

NETSUITE INC  
Form 10-Q  
May 07, 2012  
Table of Contents

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

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FORM 10-Q

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(Mark one)

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

For the quarterly period ended March 31, 2012

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 001-33870

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

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Delaware  
(State or other jurisdiction of  
incorporation or organization)  
2955 Campus Drive, Suite 100

94-3310471  
(I.R.S. Employer Identification No.)

San Mateo, California

94403-2511

(Address of principal executive offices)

(Zip Code)

(650) 627-1000  
(Registrant's telephone number, including area code)

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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). (Check one): 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 definition of "accelerated filer, large accelerated filer and a smaller reporting

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company” in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer

Accelerated filer

Non-accelerated filer  (do not check if a smaller reporting company)

Smaller reporting  
company

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

Yes  No

On April 30, 2012, 70,202,753 shares of the registrant’s Common Stock, \$0.01 par value, were issued and outstanding.

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Table of Contents

NetSuite Inc.

Index

Part I – Financial Information

Item 1. Financial Statements:

Condensed Consolidated Balance Sheets as of March 31, 2012 and December 31, 2011 (unaudited) 1

Condensed Consolidated Statements of Operations and Comprehensive Loss for the Three Month Periods Ended March 31, 2012 and 2011 (unaudited) 2

Condensed Consolidated Statements of Cash Flows for the Three Month Periods Ended March 31, 2012 and 2011 (unaudited) 3

Notes to Condensed Consolidated Financial Statements (unaudited) 4

Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations 12

Item 3. Quantitative and Qualitative Disclosures about Market Risk 20

Item 4. Controls and Procedures 20

Part II – Other Information

Item 1. Legal Proceedings 21

Item 1A. Risk Factors 21

Item 6. Exhibits 32

Signatures 33

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Table of Contents

## PART I – Financial Information

## ITEM 1. Financial Statements

NetSuite Inc.

Condensed Consolidated Balance Sheets

(dollars in thousands)

(unaudited)

	March 31, 2012	December 31, 2011
Assets		
Current assets:		
Cash and cash equivalents	\$ 154,160	\$ 141,448
Accounts receivable, net of allowances of \$392 and \$396 as of March 31, 2012 and December 31, 2011, respectively	40,395	39,105
Deferred commissions	21,774	22,968
Other current assets	9,444	8,693
Total current assets	225,773	212,214
Property and equipment, net	22,447	21,823
Deferred commissions, non-current	3,721	3,585
Goodwill	27,564	27,564
Other intangible assets, net	11,274	12,162
Other assets	4,043	3,832
Total assets	\$ 294,822	\$ 281,180
Liabilities and total equity		
Current liabilities:		
Accounts payable	\$ 2,777	\$ 1,905
Deferred revenue	114,406	105,800
Accrued compensation	13,616	17,748
Accrued expenses	8,404	8,285
Other current liabilities (including note payable to related party of \$1,559 and \$2,145 as of March 31, 2012 and December 31, 2011, respectively)	8,156	7,829
Total current liabilities	147,359	141,567
Long-term liabilities:		
Deferred revenue, non-current	5,829	5,898
Other long-term liabilities (including note payable to related party of \$1,592 and \$1,985 as of March 31, 2012 and December 31, 2011, respectively)	4,926	5,705
Total long-term liabilities	10,755	11,603
Total liabilities	158,114	153,170
Commitments and contingencies (Note 4)		
Total equity:		
Common stock, par value \$0.01, 500,000,000 shares authorized; 69,976,772 and 68,785,296 shares issued and outstanding at March 31, 2012 and December 31, 2011, respectively	700	688
Additional paid-in capital	486,668	470,485
Accumulated other comprehensive income	582	369
Accumulated deficit	(351,242)	(343,532)
Total equity	136,708	128,010
Total liabilities and total equity	\$ 294,822	\$ 281,180

See accompanying Notes to Condensed Consolidated Financial Statements.

1

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Table of Contents

NetSuite Inc.

