BIOMARIN PHARMACEUTICAL INC

FORM 10-Q
(Quarterly Report)

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

Form 10-Q

(Mark One)

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

For the quarterly period ended June 30, 2009

Or

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

For the transition period from to .

Commission file number: 000-26727

BioMarin Pharmaceutical Inc.

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

Delaware	**68-0397820**
(State of other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
105 Digital Drive, Novato, California	**94949**
(Address of principal executive offices)	**(Zip Code)**

Registrant's telephone number: (415) 506-6700

(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 ☒ 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 the Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☐ No ☐

Indicate by check mark whether the registrant has filed all documents and reports required to be filed by Sections 12, 13 or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court. Yes ☐ No ☐

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

Large accelerated filer	☒	Accelerated filer	☐
Non-accelerated filer	☐ (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 ☒

Applicable only to issuers involved in bankruptcy proceedings during the proceeding five years:

Indicate by check mark whether the registrant has filed all documents and reports required to be filed by Sections 12, 13 or 15(d) of the Securities

Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court. Yes ☐ No ☐

Applicable only to corporate issuers:

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date: 100,284,116 shares common stock, par value $0.001, outstanding as of July 24, 2009.

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BIOMARIN PHARMACEUTICAL INC.

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PART I. FINANCIAL INFORMATION

Item 1. Consolidated Financial Statements

BIOMARIN PHARMACEUTICAL INC. AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS
(In thousands, except for share and per share data)

	December 31, 2008 (1)	June 30, 2009 (unaudited)
ASSETS		
Current assets:		
Cash and cash equivalents	$ 222,900	$ 200,050
Short-term investments	336,892	146,341
Accounts receivable, net	54,298	72,576
Inventory	73,162	72,836
Other current assets	50,444	15,178
Total current assets	737,696	506,981
Investment in BioMarin/Genzyme LLC	915	462
Long-term investments	1,633	138,863
Property, plant and equipment, net	124,979	159,789
Intangible assets, net	7,626	4,391
Goodwill	21,262	21,262
Other assets	12,584	12,689
Total assets	$ 906,695	$ 844,437
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable and accrued liabilities	$ 59,033	$ 59,104
Acquisition obligation, net of discount	70,741	—
Deferred revenue	307	929
Total current liabilities	130,081	60,033
Convertible debt	497,083	497,083
Other long-term liabilities	2,856	3,887
Total liabilities	630,020	561,003
Stockholders' equity:		
Common stock, $0.001 par value: 250,000,000 shares authorized at December 31, 2008 and June 30, 2009; 99,868,145 and 100,235,218 shares issued and outstanding at December 31, 2008 and June 30, 2009, respectively	100	100
Additional paid-in capital	852,947	873,378
Company common stock held by deferred compensation plan	(882)	(1,709)
Accumulated other comprehensive income	1,106	101
Accumulated deficit	(576,596)	(588,436)
Total stockholders' equity	276,675	283,434
Total liabilities and stockholders' equity	$ 906,695	$ 844,437

(1) December 31, 2008 balances were derived from the audited consolidated financial statements.

See accompanying notes to unaudited consolidated financial statements.

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BIOMARIN PHARMACEUTICAL INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF OPERATIONS
For the Three and Six Months Ended June 30, 2008 and 2009
(In thousands, except for per share data, unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2008	2009	2008	2009
Revenues:				
Net product revenues	$ 60,458	$ 81,472	$118,083	$153,386
Collaborative agreement revenues	2,509	868	4,975	1,377
Royalty and license revenues	1,207	447	1,513	2,004
Total revenues	64,174	82,787	124,571	156,767
Operating expenses:				
Cost of sales	9,593	19,848	26,781	34, 210
Research and development	23,755	26,324	41,383	60,682
Selling, general and administrative	25,203	30,527	48,872	59,095
Amortization of acquired intangible assets	1,093	1,775	2,185	2,868
Total operating expenses	59,644	78,474	119,221	156,855
Income (loss) from operations	4,530	4,313	5,350	(88)
Equity in the loss of BioMarin/Genzyme LLC	(587)	(546)	(1,120)	(1,093)
Interest income	4,101	886	9,750	3,039
Interest expense	(4,081)	(4,404)	(8,193)	(8,496)
Impairment loss on equity investments	—	—	—	(5,848)
Net gain from sale of investments	—	1,585	—	1,585
Income (loss) before income taxes	3,963	1,834	5,787	(10,901)
Provision for income taxes	153	522	291	939
Net income (loss)	$ 3,810	$ 1, 312	$ 5,496	$ (11,840)
Net income (loss) per share, basic	$ 0.04	$ 0.01	$ 0.06	$ (0.12)
Net income (loss) per share, diluted	$ 0.04	$ 0.01	$ 0.05	$ (0.12)
Weighted average common shares outstanding, basic	98,923	100,065	98,285	99,984
Weighted average common shares outstanding, diluted	104,120	101,217	103,948	100,075

See accompanying notes to unaudited consolidated financial statements.

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BIOMARIN PHARMACEUTICAL INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS
For the Six Months Ended June 30, 2008 and 2009
(In thousands, unaudited)

	Six Months Ended June 30,	
	2008	2009
Cash flows from operating activities:		
Net income (loss)	$ 5,496	$ (11,840)
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities:		
Depreciation and amortization	8,320	11,273
Amortization of discount on investments	(4,282)	(341)
Imputed interest on acquisition obligation	2,206	2,859
Equity in the loss of BioMarin/Genzyme LLC	1,120	453
Stock-based compensation	11,865	17,494
Impairment loss on investments	—	5,848
Gain on sale of investments	—	(1,585)
Unrealized foreign exchange gain (loss) on forward contracts	(100)	3,323
Excess tax benefit from stock option exercises	—	(131)
Changes in operating assets and liabilities:		
Accounts receivable, net	(35,180)	(18,278)
Advances to BioMarin/Genzyme LLC	1,839	110
Inventory	(2,576)	326
Other current assets	(5,971)	31,793
Other assets	(1,621)	(1,674)
Accounts payable and accrued liabilities	4,442	(2,183)
Other liabilities	291	1,122
Deferred revenue	(2,091)	622
Net cash provided by (used in) operating activities	(16,242)	39,191
Cash flows from investing activities:		
Purchase of property and equipment	(32,332)	(40,621)
Maturities and sales of investments	444,406	326,703
Purchase of investments	(406,668)	(271,119)
Distributions from BioMarin/Genzyme LLC	16,679	—
Investment in La Jolla Pharmaceutical Company	—	(6,250)
Net cash provided by investing activities	22,085	8,713
Cash flows from financing activities:		
Proceeds from ESPP and exercise of stock options	21,523	2,805
Excess tax benefit from stock option exercises	—	131
Repayment of acquisition obligation	(3,500)	(73,600)
Repayment of capital lease obligations	—	(91)
Net cash provided by (used in) financing activities	18,023	(70,755)
Net increase (decrease) in cash and cash equivalents	23,866	(22,850)
Cash and cash equivalents:		
Beginning of period	228,343	222,900
End of period	$ 252,209	$ 200,050
Supplemental cash flow disclosures:		
Cash paid for interest	$ 5,210	$ 5,198
Cash paid for income taxes	103	813
Stock-based compensation capitalized into inventory	2,043	2,672
Depreciation capitalized into inventory	1,327	1,339
Supplemental non-cash investing and financing activities disclosures:		
Conversion of convertible notes	$ 129	$ —
Distribution of inventory resulting from the joint venture restructure	26,780	—
Changes in accrued liabilities related to fixed assets	854	1,480
Equipment acquired through capital lease	313	—

See accompanying notes to unaudited consolidated financial statements.

BIOMARIN PHARMACEUTICAL INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
June 30, 2009
(Unaudited)

(1) NATURE OF OPERATIONS AND BUSINESS RISKS

BioMarin Pharmaceutical Inc. (the Company or BioMarin ®) develops and commercializes innovative biopharmaceuticals for serious diseases and medical conditions. BioMarin selects product candidates for diseases and conditions that represent a significant unmet medical need, have well-understood biology and provide an opportunity to be first-to-market or offer a significant benefit over existing products. The Company's product portfolio is comprised of three approved products and multiple investigational product candidates. Approved products include Naglazyme ® (galsulfase), Kuvan ® (sapropterin dihydrochloride), and Aldurazyme ® (laronidase).

Through June 30, 2009, the Company had accumulated losses of approximately $588.4 million. Management believes that the Company's cash, cash equivalents, and short-term and long-term investments at June 30, 2009 will be sufficient to meet the Company's obligations for the foreseeable future based on management's current long-term business plans and assuming that the Company achieves its long-term goals. If the Company elects to increase its spending on development programs significantly above current long-term plans or enter into potential licenses and other acquisitions of complementary technologies, products or companies, the Company may need additional capital. The Company expects to continue to finance net future cash needs that exceed its operating revenues primarily through its current cash, cash equivalents, short-term and long-term investments, and to the extent necessary, through proceeds from equity or debt financings, loans and collaborative agreements with corporate partners.

The Company is subject to a number of risks, including the financial performance of Naglazyme, Kuvan, and Aldurazyme; the potential need for additional financings; its ability to successfully commercialize its product candidates, if approved; the uncertainty of the Company's research and development efforts resulting in successful commercial products; obtaining regulatory approval for such products; significant competition from larger organizations; reliance on the proprietary technology of others; dependence on key personnel; uncertain patent protection; dependence on corporate partners and collaborators; and possible restrictions on reimbursement, as well as other changes in the health care industry.

(2) SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

(a) Basis of Presentation

These unaudited consolidated financial statements include the accounts of BioMarin and its wholly owned subsidiaries. All significant intercompany transactions have been eliminated. These unaudited consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the U.S. (U.S. GAAP) for interim financial information and the Securities and Exchange Commission (SEC) requirements for interim reporting. However, they do not include all of the information and footnotes required by U.S. GAAP for complete financial statements. In the opinion of management, all adjustments, consisting of normal recurring adjustments, considered necessary for a fair presentation have been included. Management performed an evaluation of the Company's activities through the filing of this Form 10-Q, and has concluded that there are no significant subsequent events requiring disclosure through that date.

Operating results for the three and six months ended June 30, 2009 are not necessarily indicative of the results that may be expected for the year ending December 31, 2009. The information included in this Quarterly Report on Form 10-Q should be read in conjunction with the consolidated financial statements and accompanying notes included in the Company's Annual Report on Form 10-K for the year ended December 31, 2008, which was filed with the SEC on February 27, 2009.

(b) Use of Estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make judgments, estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the dates of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

(c) Cash and Cash Equivalents

The Company treats liquid investments with original maturities of less than three months when purchased as cash and cash equivalents.

(d) Investments

The Company determines the appropriate classification of its investments in debt and equity securities at the time of purchase and reevaluates such designation at each balance sheet date. All of the Company's securities are classified as either held-to-maturity or available-for-sale and reported in cash equivalents, short-term investments or long-term investments. Held-to-maturity investments are recorded at amortized cost. Available-for-sale investments are recorded at fair market value, with unrealized gains or losses being included in accumulated other comprehensive income/loss, exclusive of other-than-temporary impairment losses, if any. Short-term and long-term investments are comprised of corporate securities, commercial paper, U.S. federal government agency securities, U.S. treasury bills, money market funds and certificates of deposit. As of June 30, 2009, the Company had no held-to-maturity investments.

As of June 30, 2009, long-term investments included an equity investment denominated in British Pounds. The Company classified the investment as available-for-sale and accordingly the investment is recorded at fair market value. Changes in the fair market value are reported as a component of accumulated other comprehensive income, exclusive of other-than-temporary impairment losses, if any. Translation gains/losses on the equity investment, a non-monetary asset, resulting from fluctuations in foreign exchange rates are included in accumulated other comprehensive income. Losses related to changes in market value and exchange rates determined to be other-than-temporary are reported in earnings in the period in which the impairment occurs.

(e) Inventory

The Company values inventories at the lower of cost or net realizable value. The Company determines the cost of inventory using the average-cost method. The Company analyzes its inventory levels quarterly and writes down inventory that has become obsolete, or has a cost basis in excess of its expected net realizable value and inventory quantities in excess of expected requirements. Expired inventory is disposed of and the related costs are written off to cost of sales.

Manufacturing costs for product candidates are expensed as research and development expenses. The Company considers regulatory approval of product candidates to be uncertain, and product manufactured prior to regulatory approval may not be sold unless regulatory approval is obtained. As such, the manufacturing costs for product candidates incurred prior to regulatory approval are not capitalized as inventory. When regulatory approval is obtained, the Company begins capitalizing inventory at the lower of cost or net realizable value.

In the first quarter of 2008, the Company received $26.8 million of inventory distributed by the Company's joint venture with Genzyme Corporation (Genzyme) pursuant to the terms of the joint venture restructuring (see Note 4 for further information). The inventory distribution was recorded at the historical production cost, which represented the lower of cost or market value.

Stock-based compensation of $2.0 million and $2.7 million was capitalized into inventory for the six months ended June 30, 2008 and 2009, respectively.

(f) Investment in BioMarin/Genzyme LLC and Equity in the Loss of BioMarin/Genzyme LLC

Effective January 1, 2008, the Company restructured its relationship with Genzyme (see Note 4 for further information). The Company accounts for its remaining investment in the joint venture using the equity method. Accordingly, the Company records an increase in its investment for contributions to the joint venture and for its 50% share of the loss of the joint venture, and a reduction in its investment for its 50% share of any losses of the joint venture or disbursements of profits from the joint venture. Equity in the loss of BioMarin/Genzyme LLC includes the Company's 50% share of the joint venture's loss for the period. The investment in BioMarin/Genzyme LLC includes the Company's share of the net equity of the joint venture.

(g) Property, Plant and Equipment

Property, plant and equipment are stated at cost. Depreciation is computed using the straight-line method over the related estimated useful lives, except for leasehold improvements, which are depreciated over the shorter of the useful life of the asset or the lease term. Significant additions and improvements are capitalized, while repairs and maintenance are charged to expense as incurred. Property and equipment purchased for specific research and development projects with no alternative uses are expensed as incurred. See Note 7 for further information on property, plant and equipment balances as of December 31, 2008 and June 30, 2009.

Certain of the Company's operating lease agreements include scheduled rent escalations over the lease term, as well as tenant improvement allowances. Scheduled increases in rent expense are recognized on a straight-line basis over the lease term. The difference between rent expense and rent paid is recorded as deferred rent and included in other liabilities in the accompanying consolidated balance sheets. The tenant improvement allowances and free rent periods are recognized as a credit to rent expense over the lease term on a straight-line basis.

(h) Revenue Recognition

The Company recognizes revenue in accordance with the provisions of SEC Staff Accounting Bulletin No. 104, *Revenue Recognition* (SAB 104), and Emerging Issues Task Force Issue (EITF) No. 00-21, *Accounting for Revenue Arrangements with Multiple Deliverables* . The Company's revenues consist of net product revenues from Naglazyme, Kuvan, and Aldurazyme, revenues from its collaborative agreement with Merck Serono and other license and royalty revenues. Milestone payments are recognized in full when the related milestone performance goal is achieved and the Company has no future performance obligations related to that payment.

Net Product Revenues —The Company recognizes net product revenue when persuasive evidence of an arrangement exists, the product has been delivered to the customer, title and risk of loss have passed to the customer, the price to the buyer is fixed or determinable and collection from the customer is reasonably assured. Product sales transactions are evidenced by customer purchase orders, customer contracts, invoices and/or the related shipping documents. Amounts collected from customers and remitted to governmental authorities, which are primarily comprised of value-added taxes related to Naglazyme sales in foreign jurisdictions, are presented on a net basis in the Company's statements of operations, in accordance with EITF No. 06-3, *How Taxes Collected from Customers and Remitted to Governmental Authorities Should Be Presented in the Income Statement,* in that taxes billed to customers are not included as a component of net product revenues.

BioMarin receives a 39.5% to 50% royalty on worldwide net Aldurazyme sales by Genzyme depending on sales volume, which is included in net product revenues in the consolidated statements of operations. The Company recognizes a portion of this amount as product transfer revenue when product is released to Genzyme as all of the Company's performance obligations are fulfilled at that point and title to, and risk of loss for, the product has transferred to Genzyme. The product transfer revenue represents the fixed amount per unit of Aldurazyme that Genzyme is required to pay the Company if the product is unsold by Genzyme. The amount of product transfer revenue will eventually be deducted from the calculated royalty rate when the product is sold by Genzyme. The Company records the Aldurazyme royalty revenue based on net sales information provided by Genzyme and records product transfer revenue based on the fulfillment of Genzyme purchase orders in accordance with SAB 104 and the terms of the related agreements with Genzyme. As of June 30, 2009, accounts receivable included $20.3 million of unbilled accounts receivable related to net incremental Aldurazyme product transfers to Genzyme.

The Company sells Naglazyme worldwide and sells Kuvan in the U.S. In the U.S., Naglazyme and Kuvan are generally sold to specialty pharmacies or end-users, such as hospitals, which act as retailers. The Company also sells Kuvan to Merck Serono at near cost, and Merck Serono resells the product to end users outside the U.S., Canada and Japan. The royalty earned from Kuvan product sold by Merck Serono in the E.U. is included as a component of net product revenues in the period earned. Outside the U.S. Naglazyme is sold to the Company's authorized distributors or directly to government purchasers or hospitals, which act as the end-users. The Company records reserves for rebates payable under Medicaid and other government programs as a reduction of revenue at the time product revenues are recorded. The Company's reserve calculations require estimates, including estimates of customer mix, to determine which sales will be subject to rebates and the amount of such rebates. The Company updates its estimates and assumptions each period, and records any necessary adjustments to its reserves. The Company records fees paid to distributors as a reduction of revenue, in accordance with EITF Issue No. 01-09, *Accounting for Consideration given by a Vendor to a Customer (including a Reseller of a Vendor's Products)* .

