LIGAND PHARMACEUTICALS INC
Form 10-Q
May 11, 2009
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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

Mark One

x **Quarterly Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**
For the quarterly period ended March 31, 2009

or

¨ **Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**
For the Transition Period From _____ to _____ .

Commission File Number: 001-33093

LIGAND PHARMACEUTICALS INCORPORATED

(Exact name of registrant as specified in its charter)

Delaware	**77-0160744**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
10275 Science Center Drive	
San Diego, CA	**92121-1117**
(Address of principal executive offices)	**(Zip Code)**

Registrant s Telephone Number, Including Area Code: (858) 550-7500

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 ¨ No ¨

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

Large Accelerated Filer ¨ Accelerated Filer 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 Exchange Act).

Yes ¨ No x

As of April 30, 2009, the registrant had 113,301,941 shares of common stock outstanding.

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LIGAND PHARMACEUTICALS INCORPORATED

QUARTERLY REPORT

FORM 10-Q

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* No information provided due to inapplicability of item.

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PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

LIGAND PHARMACEUTICALS INCORPORATED

CONDENSED CONSOLIDATED BALANCE SHEETS

(Unaudited)

(in thousands, except share data)

	March 31, 2009	December, 31 2008
ASSETS		
Current assets:		
Cash and cash equivalents	$ 4,920	$ 28,753
Short-term investments	47,684	51,918
Accounts receivable, net	2,715	
Other current assets	1,179	2,300
Current portion of co-promote termination payments receivable	11,197	10,958
Total current assets	67,695	93,929
Restricted investments	1,341	1,341
Property and equipment, net	11,195	12,903
Goodwill and other identifiable intangible assets	2,185	5,375
Long-term portion of co-promote termination payments receivable	46,806	47,524
Restricted indemnity account	10,264	10,232
Other assets	101	144
Total assets	$ 139,587	$ 171,448
LIABILITIES AND STOCKHOLDERS DEFICIT		
Current liabilities:		
Accounts payable	$ 15,641	$ 14,627
Accrued liabilities	7,771	12,665
Allowances for loss on returns, rebates and chargebacks related to discontinued operations	5,590	9,590
Current portion of accrued litigation settlement costs	180	8,680
Current portion of deferred gain	1,964	1,964
Current portion of co-promote termination liability	11,197	10,958
Current portion of equipment financing obligations	349	1,829
Current portion of deferred revenue	10,192	10,301
Total current liabilities	52,884	70,614
Long-term portion of co-promote termination liability	46,806	47,524
Long-term portion of equipment financing obligations	54	2,178
Long-term portion of deferred revenue	10,380	16,819
Long-term portion of deferred gain	22,801	23,292
Other long-term liabilities	9,015	9,041
Total liabilities	141,940	169,468

Commitments and contingencies		
Common stock subject to conditional redemption; 997,568 shares issued and outstanding at March 31, 2009 and December 31, 2008, respectively	12,345	12,345
Stockholders deficit:		
Convertible preferred stock, $0.001 par value; 5,000,000 shares authorized; none issued		
Common stock, $0.001 par value; 200,000,000 shares authorized; 118,912,238 and 118,562,748 shares issued at March 31, 2009 and December 31, 2008, respectively	119	119
Additional paid-in capital	712,021	711,195
Accumulated other comprehensive income	11	81
Accumulated deficit	(684,715)	(679,626)
Treasury stock, at cost; 6,607,905 shares at March 31, 2009 and December 31, 2008, respectively	(42,134)	(42,134)
Total stockholders deficit	(14,698)	(10,365)
	$ 139,587	$ 171,448

See accompanying notes.

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LIGAND PHARMACEUTICALS INCORPORATED

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS

(Unaudited)

(in thousands, except share data)

	Three Months Ended March 31,	
	2009	2008
Revenues:		
Royalties	$ 2,730	$ 4,874
Collaborative research and development and other revenues	6,740	
Total revenues	9,470	4,874
Operating costs and expenses:		
Research and development	10,462	7,165
General and administrative	6,817	10,099
Total operating costs and expenses	17,279	17,264
Accretion of deferred gain on sale leaseback	491	491
Loss from operations	(7,318)	(11,899)
Other income (expense):		
Interest income	139	935
Interest expense	(194)	(52)
Other, net	(109)	(482)
Total other income, net	(164)	401
Loss before income taxes	(7,482)	(11,498)
Income tax benefit		1,781
Loss from continuing operations	(7,482)	(9,717)
Discontinued operations:		
Gain on sale of AVINZA Product Line before income taxes	2,131	8,321
Gain on sale of Oncology Product Line before income taxes	235	915
Income tax expense on discontinued operations		(3,452)
Discontinued operations	2,366	5,784
Net loss	$ (5,116)	$ (3,933)
Basic and diluted per share amounts:		
Loss from continuing operations	$ (0.07)	$ (0.10)
Discontinued operations	0.02	0.06
Net loss	$ (0.05)	$ (0.04)

Weighted average number of common shares	113,118,073	95,047,440

See accompanying notes.

