ConforMIS Inc
Form 10-Q
November 09, 2015
Table of Contents

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

(Mark One)

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

For the quarterly period ended September 30, 2015

OR

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

For the transition period from to

Commission file number: 001-37474

ConforMIS, Inc.

(Exact name of registrant as specified in its charter)

Delaware (State or other jurisdiction of incorporation or organization)	**56-2463152** (I.R.S. Employer Identification Number)
28 Crosby Drive **Bedford, MA** (Address of principal executive offices)	**01730** (Zip Code)

(781) 345-9001

(Registrant s telephone number, including area code)

(Former name, former address and former fiscal year, if changed since last report)

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 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 x No o

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

Large accelerated filer	o	Accelerated filer	o

Non-accelerated filer	x (Do not check if a smaller reporting company)	Smaller reporting company	o

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

As of October 30, 2015 there were 40,712,347 shares of Common Stock, $0.00001 par value per share, outstanding.

Table of Contents

ConforMIS, Inc.

INDEX

	Page
PART I FINANCIAL INFORMATION	
Item 1. Financial Statements (interim periods unaudited)	3
Consolidated Balance Sheets as of September 30, 2015 and December 31, 2014	3
Consolidated Statements of Operations for the three and nine months ended September 30, 2015 and 2014	4
Consolidated Statements of Comprehensive Loss for the three and nine months ended September 30, 2015 and 2014	5
Consolidated Statements of Cash Flows for the nine months ended September 30, 2015 and 2014	6
Notes to Consolidated Financial Statements	7
Item 2. Management s Discussion and Analysis of Financial Condition and Results of Operations	30
Item 3. Quantitative and Qualitative Disclosures About Market Risk	41
Item 4. Controls and Procedures	42
PART II OTHER INFORMATION	43
Item 1. Legal Proceedings	43
Item 1A. Risk Factors	43
Item 2. Unregistered Sales of Equity Securities and Use of Proceeds	47
Item 6. Exhibits	48
Signatures	49

Table of Contents

PART I FINANCIAL INFORMATION

Item 1. Financial Statements.

CONFORMIS, INC. AND SUBSIDIARIES

Consolidated Balance Sheets

(in thousands, except share and per share data)

	September 30, 2015 (unaudited)	December 31, 2014
Assets		
Current Assets		
Cash and cash equivalents	$ 139,202	$ 37,900
Accounts receivable, net	8,260	9,119
Inventories	10,664	7,691
Prepaid expenses and other current assets	2,124	1,158
Total current assets	160,250	55,868
Property and equipment, net	10,655	8,696
Other Assets		
Restricted cash	720	4,438
Intangible assets, net	1,057	1,243
Goodwill	753	753
Other long-term assets	283	280
Total assets	$ 173,718	$ 71,278
Liabilities and stockholder s equity		
Current liabilities		
Accounts payable	$ 5,849	$ 3,618
Accrued expenses	6,953	6,942
Deferred revenue	305	
Current portion of long-term debt	289	272
Total current liabilities	13,396	10,832
Other long-term liabilities	240	271
Deferred revenue	4,701	
Long-term debt	258	10,348
Total liabilities	18,595	21,451
Commitments and contingencies		
Stockholders equity		
Convertible preferred stock, $0.00001 par value:		
Authorized: Zero and 53,496,241 shares authorized at September 30, 2015 and December 31, 2014, respectively, zero and 50,985,652 shares issued and outstanding September 30, 2015 and December 31, 2014, respectively; (aggregate liquidation value of $0 and $352,626 at September 30, 2015 and December 31, 2014, respectively)		

Preferred stock, $0.00001 par value:				
Authorized: 5,000,000 and zero shares authorized at September 30, 2015 and December 31, 2014, respectively; no shares issued and outstanding as of September 30, 2015 and December 31, 2014				
Common stock, $0.00001 par value:				
Authorized: 200,000,000 and 80,000,000 shares authorized at September 30, 2015 and December 31, 2014, respectively; 40,709,155 and 4,286,164 shares issued and outstanding at September 30, 2015 and December 31, 2014, respectively				
Additional paid-in capital		465,818		318,420
Accumulated deficit		(310,352)		(268,096)
Accumulated other comprehensive loss		(343)		(497)
Total stockholders equity		155,123		49,827
Total liabilities and stockholders equity	$	173,718	$	71,278

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

Table of Contents

CONFORMIS, INC. AND SUBSIDIARIES

Consolidated Statements of Operations

(unaudited)

(in thousands, except share and per share data)

	Three Months Ended September 30, 2015	Three Months Ended September 30, 2014	Nine Months Ended September 30, 2015	Nine Months Ended September 30, 2014
Revenue				
Product	$ 13,490	$ 12,002	$ 43,953	$ 33,975
Royalty	404		3,863	
Total revenue	13,894	12,002	47,816	33,975
Cost of revenue	10,340	7,351	30,392	21,961
Gross profit	3,554	4,651	17,424	12,014
Operating expenses				
Sales and marketing	10,225	7,083	29,563	22,541
Research and development	3,885	3,969	12,218	11,163
General and administrative	5,656	3,927	16,790	11,775
Total operating expenses	19,766	14,979	58,571	45,479
Loss from operations	(16,212)	(10,328)	(41,147)	(33,465)
Other income and expenses				
Interest income	24	30	92	80
Interest expense	(911)	(89)	(1,380)	(178)
Other income (expense)			208	
Total other expenses	(887)	(59)	(1,080)	(98)
Loss before income taxes	(17,099)	(10,387)	(42,227)	(33,563)
Income tax provision	8	9	29	29
Net loss	$ (17,107)	$ (10,396)	$ (42,256)	$ (33,592)
Net loss per share - basic and diluted	$ (0.45)	$ (2.44)	$ (2.69)	$ (7.95)
Weighted average common shares outstanding - basic and diluted	37,933,069	4,267,148	15,688,686	4,224,454

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

Table of Contents

CONFORMIS, INC. AND SUBSIDIARIES

Consolidated Statements of Comprehensive Loss

(unaudited)

(in thousands)

	Three Months Ended September 30, 2015	Three Months Ended September 30, 2014	Nine Months Ended September 30, 2015	Nine Months Ended September 30, 2014
Net loss	$ (17,107)	$ (10,396)	$ (42,256)	$ (33,592)
Other comprehensive income (loss)				
Foreign currency translation adjustments	(60)	(377)	154	(543)
Comprehensive loss	$ (17,167)	$ (10,773)	$ (42,102)	$ (34,135)

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

Table of Contents

CONFORMIS, INC. AND SUBSIDIARIES

Consolidated Statements of Cash Flows

(unaudited)

(in thousands)

	Nine Months Ended September 30, 2015	2014
Cash flows from operating activities		
Net loss	$ (42,256)	$ (33,592)
Adjustments to reconcile net loss to net cash used by operating activities:		
Depreciation and amortization expense	1,891	1,545
Amortization of debt discount	135	18
Stock-based compensation expense	2,594	1,796
Provision for bad debts on trade receivables	171	(37)
Disposal of long term assets	2	
Changes in operating assets and liabilities:		
Accounts receivable	687	(1,573)
Inventories	(2,974)	(73)
Prepaid expenses and other assets	(969)	(394)
Accounts payable and accrued liabilities	2,242	281
Deferred royalty revenue	5,009	
Other long-term liabilities	(31)	(197)
Net cash used in operating activities	(33,499)	(32,226)
Cash flows from investing activities:		
Acquisition of property and equipment	(3,666)	(849)
Decrease (increase) in restricted cash	3,717	768
Net cash (used) provided by investing activities	51	(81)
Cash flows from financing activities:		
Net proceeds from issuance of preferred stock		21,575
Proceeds from exercise of common stock warrant	18	
Proceeds from exercise of preferred stock warrant	4,458	
Payments on notes payable	(10,207)	(2,114)
Net proceeds from issuance of common stock	140,327	162
Repurchase of stock options		(52)
Net cash provided by financing activities	134,596	19,571
Foreign exchange effect on cash and cash equivalents	154	(543)
(Decrease) increase in cash and cash equivalents	101,302	(13,279)
Cash and cash equivalents, beginning of period	37,900	54,221
Cash and cash equivalents, end of period	$ 139,202	$ 40,942
Supplemental information:		
Cash paid for income taxes	65	164
Cash paid for interest	1,275	119
Non cash investing and financing activities		

Issuances of Series E-1 preferred stock warrants		42
Conversion of preferred stock		
Accrued financing costs	407	

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

Table of Contents

CONFORMIS, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements

(unaudited)

Note A Organization and Basis of Presentation

ConforMIS, Inc. and subsidiaries (the Company) is a medical technology company that uses its proprietary iFit Image-to-Implant technology platform to develop, manufacture and sell joint replacement implants that are individually sized and shaped, which the Company refers to as customized, to fit each patient s unique anatomy. The Company s proprietary iFit® technology platform is potentially applicable to all major joints. The Company offers a broad line of customized knee implants designed to restore the natural shape of a patient s knee.