The Company records allowances for product returns, if appropriate, as a reduction of revenue at the time product sales are recorded. Several factors are considered in determining whether an allowance for product returns is required, including market exclusivity of the products based on their orphan drug status, the patient population, the customers' limited return rights and the Company's experience with returns. Because of the pricing of Naglazyme and Kuvan, the limited number of patients and the customers' limited return rights, most Naglazyme and Kuvan customers and retailers carry a limited inventory. Certain international customers, usually government entities, tend to purchase larger quantities of product less frequently. Although such buying patterns may result in revenue fluctuations from quarter to quarter, the Company has not experienced any increased product returns or risk of product returns. The Company's products are comparable in nature and sold to similar customers with limited return rights, therefore the Company relies on historical return rates for Aldurazyme and Naglazyme to estimate returns for

Kuvan, which has a limited history. Genzyme's return rights for Aldurazyme are limited to defective product. Based on these factors, management has concluded that product returns will be minimal, and the Company has not experienced significant product returns to date. In the future, if any of these factors and/or the history of product returns changes, an allowance for product returns may be required.

The Company maintains a policy to record allowances for doubtful accounts for estimated losses resulting from the inability of its customers to make required payments. As of June 30, 2009, the Company has experienced no significant bad debts and the recorded allowance for doubtful accounts was insignificant.

Collaborative agreement revenues —Collaborative agreement revenues from Merck Serono include both license revenue and contract research revenue under our agreement with Merck Serono, which was executed in May 2005. Nonrefundable up-front license fees where the Company has continuing involvement through research and development collaboration are initially deferred and recognized as collaborative agreement license revenue over the estimated period for which the Company continues to have a performance obligation. The Company's performance obligation related to the $25.0 million upfront payment from Merck Serono ended in the fourth quarter of 2008. There is no cost of sales associated with the amortization of the up-front license fee received from Merck Serono. Nonrefundable amounts received for shared development costs are recognized as revenue in the period in which the related expenses are incurred. Contract research revenue included in collaborative agreement revenues represents Merck Serono's share of Kuvan development costs under the Merck Serono agreement, which are recorded as research and development expenses. Allowable costs during the development period must have been included in the pre-approved annual budget in order to be subject to reimbursement, or must be separately approved by both parties.

Collaborative agreement revenues during the three and six months ended June 30, 2009 included $0.9 million and $1.4 million of reimbursable development costs for Kuvan, respectively, compared to the three and six months ended June 30, 2008 which totaled $2.5 million and $5.0 million, respectively, and included the recognition of $1.5 million and $3.0 million, respectively, of the $25.0 million up-front license fee received from Merck Serono and $1.0 million and $2.0 million, respectively, of reimbursable development costs for Kuvan.

Royalty and license revenues —Royalty revenue includes royalties on net sales of products with which the Company has no direct involvement and is recognized based on data reported by licensees or sublicensees. Royalties are recognized as earned in accordance with the contract terms when the royalty amount is fixed or determinable based on information received from the sublicensee and when collectibility is reasonably assured.

Due to the significant role the Company plays in the operations of Aldurazyme and Kuvan, primarily the manufacturing and regulatory activities, as well as the rights and responsibilities to deliver the products to Genzyme and Merck Serono, respectively, the Company elected not to classify the Aldurazyme and Kuvan royalties earned as other royalty revenues and instead to include them as a component of net product revenues.

Royalty and license revenues during the three and six months ended June 30, 2009 include $0.2 million and $1.6 million, respectively, of Orapred product royalties, a product the Company acquired in 2004 and sublicensed in 2006, and $0.3 million and $0.4 million, respectively, of 6R-BH4 royalty revenues for product sold in Japan compared to royalty and license revenues for the three and six months ended June 30, 2008, which included $1.2 million and $1.5 million, respectively, of Orapred product royalties. There is no cost of sales associated with the royalty and license revenues recorded during the periods and no related costs are expected in future periods.

(i) Research and Development

Research and development expenses include expenses associated with contract research and development provided by third parties, product manufacturing prior to regulatory approval, clinical and regulatory costs, and internal research and development costs. In instances where the Company enters into agreements with third parties for research and development activities, costs are expensed upon the earlier of when non-refundable amounts are due or as services are performed unless there is an alternative future use of the funds in other research and development projects. Amounts due under such arrangements may be either fixed fee or fee for service, and may include upfront payments, monthly payments, and payments upon the completion of milestones or receipt of deliverables. The Company accrues costs for clinical trial activities based upon estimates of the services received and related expenses incurred that have yet to be invoiced by the vendors that perform the activities.

The Company believes that regulatory approval of its product candidates is uncertain, and does not assume that products manufactured prior to regulatory approval will be sold commercially. As a result, inventory costs for product candidates are expensed as research and development until regulatory approval is obtained in a major market, at which time inventory is capitalized at the lower of cost or net realizable value.

(j) Net Income (Loss) Per Share

Basic net income (loss) per share is calculated by dividing net income/loss by the weighted average shares of common stock outstanding during the period. Diluted net income (loss) per share reflects the potential dilution that would occur if securities or other contracts to issue common stock were exercised or converted into common stock; however, potential common equivalent shares are excluded if their effect is anti-dilutive. Potential shares of common stock include shares issuable upon the exercise of outstanding employee stock option awards, common stock issuable under our 2006 Employee Stock Purchase Plan (ESPP), restricted stock, contingent issuances of common stock related to convertible debt and through the first quarter of 2009, the portion of acquisition costs that was payable in shares of the Company's common stock at the Company's option.

The following represents a reconciliation from basic weighted shares outstanding to diluted weighted shares outstanding and the earnings per share for the three and six months ended June 30, 2008 (in thousands, except per share data):

	For the Three Months Ended June 30, 2008			For the Six Months Ended June 30, 2008		
	Net Income (Numerator)	Weighted Average Shares Outstanding (Denominator)	Per Share Amount	Net Income (Numerator)	Weighted Average Shares Outstanding (Denominator)	Per Share Amount
Basic Earnings Per Share:						
Net Income	$ 3,810	98,923	$ 0.04	$ 5,496	98,285	$ 0.06
Effect of dilutive shares:						
Stock options using the treasury method		4,702			5,163	
Portion of acquisition obligation payable in common stock at the option of the Company		297			297	
Potentially issuable restricted common stock		80			83	
Potentially issuable common stock for ESPP purchases		118			120	
Diluted Earnings Per Share:						
Net Income	$ 3,810	104,120	$ 0.04	$ 5,496	103,948	$ 0.05

In addition to the stock options included in the above table, options to purchase approximately 1.5 million and 0.9 million shares of common stock were outstanding during the three and six months ended June 30, 2008, but were not included in the computation of diluted earnings per share because they were anti-dilutive during the period using the treasury stock method. These options were anti-dilutive because the fair value of the Company's stock exceeded the assumed proceeds from the exercise of the stock options. Additionally, approximately 26.4 million underlying shares of the Company's convertible debt were not included in the diluted average common shares outstanding because they were antidilutive during the three and six months ended June 30, 2008 using the "if-converted" method whereby the related interest expense on the convertible debt is added to net income for the period.

The following represents a reconciliation from basic weighted shares outstanding to diluted weighted shares outstanding and the earnings per share for the three ended June 30, 2009 (in thousands, except per share data):

	For the Three Months Ended June 30, 2009			For the Six Months Ended June 30, 2009		
	Net Income (Numerator)	Weighted Average Shares Outstanding (Denominator)	Per Share Amount	Net Loss (Numerator)	Weighted Average Shares Outstanding (Denominator)	Per Share Amount
Basic Earnings Per Share:						
Net Income (Loss)	$ 1,312	100,065	$ 0.01	$ (11,840)	99,984	$ (0.12)
Effect of dilutive shares:						
Stock options using the treasury method		839			—	
Potentially issuable common stock for ESPP purchases		222			—	
Nonqualified Deferred Compensation Plan obligation using the treasury method	(116)	91		(111)	91	
Diluted Earnings Per Share:						
Net Income	$ 1,196	101,217	$ 0.01	$ (11,951)	100,075	$ (0.12)

In addition to the equity instruments included in the table above, the following potential shares of common stock were excluded from the computation as they were anti-dilutive during the three and six month periods ended June 30, 2009 using the treasury stock method (in thousands):

	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Options to purchase common stock	11,593	14,668
Common stock issuable under convertible debt	26,343	26,343
Potentially issuable common stock for ESPP purchases	—	242
Potentially issuable restricted common stock	400	400
Total	38,336	41,653

(k) Stock-Based Compensation

Stock-based compensation is accounted for in accordance with Statement of Financial Accounting Standards (SFAS) No. 123R, *Share-Based Payment* , (SFAS 123R) and related interpretations. Under the fair value recognition provisions of this statement, stock-based compensation cost is measured at the grant date based on the value of the award and is recognized as expense over the vesting period. Determining the fair value of share-based awards at the grant date requires judgment, including estimating future stock price volatility and employee stock option exercise behaviors. If actual results differ significantly from these estimates, stock-based compensation expense and results of operations could be materially impacted.

Expected volatility is based upon proportionate weightings of the historical volatility of the Company's common stock and the implied volatility of traded options on the Company's common stock. The expected life of stock options is based on observed historical exercise patterns, which can vary over time.

As stock-based compensation expense recognized in the consolidated statements of operation is based on awards expected to vest, the amount of expense has been reduced for estimated forfeitures. SFAS No. 123R requires forfeitures to be estimated at the time of grant and revised, if necessary, in subsequent periods, if actual forfeitures differ from those estimates. Forfeitures are estimated based on historical experience.

If factors change and different assumptions are employed in the application of SFAS No. 123R, the compensation expense recorded in future periods may differ significantly from what was recorded in the current period (see Note 3 for further information).

(l) Nonqualified Deferred Compensation Plan

Other non-current assets include $0.9 million and $1.5 million, respectively, of investments held in trust related to the Company's Nonqualified Deferred Compensation Plan for certain employees and directors as of December 31, 2008 and June 30, 2009, respectively. All of the investments held in the Nonqualified Deferred Compensation Plan are classified as trading securities and recorded at fair value with changes in the investments' fair values recognized in earnings in the period they occur. Restricted stock issued into the Nonqualified Deferred Compensation Plan is accounted for similarly to treasury stock in that the value of the employer stock is determined on the date the restricted stock vests and the shares are issued into the Nonqualified Deferred Compensation Plan. The restricted stock issued into the Nonqualified Deferred Compensation Plan is recorded in equity and changes in its fair value are recognized in earnings as incurred. Additionally, the Company has recorded a corresponding liability for the Nonqualified Deferred Compensation Plan in other liabilities.

The Nonqualified Deferred Compensation Plan allows eligible employees, including management and certain highly-compensated employees as designated by the plan's administrative committee and members of the Board of Directors to make voluntary deferrals of compensation to specified dates, retirement or death. Participants are permitted to defer portions of their salary, annual cash bonus and restricted stock. The Company is not allowed to make additional direct contributions to the Nonqualified Deferred Compensation Plan on behalf of the participants without further action by the Board of Directors.

(m) Income Taxes

The Company utilizes the asset and liability method of accounting for income taxes. Under this method, deferred taxes are determined based on the difference between the financial statement and tax bases of assets and liabilities using tax rates expected to be in effect in the years in which the differences are expected to reverse. A valuation allowance is recorded to reduce deferred tax assets to the amount that is more likely than not to be realized. There was a full valuation allowance against net deferred tax assets of $294.7 million at December 31, 2008. Future taxable income and ongoing prudent and feasible tax planning strategies have been considered in assessing the need for the valuation allowance. An adjustment to the valuation allowance would increase or decrease net income/loss in the period such adjustment was made. During the three and six months ended June 30, 2009, the Company recognized income tax expense of $0.5 million and $0.9 million, respectively, compared to the three and six months ended June 30, 2008 when the Company recognized income tax expense of $0.2 million and $0.3 million respectively. Income tax expense in the three and six months ended June 30, 2008 and 2009 was primarily related to income earned in certain of the Company's international subsidiaries, California state income tax and U.S. Federal Alternative Minimum Tax expense.

(n) Foreign Currency and Other Hedging Instruments

The Company has transactions denominated in foreign currencies and, as a result, is exposed to changes in foreign currency exchange rates. The Company manages some of these exposures on a consolidated basis, which results in the netting of certain exposures to take advantage of natural offsets and through the use of forward contracts. Gains or losses on net foreign currency hedges are intended to offset losses or gains on the underlying net exposures in an effort to reduce the earnings and cash flow volatility resulting from fluctuating foreign currency exchange rates.

The Company accounts for its derivative instruments as either assets or liabilities on the balance sheet and measures them at fair value. Derivatives that are not defined as hedges in SFAS No. 133, *Accounting for Derivative Instruments and Hedging Activities* , are adjusted to fair value through earnings. Gains and losses resulting from changes in fair value are accounted for depending on the use of the derivative and whether it is designated and qualifies for hedge accounting (see Note 11 for further information).

(o) Fair Value of Financial Instruments

SFAS No. 107, *Disclosures about Fair Value of Financial Instruments* , requires the Company to disclose the fair value of financial instruments for assets and liabilities for which it is practicable to estimate that value.

The carrying amounts of all cash equivalents and forward exchange contracts approximate fair value based upon quoted market prices or discounted cash flows. The fair value of trade accounts receivables, accounts payable and other financial instruments approximates carrying value due to their short-term nature.

(p) Comprehensive Income (Loss) and Accumulated Other Comprehensive Income (Loss)

Comprehensive income (loss) includes net income/loss and certain changes in stockholders' equity that are excluded from net income (loss), such as changes in unrealized gains and losses on the Company's available-for-sale securities, unrealized gains/losses on foreign exchange hedges, and changes in the Company's cumulative foreign currency translation account. There were no tax effects allocated to any components of other comprehensive income (loss) during the three and six months ended June 30, 2008 and 2009.

During the three and six months ended June 30, 2009, comprehensive loss was approximately $0.7 million and $12.8 million, respectively, compared to comprehensive net income of $2.9 million and $4.8 million for the three and six months ended June 30, 2008, respectively. The fluctuation in accumulated other comprehensive income (loss) is comprised of the following (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2008	2009	2008	2009
Net unrealized loss on available-for-sale securities	$ (534)	$ (205)	$(321)	$ (838)
Net unrealized loss on foreign currency hedges	(391)	(2,877)	(391)	(945)
Net unrealized gain on equity investments	—	1,112	—	774
Net foreign currency translation gain (loss)	(1)	2	(2)	4
Change in accumulated other comprehensive income	$ (926)	$ (1,968)	$(714)	$(1,005)

(q) Restricted Cash

The Company's balance of restricted cash amounted to $7.3 million and $1.7 million at December 31, 2008 and June 30, 2009, respectively. The December 31, 2008 balance included $6.2 million related to cash received for royalties earned pursuant to the Orapred sublicense agreement, which was restricted from use until June 2009 when the Company paid the remaining acquisition obligation resulting from the Ascent Pediatrics transaction to Medicis (see Note 14). The $6.2 million was included in other current assets on the December 31, 2008 consolidated balance sheet. Restricted cash also includes investments of $0.9 million and $1.4 million held by the Company's Nonqualified Deferred Compensation Plan as of December 31, 2008 and June 30, 2009, respectively, which is included in other assets.

(r) Recent Accounting Pronouncements

In June 2009, the Financial Accounting Standards Board (FASB) issued SFAS No.167, *Amendments to FASB Interpretation No. 46(R)* (SFAS No. 167). SFAS No.167 eliminates FASB Interpretation No. 46(R)'s exceptions to consolidating qualifying special-purpose entities, contains new criteria for determining the primary beneficiary, and increases the frequency of required reassessments to determine whether a company is the primary beneficiary of a variable interest entity. SFAS No.167 also contains a new requirement that any term, transaction, or arrangement that does not have a substantive effect on an entity's status as a variable interest entity, a company's power over a variable interest entity, or a company's obligation to absorb losses or its right to receive benefits of an entity must be disregarded in applying FASB Interpretation No. 46(R)'s provisions. The elimination of the qualifying special-purpose entity concept and its consolidation exceptions means more entities will be subject to consolidation assessments and reassessments. SFAS No. 167 is effective for fiscal years beginning after November 15, 2009, which for the Company is January 1, 2010, with earlier adoption prohibited. The Company is currently assessing the potential impacts, if any, that SFAS No. 167 will have on its consolidated financial statements.

In June 2009, the FASB issued SFAS No. 166, *Accounting for Transfers of Financial Assets—an amendment of FASB Statement No. 140* (SFAS No. 166). SFAS No. 166 eliminates the concept of a qualifying special-purpose entity, creates more stringent conditions for reporting a transfer of a portion of a financial asset as a sale, clarifies other sale-accounting criteria, and changes the initial measurement of a transferor's interest in transferred financial assets. SFAS No. 166 will be effective for transfers of financial assets in fiscal years beginning after November 15, 2009, which for the Company is January 1, 2010, and in interim periods within those fiscal years, with earlier adoption prohibited. The Company is currently assessing the potential impacts, if any, that SFAS No. 166 will have on its consolidated financial statements.

