section 8. The holders of a majority of the stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business except as otherwise provided by statute or by the Certificate of Incorporation. If, however, such quorum shall not be present or represented at any meeting of the stockholders, either the Chairman of the Board, the stockholders entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented any business may be transacted that might have been transacted at the meeting as originally notified. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

Section 9. When a quorum is present at any meeting, the vote of the holders of a majority of the stock having voting power present in person or represented by proxy shall decide any question brought before such meeting, unless the question is one upon which by express provision of the statutes or of the Certificate of Incorporation, a different vote is required, in which case such express provision shall govern and control the decision of such question.

Section 10. Unless otherwise provided in the Certificate of Incorporation, each stockholder shall at every meeting of the stockholders be entitled to one vote in person or by proxy for each share of the capital stock having voting power held by such stockholder, but no proxy shall be voted on after three (3) years from its date, unless the proxy provides for a longer period.

Section 11. Nominations for election to the Board of Directors must be made by the Board of Directors or by a committee appointed by the Board of Directors for such purpose or by any stockholder of any outstanding class of capital stock of the corporation entitled to vote for the election of directors. Nominations by stockholders must be preceded by notification in writing received by the secretary of the corporation not less than one-hundred twenty (120) days prior to any meeting of stockholders called for the election of directors. Such notification shall contain the written consent of each proposed nominee to serve as a director if so elected and the following information as to each proposed nominee and as to each person, acting alone or in conjunction with one or more other persons as a partnership, limited partnership, syndicate or other group, who participates or is expected to participate in making such nomination or in organizing, directing or financing such nomination or solicitation of proxies to vote for the nominee:

(a) the name, age, residence, address, and business address of each proposed nominee and of each such person;

(b) the principal occupation or employment, the name, type of business and address of the corporation or other organization in which such employment is carried on of each proposed nominee and of each such person;

(c) the amount of stock of the corporation owned beneficially, either directly or indirectly, by each proposed nominee and each such person; and

(d) a description of any arrangement or understanding of each proposed nominee and of each such person with each other or any other person regarding future employment or any future transaction to which the corporation will or may be a party.

The presiding officer of the meeting shall have the authority to determine and declare to the meeting that a nomination not preceded by notification made in accordance with the foregoing procedure shall be disregarded.

Section 12. At any meeting of the stockholders, only such business shall be conducted as shall have been brought before the meeting (a) pursuant to the corporation’s notice of meeting, (b) by or at the direction of the Board of Directors or (c) by any stockholder of the corporation who is a stockholder of record at the time of giving of the notice provided for in this Bylaw, who shall be entitled to vote at such meeting and who complies with the notice procedures set forth in this Bylaw.

For business to be properly brought before any meeting by a stockholder pursuant to clause (c) above of this Section 12, the stockholder must have given timely notice thereof in writing to the secretary of the corporation. To be timely, a stockholder's notice must be delivered to or mailed and received at the principal executive offices of the corporation not less than one hundred twenty (120) days prior to the date of the meeting. A stockholder's notice to the secretary shall set forth as to each matter the stockholder proposes to bring before the meeting (a) a brief description of the business desired to be brought before the meeting and the reasons for conducting such business at the meeting, (b) the name and address, as they appear on the corporation's books, of the stockholder proposing such business, and the name and address of the beneficial owner, if any, on whose behalf the proposal is made, (c) the class and number of shares of the corporation which are owned beneficially and of record by such stockholder of record and by the beneficial owner, if any, on whose behalf of the proposal is made and (d) any material interest of such stockholder of record and the beneficial owner, if any, on whose behalf the proposal is made in such business.

Notwithstanding anything in these Bylaws to the contrary, no business shall be conducted at a meeting except in accordance with the procedures set forth in this Section 12. The presiding officer of the meeting shall, if the facts warrant, determine and declare to the meeting that business was not properly brought before the meeting and in accordance with the procedures prescribed by this Section 12, and if such person should so determine, such person shall so declare to the meeting and any such business not properly brought before the meeting shall not be transacted. Notwithstanding the foregoing provisions of this Section 12, a stockholder shall also comply with all applicable requirements of the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder with respect to the matters set forth in this Section 12.

Section 13. The stockholders of the Corporation may not take action by written consent without a meeting but must take any such actions at a duly called annual or special meeting in accordance with these Bylaws and the Certificate of Incorporation.

ARTICLE III

DIRECTORS

Section 1. The number of directors of this corporation that shall constitute the whole Board shall be determined by resolution of the Board of Directors; provided, however, that no decrease in the number of directors shall have the effect of shortening the term of an incumbent director. With the exception of the first Board of Directors, which shall be elected by the incorporator and except as provided in the corporation's Certificate of Incorporation, the Board of Directors shall be elected at the annual meeting of stockholders, with each director to hold office for a term expiring at the annual meeting of stockholders following the annual meeting where each director was elected to hold office until his successor is elected and qualified.

Section 2. Vacancies and newly created directorships resulting from any increase in the authorized number of directors may be filled by a majority of the directors then in office, even if less than a quorum, or by a sole remaining director, and the directors so chosen shall hold office until the next election of the class for which such directors were chosen and until their successors are duly elected and qualified or until earlier resignation or removal. If there are no directors in office, then an election of directors may be held in the manner provided by statute.

Section 3. The business of the corporation shall be managed by or under the direction of its Board of Directors which may exercise all such powers of the corporation and do all such lawful acts and things as are not by statute or by the Certificate of Incorporation or by these Bylaws directed or required to be exercised or done by the stockholders.

MEETINGS OF THE BOARD OF DIRECTORS

Section 4. The Board of Directors of the corporation may hold meetings, both regular and special, either within or without the State of Delaware.

Section 5. The first meeting of each newly elected Board of Directors shall be held immediately following the annual meeting of stockholders and no notice of such meeting shall be necessary to the newly elected directors in order legally to constitute the meeting, provided a quorum shall be present. In the event the meeting is not held immediately following the annual meeting of stockholders, the meeting may be held at such time and place as shall be specified in a notice given as hereinafter provided for special meetings of the Board of Directors, or as shall be specified in a written waiver signed by all of the directors.

Section 6. Regular meetings of the Board of Directors may be held without notice at such time and at such place as shall from time to time be determined by the Board.

Section 7. Special meetings of the Board may be called by the Chairman of the Board or the Chief Executive Officer on twelve (12) hours' notice to each director either personally or by telephone, telegram, facsimile or electronic mail; special meetings shall be called by the Chief Executive Officer or secretary in like manner and on like notice on the written request of a majority of the Board unless the Board consists of only one director, in which case special meetings shall be called by the Chairman of the Board, the Chief Executive Officer or secretary in like manner and on like notice on the written request of the sole director. A written waiver of notice, signed by the person entitled thereto, whether before or after the time of the meeting stated therein, shall be deemed equivalent to notice.

Section 8. At all meetings of the Board a majority of the directors shall constitute a quorum for the transaction of business and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by statute or by the Certificate of Incorporation. If a quorum shall not be present at any meeting of the Board of Directors, the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

Section 9. Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all members of the Board or committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board or committee.

Section 10. Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, members of the Board of Directors, or any committee designated by the Board of Directors, may participate in a meeting of the Board of Directors, or any committee, by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

COMMITTEES OF DIRECTORS

Section 11. The Board of Directors may, by resolution passed by a majority of the whole Board, designate one (1) or more committees, each committee to consist of one (1) or more of the directors of the corporation. The Board may designate one (1) or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee.

In the absence of disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member.

Any such committee, to the extent provided in the resolution of the Board of Directors, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers that may require it; but no such committee shall have the power or authority in reference to amending the Certificate of Incorporation, adopting an agreement of merger or consolidation, recommending to the stockholders the sale, lease or exchange of all or substantially all of the corporation's property and assets, recommending to the stockholders a dissolution of the corporation or a revocation of a dissolution, or amending the Bylaws of the corporation; and, unless the resolution or the Certificate of Incorporation expressly so provide, no such committee shall have the power or authority to declare a dividend or to authorize the issuance of stock. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Directors.

Section 12. Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors when required.

COMPENSATION OF DIRECTORS

Section 13. Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, the Board of Directors shall have the authority to fix the compensation of directors. The directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors and may be paid a fixed sum for attendance at each meeting of the Board of Directors or a stated salary as director. No such payment shall preclude any director from serving the corporation in any other capacity and receiving compensation therefor. Members of special or standing committees may be allowed like compensation for attending committee meetings.

REMOVAL OF DIRECTORS

Section 14. Unless otherwise restricted by the Certificate of Incorporation or Bylaws, any director or the entire Board of Directors may be removed, with or without cause, by the holders of a majority of shares entitled to vote at an election of directors.

ARTICLE IV

NOTICES

Section 1. Whenever, under the provisions of the statutes or of the Certificate of Incorporation or of these Bylaws, notice is required to be given to any director or stockholder, it shall not be construed to mean personal notice (except as provided in Section 7 of Article III of these Bylaws), but such notice may be given in writing, by mail, addressed to such director or stockholder, at his address as it appears on the records of the corporation, with postage thereon prepaid, and such notice shall be deemed to be given at the time when the same shall be deposited in the United States mail. Notice to directors may also be given by telephone, telegram or facsimile.

Section 2. Whenever any notice is required to be given under the provisions of the statutes or of the Certificate of Incorporation or of these Bylaws, a waiver thereof in writing, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

ARTICLE V

OFFICERS

Section 1. The officers of the corporation shall be chosen by the Board of Directors and shall be a chief executive officer, a president, a chief financial officer and a secretary. The Board of Directors may elect from among its members a Chairman of the Board. The Board of Directors may also choose one or more vice presidents, assistant secretaries and assistant treasurers. Any number of offices may be held by the same person, unless the Certificate of Incorporation or these Bylaws otherwise provide.

Section 2. The Board of Directors at its first meeting after each annual meeting of stockholders shall choose a chief executive officer, a president, a chief financial officer, and a secretary and may choose vice presidents.

Section 3. The Board of Directors may appoint such other officers and agents as it shall deem necessary who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board.

Section 4. The salaries of all officers of the corporation shall be fixed by the Board of Directors or any committee established by the Board of Directors for such purpose. The salaries of agents of the corporation shall, unless fixed by the Board of Directors, be fixed by the president or any vice president of the corporation.

Section 5. The officers of the corporation shall hold office until their successors are chosen and qualify. Any officer elected or appointed by the Board of Directors may be removed at any time by the affirmative vote of a majority of the Board of Directors. Any vacancy occurring in any office of the corporation shall be filled by the Board of Directors.

THE CHAIRMAN OF THE BOARD

Section 6. The Chairman of the Board, if such an officer is elected, shall exercise and perform such powers and duties as may be from time to time assigned to him by the Board of Directors or prescribed by the Bylaws.