Condensed Consolidated Statements of Operations and Comprehensive Loss

(dollars and shares in thousands, except per share data)

(unaudited)

	Three Months Ended March 31,	
	2012	2011
Revenue:		
Subscription and support	\$57,990	\$45,814
Professional services and other	11,329	7,627
Total revenue	69,319	53,441
Cost of revenue:		
Subscription and support	9,211	7,631
Professional services and other	11,584	8,402
Total cost of revenue	20,795	16,033
Gross profit	48,524	37,408
Operating expenses:		
Product development	11,090	9,447
Sales and marketing	35,579	27,461
General and administrative	8,979	7,877
Total operating expenses	55,648	44,785
Operating loss	(7,124 )	(7,377 )
Other income / (expense), net:		
Interest income	50	49
Interest expense	(52 )	(32 )
Other expense, net	(53 )	—
Total other income / (expense), net	(55 )	17
Loss before income taxes	(7,179 )	(7,360 )
Provision for income taxes	531	312
Net loss	\$(7,710 )	\$(7,672 )
Net loss per common share, basic and diluted	\$(0.11 )	\$(0.12 )
Weighted average number of shares used in computing net loss per share	69,324	65,384
Comprehensive loss:		
Foreign currency translation gains, net of taxes	213	155
Comprehensive loss	(7,497 )	\$(7,517 )

See accompanying Notes to Condensed Consolidated Financial Statements.

Table of Contents

NetSuite Inc.

Condensed Consolidated Statements of Cash Flows

(dollars in thousands)

(unaudited)

	Three Months Ended March 31,	
	2012	2011
Cash flows from operating activities:		
Net loss	\$(7,710)	\$(7,672)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Depreciation and amortization	2,519	2,143
Amortization of other intangible assets	901	1,072
Provision for accounts receivable allowances	177	28
Stock-based compensation	10,883	8,493
Amortization of deferred commissions	11,042	7,363
Excess tax benefit on stock-based compensation	(100)	—
Changes in operating assets and liabilities, net of acquired assets and assumed liabilities:		
Accounts receivable	(1,513)	(3,374)
Deferred commissions	(9,987)	(8,287)
Other current assets	(810)	(1,562)
Other assets	(226)	(10)
Accounts payable	616	1,046
Accrued compensation	(4,183)	(1,054)
Deferred revenue	8,626	8,348
Other current liabilities	528	433
Other long-term liabilities	(207)	(271)
Net cash provided by operating activities	10,556	6,696
Cash flows from investing activities:		
Purchases of property and equipment	(2,392)	(1,112)
Capitalized internal use software	(228)	(89)
Net cash used in investing activities	(2,620)	(1,201)
Cash flows from financing activities:		
Payments under capital leases	(180)	(103)
Payments under capital leases and long-term debt - related party	(385)	—
RSUs acquired to settle employee withholding liability	(47)	(71)
Excess tax benefit on stock-based compensation	100	—
Proceeds from issuance of common stock	5,109	1,963
Net cash provided by financing activities	4,597	1,789
Effect of exchange rate changes on cash and cash equivalents	179	(6)
Net change in cash and cash equivalents	12,712	7,278
Cash and cash equivalents at beginning of period	141,448	104,298
Cash and cash equivalents at end of period	\$154,160	\$111,576
Supplemental cash flow disclosure:		
Cash paid for interest to related parties	\$22	\$—
Cash paid for interest to other parties	\$11	\$5
Cash paid for income taxes, net of tax refunds	\$383	\$204
Noncash financing and investing activities:		
Fixed assets and other acquired under capital lease	\$—	\$734

See accompanying Notes to Condensed Consolidated Financial Statements.

3

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Table of Contents

NetSuite Inc.

Notes to Condensed Consolidated Financial Statements  
(unaudited)

Note 1. Organization

NetSuite Inc. (the “Company”) provides cloud-based financials/ Enterprise Resource Planning (“ERP”) software suites. In addition to financials/ERP software suites, the Company offers a broad suite of applications, including accounting, Customer Relationship Management (“CRM”), Professional Services Automation (“PSA”) and Ecommerce that enable companies to manage most of their core business operations in its single integrated suite. The Company delivers its suite over the Internet as a subscription service using the software-as-a-service (“SaaS”) model. The Company’s headquarters are located in San Mateo, California. The Company conducts its business worldwide, with international locations in Canada, Europe, Asia, and Australia.