In April 2009, the FASB issued FASB Staff Position (FSP) FAS 157-4, *Determining Whether a Market Is Not Active and a Transaction Is Not Distressed*, (FSP FAS 157-4). FSP FAS 157-4 provides guidelines for making fair value measurements more consistent with the principles presented in SFAS No. 157. FSP FAS 157-4 provides additional authoritative guidance in determining whether a market is active or inactive, and whether a transaction is distressed, is applicable to all assets and liabilities (*i.e* ., financial and nonfinancial) and will require enhanced disclosures. This standard is effective for periods ending after June 15, 2009, which for the Company was the second quarter of fiscal 2009. The adoption of this standard did not have a material impact on the Company's consolidated financial statements.

In April 2009, the FASB issued FSP FAS 115-2, FAS 124-2, and EITF 99-20-2, *Recognition and Presentation of Other-Than-Temporary Impairments* , (FSP FAS 115-2, FAS 124-2, and EITF 99-20-2, respectively). FSP FAS 115-2, FAS 124-2, and EITF 99-20-2 provides additional guidance to provide greater clarity about the credit and noncredit component of an other-than-temporary impairment event and to more effectively communicate when an other-than-temporary impairment event has occurred. This FSP applies to debt securities and was effective for periods ending after June 15, 2009, with early adoption permitted. The adoption of this standard did not have a material impact on the Company's consolidated financial statements.

In April 2009, the FASB issued FSP FAS 107-1 and Accounting Practice Bulletin (APB) 28-1, *Interim Disclosures about Fair Value of Financial Instruments* , (FSP FAS 107-1 and APB 28-1, respectively). FSP FAS 107-1 and APB 28-1 amended FASB Statement No. 107, *Disclosures about Fair Value of Financial Instruments* , to require disclosures about fair value of financial instruments in interim as well as in annual financial statements. This FSP also amends Accounting Principles Board Opinion No. 28, *Interim Financial Reporting* , to require those disclosures in all interim financial statements. This FSP is effective for periods ending after June 15, 2009, which for the Company was the second quarter of fiscal 2009. The adoption of this standard did not have a material impact on the Company's consolidated financial statements.

(s) Reclassifications and Adjustments

Certain items in the prior year's consolidated financial statements have been reclassified to conform to the current presentation. During the second quarter of 2009, the Company recorded a $0.6 million liability for government rebates related to prior periods back to the first quarter of 2008, mostly related to a recent Federal mandate to pay rebates for certain product sales through government-related channels. The Company determined that the amounts that related to prior periods were immaterial to all prior periods and therefore recognized the reduction to net product revenues during the second quarter of 2009.

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(3) STOCK-BASED COMPENSATION

The Company's stock-based compensation plans include the 2006 Share Incentive Plan and the ESPP. These plans are administered by the Compensation Committee of the Board of Directors, which selects persons to receive awards and determines the number of shares subject to each award and the terms, conditions, performance measures and other provisions of the award. See Note 3 of the Company's consolidated financial statements in the Annual Report on Form 10-K for the fiscal year ended December 31, 2008, which was filed with the SEC on February 27, 2009, for additional information related to these stock-based compensation plans.

Determining the Fair Value of Stock Options and Stock Purchase Rights

The fair value of each option award is estimated on the date of grant using the Black-Scholes valuation model and the assumptions noted in the tables below. The expected life of options is based on observed historical exercise patterns. Groups of employees that have similar historical exercise patterns were considered separately for valuation purposes, but none were identified that had distinctly different exercise patterns as of June 30, 2009. The expected volatility of stock options is based upon proportionate weightings of the historical volatility of the Company's common stock and the implied volatility of traded options on the Company's common stock for fiscal periods in which there is sufficient trading volume in options on the Company's common stock. The risk free interest rate is based on the implied yield on a U.S. Treasury zero-coupon issue with a remaining term equal to the expected term of the option. The dividend yield reflects that the Company has not paid any cash dividends since inception and does not intend to pay any cash dividends in the foreseeable future. During the six months ended June 30, 2009, the Company granted approximately 3.0 million stock options under the 2006 Share Incentive Plan, with a weighted average fair value of $7.49 per share. The Company also granted approximately 370,400 stock purchase rights under the ESPP with a weighted average fair value of $5.11 per share during the six months ended June 30, 2009. The assumptions used to estimate the per share fair value of stock options granted and stock purchase rights granted under the Company's 2006 Share Incentive Plan and ESPP for the three and six months ended June 30, 2008 and 2009 are as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2008	2009	2008	2009
Stock options:				
Weighted average fair value of per share common stock	$ 38.44	$ 14.34	$ 38.32	$ 14.20
Expected life	5.4 years	6.1 years	5.2 - 5.4 years	6.0 - 6.1 years
Volatility	47%	54%	45 - 47%	54%
Risk-free interest rate	3.2%	2.0%	2.8 - 3.2%	1.9 - 2.0%
Dividend yield	0%	0%	0%	0%

	Three and Six Months Ended June 30,	
	2008	2009
ESPP:		
Per share fair market value of common stock	$ 37.61	$ 13.69
Expected life	6 - 24 months	6 - 24 months
Volatility	47%	55%
Risk-free interest rate	1.7 - 5.2%	0.3 - 0.9%
Dividend yield	0%	0%

Restricted Stock Units

Restricted stock units (RSUs) are generally subject to forfeiture if employment terminates prior to the release of vesting restrictions. The Company expenses the cost of the RSUs, which is determined to be the fair market value of the shares of common stock underlying the RSU at the date of grant, ratably over the period during which the vesting restrictions lapse. During the six months ended June 30, 2009, the Company granted 197,295 RSUs with a weighted average fair market value of $14.04 per share.

Stock-based Compensation Expense

The compensation expense that has been included in the Company's consolidated statement of operations for stock-based compensation arrangements were as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2008	2009	2008	2009
Cost of sales	$ 392	$ 1,423	$ 589	$ 1,987
Research and development expense	2,059	2,605	3,617	5,080
Selling, general and administrative expense	3,497	4,986	6,206	9,743
Total stock-based compensation expense	$ 5,948	$ 9,014	$10,412	$16,810

There was no income tax benefit associated with stock-based compensation in the first quarters of 2008 and 2009 because the deferred tax asset resulting from stock-based compensation was offset by an additional valuation allowance for deferred tax assets.

Stock-based compensation of $2.0 million and $2.7 million was capitalized into inventory for the six months ended June 30, 2008 and 2009, respectively. Capitalized stock-based compensation is recognized into cost of sales when the related product is sold.

(4) JOINT VENTURE

Effective January 2008, the Company and Genzyme restructured BioMarin/Genzyme LLC. Under the revised structure, the operational responsibilities for BioMarin and Genzyme did not significantly change, as Genzyme continues to globally market and sell Aldurazyme and BioMarin continues to manufacture Aldurazyme. The restructuring had two significant business purposes. First, since each party now has full control over its own operational responsibilities, without the need to obtain the approval of the other party, and the parties do not need to review and oversee the activities of the other, it reduces management's time and effort and therefore improves overall efficiencies. Second, since each party will realize 100% of the benefit of their own increased operational efficiencies, it increases the incentives to identify and implement cost saving measures. Under the previous 50/50 structure, each company shared 50% of the expense associated with the other's inefficiencies and only received 50% of the benefit of its own efficiencies. Specifically, the Company will be able to realize the full benefit of any manufacturing cost reductions and Genzyme will be able to realize the full benefit of any sales and marketing efficiencies.

On January 1, 2008, Genzyme began to record sales of Aldurazyme to third party customers and pay BioMarin a tiered payment ranging from approximately 39.5% to 50% of worldwide net product sales depending on sales volume, which is recorded by BioMarin as product revenue. The Company recognizes a portion of this amount as product transfer revenue when product is released to Genzyme as all of the Company's performance obligations are fulfilled at this point and title to, and risk of loss, for the product has transferred to Genzyme. The product transfer revenue represents the fixed amount per unit of Aldurazyme that Genzyme is required to pay the Company if the product is unsold by Genzyme. The amount of product transfer revenue is deducted from the calculated royalty rate when the product is sold by Genzyme. Genzyme's return rights for Aldurazyme are limited to defective product. Certain research and development activities and intellectual property related to Aldurazyme continues to be managed in the joint venture with the costs shared equally by BioMarin and Genzyme. Pursuant to the terms of the joint venture restructuring, the Company received distributions of $16.7 million of cash and $26.8 million of inventory from the joint venture in the first quarter of 2008.

As a result of restructuring the joint venture, the Company made an initial transfer of inventory on-hand to Genzyme, resulting in the recognition of product transfer revenue of $14.0 million during the first quarter of 2008. A portion of that initial inventory transfer representing $4.5 million of the related product transfer revenue was also sold by Genzyme during the first quarter of 2008, which resulted in a royalty due to the Company totaling $14.6 million.

The Company presents the related cost of sales and its Aldurazyme-related operating expenses as operating expenses in the consolidated statements of operations. Equity in the loss of BioMarin/Genzyme LLC subsequent to the restructuring includes BioMarin's 50% share of the net income/loss of BioMarin/Genzyme LLC related to intellectual property management and ongoing research and development activities.

(5) SHORT-TERM AND LONG-TERM INVESTMENTS

At December 31, 2008, the principal amounts of short-term and long-term investments by contractual maturity are summarized in the table below (in thousands):

	Contractual Maturity Date For the Year Ending December 31, 2009		December 31, 2008
	Total Book Value	Unrealized Gain (Loss)	Aggregate Fair Value
Corporate securities	$ 55,270	$ (100)	$ 55,170
Commercial paper	33,076	48	33,124
Equity securities	3,633	332	3,965
U.S. Government agency securities	220,914	977	221,891
U.S. Government backed commercial paper	24,370	5	24,375
Total	$ 337,263	$ 1,262	$ 338,525

At June 30, 2009, the principal amounts of short-term and long-term investments by contractual maturity are summarized in the table below (in thousands):

	Contractual Maturity Date For the Years Ending December 31,			June 30, 2009		
	2009	2010	2011	Total Book Value	Unrealized Gain (Loss)	Aggregate Fair Value
Certificates of deposit	$ 4,497	$ 24,020	$ 1,449	$ 29,966	$ (131)	$ 29,835
Corporate securities	24,505	56,849	30,940	112,294	(32)	112,262
Commercial paper	11,344	994	—	12,338	7	12,345
Equity securities	701	—	—	701	1,105	1,806
U.S. Government agency securities	88,294	10,222	30,214	128,730	226	128,956
Total	$ 129,341	$ 92,085	$ 62,603	$ 284,029	$ 1,175	$ 285,204

The Company completed an evaluation of its investments and determined that it did not have any other-than-temporary impairments as of June 30, 2009. The investments are placed in financial institutions with strong credit ratings and management expects full recovery of the amortized costs.

At December 31, 2008, the aggregate amount of unrealized losses and related fair value of investments with unrealized losses are presented in the table below follows (in thousands). All investments were classified as available-for-sale at December 31, 2008.

	Less Than 12 Months To Maturity		Total	
	Aggregate Fair Value	Unrealized Losses	Aggregate Fair Value	Unrealized Losses
Corporate securities	$ 44,941	$ (147)	$ 44,941	$ (147)
Commercial paper	1,992	(6)	1,992	(6)
U.S. Government agency securities	6,928	(12)	6,928	(12)
U.S. Government back commercial paper	9,947	(31)	9,947	(31)
Total	$ 63,808	$ (196)	$ 63,808	$ (196)

At June 30, 2009, the aggregate amounts of unrealized losses and related fair value of investments with unrealized losses were as follows (in thousands). All investments were classified as available-for-sale at June 30, 2009.

	Less Than 12 Months To Maturity		12 Months or More To Maturity		Total	
	Aggregate Fair Value	Unrealized Losses	Aggregate Fair Value	Unrealized Losses	Aggregate Fair Value	Unrealized Losses
Certificates of deposit	$ 12,736	$ (56)	$ 16,924	$ (74)	$ 29,660	$ (130)
Corporate securities	7,319	(6)	31,994	(185)	39,313	(191)
U.S. Government agency securities	—	—	7,963	(9)	7,963	(9)
Total	$ 20,055	$ (62)	$ 56,881	$ (268)	$ 76,936	$ (330)

(6) SUPPLEMENTAL BALANCE SHEET INFORMATION

As of December 31, 2008 and June 30, 2009, inventory consisted of the following (in thousands):

	December 31, 2008	June 30, 2009
Raw materials	$ 10,314	$ 10,928
Work in process	29,998	35,069
Finished goods	32,850	26,839
Total inventory	$ 73,162	$ 72,836

As of December 31, 2008 and June 30, 2009, other current assets consisted of the following (in thousands):

	December 31, 2008	June 30, 2009
Kuvan European Medicines Agency (EMEA) approval milestone receivable	$ 30,000	$ —
Non-trade receivables	4,828	8,770
Prepaid expenses	3,013	3,494
Deferred cost of goods sold	3,879	2,578
Short-term restricted cash	6,202	97
Other	2,522	239
Total other current assets	$ 50,444	$ 15,178

As of December 31, 2008 and June 30, 2009, accounts payable and accrued liabilities consisted of the following (in thousands):

	December 31, 2008	June 30, 2009
Accounts payable	$ 922	$ 3,127
Accrued accounts payable	26,214	27,885
Accrued vacation	3,798	4,694
Accrued compensation	11,737	9,580
Accrued interest and taxes	2,684	2,639
Accrued royalties	3,401	3,971
Other accrued expenses	6,094	2,311
Accrued rebates	3,194	4,124
Other	989	773
Total accounts payable and accrued liabilities	$ 59,033	$ 59,104

As of December 31, 2008 and June 30, 2009, other long-term liabilities consisted of the following (in thousands):

	December 31, 2008	June 30, 2009
Long-term portion of deferred rent	$ 1,176	$ 1,108
Long-term portion of capital lease liability	270	179
Long-term portion of deferred compensation liability	1,410	2,600
Total other long-term liabilities	$ 2,856	$ 3,887

(7) PROPERTY, PLANT AND EQUIPMENT

Property, plant and equipment at December 31, 2008 and June 30, 2009 consisted of the following (in thousands):

Category	December 31, 2008	June 30, 2009	Estimated Useful Lives
Leasehold improvements	$ 27,544	$ 34,357	Shorter of life of asset or lease term
Building and improvements	61,183	65,505	20 years
Manufacturing and laboratory equipment	26,996	30,086	5 years
Computer hardware and software	13,088	22,391	3 to 5 years
Office furniture and equipment	4,602	5,024	5 years
Land	10,056	10,056	Not applicable
Construction-in-progress	27,589	45,740	Not applicable
Gross property, plant and equipment	$ 171,058	$ 213,159	
Less: Accumulated depreciation	(46,079)	(53,370)	
Total property, plant and equipment, net	$ 124,979	$ 159,789	

Depreciation for the three and six months ended June 30, 2009 was $4.5 million and $8.6 million, respectively, of which $0.7 million and $1.3 million was capitalized into inventory, respectively. Depreciation for the three and six months ended June 30, 2008 was $2.9 million and $5.3 million, respectively, of which $0.8 million and $1.3 million was capitalized into inventory, respectively.

Capitalized interest related to the Company's property, plant and equipment purchases during the three and six months ended June 30, 2008 and 2009 was insignificant.

(8) INVESTMENT IN SUMMIT CORPORATION PLC

In July 2008, the Company entered into an exclusive worldwide licensing agreement with Summit Corporation plc (Summit) related to Summit's preclinical drug candidate SMT C1100 and follow-on molecules (2008 Summit License), which are being developed for the treatment of Duchenne muscular dystrophy. The Company paid Summit $7.1 million for an equity investment in Summit shares and licensing rights to SMT C1100. The initial equity investment represented the acquisition of approximately 5.1 million Summit shares with a fair value at the time of acquisition of $5.7 million, based on public market quotes. The Company's investment in Summit represents less than 10% of Summit's outstanding shares. The $1.4 million paid in excess of the fair value of the shares acquired was allocated to the license fee using the residual method and expensed under the provisions of SFAS No. 2, *Accounting for Research and Development Costs* (SFAS No. 2), in the third quarter of 2008. Under the terms of the licensing agreement, the Company was obligated to make future development and regulatory milestone payments totaling $51.0 million contingent on future development and regulatory milestones, as well as tiered royalties based on future net sales. All payments pursuant to the Company's investment in, and license from, Summit were denominated in British pounds.

In March 2009, the Company entered into an asset purchase agreement with Summit. Pursuant to the terms of the asset purchase agreement,

the Company purchased certain of Summit’s assets which included the rights, title to, and interest in Summit’s preclinical drug candidate SMT C1100, thus terminating the 2008

Summit License. These assets were acquired by issuing a secured promissory note and assuming $56,000 in related liabilities. The promissory note is secured by all of the assets acquired from Summit. The value of the assumed liabilities was expensed under the provisions of SFAS No. 2, in the first quarter of 2009. Under the secured promissory note, the Company is obligated to make up to $50.0 million in future development and regulatory milestone payments contingent on achieving certain development and regulatory milestones, as well as tiered royalties based on future net sales.

The Company accounts for the Summit shares, which are traded on the London Stock Exchange, under the provisions of SFAS No. 115, *Accounting for Certain Investments in Debt and Equity Securities* . The investment is classified as available-for-sale, with changes in the fair value reported as a component of accumulated other comprehensive income/loss, exclusive of other-than-temporary impairment losses, if any. Losses determined to be other-than-temporary are reported in earnings in the period in which the impairment occurs.