CHIEF EXECUTIVE OFFICER

Section 7. Subject to such supervisory powers, if any, as may be given by the Board of Directors to the Chairman of the Board, if there be such an officer, the chief executive officer shall be the chief executive officer of the corporation and shall, subject to the control of the Board of Directors, have general supervision, direction, and control of the business and the officers of the corporation. He shall preside at all meetings of the shareholders and, at all meetings of the Board of Directors. He shall have the general powers and duties of management usually vested in the office of the chief executive officer of a corporation, and shall have such other powers and duties as may be prescribed by the Board of Directors or the Bylaws.

PRESIDENT

Section 8. In the absence or disability of the chief executive officer, the president shall perform all the duties of the chief executive officer (except presiding at meetings of the Board of Directors), and when so acting shall have all of the powers of, and be subject to all the restrictions upon, the chief executive officer. The president shall have such other powers and perform such other duties as from time to time may be prescribed by the Board of Directors or the Bylaws or the chief executive officer or the Chairman of the Board.

CHIEF FINANCIAL OFFICER

Section 9. The chief financial officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and business transaction of the corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings, and shares. The books of account shall at all reasonable times be open to inspection by any Director.

The chief financial officer shall deposit all moneys and other valuables in the name and to the credit of the corporation with such depositories as may be designated by the Board of Directors. He shall disburse the funds of the corporation as may be ordered by the Board of Directors, shall render to the president and Directors, whenever they request it, an account of all of his transactions as chief financial officer and of the financial condition of the corporation, and shall have other power and perform such other duties as may be prescribed by the Board of Directors of the Bylaws.

SECRETARY

Section 10. The secretary shall keep or cause to be kept, at the principal executive office or such other place as the Board of Directors may direct, a book of minutes of all meetings and actions of Directors, committees or Directors, and shareholders, with the time and place of holding, whether regular or special, and, if special, how authorized, the notice given, the names of those present at the Directors' meetings or committee meetings, the number of shares present or represented at shareholders' meetings, and the proceedings.

The secretary shall keep, or cause to be kept, at the principal executive office or at the office of the corporation's transfer agent or registrar, as determined by resolution of the Board of Directors a share register, or a duplicate share register, showing the names of all shareholders and their addresses, the number and classes of shares held by each, the number and date of certificates issued for the same, and the number and date of cancellation of every certificate surrendered for cancellation.

The secretary shall give, or cause to be given, notice of all meetings of the shareholders and of the Board of Directors required by the Bylaws or Bylaw to be given, and he shall keep the seal of the corporation if one be adopted, in safe custody, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or by the Bylaws.

ARTICLE VI

CERTIFICATE OF STOCK

Section 1. Every holder of stock in the corporation shall be entitled to have a certificate, signed by, or in the name of the corporation by, the Chairman of the Board of Directors, the chief executive officer, the president, a vice president, the treasurer or an assistant treasurer, or the secretary or an assistant secretary of the corporation, certifying the number of shares owned by him/her in the corporation.

Certificates may be issued for partly paid shares and in such case upon the face or back of the certificates issued to represent any such partly paid shares, the total amount of the consideration to be paid therefor, and the amount paid thereon shall be specified.

If the corporation shall be authorized to issue more than one class of stock or more than one series of any class, the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualification, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate that the corporation shall issue to represent such class or series of stock, provided that, except as otherwise provided in section 202 of the General Corporation Law of Delaware, in lieu of the foregoing requirements, there may be set forth on the face or back of the certificate that the corporation shall issue to represent such class or series of stock, a statement that the corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

Any of or all the signatures on the certificate may be facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the corporation with the same effect as if he/she were such officer, transfer agent or registrar at the date of issue.

LOST CERTIFICATES

Section 2. The Board of Directors may direct a new certificate or certificates to be issued in place of any certificate or certificates theretofore issued by the corporation alleged to have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen or destroyed. When authorizing such issue of a new certificate or certificates, the Board of Directors may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate or certificates, or his/her legal representative, to advertise the same in such manner as it shall require and/or to give the corporation a bond in such sum as it may direct as indemnity against any claim that may be made against the corporation with respect to the certificate alleged to have been lost, stolen or destroyed.

TRANSFER OF STOCK

Section 3. Upon surrender to the corporation or the transfer agent of the corporation of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignation or authority to transfer, it shall be the duty of the corporation to issue a new certificate to the person entitled thereto, cancel the old certificate and record the transaction upon its books.

FIXING RECORD DATE

Section 4. In order that the corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which shall not be more than sixty (60) nor less than ten (10) days before the date of such meeting, nor more than sixty (60) days prior to any other action. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

REGISTERED STOCKHOLDERS

Section 5. The corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and to hold liable for calls and assessments a person registered on its books as the owner of shares and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

ARTICLE VII

GENERAL PROVISIONS

DIVIDENDS

Section 1. Dividends upon the capital stock of the corporation, subject to the provisions of the Certificate of Incorporation, if any, may be declared by the Board of Directors at any regular or special meeting, pursuant to law. Dividends may be paid in cash, in property, or in shares of the capital stock, subject to the provisions of the Certificate of Incorporation.

Section 2. Before payment of any dividend, there may be set aside out of any funds of the corporation available for dividends such sum or sums as the directors from time to time, in their absolute discretion, think proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the corporation, or for such other purposes as the directors shall think conducive to the interest of the corporation, and the directors may modify or abolish any such reserve in the manner in which it was created.

CHECKS

Section 3. All checks or demands for money and notes of the corporation shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate.

FISCAL YEAR

Section 4. The fiscal year of the corporation shall be fixed by resolution of the Board of Directors.

SEAL

Section 5. The Board of Directors may adopt a corporate seal having inscribed thereon the name of the corporation, the year of its organization and the words "Corporate Seal, Delaware." The seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

INDEMNIFICATION

Section 6. The corporation shall, to the fullest extent authorized under the laws of the State of Delaware, as those laws may be amended and supplemented from time to time, indemnify any director made, or threatened to be made, a party to an action or proceeding, whether criminal, civil, administrative or investigative, by reason of being a director of the corporation or a predecessor corporation or, at the corporation's request, a director or officer of another corporation, provided, however, that the corporation shall indemnify any such agent in connection with a proceeding initiated by such agent only if such proceeding was authorized by the Board of Directors of the corporation. The indemnification provided for in this Section 6 shall: (i) not be deemed exclusive of any other rights to which those indemnified may be entitled under any Bylaw, agreement or vote of stockholders or disinterested directors or otherwise, both as to action in their official capacities and as to action in another capacity while holding such office, (ii) continue as to a person who has ceased to be a director, and (iii) inure to the benefit of the heirs, executors and administrators of such a person. The corporation's obligation to provide indemnification under this Section 6 shall be offset to the extent of any other source of indemnification or any otherwise applicable insurance coverage under a policy maintained by the corporation or any other person.

Expenses incurred by a director of the corporation in defending a civil or criminal action, suit or proceeding by reason of the fact that he is or was a director of the corporation (or was serving at the corporation's request as a director or officer of another corporation) shall be paid by the corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the corporation as authorized by relevant sections of the General Corporation Law of Delaware. Notwithstanding the foregoing, the corporation shall not be required to advance such expenses to an agent who is a party to an action, suit or proceeding brought by the corporation and approved by a majority of the Board of Directors of the corporation which alleges willful misappropriation of corporate assets by such agent, disclosure of confidential information in violation of such agent's fiduciary or contractual obligations to the corporation or any other willful and deliberate breach in bad faith of such agent's duty to the corporation or its stockholders.

The foregoing provisions of this Section 6 shall be deemed to be a contract between the corporation and each director who serves in such capacity at any time while this Bylaw is in effect, and any repeal or modification thereof shall not affect any rights or obligations then existing with respect to any state of facts then or theretofore existing or any action, suit or proceeding theretofore or thereafter brought based in whole or in part upon any such state of facts.

The Board of Directors in its discretion shall have power on behalf of the corporation to indemnify any person, other than a director, made a party to any action, suit or proceeding by reason of the fact that he, his testator or intestate, is or was an officer or employee of the corporation.

To assure indemnification under this Section 6 of all directors, officers and employees who are determined by the corporation or otherwise to be or to have been "fiduciaries" of any employee benefit plan of the corporation which may exist from time to time, Section 145 of the General Corporation Law of Delaware shall, for the purposes of this Section 6, be interpreted as follows: an "other enterprise" shall be deemed to include such an employee benefit plan, including without limitation, any plan of the corporation which is governed by the Act of Congress entitled "Employee Retirement Income Security Act of 1974," as amended from time to time; the corporation shall be deemed to have requested a person to serve an employee benefit plan where the performance by such person of his duties to the corporation also imposes duties on, or otherwise involves services by, such person to the plan or participants or beneficiaries of the plan; excise taxes assessed on a person with respect to an employee benefit plan pursuant to such Act of Congress shall be deemed "fines."

ARTICLE VIII

AMENDMENTS

Section 1. These Bylaws may be altered, amended or repealed or new Bylaws may be adopted by the affirmative vote of holders of at least 66 2/3% vote of the outstanding voting stock of the corporation. These Bylaws may also be altered, amended or repealed or new Bylaws may be adopted by the Board of Directors, when such power is conferred upon the Board of Directors by the Certificate of Incorporation. The foregoing may occur at any regular meeting of the stockholders or of the Board of Directors or at any special meeting of the stockholders or of the Board of Directors if notice of such alteration, amendment, repeal or adoption of new Bylaws be contained in the notice of such special meeting. If the power to adopt, amend or repeal Bylaws is conferred upon the Board of Directors by the Certificate of Incorporation it shall not divest or limit the power of the stockholders to adopt, amend or repeal Bylaws.

CERTIFICATE OF ADOPTION BY THE SECRETARY OF NETWORK APPLIANCE, INC.

The undersigned, Andrew Kryder, hereby certifies that he is the duly elected and acting Secretary of Network Appliance, Inc., a Delaware corporation (the "Corporation"), and that the Bylaws attached hereto constitute the Bylaws of said Corporation as duly adopted by the Board of Directors and the Stockholders of the Corporation and as in effect on the date hereof.

IN WITNESS WHEREOF, the undersigned has hereunto subscribed his name this 1st day of November, 2001.

/s/ Andrew Kryder
Andrew Kryder
Secretary

Exhibit 10.4

NETAPP, INC.

AMENDED AND RESTATED CHANGE OF CONTROL SEVERANCE AGREEMENT

This Amended and Restated Change of Control Severance Agreement (the "Agreement") is made and entered into by and between Thomas Georgens ("Executive") and NetApp, Inc. (the "Company"), effective as of August 19, 2009 (the "Effective Date").

RECITALS

1. It is expected that the Company from time to time will consider the possibility of an acquisition by another company or other change of control. The Compensation Committee of the Board of Directors of the Company (the "Committee") recognizes that such consideration can be a distraction to Executive and can cause Executive to consider alternative employment opportunities. The Committee has determined that it is in the best interests of the Company and its stockholders to assure that the Company will have the continued dedication and objectivity of Executive, notwithstanding the possibility, threat or occurrence of a Change of Control of the Company.

2. The Committee believes that it is in the best interests of the Company and its stockholders to provide Executive with an incentive to continue his or her employment and to motivate Executive to maximize the value of the Company upon a Change of Control for the benefit of its stockholders.

