ModusLink Global Solutions Inc
Form 10-K
October 15, 2013
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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10-K

(Mark One)

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

For the Fiscal Year Ended July 31, 2013

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

For the Transition Period From to

Commission file number: 001-35319

ModusLink Global Solutions, Inc.

(Exact name of registrant as specified in its charter)

Delaware **(State or other jurisdiction** **of incorporation or organization)**	**04-2921333** **(I.R.S. Employer** **Identification No.)**
1601 Trapelo Road, Suite 170 **Waltham, Massachusetts** **(Address of principal executive offices)**	**02451** **(Zip Code)**

(781) 663-5000

(Registrant s telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class:	**Name of each exchange on which registered:**
Common Stock, $0.01 par value	**The NASDAQ Stock Market LLC**
Preferred Stock Purchase Rights	

Securities registered pursuant to Section 12(g) of the Act:

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ¨ No x

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ¨ No x

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

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant s knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. x

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

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

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

The aggregate market value of the Registrant s common stock held by non-affiliates of the Registrant computed with reference to the price at which the common stock was last sold as of the last business day of the Registrant s most recently completed second fiscal quarter was $107,256,253

On September 30, 2013, the Registrant had outstanding 51,594,517 shares of common stock, $0.01 par value.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant s proxy statement for the Company s 2013 Annual Meeting of Stockholders 10-K Part III

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This Annual Report on Form 10-K contains forward-looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended, and Section 27A of the Securities Act of 1933, as amended. For this purpose, any statements contained herein that are not statements of historical fact may be deemed to be forward-looking statements. Without limiting the foregoing, the words believes, anticipates, plans, expects and similar expressions are intended to identify forward-looking statements. Factors that could cause actual results to differ materially from those reflected in the forward-looking statements include, but are not limited to, those discussed in Item 1A of this report, Risk Factors , and elsewhere in this report. Readers are cautioned not to place undue reliance on these forward-looking statements, which reflect management s analysis, judgment, belief or expectation only as of the date hereof. We do not undertake any obligation to update forward-looking statements whether as a result of new information, future events or otherwise.

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PART I

ITEM 1. BUSINESS

Overview

ModusLink Global Solutions, Inc. (together with its consolidated subsidiaries, ModusLink Global Solutions or the Company or Registrant), through its wholly owned subsidiaries, ModusLink Corporation (ModusLink) and ModusLink PTS, Inc. (ModusLink PTS), executes comprehensive supply chain and logistics services (the Supply Chain Business) that are designed to improve clients revenue, cost, sustainability and customer experience objectives. ModusLink Global Solutions provides services to leading companies in consumer electronics, communications, computing, medical devices, software, storage and retail. The Company s operations are supported by a global footprint that includes more than 25 sites across North America, Europe, and the Asia Pacific region.

Over the past decade, the Company has expanded its services by acquiring and developing businesses focused on supply chain management services, entitlement, e-business management solutions, consumer electronics repair services and reverse logistics services. The Company previously operated under the names CMGI, Inc. and CMG Information Services, Inc. and was incorporated in Delaware in 1986. The Company s address is 1601 Trapelo Road, Suite 170, Waltham, Massachusetts 02451.

Services

ModusLink s revenue primarily comes from the sale of supply chain management solutions to its clients. ModusLink s core solutions are material planning and factory supply; value-added warehousing and distribution; aftermarket services including product returns management and product repair and recovery; and e-Business including e-commerce, contact center, entitlement management and financial management. In addition, ModusLink is a Microsoft Authorized Replicator, further enhancing its position as a valued supply chain services provider to leading technology hardware original equipment manufacturers (OEMs).

ModusLink s core solutions include:

Material Planning and Factory Supply ModusLink sources inbound materials, delivers on-time and maintains high quality standards based on its local supplier relationships. ModusLink performs kitting and assembly of packaging materials and accessories while managing logistics and delivery schedules into multiple manufacturing sites or partners for just-in-time manufacturing. Solutions are designed to reduce the complexity, lead times and costs of inbound materials, supply chain procurement and factory feed processes.

Value-Added Warehousing and Distribution ModusLink s capabilities are designed for flexibility, reliability and speed to support clients distribution, retail and end user fulfillment. Services include full order management, pick, pack, and ship, retail connectivity and integrated transportation management services, which are supported by a global technology infrastructure.

ModusLink s postponement and configuration solutions are based on a technology-driven planning and execution process. By analyzing operating variables and supply chain costs, ModusLink can defer configuration and packaging of a client s product until the best time and at the most strategic location. Client programs can leverage any combination of ModusLink s fulfillment sites around the globe, including those near manufacturing sites or close to the consumer.

ModusLink provides on-demand content replication (CD, DVD, DVD-9) and content load (SD, Micro-SD, USB and Flash) capabilities that are enhanced with content protection, activation solutions and innovative packaging design.

Aftermarket Services

Product Returns Management ModusLink simplifies the returns process for retailers and manufacturers including receipt of goods, managing the Returns Management Authorization (RMA) process, sorting, triage, credit processing and ultimate disposition of the returned product. ModusLink helps protect its clients brand and ensure both commercial and consumer customers have a positive returns experience.

Product Repair and Recovery ModusLink helps clients maximize the value of returned and excess inventory through product remanufacturing and value recovery services. ModusLink s solutions also help clients protect their brand in secondary markets or develop plans for environmentally responsible disposition.

E-Business

E-Commerce ModusLink s e-commerce solutions are driven by a transaction engine that can power a client s online store. ModusLink performs financial management and payment processing that is integrated with global Customer Relationship Management (CRM), order management, fulfillment and digital content distribution activities.

Contact Center ModusLink s contact center solution is designed to improve the customer brand experience by increasing the quality of customer interaction across multiple channels. Professional agents have in-depth knowledge of the client, brand and products and the experience to manage both consumer and B2B contacts.

Entitlement Management ModusLink offers clients a software platform that enables them to efficiently manage access rights to intellectual property and digital products and services. It covers all aspects of the entitlement management lifecycle from order entry to registration, delivery, activation, upgrade and subscription renewal.

Financial Management ModusLink provides clients with a single payment platform for e-commerce, based on a proven technology infrastructure and business processes. Through these services, clients can access new markets, reduce cart abandonment, maximize conversion rate and increase revenue, protect the business and customers from fraud, and maintain customer visibility and ownership, while optimizing behind-the-scenes financial operations.

ModusLink s solutions seamlessly integrate with other supply chain service providers such as contract manufacturing companies and transportation providers.

Divestitures in Fiscal Year 2013

On January 11, 2013, the Company s wholly-owned subsidiary, Tech for Less LLC (TFL), sold substantially all of its assets to Encore Holdings, LLC (Encore). TFL was a processor and marketer of client-returned consumer electronics and business technology products. The consideration paid by Encore for the assets was $1.6 million, which consisted of a gross purchase price of $1.9 million less certain adjustments. The Company determined that the sale of TFL qualified for discontinued operations presentation in the accompanying consolidated financial statements. Accordingly, the remaining assets and liabilities of TFL, and the results of its operations and its cash flows have been reclassified to discontinued operations in each respective financial statement.

Operating Segments

The Company has five operating segments: Americas; Asia; Europe; e-Business; and ModusLink PTS. The Company has three reportable segments: Americas, Asia, and Europe; the ModusLink PTS operating segment is included as part of the Americas reportable segment. In addition to its three reportable segments, the Company reports an All Other category. The All Other category represents primarily the e-Business operating segment. The Company also has Corporate-level activity consisting primarily of costs associated with certain corporate administrative functions such as legal and finance, which are not allocated to the Company s reportable segments, and administration costs related to the Company s venture capital activities. The Corporate-level activity balance sheet information includes cash and cash equivalents, available-for-sale securities, investments and other assets which are not identifiable to the operations of the Company s operating segments. Certain reportable segment information, including revenue, profit and asset information, is set forth in Note 4 of the accompanying notes to consolidated financial statements included in Item 8 below and in Management s Discussion and Analysis of Financial Condition and Results of Operations included in Item 7 below.

Technology Infrastructure

The Company s information technology systems and infrastructure serves as the backbone of a client s fully integrated global supply chain program and manages the flow and use of physical assets and information. The Company offers a secure and redundant operating environment to ensure the integrity and privacy of its clients data. The Company works with clients to integrate data, tools and applications to deliver an optimized solution that meets its clients business needs and improves management of the global supply chain.

The Company s Enterprise Resource Planning (ERP) system is designed to provide the visibility and control needed for better decision making, more rapid response to global market dynamics and effective asset utilization across services and geographies.

Facilities

The Company s global footprint consists of an integrated network of strategically located facilities, including numerous sites throughout North America, Europe and Asia. The Company s regionally optimized and highly scalable solution centers are designed to provide the flexibility to manage supply chain requirements, deliver and configure products in-region, close to the point of consumption or close to the point of manufacturing in low-cost regions, such as China, Eastern Europe and Mexico for maximum efficiency and cost-effectiveness.

Sales and Marketing

The Company s sales and marketing staff is strategically and globally aligned to support the development, marketing and sale of its supply chain management services and solutions worldwide.

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The Company s marketing efforts are focused on developing greater awareness and brand recognition among its target client base, with an emphasis on companies within its key markets of computing, software, storage, consumer electronics and communications. The Company markets its services and solutions through its website, public relations, advertising and tradeshow campaigns and has developed collateral materials and sales tools to support these efforts. The Company sells its services and solutions on a global scale, through the direct sales channel. The Company s strategically aligned, global sales staff creates new opportunities and cultivates leads in all of its key regions throughout North America, Europe and Asia as well as within its target markets around the world. The Company s sales staff helps to further diversify its client base.

Competition

The market for the supply chain management service offerings provided by the Company is highly competitive. As an end-to-end solutions provider with service offerings covering a range of supply chain operations and activities across the globe, the Company competes with different companies depending on the type of service it is providing or the geographic area in which an activity is taking place.