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LIGAND PHARMACEUTICALS INCORPORATED

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

(Unaudited)

(in thousands)

	For the three months ended March 31, 2009	2008
Operating activities		
Net loss	$ (5,116)	$ (3,933)
Less: gain from discontinued operations	2,366	5,784
Loss from continuing operations	(7,482)	(9,717)
Adjustments to reconcile net loss to net cash used in operating activities:		
Accretion of deferred gain on sale leaseback	(491)	(491)
Amortization of acquired intangible assets	162	
Depreciation and amortization of property and equipment	819	298
Non-cash lease costs	262	4,148
Loss on asset write-offs	(3)	669
Realized loss on investment	88	500
Stock-based compensation	820	996
Other	19	(5)
Changes in operating assets and liabilities, net of acquisition:		
Accounts receivable, net	(2,715)	
Other current assets	802	2,048
Other long term assets	(202)	(68)
Accounts payable and accrued liabilities	(12,497)	(4,409)
Other liabilities	(174)	84
Deferred revenue	(2,214)	
Net cash used in operating activities of continuing operations	(22,806)	(5,947)
Net cash used in operating activities of discontinued operations	(1,315)	(3,452)
Net cash used in operating activities	(24,121)	(9,399)
Investing activities		
Purchases of property and equipment	(214)	(196)
Proceeds from sale of property and equipment and building	15	
Purchases of short-term investments	(11,257)	(22,601)
Proceeds from sale of short-term investments	15,400	9,012
Other, net	(71)	(50)
Net cash provide by (used in) investing activities of continuing operations	3,873	(13,835)
Net cash provided by investing activities of discontinued operations		8,058
Net cash provided by (used in) investing activities	3,873	(5,777)
Financing activities		
Principal payments on equipment financing obligations	(163)	(514)
Repayment of debt	(3,443)	
Net proceeds from issuance of common stock	21	34
Repurchase of common stock		(1,613)
Net cash used in financing activities	(3,585)	(2,093)

Net decrease in cash and cash equivalents	(23,833)	(17,269)
Cash and cash equivalents at beginning of period	28,753	76,812
Cash and cash equivalents at end of period	$ 4,920	$ 59,543

See accompanying notes.

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LIGAND PHARMACEUTICALS INCORPORATED

Notes to Condensed Consolidated Financial Statements

(Unaudited)

1. Basis of Presentation

The accompanying condensed consolidated financial statements of Ligand Pharmaceuticals Incorporated (the Company or Ligand) were prepared in accordance with instructions for this Quarterly Report on Form 10-Q for the quarter ended March 31, 2009 and, therefore, do not include all information necessary for a complete presentation of financial condition, results of operations, and cash flows in conformity with accounting principles generally accepted in the United States of America. However, all adjustments, consisting of normal recurring adjustments, which, in the opinion of management, are necessary for a fair presentation of the condensed consolidated financial statements, have been included. The results of operations and cash flows for the three months ended March 31, 2009 and 2008 are not necessarily indicative of the results that may be expected for the entire fiscal year or any other future period. These statements should be read in conjunction with the consolidated financial statements and related notes, which are included in the Company s Annual Report on Form 10-K for the fiscal year ended December 31, 2008.

The Company s and its partners products are in various stages of development. Potential products that are promising at early stages of development may not reach the market for a number of reasons. Prior to generating revenues from these products, the Company or its collaborative partners must complete the development of the products in the human health care market. No assurance can be given that: (1) product development efforts will be successful, (2) required regulatory approvals for any indication will be obtained, (3) any products, if introduced, will be capable of being produced in commercial quantities at reasonable costs or, (4) patient and physician acceptance of these products will be achieved. The Company faces risks common to companies whose products are in various stages of development. These risks include, among others, the Company s need for additional financing to complete its research and development programs and commercialize its technologies. The Company has incurred significant losses since its inception. At March 31, 2009, the Company s accumulated deficit was $684.7 million. Management expects that the Company will continue to incur substantial research and development expenses. As further discussed in Note 2, the Company sold its oncology product line (Oncology) on October 25, 2006 and its AVINZA product line (AVINZA) on February 26, 2007. The operating results for Oncology and AVINZA have been presented in the accompanying condensed consolidated financial statements as Discontinued Operations.