3. The Committee believes that it is imperative to provide Executive with certain severance benefits upon Executive's termination of employment following a Change of Control. These benefits will provide Executive with enhanced financial security and incentive and encouragement to remain with the Company notwithstanding the possibility of a Change of Control.

4. This Agreement amends and restates the Change of Control Severance Agreement dated June 19, 2008 between the Company and Executive.

5. Certain capitalized terms used in the Agreement are defined in Section 5 below.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. Term of Agreement. This Agreement will have an initial term of three (3) years commencing on the Effective Date (the "Initial Term"). On the third anniversary of the Effective Date, this Agreement will renew automatically for an additional one (1) year term (the "Additional Term") unless either party provides the other party with written notice of non-renewal at least sixty (60) days prior to the date of automatic renewal. Notwithstanding the foregoing sentence, if a Change of Control occurs at any time during either the Initial Term or an Additional Term, the term of this Agreement will extend automatically through date that is twelve (12) months following the effective date of the Change of Control. If Executive becomes entitled to severance benefits under

Section 3 during the term of this Agreement, the Agreement will not terminate until all of the obligations of the parties hereto with respect to this Agreement have been satisfied.

2. At-Will Employment. The Company and Executive acknowledge that Executive's employment is and will continue to be at-will, as defined under applicable law. If Executive's employment terminates for any reason, including (without limitation) any termination that occurs other than during the period that is on or within twelve (12) months after a Change of Control as provided herein, Executive will not be entitled to any payments, benefits, damages, awards or compensation other than as provided by this Agreement and the payment of accrued but unpaid wages, as required by law, and any unreimbursed reimbursable expenses.

3. Severance Benefits.

(a) Termination without Cause or Resignation for Good Reason in Connection with a Change of Control. If the Company terminates Executive's employment with the Company without Cause or if Executive resigns from such employment for Good Reason, and such termination occurs during the period that is on or within twelve (12) months after a Change of Control, and Executive signs and does not revoke a separation agreement and release of claims with the Company (in substantially the form attached hereto as Exhibit A and effective no later than March 15 of the year following the year in which the termination occurs), then Executive will receive the following from the Company:

(i) Accrued Compensation. The Company will pay Executive all accrued but unpaid vacation, expense reimbursements, wages, and other benefits due to Executive under any Company-provided plans, policies, and arrangements; provided, however, that if Executive is eligible to receive any payments or benefits pursuant to this Section 3, Executive will not be eligible to receive any payments or benefits pursuant to any Company severance plan, policy, or other arrangement).

(ii) Severance Payment. Executive will receive a lump sum severance payment (less applicable withholding taxes) equal to the sum of (A) 250% of Executive's annual base salary as in effect immediately prior to Executive's termination date or (if greater) at the level in effect immediately prior to the Change of Control, and (B) 100% of Executive's target annual bonus as in effect immediately prior to Executive's termination date or (if greater) at the level in effect immediately prior to the Change of Control.

(iii) Equity Awards. All outstanding equity awards will vest in full as to 100% of the unvested portion of the award. Executive will have one (1) year following the date of his or her termination in which to exercise any outstanding stock options or other similar rights to acquire Company common stock; provided, however, that such post-termination exercise period will not extend beyond the original maximum term of the stock option or other similar right to acquire Company common stock.

(iv) Continued Employee Benefits. If Executive elects continuation coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA") for Executive and Executive's eligible dependents, within the time period prescribed pursuant to COBRA, the Company will reimburse Executive for the COBRA premiums for such coverage (at the coverage levels in effect immediately prior to Executive's termination) until the earlier of (A) a period of twenty-four (24) months from the last date of employment of the Executive with the Company, or (B) the date upon which Executive and/or Executive's eligible dependents becomes covered under similar plans. COBRA reimbursements will be made by the Company to Executive consistent with the Company's normal expense reimbursement policy.

(b) Timing of Severance Payments. Unless otherwise required by Section 3(g), the Company will pay any severance payments in a lump sum as soon as practicable following Executive's termination date; provided, however, that no severance or other benefits will be paid or provided until the separation agreement and release of claims becomes effective, and any severance amounts or benefits otherwise payable between Executive's termination date and the date such release becomes effective will be paid on the effective date of such release. If Executive should die before all of the severance amounts have been paid, such unpaid amounts will be paid in a lump-sum payment promptly following such event to Executive's designated beneficiary, if living, or otherwise to the personal representative of Executive's estate.

(c) Voluntary Resignation; Termination for Cause. If Executive's employment with the Company terminates (i) voluntarily by Executive (other than for Good Reason during the period that is on or within twelve (12) months after a Change of Control) or (ii) for Cause by the Company, then Executive will not be entitled to receive severance or other benefits except for those (if any) as may then be established under the Company's then existing severance and benefits plans and practices or pursuant to other written agreements with the Company.

(d) Disability; Death. If the Company terminates Executive's employment as a result of Executive's Disability, or Executive's employment terminates due to his or her death, then Executive will not be entitled to receive severance or other benefits except for those (if any) as may then be established under the Company's then existing written severance and benefits plans and practices or pursuant to other written agreements with the Company.

(e) Termination not in Connection with a Change of Control. In the event Executive's employment is terminated for any reason other than as provided in Section 3(a), then Executive will be entitled to receive severance and any other benefits only as may then be established under the Company's existing written severance and benefits plans and practices or pursuant to other written agreements with the Company.

(f) Exclusive Remedy. In the event of a termination of Executive's employment as set forth in Section 3(a), the provisions of Section 3 are intended to be and are exclusive and in lieu of any other rights or remedies to which Executive or the Company may otherwise be entitled, whether at law, tort or contract, in equity, or under this Agreement (other than the payment of accrued but unpaid wages, as required by law, and any unreimbursed reimbursable expenses). Executive will be entitled to no benefits, compensation or other payments or rights upon termination of employment following a Change of Control other than those benefits expressly set forth in this Section 3.

(g) Section 409A.

(i) Notwithstanding anything to the contrary in this Agreement, if Executive is a "specified employee" within the meaning of Section 409A of the Code and the final regulations and any guidance promulgated thereunder ("Section 409A") at the time of Executive's termination (other than due to death), and the severance payable to Executive, if any, pursuant to this Agreement, when considered together with any other severance payments or separation benefits that are considered deferred compensation under Section 409A (together, the "Deferred Compensation Separation Benefits") that are payable within the first six (6) months following Executive's termination of employment, will become payable on the first payroll date that occurs on or after the date six (6) months and one (1) day following the date of Executive's termination of employment. All subsequent Deferred Compensation Separation Benefits, if any, will be payable in accordance with the payment schedule applicable to each payment or benefit. Notwithstanding anything herein to the contrary, if Executive dies following his termination but prior to the six (6) month anniversary of his termination, then any payments delayed in accordance with this paragraph will be payable in a lump sum as soon as administratively practicable after the date of Executive's death and all other Deferred Compensation Separation Benefits will be payable in accordance with the payment schedule applicable to each payment or benefit. Each payment and benefit payable under this Agreement is intended to constitute separate payments for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations.

(ii) Any amount paid under the Agreement that satisfies the requirements of the "short-term deferral" rule set forth in Section 1.409A-1(b)(4) of the Treasury Regulations shall not constitute Deferred Compensation Separation Benefits for purposes of clause (i) above.

(iii) Amount paid under the Agreement that qualifies as a payment made as a result of an involuntary separation from service pursuant to Section 1.409A-1(b)(9)(iii) of the Treasury Regulations that do not exceed the Section 409A Limit shall not constitute Deferred Compensation Separation Benefits for purposes of clause (i) above.

(iv) The foregoing provisions are intended to comply with the requirements of Section 409A so that none of the severance payments and benefits to be provided hereunder will be subject to the additional tax imposed under Section 409A, and any ambiguities herein will be interpreted to so comply. The Company and Executive agree to work together in good faith to consider amendments to this Agreement and to take such reasonable actions which are necessary, appropriate or desirable to avoid imposition of any additional tax or income recognition prior to actual payment to Executive under Section 409A.

4. Limitation on Payments. In the event that the severance and other benefits provided for in this Agreement or otherwise payable to Executive (i) constitute "parachute payments" within the meaning of Section 280G of the Code, and (ii) but for this Section 4, would be subject to the excise tax imposed by Section 4999 of the Code, then Executive's severance benefits under Section 3(a) will be either:

(a) delivered in full, or

(b) delivered as to such lesser extent which would result in no portion of such severance benefits being subject to excise tax under Section 4999 of the Code,

whichever of the foregoing amounts, taking into account the applicable federal, state and local income taxes and the excise tax imposed by Section 4999, results in the receipt by Executive on an after-tax basis, of the greatest amount of severance benefits, notwithstanding that all or some portion of such severance benefits may be taxable under Section 4999 of the Code. Unless the Company and Executive otherwise agree in writing, any determination required under this Section 4 will be made in writing by the Company's independent public accountants immediately prior to a Change of Control or such other person or entity to which the parties mutually agree (the "Accountants"), whose determination will be conclusive and binding upon Executive and the Company for all purposes. For purposes of making the calculations required by this Section 4, the Accountants may make reasonable assumptions and approximations concerning applicable taxes and may rely on reasonable, good faith interpretations concerning the application of Sections 280G and 4999 of the Code. The Company and Executive will furnish to the Accountants such information and documents as the Accountants may reasonably request in order to make a determination under this Section. The Company will bear all costs the Accountants may incur in connection with any calculations contemplated by this Section 4.

5. Definition of Terms. The following terms referred to in this Agreement will have the following meanings:

(a) Cause. "Cause" will mean:

(i) Executive's continued intentional and demonstrable failure to perform his or her duties customarily associated with Executive's position as an employee of the Company or its respective successors or assigns, as applicable (other than any such failure resulting from Executive's mental or physical Disability) after Executive has received a written demand of performance from the Company with specifically sets forth the factual basis for the Company's belief that Executive has not devoted sufficient time and effort to the performance of his or her duties and has failed to cure such non-performance within thirty (30) days after receiving such notice (it being understood that if Executive is in good-faith performing his or her duties, but is not achieving results the Company deems satisfactory for Executive's position, it will not be considered to be grounds for termination of Executive for "Cause");

(ii) Executive's conviction of, or plea of nolo contendere to, a felony that the Board of Directors of the Company (the "Board") reasonably believes has had or will have a material detrimental effect on the Company's reputation or business; or

(iii) Executive's commission of an act of fraud, embezzlement, misappropriation, willful misconduct, or breach of fiduciary duty against, and causing material harm to, the Company or its respective successors or assigns, as applicable.