For the supply chain solutions, the Company faces competition from Electronics Manufacturing Services/Contract Manufacturers (EMS/CM), third party logistics (3PL) providers, Supply Chain Management (SCM) companies, and regional specialty companies. For the aftermarket services, the Company competes against independent repair vendors, EMS/CM companies, 3PL providers, and SCM companies. For the e-business solutions, the Company s competition includes global outsource providers, software as service providers and technology providers. For the entitlement management solutions the Company competes against computer software providers offering content and document management solutions. As a provider of an outsourcing solution, the Company s competition also includes current and prospective clients, who evaluate the Company s capabilities in light of their own capabilities and cost structures.

The Company believes that the principal competitive factors in its market are quality and range of services, technological capabilities, cost, location of facilities, and responsiveness and flexibility. With the Company s end-to-end supply chain solution, global footprint, strong client service acumen, and our integrated global supply chain services, the Company believes that it is positioned well to compete in each of the markets it serves.

Clients

A limited number of clients account for a significant percentage of the Company s consolidated net revenue. For the fiscal year ended July 31, 2013, the Company s 10 largest clients accounted for approximately 76% of consolidated net revenue. This compares to the Company s 10 largest clients accounting for approximately 69% and 75%, of consolidated net revenue for the fiscal years ended July 31, 2012 and 2011, respectively. Sales to one client, Hewlett-Packard, accounted for approximately 29%, 31%, and 29% of the Company s consolidated net revenue for the fiscal years ended July 31, 2013, 2012, and 2011, respectively. In general, the Company does not have any agreements which obligate any client to buy a minimum amount of services from the Company, or to designate the Company as its sole supplier of any particular services. The loss of a significant amount of business or program with any key client could have a material adverse effect on the Company. The Company believes that it will continue to derive the vast majority of its consolidated operating revenue from sales to a small number of clients. There can be no assurance that revenue from key clients will not decline in future periods.

The Company sells its services to its clients primarily on a purchase order basis rather than pursuant to contracts with minimum purchase requirements. Consequently, sales are subject to demand variability by such clients. The Company purchases and maintains adequate levels of inventory in order to meet client needs rapidly and on a timely basis. The Company has no guaranteed price, quantity or delivery agreements with our suppliers. Because of the diversity of its services, as well as the wide geographic dispersion of our facilities, the Company uses numerous sources for the wide variety of raw materials needed for its operations. The Company is not and does not expect to be adversely affected by an inability to obtain materials.

International Operations

We currently conduct business in many countries including China, Czech Republic, the Netherlands, Ireland, and Singapore, among others, in addition to our United States operations. In fiscal year 2013, approximately 60% of the Company s consolidated net revenue was generated internationally. Refer to Note 4 of the accompanying notes to consolidated financial statements included in Item 8 below.

Our international operations increase our exposure to U.S. and foreign laws, regulations, and labor practices, which are often complex and subject to variation and unexpected changes, and with which we must comply.

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A substantial portion of our international business is conducted in China, where we face (i) the challenge of navigating a complex set of licensing and tax requirements and restrictions affecting the conduct of business in China by foreign companies, (ii) limitations on the repatriation of cash, (iii) foreign currency fluctuation and (iv) evolving tax laws.

Seasonality

Our clients   products are subject to seasonal consumer buying patterns. As a result, the services we provide to our clients are also subject to seasonality, with higher revenue and operating income typically being realized from handling our clients   products during the first half of our fiscal year, which includes the holiday selling season.

Intellectual Property

We rely upon a combination of patent, trade secret, copyright and trademark laws to protect our intellectual property. From time to time, we develop new trade secrets and other intellectual property or obtain intellectual property through acquisition activities. Our business is not substantially dependent on any single or group of patents, trademarks, copyrights or licenses.

Employees

At July 31, 2013, we employed approximately 3,200 persons on a full-time basis, 900 in the Americas, 1,400 in Asia and 900 in Europe. Our subsidiaries in Mexico are parties to collective bargaining agreements covering approximately 18 employees. Our subsidiary in France is party to collective bargaining agreements covering approximately 30 employees. Approximately 45 of the employees of our Ireland operation are members of labor unions. Unionizing activities are anticipated at two of our Asia facilities at which 220 individuals are employed. We consider our employee relations to be good. From time to time we hire project-based, temporary workers based on our client needs and seasonality of our business, and at times the number of these workers may approximate the number of our full-time employees.

Our Corporate Information

We make our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments to those reports available through our website, free of charge, as soon as reasonably practicable after we file such material with, or furnish it to, the Securities and Exchange Commission. Our internet address is http://www.moduslink.com. The contents of our website are not part of this annual report on Form 10-K, and our internet address is included in this document as an inactive textual reference only. As discussed in Notes 10 and 13 to the accompanying consolidated financial statements, and as previously reported by the Company, several adjustments were made to its historic financial statements, the most significant of which related to the treatment of vendor rebates in its pricing policies. Restated financial statements for periods ended on or before January 31, 2012 were filed on January 11, 2013. Previously filed Annual Reports on Form 10-K and quarterly reports on Form 10-Q for the periods affected by the restatement have not been amended. Accordingly, investors should no longer rely upon the Company   s previously released financial statements for these periods and any earnings releases or other communications relating to these periods.

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ITEM 1A. RISK FACTORS

We operate in a rapidly changing environment that involves a number of risks, some of which are beyond our control. Forward-looking statements in this document and those we make from time to time through our senior management are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. Forward-looking statements concerning the expected future revenue or earnings or concerning projected plans, performance, or development of products and services, as well as other estimates related to future operations are necessarily only estimates of future results. We cannot assure you that actual results will not materially differ from expectations. Forward-looking statements represent our current expectations and are inherently uncertain. We do not undertake any obligation to update forward-looking statements. Factors that could cause actual results to differ materially from results anticipated in forward-looking statements include, but are not limited to, the following:

RISKS RELATED TO MODUSLINK S SUPPLY CHAIN BUSINESS

We derive a substantial portion of our revenue from a small number of clients and adverse industry trends or the loss of any of those clients could significantly damage our business.

We derive a substantial portion of our revenue by providing supply chain management services to a small number of clients. Our business and future growth will continue to depend in large part on the industry trend towards outsourcing supply chain management and other business processes. If this trend does not continue or declines, demand for our supply chain management services will decline and our financial results could suffer.

In addition, the loss of a significant amount of business or program with any key client could cause our revenue to decline. For the fiscal year ended July 31, 2013, sales to one client, Hewlett-Packard, accounted for approximately 29% of our consolidated net revenue. During the year ended July 31, 2013, ten clients accounted for approximately 76% of our consolidated net revenue. We expect to continue to derive the vast majority of our operating revenue from sales to a small number of key clients. In general, we do not have any agreements which obligate any client to buy a minimum amount of services from us, or to designate us as its sole supplier of any particular services. The loss of business with any key clients, or a decision by any one of our key clients to significantly change or reduce the services we provide, could have a material adverse effect on our business. We cannot assure you that our revenue from key clients will not decline in future periods.

In addition, ModusLink has been designated as an authorized replicator for Microsoft. This designation provides a license to replicate Microsoft software products and documentation for clients who want to bundle licensed software with their hardware products. This designation is annually renewable at Microsoft s discretion. A failure to maintain authorized replicator status could have a material adverse effect on our business and our revenue.

We may have difficulty achieving and sustaining operating profitability, and if we deplete our working capital balances, our business will be materially and adversely affected.

For the fiscal year ended July 31, 2013, 2012 and 2011, we reported operating losses of approximately $28.2 million, $34.9 million and $21.5 million, respectively. We anticipate that we will continue to incur significant fixed operating expenses in the future, including both cost of revenue and selling, general and administrative expenses. Therefore, since our revenue is subject to fluctuations, we cannot assure you that we will achieve or sustain operating income in the future. We may also use significant amounts of cash in an effort to increase the efficiency and profitability of our business. At July 31, 2013, we had consolidated cash, cash equivalents and marketable securities of approximately $77.9 million, and fixed contractual obligations of approximately $101.9 million including real estate leases, inventory purchase obligations, and continuing stadium sponsorship obligations. Approximately $52.2 million of the fixed contractual obligations are due in less than one year. If we are unable to achieve or sustain operating profitability, we risk depleting our working capital balances and our business will be materially adversely affected.

Because our contracts do not contain minimum purchase requirements and we sell primarily on a purchase order basis, we are subject to uncertainties and variability in demand by clients, which could decrease revenue and materially adversely affect our financial results.

Our contracts do not contain minimum purchase requirements and we sell primarily on a purchase order basis. Therefore, our sales are subject to demand variability by our clients, which is difficult to predict and has fluctuated and may continue to fluctuate significantly. The level and timing of orders placed by these clients vary for a variety of reasons, including seasonal buying by end-users, the introduction of new technologies and general economic conditions. If we are unable to anticipate and respond to the demands of our clients, we may lose clients because we have an inadequate supply of their products needed, or we may have excess inventory, either of which may have a material adverse effect on our business, financial position and operating results.

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Disruption in the economy and financial markets could have a negative effect on our business.

The economy and financial markets in the United States, Europe and Asia have experienced extreme disruption during the last five years, including, among other things, extreme volatility in securities prices, severely diminished liquidity and credit availability, rating downgrades of certain investments and declining valuations of others. Governments have taken unprecedented actions intended to address extreme market conditions that include severely restricted credit and declines in real estate values. The businesses of our clients, and in turn our business, is highly dependent on consumer demand, which has been affected by the economic downturn and is highly uncertain. There can be no assurance that there will not be a further deterioration in financial markets and confidence in major economies, which could then lead to further challenges in the operation of our business. These economic developments affect businesses such as ours in a number of ways. The tightening of credit in financial markets adversely affects the ability of clients and suppliers to obtain financing for significant purchases and operations and could result in a decrease in orders and spending for our products and services. We are unable to predict the likelihood, duration and severity of disruptions in financial markets and adverse economic conditions and the effects they will have on our business and financial condition.

A decline in the technology sector or a reduction in consumer demand could have a material adverse effect on our business.