Note 2. Basis of Presentation

The Condensed Consolidated Financial Statements as of and for the three month periods ended March 31, 2012 included in this Quarterly Report on Form 10-Q have been prepared by the Company, without audit, pursuant to the rules and regulations of the Securities and Exchange Commission (the “SEC”). The condensed consolidated balance sheet data as of December 31, 2011 was derived from the audited consolidated financial statements included in the Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2011 filed on February 28, 2012. Certain information and footnote disclosures normally included in consolidated financial statements prepared in accordance with generally accepted accounting principles in the United States of America (“GAAP”) have been condensed or omitted pursuant to such rules and regulations. However, the Company believes that the disclosures contained in this Quarterly Report comply with the requirements of Section 13(a) of the Securities Exchange Act of 1934, as amended, for a Quarterly Report on Form 10-Q and are adequate to make the information presented not misleading. These Condensed Consolidated Financial Statements are meant to be, and should be, read in conjunction with the Consolidated Financial Statements and the notes thereto included in the Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2011 filed on February 28, 2012.

The unaudited Condensed Consolidated Financial Statements included in this Quarterly Report on Form 10-Q reflect all adjustments (which include only normal, recurring adjustments and those items discussed in these Notes) that are, in the opinion of management, necessary to state fairly the financial position and results for the dates and periods presented. The results for such periods are not necessarily indicative of the results to be expected for the full fiscal year.

Principles of Consolidation

The consolidated financial statements include the accounts of the Company and its majority- and wholly-owned subsidiaries. Intercompany balances and transactions have been eliminated.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make certain estimates and assumptions. These estimates and assumptions affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements, as well as reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

Recent Accounting Pronouncements

In September 2011, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update, Testing Goodwill for Impairment (the revised standard). The revised standard is intended to reduce the cost and complexity of the annual goodwill impairment test by providing entities an option to perform a "qualitative" assessment to determine whether further impairment testing is necessary. The revised standard is effective for annual and interim goodwill impairment tests performed for fiscal years beginning after December 15, 2011. Early adoption is permitted provided that the entity has not yet performed its 2011 annual impairment test or issued its financial statements. An entity has the option to first assess qualitative factors to determine whether it is necessary to perform the current two-step test. If an entity believes, as a result of its qualitative assessment, that it is more-likely-than-not that the fair value of a reporting unit is less than its carrying amount, the quantitative impairment test is required. Otherwise, no further testing is required. The Company plans to adopt this update in the fourth quarter of fiscal year 2012 when it performs its annual goodwill impairment analysis. The Company does not expect the adoption of this update to have an impact on its consolidated results of operations and financial condition.

## Table of Contents

### Revenue Recognition

The Company generates revenue from two sources: (1) subscription and support; and (2) professional services and other. Subscription and support revenue includes subscription fees from customers accessing its on-demand application suite and support fees from customers purchasing support. Arrangements with customers do not provide the customer with the right to take possession of the software supporting the on-demand application service at any time. Professional services and other revenue include fees from consultation services to support the business process mapping, configuration, data migration, integration and training. Amounts that have been invoiced are recorded in accounts receivable and in deferred revenue or revenue, depending on whether the revenue recognition criteria have been met.

Generally, the Company enters into subscription and support agreements for 12 months. In aggregate, more than 90% of the professional services component of the arrangements with customers is performed within 300 days of entering into a contract with the customer.

The subscription agreements provide service level commitments of 99.5% uptime per period, excluding scheduled maintenance. The failure to meet this level of service availability may require the Company to credit qualifying customers up to the value of an entire month of their subscription and support fees. In light of the Company's historical experience with meeting its service level commitments, the Company has not accrued any liabilities on its balance sheet for these commitments.

The Company commences revenue recognition when all of the following conditions are met:

- There is persuasive evidence of an arrangement;
- The service is being provided to the customer;
- The collection of the fees is reasonably assured; and
- The amount of fees to be paid by the customer is fixed or determinable.

In most instances, revenue from new customer acquisition is generated under sales agreements with multiple elements, comprised of subscription and support fees from customers accessing its on-demand application suite and professional services associated with consultation services. The Company evaluates each element in a multiple-element arrangement to determine whether it represents a separate unit of accounting. An element constitutes a separate unit of accounting when the delivered item has standalone value and delivery of the undelivered element is probable and within the Company's control. Subscription and support have standalone value because they are routinely sold separately by the Company. Professional services have standalone value because the Company has sold professional services separately and there are several third party vendors that routinely provide similar professional services to its customers on a standalone basis.