Principles of Consolidation

The condensed consolidated financial statements include the Company s wholly owned subsidiaries, Ligand Pharmaceuticals International, Inc., Ligand Pharmaceuticals (Canada) Incorporated, Seragen, Inc. (Seragen), Nexus Equity VI LLC (Nexus) and Pharmacopeia LLC. All significant intercompany accounts and transactions have been eliminated in consolidation.

Use of Estimates

The preparation of consolidated financial statements in conformity with generally accepted accounting principles requires the use of estimates and assumptions that affect the reported amounts of assets and liabilities, including disclosure of contingent assets and contingent liabilities, at the date of the consolidated financial statements, and the reported amounts of revenue and expenses during the reporting period. The Company s critical accounting policies are those that are both most important to the Company s financial condition and results of operations and require the most difficult, subjective or complex judgments on the part of management in their application, often as a result of the need to make estimates about the effect of matters that are inherently uncertain. Because of the uncertainty of factors surrounding the estimates or judgments used in the preparation of the consolidated financial statements, actual results may materially vary from these estimates.

Income (Loss) Per Share

Net income (loss) per share is computed using the weighted average number of common shares outstanding. Basic and diluted income (loss) per share amounts are equivalent for the periods presented as the inclusion of potential common shares in the number of shares used for the diluted computation would be anti-dilutive to loss per share from continuing operations. In accordance with Statement of Financial Accounting Standards (SFAS) No. 128, *Earnings Per Share*, no potential common shares are included in the computation of any diluted per share amounts, including income (loss) per share from discontinued operations and net income (loss) per share, as the Company reported a loss from continuing operations for all periods presented. Potential common shares, the shares

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that would be issued upon the exercise of outstanding stock options and warrants and the vesting of restricted shares, were 5.8 million and 4.1 million at March 31, 2009 and 2008, respectively, and have been excluded from the computation of loss per share.

Guarantees and Indemnifications

The Company accounts for and discloses guarantees in accordance with FASB Interpretation No. 45 (FIN 45), *Guarantor s Accounting and Disclosure Requirements for Guarantees Including Indirect Guarantees of Indebtedness of Others, an interpretation of FASB Statements Nos. 5, 57 and 107 and rescission of FIN 34*. The following is a summary of the Company s agreements that management has determined are within the scope of FIN 45:

Under its amended and restated bylaws, the Company has agreed to indemnify its officers and directors for certain events or occurrences arising as a result of the officer s or director s serving in such capacity. The term of the indemnification period is for the officer s or director s lifetime. The maximum potential amount of future payments the Company could be required to make under these indemnification agreements is unlimited. The Company has a directors and officers liability insurance policy that limits its exposure and enables it to recover a portion of any future amounts paid. As a result of its insurance policy coverage, management believes the estimated fair value of these indemnification agreements is minimal and has no liabilities recorded for these agreements as of March 31, 2009 and December 31, 2008.

Revenue Recognition

Royalties on sales of AVINZA and PROMACTA are recognized in the quarter reported by the respective partner.

Revenue from research funding under the Company s collaboration agreements is earned and recognized on a percentage of completion basis as research hours are incurred in accordance with the provisions of each agreement.

Revenue earned related to up-front product and technology license fees is recognized in accordance with Staff Accounting Bulletin (SAB) 104 issued by the Securities and Exchange Commission (SEC) Emerging Issue Task Force (EITF) No. 00-21, Revenue Arrangements with Multiple Deliverables (EITF 00-21), EITF No. 07-1, Accounting for Collaborative Arrangements (EITF 07-1) and EITF No. 07-3, Accounting for Nonrefundable Advance Payments for Goods or Services Received for Use in Future Research and Development Activities (EITF 07-3) issued by the FASB. Accordingly, amounts received under
multiple-element arrangements requiring ongoing services or performance by the Company are recognized over the period of such services or performance.

Revenue from milestones is recognized when earned, as evidenced by written acknowledgement from the collaborator, provided that (i) the milestone event is substantive, its achievability was not reasonably assured at the inception of the agreement, and the Company has no further performance obligations relating to that event, and (ii) collectibility is reasonably assured. If these criteria are not met, the milestone payment is recognized over the remaining period of the Company s performance obligations under the arrangement.

Income Taxes

The Company recognizes liabilities or assets for the deferred tax consequences of temporary differences between the tax bases of assets or liabilities and their reported amounts in the financial statements in accordance with SFAS No. 109, *Accounting for Income Taxes* (SFAS 109). These temporary differences will result in taxable or deductible amounts in future years when the reported amounts of the assets or liabilities are recovered or settled. SFAS 109 requires that a valuation allowance be established when management determines that it is more likely than not that all or a portion of a deferred tax asset will not be realized. Management evaluates the realizability of its net deferred tax assets on a quarterly basis and valuation allowances are provided, as necessary. During this evaluation, management reviews its forecasts of income in conjunction with other positive and negative evidence surrounding the realizability of its deferred tax assets to determine if a valuation allowance is required. Adjustments to the valuation allowance will increase or decrease the Company s income tax provision or benefit. Management also applies the guidance of SFAS 109 to determine the amount of income tax expense or benefit to be allocated among continuing operations, discontinued operations, and items charged or credited directly to stockholders equity (deficit).