A large portion of our revenue comes from clients in the technology sector, which is intensely competitive, very volatile and subject to rapid changes. Declines in the overall performance of the technology sector have in the past and could in the future adversely affect the demand for supply chain management services and reduce our revenue and profitability from these clients. In addition, industry changes, such as the transition of more collateral materials from physical form to digital form, and the convergence of functionality of smartphones, could lessen the demand for certain of our services or devices we currently handle. To the extent recent uncertainty in the economy or other factors result in decreased consumer demand for our clients products, we may experience a reduction in volumes of client products that we handle, which could have a material adverse effect on our business, financial position and operating results.

Our quarterly results may fluctuate significantly.

Our operating results have fluctuated widely on a quarterly basis during the last several years. We expect that we may experience significant fluctuations in future quarterly operating results. Many factors, some of which are beyond our control, have contributed to these quarterly fluctuations in the past and may continue to contribute to fluctuations. Therefore, operating results for future periods are difficult to predict, and prior results are not necessarily indicative of results to be expected in future periods. These factors include:

- how well we execute on our strategy and operating plans;
- implementation of our strategic initiatives and achievement of expected results of these initiatives;
- demand for our services;
- consumer confidence and demand;
- specific economic conditions in the industries in which we compete;
- general economic and financial market conditions;
- timing of new product introductions or software releases by our clients or their competitors;

payment of costs associated with our acquisitions, sales of assets and investments;

timing of sales of assets and marketable securities;

market acceptance of new products and services;

seasonality;

temporary shortages in supply from vendors;

charges for impairment of long-lived assets, including goodwill and/or restructuring in future periods;

political instability or natural disasters in the countries in which we operate;

actual events, circumstances, outcomes, and amounts differing from judgments, assumptions, and estimates reflected in our accompanying consolidated financial statements; and

changes in accounting rules.

We believe that period-to-period comparisons of our results of operations will not necessarily be meaningful or indicative of our future performance. In some fiscal quarters our operating results may be below the expectations of securities analysts and investors, which may cause the price of our common stock to decline.

We must maintain adequate levels of inventory in order to meet client needs, which present risks to our financial position and operating results.

We must purchase and maintain adequate levels of inventory in order to meet client needs rapidly and on a timely basis. The markets, including the technology sector served by many of our clients, are subject to rapid technological change, new and enhanced product specification requirements, and evolving industry standards. These changes may cause inventory on hand to decline substantially in value or to rapidly become obsolete. The majority of our clients offer protection from the loss in value of inventory. However, our clients may become unable or unwilling to fulfill their protection obligations. The inability of our clients to fulfill their protection obligations could lower our gross margins and cause us to record inventory write-downs. If we are unable to manage the inventory on hand with our clients with a high degree of precision, we may have insufficient product supplies or we may have excess inventory, resulting in inventory write-downs, which may harm our business, financial position and operating results.

Our ability to obtain particular products or components in the quantities required to fulfill client orders on a timely basis is critical to our success. We have no guaranteed price or delivery agreements with our suppliers. We may occasionally experience a supply shortage of some products as a result of strong demand or problems experienced by our suppliers. If shortages or delays persist, the price of those products may increase, or the products may not be available at all. Accordingly, an inability to secure and maintain an adequate supply of products or components to fulfill our client orders on a timely basis, or a failure to meet clients expectations could result in lost revenue, lower client satisfaction, negative perceptions in the marketplace, potential claims for damages and have a material adverse effect on our business.

If we are not able to establish client sites where requested, or if we fail to retain key clients at established sites, our client relationships, revenue and expenses could be seriously harmed.

Our clients have, at times, requested that we add capacity or open a facility in locations near their sites. If we do not elect to add required capacity at sites near existing clients or establish sites near existing or potential clients, clients may decide to seek other service providers. In addition, if we lose a significant client of a particular site or open or expand a site with the expectation of business that does not materialize, operations at that site could become unprofitable or significantly less efficient and we may need to incur restructuring costs. Any of these events could have a material adverse effect on our business, financial position and operating results.

We may encounter problems in our efforts to increase operational efficiencies.

We continue to identify ways to increase efficiencies and productivity and effect cost savings. We have undertaken projects designed to increase our operational efficiencies, including the standardization to a global solutions platform through an integrated ERP system and the opening of new solution centers in low cost areas to expand client offerings and to effect cost savings. We have also implemented a shared services model utilizing centralized hub locations to service multiple spoke locations across the Americas, Asia and Europe regions. We cannot assure you that these projects will result in the realization of the expected benefits that we anticipate in a timely manner or at all. We may encounter problems with these projects that will divert the attention of management and/or result in additional costs and unforeseen project delays. If we or these projects do not achieve expected results, our business, financial position and operating results may be materially and adversely affected.

We are subject to risks of operating internationally.

We maintain significant operations outside of the United States, and we may expand these operations. Our success depends, in part, on our ability to manage these international operations. These international operations require significant management attention, financial resources and are subject to numerous and varied regulations worldwide, some of which may have an adverse effect on our ability to develop our international operations in accordance with our business plans or on a timely basis.

We currently conduct business in many countries including China, Czech Republic, the Netherlands, Ireland, and Singapore, among others, in addition to our United States operations. International revenue accounted for approximately 60% of our total consolidated net revenue for the fiscal year ended July 31, 2013. A portion of our international revenue, cost of revenue and operating expenses are denominated in foreign currencies. Changes in exchange rates between foreign currencies and the U.S.

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dollar may adversely affect our operating results. There is also additional risk if the foreign currency is not freely traded. Some currencies, such as the Chinese Renminbi, are subject to limitations on conversion into other currencies, which can limit or delay our ability to repatriate funds or engage in hedging activities. While we may enter into forward currency exchange contracts to manage a portion of our exposure to foreign currencies, future exchange rate fluctuations may have a material adverse effect on our business and operating results.

There are other risks inherent in conducting international operations, including:

- added fulfillment complexities in operations, including multiple languages, currencies, bills of materials and stock keeping units;
- the complexity of ensuring compliance with multiple U.S. and foreign laws, particularly differing laws on intellectual property rights, export control, taxation and duties; and
- labor practices, difficulties in staffing and managing foreign operations, political and social instability, health crises or similar issues, and potentially adverse tax consequences.

In addition, a substantial portion of our business is conducted in China, where we face additional risks, including the following:

- the challenge of navigating a complex set of licensing and tax requirements and restrictions affecting the conduct of business in China by foreign companies;
- difficulties and limitations on the repatriation of cash;
- currency fluctuation and exchange rate risks;
- protection of intellectual property, both for us and our clients;
- evolving regulatory systems and standards, including recent tax law changes;
- difficulty retaining management personnel and skilled employees; and
- expiration of tax holidays.

Our international operations increase our exposure to international laws and regulations. Noncompliance with foreign laws and regulations, which are often complex and subject to variation and unexpected changes, could result in unexpected costs and potential litigation. For example, the governments of foreign countries might attempt to regulate our products and services or levy sales or other taxes relating to our activities; foreign countries may impose tariffs, duties, price controls or other restrictions on foreign currencies or trade barriers; or a governmental authority could make an unfavorable determination regarding our operations, any of which could make it more difficult to conduct our business and have a material adverse effect on our business and operating results.

If we are unable to manage these risks, we may face significant liability, our international sales may decline and our business, operating and financial results may be adversely affected.

We may be affected by strikes, work stoppages and slowdowns by our employees.

Some of our international employees are covered by collective bargaining agreements or represented by labor unions. We believe our relations with our employees are generally good; however, we may experience strikes, work stoppages or slowdowns by employees. A strike, work stoppage or slowdown may affect our ability to meet our clients needs, which may result in the loss of business and clients and have a material adverse effect on our financial condition and results of operations. The terms of future collective bargaining agreements also may affect our competitive position, our financial condition and results of operations.

Change in our effective tax rate may harm our results of operations.

A number of factors may increase our future effective tax rates, including:

- the jurisdictions in which profits are determined to be earned and taxed;
- the resolution of issues arising from tax audits with various tax authorities;
- changes in the valuation of our deferred tax assets and liabilities;
- adjustments to estimated taxes upon finalization of various tax returns;

- increases in expenses not deductible for tax purposes, including write-offs of acquired in-process R&D, impact of costs associated with business combinations and impairments of goodwill in connection with acquisitions;
- changes in available tax credits;
- changes in share-based compensation;
- changes in tax laws or the interpretation of such tax laws, and changes in generally accepted accounting principles;
- the repatriation of non-U.S. earnings for which we have not previously provided for U.S. taxes;
- increases in tax rates in various jurisdictions; and
- the expiration of tax holidays.

Any significant increase in our future effective tax rates could reduce net income for future periods.

The gross margins in the Supply Chain Business are low, which magnify the impact of variations in revenue and operating costs on our financial results.

As a result of intense price competition in the technology products marketplace, the gross margins in our Supply Chain Business are low, and we expect them to continue to be low in the future. These low gross margins magnify the impact of variations in revenue and operating costs on our financial results. Although we have identified initiatives designed to increase our gross margins, increased competition arising from industry consolidation and/or low demand for products may hinder our ability to maintain or improve our gross margins. Portions of our operating expenses are relatively fixed, and planned expenditures are based in part on anticipated orders. Our current ability to forecast the amount and timing of future order volumes is difficult, and we expect this to continue because we are highly dependent upon the business needs of our clients, which are highly variable. As a result, we may not be able to reduce our operating expenses as a percentage of revenue to mitigate any further reductions in gross margins. We may also be required to spend money to restructure our operations should future demand fall significantly in any one facility. If we cannot proportionately decrease our cost structure in response to competitive price pressures, our business, financial condition and operating results could be adversely affected.

We will continue to be subject to intense competition.

The markets for our services are highly competitive and often lack significant barriers to entry, enabling new businesses to enter these markets relatively easily. Numerous well-established companies and smaller entrepreneurial companies are focusing significant resources on developing and marketing products and services that will compete with our offerings. The market for supply chain management products and services is very competitive, and the intensity of the competition is expected to continue to increase. Any failure to maintain and enhance our competitive position would limit our ability to maintain and increase market share, which would result in serious harm to our business. Increased competition may also result in price reductions, reduced gross margins and loss of market share. In addition, many of our current and potential competitors will continue to have greater financial, technical, operational and marketing resources. We may not be able to compete successfully against these competitors. Competitive pressures may also force prices for supply chain management products and services down and these price reductions may reduce our revenue.

The physical or intellectual property of our clients may be damaged, misappropriated, stolen or lost while in our possession, subjecting us to litigation and other adverse consequences.

In the course of providing supply chain management services to our clients, we often have possession of or access to their physical and intellectual property, including consigned inventory, databases, software masters, certificates of authenticity and similar valuable physical or intellectual property. If this physical or intellectual property is damaged, misappropriated, stolen or lost, we could suffer:

claims under client agreements or applicable law, or other liability for damages;

delayed or lost revenue due to adverse client reaction;

negative publicity; and

litigation that could be costly and time consuming.

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We could be subject to infringement claims and other liabilities.

From time to time, we have been, and will continue to be, subject to third-party claims in the ordinary course of business, including claims of alleged infringement of intellectual property rights. These claims may damage our business by:

- subjecting us to significant liability for damages;
- resulting in invalidation of our proprietary rights;
- resulting in costly license fees in order to settle the claims;
- being time-consuming and expensive to defend even if the claims are not meritorious; and
- resulting in the diversion of our management s time and attention.

We may be liable if third parties misappropriate personal information of our clients customers.

We often handle personal information as part of our e-Business offering. Any security breach or inadvertent release of this information could expose us to risks of loss, litigation and liability and could seriously disrupt our operations. If third parties are able to penetrate our network or telecommunications security or otherwise misappropriate the personal information or credit card information of our clients customers or if we give third parties improper access to such information, we could be subject to liability. This liability could include claims for unauthorized purchases with credit card information, impersonation or other similar fraud claims. They could also include claims for other misuses of personal information, including unauthorized marketing purposes. These claims could result in litigation. Liability for misappropriation of this information could be significant. Further, any resulting adverse publicity arising from investigations could have a material adverse impact on our business.

We depend on third-party software, systems and services.

Our business and operations rely on third parties to provide products and services, including IT products and services, and shipping and transportation services. We may experience operational problems attributable to the installation, implementation, integration, performance, features or functionality of third-party software, systems and services. Any interruption in the availability or usage of the products and services provided by third parties could have a material adverse effect on our business or operations.

OTHER RISKS ASSOCIATED WITH THE COMPANY

We may be unable to realize the benefits of our net operating loss carry-forwards (NOLs).

NOLs may be carried forward to offset federal and state taxable income in future years and eliminate income taxes otherwise payable on such taxable income, subject to certain adjustments. Based on current federal and state corporate income tax rates, our NOLs and other carry-forwards could provide a benefit to us, if fully utilized, of significant future tax savings. However, our ability to use these tax benefits in future years will depend upon the amount of our otherwise federal and state taxable income. If we do not have sufficient federal and state taxable income in future years to use the tax benefits before they expire, we will lose the benefit of these NOLs permanently. Consequently, in addition to dependence on the generation of future business profits, our ability to use the tax benefits associated with our substantial NOLs will depend significantly on our success in identifying suitable acquisition or investment candidates, and once identified, successfully consummating an acquisition of or investment in these candidates.

Additionally, federal NOLs are subject to annual limitations under the change of ownership rules within Section 382 of the Internal Revenue Code. In general, an ownership change occurs when the percentage of stock held by one or more 5-percent shareholders increases by more than 50 percentage points over the lowest stock ownership held by such shareholders at any time within a prescribed period, usually three years. If an

ownership change were to occur, we may be unable to use a significant portion of our NOLs to offset taxable income. As discussed in Note 8 to our consolidated financial statements under Item 8, on October 17, 2011, the Company s Board of Directors adopted a Tax Benefit Preservation Plan (Tax Plan) intended to reduce the likelihood that changes in the Company s investor base have the unintended effect of limiting the Company s use of its Tax Benefits. The Tax Plan is intended to require any person acquiring shares of the Company s securities equal to or exceeding 4.99% of the Company s outstanding shares to obtain the approval of the Board of Directors. This would protect the Tax Benefits because changes in ownership by a person owning less than 4.99% of the Company s stock are not included in the calculation of ownership change for purposes of Section 382 of the Code. However, there can be no assurance that the Tax Plan would be effective under all circumstances.

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The amount of NOLs that we have claimed has not been audited or otherwise validated by the U.S. Internal Revenue Service (IRS). The IRS could challenge our calculation of the amount of our NOLs or our determinations as to when a prior change in ownership occurred, and other provisions of the Internal Revenue Code may limit our ability to carry forward our NOLs to offset taxable income in future years. If the IRS was successful with respect to any such challenge, the potential tax benefit of the NOLs to us could be substantially reduced.

We may have problems raising or accessing capital we need in the future.

In recent years, we have financed our operations and met our capital requirements primarily through funds generated from operations, the sale of our securities and borrowings from lending institutions. Market and other conditions largely beyond our control may affect our ability to engage in future sales of our securities, the timing of any sales, and the amount of proceeds we receive from sales of our securities. Even if we are able to sell our securities in the future, we may not be able to sell at favorable prices or on favorable terms. In addition, this funding source may not be sufficient in the future, and we may need to obtain funding from outside sources. However, we may not be able to obtain funding from outside sources. In addition, even if we find outside funding sources, we may be required to issue to those outside sources securities with greater rights than those currently possessed by holders of our common stock. We may also be required to take other actions, which may lessen the value of our common stock or dilute our common stockholders, including borrowing money on terms that are not favorable to us or issuing additional shares of common stock. If we experience difficulties raising capital in the future, our business could be materially adversely affected.

If financial institutions that have extended credit commitments to us are adversely affected by the conditions of the U.S. and international capital markets, they may become unable to fund borrowings under their credit commitments to us, which could have an adverse impact on our ability to borrow funds, if needed, for working capital, capital expenditures, acquisitions and other corporate purposes.

We depend on important employees, and the loss of any of those employees may harm our business.

Our performance is substantially dependent on the performance of our executive officers and other key employees, as well as management of our subsidiaries. The familiarity of these individuals with technology and service-related industries makes them especially critical to our success. Our success is also dependent on our ability to attract, train, retain and motivate high quality personnel. Competition for personnel is intense. The loss of the services of any of our executive officers or key employees may harm our business.

Our strategy of expanding our business through acquisitions of other businesses and technologies presents special risks.

We may expand our business in certain areas through the acquisition of businesses, technologies, products and services from other businesses, as we have in the past. We may also seek to identify new business acquisition opportunities with existing or prospective taxable income, or from which we can realize capital gains, that can be offset by use of our net operating loss carry-forwards. Acquisitions involve a number of special problems, including:

- the need to incur additional indebtedness, issue stock (which may have rights superior to the rights of our common stockholders and which may have a dilutive effect on our common stockholders) or use cash in order to complete the acquisition;
- difficulty integrating acquired technologies, operations and personnel with the existing businesses;
- diversion of management attention in connection with both negotiating the acquisitions and integrating the assets;
- strain on managerial and operational resources as management tries to oversee larger operations;
- the working capital needs for acquired companies may be significant;

- we may acquire a new line of business in which we have no operating history and the success of such new business cannot be assured;

- exposure to unforeseen liabilities of acquired companies; and

- increased risk of costly and time-consuming litigation, including stockholder lawsuits.

We may not be able to successfully address these problems. Our future operating results may depend to a significant degree on our ability to successfully identify suitable acquisitions, negotiate such acquisitions on acceptable terms, complete such transactions, integrate acquisitions and manage operations.

The price of our common stock has been volatile and may fluctuate.

The market price of our common stock has been and is likely to continue to be volatile. Our common stock has traded as low as $2.10 per share and as high as $3.96 per share during the fiscal year ended July 31, 2013. Future market movements unrelated to our performance may adversely affect the market price of our common stock.

We may incur non-cash impairment charges related to goodwill or long-lived assets.

We test goodwill for impairment annually or if a triggering event occurs. We also test long-lived assets for impairment if a triggering event occurs. Our policy is to perform the annual impairment testing for all reporting units, determined to be the Americas, Europe, Asia, e-Business and ModusLink PTS, on July 31 of each fiscal year or whenever events or circumstances change that would more likely than not reduce the fair value of any of our reporting units below its carrying value. As of July 31, 2013 we had goodwill of $3.1 million allocated to the e-Business reporting unit, and $1.8 million of long-lived intangible assets, of which $1.6 million related to e-Business and $0.2 million to ModusLink PTS. The Company performed its annual impairment test on July 31, 2013 and concluded that there was no impairment to either goodwill or long-lived assets. However, we have had material non-cash impairment charges in prior years.

Goodwill and long-lived asset impairment analysis and measurement is a process that requires significant judgment and the use of significant estimates related to valuation such as discount rates, long-term growth rates and the level and timing of future cash flows. As a result, several factors could result in the impairment of some or all of our goodwill balance and our long-lived assets in future periods, including, but not limited to further weakening of the global economy, continued weakness in the industry, or failure of the Company to reach our internal forecasts which could impact our ability to achieve our forecasted levels of cash flows.

It is not possible at this time to determine if any such future impairment charge would result from these factors, or if it does, whether such charges would be material. We will continue to review our goodwill and other long-lived assets for possible impairment. We cannot be certain that a downturn in our business or changes in market conditions will not result in an impairment of goodwill or other long-lived assets and the recognition of resulting expenses in future periods, which could adversely affect our results of operations for those periods.

Venture capital investing is risky and highly speculative.

We invest in privately held companies through several wholly-owned subsidiaries, referred to as @Ventures. We receive proceeds from our investments, if at all, only when or after a portfolio company engages in a liquidity event, such as an initial public offering, or the acquisition of a portfolio company or our interest by a third party. Liquidity events may take many years to materialize, if at all, and the timing of liquidity events is difficult to predict. As a result there is much uncertainty as to the timing and impact of our venture capital portfolio on our financial results. Our ability to earn returns on our investment, or even recover our capital, is dependent upon factors outside of our control, including the success of our portfolio companies businesses, and the market for initial public offerings and mergers and acquisitions. We typically own a minority position in our portfolio companies, which may afford us representation on the board of directors of a portfolio company, and negative and affirmative covenants but does not give us control over the entity. As a result we may have limited, if any, influence over our portfolio companies businesses and strategies. We cannot assure you that we will earn any returns or recover our invested capital.

Investments made by @Ventures are (i) carried at the lesser of their historic cost basis or net realizable value or (ii) accounted for under the equity method of accounting, if we hold at least 20% but less than 50% of the issued and outstanding stock of the investee. At July 31, 2013, these investments had a carrying value of $8.0 million.

Estimating the net realizable value of investments in privately held early-stage technology companies is inherently subjective and has contributed to significant volatility in our reported results of operations in the past and may negatively impact our results of operations in the future. The Company assesses the need to record impairment losses on its investments and records such losses when the impairment of an investment is determined to be other than temporary in nature. We recorded non-cash impairment charges related to our @Ventures investments of approximately $2.8 million, $2.9 million and $2.5 million during the fiscal years ended July 31, 2013, 2012 and 2011. The process of assessing whether a particular equity investment s net realizable value is less than its carrying cost requires a significant amount of subjective judgment. We may incur impairment charges to our investments in privately held companies, which could have an adverse impact on our future results of operations.

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Future proxy contests could be disruptive and costly and the possibility that activist stockholders may wage proxy contests or gain representation on or control of our Board of Directors could cause uncertainty about the direction of our business.

Future proxy contests, if any, could be costly and time-consuming, disrupt our operations and divert the attention of management and our employees from executing our strategic plan. Perceived uncertainties as to our future direction as a result of changes to composition of the Board of Directors may lead to the perception of a change in the direction of the business, instability or lack of continuity which may be exploited by our competitors, cause concern to our current or potential clients, and make it more difficult to attract and retain qualified personnel. In addition, disagreement among our directors about the direction of our business could impair our ability to effectively execute our strategic plan.

We face risks related to the ongoing SEC Inquiry.

As previously disclosed, on February 15, 2012, the Division of Enforcement of the SEC informed the Company that it was conducting an inquiry regarding the Company s treatment of rebates associated with volume discounts provided by vendors. The Company, at the direction of the Audit Committee of the Company s Board of Directors, is cooperating fully with the SEC staff s inquiry. At this point, we are unable to predict what, if any, consequences the SEC inquiry may have on us. However, the inquiry has resulted and could continue to result in considerable legal expenses, divert management s attention from other business concerns and harm our business. If the SEC were to commence legal action, we could be required to pay significant penalties and/or other amounts and could become subject to injunctions, an administrative cease and desist order, and/or other equitable remedies. Concurrent with the SEC inquiry, the Audit Committee of the Company s Board of Directors commenced an investigation of the Company s accounting treatment with regard to rebates received from vendors, and errors were found. In January 2013 we filed restated financial statements for periods ending on or before January 31, 2012, to correct the discovered accounting errors; however, this did not nor was it expected to resolve the SEC inquiry. Further, the resolution of the SEC inquiry could require the filing of additional restatements of our prior financial statements, and/or our restated financial statements, or require that we take other actions not presently contemplated. We can provide no assurances as to the outcome of the SEC inquiry, and the outcome could have a material adverse impact on our business.

Litigation pending against us could materially impact our business and results of operations.

We are currently party to various legal and other proceedings. In particular, in January 2013 we filed restated financial statements to correct accounting errors in the Company s treatment of rebates associated with volume discounts provided by vendors, and certain putative class actions and stockholder derivative actions have been filed against us in response to our announcement of the restatement. See Item 3, *Legal Proceedings*. These matters may involve substantial expense to us, which could have a material adverse impact on our financial position and our results of operations. We can provide no assurances as to the outcome of any litigation.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 2. PROPERTIES

We lease or own more than 25 sites in several countries from which we operate ModusLink, which facilities consist of office and warehouse space. These facilities are located throughout the world, including, but not limited to, facilities throughout the United States (including our corporate headquarters in Waltham, Massachusetts), in Mexico, the Netherlands, Czech Republic, Singapore, Japan, China, and Australia. ModusLink PTS operates from leased headquarters in Indiana. e-Business operates from its leased facilities in the Netherlands with offices in Massachusetts, Utah, Singapore and Australia. We believe that our existing facilities are suitable and adequate for our present purposes, and that new facilities will be available in the event we need additional or new space.

Our leases generally expire at varying dates through fiscal year 2021 and include renewals at our option. Certain facilities leased by us are subleased in whole or in part to subtenants and we are seeking to sublease additional office and warehouse space that is not currently being utilized by us.

ITEM 3. LEGAL PROCEEDINGS

SEC Inquiry

As previously disclosed, on February 15, 2012, the Company received an inquiry from the SEC regarding the Company s treatment of rebates associated with volume discounts provided by vendors. To date the SEC has not asserted any formal claims.

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Stockholder Litigation

On June 11, 2012, we announced the pending restatement of the Company s financial statements for the periods ending on or before January 31, 2012 (the June 11, 2012 Announcement), related to the Company s accounting treatment of rebates associated with volume discounts provided by vendors. The restated financial statements were filed on January 11, 2013. After the June 11, 2012 Announcement, stockholders of the Company commenced three purported class actions in the United States District Court for the District of Massachusetts arising from the circumstances described in the June 11, 2012 Announcement (the Securities Actions), entitled, respectively:

Irene Collier, Individually And On Behalf Of All Others Similarly Situated, vs. ModusLink Global Solutions, Inc., Joseph C. Lawler and Steven G. Crane, Case 1:12-CV-11044-DJC, filed June 12, 2012 (the Collier Action);

Alexander Shnerer Individually And On Behalf Of All Others Similarly Situated, vs. ModusLink Global Solutions, Inc., Joseph C. Lawler and Steven G. Crane, Case 1:12-CV-11078-DJC, filed June 18, 2012 (the Shnerer Action); and

Harold Heszkel, Individually and on Behalf of All Others Similarly Situated v. ModusLink Global Solutions, Inc., Joseph C. Lawler, and Steven G. Crane, Case 1:12-CV-11279-DJC, filed July 11, 2012 (the Heszkel Action).

Each of the Securities Actions purports to be brought on behalf of those persons who purchased shares of the Company between September 26, 2007 through and including June 8, 2012 (the Class Period) and alleges that failure to timely disclose the issues raised in the June 11, 2012 Announcement during the Class Period rendered defendants public statements concerning the Company s financial condition materially false and misleading in violation of Sections 10(b) and 20(a) of the Exchange Act, and Rule 10b-5 promulgated thereunder. On February 11, 2013, plaintiffs filed a consolidated amended complaint in the Securities Actions. The Company moved to dismiss the amended complaint on March 11, 2013. The Court has not yet scheduled a hearing date for the Company s motion.

On July 13, 2012, a fourth stockholder commenced a purported derivative action in United States District Court for the District of Massachusetts against the Company (as nominal defendants), and certain of its current and former directors and officers, entitled, *Samuel Montini, Derivatively On Behalf Of ModusLink Global Solutions, Inc. v. Joseph C. Lawler, Steven G. Crane, Francis J. Jules, Virginia G. Breen, Michael J. Mardy, Edward E. Lucente, Jeffrey J. Fenton, Joseph M. O Donnell, William R. McLennan, Thomas H. Johnson, And Anthony J. Bay, Defendants, And ModusLink Global Solutions, Inc., A Delaware Corporation, Nominal Defendant*, Case 1:12-CV-11296-DJC and on July 31, 2012, a fifth stockholder commenced a purported derivative action in United States District Court for the District of Massachusetts against the Company (as nominal defendants), and certain of its current and former directors and officers, entitled, *Edward Tansey, Derivatively On Behalf Of ModusLink Global Solutions, Inc. v. Joseph C. Lawler, Steven G. Crane, Francis J. Jules, Virginia G. Breen, Michael J. Mardy, Edward E. Lucente, Jeffrey J. Fenton, Joseph M. O Donnell, William R.McLennan, Thomas H. Johnson, And Anthony J. Bay, Defendants, And ModusLink Global Solutions, Inc., A Delaware Corporation, Nominal Defendant*, Civil Action No. 12-CV-11399 (DJC) (collectively, the Derivative Actions). The Derivative Actions further assert that as a result of the individual defendants alleged actions and course of conduct, the Company is now the subject of the Securities Actions and will incur related expenses and a possible judgment against it. These litigation matters also arise from the issues raised in the June 11, 2012 Announcement and allege that the individual defendants breached their duty of loyalty to the Company by allowing defendants to cause, or by themselves causing, the Company to make improper statements regarding its business prospects and/or by failing to prevent the other Individual Defendants from taking such purportedly illegal actions. The plaintiffs filed a consolidated amended complaint in the Derivative Actions on March 4, 2013, and the Company moved to dismiss the Amended Complaint on April 4, 2013. The Court has not yet scheduled a hearing date for the Company s motion.

Because the SEC has not asserted any formal claims, and because, with respect to the pending litigation, there has been no decision by the Court with regard to the sufficiency of the complaint(s) and no discovery has been conducted, we are unable at this time to provide a calculation of potential damages or litigation loss that is probable or estimable. Although there can be no assurance as to the ultimate outcome, the Company believes it has meritorious defenses, will deny liability, and intends to defend this litigation vigorously.

On October 10, 2012, a sixth stockholder, Donald Reith, served upon the Company s Board of Directors a demand to institute litigation and take other purportedly necessary, but unidentified, remedial measures to redress and prevent a recurrence of purported breaches of fiduciary duties on the part of the Board and unspecified corporate officers allegedly arising from the same facts and circumstances asserted in the Derivative Actions. On February 4, 2013, the Company s Board of Directors voted unanimously to reject Mr. Reith s demand.

ITEM 4. MINE SAFETY DISCLOSURES

Not Applicable.

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PART II

ITEM 5. MARKET FOR REGISTRANT S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Market Information

Our common stock is traded on the NASDAQ Global Select Market under the symbol MLNK . The following table sets forth the range of high and low sales prices per share of common stock per fiscal quarter, as reported by the NASDAQ for our two most recent fiscal years.