The Company allocates revenue to each element in an arrangement based on a selling price hierarchy. The selling price for a deliverable is based on its vendor-specific objective evidence ("VSOE"), if available, third-party evidence ("TPE"), if VSOE is not available, or estimated selling price ("ESP"), if neither VSOE nor TPE is available. As the Company has been unable to establish VSOE or TPE for the elements of its arrangements, the Company establishes the ESP for each element primarily by considering the weighted average of actual sales prices of professional services sold on a standalone basis and subscription and support including various add-on modules when sold together without professional services, and other factors such as gross margin objectives, pricing practices and growth strategy. The consideration allocated to subscription and support is recognized as revenue over the contract period commencing when the subscription service is made available to the customer. The consideration allocated to professional services is recognized as revenue using the percentage-of-completion method.

The total arrangement fee for a multiple element arrangement is allocated based on the relative ESP of each element. However, since the professional services are generally completed prior to completion of delivery of subscription and support services, the revenue recognized for professional services in a given reporting period does not include fees subject to delivery of subscription and support services. This results in the recognition of revenue for professional services that is generally no greater than the contractual fees for those professional services.

For single element sales agreements, subscription and support revenue is recognized ratably over the contract term beginning on the provisioning date of the contract. The Company recognizes professional services revenue using the percentage-of-completion method for single element arrangements.

Sales and other taxes collected from customers to be remitted to government authorities are excluded from revenues.

Table of Contents

## Concentration of Credit Risk and Significant Customers

Financial instruments potentially exposing the Company to concentration of credit risk consist primarily of cash and cash equivalents, restricted cash and trade accounts receivable. The Company maintains an allowance for doubtful accounts receivable balances. The allowance is based upon historical loss patterns and an evaluation of the potential risk of loss associated with problem accounts. The Company generally charges off the receivable balances of uncollectible accounts when accounts are 120 days past-due based on the account's contractual terms. Credit risk arising from accounts receivable is mitigated due to the large number of customers comprising the Company's customer base and their dispersion across various industries. As of March 31, 2012 and December 31, 2011, there were no customers that represented more than 10% of the net accounts receivable balance. There were no customers that individually exceeded 10% of the Company's revenue in any of the periods presented. As of March 31, 2012 and December 31, 2011, long-lived assets located outside the United States were not significant.

Revenue by geographic region, based on the billing address of the customer, was as follows for the periods presented:

	Three Months Ended March 31,		
	2012	2011	
	(dollars in thousands)		
United States	\$50,930	\$38,471	
International	18,389	14,970	
Total revenue	\$69,319	\$53,441	
Percentage of revenue generated outside of the United States	27	% 28	%

No single country outside the United States represented more than 10% of revenue during the three months ended March 31, 2012 or 2011.

The Company maintains cash balances at several banks. Accounts located in the United States are insured by the Federal Deposit Insurance Corporation ("FDIC"), up to \$250,000. Certain operating cash accounts may exceed the FDIC limits.

## Intellectual Property Rights Indemnification

The Company's arrangements include provisions indemnifying customers against liabilities if our products infringe a third-party's intellectual property rights. The Company has not incurred any costs as a result of such indemnifications and has not accrued any liabilities related to such obligations in the accompanying condensed consolidated financial statements.

Table of Contents

## Qualified Operating Expense Reimbursements

At the Company's product development facility in the Czech Republic, the Company participates in a government subsidy program for employing local residents. Under the program, the Czech government will reimburse the Company for certain operating expenses it incurs. During the first quarter of 2012, the Company's product development operating expense was reduced by approximately \$740,000 for reimbursements of eligible operating expenses incurred during the period of November 2010 to March 31, 2012. Of this amount, the Company received approximately \$290,000 in payments from the Czech Republic government during the first quarter of 2012 and accrued the remaining \$450,000 in reimbursements due the Company in other current assets as of March 31, 2012.