The Company was incorporated in Delaware and commenced operations in 2004. The Company introduced its iUni and iDuo in 2007, its iTotal CR in 2011 and its iTotal PS on a limited basis in 2015. The Company has its corporate offices in Bedford, Massachusetts.

Liquidity and operations

Since the Company s inception in June 2004, it has financed its operations through private placements of preferred stock, its initial public offering in July 2015, bank debt and convertible debt financings, equipment purchase loans, and, beginning in 2007, product revenue. The Company s product revenue has continued to grow from year-to-year; however, it has not yet attained profitability and continues to incur operating losses. At September 30, 2015, the Company had an accumulated deficit of $310.4 million.

In November 2014, the Company entered into a senior secured $25 million loan and security agreement with Silicon Valley Bank and Oxford Finance, LLC (the 2014 Secured Loan Agreement), consisting of a revolving line of credit, issued by Silicon Valley Bank (the Revolving Line) of up to $5 million and commitments for two term loans issued jointly by Silicon Valley Bank and Oxford Finance, LLC (the SVB/Oxford Term Loans) of $10 million each. In November 2014, in connection with the Company s entry into the 2014 Secured Loan Agreement, the Company drew down the first $10 million term loan (the SVB/Oxford Term Loan A). Under the 2014 Secured Loan Agreement, the Company could draw down a second $10 million term loan on or prior to November 7, 2015 upon meeting certain conditions. In September 2015, the Company voluntarily prepaid the SVB/Oxford Term Loan A in full and terminated the Company s right to draw down the SVB/Oxford Term Loans and any security interest in favor of Oxford Finance, LLC. The Company retained the Revolving Line. As of September 30, 2015, and December 31, 2014, the Company did not have any revolving loans outstanding under the Revolving Line, with $5 million available for borrowing, subject to the Company meeting certain conditions and based on the Company s borrowing base under the Revolving Line. For further information regarding this facility, see Note K Debt and Notes Payable 2014 Secured Loan Agreement below. The Company expects to incur substantial expenditures in the foreseeable future in connection with the continued expansion of its business.

The Company s principal sources of funds are revenue generated from the sale of its products and the net proceeds from the initial public offering, detailed below.

At September 30, 2015, the Company had cash and cash equivalents and investments of $139.2 million and $0.7 million in restricted cash allocated to lease deposits. At December 31, 2014, the Company had cash and cash equivalents and investments of $37.9 million and $4.4 million in restricted cash allocated to lease deposits and funding for its Asia strategy. See Note L Related Party Transactions for a description of the Asia strategy.

On July 7, 2015, the Company closed its initial public offering (the IPO), of its common stock and issued and sold 10,350,000 shares of its common stock, including 1,350,000 shares of common stock issued upon the exercise in full by the underwriters of their over-allotment option, at a public offering price of $15.00 per share, for aggregate offering proceeds of approximately $155 million. The Company received aggregate net proceeds from the offering of approximately $140 million after deducting underwriting discounts and commissions and offering expenses payable by the Company. The Company s common stock began trading on the NASDAQ Global Select Market on July 1, 2015.

On July 7, 2015, the Company filed a restated certificate of incorporation in connection with its IPO, pursuant to which the Company is authorized to issue 200,000,000 shares of common stock and 5,000,000 shares of preferred stock. In addition, each of the following occurred in connection with the closing of the IPO on July 7, 2015:

- the issuance of the 10,350,000 shares of the Company s common stock;
- the automatic conversion of all outstanding shares of the Company s preferred stock into 25,527,505 shares of common stock;

Table of Contents

- the issuance of 380,902 shares of the Company s common stock upon the exercise or exchange of warrants to purchase the Company s common stock, which consisted of warrants to purchase:

  - 4,166 shares of the Company s common stock;
  - 252,429 shares of the Company s Series D preferred stock;
  - 300,059 shares of the Company s Series E-1 preferred stock; and
  - 200,996 shares of the Company s Series E-2 preferred stock;

- the issuance of a warrant to purchase 142,857 shares of the Company s common stock at an exercise price of $7.00 per share in replacement of a warrant to purchase 285,714 shares of the Company s Series C preferred stock at an exercise price of $3.50 per share;

- the conversion of a warrant to purchase 160,000 shares of the Company s Series D preferred stock at an exercise price of $6.00 per share into a warrant to purchase 80,000 shares of common stock at an exercise price of $12.00 per share; and

- the expiration of warrants to purchase 482,964 shares of the Company common stock, which consisted of warrants to purchase:

  - 64,217 shares of the Company s Series D preferred stock;
  - 215,807 shares of the Company s Series E-1 preferred stock; and
  - 202,940 shares of the Company s Series E-2 preferred stock.

In July 2015, upon the closing of the Company s IPO, pursuant to the conditions of the letter agreement in connection with the Company s Asia strategy, $3.5 million of the proceeds received in connection with the sale of the Company s Series E-1 and E-2 preferred stock was reclassified from restricted cash to cash and cash equivalents. See Note L Related Party Transactions .

At September 30, 2015, based on its current operating plan, the Company expects that the net proceeds from its IPO, together with its existing cash and cash equivalents as of September 30, 2015 and anticipated revenue from operations, including from projected sales of its products, will enable it to fund operating expenses and capital expenditure requirements and pay its debt service as it becomes due for at least the next 12 months.

In the event the Company s existing cash and available financing is not sufficient to fund its operations, the Company may need to engage in equity or debt financings to secure additional funds. The Company may not be able to obtain additional financing on terms favorable to the Company, or at all. In addition, the negative covenants under the 2014 Secured Loan Agreement, the pledge of the Company s assets as collateral and the negative pledge with respect to its intellectual property could limit its ability to obtain additional financing.

Basis of presentation and use of estimates

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States 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 consolidated financial statements, and the reported amounts of revenue and expenses during the reporting periods. The most significant estimates used in these consolidated financial statements include the valuation of accounts receivable, inventory reserves, intangible valuation, equity instruments, impairment assessments, income tax reserves and related allowances, and the lives of property and equipment. Actual results may differ from those estimates. The interim financial statements should be read in conjunction with the audited financial statements and notes thereto included in the Company s Registration Statement on Form S-1 (File No. 333-204384), as amended, which was declared effective by the Securities and Exchange Commission (SEC) on June 30, 2015.

Unaudited Interim Financial Information

The accompanying Interim Consolidated Financial Statements as of September 30, 2015 and for the three and nine months ended September 30, 2015 and 2014, and related interim information contained within the notes to the Consolidated Financial Statements are unaudited. These unaudited interim consolidated financial statements have been prepared in accordance with U.S. GAAP. In management s opinion, the unaudited interim consolidated financial statements have been prepared on the same basis as the audited financial statements and include all adjustments (including normal recurring adjustments) necessary for the fair presentation of the Company s financial position as of September 30, 2015, results of operations for the three and nine months ended September 30, 2015 and 2014, and its cash flows for the nine months ended September 30, 2015 and 2014. The results for the nine months ended September 30, 2015 are not necessarily indicative of the results expected for the full fiscal year or any interim period.

Table of Contents

Note B Summary of Significant Accounting Policies

Concentrations of credit risk and other risks and uncertainties

Financial instruments that subject the Company to credit risk primarily consisted of cash, cash equivalents and accounts receivable. The Company maintains the majority of its cash with accredited financial institutions.

The Company and its contract manufacturers rely on sole source suppliers for certain components. There can be no assurance that a shortage or stoppage of shipments of the materials or components that the Company purchases will not result in a delay in production or adversely affect the Company s business. The Company is in the process of validating alternate suppliers relative to certain key components, which are expected to be phased in during the coming periods.

For the three and nine months ended September 30, 2015 and 2014, no customer represented greater than 10% of revenue. There were no customers that represented greater than 10% of total gross receivable balance at September 30, 2015 or December 31, 2014.

Principles of consolidation

The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries including ImaTx, Inc., ConforMIS Europe GmbH, ConforMIS UK Limited and ConforMIS Hong Kong Limited. All material intercompany balances and transactions have been eliminated in consolidation.

Cash and cash equivalents

The Company considers all highly liquid investment instruments with original maturities of 90 days or less when purchased, to be cash equivalents. The Company s cash equivalents consisted of demand deposits and money market accounts on deposit with certain financial institutions. Demand deposits are carried at cost which approximates their fair value. Money market accounts are carried at fair value based upon level 1 inputs. See Note C Fair Value Measurements below. The associated risk of concentration is mitigated by banking with credit worthy financial institutions.

The Company had $2.3 million as of September 30, 2015 and $1.2 million as of December 31, 2014 held in foreign bank accounts. In addition, the Company has recorded restricted cash of $0.7 million as of September 30, 2015 and $4.4 million as of December 31, 2014. Restricted cash consists of $0.7 million as of September 30, 2015 and $0.8 million as of December 31, 2014 of security provided for a lease obligation, and $0 million as of September 30, 2015 and $3.6 million as of December 31, 2014 of proceeds received in connection with the sale of Series E-1 and E-2 preferred stock that was contractually restricted for use. See Note L Related Party Transactions below.