Due to the adoption of SFAS No. 123R, Share-Based Payment (SFAS 123R) beginning January 1, 2006, the Company recognizes windfall tax benefits associated with the exercise of stock options directly to stockholders

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equity only when realized. Accordingly, deferred tax assets are not recognized for net operating loss carryforwards resulting from windfall tax benefits occurring from January 1, 2006 onward. A windfall tax benefit occurs when the actual tax benefit realized by the Company upon an employee s disposition of a share-based award exceeds the deferred tax asset, if any, associated with the award that the Company had recorded.

The Company adopted the provisions of FASB Interpretation No. 48 (FIN 48), Accounting for Uncertainty in Income Taxes , on January 1, 2007. FIN 48 clarifies the accounting for income taxes by prescribing a minimum probability threshold that a tax position must meet before a financial statement benefit is recognized. The minimum threshold is defined in FIN 48 as a tax position that is more likely than not to be sustained upon examination by the applicable taxing authority, including resolution of any related appeals or litigation processes, based on the technical merits of the position. The Company recognizes interest and penalties related to uncertain tax positions in income tax expense.

Accounting for Stock-Based Compensation

The Company applies the fair value recognition provisions of SFAS 123(R) using the modified prospective transition method to account for stock-based compensation. Under that transition method, compensation cost recognized in the three months ended March 31, 2009 and 2008 includes: (a) compensation cost for all stock-based awards granted prior to, but not yet vested as of January 1, 2006, based on the grant date fair value estimated in accordance with the original provisions of SFAS No. 123, and (b) compensation cost for all stock-based awards granted subsequent to January 1, 2006, based on the grant date fair value estimated in accordance with the provisions of SFAS No. 123(R).

Stock-based compensation expense for awards to employees and non-employee directors is recognized on a straight-line basis over the vesting period until the last tranche vests. Compensation cost for consultant awards is recognized over each separate tranche s vesting period. The Company recognized compensation expense of $0.8 million and $1.0 million for the three months ended March 31, 2009 and 2008, respectively, associated with option awards, restricted stock and an equitable adjustment of employee stock options.

The fair-value for options that were awarded to employees and directors was estimated at the date of grant using the Black-Scholes option valuation model with the following weighted-average assumptions:

	Three Months Ended March 31,	
	2009	2008
Risk-free interest rate	2.0%	3.0%
Dividend yield		
Expected volatility	74%	65%
Expected term	6.0 years	6.0 years

The expected term of the employee and non-employee director options is the estimated weighted-average period until exercise or cancellation of vested options (forfeited unvested options are not considered). The expected term for consultant awards is the remaining period to contractual expiration.

Volatility is a measure of the expected amount of variability in the stock price over the expected life of an option expressed as a standard deviation. In selecting this assumption, management used the historical volatility of the Company s stock price over a period approximating the expected term.

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Stock Option Activity

The following is a summary of the Company s stock option plan activity and related information:

	Shares	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Term in Years	Aggregate Intrinsic Value (in thousands)
Balance at December 31, 2008	3,030,076	$ 6.55		
Granted	1,490,850	2.63		
Exercised				
Forfeited	(183,849)	4.33		
Cancelled	(2,500)	4.41		
Balance at March 31, 2009	4,334,577	$ 5.29	7.27	$ 620
Exercisable at March 31, 2009	1,764,731	$ 8.00	4.41	$ 100
Options expected to vest as of March 31, 2009	3,966,900	$ 5.45	7.10	$ 554

The weighted-average grant-date fair value of all stock options granted during the three months ended March 31, 2009 was $1.72 per share. The total intrinsic value of all options exercised during the three months ended March 31, 2008 was $1,000. As of March 31, 2009, there was $5.3 million of total unrecognized compensation cost related to nonvested stock options. That cost is expected to be recognized over a weighted-average period of 3.4 years.

As of March 31, 2009, 0.6 million shares were available for future option grants or direct issuance under the Company s 2002 stock incentive plan.

Cash received from options exercised for the three months ended March 31, 2008 was $4,000. There is no current tax benefit related to options exercised because of net operating losses (NOLs) for which a full valuation allowance has been established.