Fiscal Year Ended July 31, 2013	High	Low
First Quarter	$ 3.96	$ 2.63
Second Quarter	$ 3.50	$ 2.10
Third Quarter	$ 3.49	$ 2.67
Fourth Quarter	$ 3.33	$ 2.60

Fiscal Year Ended July 31, 2012	High	Low
First Quarter	$ 4.43	$ 3.25
Second Quarter	$ 5.85	$ 3.98
Third Quarter	$ 6.00	$ 4.78
Fourth Quarter	$ 5.02	$ 2.60

Stockholders

As of September 30, 2013, there were approximately 2,874 holders of record of common stock of the Company.

Dividends

On March 7, 2011 the Company announced that its Board of Directors had declared a special dividend of $0.9134 per common share outstanding, or $40.0 million in aggregate, with a payment date of March 31, 2011 and a record date of March 17, 2011.

Prior and subsequent to the special cash dividend announced on March 7, 2011, the Company had never declared or paid cash dividends on our common stock. We currently intend to retain earnings, if any, to support our business and do not anticipate paying cash dividends in the foreseeable future. Payment of future dividends, if any, will be at the discretion of our Board of Directors after taking into account various factors, including our financial condition, operating results, any restrictions on payment of dividends under our credit facility, current and anticipated cash needs and plans for expansion.

Issuer Purchases of Equity Securities

The following table provides information about purchases by the Company of its common stock during the quarter ended July 31, 2013.

	Total Number of Shares Repurchased	Average Price Paid Per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Program	Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs
May 1, 2013 to May 31, 2013	1,585(1)	$ 2.89		

June 1, 2013 to June 30, 2013	(1)	$	
July 1, 2013 to July 31, 2013	445(1)	$	3.19

(1) Consists of shares delivered to the Company as payment of tax liability upon the vesting of shares of restricted stock.

Equity Compensation Plans

Information regarding the Company s equity compensation plans and the securities authorized for issuance thereunder is set forth in Item 12 of Part III.

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ITEM 6. SELECTED FINANCIAL DATA

The following table sets forth selected consolidated financial information of the Company for the five years ended July 31, 2013. The following selected consolidated financial data should be read in conjunction with Management s Discussion and Analysis of Financial Condition and Results of Operations in Item 7 below and our accompanying consolidated financial statements and notes to consolidated financial statements in Item 8 below. The historical results presented herein are not necessarily indicative of future results.

	Years ended July 31,				
	2013	**2012**	**2011**	**2010**	**2009**
Consolidated Statements of Operations Data:					
Net revenue	$ 754,504	$ 713,947	$ 844,277	$ 894,733	$ 1,001,980
Operating loss	(28,232)	(34,861)	(21,528)	(725)	(173,610)
Loss from continuing operations	(39,330)	(27,608)	(17,987)	(9,279)	(199,509)
Income (loss) from discontinued operations, net of income taxes	(1,025)	(10,500)	(16,478)	(14,562)	126
Net loss	$ (40,355)	$ (38,108)	$ (34,465)	$ (23,841)	$ (199,383)
Basic and diluted loss per share:					
Loss from continuing operations	$ (0.84)	$ (0.63)	$ (0.42)	$ (0.21)	$ (4.39)
Income (loss) from discontinued operations, net of income taxes	$ (0.02)	$ (0.24)	$ (0.38)	$ (0.33)	$ 0.00
Net loss	$ (0.86)	$ (0.87)	$ (0.80)	$ (0.54)	$ (4.39)
Shares used in computing basic loss per share	46,654	43,565	43,294	44,104	45,372
Shares used in computing diluted loss per share	46,654	43,565	43,294	44,104	45,372

	2013	**2012**	**2011**	**2010**	**2009**
Consolidated Balance Sheet Data:					
Working capital	$ 114,655	$ 113,511	$ 152,383	$ 179,452	$ 199,802
Total assets	343,696	358,882	422,247	525,941	556,027
Long-term liabilities	10,360	11,374	14,562	20,155	21,271
Stockholders equity	156,905	165,132	214,542	275,514	308,465

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ITEM 7. MANAGEMENT S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

This Annual Report on Form 10-K contains forward-looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended, and Section 27A of the Securities Act of 1933, as amended. For this purpose, any statements contained herein that are not statements of historical fact may be deemed to be forward-looking statements. Without limiting the foregoing, the words believes, anticipates, plans, expects and similar expressions are intended to identify forward-looking statements. Factors that could cause actual results to differ materially from those reflected in the forward-looking statements include, but are not limited to, those discussed in Item 1A of this report, Risk Factors , and elsewhere in this report. Readers are cautioned not to place undue reliance on these forward-looking statements, which reflect management s analysis, judgment, belief or expectation only as of the date hereof. We do not undertake any obligation to update forward-looking statements whether as a result of new information, future events or otherwise.

Overview

ModusLink Global Solutions executes comprehensive supply chain and logistics services (the Supply Chain Business) that are designed to improve clients revenue, cost, sustainability and customer experience objectives. ModusLink Global Solutions provides services to leading companies in consumer electronics, communications, computing, medical devices, software, and retail. The Company s operations are supported by a global footprint that includes more than 25 sites across North America, Europe, and the Asia Pacific region. We believe that by leveraging our global footprint, we will be able to optimize our clients supply chains using multi-facility, multi-geographic solutions.

Management evaluates operating performance based on net revenue, operating income (loss), and net income (loss), and, across its segments, on the basis of adjusted operating income (loss), which is defined as operating income (loss) excluding net charges related to depreciation, amortization of intangible assets, impairment of goodwill and long-lived assets, share-based compensation, restructuring and other charges not related to our baseline operating results. See Note 4 of the accompanying notes to the consolidated financial statements included in Item 8 for segment information, including a reconciliation of adjusted operating income (loss) to net income (loss).

Historically, a significant portion of our revenue from our Supply Chain Business has been generated from clients in the computing and software markets. These markets are mature and, as a result, gross margins in these markets tend to be low. To address this, in addition to the computing and software markets, we have expanded our sales focus to include additional markets within technology, such as communications and consumer electronics, and outside of technology, such as medical devices. We believe these markets may experience faster growth than our historical markets, and represent opportunities to realize higher gross margins on our services. Companies in these markets often have significant need for a supply chain partner who will be an extension to their business models.

We believe the scope of our service offerings, including e-Business and repair services will increase the overall value of the supply chain solutions we deliver to our existing clients and to new clients. We expect that these services present the opportunity for greater gross margins and profitability.

We operate an integrated supply chain system infrastructure that extends from front-end order management through distribution and returns management. This end-to-end solution enables clients to link supply and demand in real time, improve visibility and performance throughout the supply chain, and provide real-time access to information for greater collaboration and making informed business decisions. We believe that our clients benefit from our global integrated business solution. We also strive to reduce our operating costs while implementing operational efficiencies throughout the Company.

Among the key factors that will influence our performance are successful execution and implementation of our strategic initiatives, global economic conditions, especially in the technology sector, demand for our clients products, the effect of product form factor changes, technology changes, revenue mix and demand for outsourcing services.

For the year ended July 31, 2013, the Company reported net revenue of $754.5 million, operating loss of $28.2 million, loss from continuing operations before income taxes of $35.6 million, net loss of $40.4 million and a gross margin percentage of 9.9%. We currently conduct business in many countries including, but not limited to, the Netherlands, France, Ireland, Czech Republic, Singapore, China, Japan, Australia, and Mexico, in addition to our United States operations.

As a large portion of our revenue comes from outsourcing services provided to clients such as hardware manufacturers, software publishers and consumer electronics companies, our operating performance has been and may continue to be adversely

affected by declines in the overall performance of the technology sector and the sustained economic uncertainty affecting the world economy. In addition, the drop in consumer demand for products of certain clients has had and may continue to have the effect of reducing our volumes and adversely affecting our revenue performance. The market for our services is very competitive. We also face pressure from our clients to continually realize efficiency gains in order to help our clients maintain their profitability objectives. Increased competition and client demands for efficiency improvements may result in price reductions, reduced gross margins and, in some cases, loss of market share. In addition, our profitability varies based on the types of services we provide and the regions in which we perform them. Therefore, the mix of revenue derived from our various services and locations can impact our gross margin results. Also, form factor changes, which we describe as the reduction in the amount of materials and product components used in our clients completed packaged product, can also have the effect of reducing our revenue and gross margin opportunities. As a result of these competitive and client pressures the gross margins in our business are low. During the fiscal year ended July 31, 2013, our gross margin percentage was 9.9%. Increased competition arising from industry consolidation and/or low demand for our clients products and services may hinder our ability to maintain or improve our gross margins, profitability and cash flows. We must continue to focus on margin improvement, through implementation of our strategic initiatives, cost reductions and asset and employee productivity gains in order to improve the profitability of our business and maintain our competitive position. We generally manage margin and pricing pressures in several ways, including efforts to target new markets, expand our service offerings, improve the efficiency of our processes and to lower our infrastructure costs. We seek to lower our cost to service clients by moving work to lower-cost venues, establishing facilities closer to areas where our clients products are manufactured or to our clients end markets to gain efficiencies, and other actions designed to improve the productivity of our operations.

Historically, a limited number of key clients have accounted for a significant percentage of our revenue. For the fiscal year ended July 31, 2013, sales to Hewlett-Packard accounted for approximately 29% of our consolidated net revenue, while ten clients accounted for approximately 76% of our consolidated net revenue. For the fiscal year ended July 31, 2012, sales to Hewlett-Packard accounted for approximately 31% of our consolidated net revenue while ten clients accounted for approximately 69% of our consolidated net revenue. For the fiscal year ended July 31, 2011, sales to Hewlett-Packard accounted for approximately 29% of our consolidated net revenue while ten clients accounted for approximately 75% of our consolidated net revenue. We expect to continue to derive the vast majority of our operating revenue from sales to a small number of key clients. In general, we do not have any agreements which obligate any client to buy a minimum amount of services from us or designate us as an exclusive service provider. Consequently, our sales are subject to demand variability by our clients. The level and timing of orders placed by our clients vary for a variety of reasons, including seasonal buying by end-users, the introduction of new technologies and general economic conditions.