Fair value of financial instruments

Certain of the Company s financial instruments, including cash and cash equivalents but excluding money market funds, accounts receivable, accounts payable, accrued expenses and other liabilities are carried at cost, which approximates their fair value because of the short-term maturity. Based on borrowing rates currently available to the Company for loans with similar terms, the carrying value of the Company s long-term debt approximates its fair value.

Accounts receivable and allowance for doubtful accounts

Accounts receivable consisted of amounts due from medical facilities. In estimating whether accounts receivable can be collected, the Company performs evaluations of customers and continuously monitors collections and payments and estimates an allowance for doubtful accounts based on the aging of the underlying invoices, collections experience to date and any specific collection issues that have been identified. The allowance for doubtful accounts is recorded in the period in which revenue is recorded or at the time potential collection risk is identified.

Inventories

Inventories consisted of raw materials, work-in-process components and finished goods. Inventories are stated at the lower of cost, determined using the first-in first-out method, or market value. The Company regularly reviews its inventory quantities on hand and related cost and records a provision for any excess or obsolete inventory based on its estimated forecast of product demand and existing product configurations. The Company also reviews its inventory value to determine if it reflects the lower of cost or market, with market determined based on net realizable value. Appropriate consideration is given to inventory items sold at negative gross margins, purchase commitments and other factors in evaluating net realizable value.

Table of Contents

Property and equipment

Property and equipment is stated at cost less accumulated depreciation and is depreciated using the straight-line method over the estimated useful lives of the respective assets. Leasehold improvements are amortized over their useful life or the life of the lease, whichever is shorter. Assets capitalized under capital leases are amortized in accordance with the respective class of assets and the amortization is included with depreciation expense. Maintenance and repair costs are expensed as incurred.

Intangibles and other long-lived assets

Intangible assets consisted of developed technology and other intellectual property rights licensed from ImaTx as part of the spin-out transaction in 2004. Intangible assets are carried at cost less accumulated amortization.

The Company tests impairment of long-lived assets when events or changes in circumstances indicate that the assets might be impaired. For assets with determinable useful lives, amortization is computed using the straight-line method over the estimated economic lives of the respective intangible assets.

Furthermore, periodically the Company assesses whether long-lived assets, including intangible assets, should be tested for recoverability whenever events or circumstances indicate that their carrying value may not be recoverable.

The amount of impairment, if any, is measured based on fair value, which is determined using estimated undiscounted cash flows to be generated from such assets or group of assets. If the cash flow estimates or the significant operating assumptions upon which they are based change in the future, the Company may be required to record impairment charges. During the three and nine months ended September 30, 2015 and 2014, no such impairment charges were recognized.

Goodwill

Goodwill relates to amounts that arose in connection with the acquisition of Imaging Therapeutics, Inc. (formerly known as Osteonet.com, renamed ImaTx, Inc.) in 2009. The Company tests goodwill at least annually for impairment, or more frequently when events or changes in circumstances indicate that the assets may be impaired. This impairment test is performed annually during the fourth quarter at the reporting unit level. Goodwill may be considered impaired if the carrying value of the reporting unit, including goodwill, exceeds the reporting unit s fair value. The Company is comprised of one reporting unit. When testing goodwill for impairment, the Company primarily looks to the fair value of the reporting unit, which is typically estimated using a discounted cash flow approach, which requires the use of assumptions and judgments including estimates of future cash flows and the selection of discount rates. The goodwill recognized upon acquiring ImaTx is not deductible for tax purposes. In light of the voluntary product recall announced by the Company on August 31, 2015 of specific serial numbers of patient-specific instrumentation for the iUni, iDuo and iTotal systems, the Company assessed the potential for impairment of the goodwill carrying value and concluded that the recall did not affect the goodwill. During the three and nine months ended September 30, 2014, there were no triggering events which would require an interim goodwill impairment assessment.

Revenue recognition

The Company generates revenue from the sale of customized implants and instruments to medical facilities through the use of a combination of direct sales personnel, independent sales representatives and distributors in the United States, Austria, Germany, Ireland, the United Kingdom, Switzerland, Hong Kong and Singapore.

Revenue is recognized when all of the following criteria are met:

- persuasive evidence of an arrangement exists;
- the sales price is fixed or determinable;
- collection of the relevant receivable is probable at the time of sale; and
- delivery has occurred or services have been rendered.

Table of Contents

For a majority of sales to medical facilities, the Company recognizes revenue upon completion of the procedure, which represents satisfaction of the required revenue recognition criteria. For the remaining sales, which are made directly through distributors and generally represent less than 1% of revenue, the Company recognizes revenue at the time of shipment of the product, which represents the point in time when the customer has taken ownership and assumed the risk of loss and the required revenue recognition criteria are satisfied. Such customers are obligated to pay within specified time periods regardless of when or if they ever sell or use the products. Once the revenue recognition criteria have been satisfied the Company does not offer rights of return or price protection and there are no post-delivery obligations.

In April 2015, the Company entered into a fully paid up, worldwide license agreement with Wright Medical Group, Inc., or Wright Group, and its wholly owned subsidiary Wright Medical Technology, Inc., or Wright Technology and collectively with Wright Group, Wright Medical. Under the terms of this license agreement, the Company granted a perpetual, irrevocable, non-exclusive license to Wright Medical to use patient-specific instrument technology covered by the Company s patents and patent applications with off-the-shelf implants in the foot and ankle. This license does not extend to patient-specific implants. This license agreement provided for a single lump-sum payment by Wright Medical to the Company upon entering into the license agreement, which has been paid. This license agreement will expire upon the expiration of the last to expire of the Company s patents and patent applications licensed to Wright Medical, which currently is expected to occur in 2031.

In April 2015, the Company entered into a worldwide license agreement with MicroPort Orthopedics Inc., or MicroPort, a wholly owned subsidiary of MicroPort Scientific Corporation. Under the terms of this license agreement, the Company granted a perpetual, irrevocable, non-exclusive license to MicroPort to use patient-specific instrument technology covered by the Company s patents and patent applications with off-the-shelf implants in the knee. This license does not extend to patient-specific implants. This license agreement provides for the payment to the Company of a fixed royalty percentage of net sales on patient-specific instruments and associated implant components in the knee, including MicroPort s Prophecy patient-specific instruments used with its Advance and Evolution implant components. This license agreement also provided for a single lump-sum payment by MicroPort to the Company upon entering into the license agreement, which has been paid. This license agreement will expire upon the expiration of the last to expire of the Company s patents and patent applications licensed to MicroPort, which currently is expected to occur in 2029.

The Company has accounted for the agreements with Wright Medical and MicroPort under ASC 605-25, Multiple-Element Arrangements and Staff Accounting Bulletin No. 104, Revenue Recognition (ASC 605). In accordance with ASC 605, the Company is required to identify and account for each of the separate units of accounting. The Company identified the relative selling price for each and then allocated the total consideration based on their relative values. In connection with these agreements, in April 2015, the Company recognized in aggregate (i) back-owed royalties of $3.4 million as royalty revenue and (ii) the value attributable to the settlements of $0.2 million as other income. Additionally, the Company recognized an initial $5.1 million in aggregate as deferred royalty revenue, which is recognized as royalty revenue ratably through 2031. See Note I Deferred Revenue . The on-going royalty from MicroPort is recognized as royalty revenue upon receipt of payment.

Shipping and handling costs

Amounts invoiced to customers for shipping and handling are classified as revenue. Shipping and handling costs incurred are included in general and administrative expense. Shipping and handling expense was $0.5 million and $0.4 million for the three months ended September 30, 2015 and 2014, respectively, and was $2.1 million and $1.1 million for the nine months ended September 30, 2015 and 2014, respectively.

Taxes collected from customers and remitted to government authorities

The Company s policy is to present taxes collected from customers and remitted to government authorities on a net basis and not to include tax amounts in revenue.

Research and development expense

The Company s research and development costs consisted of engineering, product development, quality assurance, clinical and regulatory expense. These costs are primarily related to employee compensation, including salary, benefits and stock-based compensation. The Company also incurs costs related to consulting fees, materials and supplies, and marketing studies, including data management and associated travel expense. Research and development costs are expensed as incurred.

Advertising expense

Advertising costs are expensed as incurred. Advertising expense was approximately $41,000 and $43,000 for the three months ended September 30, 2015 and 2014, respectively, and was $0.2 million and $0.3 million for the nine months ended September 30, 2015 and 2014, respectively.

Table of Contents

Segment reporting

Operating segments are defined as components of an enterprise about which separate financial information is available and is evaluated on a regular basis by the chief operating decision-maker, or decision-making group, in deciding how to allocate resources to an individual segment and in assessing performance of the segment. The Company s chief operating decision-maker is its chief executive officer. The Company s chief executive officer reviews financial information presented on an aggregate basis for purposes of allocating resources and evaluating financial performance. The Company has one business activity and there are no segment managers who are held accountable for operations, operating results and plans for products or components below the aggregate Company level. Accordingly, in light of the Company s current product offerings, management has determined that the primary form of internal reporting is aligned with the offering of the ConforMIS customized joint replacement products and that the Company operates as one segment. See Note O Segment and Geographic Data .