As of June 30, 2009, the Company has recognized cumulative impairment charges of $5.5 million for the decline in the investment's value determined to be other-than-temporary. The impairment charges are comprised of $4.1 million and $1.4 million recognized in December 2008 and March 2009, respectively. The determination that the decline was other-than-temporary is, in part, subjective and influenced by several factors, including: the length of time and the extent to which the market value had been less than the value on the date of purchase, Summit's financial condition and near-term prospects, including any events which may influence their operations, and the Company's intent and ability to hold the investment for a period of time sufficient to allow for the anticipated recovery in market value.

(9) INVESTMENT IN LA JOLLA PHARMACEUTICAL COMPANY

On January 4, 2009, the Company entered into a co-exclusive worldwide (excluding Asia Pacific) licensing agreement with La Jolla Pharmaceutical Company (La Jolla) to develop and commercialize Riquent, La Jolla's investigational drug for lupus nephritis. Riquent was being evaluated by La Jolla in a Phase III clinical study (Phase III ASPEN Study). The Company paid La Jolla $7.5 million for the license rights and $7.5 million for 339,104 shares of La Jolla's Series B Preferred Stock. The initial equity investment represents the acquisition of the La Jolla Series B Preferred shares with a fair value of $6.2 million. The $1.3 million paid in excess of the fair value of the shares acquired was allocated to the license fee using the residual method and expensed under the provisions of SFAS No. 2 in the first quarter of 2009. Research and development expense related to the Company's agreements with La Jolla in the first quarter of 2009 approximated $8.8 million, and is comprised of the $7.5 million up-front license fee and the $1.3 million premium paid in excess of the preferred stock's fair value.

On February 12, 2009, the results of the first interim efficacy analysis for the Phase III ASPEN Study were announced, and the Independent Data Monitoring Board determined that the continuation of the trial was futile. Based on the results of this interim efficacy analysis, the Company and La Jolla decided to stop the study.

On March 26, 2009, the Company terminated its licensing agreement with La Jolla, triggering the preferred stock's automatic conversion feature at a rate of one preferred share to thirty shares of common stock. Thus, as of the conversion date, the Company held approximately 10.2 million shares of common stock, or approximately 15.5% La Jolla's outstanding common stock. The Company accounted for the converted La Jolla shares, which are traded on NASDAQ Stock Exchange, as an available-for-sale investment. The investment was classified as available-for-sale, with changes in the fair value reported as a component of accumulated other comprehensive income/loss, exclusive of other-than-temporary impairment losses, if any. Losses determined to be other-than-temporary were reported in earnings in the period in which the impairment occurs.

In March 2009, the Company recognized an impairment charge of $4.5 million, for the decline in the La Jolla investment's value determined to be other-than-temporary. The determination that the decline was other-than-temporary was, in part, subjective and influenced by several factors, including: the length of time and the extent to which the market value of La Jolla's common stock has been less than the value on the date of purchase, La Jolla's financial condition and near-term prospects, including any events which may influence their operations, and the Company's intent and ability to hold the investment for a period of time sufficient to allow for the anticipated recovery in market value. Based on the then current market conditions, La Jolla's current financial condition and their business prospects, the Company determined that its investment in La Jolla was other-than-temporarily impaired and adjusted the recorded amount of the investment to the stock's market price on March 31, 2009. In June 2009, the Company sold its 10.2 million shares of La Jolla common stock through a series of open market trades ranging in gross proceeds to the Company of $0.17 to $0.22 per share. In connection with the sale of the La Jolla common stock, the Company recognized a loss of $66,000 on the sale of the equity investment during the second quarter of 2009.

(10) CONVERTIBLE DEBT

In April 2007, the Company sold approximately $324.9 million of Senior Subordinated Convertible Notes due 2017. The debt was issued at face value and bears interest at the rate of 1.875% per annum, payable semi-annually in cash. The debt is convertible, at the option of the holder, at any time prior to maturity or redemption, into shares of Company common stock at a conversion price of approximately $20.36 per share, subject to adjustment in certain circumstances. There is not a call provision included and the Company is unable to unilaterally redeem the debt prior to maturity on April 23, 2017. The Company also must repay the debt if there is a qualifying change in control or termination of trading of its common stock.

In connection with the placement of the April 2007 debt, the Company paid approximately $8.5 million in offering costs, which have been deferred and are included in other assets. They are being amortized as interest expense over the life of the debt. The Company recognized $0.2 million and $0.4 million of amortization expense in each of the three and six months ended June 30, 2008 and 2009, respectively.

In March 2006, the Company sold $172.5 million of Senior Subordinated Convertible Notes due 2013. The debt was issued at face value and bears interest at the rate of 2.5% per annum, payable semi-annually in cash. The debt is convertible, at the option of the holder, at any time prior to maturity or redemption, into shares of Company common stock at a conversion price of approximately $16.58 per share, subject to adjustment in certain circumstances. There is not a call provision included and the Company is unable to unilaterally redeem the debt prior to maturity on March 29, 2013. The Company also must repay the debt if there is a qualifying change in control or termination of trading of its common stock.

In connection with the placement of the March 2006 debt, the Company paid approximately $5.5 million in offering costs, which have been deferred and are included in other assets. They are being amortized as interest expense over the life of the debt, and the Company recognized $0.2 million and $0.4 million of amortization expense during each of the three and six months ended June 30, 2008 and 2009, respectively. During the first six months of 2008, certain note holders voluntarily exchanged an insignificant number of convertible notes for shares of the Company’s common stock.

Interest expense for the three and six months ended June 30, 2009 was $4.4 million and $8.5 million, respectively, and each period included $1.5 million and $2.6 million, respectively, in imputed interest related to the Company’s acquisition obligation. Interest for the three and six months ended June 30, 2008 was $4.1 million and $8.2 million, respectively, and included $1.1 million and $2.2 million of imputed interest expense, respectively.

(11) DERIVATIVE INSTRUMENTS AND HEDGING STRATEGIES

The Company uses hedging contracts to manage the risk of its overall exposure to fluctuations in foreign currency exchange rates. All of the Company's designated hedging instruments are considered to be cash flow hedges.

Foreign Currency Exposure

The Company uses forward foreign exchange contracts to hedge certain operational exposures resulting from changes in foreign currency exchange rates. Such exposures result from portions of its forecasted revenues being denominated in currencies other than the U.S. dollar, primarily the Euro and British Pound.

The Company designates certain of these forward contract hedges as hedging instruments and enters into some forward contracts that are considered to be economic hedges which are not designated as hedging instruments. Whether designated or undesignated, these forward contracts protect against the reduction in value of forecasted foreign currency cash flows resulting from Naglazyme revenues designated in currencies other than the U.S. dollar. The fair values of foreign currency agreements are estimated as described in Note 12, taking into consideration current interest rates and the current creditworthiness of the counterparties or the Company, as applicable. Details of the specific instruments used by the Company to hedge its exposure to foreign currency fluctuations follow below.

At June 30, 2009, the Company had 26 forward contracts outstanding to purchase a total of 35.2 million Euros with expiration dates ranging from July 2009 through May 2010. These hedges were entered into to protect against the fluctuations in Euro denominated Naglazyme revenues. The Company has formally designated these contracts as cash flow hedges, and they are expected to be highly effective in offsetting fluctuations in revenues denominated in Euros related to changes in the foreign currency exchange rates.

The Company also enters into forward foreign currency contracts that are not designated as hedges for accounting purposes. The changes in fair value of these foreign currency hedges are included as a part of selling, general and administrative expenses in the consolidated statements of operations. At June 30, 2009, the Company had two outstanding foreign currency contracts to purchase 14.3 million Euros and 5.6 million British Pounds that were not designated as hedges for accounting purposes.

The maximum length of time over which the Company is hedging its exposure to the reduction in value of forecasted foreign currency cash flows through foreign currency forward contracts is through May 2010. Over the next 12 months, the Company expects to reclassify $1.2 million from accumulated other comprehensive income to earnings as related forecasted revenue transactions occur.

Prior to the second quarter of 2008, the Company did not enter into any derivative transactions which qualified for hedge accounting under SFAS No. 133, *Accounting for Derivative Instruments and Hedging Activities* , as amended (SFAS No. 133). During the three and six months ended June 30, 2009, the Company recognized foreign currency transaction gains of $0.8 million and $1.9 million, respectively, from derivative transactions that qualified for hedge accounting, compared to the three and six months ended June 30, 2008 when the Company recognized a foreign currency transaction loss of $15,000 in each period.

At December 31, 2008 and June 30, 2009, the fair value carrying amount of the Company's derivative instruments was recorded as follows (in thousands):

	Asset Derivatives December 31, 2008		Liability Derivatives December 31, 2008	
	Balance Sheet Location	Fair Value	Balance Sheet Location	Fair Value
Derivatives designated as hedging instruments under FAS 133				
Foreign exchange contracts	Other current assets	$ 754	Other current liabilities	$ 1,129
Total		$ 754		$ 1,129
Derivatives not designated as hedging instruments under FAS 133				
Foreign exchange contracts	Other current assets	$ 49	Other current liabilities	$ —
Total		$ 49		$ —
Total derivative contracts		$ 803		$ 1,129

	Asset Derivatives June 30, 2009		Liability Derivatives June 30, 2009	
	Balance Sheet Location	Fair Value	Balance Sheet Location	Fair Value
Derivatives designated as hedging instruments under FAS 133				
Foreign exchange contracts	Other current assets	$ 83	Other current liabilities	$ 1,386
Total		$ 83		$ 1,386
Derivatives not designated as hedging instruments under FAS 133				
Foreign exchange contracts	Other current assets	$ 58	Other current liabilities	$ —
Total		$ 58		$ —
Total derivative contracts		$ 141		$ 1,386

The effect of derivative instruments on the consolidated statement of operations for the three and six months ended June 30, 2009, was as follows (in thousands):

	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
	Foreign Exchange Contracts	Foreign Exchange Contracts
Derivatives in FAS 133 Hedging Relationships		
Net gain (loss) recognized in OCI (1)	$ (2,903)	$ 927
Net gain (loss) reclassified from accumulated OCI into income (2)	761	1,945
Net gain (loss) recognized in income (3)	(54)	(263)
Derivatives Not Designated as Hedging Instruments under Statement 133		
Net gain (loss) recognized in income (4)	(2,179)	(1,073)

(1) Net change in the fair value of the effective portion classified in other comprehensive income (OCI)
(2) Effective portion classified as product revenue
(3) Ineffective portion and amount excluded from effectiveness testing classified in selling, general and administrative expense
(4) Classified in selling, general and administrative expense

At December 31, 2008 and June 30, 2009, accumulated other comprehensive income associated with forward contracts qualifying for hedge accounting treatment was a loss of $0.2 million and $1.2 million, respectively.

The Company is exposed to counterparty credit risk on all of its derivative financial instruments. The Company has established and maintained strict counterparty credit guidelines and enters into hedges only with financial institutions that are investment grade or better to minimize the Company's exposure to potential defaults. The Company does not require collateral to be pledged under these agreements.

(12) FAIR VALUE MEASUREMENTS

The Company measures certain financial assets and liabilities at fair value on a recurring basis, including available-for-sale fixed income and equity securities, other equity securities and foreign currency derivatives. The table below presents the fair value of these certain financial assets and liabilities determined using the inputs defined at December 31, 2008 and June 30, 2009, by SFAS No. 157, *Fair Value Measurements* .

	Fair Value Measurements (in thousands) at December 31, 2008			
	Total	Quoted Price in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets:				
Money market instruments and overnight deposits (1)	$ 222,900	$ 12,959	$ 209,941	$ —
Corporate securities (3)	55,170	—	55,170	—
Equity securities (4)	3,965	2,332	1,633	—
Government agency securities (3)	221,891	—	221,891	—
Government backed commercial paper (3)	24,375	—	24,375	—
Commercial paper (3)	33,124	—	33,124	—
Foreign currency derivatives (5)	803	—	803	—
Total	$ 562,228	$ 15,291	$ 546,937	$ —
Liabilities:				
Deferred compensation liability (6)	$ 1,428	$ —	$ 1,428	$ —
Foreign currency derivatives (7)	1,129	—	1,129	—
Total	$ 2,557	$ —	$ 2,557	$ —

	Fair Value Measurements (in thousands) at June 30, 2009			
	Total	Quoted Price in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets:				
Money market instruments and overnight deposits (1)	$ 200,050	$ 14,178	$ 185,872	$ —
Certificates of deposit (2)	29,835	—	29,835	—
Corporate securities (3)	112,262	—	112,262	—
Equity securities (4)	1,806	1,383	423	—
Government agency securities (3)	128,956	—	128,956	—
Commercial paper (3)	12,345	—	12,345	—
Deferred compensation asset (8)	1,453	—	1,453	
Foreign currency derivatives (5)	141	—	141	—
Total	$ 486,848	$ 15,561	$ 471,287	$ —
Liabilities:				
Deferred compensation liability (6)	$ 2,867	$ 1,415	$ 1,452	$ —
Foreign currency derivatives (7)	1,386	—	1,386	—
Total	$ 4,253	$ 1,415	$ 2,838	$ —

(1) These amounts are included in cash and cash equivalents investments in the Company's consolidated balance sheet.
(2) 43% and 57% are included in short-term and long-term investments in the Company's consolidated balance sheet, respectively.
(3) These amounts are included in short-term investments and long-term investments in the Company's consolidated balance sheet. At December 31, 2008, all balances were classified as short-term investments. At June 30, 2009, 72% of corporate securities, 24% government agencies and 8% of commercial paper were included in long-term investments and the remaining balances are included in short-term investments.
(4) These amounts are included in short-term investments and long-term investments in the Company's consolidated balance sheet. At December 31, 2008 and June 30, 2009, 41% and 23%, respectively is included in long-term investments and the remaining balances are included in short-term investments.
(5) These amounts are included in other current assets on the Company's consolidated balance sheet. Foreign currency derivatives at June 30, 2009 include forward foreign exchange contracts for the Euro. Foreign currency derivatives at December 31, 2008 include forward foreign exchange contracts for Euros and British Pounds.
(6) These amounts are included in other long-term liabilities on the Company's consolidated balance sheet.
(7) These amounts are included in accounts payable and accrued liabilities on the Company's consolidated balance sheet.
(8) These amounts are included in other assets on the Company's consolidated balance sheet.

(13) REVENUE AND CREDIT CONCENTRATIONS

The Company considers there to be revenue concentration risks for regions where net product revenue exceeds 10% of consolidated net product revenue. The concentration of the Company's revenue within the regions below may expose the Company to a material adverse effect if sales in the respective regions were to experience difficulties. The table below summarizes product revenue concentrations based on patient location for the three and six months ended June 30, 2008 and 2009.

	Three Months Ended June 30,		Six Months Ended June 30,	
	2008	2009	2008	2009
Region:				
United States	51%	54%	55%	53%
Europe	28%	25%	27%	25%
Latin America	10%	10%	9%	11%
Rest of World	11%	11%	9%	11%
Total Net Product Revenue	100%	100%	100%	100%

As of June 30, 2009, accounts receivable related to net product sales of Naglazyme and Kuvan and Aldurazyme product transfer and royalty revenues. On a consolidated basis, two customers accounted for 47% and 44% of our net product revenues during the three and six months ended June 30, 2009, respectively. On a consolidated basis, two customers accounted for 49% and 17% of the June 30, 2009 accounts receivable balance, respectively. The Company does not require collateral from its customers, but performs periodic credit evaluations of its customers' financial condition and requires immediate payment in certain circumstances.

(14) ASCENT TRANSACTION

In 2004, the Company acquired the Orapred product line from Ascent Pediatrics, a wholly owned subsidiary of Medicis Pharmaceutical Corporation (Medicis). The acquisition was accounted for as a purchase business combination. The amended transaction agreements entered into with Medicis following the settlement of a dispute in January 2005 in the Company's favor, provided for total acquisition payments of $169.0

million payable to Medicis in specified amounts through August 2009. In June 2009, the Company purchased all of the outstanding shares of capital stock of BioMarin Pediatrics II (formerly known as Ascent Pediatrics, Inc. and Medicis

Pediatrics, Inc.) (Pediatrics) as required by the original transaction agreements from 2004 for $70.6 million in cash. The stock purchase was completed substantially in accordance with the terms of the previously disclosed Securities Purchase Agreement dated May 18, 2004 and amended on January 12, 2005, by and among BioMarin, Medicis and Pediatrics.

Subsequently, on July 1, 2009 the Company transferred all of the North American intellectual property relating to the Orapred product to Scièle Pharma, Inc., a U.S.-based group company of Shionogi & Co., the third party who holds a license to sell and commercialize the Orapred product line in North America. The transfer of the intellectual property was be made in accordance with the terms of the previously disclosed License Agreement dated March 15, 2006 between us and Scièle Pharma, Inc. (formerly Alliant Pharmaceuticals, Inc.). As a result of the completion of the transaction with Medicis, $9.1 million in cash was released from escrow pursuant to the sublicense and was reclassified from restricted cash to cash and cash equivalents by the Company in June 2009.

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

Forward-Looking Statements

This Quarterly Report on Form 10-Q contains "forward-looking statements" as defined under securities laws. Many of these statements can be identified by the use of terminology such as "believes," "expects," "anticipates," "plans," "may," "will," "projects," "continues," "estimates," "potential," "opportunity" and similar expressions. These forward-looking statements may be found in "Overview," and other sections of this Quarterly Report on Form 10-Q. Our actual results or experience could differ significantly from the forward-looking statements. Factors that could cause or contribute to these differences include those discussed in "Risk Factors," in our Annual Report on Form 10-K for the year ended December 31, 2008, which was filed with the Securities and Exchange Commission (SEC) on February 27, 2009, as well as those discussed elsewhere in this Quarterly Report on Form 10-Q. You should carefully consider that information before you make an investment decision.