On March 12, 2013, stockholders of the Company approved the sale of 7,500,000 shares of newly issued common stock to Steel Partners Holdings L.P. (Steel Partners) at a price of $4.00 per share, resulting in aggregate proceeds of $30.0 million before transaction costs. The Company incurred $2.3 million of transaction costs, which consisted primarily of investment banking and legal fees, resulting in net proceeds from the sale of $27.7 million. In addition, as part of the transaction, the Company issued Steel Partners a warrant to acquire an additional 2,000,000 shares at an exercise price of $5.00 per share. The Company intends to use the cash received for general corporate purposes. At July 31, 2013, we had cash and cash equivalents and available-for-sale securities of $78.0 million, and working capital of $114.7 million.

Basis of Presentation

The Company has five operating segments: Americas; Asia; Europe; e-Business; and ModusLink PTS. The Company has three reportable segments: Americas; Asia; and Europe. The Company reports the ModusLink PTS operating segment in aggregation with the Americas operating segment as part of the Americas reportable segment. In addition to its three reportable segments, the Company reports an All Other category. The All Other category primarily represents the e-Business operating segment. The Company also has Corporate-level activity, which consists primarily of costs associated with certain corporate administrative functions such as legal and finance which are not allocated to the Company s reportable segments and administration costs related to the Company s venture capital activities.

All significant intercompany transactions and balances have been eliminated in consolidation.

As discussed further in Note 5 of our consolidated financial statements, *Discontinued Operations and Divestitures,* in Item 8 below, the Company s wholly-owned subsidiary, TFL sold substantially all of its assets on January 11, 2013. The Company determined that the sale of TFL qualified for discontinued operations presentation in the accompanying consolidated financial statements.

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Results of Operations

Fiscal Year 2013 compared to Fiscal Year 2012

Net Revenue:

	2013	As a % of Total Net Revenue	2012	As a % of Total Net Revenue	$ Change	% Change
			(In thousands)			
Americas	$ 268,490	35.6%	$ 249,940	35.0%	$ 18,550	7.4%
Asia	212,963	28.2%	218,880	30.7%	(5,917)	(2.7%)
Europe	237,222	31.4%	211,319	29.6%	25,903	12.3%
All Other	35,829	4.8%	33,808	4.7%	2,021	6.0%
Total	$ 754,504	100.0%	$ 713,947	100.0%	$ 40,557	5.7%

Net revenue increased by approximately $40.6 million for the fiscal year ended July 31, 2013, as compared to the prior fiscal year. Revenue from new programs was $128.8 million during fiscal 2013, as compared to $72.5 million in fiscal 2012. The $56.3 million increase in revenue from new programs was primarily due to engagements with clients in the consumer electronics and consumer products industries that contributed to revenue in all regions. The increase in revenue from new programs was partially offset by a $15.7 million decrease in revenues in our base business from $641.4 million in the prior year period to $625.7 million in fiscal 2013. The Company defines new programs as client programs that have been executed for fewer than 12 months. Base business is defined as client programs that have been executed for 12 months or more. Approximately $452.8 million of the net revenue for the fiscal year ended July 31, 2013 related to the procurement and re-sale of materials on behalf of our clients as compared to approximately $442.4 million for the fiscal year ended July 31, 2012.

During the fiscal year ended July 31, 2013, net revenue in the Americas region increased by $18.6 million. This increase resulted primarily from revenue from a new program with a consumer electronics client, partially offset by the effects of lower order volumes from an existing client that is reorganizing its supply chain operations. Within the Asia region, the net revenue decrease of $5.9 million primarily resulted from the effects of lower volume from certain existing programs related to the personal computer market, partially offset by revenue contributions from a new program. Within the Europe region, the net revenue increase of $25.9 million was driven by increases in client order volumes, as a result of improved economic and client-specific conditions within this region. Within All Other, which is comprised primarily of e-Business, the net revenue increase of $2.0 million was driven by increases in client order volumes.

A significant portion of our client base operates in the technology sector, which is intensely competitive and very volatile. Our clients order volumes vary from quarter to quarter for a variety of reasons, including market acceptance of their new product introductions and overall demand for their products including seasonality factors. This business environment, and our mode of transacting business with our clients, does not lend itself to precise measurement of the amount and timing of future order volumes, and as a result, future consolidated and segment sales volumes and revenue could vary significantly from period to period. We sell primarily on a purchase order basis, rather than pursuant to contracts with minimum purchase requirements. These purchase orders are generally for quantities necessary to support near-term demand for our clients products.

Cost of Revenue:

	2013	As a % of Segment Net Revenue	2012	As a % of Segment Net Revenue	$ Change	% Change
			(In thousands)			

Americas	$ 253,084	94.3%	$ 246,727	98.7%	$ 6,357	2.6%
Asia	165,770	77.8%	170,674	78.0%	(4,904)	(2.9%)
Europe	230,388	97.1%	200,015	94.7%	30,373	15.2%
All Other	30,892	86.2%	27,971	82.7%	2,921	10.4%
Total	$ 680,134	90.1%	$ 645,387	90.4%	$ 34,747	5.4%

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Cost of revenue consists primarily of expenses related to the cost of materials purchased in connection with the provision of supply chain management services as well as costs for salaries and benefits, contract labor, consulting, fulfillment and shipping, and applicable facilities costs. Cost of revenue increased by $34.7 million for the fiscal year ended July 31, 2013, as compared to the fiscal year ended July 31, 2012, primarily due to higher order volume. Gross margins for fiscal year 2013 were 9.9% as compared to 9.6% in fiscal year 2012.

For the fiscal year ended July 31, 2013, the Company s gross margin percentages within the Americas, Asia and Europe regions were 5.7%, 22.2% and 2.9%, as compared to 1.3%, 22.0% and 5.3%, respectively, for the same period of the prior year. The increase in gross margin within the Americas region is attributed to the favorable revenue mix and the impact of cost reduction programs at certain facilities. Gross margin within the Asia region was essentially unchanged compared to the prior year. Within the Europe region, the decrease in gross margin is primarily attributed to unfavorable revenue mix. Gross margins for All Other, which is comprised primarily of e-Business for the fiscal year ended July 31, 2013, were 13.8%, compared with 17.3% in the prior year period. This decrease resulted from a loss of higher gross margin business, replaced by lower gross margin business.

As a result of the lower overall cost of delivering the Company s services in the Asia region, particularly China, we expect gross margin levels in Asia to continue to exceed those earned in the Americas and Europe regions. However, we expect that there will continue to be pressure on gross margin levels in Asia as the market, particularly as China, matures.

Selling, General and Administrative Expenses:

	2013	As a % of Segment Net Revenue	2012	As a % of Segment Net Revenue	$ Change	% Change
			(In thousands)			
Americas	$ 13,892	5.2%	$ 15,557	6.2%	$ (1,665)	(10.7%)
Asia	21,925	10.3%	26,110	11.9%	(4,185)	(16.0%)
Europe	19,289	8.1%	22,213	10.5%	(2,924)	(13.2%)
All Other	2,765	7.7%	3,738	11.1%	(973)	(26.0%)
Sub-total	57,871	7.7%	67,618	9.5%	(9,747)	(14.4%)
Corporate-level activity	29,101		27,119		1,982	7.3%
Total	$ 86,972	11.5%	$ 94,737	13.3%	$ (7,765)	(8.2%)

Selling, general and administrative expenses consist primarily of compensation and employee-related costs, sales commissions and incentive plans, information technology expenses, travel expenses, facilities costs, consulting fees, fees for professional services, depreciation and marketing expenses. Selling, general and administrative expenses during the fiscal year ended July 31, 2013 decreased by $7.8 million compared to the fiscal year ended July 31, 2012, primarily as a result of a $9.0 million decrease in expenses resulting from the Company s cost reduction activities. Within the Company s sales and marketing, IT, and human resource departments, expenses decreased by $4.6 million, $2.4 million, and $0.6 million, respectively. These decreases were partially offset by a $5.1 million increase in legal fees and other costs associated with the Company s Securities and Exchange Commission inquiry and stockholder litigation, to $7.8 million for the year ended July 31, 2013.

Amortization of Intangible Assets:

	2013	As a % of Segment Net Revenue	2012	As a % of Segment Net Revenue	$ Change	% Change
			(In thousands)			
Americas	$ 150	0.1%	$ 150	0.1%	$	
Asia						

Europe							
All Other	983	2.7%	989	2.9%		(6)	(0.6%)
Total	$ 1,133	0.2%	$ 1,139	0.2%	$	(6)	(0.5%)

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The intangible asset amortization relates to certain amortizable intangible assets acquired by the Company in connection with its acquisition of ModusLink OCS and ModusLink PTS. Amortization expense was essentially flat as compared to the prior year period. The remaining intangible assets are being amortized over lives ranging from 1 to 2 years.

Impairment of Goodwill and Long-Lived Assets:

	2013	As a % of Segment Net Revenue	2012	As a % of Segment Net Revenue	$ Change	% Change
				(In thousands)		
Americas	$		$		$	
Asia						
Europe			1,128	0.5%	(1,128)	(100.0%)
All Other						
Total	$		$ 1,128	0.2%	$ (1,128)	(100.0%)

The Company conducts its goodwill impairment test on July 31 of each fiscal year. In addition, if and when events or circumstances change that would reduce the fair value of any of its reporting units below its carrying value, an interim test would be performed. In making this assessment, the Company relies on a number of factors including operating results, business plans, economic projections, anticipated future cash flows, and transactions and marketplace data. There were no goodwill impairments for the years ended July 31, 2013 and 2012.

During the third quarter of fiscal year 2012, indicators of potential impairment caused the Company to conduct an interim impairment test for the fixed assets of its facility in Kildare, Ireland. These indicators included declining revenue and increasingly adverse trends that resulted in further deterioration of current operating results and future prospects of the Kildare facility. These adverse trends included declines in sales volumes resulting from the loss of certain client programs, pricing pressure from existing clients, and the emergence and growth of new competitors for the services performed in Kildare.