Comprehensive loss

At September 30, 2015 and December 31, 2014, accumulated other comprehensive loss consists of foreign currency translation adjustments.

Foreign currency translation and transactions

The assets and liabilities of the Company s foreign operations are translated into U.S. dollars at current exchange rates at the balance sheet date, and income and expense items are translated at average rates of exchange prevailing during the year. Gains and losses realized from transactions denominated in foreign currencies, including intercompany balances not considered permanent investments, are included in the consolidated statements of operations.

Income taxes

Income taxes are accounted for under the asset and liability method. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the consolidated financial statement carrying amounts of existing assets and liabilities and their respective tax bases, operating losses and tax credit carry forwards.

Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized as income in the period that includes the enactment date.

The tax benefit from an uncertain tax position is only recognized if it is more likely than not that the tax position will be sustained on examination by the taxing authorities, based on the technical merits of the position. The tax benefits recognized in the consolidated financial

statements from these positions are measured based on the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate resolution.

The Company reviews its tax positions on an annual basis and more frequently as facts surrounding tax positions change. Based on these future events, the Company may recognize uncertain tax positions or reverse current uncertain tax positions, the impact of which would affect the consolidated financial statements.

Medical device excise tax

The Company is subject to the Health Care and Education Reconciliation Act of 2010 (the Act), which imposes a tax equal to 2.3% on the sales price of any taxable medical device by a medical device manufacturer, producer or importer of such device. Under the Act, a taxable medical device is any device defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act, intended for humans, which includes an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, which meets certain requirements. The Company incurred medical device excise tax expense of $0.2 million for the three months ended September 30, 2015 and 2014, respectively, and $0.6 million and $0.4 million for the nine months ended September 30, 2015 and 2014, respectively. Medical device tax is included in general and administrative expense.

Stock-based compensation

The Company accounts for stock-based compensation in accordance with ASC 718, Stock Based Compensation. ASC 718 requires all stock-based payments to employees and consultants, including grants of stock options, to be recognized in the consolidated statements of operations based on their fair values. The Company uses the Black-Scholes option pricing model to

Table of Contents

determine the weighted-average fair value of options granted and recognizes the compensation expense of stock-based awards on a straight-line basis over the vesting period of the award.

The determination of the fair value of stock-based payment awards utilizing the Black-Scholes option pricing model is affected by the stock price, exercise price, and a number of assumptions, including expected volatility of the stock, expected life of the option, risk-free interest rate and expected dividends on the stock. The Company evaluates the assumptions used to value the awards at each grant date and if factors change and different assumptions are utilized, stock-based compensation expense may differ significantly from what has been recorded in the past. If there are any modifications or cancellations of the underlying unvested securities, the Company may be required to accelerate, increase or cancel any remaining unearned stock-based compensation expense.

The stock price for option grants are set by the Company s board of directors and, prior to the Company s IPO in July 2015, were based upon guidance set forth by the American Institute of Certified Public Accountants, or AICPA, in its Technical Practice Aid, *Valuation of Privately Held Company Equity Securities Issued as Compensation* . To that end, the board considered a number of factors in determining the option price, including: (1) past sales of the Company s convertible preferred stock, and the rights, preferences and privileges of the Company stock, (2) obtaining FDA 510(k) clearance, and (3) achievement of budgeted results. See Note M Stockholders Equity for a summary of the stock option activity under the Company s stock-based compensation plan.

Net loss per share

The Company calculates net loss per share in accordance with Accounting Standards Codification 260, Earnings per Share. Basic earnings per share (EPS) is calculated by dividing the net income or loss for the period by the weighted average number of common shares outstanding for the period, without consideration for common stock equivalents.

Diluted EPS is computed by dividing the net income or loss for the period by the weighted average number of common shares outstanding for the period and the weighted average number of dilutive common stock equivalents outstanding for the period determined using the treasury stock method.

The following table sets forth the computation of basic and diluted earnings per share attributable to stockholders (in thousands, except share and per share data):

(in thousands, except share and per share data)	**Three Months Ended September 30, 2015**	**2014**	**Nine Months Ended September 30, 2015**	**2014**
Numerator:				
Numerator for basic and diluted loss per share:				
Net loss	$ (17,107)	$ (10,396)	$ (42,256)	$ (33,592)
Denominator:				
Denominator for basic loss per share:				
Weighted average shares	37,933,069	4,267,148	15,688,686	4,224,454

Basic loss per share attributable to ConforMIS, Inc. stockholders	$	(0.45)	$	(2.44)	$	(2.69)	$	(7.95)
Diluted loss per share attributable to ConforMIS, Inc. stockholders	$	(0.45)	$	(2.44)	$	(2.69)	$	(7.95)

The following table sets forth potential shares of common stock equivalents that are not included in the calculation of diluted net loss per share because to do so would be anti-dilutive as of the end of each period presented:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2015	**2014**	**2015**	**2014**
Series A Preferred	129,739	1,705,138	1,172,282	1,705,138
Series B Preferred	170,029	2,234,668	1,536,334	2,234,668
Series C Preferred	186,643	2,453,018	1,686,450	2,453,018
Series D Preferred	508,895	6,651,562	4,576,684	6,558,201
Series E-1 Preferred	556,709	6,718,860	5,030,261	6,269,004
Series E-2 Preferred	390,295	5,129,590	3,526,593	5,129,590
Series C Preferred Warrants		48,938		48,938
Series D Preferred Warrants		38,164		38,164
Series E-2 Preferred Warrants		11,354		11,354
Common stock warrants		2,158	329,348	2,158
Stock options	3,887,561	3,745,598	3,880,463	3,565,146
Total	5,829,870	28,739,047	21,738,415	28,015,379

Table of Contents

Recent accounting pronouncements

In May 2014, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) No. 2014-09, Revenue from Contracts with Customers (Topic 606) . ASU No. 2014-09 outlines a single comprehensive model for entities to use in accounting for revenue arising from contracts with customers and supersedes most current revenue recognition guidance, including industry-specific guidance. This new guidance was to be effective for annual reporting periods (including interim reporting periods within those periods) beginning after December 15, 2017; early adoption was permitted for annual reporting periods beginning after December 15, 2016, including interim reporting periods within those annual periods. Companies have the option of using either a full retrospective or a modified retrospective approach to adopt the guidance. In August 2015, the FASB issued ASU 2015-14 to defer the effective date of the guidance contained in ASU 2014-09 by one year. Thus, the guidance is effective for the Company commencing in the first quarter of 2019. The Company does not expect that the adoption of ASU 2014-09 will have a material effect on its consolidated financial statements.

In April 2015, FASB issued ASU No. 2015-03, Interest Imputation of Interest (Subtopic 835-30): Simplifying the Presentation of Debt Issuance Costs , which requires that debt issuance costs related to a recognized debt liability be presented in the balance sheet as a direct deduction from the carrying amount of the related debt liability, consistent with debt discounts. ASU 2015-03 applies to all business entities and is effective for public business entities for annual periods, and interim periods within those annual periods, beginning after December 15, 2015. Early adoption is permitted. The Company does not expect that the adoption of ASU 2015-03 will have a material effect on its consolidated financial statements.

In April 2015, the FASB issued ASU No. 2015-05, Intangibles Goodwill and Other Internal-Use Software (Subtopic 350-40): Customer s Accounting for Fees Paid in a Cloud Computing Arrangement (ASU 2015-05), which provides guidance to clarify the customer s accounting for fees paid in a cloud computing arrangement. This guidance is effective for annual periods and interim reporting periods of public entities beginning after December 15, 2015. The Company does not expect that the adoption of ASU 2015-05 will have a material effect on its consolidated financial statements.

In August 2014, FASB issued ASU No. 2014-15, Presentation of Financial Statements-Going Concern (Subtopic 205-40) Disclosure of Uncertainties about an Entity s Ability to Continue as a Going Concern (ASU 2014-15). This newly issued accounting standard provides guidance about management s responsibility to evaluate whether there is a substantial doubt about an entity s ability to continue as a going concern and to provide related footnote disclosures. The defined term substantial doubt requires an evaluation of every reporting period including interim periods, provides principles for considering the mitigating effect of management s plans, requires certain disclosures when substantial doubt is alleviated as a result of consideration of management s plans, requires an express statement and other disclosures when substantial doubt is not alleviated, and requires an assessment for a period of one year after the date that the financial statements are issued or available to be issued. The amendments in ASU 2014-15 are effective for annual periods beginning after December 15, 2016 and interim periods within those reporting periods. Earlier adoption is permitted. The Company is currently evaluating the impact of this pronouncement on its consolidated financial statements.