You should not place undue reliance on these statements, which speak only as of the date that they were made. These cautionary statements should be considered in connection with any written or oral forward-looking statements that we may issue in the future. We do not undertake any obligation to release publicly any revisions to these forward-looking statements after completion of the filing of this Quarterly Report on Form 10-Q to reflect later events or circumstances, or to reflect the occurrence of unanticipated events.

The following discussion of our financial condition and results of operations should be read in conjunction with our consolidated financial statements and notes to those statements included elsewhere in this Quarterly Report on Form 10-Q.

Overview

We develop and commercialize innovative biopharmaceuticals for serious diseases and medical conditions. We select product candidates for diseases and conditions that represent a significant unmet medical need, have well-understood biology and provide an opportunity to be first-to-market. Our product portfolio is comprised of three approved products and multiple investigational product candidates. Approved products include Naglazyme, Aldurazyme and Kuvan.

Naglazyme received marketing approval in the U.S. in May 2005, in the E.U. in January 2006, and subsequently in other countries. Naglazyme net product revenues for the second quarter and first six months of 2008 were $35.1 million and $62.8 million, respectively, and increased to $42.9 million and $82.3 million in the second quarter and first six months of 2009, respectively.

Aldurazyme, which was developed in collaboration with Genzyme Corporation (Genzyme), has been approved for marketing in the U.S., E.U., and in other countries. Prior to 2008, we developed and commercialized Aldurazyme through a joint venture with Genzyme. Pursuant to our arrangement with Genzyme, Genzyme sells Aldurazyme to third parties and we recognize royalty revenue on net sales by Genzyme. We recognize a portion of the royalty as product transfer revenue when product is released to Genzyme and all obligations related to the transfer have been fulfilled at that point and title to, and risk of loss for the product is transferred to Genzyme. The product transfer revenue represents the fixed amount per unit of Aldurazyme that Genzyme is required to pay us if the product is unsold by Genzyme. The amount of product transfer revenue will eventually be deducted from the calculated royalties earned when the product is sold by Genzyme. Aldurazyme net product revenues for the second quarter and first six months of 2009 were $21.6 million and $38.7 million, respectively, compared to $13.4 million and $37.5 million, in the second quarter and first six months of 2008, respectively.

Kuvan was granted marketing approval in the U.S. and Europe in December 2007 and December 2008, respectively. Kuvan net product revenues for the second quarter and first six months of 2009 were $16.9 million and $32.5 million, respectively, compared to $12.0 million and $17.8 million in the second quarter and first six months of 2008, respectively.

We are developing PEG-PAL, an experimental enzyme substitution therapy for the treatment of phenylketonuria (PKU), for patients that do not respond well to Kuvan. In May 2008, we initiated a Phase I open label clinical trial of PEG-PAL in PKU patients. In June 2009, we released the results of the Phase I open label clinical trial of PEG-PAL. The primary objective of this study was to assess the safety and tolerability of single subcutaneous injections of PEG-PAL in subjects with PKU. We expect to initiate the Phase II clinical trial in the second half of 2009, pending institutional review board approval from the clinical trial sites. In 2007 and early 2008 we devoted substantial resources to the development of 6R-BH4, the active ingredient in Kuvan, for the treatment of certain cardiovascular indications including peripheral arterial disease and sickle cell disease. We released data from several 6R-BH4 trials in early February 2009. We completed enrollment of an open label Phase I/II clinical trial, an enzyme replacement therapy for the treatment of MPS IVA or Morquio Syndrome Type A in July 2009. We expect the results form this trial in mid 2010. We are conducting preclinical development of several other enzyme product candidates for genetic and other diseases, and a small molecule for the treatment of Duchenne Muscular Dystrophy.

Key components of our results of operations for the three and six months ended June 30, 2008 and 2009 include the following (in millions):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2008	2009	2008	2009
Total net product revenues	$ 60.5	$ 81.5	$ 118.1	$ 153.4
Collaborative agreement revenues	2.5	0.9	5.0	1.4
Cost of sales	9.6	19.8	26.8	34.2
Research and development expense	23.8	26.3	41.4	60.7
Selling, general and administrative expense	25.2	30.5	48.9	59.1
Net income (loss)	3.8	1.3	5.5	(11.8)

Stock-based compensation expense	5.9	9.0	10.4	16.8

See " *Results of Operations* " for discussion of the detailed components and analysis of the amounts above. Our cash, cash equivalents, short-term investments and long-term investments totaled $485.3 million as of June 30, 2009, compared to $561.4 million as of December 31, 2008, primarily due to the early settlement of our Medicis obligation. See " *Liquidity and Capital Resources* " below for a further discussion of our liquidity and capital resources.

Critical Accounting Policies and Estimates

In preparing our consolidated financial statements in accordance with accounting principles generally accepted in the U.S. (GAAP) and pursuant to the rules and regulations promulgated by the SEC, we make assumptions, judgments and estimates that can have a significant impact on our net income (loss) and affect the reported amounts of certain assets, liabilities, revenue and expenses, and related disclosures. We base our assumptions, judgments and estimates on historical experience and various other factors that we believe to be reasonable under the circumstances. Actual results could differ materially from these estimates under different assumptions or conditions. On a regular basis, we evaluate our assumptions, judgments and estimates. We also discuss our critical accounting policies and estimates with the Audit Committee of the Board of Directors.

We believe that the assumptions, judgments and estimates involved in the accounting for the impairment of long-lived assets, revenue recognition and related reserves, income taxes, inventory, research and development, and stock-based compensation have the greatest impact on our consolidated financial statements, so we consider these to be our critical accounting policies. Historically, our assumptions, judgments and estimates relative to our critical accounting polices have not differed materially from actual results.

There have been no significant changes in our critical accounting policies and estimates during the three and six months ended June 30, 2009 as compared to the critical accounting policies and estimates disclosed in *Management's Discussion and Analysis of Financial Condition and Results of Operations* included in our Annual Report on Form 10-K for the year ended December 31, 2008, which was filed with the SEC on February 27, 2009.

Recent Accounting Pronouncements

See Note 2(r) of our accompanying consolidated financial statements for a full description of recent accounting pronouncements and our expectation of their impact, if any, on our results of operations and financial condition.

Results of Operations

Net Income (Loss)

Our net income for the three months ended June 30, 2009 was $1.3 million and our net loss for the six months ended June 30, 2009 was $11.8 million, compared to net income of $3.8 million and $5.5 million for the three and six months ended June 30, 2008, respectively, with the change primarily due to the following (in millions):

	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Net income for the period ended June 30, 2008	$ 3.8	$ 5.5
Increased Naglazyme gross profit	5.8	14.9
Increased Kuvan gross profit	3.5	11.6
Increased Aldurazyme gross profit	2.0	1.9
Decreased Kuvan license fee revenues	(1.2)	(2.6)
Decreased Kuvan collaborative agreement revenue	(0.1)	(0.6)
Increased research and development expense	(2.5)	(19.3)
Increased selling, general and administrative expense	(5.3)	(10.2)
Impairment loss on equity investments	—	(5.8)
Gain on the sale of equity investments	1.6	1.6
Increased (decreased) Orapred royalty revenue	(1.0)	0.1
Decreased interest income	(3.2)	(6.7)
Increased interest expense	(0.4)	(0.4)
Increased amortization of Orapred intangible asset	(0.7)	(0.7)
Other individually insignificant fluctuations	(1.0)	(1.1)
Net income (loss) for the period ended June 30, 2009	$ 1.3	$ (11.8)

The increase in Naglazyme gross profit in the second quarter and first six months of 2009 as compared to the same periods in 2008 is primarily a result of additional patients initiating therapy outside the U.S. and the E.U. The increase in Kuvan gross profit during the second quarter and first six months of 2009 compared to the same periods of 2008 is primarily a result of additional patients initiating therapy in the U.S. The increase in Aldurazyme gross profit in the second quarter and first six months of 2009 as compared to the same periods in 2008 is primarily attributed to increased product transfer revenue resulting from increased shipments to Genzyme. The decrease in Kuvan license fee revenues is attributed to our fulfillment of all performance obligations relating to the 2005 up-front license payment of $25.0 million from Merck Serono in December 2008. The increase in selling, general and administrative expense is primarily due to increased facility and employee related costs and the continued commercialization of Kuvan in the U.S. The increase in research and development expense is primarily due to increases in development expense for our GALNS program for the treatment of MPS IVA, the up-front costs associated with a product licensed from La Jolla Pharmaceutical Company, and other early stage programs. See below for additional information related to the primary net income (loss) fluctuations presented above, including details of our operating expense fluctuations.

Net Product Revenues, Cost of Sales and Gross Profit

The following table shows a comparison of net product revenues for the three and six months ended June 30, 2008 and 2009 (in thousands):

	Three Months Ended June 30,			Six Months Ended June 30,		
	2008	2009	Change	2008	2009	Change
Naglazyme	$35,092	$42,929	$ 7,837	$ 62,826	$ 82,281	$19,455
Kuvan	12,016	16,940	4,924	17,807	32,452	14,645
Aldurazyme	13,350	21,603	8,253	37,450	38,653	1,203
Total Net Product Revenues	$60,458	$81,472	$21,014	$118,083	$153,386	$35,303

Naglazyme net product revenues earned from customers based outside the U.S. during the second quarter and first six months of 2009 were $37.2 million and $71.5 million, respectively. The negative impact of foreign currency exchange rates on Naglazyme sales denominated in currencies other than the U.S. dollar were approximately $1.7 million and $3.7 million in the second quarter and first six months of 2009, respectively. Gross profit from Naglazyme sales in the second quarter and first six months of 2009 were approximately $34.1 million and $65.5 million, respectively, representing gross margins of 79% and 80%, respectively compared to gross profits of $28.3 million and $50.6 million, in the second quarter and first six months of 2008, respectively, representing gross margins of approximately 81% and 80%, respectively. The slight decrease in gross margins during the second quarter of 2009 as compared to the second quarter of 2008 is attributed to the negative foreign currency impact during the second quarter of 2009.

We received marketing approval for Kuvan in the U.S. in December 2007 and began shipping product that same month. Net product revenue for Kuvan during the second quarter and first six months of 2009 was $16.9 million and $32.5 million, respectively, compared to $12.0 million and $17.8 million, respectively, during the second quarter and first six months of 2008. Gross profit from Kuvan in the second quarter and first six months of 2009 was approximately $13.7 million and $26.7 million, respectively, representing gross margins of approximately 81% and 82%, respectively. During the second quarter and first six months of 2008, gross profit from Kuvan was approximately $10.6 million and $15.7 million, respectively, representing gross margins of 88% for each period. All periods reflect royalties paid to third parties of 11%. In accordance with our inventory accounting policy, we began capitalizing Kuvan inventory production costs after U.S. regulatory approval was obtained in December 2007. As a result, the product sold in 2008 had an insignificant cost basis. The cost of sales for Kuvan for the second quarter and first six months of 2008 is primarily comprised of royalties paid to third parties based on Kuvan net sales. We expect U.S. gross margins for Kuvan for the foreseeable future to be in the lower 80% range as the expensed inventory has been mostly depleted.

Pursuant to our relationship with Genzyme, we record a 39.5% to 50% royalty on worldwide net product sales of Aldurazyme. We also recognize product transfer revenue when product is released to Genzyme and all of our obligations have been fulfilled. Genzyme's return rights for Aldurazyme are limited to defective product. The product transfer revenue represents the fixed amount per unit of Aldurazyme that Genzyme is required to pay us if the product is unsold by Genzyme. The amount of product transfer revenue will eventually be deducted from the calculated royalty rate when the product is sold by Genzyme.

Aldurazyme net product revenue during the second quarter and first six months of 2009 was $21.6 million and $38.7 million, respectively, compared to $13.4 million and $37.5 million in the second quarter and first six months of 2008, respectively. Aldurazyme net product revenues in the second quarter and first six months of 2009 included royalty revenues of $15.5 million and $30.0 million, respectively, compared to the second quarter and first six months of 2008 which included royalty revenue of $13.4 million and $29.8 million, respectively. Royalty revenue from Genzyme is based on 39.5% of net Aldurazyme sales by Genzyme, which totaled $39.2 million and $76.0 million, respectively, in the second quarter and first six months of 2009, respectively, compared to $38.7 million and $75.5 million in the second quarter and first six months of 2008. Incremental net product transfer revenue in the first six months of 2009 and 2008 was $8.6 million and $7.7 million, respectively. Incremental Aldurazyme net product transfer revenue reflects higher net shipments of Aldurazyme to Genzyme than Genzyme shipments to customers during the period to meet future product demand. In January 2008, we transferred existing finished goods on-hand to Genzyme under the restructured terms of the BioMarin/Genzyme LLC agreements, resulting in the recognition of significant incremental product transfer revenue during 2008. In the future, to the extent that Genzyme Aldurazyme inventory quantities on hand remain flat, we expect that our total Aldurazyme revenues will approximate the 39.5% to 50% royalties on net product sales by Genzyme. In the second quarter and first six months of 2009, Aldurazyme gross profit was $13.9 million and $27.0 million, respectively, representing a gross margin of 64% and 70%, respectively, which reflects the profit earned on royalty revenue and net incremental product transfer revenue. For the same periods in 2008, Aldurazyme gross profit was $11.9 million and $25.1 million, respectively, representing gross margins of 89% and 67%, respectively. The change in gross margins is attributed to a shift in revenue mix between royalty revenue and net product transfer revenues. During the second quarter of 2008, Aldurazyme net product revenues consisted entirely of royalty revenues, compared to the second quarter of 2009 when the revenue mix was 72% royalty revenues and 28% net product transfer revenues. In the first six months of 2009, the revenue mix was 78% royalty revenues and 22% net product transfer revenues, respectively, compared to the first six months of 2008, where the revenue mix was 79% royalty revenues and 21% net product transfer revenues, respectively. Aldurazyme gross margins are expected to fluctuate depending on the mix of royalty revenue, from which we earn higher gross profit, and product transfer revenue, from which we earn a lower gross profit.

Total cost of sales during the second quarter and first six months of 2009, was $19.8 million and $34.2 million, respectively, compared to $9.6 million and $26.8 million in the second quarter and first six months of 2008, respectively. The increase in cost of sales in the second quarter of 2009 compared to the second quarter of 2008 is attributed to an increase in product sales and the Aldurazyme product revenue mix. The increase in cost of sales during the fist six months of 2009 compared to the same period in 2008 is proportional to the increase in net product revenues for the same period.

Collaborative Agreement Revenues

Collaborative agreement revenues include both license revenue and contract research revenue under our agreement with Merck Serono, which was executed in May 2005. License revenues are related to amortization of the $25.0 million up-front license payment received from Merck Serono and contract research revenues are related to shared development costs that are incurred by us, of which approximately 50% is reimbursed by Merck Serono. Our performance obligations related to the initial $25.0 million up-front license payment were completed in December 2008. Therefore, periods subsequent to December 31, 2008 will not include amortization amounts related to this payment. As shared development spending increases or decreases, contract research revenues will also change proportionately. Reimbursable revenues are expected to increase if PEG-PAL successfully completes Phase II clinical trials and Merck Serono chooses to co-develop the PEG-PAL or 6R-BH4 program. The related costs are included in research and development expenses.

Collaborative agreement revenues in the second quarter and first six months of 2009 were comprised of reimbursable Kuvan development costs and amounted to $0.9 million and $1.4 million, respectively. During the second quarter and first six months of 2008 collaborative revenues were comprised of $1.5 million and $3.0 million of amortization relating to the $25.0 million up-front license payment received from Merck Serono and reimbursable Kuvan development of $1.0 million and $2.0 million, respectively. Kuvan development costs decreased during the second quarter and first six months of 2009 as compared to the same periods of 2008 due to reductions in Kuvan clinical trial activities.

Royalty and License Revenues

Royalty and license revenues for the second quarter and first six months of 2009 totaled $0.4 million and $2.0 million, respectively, compared to $1.2 million and $1.5 million in the second quarter and first six months of 2008, respectively. Royalty and license revenues for the three and six months ended June 30, 2009 included royalty revenues from Orapred product sold by the sublicensee of $0.2 million and $1.6 million, respectively, and 6R-BH4 royalty revenues for related products sold in Japan of $0.3 million and $0.4 million, respectively. Royalty and license revenues for the three and six months ended June 30, 2008 included royalty revenues from Orapred product sold by the sublicensee of $1.2 million and $1.5 million, respectively.

Research and Development Expense

Our research and development expense includes personnel, facility and external costs associated with the research and development of our product candidates and products. These research and development costs primarily include preclinical and clinical studies, manufacturing of our product candidates prior to regulatory approval, quality control and assurance and other product development expenses, such as regulatory costs.

Research and development expenses increased by $2.5 million and $19.3 million to $26.3 million and $60.7 million for the three and six months ended June 30, 2009, respectively, from $23.8 million and $41.4 million for the three and six months ended June 30, 2008, respectively. The change in research and development expenses for the second quarter and first six months of 2009 is primarily a result of the following (in millions):

	Three Months Ended June 30, 2009	Six Months Ended June 30, 2009
Research and development expenses for period ended June 30, 2008	$ 23.8	$ 41.4
License payment related to collaboration with La Jolla Pharmaceutical Company	—	8.8
Increased GALNS for Morquio Syndrome Type A development expense	0.6	3.4
Increased Kuvan development expenses	0.5	1.2
Increased Prodrug development expenses	0.3	1.1
Increased Duchene Muscular Dystrophy program development expense	1.1	1.4
Increased Naglazyme development expenses	0.5	0.5
Increased stock-based compensation expense	0.5	1.5
Decreased 6R-BH4 development expenses for indications other than PKU	(2.8)	(3.6)
Decreased PEG-PAL development expenses	(0.6)	(0.7)
Decreased research and development expenses on early development stage programs	—	(0.3)
Increase in non-allocated research and development expenses and other net changes	2.4	6.0
Research and development expenses for the period ended June 30, 2009	$ 26.3	$ 60.7

During the first quarter of 2009, we paid La Jolla Pharmaceutical Company an up-front license fee for the rights to develop and commercialize their investigational drug, Riquent. In February 2009, the results of the first interim efficacy analysis for the Phase III ASPEN Study were announced, and the Independent Data Monitoring Board determined that the continuation of the trial was futile. Based on the results of this interim efficacy analysis, the Company and La Jolla decided to stop the study and in March 2009, we terminated the license agreement. As such, there will not be any additional development expense for Riquent. The increase in GALNS development expenses is primarily attributed to an increase in pre-clinical studies and manufacturing costs in preparation for the Phase I/II clinical trial that was initiated in April 2009. The decrease in 6R-BH4 development expense for indications other than PKU is primarily due to a decline in pre-clinical studies in 2009. The increase in Kuvan research and development expense is attributed to long-term clinical activities related to post-approval regulatory commitments. We expect to continue incurring significant research and development expense for the foreseeable future due to long-term clinical activities related to Kuvan post-approval regulatory commitments and spending on our GALNS program for the treatment of Morquio Syndrome Type A and PEG-PAL and Prodrug programs. The increase in Duchene Muscular Dystrophy program development expense is primarily attributed to increased pre-clinical activities related to the disease. The increase in stock-based compensation expense is a result of an increased number of options outstanding due to increased number of employees. The increase in non-allocated research and development primarily includes increases in facilities costs, general research costs and research and development personnel.

Selling, General and Administrative Expense

Our selling, general and administrative expense includes commercial and administrative personnel, corporate facility and external costs required to support our commercialized products and product development programs. These selling, general and administrative costs include: corporate facility operating expenses and depreciation; marketing and sales operations; human resources; finance, legal and support personnel expenses; and other external corporate costs such as insurance, audit and legal fees.

Selling, general and administrative expenses increased by $5.3 million and $10.2 million, to $30.5 million and $59.1 million for the three and six months ended June 30, 2009, respectively, from $25.2 million and $48.9 million for the three and six months ended June 30, 2008, respectively. The components of the change for second quarter and first six months of 2009 primarily include the following (in millions):

	Three Months Ended June 30,	Six Months Ended June 30,
Selling, general and administrative expense for the period ended June 30, 2008	$ 25.2	$ 48.9
Increased (decreased) Naglazyme sales and marketing expenses	(0.8)	0.2
Increased stock-based compensation expense	1.5	3.6
Increased Kuvan commercialization expenses	0.2	1.9
Increased foreign exchange gains on un-hedged transactions	(0.1)	(0.2)
Absence of sales tax error corrected in the second quarter of 2008	1.2	1.2
Net increase in corporate overhead and other administrative expenses	3.3	3.5
Selling, general and administrative expenses for the period ended June 30, 2009	$ 30.5	$ 59.1

The increase in stock-based compensation expense was the result of an increased number of outstanding stock options due to an increase in the number of employees. We incurred increased Kuvan commercialization expenses as a result of increased commercialization efforts in the U.S. and Canada. The increase in corporate overhead and other administrative costs is comprised of increased employee related costs and increased depreciation expense. We expect selling, general and administrative expenses to increase in future periods as a result of the international expansion of Naglazyme and the U.S. commercialization activities for Kuvan.

Amortization of Intangible Assets

Amortization of acquired intangible assets includes the current amortization expense of the intangible assets acquired in the Ascent Pediatrics transaction in May 2004, including the Orapred developed and core technology. In June, 2009, we completed the purchase of all of the outstanding shares of capital stock of BioMarin Pediatrics II (formerly known as Ascent Pediatrics, Inc. and Medicis Pediatrics, Inc.) a wholly-owned subsidiary of Medicis Pharmaceutical Corporation (Medicis) as required by the original transaction agreements from 2004 for $70.6 million. Medicis' sole substantive asset was the intellectual property related to the Orapred franchise. Subsequently, on July 1, 2009, we transferred the exclusive U.S. intellectual property rights to our sublicense, resulting in revision of the remaining useful life of the Orapred intangible assets from August 2009 to July 1, 2009 when the transfer was completed. Amortization expense for the second quarter and first six months of 2009 was $1.8 million and $2.9 million, respectively, compared to $1.1 million and $2.2 million for the second quarter and first six months of 2008, respectively. The increase in amortization expense in the second quarter and first six months of 2009, is attributed to the revision of the intangible assets' useful life.

Kuvan license payments, recorded as intangible assets, made to third parties as a result of the Food and Drug Administration (FDA) approval of Kuvan in December 2007 and the European Medicines Agency (EMEA) approval of Kuvan in December 2008 are being amortized over approximately 7.0 years and 10.0 years, respectively. Amortization of the Kuvan intangible assets is recorded as a component of cost of sales and is expected to approximate $0.6 million annually through 2014 and $0.3 million annually through 2018. Amortization expense related to the Kuvan intangible assets for the three and six months ended June 30, 2009 was $0.2 million and $0.3 million, respectively, compared to $0.1 million and $0.2 million for the three and six months ended June 30, 2008, respectively. The increase in Kuvan related amortization expense is attributed to the EMEA approval milestone paid in December 2008.

Equity in the Loss of BioMarin/Genzyme LLC

Equity in the loss of BioMarin/Genzyme LLC includes our 50% share of the joint venture's loss for the period. Effective January 2008, we and Genzyme restructured BioMarin/Genzyme LLC regarding the manufacturing, marketing and sale of Aldurazyme. As of January 1, 2008, BioMarin/Genzyme LLC's operations consist primarily of certain research and development activities and the intellectual property which continues to be managed by the joint venture with costs shared equally by BioMarin and Genzyme.

Equity in the loss of the joint venture remained materially consistent for the second quarter and first six months of 2009, compared to the same periods in 2008 at approximately $0.6 million and $1.1 million, respectively.

Interest Income

We invest our cash, short-term and long-term investments in government and other high credit quality securities in order to limit default and market risk. Interest income decreased to $0.9 million and $3.0 million for the second quarter and first six months of 2009, respectively, from $4.1 million and $9.8 million for the same periods in 2008, respectively. The reduced interest yields during the second quarter and first six months of 2009 were due to lower market interest rates and decreased levels of cash and investments. We expect that interest income will decline in future quarters in 2009 as compared to 2008 due to reduced interest yields and lower cash and investment balances.

Interest Expense

We incur interest expense on our convertible debt. Interest expense also includes imputed interest expense on the discounted acquisition obligation for the Ascent Pediatrics transaction. Interest expense in the second quarter and first six months of 2009 was $4.4 million and $8.5 million, respectively, and included imputed interest of $1.5 million and $2.6 million, respectively. Interest expense in the second quarter and first six months of 2008 was $4.1 million and $8.2 million, respectively, and included imputed interest of $1.1 million and $2.2 million, respectively. Imputed interest will not be incurred in periods subsequent to June 2009 as the Medicis obligation has been paid in full.

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Changes in Financial Position

June 30, 2009 Compared to December 31, 2008

From December 31, 2008 to June 30, 2009, our cash, cash equivalents, short-term and long term investments decreased by $76.1 million primarily as a result of the early settlement the Medicis obligation. Our accounts receivable increased by $18.3 million due to increased sales of Naglazyme and Kuvan and receivables from Genzyme for Aldurazyme product transfer and royalty revenues. Other current assets decreased approximately $35.3 million from December 31, 2008 to June 30, 2009, primarily as a result of the receipt of the $30.0 million related to the EMEA milestone earned from Merck Serono in December 31, 2008 and paid in January 2009. Our net property, plant and equipment increased by approximately $34.8 million from December 31, 2008 to June 30, 2009, primarily as a result continued expansion and improvements to our facilities during the period. We expect property, plant and equipment to increase in future periods, due to several ongoing facility improvement projects, and we expect depreciation expense to increase as the assets are placed into service.

Liquidity and Capital Resources

Cash and Cash Flow

As of June 30, 2009, our combined cash, cash equivalents, short-term and long-term investments totaled $485.3 million, a decrease of $76.1 million from $561.4 million at December 31, 2008. During the six months ended June 30, 2009, we financed our operations primarily through net product sales and available cash, cash equivalents, short-term and long-term investments.

The decrease in our combined balance of cash, cash equivalents, short-term and long-term investments during the first six months of 2009 was $76.1 million, which was $66.2 million more than the net decrease in cash, cash equivalents and short-term investments during the first six months of 2008 of $9.9 million. The primary items contributing to the increase in net cash outflow in 2009 were as follows (in millions):

Decreased distributions from Genzyme/BioMarin LLC	$(18.4)
Increased Orapred acquisition payments, primarily the early settlement of the Medicis obligation	(70.1)
Increased capital asset purchases	(8.3)
Investment in La Jolla Pharmaceutical Company	(6.3)
Milestone payment received for Kuvan EMEA approval	30.0
Decreased proceeds from ESPP and stock option exercises	(18.6)
Net proceeds from the sale of equity investments	5.0
Reclassification of previously restricted cash related to Medicis	9.1
Net decreased cash used in operating activities, including net payments for working capital, other	11.4
Total increase in net cash outflow	$(66.2)

The net decrease in operating spend includes increases in cash receipts from net revenues partially offset by increases in cash payments made for operating activities, such as research and development and sales and marketing efforts, as discussed in " *Results of Operations "* above. Increased capital purchases primarily relate to continued expansion of corporate and manufacturing facilities at our Novato, California campus. Net payments for working capital in the first six months of 2009 primarily include decreased inventory build of $2.9 million, which excluded the inventory distribution from the joint venture, decreased accounts receivable build of $16.9 million, the receipt of the Merck Serono $30.0 million milestone payment earned in December 2008 related to the EMEA approval of Kuvan, and increased accounts payable and accrued liabilities build of $6.8 million.

We purchased all of the outstanding shares of capital stock of BioMarin Pediatrics II (formerly known as Ascent Pediatrics, Inc. and Medicis Pediatrics, Inc.) (Pediatrics) a wholly-owned subsidiary of Medicis Pharmaceutical Corporation (Medicis) as required by the original transaction agreements from 2004 for $70.6 million in cash. Pediatrics' sole substantial asset was the intellectual property related to the Orapred franchise. The stock purchase was substantially completed in accordance with the terms of the previously disclosed Securities Purchase Agreement dated May 18, 2004 and amended on January 12, 2005, by and among BioMarin, Medicis and Pediatrics. As a result of the completion of the transaction with Medicis, $9.1 million in cash was released from escrow pursuant to the sublicense and was reclassified from restricted cash to cash and cash equivalents in June 2009.

We expect that our net cash outflow in the remainder of 2009 related to capital asset purchases will increase significantly compared to 2008. The expected increase in capital asset purchases primarily includes: expansion of our manufacturing facility, increased spending on manufacturing and lab equipment, expansion of our corporate campus, including leasehold improvements and the continued development of information technology systems upgrades.

We have historically financed our operations primarily by the issuance of common stock and convertible debt and by relying on equipment and other commercial financing. During the remainder of 2009, and for the foreseeable future, we will be highly dependent on our net product revenue to supplement our current liquidity and fund our operations. We may in the future elect to supplement this with further debt or equity offerings or commercial borrowing. Further, depending on market conditions, our financial position and performance and other factors, in the future we may choose to use a portion of our cash or cash equivalents to repurchase our convertible debt or other securities.

Funding Commitments

We expect to fund our operations with our net product revenues from Naglazyme, Aldurazyme and Kuvan; cash; cash equivalents; short-term and long-term investments supplemented by proceeds from equity or debt financings; and loans or collaborative agreements with corporate partners, each to the extent necessary. We expect our current cash, cash equivalents, and short-term and long-term investments will meet our operating and capital requirements for the foreseeable future based on our current long-term business plans and assuming that we are able to achieve our long-term goals. This expectation could also change depending on how much we elect to spend on our development programs and for potential licenses and acquisitions of complementary technologies, products and companies.

Our investment in our product development programs and continued development of our existing commercial products has a major impact on our operating performance. Our research and development expenses for the three months ended June 30, 2008 and 2009 and for the period since inception (March 1997 for the portion not allocated to any major program) represent the following (in millions):

	Three Months Ended June 30,		Six Months Ended June 30,		Since Program
	2008	2009	2008	2009	Inception
Naglazyme	$ 2.3	$ 2.8	$ 4.5	$ 5.1	$ 127.7
Kuvan	2.7	3.2	4.7	5.8	95.6
GALNS for Morquio Syndrome Type A	3.2	3.8	4.6	7.9	24.3
6R-BH4 for indications other than PKU	4.4	1.4	7.9	3.6	45.7
PEG-PAL	3.0	2.4	5.3	4.7	35.9
Not allocated to specific major current projects	7.8	8.4	13.4	17.0	203.5
	$ 23.4	$ 22.0	$ 40.4	$ 44.1	$ 532.7

We cannot estimate the cost to complete any of our product development programs. Additionally, except as disclosed under “Overview” above, we cannot estimate the time to complete any of our product development programs or when we expect to receive net cash inflows from any of our product development programs. Please see “ Risk Factors” in our Annual Report on Form 10-K for the year ended December 31, 2008, which was filed with the SEC on February 27, 2009, for a discussion of the reasons that we are unable to estimate such information, and in particular the following risk factors included in our Form 10-K “—If we fail to maintain regulatory approval to commercially market and sell our drugs, or if approval is delayed, we will be unable to generate revenue from the sale of these products, our potential for generating positive cash flow will be diminished, and the capital necessary to fund our operations will be increased;” “—To obtain regulatory approval to market our products, preclinical studies and costly and lengthy preclinical and clinical trials are required and the results of the studies and trials are highly uncertain;” “—If we are unable to successfully develop manufacturing processes for our drug products to produce sufficient quantities at acceptable costs, we may be unable to meet demand for our products and lose potential revenue, have reduced margins or be forced to terminate a program;” “—If we fail to compete successfully with respect to product sales, we may be unable to generate sufficient sales to recover our expenses related to the development of a product program or to justify continued marketing of a product and our revenue could be adversely affected;” and “—If we do not achieve our projected development goals in the time frames we announce and expect, the commercialization of our products may be delayed and the credibility of our management may be adversely affected and, as a result, our stock price may decline.”

We may elect to increase our spending above our current long-term plans and may be unable to achieve our long-term goals. This could increase our capital requirements, including: costs associated with the commercialization of our products; additional clinical trials and the manufacturing of Naglazyme, Aldurazyme and Kuvan; preclinical studies and clinical trials for our other product candidates; potential licenses and other acquisitions of complementary technologies, products and companies; general corporate purposes; and working capital.

Our future capital requirements will depend on many factors, including, but not limited to:

- our ability to successfully market and sell Naglazyme and Kuvan;
- Genzyme’s ability to successfully market and sell Aldurazyme;
- the progress, timing, scope and results of our preclinical studies and clinical trials;
- the time and cost necessary to obtain regulatory approvals and the costs of post-marketing studies which may be required by regulatory authorities;
- the time and cost necessary to develop commercial manufacturing processes, including quality systems and to build or acquire manufacturing capabilities;
- the time and cost necessary to respond to technological and market developments;
- any changes made to or new developments in our existing collaborative, licensing and other commercial relationships or any new collaborative, licensing and other commercial relationships that we may establish; and
- whether our convertible debt is converted to common stock in the future.

Off-Balance Sheet Arrangements

We do not have any off-balance sheet arrangements that are currently material or reasonably likely to be material to our financial position or results of operations.

Borrowings and Contractual Obligations

In April 2007, we sold approximately $324.9 million of senior subordinated convertible debt due April 2017. The debt was issued at face value and bears interest at the rate of 1.875% per annum, payable semi-annually in cash. The debt is convertible, at the option of the holder, at any time prior to maturity, into shares of our common stock at a conversion price of approximately $20.36 per share, subject to adjustment in certain circumstances. There is a no call provision included and we are unable to unilaterally redeem the debt prior to maturity in 2017. We also must repay the debt if there is a qualifying change in control or termination of trading of our common stock. In March 2006, we sold approximately $172.5 million of senior subordinated convertible notes due 2013. The debt was issued at face value and bears interest at the rate of 2.5% per annum, payable semi-annually in cash. There is a no call provision included and we are unable to unilaterally redeem the debt prior to maturity in 2013. The debt is convertible, at the option of the holder, at any time prior to maturity, into shares of our common stock at a conversion price of approximately $16.58 per share, subject to adjustment in certain circumstances. However, we must repay the debt prior to maturity if there is a qualifying change in control or termination of trading of our common stock. Our $497.1 million of convertible debt will impact our liquidity due to the semi-annual cash interest payments and the scheduled repayments of the debt.

We have contractual and commercial obligations under our debt, operating leases and other obligations related to research and development activities, purchase commitments, licenses and sales royalties with annual minimums. Information about these obligations as of June 30, 2009 is presented below (in thousands).

	Payments Due by Period					
	Remainder of 2009	2010	2011-2012	2013-2014	2015 and Thereafter	Total
Convertible debt and related interest	$ 5,200	$10,401	$20,801	$186,544	$340,104	$563,050
Operating leases	1,895	3,859	6,481	3,423	3,158	18,816
Research and development and purchase commitments	12,333	6,655	5,026	3,565	3,979	31,558
Total	$ 19,428	$20,915	$32,308	$193,532	$347,241	$613,424

We are also subject to contingent payments related to various development activities totaling approximately $109.0 million, which are due upon achievement of certain regulatory and licensing milestones, and if they occur before certain dates in the future.

Item 3. Quantitative and Qualitative Disclosure about Market Risk

Our market risks at June 30, 2009 have not changed significantly from those in Item 7A of our Annual Report on Form 10-K for the year ended December 31, 2008, which was filed with the SEC on February 27, 2009, and Part II, Item 3 of our Quarterly Report on Form 10-Q for the quarter ended March 31, 2009 which was filed with the SEC on May 1, 2009.

Item 4. Controls and Procedures

(a) *Controls and Procedures*

An evaluation was carried out, under the supervision of and with the participation of our management, including our Chief Executive Officer and our Chief Financial Officer, of the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the Exchange Act)) as of the end of the period covered by this report.

Based on the evaluation, our Chief Executive Officer and our Chief Financial Officer have concluded that our disclosure controls and procedures are effective to ensure that the information required to be disclosed by us in this Quarterly Report on Form 10-Q was recorded, processed, summarized and reported within the time periods specified in the SEC's rules and instructions for Form 10-Q.

(b) *Change in Internal Controls over Financial Reporting*

There were no changes in our internal control over financial reporting during our most recently completed quarter that have materially affected or are reasonably likely to materially affect our internal control over financial reporting, as defined in Rule 13a-15(f) under the Exchange Act.

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PART II. OTHER INFORMATION

Item 1. Legal Proceedings.

None.

Item 1A. Risk Factors

The risk factors previously disclosed in Part 1, Item 1A of our Annual Report on Form 10-K for the fiscal year ended December 31, 2008, which was filed with the SEC on February 27, 2009, and Part II, Item 1A of our Quarterly Report on Form 10-Q for the quarter ended March 31, 2009, which was filed with the SEC on May 1, 2009, have remained substantially unchanged.

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

None.

Item 3. Defaults upon Senior Securities.

None.

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

We held our 2009 Annual Meeting of Stockholders (the Annual Meeting) on May 12, 2009 at the Inn of Marin, 250 Entrada Drive, Novato, California 94949. At the Annual Meeting, the following actions were taken:

a) The following directors were elected to serve until the Company's next annual meeting of stockholders and until their successors are elected:

Director Elected	Vote For	Withheld
Jean-Jacques Bienaimé	83,339,782	481,221
Michael Grey	73,376,278	10,444,725
Elaine J Heron Ph. D.	83,623,887	197,116
Joseph Klein, III	81,579,895	2,241,108
Pierre Lapalme	83,611,316	209,687
V. Bryan Lawlis, Ph. D.	73,776,254	10,044,749
Alan J. Lewis, Ph. D.	74,290,441	9,530,562
Richard A. Meier	83,656,463	164,540

b) The selection of KPMG LLP as independent registered public accounting firm for the year ending December 31, 2009 was ratified by a vote of 83,759,526 shares in favor; 34,592 shares against; and 26,885 shares abstained.

Item 5. Other Information.

None.

Item 6. Exhibits.

10.1*† Amended and Restated Severance Plan and Summary Plan Description as originally adopted on January 27, 2004 and amended and restated on May 12, 2009.

10.2† Severance Agreement between the Company and Dr. Emil D. Kakkis, dated May 28, 2009, previously filed with the SEC on June 3, 2009 as Exhibit 10.1 to the Company's Current Report on Form 8-K, which is incorporated herein by reference.

10.3† Consulting Agreement between the Company and Dr. Emil D. Kakkis, dated July 1, 2009, previously filed with the SEC on June 3, 2009 as Exhibit 10.2 to the Company's Current Report on Form 8-K, which is incorporated herein by reference.

31.1* Certification of Chief Executive Officer pursuant to Rules 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as amended.

31.2* Certification of Chief Financial Officer pursuant to Rules 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as amended.

32.1* Certification of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. This Certification accompanies this report and shall not, except to the extent required by the Sarbanes-Oxley Act of 2002, be deemed filed for purposes of §18 of the Securities Exchange Act of 1934, as amended.

* Filed herewith
† Management contract or compensatory plan or arrangement

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SIGNATURE

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

BIOMARIN PHARMACEUTICAL INC.

Dated: July 31, 2009

By /s/ JEFFREY H. COOPER
Jeffrey H. Cooper,
Senior Vice President, Chief Financial Officer
(On behalf of the registrant and as principal financial officer)

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Exhibit Index

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† Management contract or compensatory plan or arrangement

Exhibit 10.1

As Amended May 12, 2009

BIOMARIN PHARMACEUTICAL INC.

Severance Plan
and
Summary Plan Description

BIOMARIN PHARMACEUTICAL INC.

Severance Plan
and
Summary Plan Description

Attracting, retaining and motivating employees of BioMarin Pharmaceutical Inc. (" ***BioMarin*** ") and its subsidiary entities (together, the " ***Company*** ") are among the driving forces of the Company's success. The Company's management and Directors believe that the elements of its compensation package are one of the more quantifiable means of accomplishing these goals. We also believe that one area of particular concern for the Company's personnel is the effect of a change of corporate control. Senior personnel are especially at risk of termination or demotion were a third party to acquire control of BioMarin.

Accordingly, BioMarin's management and Directors have evaluated the Company's past severance policies, and have consolidated them into this Severance Plan (the " ***Plan*** "). For employees who meet the eligibility criteria set forth in Section 1 below, the Plan provides for the payment of severance benefits either –

(a) according to the Change of Control Specifications attached as **Exhibit A** for eligible employees whose termination of employment occurs on or after a Change of Control, as defined in Section 1 below; or

(b) according to the Severance Policy attached as **Exhibit B** for employees whose termination of employment occurs before a Change in Control.

Throughout this Plan, the term " ***BioMarin*** " is used when BioMarin Pharmaceutical Inc. is acting, through its employees and Directors, in its corporate interest as employer, Plan sponsor, or settlor with respect to the Plan. This Plan uses the term " ***Plan Administrator*** " whenever the Company is acting in the limited capacity of making determinations, decisions, and interpretations associated with administering the Plan.

This Plan supersedes and replaces any and all prior severance policies, plans and programs with respect to the Company's employees. The Plan is an "employee welfare benefit plan" as defined in Section 3(1) of the Employee Retirement Income Security Act of 1974, as amended (" ***ERISA*** "), is not intended to be a "pension plan" as defined in Section 3(2)(A) of ERISA, and shall be administered so as not to be an ERISA pension plan.

1. <u>Events That Trigger Benefits</u>

Benefits will become payable to you under the Plan if your employment with the Company terminates either –

(a) <u>both</u> while you are eligible for the Plan based on the conditions set forth in Section 2 <u>and</u> on or within 12 months after a Change of Control, as defined herein; or

(b) if the Company provides you with a written notice stating that the termination of your employment will entitle you to collect Plan benefits.

" ***Change of Control*** " shall mean either (i) a merger, consolidation, share exchange, business combination, issuance of securities, direct or indirect acquisition of securities, tender offer, exchange offer or other similar transaction as a result of which the persons that beneficially owned, directly or indirectly, the shares of BioMarin's voting stock immediately prior to such transaction cease to beneficially own, directly or indirectly, shares of voting stock representing more than fifty percent (50%) of the total voting power of all outstanding classes of voting stock of BioMarin or the continuing or surviving corporation if BioMarin is not the continuing or surviving corporation in such transaction, or (ii) a sale of all or substantially all of the assets of BioMarin.

2. Plan Eligibility

You will be eligible to participate in the Plan if (i) BioMarin classifies you as a full-time employee of the Company for payroll tax purposes, regardless of whether or not that classification is correct; (ii) Section 3 does not make you ineligible for benefits; and (iii) at the time you are notified of your termination of employment, you are classified by the Company as an active employee and you are not classified by the Company as being in one or more of the following ineligible categories:

(a) *Foreign Employees* , i.e. , persons who are not on a U.S. payroll of the Company.

(b) *Leased Employees* , i.e. , persons who are the Company's leased employees, within the meaning of Internal Revenue Code Section 414 (n).

(c) *Ineligible Bargaining Unit Employees* , i.e. , persons who are working under a collective bargaining agreement that does not provide for their Plan participation.

(d) *Persons Waiving Participation* , i.e. , persons to whom the Company did not extend the opportunity of participating in this Plan and who agreed orally or in writing to such non-participant status.

(e) *Persons on Indefinite Unpaid Leaves of Absence* , i.e. , persons who are absent from work on indefinite unpaid leaves of absence expected to exceed thirty days, except leaves during which regular pay continues or to the extent eligibility is required by applicable law.

(f) *Persons Discharged for Cause* , i.e. , persons whose employment is terminated for ***Cause*** , as determined by the Plan Administrator in its sole discretion based on the following types of misconduct:

(i) willful and repeated failure to comply with the Company's written policies or lawful directives on material business matters;

(ii) willful statements or conduct reflecting adversely on the Company and causing (or reasonably likely to cause) injury to the reputation, business or business relationships of the Company; or

(iii) illegal conduct, gross misconduct or, dishonesty, in each case which is willful and results (or is reasonably likely to result) in material damage to the Company.

3. Benefit Ineligibility

(a) Voluntary Termination

Even if you are on notice of your impending termination of employment, you will not be eligible for benefits under this Plan if the Plan Administrator determines, in its sole discretion, that your employment terminated due to Cause, your retirement, your death, your disability, or your resignation (even if you felt compelled to resign) other than under the circumstances set forth in Section 4(a) below.

(b) Changed Decisions

The Company has the right to cancel a pending termination of your employment at any time before you terminate employment. You will not be eligible for severance benefits under this Plan if your termination is canceled.

(c) Successor Employment, and Comparable Employment

Except as otherwise specifically provided in Section 4(a), you will not be entitled to severance benefits under this Plan, if the Plan Administrator determines, in its sole discretion, that a Successor Employer has offered you an Equivalent or Better Position to commence promptly following your termination of employment with the Company, whether you accept the position or not. A " ***Successor Employer*** " is:

(1) any entity that assumes operations or functions formerly carried out by the Company (such as the buyer of a facility or any entity to which a Company operation or function has been outsourced);

(2) any affiliate of the Company; or

(3) any entity making the job offer at the request of the Company (such as a joint venture of which the Company or an affiliate is a member).

" ***Equivalent or Better Position*** " means employment that does not involve either (i) a material reduction in your compensation or benefits, (ii) a relocation, without your written consent, of your principal worksite to a place more than thirty miles from its location immediately before the relocation, or (iii) a material reduction in responsibilities or support.

(d) Transition Assistance

You will not be entitled to benefits under this Plan unless you satisfy all transition assistance requests of the Company to the Company's satisfaction, such as aiding in the location of files, preparing accounting records, returning all Company property in your possession, or repaying any amounts you owe the Company.

4. Severance Benefits

(a) Change of Control Severance Benefit

(1) Eligibility . You are entitled to receive severance benefits under this Section 4(a) if the Plan Administrator determines that –

(i) your employment with the Company terminated without Cause both while you are eligible for the Plan based on the conditions set forth in Sections 2 and 3 above, and on or within 12 months after a Change of Control, and

(ii) you have irrevocably and properly executed the Release form prescribed by the Plan Administrator, you have filed the Release with the Plan Administrator within the time period the Plan Administrator prescribes, and the Release is enforceable in all respects.

(2) Nature of Severance Benefits . Attached as **Exhibit A** is a schedule entitled Change of Control Specifications (" ***Specifications*** ") that provides guidelines according to which the Plan Administrator shall determine the severance benefits that the Company will pay under this Section 4(a) of the Plan. The Plan Administrator will apply the Specifications to you (either individually or as a member of a class of eligible employees) with attention to three primary factors: the impact of the Change of Control on your future employment, your position with the Company prior to the Change of Control and your rights under any separate written agreement with the Company. Furthermore, the Plan Administrator shall apply the Specifications and the foregoing factors according to the following three scenarios relating to your future employment with a Successor Employer (as determined by BioMarin):

- CASE 1: You are Offered An Equivalent Or Better Position

- CASE 2: You are Offered A Position That Is Not An Equivalent Or Better Position
- CASE 3: You Are Not Offered A Position.

In accordance with the Specifications, the Plan Administrator shall determine your Plan benefits depending in part on your classification between the following five classes of employees (as determined by BioMarin):

- Chief Executive Officer and Senior Vice Presidents
- Vice Presidents
- Directors (including Senior and Associate Directors)
- Managers and Senior Managers
- All Other Employees

Nevertheless, the Company's use of title designations to determine benefit levels is not an absolute system. BioMarin, acting through its CEO, may accordingly elect in its settlor capacity to place certain personnel in a different classification based on the vulnerability of each person's position to elimination in the event of a Change of Control. The CEO will make such determinations, on a case-by-case basis, and will advise any affected employee of any adjustment to their classification for the purposes of the Plan.

In the case where you are not offered any position by the Successor Employer, or you decline an offer for a position that is not an Equivalent or Better Position, you are entitled to receive the most favorable benefits that the Specifications set forth for Participants. (This also applies if you are not offered an Equivalent or Better Position, accept the position offered, and are involuntarily terminated during the following twelve months for reasons other than Cause.)

If you become entitled to collect severance benefits under this Section 4(a), you will receive the following severance benefits (subject to any reduction required under subsection (4) hereof):

(i) a lump sum cash severance payment based on the Specifications and your most recent annual salary and position within the Company; and

(ii) 100% vesting in your right to exercise any outstanding stock options.

Additionally: if BioMarin classifies you as a Manager or above, you will receive employer-paid continuation of group medical insurance coverage per the Specifications; if BioMarin classifies you as a Vice President or above, you will also receive a bonus payment computed per the Specifications.

Notwithstanding any other provision above, if you are entitled to collect severance-related benefits under any separate written agreement with the Company, the Plan Administrator shall have the discretion to reduce your benefits under this Plan, on a category-by-category basis, to the extent necessary to avoid your receipt of duplicate benefits. Any such comparisons and reductions shall not occur on an aggregate basis and shall instead be determined by separately comparing the cash severance amounts, the terms under which the vesting of stock options accelerates, and the terms under which the Participant is entitled to continue to receive employer-paid group medical insurance coverage as provided in this Plan to the respective benefits provided under the separate written agreement. For the avoidance of doubt, in no event will this Plan limit or reduce the benefits to be received by you pursuant to any separate written agreement with the Company.

(3) Accelerated Vesting of Stock Options . Even if the Plan Administrator determines that you are not entitled to collect severance benefits under this Section 4(a), you will become 100% vested in your right to exercise any outstanding stock options provided the Plan Administrator determines that –

(i) you are eligible for the Plan based on the conditions set forth in Section 2 (applied as if your employment terminates on the date of the Change of Control), and

(ii) you have elected to accept a position with a Successor Employer, whether or not it is for an Equivalent or Better Position than the one you held prior to the Change of Control.

(4) Golden Parachute Limit on Benefits . Notwithstanding any other provision of this Section, the Specifications, or the Plan, the Plan Administrator shall reduce your Plan benefits in any manner necessary to avoid your receipt of any benefits that would, in the Plan Administrator's sole and absolute discretion, either constitute "excess parachute payments" within the meaning of Internal Revenue Code Section 280G (and the most recent regulations issued thereunder), or cause any other amounts or benefits to be excess parachute payments. If you receive an amount in excess of the limitations set forth in Section 280G, you agree to repay the excess amount to the Company upon demand, with interest at the rate provided for in Internal Revenue Code Section 124(b)(2)(B). You further agree to cooperate with the Company in connection with any administrative or judicial proceeding concerning the existence or amount of any excess parachute payments.

(b) Discretionary Severance Benefit

Benefits will become payable to you in accordance with the policy attached as ***Exhibit B*** if (i) your employment with the Company terminates before a Change of Control, (ii) the Company provides you with a written notice stating that the termination of your employment will entitle you to collect Plan benefits, and (iii) you irrevocably execute the Release form prescribed by the Plan Administrator, you file the Release with the Plan Administrator within the time period that the Plan Administrator prescribes, and the Release is enforceable in all respects.

5. Reemployment

If you are re-employed by the Company or a Successor Employer while benefits are still payable under the Plan, all such benefits will cease, except as otherwise specified by BioMarin or the Successor Employer, as the case may be. If you receive benefits after your eligibility ceases under the Plan due to reemployment, you must promptly repay any such benefits. By accepting benefits under the Plan, you agree to furnish all information, such as copies of your federal income tax returns with attachments, that the Plan Administrator requests for purposes of confirming your employment status.

6. Taxes

Taxes will be withheld from benefits under the Plan to the extent required by law.

7. Relation to Other Plans

Any prior severance or similar plan of the Company that might apply to you is hereby revoked as to you while you are eligible for Plan benefits. Benefits under this Plan will not be counted as "compensation" for purposes of determining benefits under any other benefit plan, pension plan, or similar arrangement. All such plans or similar arrangements, to the extent inconsistent with this Plan, are hereby so amended.

8. Amendment or Termination

BioMarin, acting through its Board of Directors and chief executive officer, has the right, in its nonfiduciary settlor capacity, to amend the Plan or to terminate it at any time, prospectively or retroactively, for any reason, without notice, including to discontinue or eliminate benefits. The Plan Administrator also has the right to amend the Plan, as elsewhere provided in the Plan. No person has any vested right to benefits under this Plan prior to actually collecting them. The Company may amend the Plan to provide greater or lesser benefits to particular employees by sending affected employees a letter or other notice setting forth the applicable benefit modification.

Notwithstanding the discretion reserved for the Board of Directors in the preceding paragraph, any amendment or termination of the Plan that occurs in contemplation of a Change of Control, in connection with a Change in Control, or within two years after a Change of Control shall only apply to those

Participants who (i) consent individually and in writing to the amendment or termination, or (ii) are not adversely affected by such amendment or termination. Any Plan decision or interpretation that is made either during the period of time described in the preceding sentence or pursuant to this paragraph shall be subject to judicial review under a de novo standard, and not under the arbitrary and capricious standard that is generally intended to apply (and shall apply) to all other Plan decisions and interpretations.

9. Claims Procedures

(a) Claims Normally Not Required

Normally, you do not need to present a formal claim to receive benefits payable under this Plan.

(b) Disputes

If any person (Claimant) believes that benefits are being denied improperly, that the Plan is not being operated properly, that fiduciaries of the Plan have breached their duties, or that the Claimant's legal rights are being violated with respect to the Plan, the Claimant must file a formal claim with the Plan Administrator. This requirement applies to all claims that any Claimant has with respect to the Plan, including claims against fiduciaries and former fiduciaries, except to the extent the Plan Administrator determines, in its sole discretion, that it does not have the power to grant all relief reasonably being sought by the Claimant.

(c) Time for Filing Claims

A formal claim must be filed within 90 days after the date the Claimant first knew or should have known of the facts on which the claim is based, unless the Plan Administrator in writing consents otherwise.

(d) Procedures

The Plan Administrator has adopted the procedures attached as **Exhibit C** for considering claims, which it may amend from time to time, as it sees fit. These procedures shall comply with all applicable legal requirements. The right to receive benefits under this Plan is contingent on a Claimant using the prescribed claims procedures to resolve any claim. Therefore, if a Claimant (or his or her successor or assign) seeks to resolve any claim by any means other than the prescribed claims provisions, he or she must repay all benefits received under this Plan and shall not be entitled to any further Plan benefits.

10. Plan Administration

(a) Discretion

The Plan Administrator is responsible for the general administration and management of the Plan and shall have all powers and duties necessary to fulfill its responsibilities, including, but not limited to, the discretion to interpret and apply the Plan and to determine all questions relating to eligibility for benefits. The Plan shall be interpreted in accordance with its terms and their intended meanings. However, the Plan Administrator and all Plan fiduciaries shall have the discretion to interpret or construe ambiguous, unclear, or implied (but omitted) terms in any fashion they deem to be appropriate in their sole discretion, and to make any findings of fact needed in the administration of the Plan. The validity of any such interpretation, construction, decision, or finding of fact shall not be given de novo review if challenged in court, by arbitration, or in any other forum, and shall be upheld unless clearly arbitrary or capricious.

(b) Finality of Determinations

All actions taken and all determinations made in good faith by the Plan Administrator or by Plan fiduciaries will be final and binding on all persons claiming any interest in or under the Plan. To the extent the Plan Administrator or any Plan fiduciary has been granted discretionary authority under the Plan, the Plan Administrator's or Plan fiduciary's prior exercise of such authority shall not obligate it to exercise its authority in a like fashion thereafter.

(c) Drafting Errors

If, due to errors in drafting, any Plan provision does not accurately reflect its intended meaning, as demonstrated by consistent interpretations or other evidence of intent, or as determined by the Plan Administrator in its sole discretion, the provision shall be considered ambiguous and shall be interpreted by the Plan Administrator and all Plan fiduciaries in a fashion consistent with its intent, as determined in the sole discretion of the Plan Administrator. The Plan Administrator shall amend the Plan retroactively to cure any such ambiguity.

(d) Fiduciary Disclosure Authority

No Plan fiduciary shall have the authority to answer questions about any pending or final business decision of the Company or any affiliate that has not been officially announced, to make disclosures about such matters, or even to discuss them, and no person shall rely on any unauthorized, unofficial disclosure. Thus, before a decision is officially announced, no fiduciary is authorized to tell any person, for example, that he or she will or will not be terminated or that the Company will or will not offer severance benefits in the future. Nothing in this subsection shall preclude any fiduciary from fully participating in the consideration, making, or official announcement of any business decision.

(e) Scope

This Section may not be invoked by any person to require the Plan to be interpreted in a manner inconsistent with its interpretation by the Plan Administrator or other Plan fiduciaries.

11. Costs, Indemnification, and Reimbursement of Litigation Expenses

(a) Costs and Indemnification

All costs of administering the Plan and providing Plan benefits will be paid by the Company, with one exception: Any expenses (other than arbitrator fees) incurred in resolving disputes with multiple Claimants concerning their entitlement to the same benefit may be charged against the benefit, which will be reduced accordingly. To the extent permitted by applicable law and in addition to any other indemnities or insurance provided by the Company, the Company shall indemnify and hold harmless its (and its affiliates') current and former officers, Directors, and employees against all expenses, liabilities, and claims (including legal fees incurred to defend against such liabilities and claims) arising out of their discharge in good faith of their administrative and fiduciary responsibilities with respect to the Plan. Expenses and liabilities arising out of willful misconduct will not be covered under this indemnity.

(b) Reimbursement of Participants for Certain Litigation Expenses

In the event that, at any time on or after a Change of Control, a participant substantially prevails over the Company or any successor to its interests in any dispute that arises between the participant and the Company or its successor with respect to the terms or interpretation of this Plan, whether instituted by formal legal proceedings or otherwise (including any action that the individual takes to enforce the terms of this Plan or to defend against any action taken by the Company), the Company shall reimburse the individual for all costs and expenses, including reasonable attorneys' fees, arising from such dispute, proceedings, or actions. Such reimbursement will however be subject to proof of such costs and expenses being provided

12. Limitation on Employee Rights

This Plan shall not give any employee the right to be retained in the service of the Company or interfere with or restrict the right of the Company to discharge or retire the employee.

13. Governing Law

This Plan is a welfare plan subject to ERISA, and it shall be interpreted, administered, and enforced in accordance with that law. To the extent that state law is applicable, the statutes and common law of the State of California (excluding any that mandate the use of another jurisdiction's laws) shall apply.

14. Miscellaneous

Where the context so indicates, the singular will include the plural and vice versa. Titles are provided herein for convenience only and are not to serve as a basis for interpretation or construction of the Plan. Unless the context clearly indicates to the contrary, a reference to a statute or document shall be construed as referring to any subsequently enacted, adopted, or executed counterpart.

15. Statement of ERISA Rights

The following information required by ERISA is furnished by the Plan Administrator.

General Plan Information

Name of Plan:	BioMarin Pharmaceutical Inc. Severance Plan
Plan Administrator's Name:	BioMarin Pharmaceutical Inc.
Address and Phone Number:	105 Digital Drive Novato, CA 94949 Telephone: (415) 506-6700
Employer Identification Number assigned by IRS:	68-0397820
Plan Number of the Plan:	5
Type of Plan:	Severance Pay Plan
Type of Administration:	Employer Administration
Name and Address of Registered Agent for Service of Legal Process	Plan Administrator
Source of Contribution to the Plan:	General assets of BioMarin Pharmaceutical Inc.
Funding Medium:	General assets of BioMarin Pharmaceutical Inc.
Plan Fiscal Year Ends On:	December 31 st

(a) Plan Modification, Amendment, And Termination

The Plan Administrator has the right to amend or terminate the Plan at any time in accordance with Section 8. The consent of any employee or participant is not required to terminate, modify, amend, or change the Plan.

(b) Your Rights under ERISA

As a participant in the Plan, you are entitled to certain rights and protections under ERISA. Your rights include the following:

(1) Right to Examine Plan Documents :

You have the right to examine all plan documents, including the annual reports and plan descriptions filed with the U.S. Department of Labor. The Plan Administrator will tell you where the plan documents are available for examination. There will be no charge for examining plan documents.

(2) Right to Obtain Copies of Plan Documents :

You have the right to obtain copies of all plan documents. You should make your request in writing to the Plan Administrator. There may be a reasonable charge for the copies.

(3) Right to Written Explanation of Denial :

If your claim for benefits under the plan is denied in whole or in part, you must be given a written explanation of the reason for denial.

(4) Right to Review :

You have the right to request a review and reconsideration of any denial of your claim for plan benefits.

(5) Other ERISA Rights :

You can protect your rights under ERISA. For example, ERISA gives you the right to file suit in a state or federal court if your claim for benefits under the Plan is denied or ignored. You can also file suit in a federal court if you request plan documents and do not receive them within 30 days. In such a case, the court will require the Plan Administrator to give you the plan documents you requested. In some cases, the court could also require the Plan Administrator to pay you up to $110 a day until you receive the requested materials.

ERISA gives you rights and protections. ERISA also imposes special obligations on the people (called “fiduciaries”) who operate this employee benefit plan. The fiduciaries have a duty to protect the Plan’s money and the interests of plan participants. The named fiduciary is BioMarin Pharmaceutical Inc. ERISA prohibits anyone from discriminating against you in any way to prevent you from receiving a plan benefit or from exercising your rights under ERISA.

If you believe that the fiduciaries have misused the Plan’s money, or that you have been discriminated against for asserting your rights, you can ask for help from the U.S. Department of Labor. You can also file suit in a federal court. If you file a suit, the court will decide who must pay the court costs and legal fees. If your suit is successful, the court may require the fiduciary to pay those costs and fees.

If you have any questions about the Plan, you should contact the Plan Administrator.

If you have any questions about this statement of your rights under ERISA, you should contact the nearest office of the Employee Benefits Security Administration, U.S. Department of Labor, listed in your telephone directory or the Division of Technical Assistance and Inquiries, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Employee Benefits Security Administration.

BIOMARIN PHARMACEUTICAL INC.

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Exhibit A

Change of Control Specifications

Upon a Change of Control, 100% of all unvested stock options, restricted stock, restricted stock units and other equity compensation with time-based vesting will automatically vest for all active employees. In addition, all active employees will be eligible to receive the benefits specified below.

		CASE 1	CASE 2					CASE 3
			Employee Is Offered a Less Than Equivalent Position, and Accepts the Position,					
		Employee Is Offered an Equivalent or Better Position	and Stays in That Position for Twelve Months	and Voluntarily Terminates in the First Twelve Months	and Is Involuntarily Terminated in the First Twelve Months, For Reasons Other Than for Cause	for Cause	and Declines the Position	Employee is Not Offered a Position
Chief Executive Officer and Senior Vice Presidents	**Base Salary**	None	None	None	12 months	None	12 months	12 months
	Benefits Continuation	None	None	None	12 months	None	12 months	12 months
	Bonus	None	None	None	See Note (9) below	None	See Note (9) below	See Note (9) below
Vice Presidents	**Base Salary**	None	None	None	10.5 months	None	12 months	12 months
	Benefits Continuation	None	None	None	10.5 months	None	12 months	12 months
	Bonus	None	None	None	See Note (9) below	None	See Note (9) below	See Note (9) below
Directors, Sr. Directors & Associate Directors	**Base Salary**	None	None	None	9 months	None	9 months	9 months
	Benefits Continuation	None	None	None	9 months	None	9 months	9 months
	Bonus	None	None	None	None	None	None	None
Managers & Senior Managers	**Base Salary**	None	None	None	6 months	None	6 months	6 months
	Benefits Continuation	None	None	None	6 months	None	6 months	6 months
	Bonus	None	None	None	None	None	None	None
All Other Employees	**Base Salary**	None	None	None	As per BioMarin Severance Policy	None	As per BioMarin Severance Policy	As per BioMarin Severance Policy
	Benefits Continuation	None	None	None	None	None	None	None
	Bonus	None	None	None	None	None	None	None

NOTES:

(1) The terms outlined above are guidelines. The CEO may move a given individual into a higher Group to compensate for, for example, greater vulnerability to a CoC.
(2) Salary and bonus payments are lump sum payments at the time of the CoC, and are in lieu of any other severance pay.
(3) All payments made by the Company are on a before-tax basis, and are not grossed up to cover any federal, state, or local income or excise taxes imposed.
(4) The term “vest” is used here to mean that all subsequent waiting requirements are waived.
(5) Equity awards vest on the effective date of the CoC.
(6) If the BioMarin Annual Cash Bonus Plan is modified or expanded, this policy will be modified accordingly.
(7) Base salary payments as described above exclude discretionary bonuses.
(8) Continued benefits are limited to life, medical and dental insurance.
(9) The bonus is based on the greater of the actual bonus paid for the prior calendar year or the target bonus for the current calendar year.

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Exhibit B

Employee Severance Policy

To the extent that an employee is eligible for severance benefits under Section 4(b) above, the Company will pay such benefits generally according to the following formula:

1 / 2 week of base salary for each complete year of service but no less than two weeks of base salary

provided that the Company may pay such greater or lesser benefit as it deems appropriate on a case-by-case basis.

BIOMARIN PHARMACEUTICAL INC.

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Exhibit C

Detailed Claims Procedures

1. Claims Procedure

(a) Initial Claims

All claims shall be presented to the Plan Administrator in writing. Within 90 days after receiving a claim, a claims official appointed by the Plan Administrator shall consider the claim and issue his or her determination thereon in writing. The claims official may extend the determination period for up to an additional 90 days by giving the Claimant written notice. The initial claim determination period can be extended further with the consent of the Claimant. Any claims that the Claimant does not pursue in good faith through the initial claims stage shall be treated as having been irrevocably waived.

(b) Claims Decisions

If the claim is granted, the benefits or relief the Claimant seeks shall be provided. If the claim is wholly or partially denied, the claims official shall, within 90 days (or a longer period, as described above), provide the Claimant with written notice of the denial, setting forth, in a manner calculated to be understood by the Claimant:

(1) the specific reason or reasons for the denial;

(2) specific references to the provisions on which the denial is based;

(3) a description of any additional material or information necessary for the Claimant to perfect the claim, together with an explanation of why the material or information is necessary; and

(4) an explanation of the procedures for appealing denied claims.

If the Claimant can establish that the claims official has failed to respond to the claim in a timely manner, the Claimant may treat the claim as having been denied by the claims official.

(c) Appeals of Denied Claims

Each Claimant shall have the opportunity to appeal the claims official's denial of a claim in writing to an appeals official appointed by the Plan Administrator (which may be a person, committee, or other entity). A Claimant must appeal a denied claim within 60 days after receipt of written notice of denial of the claim, or within 60 days after it was due if the Claimant did not receive it by its due date. The Claimant (or his or her duly authorized representative) may review pertinent documents in connection with the appeals proceeding and may present issues and comments in writing. The Claimant may present only the evidence and theories during the appeal that the Claimant presented during the initial claims stage, except for information the claims official may have requested the Claimant to provide to perfect the claim. Any claims that the Claimant does not pursue in good faith through the appeals stage, such as by failing to file a timely appeal request, shall be treated as having been irrevocably waived.

(d) Appeals Decisions

The decision by the appeals official shall be made not later than 60 days after the written appeal is received by the Plan Administrator, unless special circumstances require an extension of time, in which case a decision shall be rendered as soon as possible, but not later than 120 days after the appeal was filed, unless the Claimant agrees to a further extension of time. The appeal decision shall be in writing, shall be set forth in a manner calculated to be understood by the Claimant, and shall include:

(1) the specific reasons for the decision;

(2) specific references to the Plan provisions on which the decision is based, if applicable;

(3) a statement that the Claimant is entitled to receive, on request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claim for benefits; and

(4) information concerning the Claimant's right to bring a civil action for benefits under ERISA Section 502(a)

If a Claimant does not receive the appeal decision by the date it is due, the Claimant may deem his or her appeal to have been denied.

(e) Procedures

The Plan Administrator shall adopt procedures by which initial claims shall be considered and appeals shall be resolved; different procedures may be established for different claims. All procedures shall be designed to afford a Claimant full and fair consideration of his or her claim, and to conform with Labor Regulation 2560.503-1, and any successor regulation.

Exhibit 31.1

CERTIFICATION

I, Jean-Jacques Bienaimé, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of BioMarin Pharmaceutical Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: July 31, 2009

/s/ JEAN-JACQUES BIENAIMÉ
Jean-Jacques Bienaimé
Chief Executive Officer

Exhibit 31.2

CERTIFICATION

I, Jeffrey H. Cooper, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of BioMarin Pharmaceutical Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: July 31, 2009

/s/ JEFFREY H. COOPER
Jeffrey H. Cooper
Senior Vice President, Chief Financial Officer

Exhibit 32.1

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

In connection with the Quarterly Report on Form 10-Q of BioMarin Pharmaceutical Inc. (the "Company") for the quarter ended June 30, 2009, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), we, Jean-Jacques Bienaimé and Jeffrey H. Cooper, hereby certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that:

(1) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ JEAN-JACQUES BIENAIMÉ
Jean-Jacques Bienaimé
Chief Executive Officer

July 31, 2009

/s/ JEFFREY H. COOPER
Jeffrey H. Cooper
Senior Vice President, Chief Financial Officer

July 31, 2009