Executive will receive notice and an opportunity to be heard before the Board with Executive's own attorney before any termination for Cause is deemed effective. Notwithstanding anything to the contrary, the Board may immediately place Executive on administrative leave (with full pay and benefits to the extent legally permissible) but will allow reasonable access to Company information, employees and business should Executive wish to avail himself and prepare for his or her opportunity to be heard before the Board prior to the Board's termination for Cause. If Executive avails himself of his or her opportunity to be heard before the Board, and then fails to make himself or herself available to the Board within thirty (30) days of such request to be heard, the Board may thereafter cancel the administrative leave and terminate Executive for Cause. Likewise, if the Board fails to make itself available to Executive and his or her counsel within thirty (30) days of Executive's request to be heard, Executive will be entitled to terminate his or her employment with the Company and such termination will be treated as a resignation by Executive for Good Reason.

(b) Change of Control. "Change of Control" will mean the occurrence of any of the following events:

(i) Change in Ownership of the Company. A change in the ownership of the Company which occurs on the date that any one person, or more than one person acting as a group ("Person"), acquires ownership of the stock of the Company that, together with the stock held by such Person, constitutes more than 50% of the total voting power of the stock of the Company, except that any change in the ownership of the stock of the Company as a result of a private financing of the Company that is approved by the Board will not be considered a Change of Control; or

(ii) Change in Effective Control of the Company. A change in the effective control of the Company which occurs on the date that a majority of members of the Board is replaced during any twelve (12) month period by Directors whose appointment or election is not endorsed by a majority of the members of the Board prior to the date of the appointment or election. For purposes of this clause (ii), if any Person is considered to be in effective control of the Company, the acquisition of additional control of the Company by the same Person will not be considered a Change of Control; or

(iii) Change in Ownership of a Substantial Portion of the Company's Assets. A change in the ownership of a substantial portion of the Company's assets which occurs on the date that any Person acquires (or has acquired during the twelve (12) month period ending on the date of the most recent acquisition by such person or persons) assets from the Company that have a total gross fair market value equal to or more than 50% of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions. For purposes of this subsection (iii), gross fair market value means the value of the assets of the Company, or the value of the assets being disposed of, determined without regard to any liabilities associated with such assets.

For these purposes, persons will be considered to be acting as a group if they are owners of a corporation that enters into a merger, consolidation, purchase or acquisition of stock, or similar business transaction with the Company.

Notwithstanding the foregoing provisions of this definition, a transaction will not be deemed a Change of Control unless the transaction qualifies as a change in control event within the meaning of Section 409A.

(c) Disability. "Disability" will mean that the Employee has been unable to perform his or her Company duties as the result of his or her incapacity due to physical or mental illness, and such inability, at least twenty-six (26) weeks after its commencement or 180 days in any consecutive twelve (12) month period, is determined to be total and permanent by a physician selected by the Company or its insurers and acceptable to Executive or Executive's legal representative (such agreement as to acceptability not to be unreasonably withheld). Termination resulting from Disability may only be effected after at least thirty (30) days' written notice by the Company of its intention to terminate the Employee's employment. In the event that the Employee resumes the performance of substantially all of his or her duties hereunder before the termination of his or her employment becomes effective, the notice of intent to terminate will automatically be deemed to have been revoked.

(d) Good Reason. "Good Reason" will mean Executive's termination of employment within ninety (90) days following the expiration of any cure period (discussed below) following the occurrence of one or more of the following, without Executive's consent:

(i) A material reduction of Executive's authority or responsibilities, relative to Executive's authority or responsibilities in effect immediately prior to such reduction; *provided, however*, that a reduction of authority or responsibilities that occurs solely as a necessary and direct consequence of the Company undergoing a Change of Control and being made part of a larger entity will not be considered material (as, for example, when the Chief Executive Officer of the Company remains the Chief Executive Officer of the Company, or the business unit comprising the Company, following a Change of Control even though he or she is not made the Chief Executive Officer of the acquiring corporation). Notwithstanding the foregoing, (x) any change which results in Executive ceasing to have the same functional supervisory authority and responsibility (such as but not limited to the sales, engineering, operations and all general and administrative (including, but not limited to, finance) functions) for the Company, or the business unit comprising the Company, following a Change of Control as Executive performed for the Company prior to the Change of Control, or (y) a change in the Executive's reporting position such that Executive no longer reports directly to the Chief Executive Officer or the Board of Directors of the parent corporation in a group of controlled corporations following a Change of Control, will be deemed to constitute a material reduction in Executive's authority and responsibilities constituting grounds for a Good Reason termination;

(ii) A material reduction in Executive's base salary or target annual incentive ("Base Compensation") as in effect immediately prior to such reduction, unless the Company (or Executive's employer or the parent corporation in a group of controlled corporations following a Change of Control) also similarly reduces the Base Compensation of all other employees of the Company (or Executive's employer or the parent corporation in a group of controlled corporations following a Change of Control) with positions, duties and responsibilities comparable to Executive's;

(iii) A material change in the geographic location at which Executive must perform services (in other words, the relocation of Executive to a facility that is more than thirty-five (35) miles from Executive's current location);

(iv) Any purported termination of the Executive's employment for "Cause" without first satisfying the procedural protections, as applicable, required by the definition of "Cause" set forth in that definition; or

(v) The failure of the Company to obtain the assumption of the agreement by a successor and/or acquirer and an agreement that Executive will retain the substantially similar responsibilities in the acquirer or the merged or surviving company as he or she had prior to the transaction.

The notification and placement of Executive on administrative leave pending a potential determination by the Board that Executive may be terminated for Cause will not constitute Good Reason.

Executive will not resign for Good Reason without first providing the Company with written notice within sixty (60) days of the event that Executive believes constitutes "Good Reason" specifically identifying the acts or omissions constituting the grounds for Good Reason and a reasonable cure period of not less than thirty (30) days following the date of such notice.

(e) Section 409A Limit. "Section 409A Limit" will mean the lesser of two (2) times: (i) Executive's annualized compensation based upon the annual rate of pay paid to Executive during the Executive's taxable year preceding the Executive's taxable year of Executive's termination of employment as determined under, and with such adjustments as are set forth in, Treasury Regulation 1.409A-1(b)(9)(iii)(A)(1) and any Internal Revenue Service guidance issued with respect thereto; or (ii) the maximum amount that may be taken into account under a qualified plan pursuant to Section 401(a)(17) of the Code for the year in which Executive's employment is terminated.

6. Successors.

(a) The Company's Successors. Any successor to the Company (whether direct or indirect and whether by purchase, merger, consolidation, liquidation or otherwise) or to all or substantially all of the Company's business and/or assets will assume the obligations under this Agreement and agree expressly to perform the obligations under this Agreement in the same manner and to the same extent as the Company would be required to perform such obligations in the absence of a succession. For all purposes under this Agreement, the term "Company" will include any successor to the Company's business and/or assets which executes and delivers the assumption agreement described in this Section 6(a) or which becomes bound by the terms of this Agreement by operation of law.

(b) Executive's Successors. The terms of this Agreement and all rights of Executive hereunder will inure to the benefit of, and be enforceable by, Executive's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees.

7. Arbitration.

(a) The Company and Executive each agree that any and all disputes arising out of the terms of this Agreement, Executive's employment by the Company, Executive's service as an officer or director of the Company, or Executive's compensation and benefits, their interpretation and any of the matters herein released, will be subject to binding arbitration under the arbitration rules set forth in California Code of Civil Procedure Sections 1280 through 1294.2, including Section 1281.8 (the "Act"), and pursuant to California law. Disputes that the Company and Executive agree to arbitrate, and thereby agree to waive any right to a trial by jury, include any statutory claims under local, state, or federal law, including, but not limited to, claims under Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act of 1967, the Older Workers Benefit Protection Act, the Sarbanes-Oxley Act, the Worker Adjustment and Retraining Notification Act, the California Fair Employment and Housing Act, the Family and Medical Leave Act, the California Family Rights Act, the California Labor Code, claims of harassment, discrimination, and wrongful termination, and any statutory or common law claims. The Company and Executive further understand that this Agreement to arbitrate also applies to any disputes that the Company may have with Executive.

(b) Procedure. The Company and Executive agree that any arbitration will be administered by Judicial Arbitration & Mediation Services, Inc. ("JAMS"), pursuant to its Employment Arbitration Rules & Procedures (the "JAMS Rules"). The Arbitrator will have the power to decide any motions brought by any party to the arbitration, including motions for summary judgment and/or adjudication, motions to dismiss and demurrers, and motions for class certification, prior to any arbitration hearing. The Arbitrator will have the power to award any remedies available under applicable law, and the Arbitrator will award attorneys' fees and costs to the prevailing party, except as prohibited by law. The Company will pay for any administrative or hearing fees charged by the Arbitrator or JAMS except that Executive will pay any filing fees associated with any arbitration that Executive initiates, but only so much of the filing fees as Executive would have instead paid had he or she filed a complaint in a court of law. The Arbitrator will administer and conduct any arbitration in accordance with California law, including the California Code of Civil Procedure, and the Arbitrator will apply substantive and procedural California law to any dispute or claim, without reference to rules of conflict of law. To the extent that the JAMS Rules conflict with California law, California law will take precedence. The decision of the Arbitrator will be in writing. Any arbitration under this Agreement will be conducted in Santa Clara County, California.

(c) Remedy. Except as provided by the Act and this Agreement, arbitration will be the sole, exclusive, and final remedy for any dispute between Executive and the Company. Accordingly, except as provided for by the Act and this Agreement, neither Executive nor the Company will be permitted to pursue court action regarding claims that are subject to arbitration.

(d) Administrative Relief. Executive understand that this Agreement does not prohibit him or her from pursuing any administrative claim with a local, state, or federal administrative body or government agency that is authorized to enforce or administer laws related to employment, including, but not limited to, the Department of Fair Employment and Housing, the Equal Employment Opportunity Commission, the National Labor Relations Board, or the Workers'

Compensation Board. This Agreement does, however, preclude Executive from pursuing court action regarding any such claim, except as permitted by law.

(e) Voluntary Nature of Agreement. Each of the Company and Executive acknowledges and agrees that such party is executing this Agreement voluntarily and without any duress or undue influence by anyone. Executive further acknowledges and agrees that he or she has carefully read this Agreement and has asked any questions needed for him or her to understand the terms, consequences, and binding effect of this Agreement and fully understand it, including that ***Executive is waiving his or her right to a jury trial***. Finally, Executive agrees that he or she has been provided an opportunity to seek the advice of an attorney of his or her choice before signing this Agreement.

8. Notice.

(a) General. Notices and all other communications contemplated by this Agreement will be in writing and will be deemed to have been duly given when personally delivered or when mailed by U.S. registered or certified mail, return receipt requested and postage prepaid. In the case of Executive, mailed notices will be addressed to him or her at the home address which he or she most recently communicated to the Company in writing. In the case of the Company, mailed notices will be addressed to its corporate headquarters, and all notices will be directed to the attention of its President.

(b) Notice of Termination. Any termination by the Company for Cause or by Executive for Good Reason will be communicated by a notice of termination to the other party hereto given in accordance with Section 8(a) of this Agreement. Such notice will indicate the specific termination provision in this Agreement relied upon, will set forth in reasonable detail the facts and circumstances claimed to provide a basis for termination under the provision so indicated, and will specify the termination date (which will be not more than thirty (30) days after the giving of such notice). The failure by Executive to include in the notice any fact or circumstance which contributes to a showing of Good Reason will not waive any right of Executive hereunder or preclude Executive from asserting such fact or circumstance in enforcing his or her rights hereunder.