Note C Fair Value Measurements

The Fair Value Measurements topic of the FASB Codification establishes a framework for measuring fair value in accordance with US GAAP, clarifies the definition of fair value within that framework and expands disclosures about fair value measurements. This guidance requires disclosure regarding the manner in which fair value is determined for assets and liabilities and establishes a three-tiered value hierarchy into which these assets and liabilities must be grouped, based upon significant levels of inputs as follows:

Level 1 Quoted prices in active markets for identical assets or liabilities.

Table of Contents

Level 2 Observable inputs, other than Level 1 prices, such as quoted prices in active markets for similar assets and liabilities, quoted prices for identical or similar assets and liabilities in markets that are not active, or other inputs that are observable or can be corroborated by observable market data.

Level 3 Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities. This includes certain pricing models, discounted cash flow methodologies and similar techniques that use significant unobservable inputs.

The only assets and liabilities subject to fair value measurement standards at September 30, 2015 and December 31, 2014 are money market funds that are cash equivalents based on Level 1 inputs. The values of these funds were $126.8 million as of September 30, 2015 and $30,000 as of December 31, 2014.

Note D Accounts Receivable

Accounts receivable consisted of the following (in thousands):

	September 30, 2015	December 31, 2014
Total receivables	$ 8,626	$ 9,281
Allowance for doubtful accounts and returns	(366)	(162)
Accounts receivable, net	$ 8,260	$ 9,119

Write-offs related to accounts receivable were approximately $24,000 and $88,000 for the three and nine months ended September 30, 2015, respectively, and $0 and $0.02 million for the three and nine months ended September 30, 2014, respectively.

Note E Inventories

Inventories consisted of the following (in thousands):

	September 30, 2015	December 31, 2014
Raw Material	$ 5,260	$ 3,311
Work in process	2,719	1,282
Finished goods	2,685	3,098
Total Inventories	$ 10,664	$ 7,691

At September 30, 2015, inventories include write-downs of $0.9 million and reserves of $0.2 million for estimated surgery cancellations both related to units affected by the recall and sterilization capacity limitation during the month of September.

Note F Property and Equipment

Property and equipment consisted of the following (in thousands):

	Estimated Useful Life (Years)	September 30, 2015	December 31, 2014
Equipment	5-7	$ 11,548	$ 9,598
Furniture and fixtures	5-7	390	362
Computer and software	3	4,948	3,725
Leasehold improvements	2-7	1,462	1,040
Total property and equipment		18,348	14,725
Accumulated depreciation		(7,693)	(6,029)
Property and equipment, net		$ 10,655	$ 8,696

Table of Contents

Depreciation expense related to property and equipment was $0.6 million and $0.5 million for the three months ended September 30, 2015 and 2014, $1.7 million and $1.4 million for the nine months ended September 30, 2015 and 2014, respectively.

Note G Intangible Assets

The components of intangible assets consisted of the following (in thousands):

	Estimated Useful Life (Years)	September 30, 2015 (unaudited)	December 31, 2014
Developed technology	10	$ 979	$ 979
Accumulated amortization		(558)	(485)
Developed technology, net		421	494
License agreements	10	1,508	1,508
Accumulated amortization		(872)	(759)
License technology, net		636	749
Intangible assets, net	10	$ 1,057	$ 1,243

The Company recognized amortization expense of $62,000 in the three months ended September 30, 2015 and 2014, and $186,000 in the nine months ended September 30, 2015 and 2014. The weighted-average remaining life of total amortizable intangible assets is 4.25 years for the developed technology and license agreements.

The estimated future aggregated amortization expense for intangible assets owned as of September 30, 2015 consisted of the following (in thousands):

	Amortization expense
2015 (remainder of year)	$ 63
2016	249
2017	249
2018	249
2019	247
	$ 1,057

Note H Accrued Expenses

Accrued expenses consisted of the following (in thousands):

	September 30, 2015	December 31, 2014
Accrued employee compensation	$ 3,278	$ 2,125
Accrued financing costs	407	
Deferred rent	208	277
Accrued legal expense	517	265
Accrued consulting expense	83	139
Accrued vendor charges	332	932
Accrued revenue share expense	687	727
Accrued patent settlement and license costs	500	750
Accrued clinical trial expense	210	211
Accrued other	731	1,516
	$ 6,953	$ 6,942

Note I Deferred Revenue

In connection with the license agreements the Company entered into in April 2015 with Wright Medical and MicroPort (see Note B Summary of Significant Accounting Policies), the Company recognized an initial $5.1 million in aggregate as deferred royalty revenue, of which $4.9 million and $0.2 million is recognized as royalty revenue ratably through 2031 and 2029, respectively.

Table of Contents

Note J Commitments and Contingencies

Operating Leases

The Company maintains its corporate headquarters in a leased building located in Bedford, Massachusetts, and in July 2015 moved its manufacturing from a facility located in Burlington, Massachusetts to a facility located in Wilmington, Massachusetts, all of which are accounted for as operating leases.

The Company leases the Bedford facility under a long-term, non-cancellable sublease that is scheduled to expire in April 2017. The Wilmington facility is leased under a long-term, non-cancellable lease that commenced in April 2015 and will expire in March 2022. The Company leased the Burlington facility under a long-term, non-cancellable lease that was set to expire in October 2015. In June 2014, the Company entered into a termination agreement to terminate the Burlington facility lease as of July 31, 2015. Accordingly, all monetary obligations pursuant to the original lease are prorated through the termination date and deferred rent and depreciation of leasehold improvements expense were accelerated. In July 2015, the Company and the landlord of the Burlington facility agreed to a hold over for 30 days beyond the lease termination of July 31, 2015 through August 31, 2015. The Company also leases satellite facilities under short-term non-cancellable operating leases.

The future minimum rental payments under the Company s non-cancellable operating leases as of September 30, 2015 are as follows (in thousands):

Year		**Minimum lease Payments**
2015 remainder of year	$	377
2016		1,615
2017		789
2018		364
2019-2022		1,253
	$	4,398

Rent expense of $0.5 million and $0.4 million was charged to operations for the three months ended September 30, 2015 and 2014, respectively, and $1.3 million and $1.2 million for the nine months ended September 30, 2015 and 2014. The Company s operating lease agreements contain scheduled rent increases, which are being amortized over the terms of the agreements using the straight-line method. Deferred rent was $0.4 million as of September 30, 2015 and $0.5 million as of December 31, 2014. Deferred rent is included in accrued expenses and other long-term liabilities.

License and revenue share agreements

Settlement and patent license

In December 2014, the Company entered into a settlement and patent license agreement that grants ConforMIS a fully paid-up license to certain intellectual property and provides for the mutual release and absolute discharge of any and all claims in connection with the licensed patents and with suits filed by and against the parties to the agreement in exchange for $750,000 payable by the Company in two installments, wherein the first installment of $250,000 is payable in January of 2015 and the second installment of $500,000 is payable no later than December 1, 2015. The Company expensed the full amount of the consideration in 2014, included in general and administrative expense. The license continues until the expiration of the last patent.

Revenue share agreements

The Company is party to revenue share agreements with certain past and present members of its scientific advisory board under which these advisors agreed to participate on its scientific advisory board and to assist with the development of the Company s customized implant products and related intellectual property. These agreements provide that the Company will pay the advisor a specified percentage of the Company s net revenues, ranging from 0.2% to 1.33%, with respect to the Company s products on which the advisor made a technical contribution or, in some cases, which the Company covered by a claim of one of its patents on which the advisor is a named inventor. The specific percentage is determined by reference to product classifications set forth in the agreement and is tiered based on the level of net revenues collected by the Company on such product sales. The Company s payment obligations under these agreements typically expire a fixed number of years after expiration or termination of the agreement, but in some cases

Table of Contents

expire on a product-by-product basis or expiration of the last to expire of the Company s patents where the advisor is a named inventor that claims the applicable product.

Philipp Lang, M.D., the Company s Chief Executive Officer, joined the Company s scientific advisory board in 2004 prior to becoming an employee. The Company first entered into a revenue share agreement with Dr. Lang in 2008 when he became the Company s Chief Executive Officer. In 2011, the Company entered into an amended and restated revenue share agreement with Dr. Lang. Under this agreement, the specified percentage of the Company s net revenues payable to Dr. Lang ranges from 0.875% to 1.33% and applies to all of the Company s current and planned products, including the Company s iUni, iDuo, iTotal Cr, iTotal PS and iTotal Hip products, as well as certain other knee, hip and shoulder replacement products and related instrumentation the Company may develop in the future. The Company s payment obligations under this agreement expire on a product-by-product basis on the last to expire of the Company s patents on which Dr. Lang is named an inventor that claim the applicable product. These payment obligations survive termination of Dr. Lang s employment with the Company.

The Company incurred aggregate revenue share expense, including all amounts payable under the Company s scientific advisory board and Chief Executive Officer revenue share agreements of $0.7 million during the three months ended September 30, 2015, representing 5.1% of product revenue, $0.6 million during the three months ended September 30, 2014, representing 5.2% of product revenue, $2.2 million during the nine months ended September 30, 2015, representing 5.1% of product revenue, and $1.5 million during the nine months ended September 30, 2014, representing 4.5% of product revenue. See Note L Related Party Transactions for further information regarding the Company s arrangement with its Chief Executive Officer.