## Note 3. Financial Instruments

## Fair Value Measurements

The Company measures certain financial assets at fair value on a recurring basis based on a fair value hierarchy that requires us to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. A financial instrument's categorization within the fair value hierarchy is based upon the lowest level of input that is significant to the fair value measurement. The three levels of inputs that may be used to measure fair value:

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

Level 2 - Observable inputs other than Level 1 prices such as quoted prices for similar assets or liabilities; quoted prices in markets with insufficient volume or infrequent transactions (less active markets); or model-derived valuations in which all significant inputs are observable or can be derived principally from or corroborated by observable market data for substantially the full term of the assets or liabilities.

Level 3 - Unobservable inputs to the valuation methodology that are significant to the measurement of fair value of assets or liabilities.

The fair value of the Company's investments in certain money market funds approximates their face value. Such instruments are classified as Level 1 and are included in cash and cash equivalents.

The fair value of the Company's foreign currency forward contracts is based on foreign currency rates quoted by banks or foreign currency dealers and other public data sources. Such instruments are classified as Level 2 and are included in other current assets and liabilities.

As of March 31, 2012, financial assets stated at fair value on a recurring basis were comprised of money market funds included within cash and equivalents and foreign exchange forward contracts included within other current assets and liabilities. The fair value of these financial assets was determined using the following inputs as of March 31, 2012 and December 31, 2011:

	March 31, 2012				December 31, 2011			
	Fair value measurements at reporting date using				Fair value measurements at reporting date using			
	Level 1	Level 2	Level 3	Total	Level 1	Level 2	Level 3	Total
	(in thousands)				(in thousands)			
Assets:								
Money market funds	\$72,382	\$—	\$—	\$72,382	\$72,352	\$—	\$—	\$72,352
Foreign exchange contracts	—	34	\$—	34	\$—	\$15	\$—	15

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Total	\$72,382	\$34	\$—	\$72,416	\$72,352	\$15	\$—	\$72,367
Liabilities:								
Foreign exchange contracts	\$—	\$212	\$—	\$212	\$—	\$242	\$—	\$242
Total	\$—	\$212	\$—	\$212	\$—	\$242	\$—	\$242

7

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Table of Contents

The following financial instruments are not measured at fair value on the Company's condensed consolidated balance sheet at March 31, 2012, but require disclosure of their fair values: accounts receivable and accounts payable. The estimated fair value of these financial instruments at March 31, 2012 approximates their carrying value as reported on the Company's condensed consolidated balance sheet.

## Restricted Cash

Restricted cash totaled \$495,000 as of March 31, 2012 and December 31, 2011 and is included in long-term other assets. These restricted cash accounts secure letters of credit applied against certain of the Company's facility lease agreements.

## Balance Sheet Hedging - Hedging of Foreign Currency Assets and Liabilities

During the three months ended March 31, 2012, the Company hedged certain of its nonfunctional currency denominated assets and liabilities to reduce the risk that earnings would be adversely affected by changes in exchange rates. Gains and losses from these forward contracts are recorded each period as a component of other income / (expense) in the consolidated statements of operations. The notional amount of derivative instruments acquired during the period was \$15.4 million. The Company accounts for derivative instruments as other current assets and liabilities on the balance sheet and measures them at fair value with changes in the fair value recorded as other income / (expense). These derivative instruments do not subject the Company 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 economically hedged.

As of March 31, 2012 and December 31, 2011, the Company had the following outstanding foreign exchange forward contracts:

	March 31, 2012		December 31, 2011	
	Notional Value Sold (US dollars in thousands)	Notional Value Purchased	Notional Value Sold (US dollars in thousands)	Notional Value Purchased
British pound	\$5,905	\$2,072	\$5,998	\$574
Australian dollar	4,297	322	3,873	80
Euro	552	131	472	—
Canadian dollar	502	523	881	934
Japanese yen	450	—	390	—
Czech crown	250	100	250	—
Mexican peso	116	—	—	—
New Zealand dollar	108	83	—	—
Total	\$12,180	\$3,231	\$11,864	\$1,588

The fair value of the derivative instruments reported on the Company's Condensed Consolidated Balance Sheet were as follows:

Derivatives and forward contracts	Asset Derivatives			Liability Derivatives		
	Balance Sheet Location	March 31, 2012 Fair Value (in thousands)	December 31, 2011 Fair Value	Balance Sheet Location	March 31, 2012 Fair Value (in thousands)	December 31, 2011 Fair Value