9. Miscellaneous Provisions.

(a) No Duty to Mitigate. Executive will not be required to mitigate the amount of any payment contemplated by this Agreement, nor will any such payment be reduced by any earnings that Executive may receive from any other source.

(b) Other Requirements. Executive's receipt of any payments or benefits under Section 3 will be subject to Executive continuing to comply with the terms of any confidential information agreement executed by Executive in favor of the Company and the provisions of this Agreement.

(c) Waiver. No provision of this Agreement will be modified, waived or discharged unless the modification, waiver or discharge is agreed to in writing and signed by Executive and by an authorized officer of the Company (other than Executive). No waiver by either party of any breach of, or of compliance with, any condition or provision of this Agreement by the other party will be considered a waiver of any other condition or provision or of the same condition or provision at another time.

(d) Headings. All captions and section headings used in this Agreement are for convenient reference only and do not form a part of this Agreement.

(e) Entire Agreement. This Agreement constitutes the entire agreement of the parties hereto and supersedes in their entirety all prior representations, understandings, undertakings or agreements (whether oral or written and whether expressed or implied) of the parties with respect to the subject matter hereof, including, without limitation, the Addendum to Stock Option Agreement applicable to any stock option award of Executive and the Change of Control Severance Agreement between the Company and Executive dated June 19, 2008. No waiver, alteration, or modification of any of the provisions of this Agreement will be binding unless in writing and signed by duly authorized representatives of the parties hereto and which specifically mention this Agreement.

(f) Choice of Law. The validity, interpretation, construction and performance of this Agreement will be governed by the laws of the State of California (with the exception of its conflict of laws provisions). Any claims or legal actions by one party against the other arising out of the relationship between the parties contemplated herein (whether or not arising under this Agreement) will be commenced or maintained in any state or federal court located in the jurisdiction where Executive resides, and Executive and the Company hereby submit to the jurisdiction and venue of any such court.

(g) Severability. The invalidity or unenforceability of any provision or provisions of this Agreement will not affect the validity or enforceability of any other provision hereof, which will remain in full force and effect.

(h) Withholding. All payments made pursuant to this Agreement will be subject to withholding of applicable income, employment and other taxes.

(i) Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, each of the parties has executed this Agreement, in the case of the Company by its duly authorized officer, as of the day and year set forth below.

COMPANY	NETAPP, INC.
	By: ____________________
	Title: SVP Legal & Tax, General Counsel
	Date: ____________________
EXECUTIVE	By: ____________________
	Title: Chief Executive Officer and President
	Date: ____________________

Exhibit A

Separation Agreement and Release of Claims

[NETAPP LETTERHEAD]

[**DATE**]

Thomas Georgens
[**Street Address at termination**]
[**City, State & Zip at termination**]

Dear Mr. Georgens:

This letter confirms the agreement between NetApp, Inc., (the "Company") and you regarding the terms of your separation from the Company as of **[insert date]** ______(your "Termination Date").

1. **Severance Benefits.** In consideration for your signing this agreement, you will receive the severance benefits set forth in Section 3 of the Amended and Restated Change of Control Severance Agreement between you and the Company effective as of August 19, 2009 (the "Change of Control Severance Agreement"), subject to the conditions set forth herein and the Change of Control Severance Agreement.

2. **Return of Company Property.** You have returned to the Company all Company property in your possession.

3. **Maintaining Confidential Information.** You agree not to disclose any confidential information you acquired, while an employee of the Company, to any other person or use such information in any manner that is detrimental to the Company's interests, per NetApp's *Proprietary Information and Inventions Agreement* (the "Proprietary Information Agreement"), which you signed when you were hired and you further agree to honor the terms of that agreement, including those terms which survive your employment with the Company.

4. **Acknowledgement of Payment of Wages.** Except for any severance benefits set forth in Section 1, by your last day worked you will have received your final paycheck which will include a final payment for wages through your Termination Date, salary, bonuses, if any, employee stock purchase plan reimbursement, accrued but unused vacation pay and any similar payments due from NetApp, less applicable taxes and 401k deduction, if applicable, as of the Termination Date. You acknowledge that NetApp does not owe you any other amounts, except any valid un-reimbursed business expenses that you will submit to the Company.

5. **General Release of the Company.** You understand that by agreeing to this release you are agreeing not to sue, or otherwise file any claim against, the Company or any of its employees or other agents for any reason whatsoever based on anything that has occurred as of the date you sign this agreement.

a) On behalf of yourself and your heirs and assigns, you hereby release and forever discharge the "Releasees" hereunder, consisting of the Company, and each of its owners, shareholders, affiliates, divisions, predecessors, successors, assigns, agents, directors, officers, partners, employees, and insurers, and all persons acting by, through, under or in concert with them, or any of them, of and from any and all manner of action or actions, cause or causes of action, in law or in equity, suits, debts, liens, contracts, agreements, promises, liability, claims, demands, damages, loss, cost or expense, of any nature whatsoever, known or unknown, fixed or contingent (hereinafter called “Claims”), which you now have or may hereafter have against the Releasees, or any of them, by reason of any matter, cause, or thing whatsoever from the beginning of time to the date hereof, including, without limiting the generality of the foregoing, any Claims arising out of, based upon, or relating to your hire, employment, remuneration or resignation by the Releasees, or any of them, including any Claims arising under Title VII of the Civil Rights Act of 1964, as amended; the Age Discrimination in Employment Act, as amended; the Equal Pay Act, as amended; the Fair Labor Standards Act, as amended; the Employee Retirement Income Security Act, as amended; the California Fair Employment and Housing Act, as amended; the California Labor Code; and/or any other local, state or federal law governing discrimination in employment and/or the payment of wages and benefits.

Notwithstanding the generality of the foregoing, you do not release the following claims:

(i) Claims for unemployment compensation or any state disability insurance benefits pursuant to the terms of applicable state law;

(ii) Claims for workers’ compensation insurance benefits under the terms of any workers’ compensation insurance policy or fund of the Company;

(iii) Claims to continued participation in certain of the Company’s group benefit plans pursuant to the terms and conditions of the federal law known as COBRA;

(iv) Claims to any benefit entitlements vested as the date of your employment termination, pursuant to written terms of any Company employee benefit plan;

(v) Claims to any severance benefits due and owing pursuant to Section 1;

(vi) Claims that cannot be released as a matter of law, including, but not limited to: (1) your right to file a charge with or participate in a charge by the Equal Employment Opportunity Commission, or any other local, state, or federal administrative body or government agency that is authorized to enforce or administer laws related to employment, against the Company (with the understanding that any such filing or participation does not give you the right to recover any monetary damages against the Company; your release of claims herein bars you from recovering such monetary relief from the

Company); (2) claims under Division 3, Article 2 of the California Labor Code (which includes California Labor Code section 2802 regarding indemnity for necessary expenditures or losses by employee); and (3) claims prohibited from release as set forth in California Labor Code section 206.5 (specifically "any claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of such wages has been made"); and

(vii) Claims under the terms of any indemnification agreement entered into between you and the Company.

b) YOU ACKNOWLEDGE THAT YOU ARE FAMILIAR WITH THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542, WHICH PROVIDES AS FOLLOWS:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

BEING AWARE OF SAID CODE SECTION, YOU HEREBY EXPRESSLY WAIVE ANY RIGHTS YOU MAY HAVE THEREUNDER, AS WELL AS UNDER ANY OTHER STATUTES OR COMMON LAW PRINCIPLES OF SIMILAR EFFECT.

c) You acknowledge that you are waiving and releasing any rights you may have under the Age Discrimination in Employment Act of 1967 ("ADEA") and that this waiver and release is knowing and voluntary. You and the Company agree that this waiver and release does not apply to any rights or claims that may arise under ADEA after the effective date of this agreement. You acknowledge that the consideration given for this release is in addition to anything of value to which you were already entitled. You further acknowledge that you have been advised by this agreement that (a) you should consult with an attorney before signing this agreement; (b) you have up to twenty-one (21) days within which to consider this agreement; (c) you have seven (7) days following your signing this agreement to revoke it; (d) this release will not be effective until the revocation period has expired; and (e) nothing in this agreement prevents or precludes you from challenging or seeking a determination in good faith of the validity of this waiver under the ADEA, nor does it impose any condition precedent, penalties or costs from doing so, unless specifically authorized by federal law. In the event you sign this agreement and return it to the Company in less than the 21-day period identified above, you hereby acknowledge that you have freely and voluntarily chosen to waive the time period allotted for considering this agreement.

6. **Severability.** The provisions of this agreement are severable. If any provision is held to be invalid or unenforceable, it shall not affect the validity or enforceability of any other provision.

7. **Choice of Law/Venue.** This agreement will be governed by the laws of the State of California, without regard for choice-of-law provisions. You consent to personal and exclusive jurisdiction and venue in the State of California.

8. **Voluntary and Knowing Agreement.** You represent that you have thoroughly read and considered all aspects of this agreement, that you understand all its provisions and that you are voluntarily entering into this agreement.

9. **Effective Date**. You have seven (7) days after you sign this agreement to revoke it. This agreement will become effective on the eighth (8th) day after you sign this agreement, so long as it has been signed by both parties and has not been revoked by you before that date.

10. **Entire Agreement; Amendment.** This agreement, together with the Change of Control Severance Agreement, Proprietary Information Agreement, and agreements relating to your equity incentive awards, set forth the entire agreement between you and the Company and supersedes any and all prior oral or written agreements or understanding between you and the Company concerning the subject matter. This agreement may not be altered, amended or modified, except by a further written document signed by you and the Company.

If the above accurately reflects your understanding, please date and sign the enclosed copy of this letter in the places indicated below and return it to Human Resources.

Respectfully,

____

[Name]
[Job Title]

Accepted and agreed to on ______________________________.
(Date)

____
Thomas Georgens

____
Current Mailing Address (Severance check(s) will be mailed to this address and NetApp will update your records to reflect this address if it is different than the address on file).

Encl.

Exhibit 10.5

NETAPP, INC.

AMENDED AND RESTATED CHANGE OF CONTROL SEVERANCE AGREEMENT

This Amended and Restated Change of Control Severance Agreement (the "Agreement") is made and entered into by and between Daniel J. Warmenhoven ("Executive") and NetApp, Inc. (the "Company"), effective as of August 19, 2009 (the "Effective Date").

RECITALS

1. It is expected that the Company from time to time will consider the possibility of an acquisition by another company or other change of control. The Compensation Committee of the Board of Directors of the Company (the "Committee") recognizes that such consideration can be a distraction to Executive and can cause Executive to consider alternative employment opportunities. The Committee has determined that it is in the best interests of the Company and its stockholders to assure that the Company will have the continued dedication and objectivity of Executive, notwithstanding the possibility, threat or occurrence of a Change of Control of the Company.