Other obligations

In the ordinary course of business, the Company is a party to certain non-cancellable contractual obligations typically related to research and development and marketing services. The Company accrues a liability for such matters when it is probable that future expenditures will be made and such expenditures can be reasonably estimated.

Legal proceedings

In the ordinary course of conducting its business, the Company is subject to litigation, claims and administrative proceedings on a variety of matters. An estimate of the possible loss or range of loss as a result of any of these matters cannot be made; however, management does not believe that these matters, individually or in the aggregate, are material to its financial condition, results of operations or cash flows.

In September 2015, a class action lawsuit was filed against the Company and certain of the Company s officers on behalf of stockholders who purchased the Company s common stock in connection with the IPO or on the open market between July 1, 2015 and August 28, 2015 alleging that statements made were false and misleading because the Company s manufacturing processes were flawed and, as a result of such flaws, a number of the Company s knee replacement product systems were defective. The complaint seeks, among other relief, class certification of the lawsuit, unspecified compensatory damages, interest, attorneys fees, expert fees and other costs. The Company believe it has valid defenses to the claims in the lawsuit, will deny liability and intends to defend itself vigorously. The Company is presently unable to predict the outcome of the lawsuit or to reasonably estimate a range of potential losses, if any, related to the lawsuit.

In October 2015, a complaint for patent infringement was filed against the Company alleging that the Company s iUni G2 and iDuo G2 partial knee replacement surgical techniques infringe one or more claims of United States Patent No. 6,575,980. The plaintiff seeks damages, including for willful infringement, attorney s fees, costs and a permanent injunction. The Company believes that none of its products or services infringes the plaintiff s patent. The Company intends to deny liability and to defend itself vigorously. The Company is presently unable to predict the outcome of the lawsuit or to reasonably estimate a range of potential losses, if any, related to the lawsuit.

Indemnifications

In the normal course of business, the Company enters into contracts and agreements that contain a variety of representations and warranties and provide for general indemnifications. The Company s exposure under these agreements is unknown because it involves claims that may be made against the Company in the future, but have not yet been made. To date, the Company has not paid any claims or been required to defend any action related to its indemnification obligations. However, the Company may record charges in the future as a result of these indemnification obligations. In accordance with its bylaws, the Company has indemnification obligations to its officers and directors for certain events or occurrences, subject to certain limits, while they are serving at the Company s request in such capacity. There have been no claims to date and the Company has a director and officer insurance policy that enables it to recover a portion of any amounts paid for future claims.

Note K Debt and Notes Payable

Long-term debt consisted of the following (in thousands):

	September 30, 2015	December 31, 2014
Massachusetts Development Finance Agency	$ 552	$ 760
Oxford Finance, LLC		6,250
Silicon Valley Bank		3,750
	552	10,760
Less total discount	(5)	(140)
	547	10,620
Less current installments	289	272
Long-term debt, excluding current installments	$ 258	$ 10,348

Table of Contents

The principal payments due as of September 31, 2015 consisted of the following (in thousands):

	Principal Payment
2015 (remainder of year)	$ 71
2016	299
2017	182
Total	$ 552

2014 Secured Loan Agreement

On November 7, 2014, or the effective date, the Company entered into the 2014 Secured Loan Agreement consisting of the Revolving Line of up to $5 million (subject to availability under the borrowing base and satisfaction of other funding conditions), and commitments for the two $10 million SVB/Oxford Term Loans. At the time the Company entered into the 2014 Secured Loan Agreement, it borrowed the first $10 million term loan, or the SVB/Oxford Term Loan A, and issued the lenders warrants to purchase 33,481 shares of the Company s common stock. On September 8, 2015, the Company voluntarily prepaid the SVB/Oxford Term Loan A and terminated the Company s right to draw down the SVB/Oxford Term Loans and any security interest in the Company s assets in favor of Oxford Finance, LLC. The Company retained the Revolving Line with Silicon Valley Bank. Prior to repaying the SVB/Oxford Term Loan A, the Company was eligible to borrow a second term loan in a principal amount of $10 million (the SVB/Oxford Term Loan B), on or prior to November 7, 2015, upon meeting certain conditions, including the Company being able to make certain agreed upon representations and warranties to the lenders and a determination by the lenders, in their sole discretion, that there has been no occurrence of any material adverse change, as defined in the 2014 Secured Loan Agreement, or any material deviation from the annual financial projections provided by the Company and accepted by the lenders. In the event that the Company had borrowed the additional $10 million term loan, the Company would have been obligated to issue warrants to purchase an additional 33,481 shares of its common stock to the lenders under the 2014 Secured Loan Agreement.

Unless earlier terminated by the Company or accelerated by the lender, the Revolving Line terminates on November 7, 2019, with all outstanding borrowings and associated interest becoming due and payable upon such termination. The Company s ability to borrow under the Revolving Line is subject to a borrowing base, calculated as 85% (or such lower percent as Silicon Valley Bank may determine as prescribed in the 2014 Secured Loan Agreement) of eligible accounts receivable. Borrowings under the Revolving Line bear interest at a floating per annum rate equal to the prime rate. Interest on the Revolving Line is payable monthly. In addition to interest, the Company is obligated to pay a $250,000 fee for the Revolving Line, which is payable in annual increments of $50,000 due on the effective date and each anniversary of the effective date. The Company will amortize this fee ratably over the term of the Revolving Line.

Further, the Company is obligated to pay a termination fee of $100,000 if it elects to terminate the Revolving Line prior to the first anniversary of the effective date, or $50,000 if it elects to terminate the Revolving Line between the first and third anniversaries of the effective date, provided that no termination fee will be payable if the Revolving Line is replaced with a new facility or an amended and restated facility from Silicon Valley Bank.

Prior to the prepayment of the SVB/Oxford Term Loan A, the SVB/Oxford Term Loans each had a maturity date of November 1, 2019 (the Term Loan Maturity Date). The SVB/Oxford Term Loan A bore interest at a fixed rate of 7.25% per annum, which rate was determined as the prime rate on the original date of funding plus 4%. The Company never borrowed the SVB/Oxford Term Loan B. If the Company had borrowed the SVB/Oxford Term Loan B, such term loan would have accrued interest at a fixed per annum rate equal to the prime rate on the date of

funding, plus 4%. Interest on each of the SVB/Oxford Term Loans was payable monthly in arrears. After an interest only period, the Company was required to make equal monthly payments of principal and interest, in arrears, for the remaining term until maturity. In addition to interest, the Company was obligated to make a final payment fee equal to the original principal amount of the applicable SVB/Oxford Term Loan, multiplied by 7%, which was paid by the Company with the term loan prepayment, and had been ratably expensed to interest while the loan was outstanding using the effective interest method. Further, the Company was required to pay a prepayment fee equal to 3% of the principal amount being prepaid.

The Company s obligations under the Revolving Line are secured by a security interest over substantially all of the Company s and ImaTx s assets, other than intellectual property, with respect to which the Company and ImaTx granted a negative pledge. The 2014 Secured Loan Agreement contains negative covenants restricting its activities, including limitations on dispositions, mergers or acquisitions, incurring indebtedness or liens, paying dividends or making investments and certain other business transactions. There are no financial covenants associated with the 2014 Secured Loan Agreement. Obligations under the 2014 Secured Loan Agreement are subject to acceleration upon the occurrence of specified events of default, including a material adverse change in the business, operations or financial or other condition.

Table of Contents

Also, immediately upon the occurrence and during the continuance of an event of default, all obligations outstanding under the agreement shall accrue interest at a fixed rate equal to the per annum rate that is otherwise applicable thereto plus 5%.

As of September 30, 2015 and December 31, 2014, no advances were outstanding from the fully available $5 million Revolving Line. Administrative and legal costs in connection with the 2014 Secured Loan Agreement were deemed immaterial and expensed as incurred.

In connection with the SVB/Oxford Term Loan A, the Company issued warrants to purchase an aggregate of 33,481 shares of the Company s common stock at a price of $8.96 per share, which was the fair value of the Company s common stock. Based on the Company s assessment of the warrants relative to ASC 480, *Distinguishing Liabilities from Equity*, the warrants are classified as equity and the Company recorded $134,000 fair value of the warrants as a discount to the term loan recorded to additional paid-in capital.