Restricted Stock Activity

Restricted stock activity for the three months ended March 31, 2009 is as follows:

	Shares	Weighted-Average Grant Date Stock Price
Nonvested at December 31, 2008	598,672	$ 5.14
Granted	210,560	2.69
Vested	(268,246)	6.52
Forfeited	(55,164)	3.65
Nonvested at March 31, 2009	485,822	$ 3.49

The weighted-average grant-date fair value of restricted stock granted during the three months ended March 31, 2009 was $2.69 per share. As of March 31, 2009, there was $1.4 million of total unrecognized compensation cost related to nonvested restricted stock. That cost is expected to be recognized over a weighted-average period of 2.0 years.

Employee Stock Purchase Plan

The Company has an employee stock purchase plan (as amended, the 2002 ESPP). The 2002 ESPP allows employees to purchase a limited amount of common stock at the end of each three month period at a price equal to the lesser of 85% of fair market value on either the first trading day of the period or the last trading day of the period (the Lookback Provision). The 15% discount and the Lookback Provision make the 2002 ESPP compensatory under SFAS 123(R). There were 9,140 shares of common stock issued under the 2002 ESPP during the three

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months ended March 31, 2009, resulting in a compensation expense of $6,000. There were 8,954 shares of common stock issued under the 2002 ESPP during the three months ended March 31, 2008, resulting in a compensation expense of $40,000. As of March 31, 2009, 38,251 shares were available for future purchases under the 2002 ESPP.

Warrants

As of March 31, 2009, warrants to purchase 867,637 shares of the Company s common stock were outstanding with an exercise price of $8.59 per share and warrants to purchase 105,554 shares of the Company s common stock were outstanding with an exercise price of $9.47 per share. The warrants were assumed in the acquisition of Pharmacopeia, Inc. and expire in April 2012 and March 2011, respectively.

Share Repurchases

In March 2007, the Company s Board of Directors authorized up to $100.0 million in share repurchases over the subsequent 12 months. The Company repurchased an aggregate of 6.5 million shares of its common stock totaling $41.2 million prior to the expiration of the repurchase period on March 31, 2008.

Cash, Cash Equivalents and Short-term Investments

Cash and cash equivalents consist of cash and highly liquid securities with maturities at the date of acquisition of three months or less. The following table summarizes the various investment categories at March 31, 2009 and December 31, 2008 (in thousands):

	Cost	Gross unrealized gains	Gross unrealized losses	Estimated fair value
March 31, 2009				
U.S. government securities	$ 45,249	$ 15	$ (4)	$ 45,260
Corporate obligations	2,424			2,424
	47,673	15	(4)	47,684
Certificates of deposit - restricted	1,341			1,341
	$ 49,014	$ 15	$ (4)	$ 49,025
December 31, 2008				
U.S. government securities	$ 50,174	$ 81	$	$ 50,255
Corporate obligations	1,663			1,663
	51,837	81		51,918
Certificates of deposit - restricted	1,341			1,341
	$ 53,178	$ 81	$	$ 53,259

In July 2007, the Company purchased $5.0 million of commercial paper issued by Golden Key Ltd. The investment was highly-rated and within the Company s investment policy at the time of purchase, but during the third quarter of 2007, large credit rating agencies downgraded the quality of this security. In addition, as a result of not meeting certain liquidity covenants, the assets of Golden Key Ltd. were assigned to a trustee who established a committee of the largest senior credit holders to determine the next steps. Subsequently, Golden Key Ltd. defaulted on its obligation to settle the security on the stated maturity date of October 10, 2007. Based on available information, management currently estimates that it will be able to recover approximately $1.6 million on this investment. Management adjusted the carrying value by recording an impairment loss of $0.1 million and $0.5 million during the three months ended March 31, 2009 and 2008, respectively. As a result of ongoing volatility in the liquidity of the capital markets, the Company may be exposed to additional impairment for this investment until it is fully recovered or disposed of.

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Other Current Assets

Other current assets consist of the following (in thousands):

	March 31, 2009	December 31, 2008
Income taxes receivable	$	$ 817
Prepaid expenses	1,051	1,147
Other receivables	128	325
Other		11
	$ 1,179	$ 2,300

Property and Equipment

Property and equipment is stated at cost and consists of the following (in thousands):

	March 31, 2009	December 31, 2008
Equipment and leasehold improvements	$ 53,244	$ 54,664
Less accumulated depreciation and amortization	(42,049)	(41,761)
	$ 11,195	$ 12,903

Depreciation of equipment is computed using the straight-line method over the estimated useful lives of the assets, which range from three to ten years. Leasehold improvements are amortized using the straight-line method over their estimated useful lives or their related lease term, whichever is shorter. During the third quarter 2008, the Company conducted a physical count of its fixed assets that resulted in the write-off of gross fixed assets totaling $23.8 million and related accumulated depreciation of $23.7 million.