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Foreign exchange contracts	Other current assets	\$34	15	Other current liabilities	\$212	\$242
Total		\$34	15		\$212	\$242

8

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Table of Contents

The effect of derivative instruments on the Statement of Operations and Comprehensive Loss was as follows for the periods presented:

	Location of net gain (loss) recognized in income on derivatives	Amount of net gain (loss) recognized in income on derivatives during the Three Months Ended March 31,	
		2012	2011
Derivatives and forward contracts		(in thousands)	
Foreign exchange contracts	Other income/ (expense), net	\$252	\$(167) )
Total		\$252	\$(167) )

The Company has entered into all of its foreign exchange contracts with a single counterparty. During the periods such contracts are open, the Company is subject to a potential maximum amount of loss due to credit risk equal to the gross fair value of the derivative instruments if the counterparty to the instruments failed completely to perform according to the terms of the contracts. Generally, we have the right of offset for gains earned and losses incurred under these agreements. Our agreements with the counterparty do not require either party to provide collateral to mitigate the credit risk of the agreements.

#### Note 4. Commitments and Contingencies

The Company is involved in various legal proceedings and receives claims from time to time, arising from the normal course of business activities. The Company has accrued for estimated losses in the accompanying condensed consolidated financial statements for matters with respect to which it believes the likelihood of an adverse outcome is probable and the amount of the loss is reasonably estimable.

#### Note 5. Stock-based Compensation

During the first quarter of 2012, the Company granted 341,750 performance shares ("PS"), with a fair value of \$50.38 per share, to selected executives and other key employees. These PS grants were equally divided into two tranches: 2012 and 2014. The PS vesting is contingent upon the Company meeting certain company-wide revenue and non-GAAP operating margin performance goals (performance-based) in 2012 and certain company-wide revenue performance goals in 2014. These shares are subject to term vesting conditions. The PS fair value and the related stock-based compensation expense are determined based on the value of the underlying shares on the date of grant and is recognized over the vesting term. During the interim financial periods, management estimates the probable number of PS that will be granted until the achievement of the performance goals is known at year end December 31, 2012 and 2014, respectively. The Company also awarded PS for 2013 and an additional PS award for 2014 for which the performance metrics have not been set by the Company's Board of Directors. As such, there is no accounting for these awards until the period the performance metrics are set.

#### Note 6. Income Taxes

The Company has incurred annual operating losses since inception. As a result of those continuing losses, management has determined insufficient evidence exists to support that it is more likely than not that the Company will realize the benefits of its U.S. net deferred tax assets and therefore has recorded a valuation allowance to reduce the net carrying value of these deferred tax assets to zero. Accordingly, the Company has not recorded a provision for income taxes for any of the periods presented other than provisions for state and foreign income taxes.

As of March 31, 2012, the Company had net deferred tax assets in certain foreign jurisdictions of approximately \$349,000 included in other assets. Based on all available evidence, both positive and negative, management believes that it is more likely than not that the benefits of those foreign deferred tax assets will be realized in full. The Company also had deferred tax assets of \$4.4 million for Japan where it had a full valuation allowance as of March 31, 2012 reducing its carrying value to zero.

The Company does not anticipate a material change in the total amount or composition of its unrecognized tax benefits within 12 months of the reporting date.

The Company files federal, state and foreign income tax returns in jurisdictions with varying statutes of limitations. Due to its net operating loss carryforwards, the Company's income tax returns generally remain subject to examination by

Table of Contents

federal and most state tax authorities. In most of the Company's significant foreign jurisdictions, the 2006 through 2010 tax years remain subject to examination by their respective tax authorities. In addition, the 2004 and 2005 tax years remain open to examination in Canada.

Note 7. Net Loss Per Common Share

Basic net loss per common share is computed by dividing net loss by the weighted-average number of common shares outstanding during the period. Diluted net loss per common share is computed by giving effect to all potential dilutive common shares, including options, common stock subject to repurchase and warrants. Basic and diluted net loss per common share were the same for all periods presented as the impact of all potentially dilutive securities outstanding was anti-dilutive.

The following table presents the calculation of the numerator and denominator used in the basic and diluted net loss per common share:

	Three Months Ended March 31,	
	2012	2011
	(dollars and shares in thousands, except per share amounts)	

Numerator: