ZELTIQ AESTHETICS INC

FORM 10-Q
(Quarterly Report)

Filed 11/09/16 for the Period Ending 09/30/16

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Telephone	(925) 474-2500
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Symbol	ZLTQ
SIC Code	3845 - Electromedical and Electrotherapeutic Apparatus
Industry	Advanced Medical Equipment & Technology
Sector	Healthcare
Fiscal Year	12/31

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 September 30, 2016

OR

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

For the transition period to .

Commission file number: 001-35318

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

Delaware	**27-0119051**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. employer identification no.)**

4410 Rosewood Drive
Pleasanton, CA 94588
(Address of principal executive offices and Zip Code)

(925) 474-2500
(Registrant's telephone number, including area code)

None
(Former name, former address and formal 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 Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

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

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

As of November 4, 2016 , there were 39,977,041 shares of the registrant's common stock, par value $0.001 per share, outstanding.

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PART I. FINANCIAL INFORMATION

Item 1. Financial Statements

ZELTIQ Aesthetics, Inc.
Condensed Consolidated Balance Sheets
(Unaudited)
(In thousands, except share and per share data)

	September 30, 2016	December 31, 2015
ASSETS		
CURRENT ASSETS:		
Cash and cash equivalents	$ 60,369	$ 35,710
Short-term investments	2,460	12,867
Accounts receivable, net	40,348	33,359
Inventory	32,246	28,095
Prepaid expenses and other current assets	10,286	11,771
Total current assets	145,709	121,802
Long-term investments	2,217	3,490
Restricted cash	836	452
Property and equipment, net	9,637	6,969
Intangible asset, net	4,605	5,092
Long-term deferred tax assets	32,243	40,475
Other assets	310	547
Total assets	$ 195,557	$ 178,827
LIABILITIES AND STOCKHOLDERS' EQUITY		
CURRENT LIABILITIES:		
Accounts payable	$ 16,947	$ 10,903
Deferred revenue	18,708	7,682
Accrued and other current liabilities	36,769	34,815
Total current liabilities	72,424	53,400
Long-term deferred revenue	142	226
Other non-current liabilities	1,015	899
Total liabilities	$ 73,581	$ 54,525
Commitments and contingencies (Note 6)		
STOCKHOLDERS' EQUITY:		
Preferred stock, $0.01 par value: 50,000,000 shares authorized and no shares issued and outstanding at September 30, 2016 and December 31, 2015	—	—
Common stock, $0.001 par value: 500,000,000 shares authorized at September 30, 2016, and December 31, 2015; 39,918,987 and 39,217,630 shares issued and outstanding at September 30, 2016 and December 31, 2015, respectively	43	43
Additional paid-in capital	225,866	215,621
Accumulated other comprehensive loss	(4,624)	(1,636)
Accumulated deficit	(99,309)	(89,726)
Total stockholders' equity	121,976	124,302
Total liabilities and stockholders' equity	$ 195,557	$ 178,827

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

ZELTIQ Aesthetics, Inc.
Condensed Consolidated Statements of Operations
(Unaudited)
(In thousands, except share and per share data)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2016	2015	2016	2015
Revenue	$ 95,157	$ 61,202	$ 249,091	$ 177,191
Cost of revenue	28,407	16,041	74,161	48,535
Gross profit	66,750	45,161	174,930	128,656
Operating expenses:				
Research and development	6,488	5,464	19,096	17,352
Sales and marketing	40,336	30,647	131,330	87,253
General and administrative	8,270	7,115	27,538	22,156
Total operating expenses	55,094	43,226	177,964	126,761
Income (loss) from operations	11,656	1,935	(3,034)	1,895
Interest income (expense), net	7	13	(49)	40
Other income (expense), net	498	359	2,553	(508)
Income (loss) before income taxes	12,161	2,307	(530)	1,427
Provision for income taxes	6,972	160	9,053	231
Net income (loss)	$ 5,189	$ 2,147	$ (9,583)	$ 1,196
Basic net income (loss) per share:				
Net income (loss) per share, basic	$ 0.13	$ 0.06	$ (0.24)	$ 0.03
Weighted average shares of common stock outstanding used in computing net income (loss) per share, basic	39,745,125	38,881,183	39,510,075	38,640,269
Diluted net income (loss) per share:				
Net income (loss) per share, diluted	$ 0.12	$ 0.05	$ (0.24)	$ 0.03
Weighted average shares of common stock outstanding used in computing net income (loss) per share, diluted	41,592,568	40,860,593	39,510,075	40,724,261

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

ZELTIQ Aesthetics, Inc.
Condensed Consolidated Statements of Comprehensive Income (Loss)
(Unaudited)
(In thousands)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2016	2015	2016	2015
Net income (loss)	$ 5,189	$ 2,147	$ (9,583)	$ 1,196
Other comprehensive loss, net of tax:				
Foreign currency translation adjustments	(680)	(661)	(3,009)	(451)
Changes in unrealized gains (losses) on available-for-sale securities	(1)	2	21	7
Other comprehensive loss, net of tax	(681)	(659)	(2,988)	(444)
Comprehensive income (loss)	$ 4,508	$ 1,488	$ (12,571)	$ 752

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

ZELTIQ Aesthetics, Inc.
Condensed Consolidated Statements of Cash Flows
(Unaudited)
(In thousands)

	Nine Months Ended September 30,	
	2016	**2015**
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net income (loss)	$ (9,583)	$ 1,196
Adjustments to reconcile net loss to net cash provided by operating activities:		
Depreciation and amortization	2,468	1,712
Stock-based compensation	12,805	10,261
Deferred income taxes	8,232	—
Amortization of investment premium, net	30	63
Provision for (reduction in) doubtful accounts receivable	(242)	270
Provision for excess and obsolete inventory	1,314	403
Loss on disposal and write-off of property and equipment	174	—
Gain on foreign currency exchange rates	(2,005)	—
Changes in operating assets and liabilities:		
Accounts receivable	(6,925)	(11,773)
Inventory	(5,928)	(13,698)
Prepaid expenses and other assets	1,617	(1,794)
Deferred revenue, net of deferred costs	11,002	1,681
Accounts payable, accrued and other liabilities	8,472	17,573
Net cash provided by operating activities	21,431	5,894
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchase of investments	(2,963)	(12,079)
Proceeds from sale of investments	8,683	—
Proceeds from maturity of investments	5,950	18,260
Purchase of property and equipment	(4,970)	(2,332)
Change in restricted cash	(421)	94
Net cash provided by investing activities	6,279	3,943
CASH FLOWS FROM FINANCING ACTIVITIES:		
Principal payments on capital leases	(93)	(89)
Proceeds from issuance of common stock upon exercise of stock options and from employee stock purchase program	2,935	4,136
Tax payments related to shares withheld for vested restricted stock units	(5,271)	(6,577)
Tax effect of employee stock plans	(29)	26
Net cash used in financing activities	(2,458)	(2,504)
Effect of exchange rate changes on cash and cash equivalents	(593)	(364)
NET INCREASE IN CASH AND CASH EQUIVALENTS	24,659	6,969
CASH AND CASH EQUIVALENTS—Beginning of period	35,710	28,649
CASH AND CASH EQUIVALENTS—End of period	$ 60,369	$ 35,618

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

Notes to Condensed Consolidated Financial Statements
(Unaudited)

1. Basis of Presentation and Summary of Significant Accounting Policies

Basis of Presentation

The accompanying unaudited interim condensed consolidated financial statements of ZELTIQ Aesthetics, Inc. (the "Company") have been prepared and presented in accordance with generally accepted accounting principles in the United States of America ("GAAP"), and the applicable rules and regulations of the Securities and Exchange Commission ("SEC") and contain all adjustments, including normal recurring adjustments, necessary to state fairly our results of operations for the three and nine months ended September 30, 2016 and 2015 , our comprehensive income (loss) for the three and nine months ended September 30, 2016 and 2015 , our financial position as of September 30, 2016 and our cash flows for the nine months ended September 30, 2016 and 2015 . The Condensed Consolidated Balance Sheet as of December 31, 2015 was derived from the December 31, 2015 audited financial statements but does not include all disclosures required by accounting principles generally accepted in the United States of America.

The results of operations for the three and nine months ended September 30, 2016 are not necessarily indicative of the results that may be expected for the year ending December 31, 2016 or any other future period, and the Company makes no representations related thereto. The information included in this Quarterly Report on Form 10-Q should be read in conjunction with "Management's Discussion and Analysis of Financial Condition and Results of Operations," "Quantitative and Qualitative Disclosures About Market Risk" and the Consolidated Financial Statements and notes thereto included in Items 7, 7A and 8, respectively, in our Annual Report on Form 10-K for the year ended December 31, 2015 .

Certain amounts in the prior year's condensed consolidated balance sheet have been reclassified to conform to the current period's presentation. These reclassifications had no impact on previously reported condensed consolidated statements of cash flows or statements of operations.

Out-of-period adjustments

During the three months ended September 30, 2016 , the Company recorded certain out-of-period correcting adjustments totaling $0.5 million to increase cost of revenue by $0.3 million , with a corresponding decrease to inventory, and to increase other operating expenses by $0.2 million , with a corresponding increase to other accruals, relating to prior periods, primarily the year ended December 31, 2015 . The Company does not believe that such amounts are material to any prior period consolidated financial statements, and the impact of correcting these errors in the three months ended September 30, 2016 is not material to the current consolidated financial statements or expected to be material to the financial statements for the year ending December 31, 2016 .

During the three months ended June 30, 2016 , the Company recorded certain out-of-period correcting adjustments totaling $0.4 million to increase cost of revenue by $0.2 million , with a corresponding decrease to inventory, and to increase other operating expenses by $0.2 million , with a corresponding increase to other accruals, relating to prior periods. The Company does not believe that such amounts are material to any prior period consolidated financial statements, and the impact of correcting these errors in the nine months ended September 30, 2016 is not material to the current consolidated financial statements or expected to be material to the financial statements for the year ending December 31, 2016 .

During the three months ended March 31, 2016 , the Company recorded certain out-of-period correcting adjustments totaling $0.2 million to increase cost of revenue by $0.4 million , with a corresponding increase to warranty accrual, and to reduce other operating expenses by $0.2 million , with a corresponding decrease to other accruals, relating to prior periods. The Company does not believe that such amounts are material to any prior period consolidated financial statements, and the impact of correcting these errors in the nine months ended September 30, 2016 is not material to the current consolidated financial statements or expected to be material to the financial statements for the year ending December 31, 2016 .

During the three months ended June 30, 2015 , the Company recorded an out-of-period adjustment of $0.2 million to increase cost of revenue to write-off of certain inventory held by vendors. Of this adjustment, $0.1 million , $23,000 and $42,000 related to the fiscal years ended December 31, 2013 , 2014 and 2015 , respectively. The Company does not believe that such amounts are material to any prior period consolidated financial statements, and the impact of correcting these errors in the nine months ended September 30, 2015 is not material to those condensed consolidated financial statements.

Principles of Consolidation

The condensed consolidated financial statements include the accounts of the Company and its wholly-owned subsidiaries. All significant intercompany accounts and transactions have been eliminated.

The functional currency of the Company's international subsidiaries is evaluated on a case-by-case basis and has been determined to be the respective local currency. All assets and liabilities of these foreign operations are translated to U.S. Dollars at current period end exchange rates, and revenue and expenses are translated to U.S. Dollars using average exchange rates in effect during the period. The gains and losses from the foreign currency translation of the foreign subsidiaries' financial statements are included as a separate component of stockholders' equity under "Accumulated other comprehensive income (loss)." Gains or losses arising from currency exchange rate fluctuations on transactions denominated in a currency other than the local functional currency are included in other income (expense), net.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make certain estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reported periods. The primary estimates underlying the Company's financial statements include the value of revenue elements, product warranty, inventory valuation, allowance for doubtful accounts receivable, assumptions regarding variables used in calculating the fair value of the Company's equity awards, fair value of investments, useful lives of intangibles, income taxes and contingent liabilities. Actual results could differ from those estimates.

Concentration of Credit Risk

As of September 30, 2016 , no individual customer accounted for more than 10% of accounts receivable. As of December 31, 2015 , one individual customer, which is a large aesthetic chain, accounted for 10% of accounts receivable. During the three and nine months ended September 30, 2016 , no customer accounted for more than 10% of total revenue (A). During the three months ended September 30, 2015 , no customer accounted for more than 10% of total revenue. During the nine months ended September 30, 2015 , one individual customer accounted for 12% of total revenue.

(A) The Company incorrectly reported, on Form 10-Q for the period ended June 30, 2016, that one customer accounted for 12% of total revenue during the three months ended June 30, 2016 when no customers accounted for 10% or more of revenue during the period. This error in disclosure had no impact on previously reported revenue in the condensed consolidated statements of operations for the three and six months ended June 30, 2016 .

Recent Accounting Pronouncements

In May 2014, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2014-09, Revenue from Contracts with Customers (Topic 606) to supersede nearly all existing revenue recognition guidance under GAAP. The objective of the updated guidance is to provide a single, comprehensive revenue recognition model for all contracts with customers to improve comparability within industries, across industries, and across capital markets. This standard update contains principles that the Company will apply to determine the measurement of revenue and timing of when it is recognized. This guidance allows for two methods of adoption: (a) full retrospective adoption, meaning the guidance is applied to all periods presented, or (b) modified retrospective adoption, meaning the cumulative effect of applying this guidance is recognized as an adjustment to the fiscal 2018 opening accumulated deficit balance. The Company expects to adopt this guidance in the first quarter of 2018, and is currently evaluating the two adoption methods as well as the impact this new guidance will have on its consolidated financial statements and related disclosures.

In August 2014, the FASB the FASB issued ASU No. 2014-15, Disclosure of Uncertainties About an Entity's Ability to Continue as a Going Concern. This standard update provides guidance around management's responsibility to evaluate whether there is substantial doubt about an entity's ability to continue as a going concern and to provide related footnote disclosures. The new guidance is effective for all annual and interim periods ending after December 15, 2016 . The new guidance is not expected to have an impact on the Company's consolidated financial statements and related disclosures.

In July 2015, the FASB issued ASU No. 2015-11 to amend ASC Topic 330, Inventory (Topic 330) to simplify the measurement of inventory. The amendments require that an entity measure inventory at the lower of cost and net realizable value instead of the lower of cost and market. This guidance is effective for annual periods beginning on or after December 15, 2016 , including interim periods within those fiscal years. Early adoption of the update is permitted. This guidance will be effective for the Company in the first quarter of 2017. The Company is currently evaluating the impact this new guidance will have on its consolidated financial statements and related disclosures.

In February 2016, the FASB issued ASU No. 2016-02, Leases (Topic 842) to increase transparency and comparability among organizations by recognizing lease assets and lease liabilities on the balance sheet and disclosing key information about leasing arrangements. This guidance is effective for annual periods beginning after December 15, 2018 , including interim periods within those fiscal years. Early adoption of the update is permitted. The Company is evaluating the impact of the adoption of this update on its consolidated financial statements and related disclosures.

In March 2016, the FASB issued ASU No. 2016-09, Improvements to Employee Share-Based Payment Accounting. The ASU is designed to simplify several aspects of accounting for share-based payment award transactions, which include the income tax consequences, classification of awards as either equity or liabilities, classification on the statement of cash flows and forfeiture rate calculations. The guidance is effective for annual periods beginning after December 15, 2016 , including interim periods within those fiscal years. This ASU will be effective for the Company in the first quarter of 2017. The Company is currently evaluating the impact this new guidance will have on its consolidated financial statements and related disclosures.

In May 2016, the FASB issued ASU No. 2016-11, Revenue Recognition (Topic 605) and Derivatives and Hedging (Topic 815): Rescission of SEC Guidance Because of Accounting Standards Updates 2014-09 and 2014-16 pursuant to Staff announcements at the March 3, 2016 EITF Meeting ("ASU 2016-11"). The update rescinds from the FASB Accounting Standards Codification certain SEC paragraphs as a result of two SEC Staff Announcements at the March 3, 2016 meeting. The amendments in ASU 2016-11, as applicable to the Company, related to Topic 605 are effective after December 15, 2017 , including interim periods within those fiscal years. The Company is currently assessing the impact of this new guidance on its condensed consolidated financial statements.

In June 2016, the FASB issued ASU 2016-13, Financial Instruments – Credit Losses, which changes the accounting for recognizing impairments of financial assets. Under the new guidance, credit losses for certain types of financial instruments will be estimated based on expected losses. The new guidance also modifies the impairment models for available-for-sale debt securities and for purchased financial assets with credit deterioration since their origination. The new guidance will be effective for the Company starting in the first quarter of fiscal 2021. Early adoption is permitted starting in the first quarter of fiscal 2020. The Company is in the process of determine the effects the adoption will have on its consolidated financial statements as well as whether to adopt the new guidance early.

In August 2016, the FASB issued ASU 2016-15, Statement of Cash Flows (Topic 230), which intends to reduce diversity in practice in how certain transactions are classified in the statement of cash flows. This guidance is effective for annual periods beginning on or after December 15, 2017, including interim periods within those fiscal years. This guidance will be effective for the Company in the first quarter of 2018. The Company is currently evaluating the impact this new guidance will have on its consolidated financial statements.

2. Fair Value of Financial Instruments

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability (an exit price) in an orderly transaction between market participants at the reporting date. The accounting guidance establishes a three-tiered hierarchy, which prioritizes the inputs used in the valuation methodologies in measuring fair value:

- Level 1—Quoted prices in active markets for identical assets or liabilities.
- Level 2—Inputs other than Level 1 that are observable, either directly or indirectly, such as quoted prices in markets that are not active, or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.
- Level 3—Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

The categorization of a financial instrument within the valuation hierarchy is based on the lowest level of input that is significant to the fair value measurement.

The Company classifies its cash equivalents and investments within Level 1 and Level 2, as it uses quoted market prices or alternative pricing sources and models utilizing market observable inputs. The following tables set forth the fair value of the Company's financial assets and liabilities by level within the fair value hierarchy (in thousands):

	As of September 30, 2016			
	Level 1	Level 2	Level 3	Fair Value
Financial Assets				
Cash equivalents:				
Money market funds	$ 3,106	$ —	$ —	$ 3,106
Short-term investments:				
U.S. Treasury	—	250	—	250
Corporate bonds	—	2,210	—	2,210
Long-term investments:				
U.S. Treasury	—	501	—	501
Certificates of deposit	1,716	—	—	1,716
Total	$ 4,822	$ 2,961	$ —	$ 7,783

	As of December 31, 2015			
	Level 1	Level 2	Level 3	Fair Value
Financial Assets				
Cash equivalents:				
Money market funds	$ 1,342	$ —	$ —	$ 1,342
Short-term investments:				
U.S. Agency securities	—	1,549	—	1,549
U.S. Treasury	—	500	—	500
Corporate bonds	—	7,763	—	7,763
Commercial paper	—	500	—	500
Certificates of deposit	2,555	—	—	2,555
Long-term investments:				
U.S. Agency securities	—	497	—	497
Corporate bonds	—	874	—	874
Certificates of deposit	2,119	—	—	2,119
Total	$ 6,016	$ 11,683	$ —	$ 17,699

During the three and nine months ended September 30, 2016 and 2015 , the Company did not have any transfers of financial assets measured at fair value on a recurring basis to or from Level 1, Level 2 or Level 3. The Company did not hold any Level 3 assets or liabilities as of September 30, 2016 or December 31, 2015 .

The carrying amounts of the Company's cash equivalents, accounts receivable and accounts payable approximate fair value due to their relatively short maturities.

3. Balance Sheet and Statement of Operations Information

Investments

Short-term and long-term investments as of September 30, 2016 are as follows (in thousands):

Short-term

	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
U.S. Treasury	$ 250	$ —	$ —	$ 250
Corporate bonds	2,210	—	—	2,210
Total	$ 2,460	$ —	$ —	$ 2,460

Long-term

	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
U.S. Treasury	$ 501	$ —	$ —	$ 501
Certificates of deposit	1,716	—	—	1,716
Total	$ 2,217	$ —	$ —	$ 2,217

Short-term and long-term investments as of December 31, 2015 are as follows (in thousands):

Short-term

	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
U.S. Agency securities	$ 1,551	$ —	$ (2)	$ 1,549
U.S. Treasury	500	—	—	500
Corporate bonds	7,776	—	(13)	7,763
Commercial paper	500	—	—	500
Certificates of deposit	2,555	—	—	2,555
Total	$ 12,882	$ —	$ (15)	$ 12,867

Long-term

	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
U.S. Agency securities	$ 499	$ —	$ (2)	$ 497
Corporate bonds	878	—	(4)	874
Certificates of deposit	2,119	—	—	2,119
Total	$ 3,496	$ —	$ (6)	$ 3,490

For each of the three and nine months ended September 30, 2016 and 2015 , gains or losses realized on the sale of investments were not material.

Contractual maturities of short-term and long-term investments as of September 30, 2016 , are as follows (in thousands):

	September 30, 2016	
	Amortized Cost	Fair Value
Due in one year or less	$ 2,460	$ 2,460
Due in one year to five years	2,217	2,217
	$ 4,677	$ 4,677

When evaluating the investments for other-than-temporary impairment, the Company reviews factors such as the length of time and extent to which fair value has been below the amortized cost basis, review of current market liquidity, interest rate risk, the financial condition of the issuer, as well as credit rating downgrades. The Company believes that the unrealized losses are not other-than-temporary. The Company does not have a foreseeable need to liquidate the portfolio and anticipates recovering the full cost of the securities either as market conditions improve, or as the securities mature.

Inventory

Inventory consisted of the following (in thousands):

	September 30, 2016	December 31, 2015
Raw materials	$ 9,503	$ 9,117
Finished goods	22,743	18,978
Total inventory	$ 32,246	$ 28,095

Property and equipment, net

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

	September 30, 2016	December 31, 2015
Lab equipment, tooling and molds	$ 6,006	$ 3,228
Computer software and equipment	5,251	4,776
Leasehold improvements	2,937	1,670
Furniture and fixtures and other	1,229	985
Construction in progress	1,284	1,945
Total property and equipment	16,707	12,604
Less: Accumulated depreciation and amortization	(7,070)	(5,635)
Property and equipment, net	$ 9,637	$ 6,969

Capital leases totaling $0.4 million as of September 30, 2016 and December 31, 2015 are included in "Computer software and equipment" in the table above.

Depreciation expense was $0.8 million and $2.0 million for the three and nine months ended September 30, 2016 , respectively, and $0.5 million and $1.2 million for the three and nine months ended September 30, 2015 , respectively.

Accrued and Other Current Liabilities

The following table shows the components of accrued liabilities (in thousands):

	September 30, 2016	December 31, 2015
Accrued payroll and employee related expenses	$ 12,916	$ 14,887
Accrued marketing expenses	6,104	5,554
Accrued royalty	6,509	5,453
Sales and other taxes payable	2,583	3,703
All other accrued liabilities individually less than 5% of current liabilities	8,657	5,218
Total accrued and other current liabilities	$ 36,769	$ 34,815

Deferred Revenue

Long-term and short-term portions of deferred revenue consisted of the following (in thousands):

		September 30, 2016	December 31, 2015
Deferred extended warranty revenue		$ 2,895	$ 2,902
Deferred training revenue		4,244	3,115
Deferred product revenue	*	11,711	1,891
Total deferred revenue		$ 18,850	$ 7,908
Less: short-term portion of deferred revenue		(18,708)	(7,682)
Long-term portion of deferred revenue (i.e., deferred extended warranty revenue)		142	226

* The total balance primarily consists of undelivered CoolAdvantage Plus applicators that total $6.4 million as of September 30, 2016 and other deferrals that have not met the Company's revenue recognition criteria for recognition. These applicators are expected to be delivered to customers starting in the fourth quarter of 2016.

Product Warranties

The Company provides a standard limited warranty on its products of generally one year for both control units and applicators for its direct customers. For indirect customers in international markets, the Company provides a standard limited warranty on its products of generally 3.2 years for control units and 1.2 years for applicators.

Warranty costs are accrued for based on the Company's best estimates when management determines that it is probable a charge or liability has been incurred and the amount of loss can be reasonably estimated. Warranty accrual and the changes in the balances for the nine months ended September 30, 201 6 and 2015 were as follows (in thousands):

	Nine Months Ended September 30,	
	2016	2015
Balance at the beginning of the period	$ 527	$ 569
Settlements of warranties	(430)	(721)
Provision	1,694	688
Balance at the end of the period	$ 1,791	$ 536

4. Intangible Asset, Net

Intangible asset consists of an exclusive license agreement with Massachusetts General Hospital for commercializing patents and other technology. All milestone payments payable by the Company pursuant to the terms of the agreement subsequent to the date of the Food and Drug Administration clearance were capitalized as purchased technology when paid, and are subsequently amortized into cost of revenue using the straight-line method over the estimated remaining useful life of the technology, not to exceed the term of the agreement or the life of the patent.

Intangible asset, net was as follows (in thousands):

	September 30, 2016	December 31, 2015
Purchased technology	$ 8,050	$ 8,050
Less: Accumulated amortization	(3,445)	(2,958)
Intangible asset, net	$ 4,605	$ 5,092

Amortization expense was $0.2 million and $0.5 million for the three and nine months ended September 30, 2016 , respectively, and $0.2 million and $0.5 million for the three and nine months ended September 30, 2015 , respectively.

As of September 30, 2016 , estimated amortization expense for the next five years and all years thereafter are as follows (in thousands):

Fiscal Year	
2016 (remaining 3 months)	$ 163
2017	650
2018	650
2019	650
2020	650
Thereafter	1,842
Total	$ 4,605

5. Related Party Transactions

Brazilian Distribution Agreement

The Company entered into a distribution agreement with ADVANCE Medical, Inc. and its wholly-owned subsidiaries ("ADVANCE") dated March 18, 2011 , as the Company's exclusive distributor of CoolSculpting in Brazil and Mexico, as amended on August 29, 2011 , February 27, 2012 and September 4, 2012 . The distribution agreement was further amended on August 15, 2014 , whereby ADVANCE is no longer a distributor in Mexico, effective November 13, 2014 . As the exclusive distributor in Brazil, ADVANCE is required to purchase a minimum quantity of the Company’s products each calendar quarter throughout the term of the distribution agreement which expires on December 31, 2018 . Venrock, a former principal stockholder of the Company, owns an equity interest in ADVANCE Medical, Ltd., the parent company of ADVANCE. Dr. Bryan E. Roberts, who was a member of the Company's Board of Directors until our annual meeting of stockholders in June 2016, is also a partner of Venrock Associates. ADVANCE purchases product with payment terms up to 180 days , and to date no amounts have been determined to be unrecoverable. The revenue recognized by the Company was $0.3 million and $1.7 million for the three and nine months ended September 30, 2016 , respectively, and $1.4 million and $2.9 million for the three and nine months ended September 30, 2015 , respectively. The accounts receivable balance was $0.9 million and $1.7 million as of September 30, 2016 and December 31, 2015 , respectively.

6. Commitments and Contingencies

Operating Lease Obligations

As of September 30, 2016 , minimum future lease payments under the Company's non-cancellable operating leases are as follows (in thousands):

Year Ending December 31,	Amount
2016 (remaining 3 months)	$ 681
2017	3,881
2018	5,454
2019	5,198
2020	4,942
Thereafter	32,663
Total future minimum lease payments	$ 52,819

Rent expense was $0.7 million and $2.0 million for the three and nine months ended September 30, 2016, respectively, and $0.7 million and $1.8 million for the three and nine months ended September 30, 2015, respectively.

In the second quarter of 2016, the Company entered into two new operating leases: one lease for the Company’s executive offices (headquarters) in Pleasanton, California (“new Pleasanton lease”) which will expire in October 2027 (as amended) and another lease for the manufacturing facility in Galway, Ireland which will expire in June 2022. In connection with the new Pleasanton lease, in the third quarter of 2016, the Company made a decision to vacate its existing Pleasanton headquarters in November 2016, which is under an operating lease through March 2019.

Unrecognized Tax Benefits

The Company's gross liability for unrecognized tax benefits totaled $7.1 million , including estimated interest and penalties as of September 30, 2016 , of which $0.4 million are classified as long-term income taxes payable and $6.8 million are netted against deferred tax assets. The Company is unable to make a reasonably reliable estimate of the timing of payments in individual years due to uncertainties in the timing of tax audits, if any, or their outcomes.

Legal Matters

From time to time, the Company may be involved in legal and administrative proceedings and claims of various types. The Company records a liability in its consolidated financial statements for these matters when a loss is known and considered probable and the amount can be reasonably estimated. Management reviews these estimates in each accounting period as additional information becomes known and adjusts the loss provision when appropriate. If the loss is not probable or cannot be reasonably estimated, a liability is not recorded in the consolidated financial statements. If a loss is probable but the amount of loss cannot be reasonably estimated, the Company discloses the loss contingency and an estimate of possible loss or range of loss (unless such an estimate cannot be made). The Company does not recognize gain contingencies until they are realized. Legal costs incurred in connection with loss contingencies are expensed as incurred.

The Company is not currently a defendant in any litigation or claims that are expected to have a material impact on the Company's condensed consolidated financial statements.

Product Liability Contingencies

The Company has historically been and continues to be predominantly self-insured for any product liability losses related to its products. The Company obtains third-party insurance to limit its exposure to these claims, but this insurance is subject to a cap on reimbursement. Product liability losses are, by their nature, uncertain and are based upon complex judgments and probabilities. The Company accrues for reported claims and estimates for incurred, but not reported claims, to the extent that such losses can be reasonably estimated. The Company determines its accruals for probable product liability losses based on various factors, including historical claims and settlement experience. The total amount of self-insured product liability claims settled in the three and nine months ended September 30, 2016 were $1.2 million and $2.7 million , respectively. The total amount of self-insured product liability claims settled in the three and nine months ended September 30, 2015 were not material. The estimated liability associated with reported and pending self-insured product liability claims was $1.6 million as of September 30, 2016 and $1.1

million as of December 31, 2015 , which is recorded as an accrual on the Company's condensed consolidated balance sheet and expected to be paid within one year.

Indemnifications

In the normal course of business, the Company enters into contracts that contain a variety of representations and warranties and provide for general indemnifications. The Company's exposure under these agreements is unknown because it involves claims that may be made against the Company in the future, but have not yet been made. To date, the Company has not paid any claims, and the Company believes that the estimated fair value of these indemnification obligations is minimal and it has not accrued any amounts for these obligations.

7. Stock-Based Compensation Expense

The Company's Equity Plans permit the issuance of stock options ("options"), restricted stock units ("RSUs"), performance restricted stock units ("PRSUs") and other types of awards to employees, directors, and consultants. As of September 30, 2016 , the Equity Plans have 3,792,574 shares available for future issuance.

Stock-based compensation expense consisted of the following (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2016	2015	2016	2015
Revenue (B)	$ 66	$ 56	$ 122	$ 205
Cost of revenue	243	234	733	517
Research and development	521	424	1,529	1,166
Sales and marketing	1,759	1,163	4,962	4,062
General and administrative	1,394	1,151	5,459	4,311
Total stock-based compensation	$ 3,983	$ 3,028	$ 12,805	$ 10,261

(B) This amount relates to an arrangement with a non-employee customer that was recorded as a reduction of revenue for both the three and nine months ended September 30, 2016 and 2015 .

Stock Option Awards

The fair value of each option is estimated at the date of grant using the Black-Scholes option-pricing model with the following assumptions:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2016	2015	2016	2015
Expected term	*	*	4.80 years	4.80 years
Expected volatility	*	*	63%	63%
Risk-free interest rate	*	*	1.21%	1.29%
Expected dividend yield	*	*	—%	—%

*No stock options were issued during the three months ended September 30, 2016 and 2015 .

Stock option activity is summarized as follows:

	Options Outstanding	
	Number of Stock Options Outstanding	Weighted-Average Exercise Price
Balance, December 31, 2015	2,641,592	$ 6.86
Granted	302,226	22.25
Exercised	(325,004)	6.40
Canceled	(7,509)	4.19
Balance, September 30, 2016	2,611,305	$ 8.70

As of September 30, 2016, there was $3.2 million of unrecognized compensation expense, net of estimated forfeitures, related to options, which amount the Company expects to recognize over a weighted average period of 3.63 years . The weighted average grant-date fair value of options granted in the first nine months of 2016 was $11.15 per share.

Restricted Stock Activity

Activity related to restricted stock units and awards is set forth below:

	Number of Units and Awards	Weighted-Average Grant Date Fair Value
Balance, December 31, 2015	1,312,651	$ 19.09
Granted	798,611	25.75
Vested	(523,751)	15.70
Canceled	(154,342)	22.38
Balance, September 30, 2016	1,433,169	$ 23.68

As of September 30, 2016, there was $24.4 million of unrecognized compensation expense, net of estimated forfeitures, related to RSUs, which amount the Company expects to recognize over 3.64 years .

Performance Restricted Stock Units

From time to time, the Company will issue PRSUs to certain employees of the Company. During both the nine months ended September 30, 2016 and 2015 , the Company granted 44,877 and 50,000 PRSUs with the number of shares to be issued determined based on the performance condition. The actual number of units that ultimately vest depends on achieving certain performance criteria and can range from 0% to 100% of the number of PRSUs granted. The recipients must remain employed on a continuous basis through the end of the applicable performance period in order to receive shares subject to that award. As of September 30, 2016 , for PRSUs with 100% probability of achievement, the Company had $0.1 million of unrecognized compensation expense, net of estimated forfeitures, which the Company expects to recognize over a weighted average period of 0.27 years .

Equity modification related to the Company's former Chief Financial Officer

On February 2016, the Company's former Chief Financial Officer and the Company mutually agreed that he would cease to be an officer and employee of the Company which resulted in the Company incurring $0.3 million in termination benefits. The stock-based compensation expense relating to the modifications of the former Chief Financial Officer's unvested stock options and stock awards was $1.1 million and was recognized during the nine months ended September 30, 2016.

8. Net Income (Loss) per Share

The Company calculates basic net income (loss) per share using net income (loss) and the weighted-average number of shares outstanding during the reporting period. Diluted net income (loss) includes any dilutive effect of outstanding options and RSUs. PRSUs are excluded from the shares used to compute diluted EPS until the performance conditions associated with the PRSUs are met.

A reconciliation of the numerator and denominator used in the calculation of the basic and diluted net income (loss) per share is as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2016	2015	2016	2015
Numerator				
Net income (loss) (in thousands)	$ 5,189	$ 2,147	$ (9,583)	$ 1,196
Denominator				
Weighted average shares of common stock outstanding used in computing net income (loss) per share, basic	39,745,125	38,881,183	39,510,075	38,640,269
Dilutive effect of incremental shares and share equivalents (C)	1,847,443	1,979,410	—	2,083,992
Weighted average shares of common stock outstanding used in computing net income (loss) per share, diluted	41,592,568	40,860,593	39,510,075	40,724,261
Net income (loss) per share:				
Net income (loss) per share, basic	$ 0.13	$ 0.06	$ (0.24)	$ 0.03
Net income (loss) per share, diluted	$ 0.12	$ 0.05	$ (0.24)	$ 0.03

(C) For the nine months ended September 30, 2016 , the effect of shares that would be issued upon option exercises and upon settlement of restricted stock units have been excluded from the calculation of diluted loss per share because those shares are anti-dilutive.

The following outstanding potentially dilutive securities were excluded from the computation of diluted net income (loss) per share of common stock for the periods presented, because including them would have been anti-dilutive:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2016	2015	2016	2015
Options to purchase common stock	45,622	45,622	1,326,334	37,433
Restricted stock units	6,424	19,810	465,948	8,154
Common stock issuable pursuant to the ESPP	9,563	—	—	—
Total	61,609	65,432	1,792,282	45,587

9. Income Taxes

The Company recorded income tax expense of $7.0 million and $9.1 million for the three and nine months ended September 30, 2016 , respectively, and $0.2 million for both the three and nine months ended September 30, 2015 , respectively. The income tax expense for the three and nine months ended September 30, 2016 and 2015 reflects the mixture and distribution of pre-tax income in the Company's operating jurisdictions. The Company continues to maintain a valuation allowance on its deferred tax assets relating to its California research and development credit.

The Company generated pre-tax year-to-date ordinary losses in its zero-rate jurisdiction and has elected to exclude these pre-tax year-to-date ordinary losses from its zero-rate jurisdiction from its estimated effective tax rate computations. The exclusion is based on the determination that a loss in a zero-rate jurisdiction ultimately will not provide the Company a tax benefit.

As of September 30, 2016 , the Company had $7.1 million of unrecognized tax benefits. The Company recognizes interest and penalties related to uncertain tax positions as part of the income tax provision. To date, such interest and penalties have not been material.

During the fourth quarter of the year ended December 31, 2015, the Company released its valuation allowance against U.S. federal and state deferred tax assets, with the exception of the California research and development credit carryforwards. Based upon the evaluation of positive and negative evidence supporting the realizability of deferred tax assets as of the quarter ended September 30, 2016 , there remains sufficient positive evidence to support the realization of U.S. federal and state deferred tax assets, with the exception of California research and development credit carryforwards.

The Company files annual income tax returns in multiple taxing jurisdictions around the world, including the U.S. federal and state jurisdictions, Ireland and the United Kingdom. A number of years may elapse before an uncertain tax position is audited and finally resolved. While it is often difficult to predict the final outcome or the timing of resolution of any particular uncertain tax position, the Company believes that its reserves for income taxes reflect the most likely outcome. The Company adjusts these reserves, as well as the related interest, in light of changing facts and circumstances. Settlement of any particular position could require the use of cash. As of September 30, 2016 , changes to the Company's uncertain tax positions in the next 12 months that are reasonably possible are not expected to have a material impact on the Company's financial position or results of operations.

10. Segment Information

The Company has one operating segment, and therefore one reportable segment, which develops, manufactures and markets products utilizing our proprietary controlled cooling technology platform. The Company's chief operating decision maker (Chief Executive Officer) reviews financial information presented on a consolidated basis for purposes of making operating decisions and assessing financial performance, accompanied by disaggregated revenue information by product line. The Company does not assess the performance of our individual product lines on measures of profit or loss, or asset-based metrics. Therefore, the information below is presented only for revenues by geography and revenue category.

Revenue by geographic region, based on the location to where the product was shipped, is summarized as follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2016	2015	2016	2015
North America	$ 74,226	$ 46,602	$ 199,811	$ 133,267
International	20,931	14,600	49,280	43,924
Total	$ 95,157	$ 61,202	$ 249,091	$ 177,191

North America includes the United States and related territories, as well as Canada. International is the rest of the world. Revenue for the United States was $69.2 million and $185.4 million for the three and nine months ended September 30, 2016 (D), respectively, compared to $42.4 million and $122.9 million for the three and nine months ended September 30, 2015 , respectively.

(D) The Company incorrectly overstated the revenue disclosed for the United States by $3.8 million and $6.7 million for the three and six months ended June 30, 2016 , respectively, in its quarterly report on Form 10-Q for the period ended June 30, 2016. Revenue for the United States for the three and six months ended June 30, 2016 was $67.8 million and $116.2 million , respectively. This error in disclosure had no impact on previously reported revenue in the condensed consolidated statements of operations for the three and six months ended June 30, 2016 .

The following table sets forth revenue by product category (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2016	2015	2016	2015
System revenue	$ 42,705	$ 29,298	$ 106,843	$ 87,501
Consumable revenue	52,452	31,904	142,248	89,690
Total	$ 95,157	$ 61,202	$ 249,091	$ 177,191

As of September 30, 2016 and December 31, 2015 , property and equipment, net, by geographical area are presented below (in thousands):

	September 30, 2016	December 31, 2015
U.S.	$ 6,717	$ 6,691
Ireland	2,680	—
Other	240	278
Total	$ 9,637	$ 6,969

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

You should read the following discussion and analysis of our financial condition and results of operations in conjunction with the condensed consolidated financial statements and the notes thereto included elsewhere in this Quarterly Report on Form 10-Q, and with our Management's Discussion and Analysis of Financial Condition and Results of Operations and financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2015 . In addition to historical information, the following discussion contains forward-looking statements that are subject to risks and uncertainties. Actual results may differ substantially from those referred to herein due to a number of factors, including but not limited to risks described in the section entitled Risk Factors in this Quarterly Report on Form 10-Q.

Overview

ZELTIQ Aesthetics, Inc. ("we," "our," or "us,") is a medical technology company focused on developing and commercializing products utilizing our proprietary controlled cooling technology platform. Our first commercial product, the CoolSculpting system, is designed to selectively reduce stubborn fat bulges. We generate revenue primarily from sales of our CoolSculpting system, add-on applicators and from sales of cycles in the form of consumable procedure packs to our customers. Our CoolSculpting system comprises a CoolSculpting control unit and our CoolSculpting applicators which are designed to allow a physician to treat a different size and shape fat bulge. With the launch of our CoolAdvantage applicator in June 2016, we currently offer seven CoolSculpting applicators for use with our CoolSculpting system.

We received clearance from the Food and Drug Administration ("FDA"), in September 2010 to market CoolSculpting for the selective reduction of fat around the flanks, an area commonly referred to as the "love handles." In May 2012, CoolSculpting was cleared by the FDA for treatment of the abdomen area. In April 2014, CoolSculpting was cleared by the FDA for treatment of the thigh area, and, in January 2015, CoolSculpting was cleared by the FDA for treatment at lower temperatures which will enable shorter treatment times. In September 2015, the FDA cleared CoolSculpting for treatment of the submental area under the chin, an area that is consistently ranked as one of the top areas of concern both by consumers and physicians. Most recently, in April 2016, the FDA cleared CoolSculpting for the reduction of fat around bra straps, on the back and underneath the buttocks. We may seek additional regulatory clearances from the FDA to expand our United States marketed indications for CoolSculpting to other areas on the body. We have received regulatory approval or are otherwise free to market CoolSculpting in numerous international markets where use of the product is generally not limited to specific treatment areas. Customers in these markets commonly perform CoolSculpting procedures on the back and chest, in addition to the flanks, abdomen, thighs submental area under the chin, around bra straps, back and underneath the buttocks. In addition to the applicators that we include in our current system bundle, we recently launched a new family of applicators called CoolAdvantage. These applicators reduce treatment time by nearly half compared to our existing applicators due to lower temperatures. In June 2016, we released our first applicator from this family, which features an adaptable 3-in-1 configuration and enhanced cup design. Additionally, in the fourth quarter of 2016, we expect to launch the second applicator from this family, which will address larger fat bulges.

In the United States and related territories, as well as Canada, we use our direct sales organization to selectively market CoolSculpting. In markets outside of North America, including Asia Pacific, Latin America and Europe, we sell CoolSculpting through both a direct sales organization as well as a network of distributors. We intend to continue developing our international sales and marketing organization to focus on increasing sales and strengthening our customer relationships. We also intend to seek regulatory approval to market CoolSculpting in key additional international markets, including markets in Asia and Europe. Revenue from markets outside of North America accounted for 22% and 20% of our total revenue for the three and nine months ended September 30, 2016 , respectively, compared to 24% and 25% of our total revenue for the three and nine months ended September 30, 2015 , respectively.

Our ongoing research and development activities are primarily focused on improving and enhancing our CoolSculpting system and CoolSculpting procedure. In addition to these development activities related to CoolSculpting, we are exploring additional uses of our proprietary controlled cooling technology platform for the dermatology, plastic surgery, aesthetic and OBGYN markets. We are also exploring potential therapeutic uses for our platform technology, either directly or through collaborative arrangements with strategic partners.

Revenue

We generate revenue primarily from sales of our CoolSculpting system and from sales of consumables to our customers. We generated revenue of $95.2 million and $249.1 million for the three and nine months ended September 30, 2016 , respectively, compared to $61.2 million and $177.2 million for the three and nine months ended September 30, 2015 , respectively.

System revenue. Sales of our CoolSculpting system include the CoolSculpting control unit and our CoolSculpting applicators. Sales of systems can include sales of systems to new customers that include our entire suite of applicators, as well as multi-system sales to new customers or sales to existing customers which may not include the entire suite of applicators. Additionally, some practices may purchase additional applicators, or add-on applicators, for existing systems. Our standard terms do not allow for trial or evaluation periods, rights of return, or refund payments contingent upon the customer obtaining financing or other terms that could impact the customer's obligation. System revenue represented 45% and 43% of our total revenue for the three and nine months ended September 30, 2016 , respectively, compared to 48% and 49% of our total revenue for the three and nine months ended September 30, 2015 , respectively. Our worldwide installed base grew by 33% from 4,247 units as of September 30, 2015 , to 5,657 units as of September 30, 2016 .

Consumable revenue. We generate consumable revenue through sales of cycles in the form of consumable procedure packs, each of which includes our consumable CoolGels, CoolLiners, and in the case of our CoolSmooth and CoolMini procedure packs, disposable securement accessories, all of which are used by our customer during treatments. In addition, each consumable procedure pack includes a disposable computer cartridge that we market as the CoolCard. The CoolCard contains enabling software that permits our customers to perform a fixed number of CoolSculpting procedures, or cycles. Consumable revenue accounted for 55% and 57% of our total revenue for the three and nine months ended September 30, 2016 , respectively, compared to 52% and 51% of our total revenue for the three and nine months ended September 30, 2015 , respectively. We shipped 386,854 and 1,064,394 CoolSculpting revenue cycles to our customers during the three and nine months ended September 30, 2016 , respectively, compared to 247,298 and 707,227 CoolSculpting revenue cycles during the three and nine months ended September 30, 2015 , respectively.

Our business plan focuses on expanding our installed base of systems at customers, and increasing our consumable revenue by driving demand for CoolSculpting procedures through our targeted marketing programs. We anticipate that as we continue to implement our business plan and expand our installed base our consumable revenue will increase as a percentage of our total revenue.

Seasonality. Seasonal fluctuations in the number of patients seeking treatment and the availability of our customers are likely to continue to affect our business. Seasonal fluctuations occur in both system revenue and consumable revenue as well as by geographic region. Specifically, our customers often take vacation or are on holiday during the summer months and therefore tend to perform fewer procedures, particularly in certain international countries. These seasonal trends have caused and will likely continue to cause, fluctuations in our quarterly results, including fluctuations in sequential revenue growth rates.

Market in which we operate. The medical technology and aesthetic product markets are highly competitive and dynamic, and are characterized by rapid and substantial technological development and product innovations. We compete with many other technologies for consumer demand. Further, the aesthetic industry in which we operate is particularly vulnerable to economic trends. The decision to undergo a procedure from our systems is driven by consumer demand. Procedures performed using our systems are elective procedures, the cost of which must be borne by the patient, and are not reimbursable through government or private health insurance. In times of economic uncertainty or recession, individuals often reduce the amount of money that they spend on discretionary items, including aesthetic procedures. The general economic difficulties being experienced and the lack of availability of consumer credit for some of our customers' patients could adversely affect the markets in which we operate.

Out-of-period adjustments.

During the three months ended September 30, 2016, we recorded certain out-of-period correcting adjustments totaling $0.5 million to increase cost of revenue by $0.3 million, with a corresponding decrease to inventory, and to increase other operating expenses by $0.2 million, with a corresponding increase to other accruals, relating to prior periods, primarily the year ended December 31, 2015. We do not believe that such amounts are material to any prior period consolidated financial statements, and the impact of correcting these errors in the three months ended September 30, 2016 is not material to the current consolidated financial statements or expected to be material to the financial statements for the year ending December 31, 2016.

During the three months ended June 30, 2016 , we recorded certain out-of-period correcting adjustments totaling $0.4 million to increase cost of revenue by $0.2 million , with a corresponding decrease to inventory, and to increase other operating expenses by $0.2 million , with a corresponding increase to other accruals, relating to prior periods. We do not believe that such amounts are material to any prior period consolidated financial statements, and the impact of correcting these errors in the nine months ended September 30, 2016 is not material to the current consolidated financial statements or expected to be material to the financial statements for the year ending December 31, 2016 .

During the three months ended March 31, 2016 , we recorded certain out-of-period correcting adjustments totaling $0.2 million to increase cost of revenue by $0.4 million , with a corresponding increase to warranty accrual, and to reduce other operating expenses by $0.2 million , with a corresponding decrease to other accruals, relating to prior periods. We do not believe that such

amounts are material to any prior period consolidated financial statements, and the impact of correcting these errors in the nine months ended September 30, 2016 is not material to the current consolidated financial statements or expected to be material to the financial statements for the year ending December 31, 2016 .

During the three months ended June 30, 2015 , we recorded an out-of-period adjustment of $0.2 million to increase cost of revenue to write-off of certain inventory held by vendors. Of this adjustment, $0.1 million , $23,000 and $42,000 related to the fiscal years ended December 31, 2013 , 2014 and 2015 , respectively. We do not believe that such amounts are material to any prior period consolidated financial statements, and the impact of correcting these errors in the nine months ended September 30, 2015 is not material to those condensed consolidated financial statements.

Critical Accounting Policies and Estimates

Our unaudited condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America. Preparation of these statements requires management to make judgments and estimates. Some accounting policies have a significant impact on amounts reported in these financial statements. A summary of significant accounting policies and a description of accounting policies that are considered critical may be found in our 2015 Annual Report on Form 10-K for the year ended December 31, 2015, in the Notes to the Consolidated Financial Statements (Note 1) and the Critical Accounting Policies and Estimates section in Management's Discussion and Analysis of Financial Condition and Results of Operations. There have been no changes in these significant accounting policies during the nine months ended September 30, 2016.

Results of Operations

Revenue (in thousands, except for percentages):

	Three Months Ended September 30,				Nine Months Ended September 30,			
Revenue	2016	2015	$ Change	% Change	2016	2015	$ Change	% Change
System revenue	$ 42,705	$ 29,298	$ 13,407	46%	$ 106,843	$ 87,501	$ 19,342	22%
Consumable revenue	52,452	31,904	20,548	64%	142,248	89,690	52,558	59%
Total revenue	$ 95,157	$ 61,202	$ 33,955	55%	$ 249,091	$ 177,191	$ 71,900	41%

Overall, we experienced an increase in revenue primarily as a result of our national direct-to-consumer advertising campaign, the expansion of our sales force into new and existing key markets, increased focus and prioritization of our business through our revamped sales team structure and training, and an increase in our installed base of CoolSculpting systems.

System revenue. We experienced incremental growth in system revenue for the three and nine months ended September 30, 2016 , as compared to the same periods in 2015 . Overall, we placed 403 and 1,023 systems in the three and nine months ended September 30, 2016 , respectively, as compared to 337 and 1,071 systems in the three and nine months ended September 30, 2015 , respectively. We continue to experience significant sales of add-on applicators to existing customers, driven by our CoolMini and CoolAdvantage applicators which we launched in April 2015 and June 2016, respectively. We recognized add-on applicator revenue of $4.8 million and $16.6 million in the three and nine months ended September 30, 2016 , respectively, related primarily to our CoolAdvantage applicator which totaled $3.7 million and $9.3 million in the three and nine months ended September 30, 2016 and the CoolMini applicator which totaled $0.8 million and $5.8 million in the three and nine months ended September 30, 2016 . In the three and nine months ended September 30, 2015 our add-on revenue, related primarily to sales of our CoolSmooth PRO applicator which launched in April 2015, totaled $1.0 million and $3.5 million, respectively. Add-on applicators allow our customers to optimize their existing system to fit different body shapes and sizes, as well as different body parts or regions of the body.

Consumable revenue. The increase in consumable revenue was primarily due to the significant growth of our worldwide installed base of CoolSculpting systems and an increased number of consumable procedure packs shipped to our customers driven by our national direct-to-consumer advertising campaign and targeted marketing programs in the three and nine months ended September 30, 2016 , as compared to the same periods in 2015 . There were no significant changes in average selling price for our consumable procedures packs in the three and nine months ended September 30, 2016 as compared to the same periods in 2015 . Our average selling price is influenced by procedure type mix as well as region and customer type.

Cost of Revenue and Gross Profit (in thousands, except for percentages):

	Three Months Ended September 30,				Nine Months Ended September 30,			
	2016	2015	$ Change	% Change	2016	2015	$ Change	% Change
Cost of revenue	$ 28,407	$ 16,041	$ 12,366	77%	$ 74,161	$ 48,535	$ 25,626	53%
Gross profit	$ 66,750	$ 45,161	$ 21,589	48%	$ 174,930	$ 128,656	$ 46,274	36%
Gross profit %	70%	74%			70%	73%		

Gross profit as a percentage of revenue typically fluctuates with product and regional mix, selling prices, material costs and revenue levels. The gross profit as a percentage of revenue for the three and nine months ended September 30, 2016 decreased compared to the same period in 2015 and was unfavorably impacted by sales of our CoolMini and CoolAdvantage applicators which currently carry a higher cost than the other applicators we offer, a higher number of applicators sold with each system, and an increase in warranty and inventory related expense. However, this impact was offset in part by increased sales volumes on a fixed base of overhead costs as well as a change in overall revenue mix that resulted in a shift of revenue to consumables, which carry a higher margin.

Operating Expenses (in thousands, except for percentages):

	Three Months Ended September 30,				Nine Months Ended September 30,			
	2016	2015	$ Change	% Change	2016	2015	$ Change	% Change
Operating expenses								
Research and development	$ 6,488	$ 5,464	$ 1,024	19%	$ 19,096	$ 17,352	$ 1,744	10%
Sales and marketing	$ 40,336	$ 30,647	$ 9,689	32%	$ 131,330	$ 87,253	$ 44,077	51%
General and administrative	$ 8,270	$ 7,115	$ 1,155	16%	$ 27,538	$ 22,156	$ 5,382	24%
Total operating expenses	$ 55,094	$ 43,226	$ 11,868	27%	$ 177,964	$ 126,761	$ 51,203	40%
% of total revenue	58%	71%			71%	72%		

Research and development. Research and development expenses increased for the three and nine months ended September 30, 2016 , as compared to the same periods in 2015 , due to an increase in materials, operations and clinical costs of $0.5 million and $0.6 million for the three and nine months ended September 30, 2016 , respectively, as we continue to explore ways to leverage our proprietary cooling platform for additional applications. We also experienced $0.4 million and $0.7 million of higher personnel and stock-based compensation expense for the three and nine months ended September 30, 2016 as compared to the same period in 2015 , due to an increase in headcount.

Sales and marketing. Sales and marketing expenses increased for the three and nine months ended September 30, 2016 , as compared to the same period of 2015 , primarily due to the launch of our national direct-to-consumer advertising campaign, which along with other sales and marketing initiatives increased sales and marketing expense by $2.3 million and $19.2 million , respectively. As we continued to expand into new and existing markets, we experienced a significant increase in headcount attributable to our sales force, which increased by approximately 27% . This growth in headcount resulted in higher personnel and stock-based compensation costs of $3.4 million and $14.3 million for the three and nine months ended September 30, 2016 , respectively, as compared to same period in 2015, as well as travel and related expenses, which increased by $0.6 million and $2.1 million for the same respective periods. Lastly, cooperative marketing expenses increased by $2.3 million and $4.0 million for the three and nine months ended September 30, 2016 , respectively, when compared to the same periods in 2015 , due to an increase in our customer base.

General and administrative. General and administrative expenses increased for the three and nine months ended September 30, 2016 , as compared to the same periods in 2015 , primarily due to higher personnel and stock-based compensation expense of $1.6 million and $4.4 million for the three and nine months ended September 30, 2016 , respectively, due to an increase in headcount. In addition, professional services fees increased by $0.1 million and $0.9 million for the three and nine months ended September 30, 2016 , respectively, as compared to the same periods in 2015 .

Interest Income (Expense), Net and Other Income (Expense), Net (in thousands, except for percentages):

	Three Months Ended September 30,				Nine Months Ended September 30,			
	2016	2015	$ Change	% Change	2016	2015	$ Change	% Change
Interest income (expense), net	$ 7	$ 13	$ (6)	(46)%	$ (49)	$ 40	$ (89)	(223)%
Other income (expense), net	$ 498	$ 359	$ 139	39 %	$ 2,553	$ (508)	$ 3,061	(603)%

Interest income (expense), net. For the three and nine months ended September 30, 2016 , we incurred interest expense from sales tax filings offset by a decrease in interest income attributable to a decline in the average balance of our investments. For the three and nine months ended 2015 , interest income was earned on our available-for-sale securities. The amount of income earned varies based on the type of investments held, market conditions and other factors.

Other income (expense), net. The change in other income (expense), net for the three and nine months ended September 30, 2016 , as compared to the three and nine months ended September 30, 2015 , was primarily the result of foreign exchange net gains of $0.7 million and $2.9 million, respectively, compared to foreign exchange net gains of $0.4 million and foreign exchange net losses of $0.4 million, respectively, for the corresponding periods in 2015. In both the three and nine months ended September 30, 2015 , the foreign exchange gain was primarily driven by the remeasurement of currencies and liabilities denominated in currencies other than the functional currencies.

Income Taxes. We recorded income tax expense of $7.0 million and $9.1 million for the three and nine months ended September 30, 2016 , respectively. We continue to apply a valuation allowance against our California research and development credit deferred tax assets based on the fact that we have concluded that such amounts are unlikely to be realized in future periods. The income tax expense for the three and nine months ended September 30, 2016 and 2015 reflects the mixture and distribution of pre-tax income in our operating jurisdictions.

During the first nine months of 2016, we continued the implementation of our international tax structure which includes a research and development cost-sharing arrangement, certain licenses and other contractual arrangements between us and our wholly-owned foreign subsidiaries. As a result of the implementation, we anticipate that sometime in the future our consolidated pre-tax income will be subject to foreign tax at relatively lower tax rates when compared to the United States federal statutory tax rate and, as a consequence, our effective income tax rate is expected to be lower than the United States federal statutory rate. Our future effective income tax rates could be adversely affected if tax authorities challenge our international tax structure or if the relative mix of United States and international income changes for any reason.

We generated pre-tax year-to-date ordinary losses in our zero-rate jurisdiction, and we have elected to exclude these pre-tax year-to-date ordinary losses from our zero-rate jurisdiction from our estimated effective tax rate computations. The exclusion is based on the notion that a loss in a zero-rate jurisdiction ultimately will not provide us a tax benefit.

Liquidity and Capital Resources

Since our inception, we have financed our operations to date primarily through private placements of convertible preferred stock, promissory notes, borrowings under a loan agreement, product sales and the proceeds from our initial public offering, or IPO.

The following table summarizes our cash and cash equivalents, short-term and long-term investments, and working capital as of September 30, 2016 and December 31, 2015 (in thousands):

	September 30, 2016	December 31, 2015
Cash and cash equivalents	$ 60,369	$ 35,710
Short-term investments	2,460	12,867
Long-term investments	2,217	3,490
Total	$ 65,046	$ 52,067
Working capital	$ 73,285	$ 68,402

Summary Statement of Cash Flows

The following table summarizes our cash flows for the nine months ended September 30, 2016 and 2015 (in thousands):

	Nine Months Ended September 30,	
	2016	2015
Net cash provided by operating activities	$ 21,431	$ 5,894
Net cash provided by investing activities	6,279	3,943
Net cash used in financing activities	(2,458)	(2,504)
Effect of exchange rate changes on cash and cash equivalents	(593)	(364)
Net increase in cash and cash equivalents	$ 24,659	$ 6,969

Cash Flows for the Nine Months Ended September 30, 2016 and 2015

Operating activities. Net cash provided by operating activities was $21.4 million during the nine months ended September 30, 2016 , and consisted of net loss of $9.6 million more than offset by non-cash items of $22.8 million , and a favorable net change in operating assets and liabilities of $8.2 million . Non-cash items for the nine months ended September 30, 2016 , consisted primarily of a stock-based compensation expense of $12.8 million , deferred income taxes of $8.2 million and depreciation and amortization expense of $2.5 million . The significant items in the change in operating assets and liabilities include an increase of $11.0 million in deferred revenue, an increase in accounts payable, accrued and other liabilities of $8.5 million and a decrease in prepaid expenses and other assets of $1.6 million . These were offset in part by cash used resulting from an increase in accounts receivable of $6.9 million and an increase in inventory of $5.9 million . The increase in deferred revenue is primarily related to CoolAdvantage Plus applicators sold in 2016 which have not yet been delivered to our customers. The increase in accounts payable was mainly due to inventory purchases relating to our launches of the CoolAdvantage and CoolAdvantage Plus applicators, as well as in contemplation of future demand and sales levels, and for advertising and marketing spend in support of our recently launched direct to consumer marketing campaign. The increase in accrued and other non-current liabilities was driven by the increase in accrued royalties due to the increase in sales, the increase in advanced payments from customers due to the timing of payment receipt and related shipment, the increase in accrued warranty expenses and the increase in accrued legal expenses as we continue to enforce our intellectual property domestically and overseas. Furthermore, the decrease in prepaid expenses and other assets was primarily due to our decrease in direct to consumer advertising. The increase in accounts receivable is a function of the increase in sales as well as timing of payment receipts from customers. We experienced an increase in inventory due to our launch of our CoolAdvantage applicator in the second quarter of 2016 and our expected launch of the CoolAdvantage Plus applicator in the fourth quarter of 2016.

Net cash provided by operating activities was $5.9 million during the nine months ended September 30, 2015, and consisted of net income of $1.2 million and non-cash items of $12.7 million, offset by a net change in operating assets and liabilities of $8.0 million. Non-cash items for the nine months ended September 30, 2015 consisted primarily of a stock-based compensation expense of $10.3 million and depreciation and amortization expense of $1.7 million. The significant items in the change in operating assets and liabilities include cash used resulting from increases in inventory of $13.7 million and an increase in accounts receivable of $11.8 million. These uses of cash were offset in part by an increase of $1.7 million in deferred revenue and an increase in accounts

payable, accrued and other liabilities of $17.6 million. We experienced an increase in inventory as we continued to build inventory to support expected customer demand as well as the inventory in support of our launch of CoolSmooth PRO, which was released in the second quarter of 2015, and our launch of CoolMini. The increase in accounts receivable is a function of the increase in sales as well as timing of payment receipts from customers. The increase in accounts payable was mainly due to inventory purchases relating to our launches of the CoolSmooth PRO and CoolMini applicators, as well as in contemplation of future demand and sales levels as well as for advertising and marketing spend in support of our recently launched direct to consumer marketing campaign. The increase in accrued and other non-current liabilities was driven by the increase in accrued payroll and employee related expenses as a result of an increase in headcount and variable compensation, the increase accrued royalties due to the increase in sales, the increase in marketing accruals in conjunction with our sales and marketing initiatives such as our recently launched direct-to-consumer advertising program, the increase in advanced payments from customers due to the timing of payment receipt and related shipment as well as upfront payments collected on advanced sales of our CoolMini applicator and the increase in accrued legal expenses as we continue to enforce our IP domestically and overseas. The increase in deferred revenue is primarily a result of an increase in revenue deferral for customer trainings that were not yet delivered.

Investing activities. Net cash provided by investing activities was $6.3 million for the nine months ended September 30, 2016 , as compared to net cash provided by investing activities of $3.9 million during the same period in 2015 . During the nine months ended September 30, 2016 , we received proceeds from the sale and maturity, net of purchases, of $11.7 million of short-term and long-term investments. During the nine months ended September 30, 2015 , we received proceeds from the sale and maturity, net of purchases, of $6.2 million of short-term and long-term investments. Purchases of property and equipment amounted to $5.0 million for the nine months ended September 30, 2016 , primarily as result of purchases of manufacturing equipment, furniture and fixtures to support the growth and expansion of our business and related facilities. Purchases of property and equipment amounted to $2.3 million for the nine months ended September 30, 2015 .

Financing activities. Net cash used in financing activities during the nine months ended September 30, 2016 , of $2.5 million consisted of tax payments related to shares withheld for vested restricted stock units of $5.3 million , offset in part by proceeds received from the issuance of common stock upon the exercise of stock options and issuance of ESPP shares of $2.9 million . Net cash used in financing activities during the nine months ended September 30, 2015 , of $2.5 million consisted of tax payments related to shares withheld for vested restricted stock units of $6.6 million , offset in part by proceeds received from the issuance of common stock upon the exercise of stock options and issuance of ESPP shares of $4.1 million .

Our cash, cash equivalents and investments was $65.0 million and $52.1 million as of September 30, 2016 and December 31, 2015 , respectively. We expect to continue to invest in our research and development efforts, as well as in our sales and marketing organization, to support our current and expected growth and initiatives. Based on our current plans and market conditions, we believe that our existing cash, cash equivalents and investments will be sufficient to satisfy our anticipated cash requirements for at least the next twelve months. However, we cannot be certain that our planned levels of revenue, costs and expenses will be achieved. If our operating results fail to meet our expectations or if we fail to manage our inventory, accounts receivable or other assets, we could be required to seek additional funding through public or private financings or other arrangements. In such event, adequate funds may not be available when needed or may not be available on favorable or commercially acceptable terms, which could have a negative effect on our business and results of operations.

Contractual Obligations and Commitments

We have certain fixed contractual obligations and commitments that include operating lease obligations and purchase commitments. Changes in our business needs, fluctuating interest rates, and other factors may result in actual payments differing from the estimates. Minimum future lease payments under the non-cancellable operating leases were $52.8 million and $7.3 million at September 30, 2016 , and December 31, 2015 , respectively. There were no other material changes to our contractual obligations and commitments as reported in our 2015 Annual Report on Form 10-K for the year ended December 31, 2015 .

Recent Accounting Pronouncements

See Note 1 "Basis of Presentation and Summary of Significant Accounting Policies" of the Notes to Condensed Consolidated Financial Statements for a discussion of recent accounting pronouncements.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

For financial market risks related to changes in interest rates, inflation and foreign currency exchange rates, reference is made to Item 7A: “Quantitative and Qualitative Disclosures about Market Risk” contained in Part II of our Annual Report on Form 10-K for the year ended December 31, 2015 . Our market risks have not materially changed during the nine months ended September 30, 2016 .

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Our management, including our Chief Executive Officer and Chief Financial Officer, conducted an evaluation of the effectiveness of our disclosure controls and procedures, as such term is defined under Rules 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934, as amended. As of September 30, 2016, and as described under Status of Remediation of Material Weakness below, the material weakness is not remediated.

Based on this evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were not effective as of September 30, 2016 . Notwithstanding this material weakness, management has taken additional steps to insure there is appropriate disclosure in this report and has concluded that the financial statements included in this report fairly present, in all material respects, our financial condition for the periods presented in conformity with generally accepted accounting principles.

Previously Identified Material Weakness in Internal Control over Financial Reporting

As previously described in Management's Report On Internal Control Over Financial Reporting in Item 9A of our Annual Report on Form 10-K for the year ended December 31, 2015, we concluded that we did not maintain effective controls in our risk assessment process. Rapid growth in the size and scale of the business has made certain existing controls inadequate, and the implementation of new controls and control enhancements has not been sufficient to address new and evolving sources of potential misstatement. The material weakness resulted in immaterial misstatements in our consolidated financial statements as of and for the year-ended December 31, 2015 relating to the completeness and accuracy of accounts receivable, inventory, accrued liabilities and operating expenses and related disclosures, which were primarily the result of a lack of controls over the completeness and accuracy of data used in accounting calculations and a failure to execute controls in the period-end close process on a timely basis.

Additionally, the material weakness could result in further misstatements of account balances or disclosures that would result in a material misstatement to the annual or interim consolidated financial statements that would not be prevented or detected.

Status of Remediation of Material Weakness

We are making progress in improving our internal controls to remediate this material weakness. The actions we are taking have been subject to ongoing senior management review, as well as audit committee oversight. During the quarter ended September 30, 2016 and as a follow up on previously reported actions, we have implemented the following changes to further strengthen our internal control over financial reporting:

- Hired new finance and accounting resources with requisite skills to strengthen our internal controls, documentation and communication in our risk assessment process.
- Continued oversight and training of key individuals that provide critical information used in financial accounting and reporting to reinforce pre-established and new controls to improve our ability to detect potential misstatements in our internally prepared reports, analysis and financial records.
- Implemented and will continue to implement key initiatives and processes to improve our financial close process and review of financial results.

Management believes its remediation plan will appropriately remediate the material weakness. However, the effectiveness of the controls has not been completely tested by management due to the nature of the remediation process and the need to allow adequate time after implementation to evaluate and test effectiveness of the controls. The material weakness will be fully remediated when, in the opinion of our management, the revised control processes have been operating for a sufficient period of time and independently validated by management.

Changes in Internal Control over Financial Reporting

The changes in our internal control over financial reporting during the quarter ended September 30, 2016 , described above have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

None.

Item 1A. Risk Factors

Our operations and financial results are subject to various risks and uncertainties, including those described below, which could adversely affect our business, financial condition, results of operations, cash flows, and the trading price of our common stock. The risks and uncertainties described below are not the only ones we face. Additional risks that we currently do not know about or that we currently believe to be immaterial may also impair our business operations.

The risk factors set forth below have not changed substantively from those included in our Annual Report on Form 10-K for the year ended December 31, 2015 , filed with the Securities and Exchange Commission on March 15, 2016, and are set forth below.

Risks Related to Our Business

Patient demand for the procedures for which our products are used is particularly sensitive to economic trends. If there is the perception that economic trends are negative, patient demand for the procedures for which our products are used may decrease, which could cause practitioner demand for these systems to drop and our operating results could be harmed.

The decision to undergo a procedure from our systems are driven by consumer demand. If patient demand for procedures using our systems decreases, practitioner demand for our systems could drop. Procedures performed using our systems are elective procedures, the cost of which must be borne by the patient, and are not reimbursable through government or private health insurance. As a result, our revenues, and therefore our operating results, are particularly vulnerable to economic trends. If the economic conditions our customers' patients face worsen, or for other reasons demand from patients for procedures using our systems decreases, our business would be negatively impacted and our financial performance would be materially harmed.

We may not be able to correctly estimate or control our future operating expenses, which could lead to cash shortfalls.

Our operating expenses may fluctuate significantly in the future as a result of a variety of factors, many of which are outside of our control. These factors include:

- our commercialization strategy;
- the time, resources, and expense required to develop and conduct clinical trials and seek additional regulatory clearances and approvals for additional treatment indications for CoolSculpting and for any additional products we may develop;
- the costs of preparing, filing, prosecuting, defending, and enforcing patent claims and other patent related costs, including litigation costs and the results of such litigation;
- any adverse events associated with CoolSculpting or product liability or other lawsuits related to our products and the costs associated with defending them or the results of such lawsuits;
- costs associated with obtaining components for manufacturing, including increases due to changes in foreign exchange rates or increased shipping costs;
- the costs to attract and retain personnel with the skills required for effective operations; and
- the costs associated with being a public company.

Further, our budgeted expense levels are based in part on our expectations concerning future revenue from CoolSculpting. We may be unable to reduce our expenditures in a timely manner to compensate for any unexpected shortfalls in revenue. Accordingly, a significant shortfall in market acceptance or demand for CoolSculpting could have an immediate and material adverse impact on our business and financial condition.

Economic uncertainty has reduced and may continue to reduce patient demand for our products; if there is not sufficient patient demand for the procedures for which our products are used, practitioner demand for these systems could drop, resulting in unfavorable operating results.

The aesthetic industry in which we operate is particularly vulnerable to economic trends. The decision to undergo a procedure from our systems is driven by consumer demand. Procedures performed using our systems are elective procedures, the cost of which must be borne by the patient, and are not reimbursable through government or private health insurance. In times of economic uncertainty, individuals often reduce the amount of money that they spend on discretionary items, including aesthetic procedures.

The general economic difficulties being experienced and the lack of availability of consumer credit for some of our customers' patients are adversely affecting certain markets in which we operate.

If the economic hardships our customers' patients face continue or worsen, our business would be negatively impacted and our financial performance would be materially harmed in the event that any of the above factors discourage patients from seeking the procedures for which our products are used.

Due to a number of factors outside of our direct control, our financial results may fluctuate unpredictably, which could adversely affect our stock price.

The rapid evolution of the markets for medical technologies and aesthetic products make it difficult for us to predict our future performance. In addition, a number of factors, many of which are outside of our control, may contribute to fluctuations in our financial results, such as:

- quarter to quarter variation in customer demand for purchasing CoolSculpting systems;
- the inability for our customers to obtain necessary financing;
- changes in the length of the sales process;
- performance of our international distributors;
- media coverage of CoolSculpting and positive or negative patient experiences, the procedures or products of our competitors, or our industry;
- our ability to maintain our current or obtain further regulatory clearances or approvals;
- delays in, or failure of, product and component deliveries by our third-party contract manufacturers or suppliers, whether due to their inability to meet our demands or other forces, such as port strikes, labor shortages or other factors that could impact shipping costs or the ability of manufacturers to ship components to us;
- seasonal or other variations in patient demand for aesthetic procedures;
- introduction of new aesthetic procedures or products that compete with CoolSculpting; and
- adverse changes in the economy that reduce patient demand for elective aesthetic procedures.

Fluctuations in our financial results could negatively affect our stock price.

We are dependent upon the success of CoolSculpting. If the market acceptance for CoolSculpting fails to grow significantly, our business and future prospects will be harmed.

We commenced commercial sales of CoolSculpting for the selective reduction of fat in the United States in late 2010, and expect that the revenue we generate from sales of our CoolSculpting system and CoolSculpting consumables will account for substantially all of our revenue for at least the next several years. Accordingly, our success depends on the continued and growing acceptance among customers and patients of CoolSculpting as a preferred aesthetic treatment for the selective reduction of fat. Although we have received FDA clearance to market CoolSculpting for the selective reduction of fat in the flanks, abdomen, thighs, the submental area under the chin, around bra straps, back and underneath the buttocks in the United States and are approved or are otherwise free to market CoolSculpting in numerous international markets, increased acceptance among customers and patients of CoolSculpting may not occur. We cannot assure you that demand for CoolSculpting will continue or grow among customers and patients. Because we expect to derive substantially all of our revenue for the foreseeable future from sales of CoolSculpting systems and consumables associated with each CoolSculpting cycle, any failure of this product to satisfy customer or patient demand will harm our business and future prospects.

Any failure to build and manage our direct sales and marketing force effectively could have a material adverse effect on our business.

We rely on a direct sales force to sell CoolSculpting in the United States, Canada and certain markets in Europe. To meet our anticipated sales objectives, we intend to opportunistically build a direct sales and marketing force in certain international markets. There are significant risks involved in building and managing our sales and marketing organization, including risks related to our ability to:

- hire qualified individuals as needed;
- generate sufficient leads within our target customer group for our sales force;
- provide adequate training for the effective sale and marketing of CoolSculpting;
- retain and motivate our direct sales and marketing professionals; and
- effectively oversee geographically dispersed sales and marketing teams.

Our failure to adequately address these risks could have a material adverse effect on our ability to increase sales and use of our CoolSculpting systems, which would cause our revenue to be lower than expected and harm our results of operations. In addition, as we transition to direct sales in certain international markets, consistent with our sales strategy, the transition may result in a slow-down of growth or even a reduction in sales in those markets during the transition process as our distributors anticipate losing the ability to sell our products. Furthermore, our transition to direct sales in certain international markets could impact the performance of distributors in otherwise unaffected international markets as distributors may anticipate that their territories may be transitioned in the future.

Our ability to market CoolSculpting in the United States is limited to the non-invasive reduction of fat around the flanks, abdomen, thighs, submental area under the chin, around bra straps, back and underneath the buttocks, and if we want to expand our marketing claims, we will need to obtain additional FDA clearances or approvals, which may not be granted.

We currently have FDA clearance to market CoolSculpting in the United States for the non-invasive reduction of fat around the flanks, an area commonly known as the "love handles," the abdomen area, the thigh area, the submental area under the chin, around bra straps, back and underneath the buttocks. This clearance restricts our ability to market or advertise CoolSculpting treatment for other specific body areas, which could limit customer and patient adoption of CoolSculpting. Developing and promoting new treatment indications and protocols and new treatment applicators for our CoolSculpting system are elements of our growth strategy, but we cannot predict when or if we will receive the clearances required to so implement those elements. In addition, we will be required to conduct additional clinical trials or studies to support our applications, which may be time-consuming and expensive, and may produce results that do not result in FDA clearances. In the event that we do not obtain additional FDA clearances, our ability to promote CoolSculpting in the United States will be limited. Because we anticipate that sales in the United States will account for a substantial majority of our revenue for the foreseeable future, ongoing restrictions on our ability to market CoolSculpting in the United States could harm our business and limit our revenue growth.

Customers must make significant capital expenditures to purchase our CoolSculpting systems, which makes it difficult to increase our customer base, and if we are not able to convince customers to make this capital expenditure, our ability to grow our business will be harmed.

Customers must make significant capital expenditures to purchase our CoolSculpting systems, and our ability to increase the number of customers willing to make these significant capital expenditures and make CoolSculpting a significant part of their practices depends on the success of our sales and marketing programs. We must be able to demonstrate that the cost of our CoolSculpting system and the revenue that a customer can derive from performing CoolSculpting cycle are compelling when compared to the cost and revenue associated with alternative aesthetic treatments our customer may offer. In addition, alternative treatments may be invasive, minimally-invasive, or non-invasive and we must, in some cases, overcome a bias against non-invasive aesthetic procedures for fat reduction, principally from plastic surgeons. Further, we believe our marketing programs, including our co-operative marketing strategy with individual practices, will be critical in driving additional CoolSculpting procedures, but these programs require customers commitment and involvement to succeed. If we are unable to increase customer adoption and use of CoolSculpting, our financial performance will be adversely affected.

If there is not sufficient patient demand for CoolSculpting procedures, our financial results and future prospects will be harmed.

The CoolSculpting procedure is an elective procedure, the cost of which must be borne by the patient, and is not reimbursable through government or private health insurance. The decision to undergo a CoolSculpting procedure is thus driven by patient demand, which may be influenced by a number of factors, such as:

- the success of our sales and marketing programs, including our co-operative marketing strategy with individual practices, as to which we have limited experience;
- the cost, safety, and effectiveness of CoolSculpting versus other aesthetic treatments;
- the price of CoolSculpting relative to other aesthetic products and alternative treatments;
- the willingness of patients to wait up to four months post-treatment to notice the aesthetic results of a CoolSculpting procedure;
- the ability to obtain regulatory clearance to market CoolSculpting for additional treatment indications in the United States;
- the adverse event profile of CoolSculpting, including warnings, side effects, and contraindications, which are subject to change;
- the extent to which our customers recommend CoolSculpting to their patients;
- our success in attracting consumers who have not previously purchased an aesthetic procedure;
- the extent to which our CoolSculpting procedure satisfies patient expectations;
- our ability to properly train our customers in the use of CoolSculpting such that their patients do not experience excessive discomfort during treatment or adverse side effects;
- consumer sentiment about the benefits and risks of aesthetic procedures generally and CoolSculpting in particular;
- the success of any direct-to-consumer marketing efforts we initiate to build awareness in the marketplace; and
- general consumer confidence, which may be impacted by economic and political conditions.

Our success depends in part upon patient satisfaction with the effectiveness of CoolSculpting.

To generate repeat and referral business, patients must be satisfied with the effectiveness of CoolSculpting. Our clinical studies demonstrate that a single CoolSculpting procedure noticeably and measurably reduces the fat layer within a treated fat bulge without requiring diet or exercise. However, we designed CoolSculpting to address the aesthetic concerns of individuals who have stubborn fat bulges. Although there are no technical or regulatory restrictions on the use of CoolSculpting based on patient weight, we believe patients who are significantly obese and who do not have specific fat bulges but require significant fat reduction to achieve aesthetic results are better candidates for invasive and minimally-invasive procedures not offered by us. In addition, results obtained from a CoolSculpting procedure occur gradually over a period of two to four months after treatment and patient perception of their results may vary. Although we train our customers to select the appropriate patient candidates for a CoolSculpting procedure, explain to their patients the time period over which the results from a CoolSculpting procedure will occur, and take before and after photographs of a patient, our customers may not select appropriate patient candidates or CoolSculpting may produce results that may not meet patients' expectations. If patients are not satisfied with the long term aesthetic benefits or safety of CoolSculpting, or feel that it is too expensive for the results obtained, our reputation and future sales will suffer. As market experience of CoolSculpting increases and more procedures are performed, we may learn more about the risk profile of the CoolSculpting system and receive reports of new side effects. For example, we have received reports of rare side effects, including late-onset pain, subcutaneous induration, which is hardening of normally soft tissue under the skin, hernia, and paradoxical hyperplasia, which is unusually enlarged tissue volume in the treatment area.

To market and sell CoolSculpting in markets outside of North America, we mainly depend on third-party distributors.

We currently depend on third-party distributors to sell, market, and service our CoolSculpting systems in certain markets outside of North America and to train our customers in these markets. We may need to engage additional third-party distributors to expand in new markets outside of North America. We are subject to a number of risks associated with our dependence on these third parties, including:

- we lack day-to-day control over the activities of third-party distributors;
- third-party distributors may not commit the necessary resources to market, sell, and service our systems to the level of our expectations;
- third-party distributors may not be as selective as we would be in choosing customers to purchase CoolSculpting systems or as effective in training customers in marketing and patient selection;
- third-party distributors may terminate their arrangements with us on limited, or no, notice or may change the terms of these arrangements in a manner unfavorable to us;
- disagreements with our distributors could require or result in costly and time-consuming litigation or arbitration which we could be required to conduct in jurisdictions with which we are not familiar; and
- ability to collect amounts owed from third-party distributors, who may operate in currency controlled countries.

If we fail to establish and maintain satisfactory relationships with our third-party distributors, our revenue and market share may not grow as anticipated, and we could be subject to unexpected costs, each of which would harm our results of operations and financial condition.

There are additional hurdles we must overcome in order to effectively market and sell CoolSculpting in markets outside of North America.

We believe that a significant percentage of our business will continue to come from sales in markets outside of North America through increased penetration in countries where we currently market and sell CoolSculpting directly and through our third-party distributor network, combined with expansion into new international markets. However, international sales are subject to a number of risks, including:

- difficulties in staffing and managing our international operations;
- increased competition as a result of more products and procedures receiving regulatory approval or otherwise free to market in international markets;
- longer accounts receivable payment cycles and difficulties in collecting accounts receivable;
- reduced or varied protection for intellectual property rights in some countries;
- export restrictions, trade regulations, and foreign tax laws;
- fluctuations in currency exchange rates, which could increase the selling costs of, and therefore lower demand for, our products overseas;
- foreign certification and regulatory clearance or approval requirements;
- difficulties in developing effective marketing campaigns in unfamiliar foreign countries;
- customs clearance and shipping delays;
- political, social, and economic instability abroad, terrorist attacks, and security concerns in general;
- preference for locally produced products;
- potentially adverse tax consequences, including the complexities of foreign value-added tax systems, tax inefficiencies related to our corporate structure, and restrictions on the repatriation of earnings;
- the burdens of complying with a wide variety of foreign laws and different legal standards; and
- increased financial accounting and reporting burdens and complexities.

The extent to which we encounter these additional obstacles could require us to dedicate significant financial and management resources which could negatively affect our financial results.

Our inability to effectively compete with our competitors may prevent us from achieving further market penetration or improving our operating results.

The medical technology and aesthetic product markets are highly competitive and dynamic, and are characterized by rapid and substantial technological development and product innovations. Demand for CoolSculpting could be limited by the products and technologies offered by our competitors, including newly announced products and technologies, whether or not effective. We designed CoolSculpting to address the aesthetic concerns of individuals who have stubborn fat bulges. Patients who are obese and who do not have specific fat bulges but require significant fat reduction to achieve aesthetic results are candidates for invasive and minimally-invasive procedures, such as liposuction, laser-assisted liposuction and injection lipolysis, in which a compound is administered into the fat under the skin to eliminate the fat cells. Patients who do not require significant fat reduction to achieve meaningful aesthetic results explore non-invasive fat reduction and body contouring procedures to avoid the pain, expense, downtime, and surgical risks associated with invasive and minimally-invasive procedures. In the United States, the FDA has cleared the marketing of several noninvasive technologies for fat reduction, circumferential reduction, fat cell destruction or body contouring. These noninvasive procedures involve various energy forms, including radio frequency, laser, or high intensity focused ultrasound, applied through the skin to eliminate fat cells. We believe that the marketing of these products has extended the sales cycle for CoolSculpting beginning in 2013 and may continue to have an impact on our sales in the future. The timing of, and publicity around, the introduction of such products or other technologies is outside our control, and may have an adverse impact on our sales and the rate at which practices purchase CoolSculpting systems and/or cycles in the form of consumable procedure packs.

Due to less stringent regulatory requirements, there are many more aesthetic products and procedures available for use in international markets than are approved for use in the United States. For example, multiple ultrasound based products have been cleared for marketing outside the United States. There are also fewer limitations on the claims our competitors in international markets can make about the effectiveness of their products and the manner in which they can market them. As a result, we face more competition in these markets than in the United States.

We also compete generally against medical technology and aesthetic companies, including those offering products and technologies unrelated to fat reduction, for customer resources and mind share. Some of our competitors have a broad range of product offerings, large direct sales forces, and long-term customer relationships with our target customers, which could inhibit our market penetration efforts. Our potential customers also may need to recoup the cost of expensive products that they have already purchased from our competitors, and thus they may decide to delay purchasing, or not to purchase, our CoolSculpting system.

Many of our competitors are large, experienced companies that have substantially greater resources and brand recognition than we do. Competing in the medical technology and aesthetic markets could result in price-cutting, reduced profit margins, and limited market share, any of which would harm our business, financial condition, and results of operations.

Third parties may attempt to produce counterfeit versions of our products and which may harm our ability to sell our CoolSculpting systems or consumables, negatively affect our reputation, or harm patients and subject us to product liability.

Third parties may seek to develop, manufacture, distribute and sell systems that we believe infringe our proprietary rights, which would compete against our CoolSculpting systems and impair our ability to sell our CoolSculpting systems in jurisdictions in which our proprietary rights are not upheld. In addition, counterfeit products may be promoted in a way that misleads consumers into believing they are affiliated with us. If counterfeit products are used with or in place of our products, we could be subject to product liability lawsuits resulting from the use of damaged or defective goods and suffer damage to our reputation.

For example, in January 2013, the Mercantile Court in Spain rendered its ruling on the merits of Massachusetts General Hospital's, or MGH, and our request for a permanent injunction against Clinipro's LipoCryo device based on Clinipro's infringement of two European patents owned by MGH and globally licensed exclusively to us. While the Mercantile Court had earlier granted in 2012 MGH's and our request for a preliminary injunction, the Court, in the January 2013 ruling, denied the request for a permanent injunction, and the Mercantile Court's ruling has been upheld on appeal. The Mercantile Court's ruling affects only Clinipro's activities in Spain. Further, although we and MGH did prevail against Clinipro in a patent infringement case in France, holding that an MGH patent exclusively licensed to us is valid and enforceable and enjoining Clinipro and its distributors from selling LipoCryo in France, Clinipro appealed that ruling. The French court of appeal overturned a portion of the ruling related to sufficiency of disclosure, which has the potential to affect certain claims in MGH's patents. We are entitled to and intend to pursue an appeal. However, there is no assurance that we will prevail.

In addition, in May 2014, the United States District Court Eastern District of Wisconsin granted a mandatory injunction in our favor against a clinic using and promoting “Freeze Sculpting” treatments with a counterfeit device. Other counterfeit users are present in the United States and although our enforcement strategy is aggressive, there is no assurance that we will be successful in our actions to enjoin them from using or promoting treatments with counterfeit devices.

If we are unable to manufacture our CoolSculpting system in high-quality commercial quantities successfully and consistently to meet demand, our growth will be limited and our reputation could be harmed.

Our CoolSculpting system consists of a CoolSculpting control unit and our CoolSculpting applicators. Our CoolSculpting procedure packs are composed of consumable CoolGels, CoolLiners, and in the case of our CoolSmooth procedure packs, disposable securement accessories, all of which are used by our customer during treatments. In addition, each consumable procedure pack includes a disposable computer cartridge that we market as the CoolCard. The CoolCard contains enabling software that permits our customer to perform a fixed number of CoolSculpting cycles. We manufacture our CoolSculpting system at our own facilities. During the second quarter of 2013, we fully in-sourced the manufacturing of our CoolSculpting system. CoolGels, CoolLiners and disposable securement accessories continue to be manufactured through third-party contract manufacturers. To manufacture our CoolSculpting system in the quantities that we believe will be required to meet anticipated increased market demand, we will need to increase manufacturing capacity, which will involve significant challenges and may require additional regulatory approvals. In addition, the development of these manufacturing capabilities will require us to invest substantial additional funds and hire and retain the technical personnel who have the necessary manufacturing experience. We may not successfully complete any required increase to existing manufacturing processes in a timely manner, or at all.

If there is a disruption to our manufacturing operations, we will have no other means of producing our CoolSculpting systems until we restore the affected facilities or develop alternative manufacturing facilities or methods, including potentially re-outsourcing our manufacturing operations. Additionally, any damage to or destruction of our facilities or equipment may significantly impair our ability to manufacture CoolSculpting systems on a timely basis.

If we are unable to produce CoolSculpting systems in sufficient quantities to meet anticipated customer demand, our revenue, business, and financial prospects would be harmed. In addition, if we experience any quality issues in the manufacturing of

CoolSculpting systems, this could result in product recalls. Manufacturing delays related to quality control could negatively impact our ability to bring our CoolSculpting system and procedure packs to market, harm our reputation, and decrease our revenue. Any recall could be expensive and generate negative publicity, which could impair our ability to market our CoolSculpting system and further affect our results of operations.

We outsource the manufacturing of key components of our consumable procedure packs to third-party contract manufacturers.

Key components of our consumable procedure packs, including CoolGels, CoolLiners and securement accessories used with our CoolSmooth applicator, are manufactured by third-party contract manufacturers. If the operations of third-party contract manufacturers are interrupted or if they are unable to meet our delivery requirements due to capacity limitations, regulatory problems or other constraints, we may be limited in our ability to fulfill new customer orders or to repair equipment at current customer sites. Any change to another contract manufacturer would likely entail significant delay, require us to devote substantial time and resources, and could involve a period in which our products could not be produced in a timely or consistently high-quality manner, any of which could harm our reputation and results of operations.

Our manufacturing operations are dependent upon third-party suppliers, making us vulnerable to supply shortages and price fluctuations, which could harm our business.

Our CoolSculpting system contains a few critical components, the integrated circuit contained in the CoolSculpting control unit, the CoolSculpting applicators and the CoolCard, which is supplied by a company in Japan, and the connector that attaches our applicators to the control unit, which is supplied by a separate company in the United States. The single source suppliers of these critical components may not be replaced without significant effort and delay in production. We do not have supply agreements with the suppliers of these critical components beyond purchase orders. However, we attempt to maintain a safety stock inventory for these critical components equal to one year of forecasted part requirements of the integrated circuit and one month of connectors in finished assemblies, as well as at least three months' supply of connectors to support open purchase orders. Such forecasted amounts may be inaccurate and we may experience shortages as a result of serious supply problems or longer lead times with these suppliers as well as an increased demand for our products. In addition, several other non-critical components and materials that compose our CoolSculpting system are currently supplied by a single supplier or a limited number of suppliers. In many of these cases, we have not yet qualified alternate suppliers and rely upon purchase orders, rather than long-term supply agreements. A supply interruption or an increase in demand beyond our current suppliers' capabilities could harm our ability to manufacture our CoolSculpting system to meet demand until new sources of supply are identified and qualified, which could impact our sales and/or gross margins. Our reliance on these suppliers subjects us to a number of risks that could harm our business, including:

- interruption of supply resulting from modifications to or discontinuation of a supplier's operations;
- interruption of supply, or increased shipping costs, resulting from port strikes, work stoppages or other unrest;
- delays in product shipments resulting from uncorrected defects, reliability issues, or a supplier's variation in a component;
- a lack of long-term supply arrangements for key components with our suppliers;
- inability to obtain adequate supply in a timely manner, or to obtain adequate supply on commercially reasonable terms;
- difficulty and cost associated with locating and qualifying alternative suppliers for our components in a timely manner;
- production delays related to the evaluation and testing of products from alternative suppliers, and corresponding regulatory qualifications;
- delay in delivery due to our suppliers prioritizing other customer orders over ours;
- damage to our brand reputation caused by defective components produced by our suppliers;
- increased cost of our warranty program due to product repair or replacement based upon defects in components produced by our suppliers; and
- fluctuation in delivery by our suppliers due to changes in demand from us or their other customers.

Any interruption in the supply of components or materials, or our inability to obtain substitute components or materials from alternate sources at acceptable prices in a timely manner, could impair our ability to meet the demand of our customers, which would have an adverse effect on our business.

We forecast sales to determine requirements for components and materials used in our CoolSculpting system, and if our forecasts are incorrect, we may experience delays in shipments or increased inventory costs.

We keep limited materials, components, and finished products on hand. To manage our operations with our third-party contract manufacturers and suppliers, we forecast anticipated product orders and material requirements to predict our inventory needs and enter into purchase orders on the basis of these requirements. Several components of our CoolSculpting system require an order lead time of six months or more. If our business expands, and our demand for components and materials increases beyond our estimates, our contract manufacturers and suppliers may be unable to meet our demand. In addition, if we

underestimate our component and material requirements, we may have inadequate inventory, which could interrupt, delay, or prevent delivery of our CoolSculpting system to our customers. In contrast, if we overestimate our component and material requirements, we may have excess inventory, which would increase our expenses. Further, outside forces, such as port strikes, could impact our ability to receive components necessary to meet demand. Any of these occurrences would negatively affect our financial performance and the level of satisfaction our customers have with our business.

There exists a potential for misuse of our CoolSculpting system, which could harm our reputation and our business.

Under state law in the United States, our customers can generally allow nurse practitioners, technicians, and other non-physicians to perform CoolSculpting procedures under their supervision. Similarly, in markets outside of the United States, our customers can allow non-physicians to perform CoolSculpting procedures under their supervision. Although we and our distributors provide training on the use of CoolSculpting systems, we do not supervise the procedures performed with our CoolSculpting system, nor can we be assured that direct physician supervision of procedures occurs according to our recommendations. The potential misuse of our CoolSculpting system by physicians and non-physicians may result in adverse treatment outcomes, which could harm our reputation and expose us to costly product liability litigation.

Product liability suits could be brought against us due to defective design, labeling, material, workmanship, or misuse of our CoolSculpting system, or unanticipated adverse events, and could result in expensive and time-consuming litigation, payment of substantial damages, an increase in our insurance rates and substantial harm to our reputation.

If our CoolSculpting system is defectively designed, manufactured, or labeled, contains defective components, or is misused, we may become subject to substantial and costly litigation by our customers or their patients. Misusing our CoolSculpting system or failing to adhere to operating guidelines can cause skin damage and underlying tissue damage and, if our operating guidelines are found to be inadequate, we may be subject to liability. Furthermore, if a patient is injured in an unexpected manner after undergoing a CoolSculpting procedure, even if the procedure was performed in accordance with our operating guidelines, we may be subject to product liability claims. We may also be subject to additional liability from claims related to known rare side effects such as late-onset pain, subcutaneous induration, hernia, and paradoxical hyperplasia. Product liability claims could divert management attention from our core business, be expensive to defend, and result in sizable damage awards against us. We have historically been and continue to be predominantly self-insured for any product liability losses related to our products. We currently have product liability insurance to limit our exposure to these claims, but this insurance is subject to a cap reimbursement and, may not be adequate to cover us against all potential liability and is subject to material deductibles. In addition, we may not be able to maintain insurance in amounts or scope sufficient to provide us with adequate coverage against all potential liabilities. Any product liability claims brought against us, with or without merit, could increase our product liability insurance rates or prevent us from securing continuing coverage, could harm our reputation in the industry, and could reduce product sales. Product liability claims in excess of our insurance coverage, as well as deductibles under insurance policies, would be paid out of cash reserves, harming our financial condition and reducing our operating results.

Although we are currently exploring the use of our proprietary controlled cooling technology for other indications, such as for the treatment of acne and certain related skin conditions, there can be no guarantee that our research and development efforts in these additional indications will be successful.

We are currently exploring the use of our proprietary controlled cooling technology for other indications, and in September 2015 we entered into a new collaboration and patent license agreement with MGH to develop and commercialize a controlled cooling product for the treatment of acne and certain related skin conditions. However, there can be no guarantee that our research and development efforts will produce results that will enable us to pursue a regulatory submission to commercialize our proprietary controlled cooling technology for use in acne or any other indication, or that any submission that we make will receive regulatory approval. If our research and development efforts are not successful, we will have expended research and development efforts and capital in pursuing these indications without realizing any benefits from these efforts and expenses.

Security breaches and other disruptions could compromise our information and expose us to liability, which would cause our business and reputation to suffer.

We rely on networks, information management software and other technology, or information systems, including the Internet and third-party hosted services, to support a variety of business processes and activities, including procurement and supply chain, manufacturing, distribution, invoicing, order processing and collection of payments. We use information systems to process financial information and results of operations for internal reporting purposes and to comply with regulatory financial reporting, legal and tax requirements. In addition, we depend on information systems for digital marketing activities and electronic communications among our locations around the world and between company personnel as well as customers and suppliers. Because information systems are critical to many of our operating activities, our business processes may be impacted by system shutdowns or service disruptions. These disruptions may be caused by failures during routine operations such as system upgrades or user errors, as well as network or hardware failures, malicious or disruptive software, computer hackers, geopolitical events, natural disasters, failures or impairments of telecommunications networks, or other catastrophic events. These events could result in unauthorized disclosure of material confidential information. If our information systems suffer severe damage, disruption or shutdown and our business continuity plans do not effectively resolve the issues in a timely manner, we could experience delays in reporting our financial results and we may lose revenue and profits as a result of our inability to timely manufacture, distribute, invoice and collect payments. Misuse, leakage or falsification of information could result in a violation of data privacy laws and regulations and damage our reputation and credibility, and could expose us to liability. We may also be required to spend significant financial and other resources to remedy the damage caused by a security breach or to repair or replace networks and information systems.

Like most major corporations, our information systems are a target of attacks. Although the disruptions to our information systems that we have experienced to date have not had a material effect on our business, financial condition or results of operations, there can be no assurance that such disruptions will not have a material adverse effect on us in the future.

We may encounter issues with privacy and security of personal information.

CoolConnect allows us to obtain information directly from CoolSculpting systems deployed by our customers and, as a result, we expect to become subject to certain data privacy and security regulation by both the federal government and the states in which we conduct our business. The Health Insurance Portability and Accountability Act of 1996, or HIPAA, and its implementing regulations, established uniform federal standards for certain "covered entities," which include certain health care providers, health care clearinghouses, and health plans. These standards govern the conduct of specified electronic health care transactions and govern the privacy and security of protected health information, or PHI. The Health Information Technology for Economic and Clinical Health Act, or HITECH Act, makes HIPAA's security standards directly applicable to "business associates," which are independent contractors or agents of covered entities that create, receive, maintain, or transmit PHI in connection with providing a service for or on behalf of a covered entity. The HITECH Act increased the civil and criminal penalties that may be imposed against covered entities, business associates and certain other persons, and gave state attorneys general authority to enforce HIPAA's requirements.

A portion of the data that we expect to obtain and handle for or on behalf of our customers is considered PHI. Under HIPAA and our contractual agreements with our covered entity customers, we expect to be considered a "business associate" to those customers, and be required to maintain the privacy and security of PHI in accordance with HIPAA and the terms of our business associate agreements with customers, including by implementing HIPAA-required administrative, technical and physical safeguards. We have incurred, and will continue to incur, significant costs to establish and maintain these safeguards and, if additional safeguards are required to comply with HIPAA regulations or our customers' requirements, our costs could increase further, which would negatively affect our operating results. Furthermore, we cannot guarantee that such safeguards will be adequate. If we fail to maintain adequate safeguards, or we or our agents and subcontractors use or disclose PHI in a manner prohibited or not permitted by HIPAA or our business associate agreements, we could be subject to significant liabilities and consequences, including but not limited to contractual damages, government investigation, fines, private litigation, and/or negative publicity.

We have increased the size of our company significantly and over a short period, and difficulties managing our growth could adversely affect our business, operating results, and financial condition.

We have increased our headcount from 208 at January 1, 2013, to 663 at September 30, 2016 , and plan to continue to hire additional employees as we increase our commercialization and sales activities for CoolSculpting. This growth has placed and may continue to place a strain on our management and our administrative, operational, and financial infrastructure. Our ability to manage our operations and growth requires the continued improvement of our operational, financial and management controls, reporting systems, and procedures, particularly to meet the reporting requirements of the Securities Exchange Act of 1934. If we are unable

to manage our growth effectively or if we are unable to attract additional highly qualified personnel, our business, operating results, and financial condition may be harmed.

We depend on skilled and experienced personnel to operate our business effectively. If we are unable to recruit, hire, and retain these employees, our ability to manage and expand our business will be harmed, which would impair our future revenue and profitability.

Our success largely depends on the skills, experience, and efforts of our executive officers and other key employees. We do not have employment contracts with any of our executive officers or other key employees that require these officers to stay with us for any period of time. Any of our executive officers and other key employees may terminate their employment with us at any time. The loss of any of our executive officers and other key employees could weaken our management expertise and harm our business operations.

In addition, our ability to retain our skilled employees and our success in attracting and hiring new skilled employees will be a critical factor in determining whether we will be successful in the future. We may not be able to meet our future hiring needs or retain our existing employees. We will face significant challenges and risks in hiring, training, managing, and retaining sales and marketing, product development, financial reporting, and regulatory compliance employees, many of whom are geographically dispersed. Failure to attract and retain personnel, particularly our sales and marketing, product development, financial reporting, and regulatory compliance personnel, would materially harm our ability to compete effectively and grow our business.

We may need to raise additional funds in the future, and such funds may not be available on a timely basis, or at all.

The year 2015 is the first year in which we have generated positive cash flow from operations. Until such time, if ever, as we can achieve significant and sustained positive cash flows from sales of our CoolSculpting system and from sales of cycles in the form of consumable procedure packs, we will be required to finance our operations with our cash resources. We may need to raise additional funds in the future to support our operations. We cannot be certain that additional capital will be available as needed on acceptable terms, or at all. If we require additional capital at a time when investment in our company, in medical technology or aesthetic product companies or the marketplace in general is limited, we may not be able to raise such funds at the time that we desire, or at all. If we do raise additional funds through the issuance of equity or convertible securities, the percentage ownership of holders of our common stock could be significantly diluted and these newly issued securities may have rights, preferences, or privileges senior to those of holders of our common stock. If we obtain debt financing, a substantial portion of our operating cash flow may be dedicated to the payment of principal and interest on such indebtedness, and the terms of the debt securities issued could impose significant restrictions on our operations. If we raise additional funds through collaborations and licensing arrangements, we could be required to relinquish significant rights to our technologies and products, or grant licenses on terms that are not favorable to us.

If we fail to manage our exposure to global financial and securities market risk successfully, our operating results and financial statements could be materially impacted.

The primary objective of most of our investment activities is to preserve principal. To achieve this objective, a majority of our marketable investments are investment grade, liquid, fixed-income securities and money market instruments denominated in U.S. dollars. If the carrying value of our investments exceeds the fair value, and the decline in fair value is deemed to be other-than-temporary, we will be required to write down the value of our investments, which could materially harm our results of operations and financial condition. Moreover, the performance of certain securities in our investment portfolio correlates with the credit condition of the U.S. financial sector. In our current unstable credit environment, we might incur significant realized, unrealized or impairment losses associated with these investments.

Our ability to use net operating losses and tax credit carryforwards to offset future tax liabilities may be limited.

We have substantial federal net operating loss carryforwards, or NOLs, and state and federal tax credit carryforwards. A lack of future taxable income would adversely affect our ability to utilize these NOLs and tax credit carryforwards. In addition, under Section 382 of the U.S. Internal Revenue Code, or the Code, a corporation that experiences a more-than 50% ownership change over a three-year testing period is subject to limitations on its ability to utilize its pre-change NOLs and tax credit carryforwards to offset future taxable income. Future changes in our stock ownership, many of the causes of which are outside of our control, could result in an ownership change under Section 382 of the Code. Our NOLs and tax credit carryforwards may also be impaired under state law. As a result of these limitations, we may not be able to utilize a material portion of the NOLs and tax credit carryforwards.

If taxing authorities challenge our recently implemented international tax structure, we may be required to pay more in taxes than we currently expect.

During the second quarter of 2016, we continued the implementation of our international tax structure which includes a research and development cost-sharing arrangement, certain licenses and other contractual arrangements between us and our wholly-owned foreign subsidiaries. As a result of the implementation, we anticipate in future years that our consolidated pre-tax income will be subject to foreign tax at relatively lower tax rates when compared to the United States federal statutory tax rate and, as a consequence, our effective income tax rate is expected to be lower than the United States federal statutory rate. Our future effective income tax rates could be adversely affected if tax authorities challenge our international tax structure or if the relative mix of United States and international income changes for any reason.

Regulations related to conflict minerals could adversely impact our business.

Regulations promulgated by the United States Security and Exchange Commission, or SEC, prescribe annual disclosure and reporting requirements for public companies that use tin, tantalum, tungsten and gold, known as conflict minerals, mined from the Democratic Republic of Congo and adjoining countries, referred to as Covered Countries, in their products. These disclosure requirements require us to use diligent efforts to determine which conflict minerals we use and the source of those conflict minerals. We have determined that we use at least one of these conflict minerals in the manufacture of our CoolSculpting system, and so we are subject to these reporting requirements. We filed our most recent conflict minerals report on May 31, 2016, reporting that we could not yet determine whether the conflict minerals we source were , directly or indirectly, used to finance or benefit armed groups in the Covered Countries . There are and will continue to be costs associated with complying with these disclosure requirements. Further, these disclosure requirements could adversely affect the sourcing, supply and pricing of materials used in our CoolSculpting system and related consumables. In addition, our inability to conclude that we use conflict free minerals may damage our reputation. If we determine it is necessary to redesign our CoolSculpting system and/or related consumables to enable us to confirm that we do not use conflict minerals, we would incur costs associated with doing so.

Risks Related to Regulation

The regulatory clearance and approval process is expensive, time-consuming, and uncertain, and the failure to obtain and maintain required regulatory clearances and approvals could prevent us from commercializing our CoolSculpting system and any future products, such as for the treatment of cellulite, acne and certain related skin conditions, we develop.

We are investing in the research and development of new products and procedures based on our proprietary controlled cooling technology platform, such as for the treatment of cellulite, acne and certain related skin conditions. Our products are subject to 510(k) clearance by the FDA prior to their marketing for commercial use in the United States, and to any approvals required by foreign governmental entities prior to their marketing outside the United States. In addition, if we make any changes or modifications to our CoolSculpting system that could significantly affect its safety or effectiveness, or would constitute a change in its intended use, we may be required to submit a new notification for 510(k) clearance, premarketing approval or foreign regulatory approvals. For example, we will be required to submit new 510(k) notification to expand our ability to market CoolSculpting for use on other areas of the body beyond the flanks, abdomen, thighs, submental area, around bra straps, back and underneath the buttocks and for the treatment of cellulite, acne and certain related skin conditions.

The 510(k) clearance process, as well as the process for obtaining foreign approvals, can be expensive, time-consuming, and uncertain. We anticipate that the direct clinical costs to support a 510(k) notification for an additional indication for CoolSculpting will range from $0.25 million to $0.5 million. In addition to the time required to conduct clinical trials, it generally takes from four to twelve months from submission of a notification to obtain 510(k) clearance; however, it may take longer, and 510(k) clearance may never be obtained. Delays in receipt of, or failure to obtain, clearances or approvals for any product enhancements or new products we develop, and for the treatment of cellulite, acne and certain related skin conditions, would result in delayed, or no, realization of revenue from such product enhancements or new products and in substantial additional costs which could decrease our profitability.

In addition, we are required to continue to comply with applicable FDA and other regulatory requirements once we have obtained clearance or approval for a product. There can be no assurance that we will successfully maintain the clearances or approvals we have received or may receive in the future. Our clearances can be revoked if safety or effectiveness problems develop. Any failure to maintain compliance with FDA and applicable international regulatory requirements could harm our business, financial condition, and results of operations.

We will be subject to significant liability if we are found to have improperly promoted CoolSculpting for off-label uses.

The FDA strictly regulates the promotional claims that may be made about FDA-cleared products. In particular, a product may not generally be promoted for uses that are not cleared or approved by the FDA as reflected in the product's labeling. Our current FDA labeling only permits marketing CoolSculpting in the United States for use on the flanks, the abdomen, the thigh area, the submental fat area under the chin, around bra straps, back and underneath the buttocks and restricts us from promoting it for use on other parts of the body. The FDA does not regulate the practice of medicine however, and, we are aware that CoolSculpting is used by our customers on other parts of the body. If we are found to have inappropriately promoted such off-label uses, we may become subject to significant liability. The federal government has levied large civil and criminal fines against companies for alleged improper promotion and entered agreements with several companies that require cumbersome reporting and oversight of sales and marketing practices. The FDA has also requested that companies enter into consent decrees or permanent injunctions under which specified promotional conduct is changed or curtailed.

CoolSculpting may cause or contribute to adverse medical events that we are required to report to the FDA and if we fail to do so, we could be subject to sanctions that would materially harm our business.

Rare side effects have been reported after receiving CoolSculpting treatments, such as late-onset pain, subcutaneous induration, hernia, and paradoxical hyperplasia. There may be other new side effects that are reported to us as use of CoolSculpting increases. We may need to update our labeling, or take other regulatory action, in response to adverse event reports. In addition, FDA regulations require that we report certain information about adverse medical events if our medical devices may have caused or contributed to those adverse events, or if our device has malfunctioned. The timing of our obligation to report is triggered by the date we become aware of the adverse event as well as the nature of the event. We may fail to report adverse events we become aware of within the prescribed timeframe. We may also fail to appreciate that we have become aware of a reportable adverse event, especially if it is not reported to us as an adverse event or if it is an adverse event that is unexpected or removed in time from the use of our products. If we fail to comply with our reporting obligations, the FDA could take action including criminal prosecution, the imposition of civil monetary penalties, revocation of our device clearance or approval, seizure of our products, or delay in approval or clearance of future products.

We are currently, and in the future our contract manufacturers may be, subject to various governmental regulations related to the manufacturing of CoolSculpting, and we may incur significant expenses to comply with, experience delays in our product commercialization as a result of, and be subject to material sanctions if we or our contract manufacturers violate these regulations.

Our manufacturing processes and facilities are required to comply with the FDA's Quality System Regulation, or QSR, which covers the procedures and documentation of the design, testing, production, control, quality assurance, labeling, packaging, sterilization, storage, and shipping of our devices. Although we believe we are compliant with the QSRs, the FDA enforces the QSR through periodic announced or unannounced inspections of manufacturing facilities. We have been, and anticipate in the future being, subject to such inspections, as well as to inspections by other federal and state regulatory agencies.

Failure to comply with applicable FDA requirements, or later discovery of previously unknown problems with our products or manufacturing processes, including our failure or the failure of one of our third-party contract manufacturers to take satisfactory corrective action in response to an adverse QSR inspection, can result in, among other things:

- administrative or judicially-imposed sanctions;
- injunctions or the imposition of civil penalties;
- recall or seizure of our products;
- total or partial suspension of production or distribution;
- the FDA's refusal to grant pending future clearance or pre-market approval for our products;
- withdrawal or suspension of marketing clearances or approvals;
- clinical holds;
- warning letters;
- refusal to permit the import or export of our products; and
- criminal prosecution of us or our employees.

Any of these actions, in combination or alone, could prevent us from marketing, distributing, or selling our products and would likely harm our business.

We could have to issue a correction or removal to reduce a risk to health posed by our device or to remedy a violation which may present a risk to health. In addition, a product defect or regulatory violation could lead to a government-mandated or voluntary

recall by us. The FDA could request that we initiate a voluntary recall if a product was defective or presented a risk of injury or gross deception. The FDA could order a recall if there is a reasonable probability that our product would cause serious adverse health consequences or death. Regulatory agencies in other countries have similar authority to recall devices because of material deficiencies or defects in design or manufacture that could endanger health. Any recall would divert management attention and financial resources, could cause the price of our shares of common stock to decline and expose us to product liability or other claims, including contractual claims from parties to whom we sold products and harm our reputation with customers. A recall involving our CoolSculpting system would be particularly harmful to our business and financial results and, even if we remedied a particular problem, would have a lasting negative effect on our reputation and demand for our products.

Legislative or regulatory healthcare reforms may make it more difficult and costly for us to obtain regulatory clearance or approval of our products and to produce, market, and distribute our products after clearance or approval is obtained.

From time to time, legislation is drafted and introduced in Congress that could significantly change the statutory provisions governing the regulatory clearance or approval, manufacture, and marketing of regulated products or the reimbursement thereof.

In addition, FDA regulations and guidance are often revised or reinterpreted by the FDA in ways that may significantly affect our business and our products. For example, in the future, the FDA may require more burdensome premarket approval of our procedures rather than the 510(k) clearance process we have used to date and anticipate primarily using in the future. Our CoolSculpting Platform is also subject to state regulations which are, in many instances, in flux. Any new regulations or revisions or reinterpretations of existing regulations may impose additional costs or lengthen review times of our products. We cannot determine what effect changes in regulations, statutes, legal interpretation or policies, when and if promulgated, enacted or adopted may have on our business in the future. Such changes could, among other things, require:

- changes to manufacturing methods;
- recall, replacement, or discontinuance of certain products;
- additional record keeping; and
- additional warnings.

Each of these would likely entail substantial time and cost and could materially harm our financial results. In addition, delays in receipt of or failure to receive regulatory clearances or approvals for our new products would harm our business, financial condition, and results of operations.

Federal and state governments in the United States are also undertaking efforts to control growing health care costs through legislation, regulation, and voluntary agreements with medical care providers, and third-party payers. In March 2010, Congress enacted comprehensive health care reform legislation known as the Patient Protection and Affordable Care Act of 2010, which, as amended is known as the ACA. The ACA imposes a 2.3% excise tax on certain sales of medical devices by manufacturers in the United States. Although the excise tax has been temporarily suspended effective January 1, 2016 through December 31, 2017, there is no assurance that such suspension will continue. We expect compliance with the ACA to continue to impose significant administrative and financial burdens on us, which may harm our results of operations.

We may be subject to various federal and state laws pertaining to health care marketing and promotional practices and other business practices, and any violations by us of such laws could result in fines or other penalties.

State and federal authorities have targeted medical technology companies for alleged violations of laws and regulations, based on off-label marketing schemes and other improper promotional practices. Companies targeted in such prosecutions have paid substantial fines in the hundreds of millions of dollars or more, have been forced to implement extensive corrective action plans, and have often become subject to consent decrees severely restricting the manner in which they conduct their business. If we become the target of such an investigation or prosecution based on our marketing and promotional practices, we could face similar sanctions which would materially harm our business.

To our knowledge, the CoolSculpting Platform is not reimbursed by any third party payors, including federal health care programs such as Medicare and Medicaid. This helps to limit our possible exposure under certain U.S. health regulatory laws that have been at issue in some other medical technology enforcement. This also means we are not required to track and report marketing expenditures under the federal physician payment “sunshine” provisions enacted under the ACA. However, in the event third party reimbursement were available (or was caused to be paid inappropriately), our business could potentially be subject to a range of broad-reaching health regulatory laws, including, for example, the federal health care anti-kickback statute, the ACA’s “sunshine” provisions, and the federal civil false claims act. In addition, even without third party reimbursement for the CoolSculpting Platform, state “consumer protection” laws generally prohibit unfair and deceptive marketing practices directed at consumers, and such laws

are generally broad enough to prohibit a range of marketing activities with respect to health care products and services that may be acceptable in other industries.

We may be exposed to liabilities under the FCPA and other anti-corruption laws, and any determination that we violated these laws could have a material adverse effect on our business.

We are subject to the Foreign Corrupt Practice Act of 1977, or FCPA, and other laws that prohibit improper payments or offers of payments to foreign governments and their officials and political parties by U.S. persons and issuers as defined by the statute, for the purpose of obtaining or retaining business. Also, similar worldwide anti-bribery laws, such as the U.K. Bribery Act and Chinese anti-corruption laws, generally prohibit companies and their intermediaries from making improper payments to non-U.S. officials for the purpose of obtaining or retaining business. Some of our distribution partners are located in parts of the world that have experienced governmental corruption to some degree and, in certain circumstances, strict compliance with anti-bribery laws may conflict with local customs and practices. Although we have implemented policies and procedures to discourage these practices by our employees, our existing safeguards and any future improvements may prove to be less than effective, and our employees, consultants, sales agents or distributors may engage in conduct for which we might be held responsible. Violations of the FCPA or international anti-corruption laws may result in severe criminal or civil sanctions, and we may be subject to other liabilities, which could negatively affect our business, operating results and financial condition. In addition, the U.S. government may seek to hold us liable for successor liability FCPA violations committed by companies in which we invest or that we acquire. We cannot assure you that our internal control policies and procedures will protect us from reckless or negligent acts committed by our employees, distributors, partners, consultants or agents.

We are subject to numerous environmental, health and safety laws and regulations, and must maintain licenses or permits, and non-compliance with these laws, regulations, licenses, or permits may expose us to significant costs or liabilities.

We are subject to numerous foreign, federal, state, and local environmental, health and safety laws and regulations relating to, among other matters, safe working conditions and environmental protection, including those governing the generation, storage, handling, use, transportation, and disposal of hazardous or potentially hazardous materials. Some of these laws and regulations require us to obtain licenses or permits to conduct our operations. Environmental laws and regulations are complex, change frequently and have tended to become more stringent over time. If we violate or fail to comply with these laws, regulations, licenses, or permits, we could be fined or otherwise sanctioned by regulators. We cannot predict the impact on our business of new or amended laws or regulations or any changes in the way existing and future laws and regulations are interpreted or enforced, nor can we ensure we will be able to obtain or maintain any required licenses or permits.

Risks Related to Our Intellectual Property

If we are unable to obtain, maintain, and enforce intellectual property protection covering our CoolSculpting system and any future products we develop, others may be able to make, use, or sell products substantially the same as ours, which could adversely affect our ability to compete in the market.

Our commercial success is dependent in part on obtaining, maintaining, and enforcing our intellectual property rights, including our patents and the patents we exclusively license. If we are unable to obtain, maintain, and enforce intellectual property protection covering our CoolSculpting system and any other products we develop, others may be able to make, use, or sell products that are substantially the same as ours without incurring the sizable development and licensing costs that we have incurred, which would adversely affect our ability to compete in the market.

We seek to obtain and maintain patents and other intellectual property rights to restrict the ability of others to market products that compete with our products. As of September 30, 2016 , our patent portfolio comprised 141 issued patents and 88 pending patent applications, each of which we own solely or license exclusively. However, patents may not be issued on any pending or future patent applications we file and, moreover, issued patents owned or licensed to us now or in the future may be found by a court to be invalid or otherwise unenforceable. Also, even if our patents are determined by a court to be valid and enforceable, they may not be drafted or interpreted sufficiently broadly to prevent others from marketing products and services similar to ours or designing around our patents, and they may not provide us with freedom to operate unimpeded by the patent rights of others.

We have a number of foreign patents and applications, and expect to continue to pursue patent protection in the jurisdictions in which we do or intend to business. However, the laws of some foreign jurisdictions do not protect intellectual property rights to the same extent as laws in the United States, and many companies have encountered significant difficulties in obtaining, protecting, and defending such rights in foreign jurisdictions. If we encounter such difficulties or we are otherwise precluded from effectively protecting our intellectual property rights in foreign jurisdictions, our business prospects could be substantially harmed.

The patent positions of medical technology companies can be highly uncertain and involve complex legal and factual questions for which important legal principles remain unresolved. No consistent policy regarding the breadth of claims allowed in patents in these fields has emerged to date in the United States or in many foreign jurisdictions. Both the U.S. Supreme Court and the Court of Appeals for the Federal Circuit have made, and will likely continue to make, changes in how the patent laws of the United States are interpreted. Similarly, foreign courts have made, and will likely continue to make, changes in how the patent laws in their respective jurisdictions are interpreted. In addition, the U.S. Congress is currently considering legislation that would change provisions of the patent law. We cannot predict future changes U.S. and foreign courts may make in the interpretation of patent laws or changes to patent laws which might be enacted into law by U.S. and foreign legislative bodies. Those changes may materially affect our patents, our ability to obtain patents or the patents and applications of our collaborators and licensors.

Future protection for our proprietary rights is uncertain because legal means afford only limited protection and may not adequately protect our rights or permit us to gain or keep our competitive advantage, which could adversely affect our financial condition and results of operations. For example:

- others may be able to make systems or devices that are similar to ours but that are not covered by the claims of our patents;
- others may assert that our licensors or we were not the first to make the inventions covered by our issued patents or pending patent applications;
- our pending patent applications may not result in issued patents;
- our issued patents may not provide us with any competitive advantages or may be held invalid or unenforceable as a result of legal challenges by third parties;
- the claims of our issued patents or patent applications when issued may not cover our CoolSculpting system or the future products we develop;
- there may be dominating patents relevant to our controlled cooling technology of which we are not aware;
- there may be prior public disclosures that could invalidate our inventions or parts of our inventions of which we are not aware;
- the laws of foreign countries may not protect our proprietary rights to the same extent as the laws of the United States; and
- we may not develop additional proprietary technologies that are patentable.

From time to time, we analyze our competitors' products and services, and may in the future seek to enforce our patents or other rights to counter perceived infringement. However, infringement claims can be expensive and time-consuming. In addition, in an infringement proceeding, a court may decide that the patent we seek to enforce is invalid or unenforceable, or may refuse to stop the other party from using the technology at issue on the grounds that the patent in question does not cover the technology in question. An adverse result in any litigation could put one or more of our patents at risk of being invalidated or interpreted narrowly. Similarly, some of our competitors may be able to devote significantly more resources to intellectual property litigation, and may have significantly broader patent portfolios to assert against us if we assert our rights against them. Finally, because of the substantial discovery required in connection with intellectual property litigation, there is a risk that some of our confidential information could be disclosed or otherwise compromised during this type of litigation.

For example, in January 2013, the Mercantile Court in Spain rendered its ruling on the merits of Massachusetts General Hospital's, or MGH, and our request for a permanent injunction against Clinipro's LipoCryo device based on Clinipro's infringement of two European patents owned by MGH and globally licensed exclusively to us. While the Mercantile Court had earlier granted in 2012 MGH's and our request for a preliminary injunction, the Court, in the January 2013 ruling, denied the request for a permanent injunction, and the Mercantile Court’s ruling has been upheld on appeal. The Mercantile Court's ruling affects only Clinipro's activities in Spain. Further, although we and MGH did prevail against Clinipro in a patent infringement case in France, holding that an MGH patent exclusively licensed to us is valid and enforceable and enjoining Clinipro and its distributors from selling LipoCryo in France, Clinipro has appealed that ruling, and there is no assurance that Clinipro will not prevail.

We rely on a license relationship with Massachusetts General Hospital for much of our core intellectual property, and this arrangement could restrict the scope and enforcement of our intellectual property rights and limit our ability to successfully commercialize our products.

We have exclusively licensed certain intellectual property from the General Hospital Corporation, a not-for-profit Massachusetts Corporation, which owns and operates MGH related to our CoolSculpting system. We rely on MGH to file and prosecute patent applications and maintain patents and otherwise protect the intellectual property we license. We have not had and do not have primary control over these activities for certain of our patents or patent applications and other intellectual property rights we license, and therefore cannot guarantee that these patents and applications will be prosecuted or immediately enforced in a manner consistent with the best interests of our business. We cannot be certain that such activities by third parties have been or will be conducted in compliance with applicable laws and regulations or will result in valid and enforceable patents and other intellectual property rights. Additionally, we cannot control the publication or other disclosures of research carried out by MGH relating to technology that could otherwise prove patentable.

Pursuant to the terms of the license agreement with MGH, MGH has the right to control enforcement of our licensed patents or defense of any claims asserting the invalidity of these patents. Even if we are permitted to pursue such enforcement or defense, we will require the cooperation of MGH, and cannot guarantee that we would receive it. We cannot be certain that MGH will allocate sufficient resources or prioritize its or our enforcement of such patents or defense of such claims to protect our interests in the licensed patents. If we cannot obtain patent protection, or enforce existing or future patents against third parties, our competitive position and our financial condition could suffer.

We are exploring additional uses of our proprietary controlled cooling technology platform for the dermatology, plastic surgery, aesthetic and OBGYN markets. We also plan to explore potential therapeutic uses for our platform technology, either directly or through collaborative arrangements with strategic partners. Although MGH cannot restrict our future product development efforts, the terms of our license agreement with MGH may require us to pay MGH a royalty of up to 7% of net sales of future products we develop or that may be developed by our strategic partners. Whether we are required to pay a royalty will depend on whether our future products incorporate the intellectual property we licensed from MGH. Any royalty we are required to pay will reduce our income from sales of such future products and may make it more difficult for us to successfully commercialize these products directly or through a strategic partner.

If we are unable to protect the confidentiality of our proprietary information and know-how, the value of our technology and products could be adversely affected.

We rely on trade-secret protection to protect our interests in proprietary know-how and for processes for which patents are difficult or impossible to obtain or enforce. We may not be able to protect our trade secrets adequately. We have limited control over the protection of trade secrets used by our third-party contract manufacturers and suppliers. Although we use reasonable efforts to protect our trade secrets, our employees, consultants, contractors and outside scientific advisors may unintentionally or willfully disclose our information to competitors. Enforcing a claim that a third-party illegally obtained and is using any of our trade secrets is expensive and time consuming, and the outcome is unpredictable. In addition, courts outside the United States are sometimes less willing to protect trade secrets. We rely, in part, on non-disclosure and confidentiality agreements with our employees, consultants and other parties to protect our trade secrets and other proprietary technology. These agreements may be breached and we may not have adequate remedies for any breach. Moreover, others may independently develop equivalent proprietary information, and third parties may otherwise gain access to our trade secrets and proprietary knowledge. We may now or in the future incorporate open source software in our products' firmware. Open source software licenses can be ambiguous, and there is a risk that these licenses could be construed to require us to disclose or publish, in source code form, some or all of our proprietary firmware code. Any disclosure of confidential information into the public domain or to third parties could allow our competitors to learn our trade secrets and use the information in competition against us, which could adversely affect our competitive advantage.

Our CoolSculpting system and any future products or services we develop could be alleged to infringe patent rights of others, which may require costly litigation and, if we are not successful, could cause us to pay substantial damages or limit our ability to commercialize our products.

Our commercial success depends on our ability to develop, manufacture, and market our CoolSculpting system and use our proprietary controlled cooling technology without infringing the patents and other proprietary rights of third parties. As the medical technology and aesthetic product industries expand and more patents are issued, the risk increases that there may be patents issued to third parties that relate to our products and technology of which we are not aware or that we must challenge to continue our operations as currently contemplated. Our products may infringe or may be alleged to infringe these patents.

In addition, because patent applications in the United States and many foreign jurisdictions are typically not published until eighteen months after filing (or, in some cases, are not published until they issue as patents) and because publications in the scientific literature often lag behind actual discoveries, we cannot be certain that others have not filed patent applications for technology covered by our issued patents or our pending applications. Another party may have filed, and may in the future file, patent applications covering our products or technology similar to ours. Any such patent application may have priority over our patent applications or patents, which could further require us to obtain rights to issued patents covering such technologies. If another party has filed a U.S. patent application on inventions similar to ours, we may have to participate in an interference proceeding declared by the Patent and Trademark Office, or PTO, to determine priority of invention in the United States. The costs of these proceedings could be substantial, and it is possible that such efforts would be unsuccessful if the other party had independently arrived at the same or similar invention prior to our own invention, resulting in a loss of our U.S. patent position with respect to such inventions.

There is substantial litigation involving patent and other intellectual property rights in the medical technology and aesthetic industries generally. If a third party claims that we or any collaborator infringes its intellectual property rights, we may face a number of issues, including, but not limited to:

- infringement and other intellectual property claims which, regardless of merit, may be expensive and time-consuming to litigate and may divert our management's attention from our core business;
- substantial damages for infringement, which we may have to pay if a court decides that the product at issue infringes on or violates the third party's rights, and if the court finds that the infringement was willful, we could be ordered to pay treble damages and the patent owner's attorneys' fees;
- a court prohibiting us from selling or licensing our products unless the third party licenses its product rights to us, which it is not required to do at a commercially reasonable price or at all;
- if a license is available from a third party, we may have to pay substantial royalties, upfront fees or grant cross-licenses to intellectual property rights for our products; and
- redesigning our products or processes so they do not infringe, which may not be possible at all or may require substantial monetary expenditures and time, during which our products may not be available for sale.

Some of our competitors may be able to sustain the costs of complex patent litigation more effectively than we can because they have substantially greater resources. Even if resolved in our favor, litigation or other legal proceedings relating to intellectual property claims may cause us to incur significant expenses, and could distract our technical and management personnel from their normal responsibilities. In addition, there could be public announcements of the results of hearings, motions or other interim proceedings or developments and if securities analysts or investors perceive these results to be negative, it could have a substantial adverse effect on the price of our common stock. Finally, any uncertainties resulting from the initiation and continuation of any litigation could have a material adverse effect on our ability to raise the funds necessary to continue our operations.

Our intellectual property rights will further be affected in ways that are difficult to anticipate by the provisions of the America Invents Act (2011).

Enacted in September 2011, the America Invents Act, or AIA, is the first major overhaul of the U.S. patent system since 1952, and includes a number of changes to established practices, which came into effect between September 2011 and March 2013. The most significant changes include the transition to a modified first-to-file system, the availability of new post-grant review for issued patents, various procedural changes including the third-party submission of prior art and the availability of derivation proceedings and supplemental examination, and an expanded prior commercial user rights defense to a claim of patent infringement. The scope of these changes and the lack of experience with their practical implementation, suggest a transitional period with some uncertainty over the next few years. Several provisions of the AIA will likely be tested in U.S. federal courts over time.

The changes to the U.S. patent system in the AIA will have an impact on our intellectual property rights and how business is conducted in general. For example, the recently implemented modified first-to-file system places a premium on filing as early as possible and appears to increase what is available as prior art, by changing the applicable definitions. In particular, the grace period in the year prior to the filing date is now limited to an inventor’s own publications, and third party publications occurring after a publication by the inventor. For patent applications filed on or after March 16, 2013, we may expect post-grant review challenges initiated up to nine months after the corresponding patent issues.

While the AIA was intended to make the resolution of intellectual property disputes easier and less expensive, we may in the future have to prove that we are not infringing patents or we may be required to obtain licenses to such patents. However, we do not know whether such licenses will be available on commercially reasonable terms, or at all. Prosecution of patent applications, post-grant opposition proceedings, and litigation to establish the validity and scope of patents, to assert patent infringement claims against others and to defend against patent infringement claims by others will be expensive and time-consuming. There can be no assurance that, in the event that claims of any of our owned or licensed patents are challenged by one or more third parties, any court or patent authority ruling on such challenge will determine that such patent claims are valid and enforceable. An adverse outcome in such litigation or post grant proceeding could cause us to lose exclusivity relating to the subject matter delineated by such patent claims and may have a material adverse effect on our business. If a third party is found to have rights covering products or processes used by us, we could be forced to cease using the products or processes covered by the disputed rights, be subject to significant liabilities to such third party and/or be required to license technologies from such third party.

Risks Related to Our Common Stock

Our stock price has been and will likely continue to be volatile.

Our stock price is volatile and from October 19, 2011, the first day of trading of our common stock, to November 4, 2016 , our stock has had low and high sales prices per share in the range from $3.20 to $38.49 per share. Among the factors that may cause the market price of our common stock to fluctuate are the risks described in this “Risk Factors” section and other factors, including:

- fluctuations in our operating results or the operating results of our competitors;
- changes in estimates of our financial results or recommendations or cessation of coverage by securities analysts;
- changes in the estimates of the future size and growth rate of our market opportunity;
- changes in accounting principles or changes in interpretations of existing principles, which could affect our financial results;
- conditions and trends in the markets we serve;
- changes in general economic, industry, and market conditions;
- success of competitive technologies and procedures;
- changes in our pricing policies;
- announcements of significant new technologies, procedures, or acquisitions by us or our competitors;
- changes in legislation or regulatory policies, practices or actions;
- the commencement or outcome of litigation involving our company, our general industry or both;
- recruitment or departure of our executives and other key employees;
- changes in our capital structure, such as future issuances of securities or the incurrence of debt;
- actual or expected sales of our common stock by the holders of our common stock; and
- the trading volume of our common stock.

In addition, the stock market in general and the market for medical technology and aesthetic product companies in particular may experience a loss of investor confidence. The stock markets recently have experienced extreme price and volume fluctuations that have affected and continue to affect the market prices of equity securities of many companies. These fluctuations often have been unrelated or disproportionate to the operating performance of those companies. These broad market and industry fluctuations, as well as general economic, political and market conditions such as recessions, interest rate changes or international currency fluctuations, may negatively impact the market price of our common stock. In the past, companies that have experienced volatility in the market price of their stock have been subject to securities class-action litigation. Further, class-action litigation, even if unsuccessful, could be costly to defend and divert management's attention and resources, which could further materially harm our financial condition and results of operations.

The requirements of being a public company may strain our resources, divert management's attention, and affect our ability to attract and retain qualified board members.

As a public company, we are subject to the reporting requirements of the Securities Exchange Act of 1934, as amended, or the Exchange Act, the Sarbanes-Oxley Act of 2002, the Dodd-Frank Act, the listing requirements of the securities exchange on which we trade and other applicable federal and state securities rules and regulations. Compliance with these rules and regulations has legal and financial compliance costs, makes some activities difficult, time-consuming or costly and places demand on our business systems and resources. The Exchange Act requires, among other things, that we file annual, quarterly and current reports with respect to our business and operating results.

As a public company in the United States, we and our independent registered public accounting firm are required pursuant to Section 404 of the Sarbanes-Oxley Act, or Section 404, to furnish a report, among other things, on the effectiveness of our internal control over financial reporting, which we determined was not effective as of December 31, 2015. In the event that we are not able to demonstrate compliance with Section 404 in a timely manner, or are unable to produce timely or accurate financial statements, we may be subject to sanctions or investigations by regulatory authorities such as the SEC and the securities exchange on which we trade and investors may lose confidence in our operating results, which would have a material adverse effect on our business and on the price of our common stock and our ability to access the capital markets.

In addition, changing laws, regulations, and standards relating to corporate governance and public disclosure are creating uncertainty for public companies, increasing legal and financial compliance costs and making some activities more time-consuming. These laws, regulations, and standards are subject to varying interpretations, in many cases due to their lack of specificity, and, as a result, their application in practice may evolve over time as new guidance is provided by regulatory and governing bodies. This could result in continuing uncertainty regarding compliance matters and higher costs necessitated by ongoing revisions to disclosure and governance practices. We intend to invest resources to comply with evolving laws, regulations, and standards, and this investment may result in increased general and administrative expenses and a diversion of management's time and attention from revenue-generating activities to compliance activities. If our efforts to comply with new laws, regulations, and standards differ from the activities intended by regulatory or governing bodies due to ambiguities related to practice, regulatory authorities may initiate legal proceedings against us and our business may be harmed.

If we fail to maintain an effective system of internal controls, we may not be able to accurately report our financial results, which could lead to a loss of investor confidence in our financial statements and have an adverse effect on our stock price.

Effective internal controls are necessary for us to provide reliable and accurate financial statements and to effectively prevent fraud. We devote significant resources and time to comply with the internal control over financial reporting requirements of the Sarbanes Oxley Act of 2002. As further described in Part II Item 9A "Controls and Procedures," management has concluded that, because of a material weakness in our risk assessment process, our disclosure controls and procedures were not effective as of December 31, 2015 and September 30, 2016 . Although we have begun the steps necessary to remediate the material weakness, we cannot assure you that the processes, procedures and controls we implement will result in full remediation of the material weakness. Failure to remediate the material weakness, or additional material weaknesses in our internal control over financial reporting, could result in material misstatements in our financial statements or cause us to fail to timely meet our reporting obligations. Inadequate internal controls could cause investors to lose confidence in our reported financial information, which could have a negative effect on investor confidence in our financial statements, the trading price of our stock and our access to capital.

Additionally, if we continue to fail to have effective controls and procedures for financial reporting in place, we could be unable to provide timely and accurate financial information and be subject to de-listing on the NASDAQ Global Select Market, SEC investigation, and civil or criminal sanctions and our stock price could decline.

We do not currently intend to pay dividends on our common stock.

We have never paid cash dividends on our common stock and do not anticipate paying cash dividends on our common stock in the foreseeable future. We currently intend to invest our future earnings, if any, to fund the development and growth of our business. The payment of dividends will be at the discretion of our Board of Directors and will depend on our results of operations, capital requirements, financial condition, future prospects, restrictions imposed by applicable law, any limitations on payments of dividends present in any debt agreements we may enter into and other factors our Board of Directors may deem relevant. If we do not pay dividends, your ability to achieve a return on our common stock will depend on any future appreciation in the market price of our common stock. There is no guarantee that our common stock will appreciate in value or even maintain the price at which our holders have purchased their common stock.

Our directors, executive officers, and entities with which they are affiliated hold a significant portion of our common stock, which may lead to conflicts of interest with other stockholders over corporate transactions and other corporate matters.

Our directors, executive officers, and entities with which they are affiliated beneficially own approximately 11% of our outstanding common stock as of November 4, 2016 . This concentration of ownership may not be in the best interests of our other stockholders. We are not aware of any stockholder or voting agreements or understandings between or among our directors, officers, or holders of our outstanding common stock currently in place. However, these stockholders, acting together, would be able to exercise significant influence on all matters requiring stockholder approval, including the election of directors and significant corporate transactions such as mergers or other business combinations. This influence could delay, deter, or prevent a third party from acquiring or merging with us, which could adversely affect the market price of our common stock.

Anti-takeover provisions in our charter documents and under Delaware law could make an acquisition of us more difficult, limit attempts by our stockholders to replace or remove our current directors and management team, and limit the market price of our common stock.

Our amended and restated certificate of incorporation and amended and restated bylaws contain provisions that may delay or prevent a change of control, discourage bids at a premium over the market price of our common stock, and adversely affect the market price of our common stock and the voting and other rights of the holders of our common stock. These provisions include:

- dividing our board into three classes, with each class serving a staggered three-year term;
- prohibiting our stockholders from calling a special meeting of stockholders or acting by written consent;
- permitting our board to issue additional shares of our preferred stock, with such rights, preferences and privileges as they may designate, including the right to approve an acquisition or other changes in control;
- establishing an advance notice procedure for stockholder proposals to be brought before an annual meeting, including proposed nominations of persons for election to our Board of Directors;
- providing that our directors may be removed only for cause;
- providing that vacancies on our Board of Directors may be filled only by a majority of directors then in office, even though less than a quorum; and
- requiring the approval of our Board of Directors or the holders of a super-majority of our outstanding shares of capital stock to amend our bylaws and certain provisions of our certificate of incorporation.

Although we believe these provisions collectively provide for an opportunity to receive higher bids by requiring potential acquirers to negotiate with our board, they would apply even if the offer may be considered beneficial by some stockholders. In addition, these provisions may frustrate or prevent any attempts by our stockholders to replace or remove our current management team by making it more difficult for stockholders to replace members of our board, which is responsible for appointing the members of our management.

Moreover, because we are incorporated in Delaware, we are governed by the provisions of Section 203 of the Delaware General Corporation Law, which prohibits a person who owns in excess of 15% of our outstanding voting stock from merging or combining with us for a period of three years after the date of the transaction in which the person acquired in excess of 15% of our outstanding voting stock, unless the merger or combination is approved in a prescribed manner. The restrictions contained in Section 203 are not applicable to any of our existing stockholders that currently own 15% or more of our outstanding voting stock.

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

None.

Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

None.

Item 5. Other Information

None.

Item 6. Exhibits

See the Exhibit Index immediately following the signature page to this Quarterly Report on Form 10-Q, which is incorporated by reference here.

SIGNATURES

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.

ZELTIQ Aesthetics, Inc.

Date: November 9, 2016

By: /s/ Taylor C. Harris

Taylor C. Harris

Senior Vice President and Chief Financial Officer

(Duly Authorized Officer, Principal Financial and Accounting Officer)

EXHIBIT INDEX

Listed and indexed below are all Exhibits filed as part of this report.

Exhibit No.	Description	Filed Herewith	Incorporated by Reference			
			Form	File No.	Exhibit No.	Date Filed
3.1	Amended and Restated Certificate of Incorporation of ZELTIQ Aesthetics, Inc.		10-Q	001-35318	3.1	4/26/2013
3.2	Amended and Restated Bylaws of ZELTIQ Aesthetics, Inc.		8-K	001-35318	3.1	2/20/2015
4.1	Reference is made to Exhibits 3.1 and 3.2.					
4.2	Form of Stock Certificate.		S-1/A	333-175514	4.1	9/23/2011
10.1	ZELTIQ Aesthetics, Inc. 2016 Executive Performance Plan		DEF 14A	001-35318	Appendix	4/29/2016
12.1	Statement of Computation of Ratio of Earnings to Fixed Charges	X				
31.1	Certification of Principal Executive Officer Required Under Rule 13a-14(a) of the Securities Exchange Act of 1934, as amended.	X				
31.2	Certification of Principal Financial Officer Required Under Rule 13a-14(a) of the Securities Exchange Act of 1934, as amended.	X				
32.1	Certification of Principal Executive Officer and Principal Financial Officer Required Under Rule 13a-14(b) of the Securities Exchange Act of 1934, as amended, and 18 U.S.C. §1350.	X				
101.INS	XBRL Instance Document	X				
101.SCH	XBRL Taxonomy Extension Schema Document	X				
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document	X				
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document	X				
101.LAB	XBRL Taxonomy Extension Label Linkbase Document	X				
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document	X				

Exhibit 12.1

ZELTIQ Aesthetics, Inc.
Ratio of Earnings to Fixed Charges
The following table sets forth the calculation of the ratio of earnings to fixed charges for the periods indicated.
(In thousands)

	Nine Months Ended September 30, 2016	2015	2014	2013	2012	2011
Earnings (loss), calculated as follows:						
Income (loss) from continuing operations before income taxes	$ (530)	$ 3,332	$ 1,762	$ (19,165)	$ (30,002)	$ (9,555)
Add: Fixed charges	1,966	828	501	450	396	410
Total earnings (loss), as defined	1,436	4,160	2,263	$ (18,715)	(29,606)	(9,145)
Fixed Charges, calculated as follows:						
Interest expensed	$ 6	$ 14	$ —	$ —	$ 2	$ 72
Amortized premiums, discounts and capitalized expenses related to indebtedness	—	—	—	—	—	49
Estimate of interest within rental expense (1)	1,960	814	501	450	394	289
Total fixed charges	$ 1,966	$ 828	$ 501	$ 450	$ 396	$ 410
Earnings (deficiency of earnings), as defined, to cover fixed charges	$ (530)	$ 4,160	$ 2,263	$ (19,165)	$ (30,002)	$ (9,555)
Ratio of earnings to fixed charges (2)	—	5.02	4.52	—	—	—

(1) Interest component of rental expense is estimated to equal 1/3 of all such expense, which management believes is a reasonable approximation of the interest factor.

(2) Due to the registrant's losses in 2010 through 2013 and for the nine months ended September 30, 2016 , the ratio information is not applicable.

Exhibit 31.1

CERTIFICATION

I, Mark J. Foley, certify that:

1. I have reviewed this Form 10-Q of ZELTIQ Aesthetics, 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.

November 9, 2016

/s/ Mark J. Foley

Mark J. Foley
President and Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION

I, Taylor C. Harris, certify that:

1. I have reviewed this Form 10-Q of ZELTIQ Aesthetics, 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.

November 9, 2016

/s/ Taylor C. Harris

Taylor C. Harris
Senior Vice President and Chief Financial Officer
(Principal Financial and Accounting 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 of ZELTIQ Aesthetics, Inc. (the "Company") on Form 10-Q for the quarter ended September 30, 2016 , as filed with the Securities and Exchange Commission (the "Report"), each of the undersigned officers of the Company do hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of his knowledge:

- The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- The information in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

November 9, 2016

/s/ Mark J. Foley

Mark J. Foley
President and Chief Executive Officer
(Principal Executive Officer)

/s/ Taylor C. Harris

Taylor C. Harris
Senior Vice President and Chief Financial Officer
(Principal Financial and Accounting Officer)