The value of the warrants was amortized to interest expense while the term loan was outstanding with the remaining amount fully expensed at the time of the repayment. The Company used the Black-Scholes option pricing model to calculate the fair value of the warrants based on the following inputs and assumptions:

Risk-free interest rate	1.6%
Expected term (in years)	5
Dividend yield	0%
Expected volatility	50%

$15 million term loan WTI Term Loan II

In May 2014, the $15 million term loan and security agreement (the WTI Term Loan II) entered into with Western Technology Investment in February 2011 was paid-off as scheduled. The 39-month credit facility was secured by certain tangible assets of the Company and included a security interest in the Company s intellectual property. The borrowings under the WTI Term Loan II, which were drawn in tranches, incurred a fixed interest rate of 12.50% per annum. Following the interest only periods, interest and principal was payable in equal monthly installments. In 2011, the Company drew down two tranches of $5 million each and issued warrants to purchase $1,100,000 and $80,000 of Series D preferred stock. Based on the Company s assessment of the warrants relative to ASC 480, *Distinguishing Liabilities from Equity*, the warrants are classified as equity and the Company recorded $573,000 million and $76,000 fair value of the warrants as a discount to the term loan recorded to additional paid-in capital. The value of the warrants was amortized to interest expense over the life of the term loans, which was fully amortized when the loan was paid in full in 2014.

Additionally, in July 2011, in connection with an amendment of the WTI Term Loan II to extend the termination dates of the second and third tranches, the Company issued a warrant to purchase $159,000 of Series D preferred stock or equivalent preferred stock. Based on the Company s assessment of the warrants relative to ASC 480, *Distinguishing Liabilities from Equity*, the warrants are classified as equity and the Company recorded $79,000 fair value of the warrants as a discount to the term loan to additional paid-in capital. The value of the warrants was amortized to interest expense over the remaining life of the term loan which was fully amortized when the loan was paid-off.

$1.4 million term loan Massachusetts Development Finance Agency

In June 2011, the Company entered into a $1.4 million term loan facility with Massachusetts Development Finance Agency (MDFA) for the purposes of equipment purchases. The MDFA facility, which is subordinated to the SVB/Oxford Term Loans and any advances under the Revolving Line, are secured on a second-lien basis by certain tangible assets of the Company.

At the time the Company entered into the MDFA facility, the Company borrowed the first tranche of $0.6 million, with the remaining funds to be borrowed over the following 18 months. To date, the Company has borrowed a total of $1.4 million of the available commitments under the facility, of which $522,000 in loans were outstanding as of September 30, 2015. Loans under the MDFA facility bear a fixed interest rate of 6.5% per annum. Interest is payable monthly in arrears. Beginning on January 1, 2013, the Company began making payments of principal and interest in 66 equal monthly installments.

In connection with the MDFA facility, the Company issued warrants to MDFA to purchase 16,000 shares of Series D preferred stock. Based on the Company s assessment of the warrants relative to ASC 480, *Distinguishing Liabilities from Equity*, the warrants are classified as equity and the Company recorded fair value of $46,000 as a discount to the term loan and was amortized to interest expense over the 84-month life of the term loan.

Table of Contents

Note L Related Party Transactions

Vertegen

In April 2007, the Company entered into a license agreement with Vertegen, Inc., or Vertegen, which was amended in May 2015 (the Vertegen Agreement). Vertegen is an entity that is wholly owned by Dr. Lang, the Company s Chief Executive Officer. Under the Vertegen Agreement, Vertegen granted the Company an exclusive, worldwide license under specified Vertegen patent rights and related technology to make, use and sell products and services in the fields of diagnosis and treatment of articular disorders and disorders of the human spine. The company may sublicense the rights licensed to it by Vertegen. The Company is required to use commercially reasonable efforts, at its sole expense, to prosecute the patent applications licensed to the Company by Vertegen.

In connection with entering into the license agreement with Vertegen, the Company paid Vertegen an initial license fee of $10,000 and issued Vertegen a warrant to purchase 100,000 shares of its common stock at an exercise price of $1.10 per share, which has expired unexercised. Pursuant to the Vertegen Agreement, the Company is required to pay Vertegen a 6% royalty on net sales of products covered by the patents licensed to us by Vertegen, the subject matter of which is directed primarily to spinal implants, and any proceeds from the Company enforcing the patent rights licensed to the Company by Vertegen. Such 6% royalty rate will be reduced to 3% in the United States during the five-year period following the expiration of the last-to-expire applicable patent in the United States and in the rest of the world during the five-year period following the expiration of the last-to-expire patent anywhere in the world. The Company has not sold any products subject to this agreement and has paid no royalties under this agreement. The Company has paid approximately $140,000 in expenses as of September 30, 2015 in connection with the filing and prosecution of the patent applications licensed to the Company by Vertegen.

The Vertegen Agreement may be terminated by the Company at any time by providing notice to Vertegen. In addition, Vertegen may terminate the Vertegen Agreement in its entirety if the Company is in material breach of the agreement, and the Company fails to cure such breach during a specified period.

Asia strategy

In connection with the issuance and sale of the Company s Series E-1 and Series E-2 preferred stock, the Company entered into a letter agreement with an investor that provides that $5.0 million of the proceeds received by the Company from the investor for the sale of the Company s Series E-1 and Series E-2 preferred stock could only be used in connection with the marketing and sale of the Company s products in Asia and that a committee of the Company s board of directors should be formed for the purposes of directing and overseeing the investment of such proceeds. This letter agreement terminated upon the closing of the Company s IPO. Upon the termination of this letter agreement, the Company was no longer required to invest such proceeds in the manner that had been required by the letter agreement and it is not required to maintain such an Asia strategy committee. While the Company is not obligated to maintain such a committee, the Company s board of directors has determined to continue to have such a committee for a period of two years from the closing of its IPO.

In July 2013, the Company agreed to exchange 381,875 shares of Series E-1 preferred stock held by the investor for 381,875 shares of the Company s Series E-2 preferred stock.

Based on the restriction on the use of the proceeds received in connection with the letter agreement, the proceeds were classified as restricted cash and an investment activity. Upon the closing of the Company s IPO in July 2015, pursuant to the conditions of the letter agreement in connection with the Asia strategy, $3.5 million of the proceeds received in connection with the letter agreement were reclassified from restricted cash to cash and cash equivalents. As of September 30, 2015, $0 million of the proceeds, and as of December 31, 2014, $3.6 million of the proceeds were included in restricted cash.

Revenue share agreement

As described in Note J, the Company is a party to certain agreements with advisors to participate as a member of the Company s scientific advisory board. In September 2011, the Company entered into an amended and restated revenue share agreement with Philipp Lang, M.D., the Company s Chief Executive Officer, which amended and restated a similar agreement entered into in 2008 when Dr. Lang stepped down as chair of the Company s scientific advisory board and became the Company s Chief Executive Officer. This agreement provides that the Company will pay Dr. Lang a specified percentage of our net revenues, ranging from 0.875% to 1.33%, with respect to all of our current and planned products, including the Company s iUni, iDuo, iTotal CR, iTotal PS and iTotal Hip products, as well as certain other knee, hip and shoulder replacement products and related instrumentation the Company may develop in the future. The specific percentage is determined by reference to product classifications set forth in the agreement and is tiered based on the level of net revenues collected by the Company on such product sales. The Company s payment obligations expire on a product-by-product basis on the last to expire of the Company s patents on which Dr. Lang is a named inventor that claim the applicable product. These payment obligations survive any termination of Dr. Lang s employment with the Company. The Company incurred revenue share expense paid to Dr. Lang of $0.2 million and $0.5 million for the three and nine months ended

Table of Contents

September 30, 2015, respectively, and $0.1 million and $0.4 million for the three and nine months ended September 30, 2014, respectively.

Note M Stockholders Equity

Common stock

On June 16, 2015, the Company effected a reverse stock split of the Company s common stock at a ratio of one share for every two shares previously held, and a proportional adjustment to the existing conversion ratios for each series of preferred stock. All common stock share and common stock per share data included in these financial statements reflect the reverse stock split.

On July 7, 2015 the Company closed its IPO, which resulted in the sale of 10,350,000 shares of its common stock at a public offering price of $15.00 per share. Upon closing of the IPO, all outstanding shares of the Company s preferred stock were automatically converted into 25,904,241 shares of common stock. Additionally upon closing of the IPO, the Company adopted a restated certificate of incorporation increasing the number of authorized shares of its common stock to 200,000,000 shares.

Common stockholders are entitled to dividends as and when declared by the board of directors, subject to the rights of holders of all classes of stock outstanding having priority rights as to dividends. There have been no dividends declared to date. The holder of each share of common stock was entitled to one vote.

Summary of common stock activity is as follows:

	Shares
Outstanding December 31, 2014	4,286,164
Issuance of common stock - option & warrant exercises	154,084
Issuance of restricted common stock	14,666
Issuance of common stock - IPO	10,350,000
Issuance of common stock - preferred stock conversion to common stock	25,904,241
Outstanding September 30, 2015 (unaudited)	40,709,155

Preferred stock

Prior to the filing of the Company s Restated Certificate of Incorporation upon closing if its IPO, the Company was authorized to issue 53,496,241 shares of $0.00001 par value preferred stock. The Company s Restated Certificate of Incorporation authorizes the

Company to issue 5,000,000 shares of preferred stock, $0.00001 par value, all of which is undesignated.