Goodwill and Other Identifiable Intangible Assets

Goodwill and other identifiable intangible assets consist of the following (in thousands):

	March 31, 2009	December 31, 2008
Collaborative research and development with Schering-Plough	$ 1,838	$ 2,000
Goodwill	347	3,375
	$ 2,185	$ 5,375

The collaborative research and development with Schering-Plough is being amortized on a straight-line basis over a period of three years. During the three months ended March 31, 2009, the Company recorded $0.2 million of amortization expense. Additionally, during the three months ended March 31, 2009, the Company finalized its preliminary purchase price allocation for Pharmacopeia, which resulted in an increase in transaction costs of $0.3 million and decreases in property and equipment of $1.1 million, liabilities assumed of $4.4 million and goodwill of $3.0 million.

Impairment of Long-Lived Assets

Management reviews long-lived assets for impairment annually or whenever events or changes in circumstances indicate the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to future undiscounted net cash flows expected to be generated by the asset. If such assets are considered to be impaired, the impairment to be recognized is measured as the amount by which the carrying amount of the assets exceeds the fair value of the assets. Fair value for the Company s long-lived assets is determined using the expected cash flows discounted at a rate commensurate with the risk involved. During the three months ended March 31, 2008, the Company recorded an impairment charge of $0.7 million to general and administrative expense as a result of vacating a building in February 2008. As of March 31, 2009, management believes that the future cash flows to be received from its long-lived assets will exceed the assets carrying value.

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Accrued Liabilities

Accrued liabilities consist of the following (in thousands):

	March 31, 2009	December 31, 2008
Warrant liability	$ 673	$ 670
Compensation	2,706	2,686
Legal	652	4,166
Restructuring costs	226	848
Other	3,514	4,295
	$ 7,771	$ 12,665

The following summarizes the activity in the accrued liability accounts related to allowances for loss on returns, rebates, chargebacks, and other discounts for the three months ended March 31, 2009 (in thousands):

	Charge-backs and Rebates	Returns	Total
Balance at December 31, 2008	$ 508	$ 9,082	$ 9,590
AVINZA Transaction Provision (1)	(26)	(2,249)	(2,275)
Oncology Transaction Provision (2)		(398)	(398)
Payments	(121)		(121)
Charges		(1,206)	(1,206)
Balance at March 31, 2009	$ 361	$ 5,229	$ 5,590

(1) The AVINZA transaction provision amounts represent changes in the estimates of the accruals for rebates, chargebacks and returns recorded in connection with the sale of the AVINZA product line.

(2) The Oncology transaction provision amounts represent changes in the estimates of the accruals for rebates, chargebacks and returns recorded in connection with the sale of the Oncology product line.

Comprehensive Income (loss)

Comprehensive income (loss) represents net income adjusted for the change during the periods presented in unrealized gains and losses on available-for-sale securities less reclassification adjustments for realized gains or losses included in net income. Comprehensive income (loss) is as follows (in thousands):

	Three Months Ended March 31,	
	2009	2008
Net loss as reported	$ (5,116)	$ (3,933)
Unrealized net gain on available-for-sale securities	(70)	(52)
Comprehensive loss	$ (5,186)	$ (3,985)

New Accounting Pronouncements

In December 2007, the FASB issued SFAS No. 160, Noncontrolling Interests in Consolidated Financial Statements An Amendment of ARB No. 51, which is effective for calendar-year companies beginning January 1, 2009. The standard establishes new accounting and reporting standards for the noncontrolling interest in a subsidiary and for the deconsolidation of a subsidiary. The adoption of this standard did not have a material impact on the Company s condensed consolidated financial statements.

In March 2008, the FASB issued SFAS No. 161, Disclosures about Derivative Instruments and Hedging Activities An Amendment of FASB Statement No. 133, which is effective for calendar-year companies beginning January 1, 2009. The standard enhances required disclosures regarding derivatives and hedging activities. The adoption of this standard did not have a material impact on the Company s condensed consolidated financial statements.

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In April 2008, the FASB issued Staff Position (FSP) No. FAS 142-3, Determination of the Useful Life of Intangible Assets (FSP 142-3). FSP 142-3 amends the factors that should be considered in developing renewal or extension assumptions used to determine the useful life of a recognized intangible asset under SFAS No. 142, Goodwill and Other Intangible Assets (SFAS 142). FSP 142-3 is effective for calendar-year companies beginning January 1, 2009. The requirement for determining useful lives must be applied prospectively to intangible assets acquired after the effective date and the disclosure requirements must be applied prospectively to all intangible assets recognized as of, and subsequent to, the effective date. The adoption of this standard did not have a material impact on the Company s condensed consolidated financial statements.