2. The Committee believes that it is in the best interests of the Company and its stockholders to provide Executive with an incentive to continue his or her employment and to motivate Executive to maximize the value of the Company upon a Change of Control for the benefit of its stockholders.

3. The Committee believes that it is imperative to provide Executive with certain severance benefits upon Executive's termination of employment following a Change of Control. These benefits will provide Executive with enhanced financial security and incentive and encouragement to remain with the Company notwithstanding the possibility of a Change of Control.

4. This Agreement amends and restates the Change of Control Severance Agreement dated June 19, 2008 between the Company and Executive.

5. Certain capitalized terms used in the Agreement are defined in Section 4 below.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. Term of Agreement. This Agreement will have an initial term of three (3) years commencing on the Effective Date (the "Initial Term"). On the third anniversary of the Effective Date, this Agreement will renew automatically for an additional one (1) year term (the "Additional Term") unless either party provides the other party with written notice of non-renewal at least sixty (60) days prior to the date of automatic renewal. Notwithstanding the foregoing sentence, if a Change of Control occurs at any time during either the Initial Term or an Additional Term, the term of this Agreement will extend automatically through date that is twelve (12) months following the effective date of the Change of Control. If Executive becomes entitled to severance benefits under

Section 2 during the term of this Agreement, the Agreement will not terminate until all of the obligations of the parties hereto with respect to this Agreement have been satisfied.

2. Severance Benefits.

(a) Termination without Cause or Resignation for Good Reason in Connection with a Change of Control. If the Company terminates Executive's employment with the Company without Cause or if Executive resigns from such employment for Good Reason, and such termination occurs during the period that is on or within twelve (12) months after a Change of Control, and Executive signs and does not revoke a separation agreement and release of claims with the Company (in substantially the form attached hereto as Exhibit A and effective no later than March 15 of the year following the year in which the termination occurs), then Executive will receive the following from the Company:

(i) Accrued Compensation. The Company will pay Executive all accrued but unpaid vacation, expense reimbursements, wages, and other benefits due to Executive under any Company-provided plans, policies, and arrangements; provided, however, that if Executive is eligible to receive any payments or benefits pursuant to this Section 2, Executive will not be eligible to receive any payments or benefits pursuant to any Company severance plan, policy, or other arrangement).

(ii) Severance Payment. Executive will receive a lump sum severance payment (less applicable withholding taxes) equal to the sum of (A) 200% of Executive's annual base salary as in effect immediately prior to Executive's termination date or (if greater) at the level in effect immediately prior to the Change of Control, and (B) 100% of Executive's target annual bonus as in effect immediately prior to Executive's termination date or (if greater) at the level in effect immediately prior to the Change of Control.

(iii) Equity Awards. Any outstanding equity awards granted on or before June 19, 2008 will vest in full as to 100% of the unvested portion of the award. All outstanding equity awards granted after June 19, 2008 and subject to time-based vesting will vest as to that portion of the equity award that would have vested through the twenty-four (24) month period from Executive's termination date had Executive remained employed through such period. Additionally, Executive will be entitled to accelerated vesting as to an additional 50% of the then unvested portion of all of Executive's outstanding equity awards granted after June 19, 2008 that are scheduled to vest pursuant to performance-based criteria, if any. Executive will have one (1) year following the date of his or her termination in which to exercise any outstanding stock options or other similar rights to acquire Company common stock; provided, however, that such post-termination exercise period will not extend beyond the original maximum term of the stock option or other similar right to acquire Company common stock.

(iv) Continued Employee Benefits. If Executive elects continuation coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA") for Executive and Executive's eligible dependents, within the time period prescribed pursuant to COBRA, the Company will reimburse Executive for the COBRA premiums for such coverage (at the coverage levels in effect immediately prior to Executive's termination) until the earlier of (A) a period of eighteen (18) months from the last date of employment of the Executive with the Company, or (B) the date upon which Executive and/or Executive's eligible dependents becomes covered under similar plans. COBRA reimbursements will be made by the Company to Executive consistent with the Company's normal expense reimbursement policy.

(b) Timing of Severance Payments. Unless otherwise required by Section 2(g), the Company will pay any severance payments in a lump sum as soon as practicable following Executive's termination date; provided, however, that no severance or other benefits will be paid or provided until the separation agreement and release of claims becomes effective, and any severance amounts or benefits otherwise payable between Executive's termination date and the date such release becomes effective will be paid on the effective date of such release. If Executive should die before all of the severance amounts have been paid, such unpaid amounts will be paid in a lump-sum payment promptly following such event to Executive's designated beneficiary, if living, or otherwise to the personal representative of Executive's estate.

(c) Voluntary Resignation; Termination for Cause. If Executive's employment with the Company terminates (i) voluntarily by Executive (other than for Good Reason during the period that is on or within twelve (12) months after a Change of Control) or (ii) for Cause by the Company, then Executive will not be entitled to receive severance or other benefits except for those (if any) as may then be established under the Company's then existing severance and benefits plans and practices or pursuant to other written agreements with the Company.

(d) Disability; Death. If the Company terminates Executive's employment as a result of Executive's Disability, or Executive's employment terminates due to his or her death, then Executive will not be entitled to receive severance or other benefits except for those (if any) as may then be established under the Company's then existing written severance and benefits plans and practices or pursuant to other written agreements with the Company.

(e) Termination not in Connection with a Change of Control. In the event Executive's employment is terminated for any reason other than as provided in Section 2(a), then Executive will be entitled to receive severance and any other benefits only as may then be established under the Company's existing written severance and benefits plans and practices or pursuant to other written agreements with the Company.

(f) Exclusive Remedy. In the event of a termination of Executive's employment as set forth in Section 2(a), the provisions of Section 2 are intended to be and are exclusive and in lieu of any other rights or remedies to which Executive or the Company may otherwise be entitled, whether at law, tort or contract, in equity, or under this Agreement (other than the payment of accrued but unpaid wages, as required by law, and any unreimbursed reimbursable expenses). Executive will be entitled to no benefits, compensation or other payments or rights upon termination of employment following a Change of Control other than those benefits expressly set forth in this Section 2.

(g) Section 409A.

(i) Notwithstanding anything to the contrary in this Agreement, if Executive is a "specified employee" within the meaning of Section 409A of the Code and the final regulations and any guidance promulgated thereunder ("Section 409A") at the time of Executive's termination (other than due to death), and the severance payable to Executive, if any, pursuant to this Agreement, when considered together with any other severance payments or separation benefits that are considered deferred compensation under Section 409A (together, the "Deferred Compensation Separation Benefits") that are payable within the first six (6) months following Executive's termination of employment, will become payable on the first payroll date that occurs on or after the date six (6) months and one (1) day following the date of Executive's termination of employment. All subsequent Deferred Compensation Separation Benefits, if any, will be payable in accordance with the payment schedule applicable to each payment or benefit. Notwithstanding anything herein to the contrary, if Executive dies following his termination but prior to the six (6) month anniversary of his termination, then any payments delayed in accordance with this paragraph will be payable in a lump sum as soon as administratively practicable after the date of Executive's death and all other Deferred Compensation Separation Benefits will be payable in accordance with the payment schedule applicable to each payment or benefit. Each payment and benefit payable under this Agreement is intended to constitute separate payments for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations.

(ii) Any amount paid under the Agreement that satisfies the requirements of the "short-term deferral" rule set forth in Section 1.409A-1(b)(4) of the Treasury Regulations shall not constitute Deferred Compensation Separation Benefits for purposes of clause (i) above.

(iii) Amount paid under the Agreement that qualifies as a payment made as a result of an involuntary separation from service pursuant to Section 1.409A-1(b)(9)(iii) of the Treasury Regulations that do not exceed the Section 409A Limit shall not constitute Deferred Compensation Separation Benefits for purposes of clause (i) above.

(iv) The foregoing provisions are intended to comply with the requirements of Section 409A so that none of the severance payments and benefits to be provided hereunder will be subject to the additional tax imposed under Section 409A, and any ambiguities herein will be interpreted to so comply. The Company and Executive agree to work together in good faith to consider amendments to this Agreement and to take such reasonable actions which are necessary, appropriate or desirable to avoid imposition of any additional tax or income recognition prior to actual payment to Executive under Section 409A.

3. Limitation on Payments. In the event that the severance and other benefits provided for in this Agreement or otherwise payable to Executive (i) constitute "parachute payments" within the meaning of Section 280G of the Code, and (ii) but for this Section 3, would be subject to the excise tax imposed by Section 4999 of the Code, then Executive's severance benefits under Section 2(a) will be either:

(a) delivered in full, or

(b) delivered as to such lesser extent which would result in no portion of such severance benefits being subject to excise tax under Section 4999 of the Code,

whichever of the foregoing amounts, taking into account the applicable federal, state and local income taxes and the excise tax imposed by Section 4999, results in the receipt by Executive on an after-tax basis, of the greatest amount of severance benefits, notwithstanding that all or some portion of such severance benefits may be taxable under Section 4999 of the Code. Unless the Company and Executive otherwise agree in writing, any determination required under this Section 3 will be made in writing by the Company's independent public accountants immediately prior to a Change of Control or such other person or entity to which the parties mutually agree (the "Accountants"), whose determination will be conclusive and binding upon Executive and the Company for all purposes. For purposes of making the calculations required by this Section 3, the Accountants may make reasonable assumptions and approximations concerning applicable taxes and may rely on reasonable, good faith interpretations concerning the application of Sections 280G and 4999 of the Code. The Company and Executive will furnish to the Accountants such information and documents as the Accountants may reasonably request in order to make a determination under this Section. The Company will bear all costs the Accountants may incur in connection with any calculations contemplated by this Section 3.

4. Definition of Terms. The following terms referred to in this Agreement will have the following meanings:

(a) Cause. "Cause" will mean:

(i) Executive's continued intentional and demonstrable failure to perform his or her duties customarily associated with Executive's position as an employee of the Company or its respective successors or assigns, as applicable (other than any such failure resulting from Executive's mental or physical Disability) after Executive has received a written demand of performance from the Company with specifically sets forth the factual basis for the Company's belief that Executive has not devoted sufficient time and effort to the performance of his or her duties and has failed to cure such non-performance within thirty (30) days after receiving such notice (it being understood that if Executive is in good-faith performing his or her duties, but is not achieving results the Company deems satisfactory for Executive's position, it will not be considered to be grounds for termination of Executive for "Cause");

(ii) Executive's conviction of, or plea of nolo contendere to, a felony that the Board of Directors of the Company (the "Board") reasonably believes has had or will have a material detrimental effect on the Company's reputation or business; or

(iii) Executive's commission of an act of fraud, embezzlement, misappropriation, willful misconduct, or breach of fiduciary duty against, and causing material harm to, the Company or its respective successors or assigns, as applicable.