As a result of the impairment test, in connection with the preparation of the financial statements for the quarter ended April 30, 2012, the Company concluded that Kildare s fixed assets were impaired and recorded a $1.1 million non-cash impairment charge. This charge has been recorded as a component of impairment of goodwill and long-lived assets in the Consolidated Statements of Operations. The fixed asset impairment charge for Kildare is deductible as depreciation for tax purposes over time. The impairment charge did not affect the Company s liquidity or cash flows.

Restructuring, net:

	2013	As a % of Segment Net Revenue	2012	As a % of Segment Net Revenue	$ Change	% Change
			(In thousands)			
Americas	$ 1,594	0.6%	$ 1,615	0.6%	$ (21)	(1.3%)
Asia	2,427	1.1%	646	0.3%	1,781	275.7%
Europe	9,636	4.1%	3,680	1.7%	5,956	161.8%
All Other	840	2.3%	475	1.4%	365	76.8%
Sub-total	14,497	1.9%	6,416	0.9%	8,081	126.0%
Corporate-level activity						

Total	$ 14,497	1.9%	$ 6,416	0.9%	$ 8,081	126.0%

During the fiscal year ended July 31, 2013 the Company recorded a net restructuring charge of $14.5 million. Of this amount, $13.4 million primarily related to the workforce reduction of 465 employees across all operating segments, and $1.1 million related to contractual obligations related to a facility closure in Hungary.

During the fiscal year ended July 31, 2012 the Company recorded a net restructuring charge of $6.4 million. Of this amount, $4.8 million primarily related to the workforce reduction of 270 employees in the Americas, Asia, and Europe, $1.6 million related

to contractual obligations related to facility closure at the Raleigh facility. These restructuring charges are net of $0.3 million in reductions to initial estimates for recorded employee-related expenses and facilities lease obligations primarily based on changes in underlying assumptions.

Interest Income/Expense:

During the fiscal year ended July 31, 2013, interest income decreased to $0.3 million from $0.4 million during the fiscal year ended July 31, 2012.

Interest expense totaled approximately $0.6 million and $0.4 million for the fiscal years ended July 31, 2013 and 2012, respectively. The increase in interest expense as compared to the prior year period relates to $0.2 million of amortization of deferred financing charges associated with the Company s new credit facility, which commenced on October 31, 2012. Interest expense of $0.4 million recorded in both periods related to the Company s stadium obligation.

Other Gains (Losses), net:

Other losses, net were $2.6 million for the fiscal year ended July 31, 2013. During the fiscal year ended July 31, 2013, the Company recorded foreign exchange losses of $2.1 million related to realized and unrealized losses from foreign currency exposures and settled transactions in Europe and Asia, as well as other losses in the Americas of $0.5 million.

Other gains, net were $14.4 million for the fiscal year ended July 31, 2012. During the fiscal year ended July 31, 2012, the Company recorded gains from the derecognition of accrued pricing liabilities related to the releases of claims received from certain clients of $11.8 million and foreign exchange gains of $2.9 million related to realized and unrealized gains from foreign currency exposures and settled transactions in Europe and Asia, partially offset by net losses in the Americas. These gains were offset by other net losses of $0.3 million.

Equity in Losses of Affiliates and Impairments:

Equity in losses of affiliates and impairments results from the Company s minority ownership in certain investments that are accounted for under the equity method and impairments on its equity method and cost method investments. Under the equity method of accounting, the Company s proportionate share of each affiliate s operating income or losses is included in equity in losses of affiliates. Equity in losses of affiliates and impairments was $4.4 million and $4.1 million for the fiscal years ended July 31, 2013 and 2012, respectively. For the fiscal years ended July 31, 2013 and 2012, the Company recorded its proportionate share of the affiliates losses of $1.6 million and $1.2 million, respectively. During the fiscal year ended July 31, 2013 and 2012, the Company also recorded impairment charges of $2.8 million and $2.9 million, respectively, on certain investments included in the @Ventures portfolio of companies.

The Company assesses the need to record impairment losses on its investments and records such losses when the impairment of an investment is determined to be other than temporary in nature. The process of assessing whether a particular equity investment s net realizable value is less than its carrying cost requires a significant amount of judgment. In making this judgment, the Company carefully considers the investee s cash position, projected cash flows (both short and long-term), financing needs, recent financing rounds, most recent valuation data, the current investing environment, management/ownership changes and competition. The valuation process is based primarily on information that the Company requests from these privately held companies and is not subject to the same disclosure and audit requirements as the reports required of U.S. public companies.

Estimating the net realizable value of investments in privately held early-stage technology companies is inherently subjective and has contributed to volatility in our reported results of operations in the past and may negatively impact our results of operations in the future. We may incur additional impairment charges to our investments in privately held companies, which could have an adverse impact on our future results of operations. A decline in the carrying value of our $8.0 million of investments in affiliates at July 31, 2013 ranging from 10% to 20%, respectively, would decrease our income from continuing operations by $0.8 million to $1.6 million.

Income Tax Expense:

During the fiscal year ended July 31, 2013, the Company recorded income tax expense of approximately $3.8 million compared to income tax expense of $3.0 million, for the prior fiscal year. For the fiscal years ended July 31, 2013 and 2012, the Company was profitable in certain jurisdictions where the Company operates, resulting in an income tax expense using the enacted tax rates in those jurisdictions.

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The Company provides for income tax expense related to federal, state, and foreign income taxes. For the fiscal year ended July 31, 2013, the Company s taxable income for certain foreign locations was offset by net operating loss carryovers from prior years, and the Company calculated a taxable loss in the U.S. For the fiscal year ended July 31, 2012, the Company s taxable income for certain foreign locations was offset by net operating loss carryovers from prior years, and the Company calculated a taxable loss in the U.S. The Company continues to maintain a full valuation allowance against its deferred tax asset in the U.S. and certain of its foreign subsidiaries due to the uncertainty of realizing such benefits.

Discontinued Operations:

During the fiscal years ended July 31, 2013 and 2012, the Company recorded losses from discontinued operations of $1.0 million and $10.5 million, respectively. As discussed further in Note 5 to the accompanying consolidated financial statements, on January 11, 2013, the Company s wholly-owned subsidiary, TFL, sold substantially all of its assets to Encore Holdings, LLC (Encore). The $9.5 million decrease in the loss from discontinued operations is primarily attributable to $9.5 million of reduced TFL operating losses and a $0.6 million gain on the sale of the TFL business. These increases were partially offset by an increase of $0.6 million related to losses associated with the Company s other discontinued operations, which relate to a previously closed facility. During the prior year, the Company recorded $0.8 million related to the execution of a sublease of the Company s previously closed facility, which resulted in an adjustment to the Company s estimate of future minimum lease payments recoverable through sublease receipts. This adjustment, which did not recur in fiscal 2013, had the effect of increasing income from discontinued operations during fiscal 2012.

Non-GAAP Measures

In addition to the financial measures prepared in accordance with generally accepted accounting principles, the Company uses Adjusted EBITDA, a non-GAAP financial measure, to assess its performance. EBITDA represents earnings before interest, income tax expense, depreciation and amortization. We define Adjusted EBITDA as EBITDA excluding the effects of professional fees associated with our SEC inquiry and financial restatement, strategic alternatives and other professional fees, the settlement of the TFL acquisition escrow, executive severance and employee retention, restructuring, share-based compensation, impairments of goodwill and long-lived assets, other non-operating gains or losses, net, equity in losses of affiliates and impairments, and discontinued operations.

We believe that providing Adjusted EBITDA to investors is useful as this measure provides important supplemental information of our performance to investors and permits investors and management to evaluate the operating performance of our core supply chain business. We use Adjusted EBITDA in internal forecasts and models when establishing internal operating budgets, supplementing the financial results and forecasts reported to our Board of Directors, determining a component of incentive compensation for executive officers and other key employees based on operating performance and evaluating short-term and long-term operating trends in our core supply chain business. We believe that the Adjusted EBITDA financial measure assists in providing an enhanced understanding of our underlying operational measures to manage the core supply chain business, to evaluate performance compared to prior periods and the marketplace, and to establish operational goals. We believe that these non-GAAP financial adjustments are useful to investors because they allow investors to evaluate the effectiveness of the methodology and information used by management in our financial and operational decision making.

Adjusted EBITDA is a non-GAAP financial measure and should not be considered in isolation or as a substitute for financial information provided in accordance with U.S. GAAP. This non-GAAP financial measure may not be computed in the same manner as similarly titled measures used by other companies.

Adjusted EBITDA has limitations as an analytical tool. Some of these limitations are:

- Adjusted EBITDA does not reflect our cash expenditures, or future requirements, for capital expenditures or contractual commitments;

- Adjusted EBITDA does not reflect changes in, or cash requirements for, our working capital needs;

- although depreciation and amortization are non-cash charges, the assets being depreciated and amortized will often have to be replaced in the future, and Adjusted EBITDA does not reflect any cash requirements for such replacements;

non-cash compensation is and will remain a key element of our overall long-term incentive compensation package, although we exclude it as an expense when evaluating our ongoing operating performance for a particular period;

Adjusted EBITDA does not reflect the impact of certain cash charges resulting from matters we consider not to be indicative of our ongoing operations; and

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other companies in our industry may calculate Adjusted EBITDA differently than we do, limiting its usefulness as a comparative measure.

The following table includes the reconciliations of our U.S. GAAP net loss, the most directly comparable U.S. GAAP financial measure, to EBITDA and Adjusted EBITDA for fiscal 2013, 2012 and 2011:

	Years Ended July 31,		
	2013	2012	2011
Net loss	$ (40,355)	$ (38,108)	$ (34,465)
Interest income	(300)	(380)	(238)
Interest expense	612	373	462
Income tax expense	3,779	3,035	819
Depreciation	14,118	13,920	16,705
Amortization of intangible assets	1,133	1,139	4,750
EBITDA	(21,013)	(20,021)	(11,967)
SEC inquiry and financial restatement costs	10,761	3,114	
Strategic alternative and other professional fees	1,270	9,686	1,989
Settlement of TFL acquisition escrow		(3,399)	
Executive severance and employee retention	1,417	2,111	
Restructuring	14,497	6,416	795
Share-based compensation	2,308	2,990	3,481
Impairment of goodwill and long-lived assets			