In April 2009, the FASB issued FSP No. FAS 141(R)-1, Accounting for Assets Acquired and Liabilities Assumed in a Business Combination That Arise from Contingencies. FSP FAS 141(R)-1 amends the provisions in Statement 141R for the initial recognition and measurement, subsequent measurement and accounting, and disclosures for assets and liabilities arising from contingencies in business combinations. The FSP is effective for contingent assets or contingent liabilities acquired in business combinations for which the acquisition date is on or after the beginning of the first annual reporting period beginning on or after December 15, 2008. The adoption of this standard did not have a material impact on the Company s condensed consolidated financial statements.

2. Discontinued Operations

Oncology Product Line

On September 7, 2006, the Company, Eisai Inc., a Delaware corporation and Eisai Co., Ltd., a Japanese company (together with Eisai Inc., Eisai), entered into a purchase agreement (the Oncology Purchase Agreement) pursuant to which Eisai agreed to acquire all of the Company s worldwide rights in and to the Company s oncology products, including, among other things, all related inventory, equipment, records and intellectual property, and assume certain liabilities as set forth in the Oncology Purchase Agreement. The Oncology product line included the Company s four marketed oncology drugs: ONTAK, Targretin capsules, Targretin gel and Panretin gel. For the three months ended March 31, 2009 and 2008, the Company recorded pre-tax gains of $0.2 million and $0.9 million, respectively, due to subsequent changes in certain estimates of assets and liabilities recorded as of the sale date.

Prior to the Oncology sale, the Company recorded accruals for rebates, chargebacks, and other discounts related to Oncology products when product sales were recognized as revenue under the sell-through method. Upon the Oncology sale, the Company accrued for rebates, chargebacks, and other discounts related to Oncology products in the distribution channel which had not sold-through at the time of the Oncology sale and for which the Company retained the liability subsequent to the sale. These products expired at various dates through July 31, 2008. The Company s accruals for Oncology rebates, chargebacks, and other discounts total $0.3 million and $0.4 million as of March 31, 2009 and December 31, 2008, respectively.

Additionally, and pursuant to the terms of the Oncology Purchase Agreement, the Company retained the liability for returns of product from wholesalers that had been sold by the Company prior to the close of the transaction. Accordingly, as part of the accounting for the gain on the sale of the Oncology Product Line, the Company recorded a reserve for Oncology product returns. Under the sell-through revenue recognition method, the Company previously did not record a reserve for returns from wholesalers. Oncology products sold by the Company may be returned through a specified period subsequent to the product expiration date, but no later than July 31, 2009. The Company s reserve for Oncology returns is $0.4 million and $0.9 million as of March 31, 2009 and December 31, 2008, respectively.

AVINZA Product Line

On September 6, 2006, the Company and King Pharmaceuticals, Inc. (King), entered into a purchase agreement (the AVINZA Purchase Agreement), pursuant to which King agreed to acquire all of the Company s rights in and to AVINZA in the United States, its territories and Canada, including, among other things, all AVINZA inventory, records and related intellectual property, and assume certain liabilities as set forth in the AVINZA Purchase Agreement (collectively, the Transaction).

Pursuant to the AVINZA Purchase Agreement, at the closing on February 26, 2007 (the Closing Date), the Company received $280.4 million in net cash proceeds, which is net of $15.0 million that was funded into an escrow account to support any potential indemnification claims made by King following the closing.

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In connection with the sale, the Company agreed to indemnify King in certain cases for a period of 30 months after the closing of the Transaction, including any breach of certain of the Company s representations, warranties or covenants contained in the asset purchase agreement. Under the Company s agreement with King, $15.0 million of the total upfront cash payment was deposited into an escrow account to secure the Company s indemnification obligations to King following the closing of the Transaction. Of the escrowed amount, $7.5 million was released to the Company in August 2007, and the remaining $7.5 million, plus interest of $0.6 million, was released to the Company in February 2008 and recorded as gain on sale of the AVINZA product line.

Prior to the AVINZA sale, the Company recorded accruals for rebates, chargebacks, and other discounts related to AVINZA products when product sales were recognized as revenue under the sell-through method. Upon the AVINZA sale, the Company accrued for rebates, chargebacks, and other discounts related to AVINZA products in the distribution channel which had not sold-through at the time of the AVINZA sale and for which the Company retained the liability subsequent to the sale. These products expire at various dates through June 30, 2009. The Company s accruals for AVINZA rebates, chargebacks, and other discounts total $0.1 million and $0.1 million as of March 31, 2009 and December 31, 2008, respectively.