Executive will receive notice and an opportunity to be heard before the Board with Executive's own attorney before any termination for Cause is deemed effective. Notwithstanding anything to the contrary, the Board may immediately place Executive on administrative leave (with full pay and benefits to the extent legally permissible) but will allow reasonable access to Company information, employees and business should Executive wish to avail himself and prepare for his or her opportunity to be heard before the Board prior to the Board's termination for Cause. If Executive avails himself of his or her opportunity to be heard before the Board, and then fails to make himself or herself available to the Board within thirty (30) days of such request to be heard, the Board may thereafter cancel the administrative leave and terminate Executive for Cause. Likewise, if the Board fails to make itself available to Executive and his or her counsel within thirty (30) days of Executive's request to be heard, Executive will be entitled to terminate his or her employment with the Company and such termination will be treated as a resignation by Executive for Good Reason.

(b) Change of Control. "Change of Control" will mean the occurrence of any of the following events:

(i) Change in Ownership of the Company. A change in the ownership of the Company which occurs on the date that any one person, or more than one person acting as a group ("Person"), acquires ownership of the stock of the Company that, together with the stock held by such Person, constitutes more than 50% of the total voting power of the stock of the Company, except that any change in the ownership of the stock of the Company as a result of a private financing of the Company that is approved by the Board will not be considered a Change of Control; or

(ii) Change in Effective Control of the Company. A change in the effective control of the Company which occurs on the date that a majority of members of the Board is replaced during any twelve (12) month period by Directors whose appointment or election is not endorsed by a majority of the members of the Board prior to the date of the appointment or election. For purposes of this clause (ii), if any Person is considered to be in effective control of the Company, the acquisition of additional control of the Company by the same Person will not be considered a Change of Control; or

(iii) Change in Ownership of a Substantial Portion of the Company's Assets. A change in the ownership of a substantial portion of the Company's assets which occurs on the date that any Person acquires (or has acquired during the twelve (12) month period ending on the date of the most recent acquisition by such person or persons) assets from the Company that have a total gross fair market value equal to or more than 50% of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions. For purposes of this subsection (iii), gross fair market value means the value of the assets of the Company, or the value of the assets being disposed of, determined without regard to any liabilities associated with such assets.

For these purposes, persons will be considered to be acting as a group if they are owners of a corporation that enters into a merger, consolidation, purchase or acquisition of stock, or similar business transaction with the Company.

Notwithstanding the foregoing provisions of this definition, a transaction will not be deemed a Change of Control unless the transaction qualifies as a change in control event within the meaning of Section 409A.

(c) Disability. "Disability" will mean that the Employee has been unable to perform his or her Company duties as the result of his or her incapacity due to physical or mental illness, and such inability, at least twenty-six (26) weeks after its commencement or 180 days in any consecutive twelve (12) month period, is determined to be total and permanent by a physician selected by the Company or its insurers and acceptable to Executive or Executive's legal representative (such agreement as to acceptability not to be unreasonably withheld). Termination resulting from Disability may only be effected after at least thirty (30) days' written notice by the Company of its intention to terminate the Employee's employment. In the event that the Employee resumes the performance of substantially all of his or her duties hereunder before the termination of his or her employment becomes effective, the notice of intent to terminate will automatically be deemed to have been revoked.

(d) Good Reason. "Good Reason" will mean Executive's termination of employment within ninety (90) days following the expiration of any cure period (discussed below) following the occurrence of one or more of the following, without Executive's consent:

(i) A material reduction of Executive's authority or responsibilities, relative to Executive's authority or responsibilities in effect immediately prior to such reduction, or a change in the Executive's reporting position such that Executive no longer reports directly to the Chief Executive Officer of the parent corporation in a group of controlled corporations following a Change of Control. Any change which results in Executive's ceasing to serve as the Executive Chairman of the parent corporation in a group of controlled corporations following a Change of Control, or if Executive does not maintain the same general duties and job responsibilities for the parent corporation in a group of controlled corporations following a Change of Control as Executive performed for the Company prior to the Change of Control, will be deemed to constitute a material change or reduction in Executive's authority and responsibilities constituting grounds for a Good Reason termination;

(ii) A material reduction in Executive's base salary or target annual incentive ("Base Compensation") as in effect immediately prior to such reduction, unless the Company (or Executive's employer or the parent corporation in a group of controlled corporations following a Change of Control) also similarly reduces the Base Compensation of all other employees of the Company (or Executive's employer or the parent corporation in a group of controlled corporations following a Change of Control) with positions, duties and responsibilities comparable to Executive's;

(iii) A material change in the geographic location at which Executive must perform services (in other words, the relocation of Executive to a facility that is more than thirty-five (35) miles from Executive's current location);

(iv) Any purported termination of the Executive's employment for "Cause" without first satisfying the procedural protections, as applicable, required by the definition of "Cause" set forth in that definition; or

(v) The failure of the Company to obtain the assumption of the agreement by a successor and/or acquirer and an agreement that Executive will retain the substantially similar responsibilities in the acquirer or the merged or surviving company as he or she had prior to the transaction.

The notification and placement of Executive on administrative leave pending a potential determination by the Board that Executive may be terminated for Cause will not constitute Good Reason.

Executive will not resign for Good Reason without first providing the Company with written notice within sixty (60) days of the event that Executive believes constitutes "Good Reason" specifically identifying the acts or omissions constituting the grounds for Good Reason and a reasonable cure period of not less than thirty (30) days following the date of such notice.

(e) Section 409A Limit. "Section 409A Limit" will mean the lesser of two (2) times: (i) Executive's annualized compensation based upon the annual rate of pay paid to Executive during the Executive's taxable year preceding the Executive's taxable year of Executive's termination of employment as determined under, and with such adjustments as are set forth in, Treasury Regulation 1.409A-1(b)(9)(iii)(A)(1) and any Internal Revenue Service guidance issued with respect thereto; or (ii) the maximum amount that may be taken into account under a qualified plan pursuant to Section 401(a)(17) of the Code for the year in which Executive's employment is terminated.

5. Successors.

(a) The Company's Successors. Any successor to the Company (whether direct or indirect and whether by purchase, merger, consolidation, liquidation or otherwise) or to all or substantially all of the Company's business and/or assets will assume the obligations under this Agreement and agree expressly to perform the obligations under this Agreement in the same manner and to the same extent as the Company would be required to perform such obligations in the absence of a succession. For all purposes under this Agreement, the term "Company" will include any successor to the Company's business and/or assets which executes and delivers the assumption agreement described in this Section 5(a) or which becomes bound by the terms of this Agreement by operation of law.

(b) Executive's Successors. The terms of this Agreement and all rights of Executive hereunder will inure to the benefit of, and be enforceable by, Executive's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees.

6. Arbitration.

(a) The Company and Executive each agree that any and all disputes arising out of the terms of this Agreement, Executive's employment by the Company, Executive's service as an officer or director of the Company, or Executive's compensation and benefits, their interpretation and any of the matters herein released, will be subject to binding arbitration under the arbitration rules set forth in California Code of Civil Procedure Sections 1280 through 1294.2, including Section 1281.8 (the "Act"), and pursuant to California law. Disputes that the Company and Executive agree to arbitrate, and thereby agree to waive any right to a trial by jury, include any statutory claims under local, state, or federal law, including, but not limited to, claims under Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act of 1967, the Older Workers Benefit Protection Act, the Sarbanes-Oxley Act, the Worker Adjustment and Retraining Notification Act, the California Fair Employment and Housing Act, the Family and Medical Leave Act, the California Family Rights Act, the California Labor Code, claims of harassment, discrimination, and wrongful termination, and any statutory or common law claims. The Company and Executive further understand that this Agreement to arbitrate also applies to any disputes that the Company may have with Executive.

(b) Procedure. The Company and Executive agree that any arbitration will be administered by Judicial Arbitration & Mediation Services, Inc. ("JAMS"), pursuant to its Employment Arbitration Rules & Procedures (the "JAMS Rules"). The Arbitrator will have the power to decide any motions brought by any party to the arbitration, including motions for summary judgment and/or adjudication, motions to dismiss and demurrers, and motions for class certification, prior to any arbitration hearing. The Arbitrator will have the power to award any remedies available under applicable law, and the Arbitrator will award attorneys' fees and costs to the prevailing party, except as prohibited by law. The Company will pay for any administrative or hearing fees charged by the Arbitrator or JAMS except that Executive will pay any filing fees associated with any arbitration that Executive initiates, but only so much of the filing fees as Executive would have instead paid had he or she filed a complaint in a court of law. The Arbitrator will administer and conduct any arbitration in accordance with California law, including the California Code of Civil Procedure, and the Arbitrator will apply substantive and procedural California law to any dispute or claim, without reference to rules of conflict of law. To the extent that the JAMS Rules conflict with California law, California law will take precedence. The decision of the Arbitrator will be in writing. Any arbitration under this Agreement will be conducted in Santa Clara County, California.

(c) Remedy. Except as provided by the Act and this Agreement, arbitration will be the sole, exclusive, and final remedy for any dispute between Executive and the Company. Accordingly, except as provided for by the Act and this Agreement, neither Executive nor the Company will be permitted to pursue court action regarding claims that are subject to arbitration.

(d) Administrative Relief. Executive understand that this Agreement does not prohibit him or her from pursuing any administrative claim with a local, state, or federal administrative body or government agency that is authorized to enforce or administer laws related to employment, including, but not limited to, the Department of Fair Employment and Housing, the Equal Employment Opportunity Commission, the National Labor Relations Board, or the Workers' Compensation Board. This Agreement does, however, preclude Executive from pursuing court action regarding any such claim, except as permitted by law.

(e) Voluntary Nature of Agreement. Each of the Company and Executive acknowledges and agrees that such party is executing this Agreement voluntarily and without any duress or undue influence by anyone. Executive further acknowledges and agrees that he or she has carefully read this Agreement and has asked any questions needed for him or her to understand the terms, consequences, and binding effect of this Agreement and fully understand it, including that ***Executive is waiving his or her right to a jury trial***. Finally, Executive agrees that he or she has been provided an opportunity to seek the advice of an attorney of his or her choice before signing this Agreement.

7. Notice.

(a) General. Notices and all other communications contemplated by this Agreement will be in writing and will be deemed to have been duly given when personally delivered or when mailed by U.S. registered or certified mail, return receipt requested and postage prepaid. In the case of Executive, mailed notices will be addressed to him or her at the home address which he or she most recently communicated to the Company in writing. In the case of the Company, mailed notices will be addressed to its corporate headquarters, and all notices will be directed to the attention of its President.

(b) Notice of Termination. Any termination by the Company for Cause or by Executive for Good Reason will be communicated by a notice of termination to the other party hereto given in accordance with Section 7(a) of this Agreement. Such notice will indicate the specific termination provision in this Agreement relied upon, will set forth in reasonable detail the facts and circumstances claimed to provide a basis for termination under the provision so indicated, and will specify the termination date (which will be not more than thirty (30) days after the giving of such notice). The failure by Executive to include in the notice any fact or circumstance which contributes to a showing of Good Reason will not waive any right of Executive hereunder or preclude Executive from asserting such fact or circumstance in enforcing his or her rights hereunder.