At December 31, 2014, convertible preferred stock consisted of the following (in thousands, except share data):

Series	Shares Authorized	Shares Issued and Outstanding		Liquidation Value
Series A convertible preferred	3,410,278	3,410,278	$	3,410
Series B convertible preferred	4,469,349	4,469,349		12,023
Series C convertible preferred	5,191,754	4,906,040		17,171
Series D convertible preferred	14,612,360	13,307,287		79,844
Series E-1 convertible preferred	15,149,375	14,633,509		117,068
Series E-2 convertible preferred	10,663,125	10,259,189		123,110
	53,496,241	50,985,652	$	352,626

Prior to the conversion to common stock, the significant terms of the Company s preferred stock were as follows:

Conversion. Each share of preferred stock was convertible into the Company s common stock at the option of the holder on a two-to-one basis. Additionally, each share of preferred stock was automatically convertible into common stock upon the earlier (1) closing of a firm commitment underwritten public offering from which the aggregate net proceeds equal or exceed $50.0 million and in which the price per share is at least $20.00, or the equivalent price after adjustment for certain events, (2) with respect to the Series A preferred stock, approval of the holders of a majority of the outstanding Series A preferred stock, (3) with respect to the Series B preferred stock, approval of the holders of a majority of the outstanding Series B preferred stock, (4) with respect to the Series C preferred stock, approval of the holders of a majority of the outstanding Series C preferred stock, (5) with respect to the Series D preferred stock, approval of the holders of a majority of the outstanding Series D preferred stock, (6) with respect to the Series E-1 preferred stock, approval of the holders of a majority of the outstanding Series E-1 preferred stock, and (7) with respect to the Series E-2 preferred stock, approval of the holders of a majority of the outstanding Series E-2 preferred stock.

Antidilution Protection. The rate at which shares of preferred stock were convertible into common stock was subject to adjustment for stock dividends, stock splits, reverse stock splits, and similar events. The rate also was subject to broad-based weighted average antidilution protection, subject to exclusions for: (1) the issuance of common stock as approved by the Board of Directors to directors, officers, employees, consultants, and advisors, (2) the issuance of the Company s capital stock (or rights therefor) in connection with acquisitions and mergers as approved by the Board of Directors, (3) the issuance of the Company s capital stock (or rights therefor) as approved by the Board of Directors in connection with equipment leasing, real estate, bank financing, or similar transactions, (4) the issuance of the Company s capital stock (or rights therefor) as approved by the Board of Directors to vendors, customers or strategic business partners, (5) common stock issued upon conversion of preferred stock, (6) the issuance of securities in

Table of Contents

an underwritten public offering pursuant to an effective registration statement, (7) the issuance of securities pursuant to outstanding warrants as of July 5, 2013, (8) issuances of securities approved by the holders of a majority of the outstanding Series E-1 preferred stock and outstanding Series E-2 preferred stock, voting together as a single class on an as-converted basis, and either unanimously approved by the Company s Board of Directors or the holders of outstanding shares of preferred stock, voting together as a single class on an as-converted basis, and (9) Series E-1 preferred stock or Series E-2 preferred stock issued or issuable at a purchase price equal to or greater than $8.00 per share.

Dividends. The holders of preferred stock were entitled to receive non-cumulative and non-accruing dividends only when and if declared by the Board of Directors out of funds legally available for that purpose in an amount equal to: $0.10 per share of Series A preferred stock; $0.27 per share of Series B preferred stock; $0.35 per share of Series C preferred stock; $0.60 per share of Series D preferred stock; $0.80 per share of Series E-1 preferred stock; and $1.20 per share of Series E-2 preferred stock (in each case, subject to stock splits, subdivisions, combinations, consolidations and the like with respect to such shares). No dividends could be declared on any series of preferred stock unless dividends were declared on all such preferred stock. After payments of dividends to the holders of preferred stock, dividends may have been declared and distributed among all holders of common stock, provided that no dividend was declared or distributed among the holders of common stock at a greater rate than that at which dividends were paid to the holders of preferred stock (based on the number of shares of common stock into which such preferred stock was convertible on the date the dividend is declared).

Voting rights. The holders of preferred stock were entitled to the number of votes equal to the number of shares of common stock issuable upon conversion of the preferred stock held by such holder, and except as otherwise provided by law or the Restated Certificate of Incorporation, the holders of preferred stock and of common stock voted together on all matters.

Protective provisions. The votes of the holders of a majority of the outstanding shares of each series of preferred stock, voting as a separate class, were required for the approval of certain events relating to (1) authorization or issuance of additional preferred stock having superior preferences or priorities as to dividends, redemption rights, liquidation preferences, conversion rights or voting rights of the given series of preferred stock, and (2) amendments, restatements, modifications or waivers to the Company s certificate of incorporation or bylaws in a manner that was materially adverse to the given series of preferred stock.

Additionally, the votes of the holders of a majority of the outstanding shares of preferred stock, voting together as a single class, were required for the approval of certain events relating to the liquidation, dissolution, or winding-up of the Company, certain redemptions or repurchases of the Company s common stock, and the disposition of the securities of any subsidiary (other than to the Company), any authorization, execution, amendment or termination of any material contract, agreement or other arrangement between the Company and any member of the Company s board of directors, any executive officer or any holder of 10% of the Company s outstanding capital stock, any increase in the number of shares reserved under any equity incentive plan adopted by the Company, and any change in the Company s principal business focus to a field of business other than medical devices.

Redemption. None of the preferred stock was redeemable.

Liquidation, dissolution, or winding-up. In the event of any liquidation or winding up of the Company, the holders of Series E-1 preferred stock, Series E-2 preferred stock and Series D preferred stock were entitled to receive, pari passu and in preference to the holders of the Company s Series C preferred stock, Series B preferred stock, Series A preferred stock and common stock, an amount equal to declared but unpaid dividends on each share of such preferred stock, plus $8.00 per share of Series E-1 preferred stock, $12.00 per share of Series E-2 preferred stock and $6.00 per share of Series D preferred stock. After such payments, the holders of Series C preferred stock were entitled to receive, in preference to the holders of Series B preferred stock, Series A preferred stock and common stock, an amount equal to declared but unpaid dividends on a share of Series C preferred stock plus $3.50 per share.

After such payments, the holders of Series B preferred stock were entitled to receive, in preference to the holders of Series A preferred stock and common stock, an amount equal to declared but unpaid dividends on a share of Series B preferred stock plus $2.69 per share. After such payments, the holders of Series A preferred stock were entitled to receive, in preference to the holders of common stock, an amount equal to declared but unpaid dividends on a share of Series A preferred stock plus $1.00 per share.

After the payments set forth above, proceeds were shared pro rata by the holders of common stock, Series C preferred stock, Series B preferred stock and Series A preferred stock (on an as-converted basis) until such time as the holders of each such series of preferred stock received a total distribution (including the initial preference) of two times their respective original purchase prices. All remaining proceeds thereafter shall be shared pro rata by the holders of common stock. A consolidation or merger of the Company or sale of all or substantially all of its assets or of a majority of its capital stock were deemed to be a liquidation or winding up for purposes of the liquidation preference.

Table of Contents

Right of first refusal. For subsequent issuances of equity securities of the Company (excluding certain specified issuances), the Company granted to certain investors holding at least 300,000 shares of preferred stock (or common stock issued upon conversion of preferred stock) and certain other investors (each a Major Investor) the right to purchase up to their pro rata share of the new securities. Also, had any Major Investor chosen not to purchase its full pro rata share, certain other Major Investors had the right to purchase a portion of the remaining shares.

Demand registration rights

Beginning six months after the closing of the Company s IPO, subject to specified limitations set forth in a registration rights agreement, at any time, the holders of at least 25% of the then outstanding registrable shares may at any time demand in writing that the Company register all or a portion of the registrable shares under the Securities Act on a Form other than Form S-3 for an offering of at least 20% of the then outstanding registrable shares or a lesser percentage of the then outstanding registrable shares provided that it is reasonably anticipated the aggregate offering price would exceed $20 million. The Company is not obligated to file a registration statement pursuant to these rights on more than two occasions.

In addition, after such time as the Company is eligible to use Form S-3, subject to specified limitations set forth in the registration rights agreement, the holders of at least 25% of the then outstanding registrable shares may at any time demand in writing that the Company register all or a portion of the registrable shares under the Securities Act on Form S-3 for an offering of at least 25% of the then outstanding registrable shares having an anticipated aggregate offering price to the public, net of selling expenses, of at least $5 million (a Resale Registration Statement). The Company is not obligated to effect a registration pursuant to a Resale Registration Statement on more than one occasion.

Incidental registration rights

If, at any time after the IPO the Company proposes to file a registration statement to register any of its common stock under the Securities Act in connection with a public offering of such common stock, other than pursuant to certain specified registrations, the holders of registrable shares are entitled to notice of registration and, subject to specified exceptions, including market conditions, the Company will be required, upon the holder s request, to register their then held registrable shares.

Warrants

The Company also issued warrants to certain investors and consultants to purchase shares of the Company s preferred stock and common stock. Based on the Company s assessment of the warrants granted in 2013 and 2014 relat