Additionally, and pursuant to the terms of the AVINZA Purchase Agreement, the Company retained the liability for returns of product from wholesalers that had been sold by the Company prior to the close of the transaction. Accordingly, as part of the accounting for the gain on the sale of AVINZA, the Company recorded a reserve for AVINZA product returns. AVINZA products sold by the Company may be returned through a specified period subsequent to the product expiration date, but no later than December 31, 2009. Under the sell-through revenue recognition method, the Company previously did not record a reserve for returns from wholesalers. The Company s reserve for AVINZA returns is $4.8 million and $8.2 million as of March 31, 2009 and December 31, 2008, respectively.

3. Financial Instruments

The Company measures certain financial assets and liabilities at fair value on a recurring basis, including available-for-sale fixed income and equity securities and other equity securities. The fair value of these certain financial assets and liabilities was determined using the following inputs at March 31, 2009:

	Total	Fair Value Measurements at Reporting Date Using Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets:				
Fixed income available-for-sale securities	$ 47,684	$ 46,109	$ 1,575	$
Total assets	$ 47,684	$ 46,109	$ 1,575	$
Liabilities:				
Warrant liability	$ 673	$	$	$ 673
Total liabilities	$ 673	$	$	$ 673

The Company s short-term investments are fixed income available-for-sale securities and include U.S. Government Notes and Corporate Discount Commercial Paper. The fair value of the Company s short-term investments are determined using quoted market prices in active markets. The fair value of the warrant liability is determined using the Black-Scholes option-pricing model, which uses certain significant observable inputs, including stock price (quoted market prices in active market), warrant exercise price (defined in warrant agreement), expected life of warrant (defined in warrant agreement), dividend yields (determined by the Company), and risk-free interest rate (quoted market prices based on expected life assumption).

4. AVINZA Co-Promotion

In February 2003, the Company and Organon Pharmaceuticals USA Inc. (Organon) announced that they had entered into an agreement for the co-promotion of AVINZA. Subsequently in January 2006, the Company signed an agreement with Organon that terminated the AVINZA

co-promotion agreement between the two companies and returned AVINZA co-promotion rights to Ligand. In consideration of the early termination and return of rights under the terms of the agreement, the Company agreed to and paid Organon $37.8 million in October 2006. The Company further agreed to and paid Organon $10.0 million in January 2007, in consideration of certain minimum

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sales calls during a Transition Period. In addition, following the Transition Period, the Company agreed to make royalty payments to Organon equal to 6.5% of AVINZA net sales through December 31, 2012 and thereafter 6.0% through patent expiration, currently anticipated to be November of 2017.

On February 26, 2007, the Company consummated its agreement with King pursuant to which King acquired all of the Company s rights in and to AVINZA, assumed certain liabilities, and reimbursed the Company the $47.8 million previously paid to Organon (comprised of the $37.8 million paid in October 2006 and the $10.0 million that the Company paid in January 2007). King also assumed the Company s co-promote termination obligation to make payments to Organon based on net sales of AVINZA. In connection with King s purchase of AVINZA, Organon did not consent to the legal assignment of the co-promote termination obligation to King. Accordingly, the Company remains liable to Organon in the event of King s default of the obligation. Therefore, the Company recorded an asset as of February 26, 2007 to recognize King s assumption of the obligation, while continuing to carry the co-promote termination liability in the Company s consolidated financial statements to recognize the Company s legal obligation as primary obligor to Organon as required under SFAS No. 140, *Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities*. This asset represents a non-interest bearing receivable for future payments to be made by King and is recorded at its fair value based on management s estimate of future sales of AVINZA. As of March 31, 2009 and thereafter, the receivable and liability will remain equal and adjusted each quarter for changes in the estimated fair value of the obligation including for any changes in the estimate of future net AVINZA product sales. This receivable will be assessed on a quarterly basis for impairment (e.g., in the event King defaults on the assumed obligation to pay Organon). As of March 31, 2009 and December 31, 2008, the fair value of the co-promote termination liability (and the corresponding receivable) was determined using a discount rate of 15%.

On an annual basis, management reviews the carrying value of the co-promote termination liability. Due to assumptions and judgments inherent in determining the estimates of future net AVINZA sales through November 2017, the actual amount of net AVINZA sales used to determine the current fair value of the Company s co-promote termination asset and liability may be materially different from current estimates.

A summary of the co-promote termination liability as of March 31, 2009 is as follows (in thousands):

Net present value of payments based on estimated future net AVINZA product sales as of December 31, 2008	$ 58,482
Assumed payments made by King or assignee	(2,113)
March 31, 2009 fair value adjustment of estimated future payments based on estimated future net AVINZA product sales	1,634
Total co-promote termination liability as of March 31, 2009	58,003
Less: current portion of co-promote termination liability as of March 31, 2009	(11,197)
Long-term portion of co-promote termination liability as of March 31, 2009	$ 46,806