8. Miscellaneous Provisions.

(a) No Duty to Mitigate. Executive will not be required to mitigate the amount of any payment contemplated by this Agreement, nor will any such payment be reduced by any earnings that Executive may receive from any other source.

(b) Other Requirements. Executive's receipt of any payments or benefits under Section 2 will be subject to Executive continuing to comply with the terms of any confidential information agreement executed by Executive in favor of the Company and the provisions of this Agreement.

(c) Waiver. No provision of this Agreement will be modified, waived or discharged unless the modification, waiver or discharge is agreed to in writing and signed by Executive and by an authorized officer of the Company (other than Executive). No waiver by either party of any breach of, or of compliance with, any condition or provision of this Agreement by the other party will be considered a waiver of any other condition or provision or of the same condition or provision at another time.

(d) Headings. All captions and section headings used in this Agreement are for convenient reference only and do not form a part of this Agreement.

(e) Entire Agreement. This Agreement constitutes the entire agreement of the parties hereto and supersedes in their entirety all prior representations, understandings, undertakings or agreements (whether oral or written and whether expressed or implied) of the parties with respect to the subject matter hereof, including, without limitation, the Addendum to Stock Option Agreement applicable to any stock option award of Executive and the Change of Control Severance Agreement between the Company and Executive dated June 19, 2008. No waiver, alteration, or modification of any of the provisions of this Agreement will be binding unless in writing and signed by duly authorized representatives of the parties hereto and which specifically mention this Agreement.

(f) Choice of Law. The validity, interpretation, construction and performance of this Agreement will be governed by the laws of the State of California (with the exception of its conflict of laws provisions). Any claims or legal actions by one party against the other arising out of the relationship between the parties contemplated herein (whether or not arising under this Agreement) will be commenced or maintained in any state or federal court located in the jurisdiction where Executive resides, and Executive and the Company hereby submit to the jurisdiction and venue of any such court.

(g) Severability. The invalidity or unenforceability of any provision or provisions of this Agreement will not affect the validity or enforceability of any other provision hereof, which will remain in full force and effect.

(h) Withholding. All payments made pursuant to this Agreement will be subject to withholding of applicable income, employment and other taxes.

(i) Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, each of the parties has executed this Agreement, in the case of the Company by its duly authorized officer, as of the day and year set forth below.

COMPANY	NETAPP, INC.
	By: ______________________
	Title: SVP Legal & Tax, General Counsel
	Date: ______________________
EXECUTIVE	By: ______________________
	Title: Executive Chairman
	Date: ______________________

Exhibit A

Separation Agreement and Release of Claims

[NETAPP LETTERHEAD]

[**DATE**]

Daniel J. Warmenhoven
[**Street Address at termination**]
[**City, State & Zip at termination**]

Dear Mr. Warmenhoven:

This letter confirms the agreement between NetApp, Inc., (the "Company") and you regarding the terms of your separation from the Company as of **[insert date] __________** (your "Termination Date").

1. **Severance Benefits.** In consideration for your signing this agreement, you will receive the severance benefits set forth in Section 3 of the Amended and Restated Change of Control Severance Agreement between you and the Company effective as of August 19, 2009 (the "Change of Control Severance Agreement"), subject to the conditions set forth herein and the Change of Control Severance Agreement.

2. **Return of Company Property.** You have returned to the Company all Company property in your possession.

3. **Maintaining Confidential Information.** You agree not to disclose any confidential information you acquired, while an employee of the Company, to any other person or use such information in any manner that is detrimental to the Company's interests, per NetApp's *Proprietary Information and Inventions Agreement* (the "Proprietary Information Agreement"), which you signed when you were hired and you further agree to honor the terms of that agreement, including those terms which survive your employment with the Company.

4. **Acknowledgement of Payment of Wages.** Except for any severance benefits set forth in Section 1, by your last day worked you will have received your final paycheck which will include a final payment for wages through your Termination Date, salary, bonuses, if any, employee stock purchase plan reimbursement, accrued but unused vacation pay and any similar payments due from NetApp, less applicable taxes and 401k deduction, if applicable, as of the Termination Date. You acknowledge that NetApp does not owe you any other amounts, except any valid un-reimbursed business expenses that you will submit to the Company.

5. **General Release of the Company.** You understand that by agreeing to this release you are agreeing not to sue, or otherwise file any claim against, the Company or any of its employees or other agents for any reason whatsoever based on anything that has occurred as of the date you sign this agreement.

a) On behalf of yourself and your heirs and assigns, you hereby release and forever discharge the "Releasees" hereunder, consisting of the Company, and each of its owners, shareholders, affiliates, divisions, predecessors, successors, assigns, agents, directors, officers, partners, employees, and insurers, and all persons acting by, through, under or in concert with them, or any of them, of and from any and all manner of action or actions, cause or causes of action, in law or in equity, suits, debts, liens, contracts, agreements, promises, liability, claims, demands, damages, loss, cost or expense, of any nature whatsoever, known or unknown, fixed or contingent (hereinafter called "Claims"), which you now have or may hereafter have against the Releasees, or any of them, by reason of any matter, cause, or thing whatsoever from the beginning of time to the date hereof, including, without limiting the generality of the foregoing, any Claims arising out of, based upon, or relating to your hire, employment, remuneration or resignation by the Releasees, or any of them, including any Claims arising under Title VII of the Civil Rights Act of 1964, as amended; the Age Discrimination in Employment Act, as amended; the Equal Pay Act, as amended; the Fair Labor Standards Act, as amended; the Employee Retirement Income Security Act, as amended; the California Fair Employment and Housing Act, as amended; the California Labor Code; and/or any other local, state or federal law governing discrimination in employment and/or the payment of wages and benefits.

Notwithstanding the generality of the foregoing, you do not release the following claims:

(i) Claims for unemployment compensation or any state disability insurance benefits pursuant to the terms of applicable state law;

(ii) Claims for workers' compensation insurance benefits under the terms of any workers' compensation insurance policy or fund of the Company;

(iii) Claims to continued participation in certain of the Company's group benefit plans pursuant to the terms and conditions of the federal law known as COBRA;

(iv) Claims to any benefit entitlements vested as the date of your employment termination, pursuant to written terms of any Company employee benefit plan;

(v) Claims to any severance benefits due and owing pursuant to Section 1;

(vi) Claims that cannot be released as a matter of law, including, but not limited to: (1) your right to file a charge with or participate in a charge by the Equal Employment Opportunity Commission, or any other local, state, or federal administrative body or government agency that is authorized to enforce or administer laws related to employment, against the Company (with the understanding that any such filing or participation does not give you the right to recover any monetary damages against the Company; your release of claims herein bars you from recovering such monetary relief from the

Company); (2) claims under Division 3, Article 2 of the California Labor Code (which includes California Labor Code section 2802 regarding indemnity for necessary expenditures or losses by employee); and (3) claims prohibited from release as set forth in California Labor Code section 206.5 (specifically "any claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of such wages has been made"); and

(vii) Claims under the terms of any indemnification agreement entered into between you and the Company.

b) YOU ACKNOWLEDGE THAT YOU ARE FAMILIAR WITH THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542, WHICH PROVIDES AS FOLLOWS:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

BEING AWARE OF SAID CODE SECTION, YOU HEREBY EXPRESSLY WAIVE ANY RIGHTS YOU MAY HAVE THEREUNDER, AS WELL AS UNDER ANY OTHER STATUTES OR COMMON LAW PRINCIPLES OF SIMILAR EFFECT.

c) You acknowledge that you are waiving and releasing any rights you may have under the Age Discrimination in Employment Act of 1967 ("ADEA") and that this waiver and release is knowing and voluntary. You and the Company agree that this waiver and release does not apply to any rights or claims that may arise under ADEA after the effective date of this agreement. You acknowledge that the consideration given for this release is in addition to anything of value to which you were already entitled. You further acknowledge that you have been advised by this agreement that (a) you should consult with an attorney before signing this agreement; (b) you have up to twenty-one (21) days within which to consider this agreement; (c) you have seven (7) days following your signing this agreement to revoke it; (d) this release will not be effective until the revocation period has expired; and (e) nothing in this agreement prevents or precludes you from challenging or seeking a determination in good faith of the validity of this waiver under the ADEA, nor does it impose any condition precedent, penalties or costs from doing so, unless specifically authorized by federal law. In the event you sign this agreement and return it to the Company in less than the 21-day period identified above, you hereby acknowledge that you have freely and voluntarily chosen to waive the time period allotted for considering this agreement.

6. **Severability.** The provisions of this agreement are severable. If any provision is held to be invalid or unenforceable, it shall not affect the validity or enforceability of any other provision.

7. **Choice of Law/Venue.** This agreement will be governed by the laws of the State of California, without regard for choice-of-law provisions. You consent to personal and exclusive jurisdiction and venue in the State of California.

8. **Voluntary and Knowing Agreement.** You represent that you have thoroughly read and considered all aspects of this agreement, that you understand all its provisions and that you are voluntarily entering into this agreement.

9. **Effective Date**. You have seven (7) days after you sign this agreement to revoke it. This agreement will become effective on the eighth (8th) day after you sign this agreement, so long as it has been signed by both parties and has not been revoked by you before that date.

10. **Entire Agreement; Amendment.** This agreement, together with the Change of Control Severance Agreement, Proprietary Information Agreement, and agreements relating to your equity incentive awards, set forth the entire agreement between you and the Company and supersedes any and all prior oral or written agreements or understanding between you and the Company concerning the subject matter. This agreement may not be altered, amended or modified, except by a further written document signed by you and the Company.

If the above accurately reflects your understanding, please date and sign the enclosed copy of this letter in the places indicated below and return it to Human Resources.

Respectfully,

____

[Name]
[Job Title]

Accepted and agreed to on ____.
(Date)

____

Daniel J. Warmenhoven

Current Mailing Address (Severance check(s) will be mailed to this address and NetApp will update your records to reflect this address if it is different than the address on file).

Encl.

Exhibit 31.1

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

I, Thomas Georgens, certify that:

1) I have reviewed this 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
Chief Executive Officer, President and Director,
(Principal Executive Officer and Principal Operating Officer)

Date: December 2, 2009

Exhibit 31.2

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

I, Steven J. Gomo, certify that:

1) I have reviewed this 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/ STEVEN J. GOMO
Steven J. Gomo
Executive Vice President of Finance and
Chief Financial Officer
(Principal Financial Officer and
Principal Accounting Officer)

Date: December 2, 2009

Exhibit 32.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, Thomas Georgens, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Quarterly Report of NetApp, Inc., on Form 10-Q for the quarterly period ended October 30, 2009 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
Chief Executive Officer, President and Director,
(Principal Executive Officer and Principal Operating Officer)

Date: December 2, 2009

Exhibit 32.2

**CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

I, Steven J. Gomo, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Quarterly Report of NetApp, Inc., on Form 10-Q for the quarterly period ended October 30, 2009 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/ STEVEN J. GOMO
Steven J. Gomo
Executive Vice President of Finance and Chief Financial Officer
(Principal Financial Officer and Principal Accounting Officer)

Date: December 2, 2009